

## **Heritage Council** Regulatory Committee

### **Caulfield Racecourse [H2415]**

Normanby Road and Station Street, Caulfield East.

**Hearing** – 21–23 November 2022

**Members** – Ms Margaret Baird (Chair), Mr Adrian Finanzio SC, Dr Helen Doyle

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

**Inclusion in the Victorian Heritage Register** – After considering the Executive Director's recommendation and all submissions, and after conducting a hearing into the submissions, the Heritage Council has determined, pursuant to section 49(1)(a) of the *Heritage Act 2017*, that Caulfield Racecourse, Normanby Road, Caulfield, is of cultural heritage significance to the State of Victoria and is to be included as a Registered Place in the Victorian Heritage Register.

**Ms Margaret Baird (Chair)**  
**Mr Adrian Finanzio SC**  
**Dr Helen Doyle**

**Decision Date** - 20 February 2023

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## DECISION SUMMARY

*The Heritage Council provides a decision summary if the Regulatory Committee is of the view that there are points of interest in the decision which should be identified. The summary does not form part of the decision or reasons for decision.*

Caulfield Racecourse (**'the Place'**) is located on the traditional land of the Bunurong people. A Crown reserve for the Caulfield Racecourse dates from 1859. Many elements of the Racecourse's now expansive racetrack, central recreation reserve, complex of buildings and structures, and landscape were developed last century. Structures are concentrated in the northern part of the site, between the racetrack and Station Street.

The Place is the subject of an Interim Protection Order (**'IPO'**) issued on 27 January 2022. The IPO includes the place in the Victorian Heritage Register (**'VHR'**). The place does not extend to stables and land abutting Kambrook and Booran Roads. The IPO expires at the end of February 2023.

Subsequent to the issue of the IPO, the Executive Director, Heritage Victoria, recommended to the Heritage Council that the Caulfield Racecourse be included in the Register as a place of cultural heritage significance to the State of Victoria. Submissions have been received following public notice of the recommendation. A number of persons sought a hearing and/or appeared at the three-day hearing. All agree that the place is of cultural heritage significance to the State of Victoria and should be included in the Register. They have different views about:

- extent of the registration area;
- reasons for inclusion, that is, which criteria in the *Victorian Heritage Register Criteria and Threshold Guidelines 2020* the Place satisfies at a State level; and
- detail of permit exemptions that should apply.

Other issues and concerns have been raised, a number of which are not within the legislative scope of this registration review process. The Executive Director has issued several permits for extensive works at the Racecourse in recent months, including in relation to fabric that has been the subject of this registration hearing process. The Glen Eira City Council has also issued several planning permits based on an incorporated document in its planning scheme. At the time of the hearing, and the Committee's site inspection, and based on permits issued, building and landscape fabric had been removed or was approved for removal, modification or reconstruction. Some substantial new buildings and works have been approved. These permits have concerned some submitters, both in terms of the concurrent process with this registration review and the impact on the heritage values of Caulfield Racecourse. The Committee understands these concerns given that a consequence of the permits granted is the likely loss and modification of fabric which is part of the collection of buildings and spaces. But the Committee's scope is confined to whether the place meets the threshold for inclusion in the VHR as a place of State-level significance and, related to this, the extent of registration and permit exemptions. None of the permits have triggered a review process through the Heritage Council.

The Committee has determined that Caulfield Racecourse is of cultural heritage significance to the State of Victoria and should be included in the Register. It meets Criteria A, D, E, G and H. The Committee has adopted the extent of registration originally recommended by the Executive Director without any reduction or change. Everything included in the proposed extent of registration including all the land, all soft and hard landscape features, plantings, trees, all buildings (interior and exterior structures, works and fixtures) is to be included in the VHR. A permit or permit exemption from Heritage Victoria is required for any works within the proposed extent of registration, apart from those identified in the categories of works or activities determined by the Committee and set out in this determination.

## 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. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of Aboriginal culture and traditional practices.

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## HEARING APPEARANCES

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

The Executive Director was represented by Mr Geoff Austin, Manager Heritage Register, and assisted by Ms Clare Chandler, Principal, Heritage Assessments, and Ms Carissa Goudey, Heritage Officer Assessments, all of Heritage Victoria. Mr Austin presented written and oral submissions. Submissions in reply were also received.

### GLEN EIRA CITY COUNCIL ('GECC')

GECC was represented by Ms Jacqui Brasher, Principal Strategic Planner, who presented written submissions and oral submissions supporting the Executive Director's Recommendation but seeking changes to the Statement of Significance. GECC's submissions were supported by a statement of evidence by Mr Anthony Scott Hemingway, Senior Associate and Architectural Historian of RBA Architects and Conservation Consultants. GECC called Mr Hemingway to give expert evidence at the hearing. Submissions in reply were also received.

### GLEN EIRA CLIMATE EMERGENCY ACTION NETWORK ('GECAN')

GECAN was represented by Ms Helen Fischer and Ms Krystyna Duszniak. GECAN presented written submissions and made oral submissions at the hearing. Submissions in reply were also received.

### GLEN EIRA HISTORICAL SOCIETY ('GEHS')

GEHS was represented by Ms Anne Kilpatrick. GEHS presented written submissions and made oral submissions at the hearing. GEHS's submissions were supported by a statement of evidence by Dr Andrew Lemon. GEHS called Dr Lemon to give expert evidence at the hearing. Submissions in reply were also received.

### GROUP OF MELBOURNE RACING CLUB MEMBERS ('GRC MEMBERS')

A group of GRC Members was represented by Mr Anthony Del Monaco. These GRC Members presented written submissions and made oral submissions at the hearing. Submissions in reply were also received.

### MELBOURNE RACING CLUB ('MRC')

MRC, the occupier and operator of part of the Caulfield Racecourse, was represented by Ms Tania Cincotta of Best Hooper Lawyers. MRC's written submissions were supported by statements of evidence from Mr Peter Lovell of Lovell Chen Pty Ltd, one of which accompanied the MRC's reply submission.

## INTRODUCTION/BACKGROUND

### INTERIM PROTECTION ORDER REQUEST AND DETERMINATION

1. On 18 January 2022, a request that an Interim Protection Order ('**IPO**') be made in relation to the place known as Caulfield Racecourse, located at Normanby Road and Station Street, Caulfield East ('**the Place**'), was lodged with the Heritage Council. After considering the request that an IPO be made, on 27 January 2022 the Heritage Council determined, pursuant to section 143 of the *Heritage Act 2017* ('**the Act**'), to make and serve an IPO in relation to the Place.

### EXECUTIVE DIRECTOR'S RECOMMENDATION

2. Within 60 days of the IPO being served, Heritage Victoria was required to make a recommendation on whether to include the Place, or part of the Place, in the VHR. Having assessed the Place in accordance with section 149 of the Act, on 16 March 2022 the Executive Director recommended to the Heritage Council, pursuant to section 37(1)(a) of the Act, that the Place be included in the Victorian Heritage Register ('**the Recommendation**').

### PROCESS FOLLOWING THE EXECUTIVE DIRECTOR'S RECOMMENDATION

3. After the Recommendation to include the Place in the VHR, notice was published in accordance with section 41 of the Act for a period of 60 days.
4. During the public advertisement of the Recommendation, 10 submissions were received pursuant to section 44 of the Act.
5. None objected to the Recommendation *per se*.
6. In its submission, the MRC objected to the extent of registration and permit exemptions and requested a hearing into the matter.
7. The MRC's position has evolved and has been clarified, including through a process directed by the Committee at the Directions Hearing and, later, submissions and evidence.
8. A number of submitters indicated their support for the Executive Director's extent of registration and recommended permit exemptions. However, several also recommended changes to the extent of registration, the findings with respect to the assessment criteria, and proposed permit exemptions.
9. Multiple submissions proposed wording changes to the documentation that describes the Racecourse and its history.

### DIRECTIONS HEARING

10. On 7 July 2022, 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 and a site inspection, the Committee:
  - requested MRC provide a statement of issues in relation to the proposed registration of the Place by Friday 12 August 2022; and
  - encouraged discussions between hearing participants with a view of confining the matters in dispute, asking that it be informed of the outcome of such discussions by 26 September 2022.
11. These directions were complied with.
12. On 16 August and 28 September 2022 the Committee provided responding material referred to in paragraphs 10 and 11, above, to all submitters.

## THE HEARING

13. On 12 July 2022, all prospective hearing participants were advised that a registration hearing in relation to the Place had been scheduled for 21 to 23 November 2022. Six submitters participated in the hearing, with three calling expert evidence.
14. The hearing was conducted by way of videoconference using the Microsoft Teams™ online platform (**‘the hearing’**). Written submissions were invited, and further information was provided about the hearing. Directions were given as to the conduct and timing of the pre-hearing steps.
15. Following a request from a hearing participant, an extension of time was granted for all participants to lodge hearing submissions and reply submissions.

## COMMITTEE’S ACCOMPANIED SITE INSPECTION

16. An accompanied site inspection was initially scheduled for the afternoon of day 1 of the hearing. However, due to inclement weather, at the commencement of the hearing the Committee advised all participants that the inspection would be re-scheduled to day 3 of the hearing.
17. On 23 November 2022, the Committee conducted a site inspection, accompanied by Mr Austin on behalf of the Executive Director; Ms Duszniak on behalf of GECAN; Ms Kilpatrick on behalf of GEHS; Mr Del Monaco on behalf of GRC Members; and Ms Cincotta of Best Hooper Lawyers on behalf of MRC.
18. Access to the Place was facilitated by the MRC. A representative of the MRC accompanied the Committee to gain access to buildings and parts of the site, some of which were secured because of construction works.
19. No submissions were sought, made, or received during the site inspection.

## THE PLACE

20. The Place is described on page 4 of the Recommendation as follows:<sup>1</sup>

### “The site

*Caulfield Racecourse is located in Melbourne’s eastern suburbs and is one of four major horse racing venues in the metropolitan region. It is situated to the south of the Caulfield Railway Station Complex (VHR H1665) and its borders are defined by Station Street and Normanby Road to the north, Queens Avenue to the east and Neerim Road to the south. Its western boundary is defined in part by a carpark in the north-west of the site, at the corner of Station Street and Kambrook Road. The remainder of the racecourse’s western extent follows the eastern boundary of a series of horse stabling and training facilities along Kambrook and Booran Roads. Comprising over three-square kilometres, Caulfield Racecourse is characterised by its expansive racetrack and central recreation reserve, as well as a complex of buildings and structures dating from 1919 to the c.1990s. The concentration of built structures is located in the northern part of the site, between the racetrack and Station Street.*

### Built structures

*The concentration of buildings and structures is within the north-west corner of the racecourse. It includes both historic and more recent buildings and structures. Buildings and structures of historic interest in this area include:*

- *The Boomerang Buffet building, an early refreshments venue (built 1919)*
- *The scratchings board building with distinctive clock tower (built c.1920s)*

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<sup>1</sup> Comments made in submissions and evidence are not included here.



- Main entry gate (1928) and boundary walls (1920s and 1950s)
- Race day stalls (dating c.1920s onwards)
- The Hiskens Stand (built 1935)
- The Afternoon Tea Room (built 1939)
- The Birdcage walking ring (constructed c.1958)
- Maple building (built c.1958)
- Betting board and associated building (c.1958)
- The Norman Robinson Stand (built 1960)
- Members' entry.

Other built features include the Western stables to the south-west of the racetrack and the Aquanita stables in the south-eastern corner of the site.

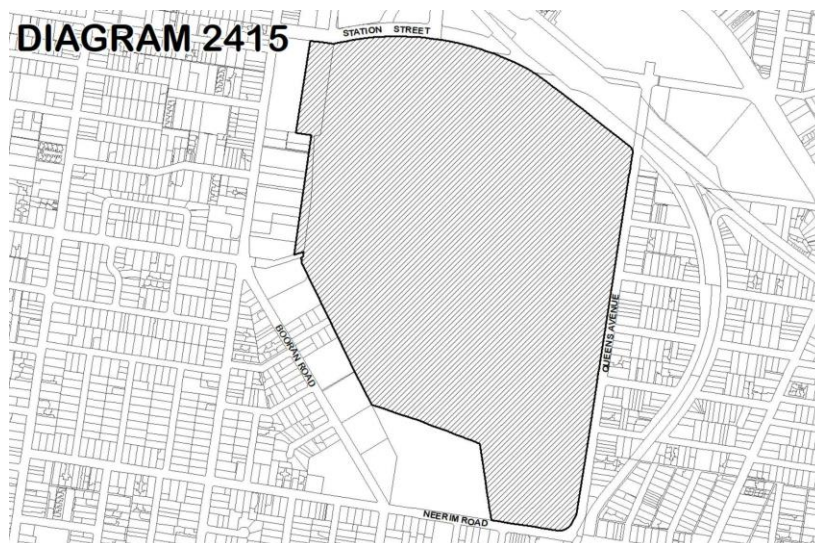
### The racecourse

The racecourse is comprised of one main racetrack with three finishing straights and five inner training tracks. Although the number of tracks and surface treatment has changed over time, the general alignment and distinctive triangular shape of the racecourse has been little altered since the mid-nineteenth century.

### Landscaping

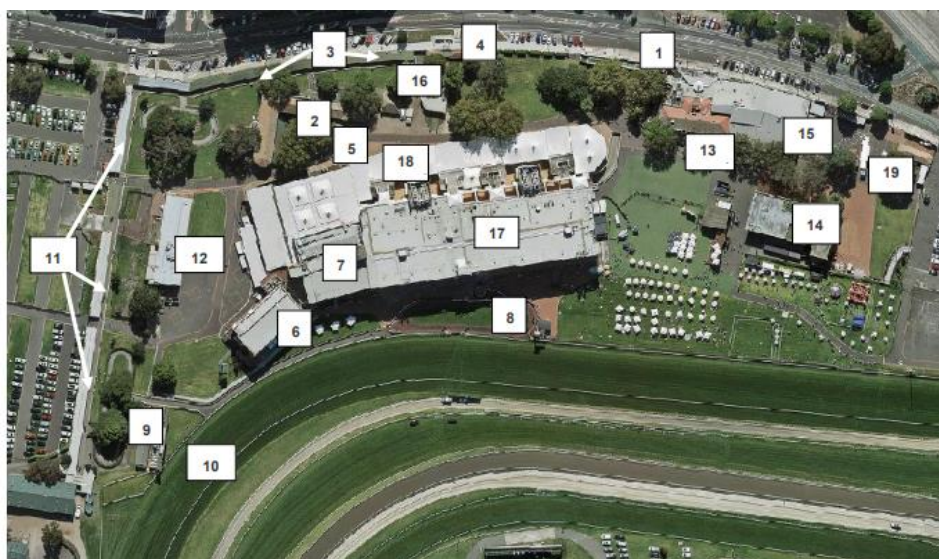
The tracks are arranged around a central grassed area known as the 'Flat'. The Flat contains an ornamental lake dating to the early twentieth century, as well as a more contemporary lake and several modern structures and walking tracks. The landscaping in the northern section of the site consists primarily of paved surfaces and roads, with some garden beds and plantings focused around built structures. While many mature trees were removed in 2022, a collection of mature exotic trees remain in this area."

21. A historical timeline of the Place is included in the Recommendation. Participants have commented on this material, including requested corrections. The timeline shows that the earliest reference to a racecourse at Caulfield is 1857, with a reserve established in 1859 and formation of the Victorian Amateur Turf Club ('VATC').
22. The Executive Director's recommended extent of registration for the Place is expressed by reference to Crown Land parcels and a plan (Diagram 2415)<sup>2</sup>, this being all of the place shown hatched on Diagram 2415 encompassing all of Allotment A at Caulfield, Parish of Prahran, and part of Plan PC380965 including 20 metres west from the brick wall in the northwest corner of the site.



<sup>2</sup> Page 37 of the Recommendation.

23. An image from the Recommendation identifies some of the built elements:<sup>3</sup>



2021, Aerial image of the northern portion of Caulfield Racecourse with key structures labelled and listed below. It should be noted that some of the unlabelled structures and other features are no longer extant.

Source: Radius

- |  |   |
|--|---|
| 1. Entry gate and boundary walls (built 1928).           | 2. The Boomerang Buffet building (built 1919).      |
| 3. Race day stalls (c.1920s).                            | 4. Members' entry and pavilions (c.1950s).          |
| 5. The scratchings board building (built c.1920s).       | 6. The Hiskens Stand (built 1935).                  |
| 7. The Norman Robinson Stand (built 1960).               | 8. Mounting yard and stewards' observation tower.   |
| 9. The Birdcage walking ring (constructed c.1958).       | 10. Betting board and associated building (c.1958). |
| 11. Race day stalls and western boundary wall (c.1950s). | 12. Maple building (built c.1958).                  |
| 13. The Afternoon Tea Room (built 1939).                 | 14. Administration Building (c. 1990).              |
| 15. Glasshouse (c. 2000).                                | 16. Race day office (c. 2010).                      |
| 17. Rupert Clarke Stand (1990)                           | 18. Tent structures and space frame.                |
| 19. TAB Office (c. 1960s)                                |   |

## ISSUES RAISED IN SUBMISSIONS AND EVIDENCE

24. The following is not intended to be a complete record of written and oral submissions that were made to the Committee throughout the whole Heritage Council process. It is a summary of key issues, followed by an explanation of the conclusion that the Committee reaches on each key issue.
25. The Committee refers to the detailed assessment framework in *The Victorian Heritage Register Criteria and Threshold Guidelines 2020*<sup>4</sup> ('the Guidelines') in considering the issues before it. The Guidelines provide a structure and framework for decision-making to ensure that where places are identified for inclusion on the VHR, one or more criteria are satisfied at a State level. The criteria are listed in **Attachment 1**.
26. On 1 December 2022, the Heritage Council adopted a revised version of the Guidelines. This was subsequent to the hearing. All hearing participants were advised by email that the *Victorian Heritage Register Criteria and Threshold Guidelines 2020* apply to the Caulfield Racecourse registration review and other nominations and reviews that pre-date adoption of the revised document. No further submissions have been sought or received.

<sup>3</sup> Extracted from page 5 of the Recommendation.

<sup>4</sup> Dated 3 December 2020.

## KEY ISSUES

27. A number of key issues have emerged in this review:
- permits issued and works permitted to the Place;
  - the proposed extent of registration of the Place;
  - the bases upon which the Place is of cultural heritage significance to the State of Victoria; and
  - the proposed categories of works and activities that should be exempted from the need for a permit under Part 5 of the Act.
28. A number of other issues, comments and concerns have been raised in written and oral submissions, to which the Committee briefly refers.
29. The Committee does not recite the many wording changes that have been accepted by the Executive Director, such as those which arise from Dr Lemon's evidence.

## INTERIM PROTECTION ORDER AND PERMITS

30. The IPO issued on 27 January 2022 includes the Place in the VHR. The Place does not extend to stables and land abutting Kambrook and Booran Roads. The IPO expires at the end of February 2023.
31. The IPO does not prevent permit applications being made, assessed and determined.
32. Two consequential issues emerged in the course of this proceeding that warrant comment.
33. First, the IPO did not extend the area of protection to the stables and land abutting Kambrook and Booran Roads, although the GEHS had originally requested this land as part of its IPO nomination to Heritage Victoria. The nomination for permanent inclusion in the Register is similarly confined. A number of parties to the hearing made submissions to Heritage Victoria and to this Committee that these areas should be included in the registration.
34. Second, the land affected by the nomination included an extensive area and a range of buildings dating from the period of interest. During the period of operation of the IPO, the owner of the land made a number of permit applications to Heritage Victoria, as it was entitled by law to do. The Executive Director ultimately granted the permits sought subject to conditions. The Executive Director was required to consider and determine the permit applications, and has the power to grant permits in these circumstances. The granted permits were not amenable to any review to or by the Heritage Council. The only review open to the Council would have been where the permit holder sought to challenge conditions, which did not occur. In addition, no challenge to the grant of the permits was launched in the Courts by any person. Accordingly, before the registration hearing commenced, substantial works and demolition have been approved and some has been carried out on the land.
35. In the result, neither issue is determinative of the outcome in these proceedings. That said, the matters were raised and in the interests of good heritage practice development of the jurisprudence it is appropriate to deal with each matter comprehensively.

## THE PERMITS AND WORKS

36. It is important to set out some context.
37. The Executive Director's Recommendation is for inclusion of the Place in the Register based upon the satisfaction of specified assessment criteria. While there is no dispute between the parties as to its inclusion in the Register, there is debate as to whether additional criteria are satisfied. This Committee has found that, in addition to the criteria identified by the Executive Director, other assessment criteria are also satisfied.



38. It is apparent from the history of the development of the Conservation Management Plan of 2019 (updated in 2021) ('CMP') and the permit applications, that Mr Lovell, who was called by the MRC to give evidence in this proceeding, was not involved in the permit applications.
39. In answer to a direct question from the Committee, Mr Lovell agreed that the demolition of buildings authorised by the permits granted by Heritage Victoria had diminished the significance of the Place. This evidence underscores the concerns which had been openly expressed by submitters at the Directions Hearing in this proceeding. As this Committee made clear at various points, it is beyond the jurisdiction of this Committee to review the approach of the Executive Director in relation to the permit applications. The responsibility for considering the permit applications rested with the Executive Director.
40. In discharging its obligations to consider whether and on what terms the land, and the buildings on it, are sufficiently significant to warrant the permanent protection of the Register, some of the buildings to which the Committee's attention was drawn by submitters (and the grounds in which they had once sat) had already been lawfully demolished under the auspices of permits granted by the Executive Director.
41. The outcome and process are than less than optimal, and may be regrettable – even if lawful.
42. Heritage Victoria's consideration of the permit applications was not evidently informed by this hearing or this process. But its Recommendation is the subject of review. The Committee has found that the Recommendation as to significance requires, in part, modification – including additional bases for significance against the assessment criteria. This Committee cannot say whether its findings could have influenced the outcome of the permit applications one way or the other. It would be improper to say so, and this Committee expressly declines to express a view one way or the other.
43. That said, the Executive Director's decision to process such substantial permit applications, and decide them, allowing a considerable amount of demolition works, while its own Recommendation was the subject of review is a matter which the Heritage Council and the Executive Director should consider at a policy level.
44. The application of the IPO is intended to preserve the heritage fabric in order that careful and detailed assessment can occur to determine whether or not the land should be included in the Register. That process can involve new relevant information and professional opinion as has occurred here. Nothing in the language which confers the power on the Executive Director to grant permits where an IPO is in place contains any limitations as to the scope or extent of what can be approved. On its face, the power confers a wide discretion. The breadth of the power conferred does not imply that it should be used, or that it should be used in a manner which might pre-empt a proper consideration by the Heritage Council of the significance of the heritage place.

## EXTENT OF REGISTRATION

### *Recommended extent of registration*

45. The recommended registration area is notionally depicted over an aerial image, below:<sup>5</sup>

Aerial Photo of the Place Showing Proposed extent of registration



46. The recommended extent of registration includes the whole of the Crown allotment upon which Caulfield Racecourse is located, plus a portion of privately owned land along the western boundary of the Place. It includes the racecourse itself as well as built and landscape features which are associated with the development of the Place.
47. The recommended extent of registration varies from the nominated extent of registration, which included the entire car park to the north-west of the racecourse. This car park is associated with the late 1950s expansion of Caulfield Racecourse. In this area, a buffer of 20 metres from the western wall has been recommended for the protection of this feature. Three issues have been raised in submissions and through evidence, which the Committee addresses next with respect to the recommended registration area.

### ***Buffer for the north-western wall***

#### *Overview of submissions and evidence*

48. Reference has been made in paragraph 47, above, to the 20 metre buffer in the 'Maple car park' recommended by the Executive Director. In its original submission, the MRC opposed

<sup>5</sup> Page 38 of the Recommendation.

this buffer on the basis that it is excessive to protect the wall and instead submitted a reduced curtilage of 3 metres should be adopted.

49. Over the course of the hearing, and through evidence, variations to the recommended buffer have been proposed. Most parties agree that the car park constructed in the 1950s is not itself significant although the role and use of the car park has been referred to by Dr Lemon (as noted below).
50. Key elements of the parties' positions are summarised as follows:
- The Executive Director is open to a buffer of less than 20 metres but opposes a reduced buffer to 3 metres. While the reduced buffer would provide a limited area for maintenance of the wall, the Executive Director submits that it will not be sufficient for the protection, conservation or understanding of the Place, nor provide a sufficient setting for its appreciation. While acknowledging that historically this area has been sparsely developed, the Executive Director considers that large-scale or intensive development has the potential to visually impact on the concentration of significant buildings and features in the northern part of the site and should be avoided. He suggests 10–15 metres may be acceptable (described by him as roughly the length of two car spaces). The boundary wall in this direction is said to be a highly attractive part of the Place and warrants a buffer of greater than 3 metres to ensure its values are managed under the Act.
  - GECC supports a buffer of 10 metres on the evidence of Mr Hemingway who says that this distance would be necessary to protect the boundary wall itself as well as the Place from encroaching development. Further, given the continuity of the race-day stalls in this part of the site for well over a century, Mr Hemingway states that it would be appropriate to be able to manage change near them so that their low-scale construction and boundary defining character could be retained.
  - GECAN supports a 20 metre buffer along the entirety of western wall to protect the natural landscape and mature trees.
  - GEHS supports the proposed 20 metre buffer. Dr Lemon has suggested in his oral evidence that 20 metres is essential by way of buffer. In his view, the whole of the car park land (as sought in the original nomination) should have been included as part of the registered extent because of potential impacts the development of the car park could have on the Place. Dr Lemon states that when considering land which immediately abuts a heritage area (particularly when the heritage Place to be protected is expansive), a buffer zone should be included in the registration.
  - The GRC Members submit that a 20 metre buffer outside the course walls is preferable to protect the aesthetics of the racecourse from its surrounds and also note the importance of nearby buildings in the northern precinct.
  - The MRC considers a 20 metre buffer zone is excessive and that a reduced depth would provide for management of the boundary wall interface as related to future development to the west of the wall. Mr Lovell gave evidence that a 3 metre buffer zone is adequate to manage this interface. The wall that presents to the car park area is of relatively recent origins and is one of no particular heritage sensitivity as related to nearby or adjacent heritage structures, which would be sensitive to view/vista impacts. He states that including a buffer area in a State registration would be a major step and relatively unusual. Although he concedes that the north-west corner of the Place is where most of the significant buildings are, he does not believe that the proposed buffer is appropriate as it would effectively prescribe a built form or planning controls and predetermine what is to be developed on the car park site. Mr Lovell concludes that curtilage usually relates to significance of the place, rather than being employed as a defensive mechanism.

### Discussion and conclusion

51. Mr Lovell's evidence,<sup>6</sup> as replicated in the CMP describes the brick wall (extending further than the car park adjacency) as follows:

*"The red brick boundary wall to Station Street and Normanby Road is of historical and aesthetic/architectural significance. It is a substantial and prominent historical component of the northern end of the racecourse, which demonstrates the traditional racecourse boundary, providing the required management of access and enclosure to the course. The wall also makes a contribution to the heritage character of Station Street and Normanby Road, with the earliest sections of the 1920s being the most significant, albeit these sections have in part been altered and in some cases only limited 1920s fabric remains. Through their height and provision of ventilators, many sections of the wall – particularly at the west end – demonstrate their role in the race day stalls. The Queens Avenue fence is also of historical significance. It too provides a boundary marker and enclosure to the eastern part of the racecourse. The serrated top additionally provides evidence of the need to control entry to the racecourse from early in its history."*

52. There are competing arguments with respect to the extent of a necessary buffer associated with the wall and Place, although it is agreed between all parties that an area is required. To the extent that it might be unusual, the Committee does not consider such an approach is inconsistent with the broad terms of section 32(b) of the Act, referencing land that may be recommended as part of a registered place if the Executive Director considers that "land surrounding the place is important to the protection or conservation of the place or contributes to the understanding of the place". The Executive Director's Recommendation, which is the subject of this proceeding, was not challenged on any legal grounds.
53. The Committee notes the Executive Director's submissions that the car park does not contain any discernible features of significance. Although historically the Maple car park area has been sparsely developed, the submissions refer to large-scale or intensive development in this area that has the potential to visually impact on the concentration of significant buildings and features in the northern part of the site.
54. The relatively low-scale wall abuts a car park. The purpose of a buffer is not to pre-determine the development of the car park land. Rather, it has roles that include identifying and protecting the setting of the Place, in this case, the north-west and part of the outer edge of the Place. The Committee does not accept submissions and evidence of the MRC that the wall's context is one of no particular heritage sensitivity as related to nearby or adjacent heritage structures. This part of the Place includes the wall, which is also noted as being integrated with some Race day stalls.
55. The Committee finds that a buffer is required in the circumstances of the brick wall and Place. It finds that 3 metres is insufficient to do so. It agrees with the Executive Director and submissions and evidence by GEHS, GECC, GRC Members and GECAN that while 3 metres would allow for maintenance of the wall, it is not adequate with respect to the Place's setting and protection of its values. The physical context is different when compared with, for example, the older 1920s section of stalls and northern wall which abut the public road reserve associated with Station Street rather than adjacent private land.
56. The specific distance required has a level of subjectivity, as is apparent in submissions and evidence. The Committee does not consider that 10 or 15 metres is adequate to achieve the purpose of the land to allow for maintenance as well as providing a setting for this part of the Place and the Place as a whole. While there is an argument made by some submitters that more is needed, the Committee accepts the original recommendation of 20 metres as land surrounding the place that is important to the protection or conservation of the Place or contributes to the understanding of the Place.

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<sup>6</sup> Page 163.



### ***Additional land to west***

- 57. The MRC originally objected to the inclusion of land on the western side of the track, so as to align with the edge of the track. It said that there was no reason include a 'buffer' of additional land in this location. However, the MRC has not pursued this matter, as was confirmed at the hearing.
- 58. No change is required to the land to which the registration applies.

### ***Expansion of the registration area to include land (stables) abutting Kambrook and Booran Roads***

#### *Overview of submissions and evidence*

- 59. GECAN and the GEHS seek the inclusion of additional land in the registration. This land comprises stables that abut Kambrook and Booran Roads, to the south-west of the recommended registration area.
- 60. The land occupied by the community and associated stables did not form part of the nomination that is the subject of the Recommendation nor the IPO. Consequently, the Executive Director did not make fulsome submissions or undertake an assessment of this land. In reply submissions, however, the Executive Director notes that:
 

*"including additional land in the extent of registration poses several challenges to the Regulatory Committee for this matter. Section 49(4) of the Act enables the Heritage Council to determine to include in the VHR "additional land of the owner that is ancillary to the place" if it determines to include a place in the VHR. However, the Heritage Council must gain consent of the owner."*
- 61. Mr Hemingway gave evidence that while community stables are on freehold land separate to the Racecourse reserve, they were developed between 1959 and 1961 in association with Caulfield Racecourse in order to gradually cease the tradition of horses being kept on private property in the vicinity. He states that they are the earliest block of training stables surviving at the broader racecourse site and, although existing for only about 60 years, that the buildings are "evocative of the tradition of such facilities being provided for the racehorses at Caulfield". Consequently, he states that "the case for including the Community Stables within the extent of registration is not straightforward however they are worthy of such a consideration."
- 62. GECAN submits that the registration should include the community stables "as significant mature trees are also located in this area" including a 90-year-old oak tree (*Quercus* species) which is said to be the oldest on the site.
- 63. In verbal submissions at the hearing, GEHS has explained that the Crown Land and freehold land was originally sought in its nomination to Heritage Victoria, but, following discussions with Heritage Victoria, this was not pursued on the basis of insufficient documentation at that time.
- 64. GEHS says that there is now further research that has shown the importance of this land. GEHS considers that the registration should be extended to include this additional land as it has historically had a direct connection with the racecourse, it being considered by Lovell Chen as a place with heritage values in the CMP. The community stables were specifically identified as having heritage significance in the CMP, albeit secondary in nature.
- 65. GEHS further submits that any medium- or high-rise building on this freehold land would compromise the existing vistas from the racecourse towards the bay and the special sense of open space appreciated from the Place. It emphasises that views are an integral part of the race day visitor's experience as well as the people visiting for the other purposes (i.e. visiting the park or for recreation).

66. The GRC Members highlight the history of training which has not been adequately recognised, with the community stables being part of that role.
67. MRC submits it is not open to the Committee to expand the registration area. The land is confined to that within the Recommendation. Further, it would be procedurally unfair to include more land which has not proceeded through a proper process, including an assessment against the Guidelines. This is not a case of ancillary land to the Place and the MRC would not agree to the land's inclusion as part of this current registration hearing.
68. Other submitters, and Dr Lemon, challenge this approach, although no detailed comments or submissions have been presented with respect to the interpretation of the operative legislative provisions.

#### *Discussion*

69. It is evident that a number of submitters contend that the area of the nomination is not sufficiently extensive, and that the area proposed to be nominated should be broad enough to include the stables, and other land abutting Kambrook and Booran Road.
70. At the hearing, when asked why the area proposed for nomination was not pursued, Heritage Victoria's explanation was limited. It appears that only the now-recommended land was assessed for inclusion in the Register, and that no detailed consideration was given as to whether or not the extent of nomination should be greater, nor the contribution that this additional land might make to the significance of the place which has been nominated for inclusion in the Register. Mr Lovell in his evidence also agreed that there had not been a detailed consideration of the criteria for inclusion in the VHR with respect to that land to date, and that on this basis he was unable to say whether the criteria would be met. The Committee observes that two parcels of land containing significant mansions are already included in the Register. The citations for both record their extensive association with the Caulfield Racecourse. Further, the development of the community stables (which are not presently protected by the Register) is well documented in materials prepared by Lovell Chen and available to Heritage Victoria.
71. The Committee feels, but cannot say conclusively, that much of the primary historical material required to decide whether the criteria for registration are met by these properties is available, and that the remaining step is the detailed assessment and consideration against the criteria. It is the absence of this detailed consideration which is pressed by the MRC as one reason why this Committee should make no finding about the significance of these additional areas at a State level. It is not well explained as to why that assessment has not been undertaken, in light of the material apparently available to undertake the assessment.
72. The Committee is mindful that this additional land could be the subject of a future nomination for inclusion in the Register in its own right, the subject of an IPO or consideration by local heritage authorities in considering whether heritage protection should be extended to these areas, and if so at what level – local or State. The Committee does not pre-empt the outcome of any assessment of heritage significance that might flow from a careful consideration of the criteria. Nor does the Committee preclude the possibility that new information may come to light which may add to or subtract from that significance.
73. Ultimately, the Committee accepts submissions made on behalf of the land owner that there is not presently sufficient information to reach a conclusion as to whether the additional land should be included in the registration or not.
74. In reaching that conclusion, the Committee emphasises that the above comments should not be interpreted that the Committee is not entitled to receive submissions to the effect that the nominated area is insufficient or to embark upon the inquiry in the context of this hearing.

75. The MRC submits the Committee's consideration is confined to the area of nomination, the subject the Recommendation; and that, in substance, submissions which sought consideration of additional land are irrelevant, with the effect that any decision of the Committee to accept those submissions would be beyond the power of the Committee.
76. The Committee has rejected submissions requesting the inclusion of additional land, and so nothing turns on the correctness of these submissions raised by the owner. That said, they were comprehensively argued on behalf of the MRC. It is appropriate that the Committee addresses those submissions.
77. The MRC's submissions bring together two matters:
  - The ability of a submitter to make submissions concerning the extent of the nomination/registration, and in turn the ability of the Committee to consider those submissions; and
  - The power of the Committee to alter the area nominated for registration to increase the area in **size**.
78. The Committee accepts that the proper construction of the Act leads to the conclusion that the Committee has no power to determine to include in the Heritage Register land which is additional to the nominated area for inclusion under section 49(4) unless with the owner's consent, even if it were of the view that additional land should be included.
79. That the Committee has no power to determine to include the additional land in the Register absent the owner's consent, is different to saying that the Committee would be acting outside its jurisdiction to consider submissions and evidence to the effect that the land is of sufficient significance to warrant inclusion.
80. The terms of section 49 sets out the powers of this Committee on review. Section 49(4) provides that:

*"If the Heritage Council determines to include a place...in the Heritage Register, with the consent of the owner of the place, the Heritage Council may determine to include in the Heritage Register additional land of the owner that is ancillary to the place."*
81. Having determined that the Caulfield Racecourse should be included in the Register, section 49(4) is enlivened. In order to be able to determine whether or not additional land should be considered in the Register it must, as a matter of logic, be open for the Committee to consider submissions and evidence directed to that question. Essential to the operation of this provision is the need for the Heritage Council to consider whether or not additional land should be included in the Register. That process requires consideration of the cultural heritage significance of the additional land and/or its contribution to the significance of the nominated place as a first step to determine whether or not the Heritage Council can form the view that the land should be included. The owner's consent is only of practical relevance once that view is formed.
82. The owner's submission suggests that:
  - the Heritage Council's process is confined by the area nominated for inclusion in the Register under section 27(1) of the Act;
  - no recommendation has been made for the inclusion of additional land; and
  - as such, submissions which purport to assert that additional land should be included in the Register are not submissions "in respect of the recommendation" and therefore directed to irrelevant matters.
83. These submissions take an overly narrow view of the powers of the Heritage Council on review.
84. Section 49(1) provides that the powers of the Heritage Council are engaged after "considering a recommendation [of the Executive Director] that the place....should or should

not be included in the Heritage Register and any submissions in respect of the recommendation and conducting any hearing into the submissions...”

85. The owner submits that a submission to the effect that additional land should be included in the Register where the Executive Director did not consider that possibility is not a submission “in respect of” the Recommendation. The phrase “in respect of” gathers its meaning from the context in which it appears and the purpose for which it appears.<sup>7</sup> Ordinarily, expressions such as “in respect of” and “in relation to” are given a wide meaning, to connote a relationship between two subject matters.<sup>8</sup> It will depend on the statutory context whether the relevant relationship is required to be direct or substantial, or whether an indirect or less than substantial connection will be sufficient.<sup>9</sup>
86. The first stated purpose of the Act is to “provide for the protection and conservation of the cultural heritage of the State”. In the construction of the breadth of its review powers, and the meaning of the phrase “in respect of” in section 49, this purpose must be at the forefront of consideration.
87. Evidence or submissions directed to the assertion that, in his consideration of the merits, the Executive Director had overlooked important matters which might have led to a greater area of protection being included, are evidence and submissions that are “in respect of” the Recommendation of the Executive Director in the relevant sense.
88. This conclusion is borne out by a careful examination of the text of the provisions and the Act construed as a whole.
89. First, consideration of submissions of this kind are central to the issues which arise on the plain language of section 49(4).
90. Second, such an interpretation is consistent with the scheme of the Act. Through recent amendments, the Act has established a process to include additional land in a registration. Section 32 empowers any person and the Executive Director to nominate land as part of a registered place in certain circumstances. This type of nomination is intended to spatially augment heritage places which are already in the Register. Properly read, section 49(4) empowers the Heritage Council to consider additional land at the earliest stage of the process, namely in circumstances where the registration of the place is first being considered, and through the process of public involvement, the evidence establishes that additional land should be included in the Register. Where the owner agrees, the process of renomination is conveniently avoided. Where agreement is not forthcoming, for whatever reason, a further nomination process is required.
91. Third, it is important to bear in mind that the spatial and conceptual ambit of significance is not determined once and for all by the scope of what is nominated. Nominations may be made by any person and by the Executive Director: section 27(1). In saying that, the nominator need possess no particular skill or heritage expertise. Every step in the process that follows involves review by experts – first by the Executive Director and then by the Heritage Council. Nothing about section 27(1) expressly or impliedly suggests that the opinion of the nominator on any matter, but including the extent or area to be registered as defining the place to be protected, is to be treated as necessarily correct, or not amenable to review or change as the process goes through its subsequent stages.
92. Regardless of the identity of the nominator, the Executive Director is required by the Act to consider and make a recommendation to the Heritage Council as to the nomination. Nothing in the Act expressly confines the Executive Director’s recommendation to the

<sup>7</sup> *PMT Partners Pty Ltd (in liq) v Australian National Parks and Wildlife Service* (1995) 184 CLR 301, 313 (Brennan CJ, Gaudron, and McHugh JJ).

<sup>8</sup> *Fountain v Alexander* (1982) 150 CLR 615, 629 (Mason J); *O’Grady v The Northern Queensland Co Ltd* (1990) 169 CLR 356, 376 (McHugh J).

<sup>9</sup> *PMT Partners Pty Ltd (In liq) v Australian National Parks & Wildlife Service* (1995) 69 ALJR 829, 835-836 (Brennan CJ, Gaudron and McHugh JJ); 845-846 (Toohey and Gummow JJ).



physical boundaries of the original nomination. There is no provision which prevents the Executive Director from reducing or expanding the area necessary to protect the place of heritage significance.

93. The recommendation of the Executive Director must be published by the Heritage Council pursuant to section 41 of the Act. Section 44 of the Act provides any person may make a written submission “in relation to” to the Executive Director’s recommendation. Section 44 of the Act exists for the purpose of giving the public at large the opportunity to disagree with the Executive Director’s recommendation. Similar to the phrase “in respect of”, the phrase “in relation to” has wide import. There is no reason why, based on the text of section 44, that such submissions could not extend to asserting the existence of flaws in the Executive Director’s recommendation, including a failure to properly assess the boundary of the area to be protected. The right to make submissions conferred by section 44 must extend to a right to assert that the Executive Director has missed something, or got something wrong, including the extent of area to be registered. That being so, once made, the Heritage Council is obliged to consider submissions of that kind, whether or not the Heritage Council is ultimately able to act on the submission.
94. Fourth, the legislative changes introduced to permit inclusion in the Register of additional land to augment places already on the Register do not apply to a situation where land is not already on the Register. Those provisions do not qualify the powers of the Heritage Council under section 49, in particular section 49(4) which on its own terms operates in cases where land is being included in the Register for the first time.
95. Section 49(4) must be read as operating to separately empower the Heritage Council to consider, for itself, in the context of the substantive consideration of the heritage significance of the place as a whole, whether additional land is required. The Heritage Council can only act at this late stage of the process to determine to include the land in the Register if the owner of that land consents to the inclusion. Failing consent, a process may be commenced under section 32, and protection might also be available on an interim basis under section 143 of the Act until such time as a full consideration of significance can occur.
96. In this way the Act elegantly addresses the possibility of deficiencies in the nature and extent of the area originally nominated, providing a mechanism for the Heritage Council to deal with those matters efficiently with the consent of those affected, but also providing a mechanism for a full process to be undertaken.

#### *Conclusion*

97. For these reasons, the Committee does not accept the MRC’s primary contention that consideration of submissions in these hearings to the effect that additional land should be included in the Register is irrelevant or in some way beyond the scope of these proceedings. It also does not accept submissions that seek to add the community stables into the extent of registration.

#### ***Conclusion regarding extent of registration***

98. The Committee determines that the area of registration is as shown in Diagram 2415 and confirmed in **Attachment 2**.

### **CULTURAL HERITAGE SIGNIFICANCE OF THE PLACE – OVERVIEW OF POSITIONS**

99. There is significant common ground among that the Place is of State-level cultural heritage significance and should be included in the Register.
100. In terms of positions presented through hearing submissions and evidence, broadly:
  - all agree that Criteria A, D and G are satisfied at the State level, albeit their reasons are not the same. A number seek additions to the Executive Director’s Statement of Significance;

- all but the Executive Director and MRC agree that Criterion B is met;
- the MRC and GECAN agree that Criterion E is met;
- all but the MRC agree Criterion H is met, although the MRC believes that the important role of the MRC/VATC can be dealt with under Criterion A;
- all hearing participants agree that Criteria C and F are not satisfied at the State level. Criterion C was mentioned by the Caulfield Racecourse Reserve Trust in its submission<sup>10</sup> and will be considered briefly below. Criterion F will not be considered further.

**101.** The summary table from Mr Lovell’s reply evidence<sup>11</sup> accords with the Committee’s assessment of the written submissions, noting that oral submissions at the hearing resulted in some variations from this summary.

Table 3 Summary of criteria assessed to have been satisfied

Submitter/Criteria	A	B	C	D	E	F	G	H
Executive Director, Heritage Victoria	✓			✓			✓	✓
Melbourne Racing Club	✓			✓	✓		✓	
Glen Eira Council, RBA Architects	✓	✓ ?		✓			✓	✓
Glen Eira Historical Society, Andrew Lemon	✓	✓		✓			✓	✓
Anthony Del Monaco	✓	✓		✓			✓	✓
Glen Eira Emergency Climate Action Network	✓	✓		✓	✓		✓	✓

- 102.** The Committee has considered detailed comments with respect to all of the criteria presented through the hearing process, such as GECAN’s marked-up version of the Executive Director’s Recommendation. Not all of this material is recited in this determination.
- 103.** Having considered the submissions and evidence, through the hearing process, the Executive Director produced a revised Statement of Significance, which is replicated below. His changes are marked in [blue](#).

*“What is significant?”*

*The Caulfield Racecourse, a premier racecourse in metropolitan Melbourne, which has been the site of horse racing since the late 1850s and was more formally developed from 1876 by the Victoria Amateur Turf Club (VATC). [Buildings and features of particular significance](#) include the [racetrack](#); the Flat and [North lake](#) at the centre of the course; the Boomerang Buffet building (1919); the scratchings board building (c.1920s); main entry gate (1928), east and west delivery gates and boundary walls (1920s and 1950s);*

<sup>10</sup> It was an observer at the Direction Hearing and Hearing, but did not seek to participate in either.

<sup>11</sup> Page 5.

surviving mature exotic trees; race day stalls (dating c. 1920s onwards); the Hiskens Stand (1935); the Afternoon Tea Room (1939); Maple building (c. 1958); betting indicator board (c. 1952); the Norman Robinson Stand (1960); and stewards towers.

*How is it significant?*

*Caulfield Racecourse is of historical and social significance to the State of Victoria. It satisfies the following criteria for inclusion in the Victorian Heritage Register:*

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

*Criterion D Importance in demonstrating the principal characteristics of a class of cultural places and objects*

*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.*

*Why is it significant?*

*The Caulfield Racecourse is historically significant as one of Victoria's and Australia's premier racecourses, and as one of only three major metropolitan racecourses in Victoria in operation since the nineteenth century. The place was permanently established as a racecourse reserve in 1876, although races have been run in this location since the late 1850s. Since 1879 it has been home to the Caulfield Cup, an internationally renowned handicap race, and a key lead up and qualifying event to the Melbourne Cup. Since the 1870s it has been associated with the Victoria Amateur Turf Club (VATC) one of three major metropolitan racing clubs, continuing as the Melbourne Racing Club (MRC). Caulfield is an evolved complex comprising a range of buildings and site features associated with racing operations (including the preparation of horses, betting, officiating of races and the provision of hospitality). Collectively, these reflect both on Caulfield's long history and status as a major and prestigious metropolitan racecourse in Victoria and on the different phases in that history. In particular, Caulfield is distinguished by its collection of racecourse-related buildings and elements from the interwar period.*

*[Criterion A]*

*The Caulfield Racecourse is significant as a notable example of a racecourse within Victoria. It demonstrates a great number of the principal characteristics of a racecourse and can be considered a fine example. It retains a collection of comparatively intact racecourse related buildings and elements of some distinction, dating from the first half of the twentieth century. These include the 1919 Boomerang Buffet building; 1928 Gatehouse at the main entrance; sections of the boundary wall to the racecourse, 1920s Scratchings Board; 1939 Afternoon Tea Room (Luncheon Room); 1935 Hiskens Stand and the extensive collection of race day horse stalls (1920s-1950s). The 1950s Betting Indicator ('tote') Board is an early and substantial surviving example. More generally, the buildings and structures, in their planning and arrangement, demonstrate aspects of the historic layout and function of the racecourse, including the concentration of racecourse related structures at the northern end where they are the focus of race day operations, members' facilities, and the spectator experience. The built elements of the place are complemented by a landscape that is characterised by the expanse of the track, central flat and mature trees. [Criterion D]*

*The Caulfield Racecourse is socially significant for its associations with the horse racing community since the mid-nineteenth century. Caulfield Racecourse is renowned as the location of several of Australia's premier horse races and there is a high degree of public recognition for the place. It is home to the most Group 1 races in Victoria apart from Flemington. It and has been visited in person by sizeable crowds for much of its history who have gathered to participate in, officiate, work at, watch or bet on horse races.*

*Caulfield is popular and valued for these reasons, including by punters, members of the Victorian racing community and people associated with the industry, and members of the Melbourne Racing Club. [Criterion G]*

*The Caulfield Racecourse is significant for its associations with the Victoria Amateur Turf Club (VATC), now known as the Melbourne Racing Club (MRC). From the late nineteenth century, the VATC became one of the most influential racing associations in Victoria, having founded one of the state's most prestigious horse racing events (the Caulfield Cup) and premier racing and training facilities (Caulfield Racecourse). The VATC/MRC has continually developed, expanded and improved the racecourse since selecting Caulfield as its home venue in 1876. The club's principal event, the Caulfield Cup, has also been held at the racecourse annually for close to 140 years. [Criterion H]"*

104. Having regard to detailed submissions, the Executive Director notes that the Place may be important to the local community for many different reasons. Broadly, a place can have multiple heritage values, as well as natural values, but not all of them will be State-level cultural heritage values.
105. The Committee agrees with these submissions, in principle, which also appear to be accepted by the expert witnesses. It is relevant to the Committee's assessment, findings and conclusions about which criteria the Place satisfies at a State level while some elements are not accepted as meeting this threshold. The Committee is mindful that there can be legitimate differences of professional and lay opinion about these matters, and the Committee has been assisted by the extensive information and careful consideration of the Guidelines by hearing participants. It is fair to say that this information materially builds on the previously existing body of knowledge in a consolidated way.

## **CRITERION A – IMPORTANCE TO THE COURSE, OR PATTERN, OF VICTORIA'S CULTURAL HISTORY**

### *Overview of submissions and evidence*

106. The applicability of Criterion A is uncontested between hearing participants, but the parties disagree as to additional matters that should be considered or acknowledged under this criterion.
107. As set out in paragraph 103, above, the Executive Director submits that the Place has a clear association with the history of horse racing and the development of racecourses in Victoria, which is evident in both the physical fabric of the Place and in resources which document its evolution. The Place therefore satisfies the State-level threshold for Criterion A.
108. GECC supports the proposed inclusion of the Caulfield Racecourse Reserve to the VHR under Criterion A on the basis of the Executive Director's Recommendation. Mr Hemingway's evidence includes that the following could also potentially be considered as elements of historical significance under Criterion A:
- the site has long been used for stabling and training; and
  - the memorial to 'Australia's fallen jockeys (1847–2004)' which commemorates the tragic side of the industry (both the loss of jockeys and racehorses) during racing events.
109. GEHS considers that the Place's wartime role should be recognised as satisfying Criterion A. While accepting that there is no physical fabric to link its wartime role with the Place in present day, GEHS submits that its unique role as one of the City's major recruiting and training centers from mid-1940 to August 1944 should be recognised. It notes that Caulfield Cups were run at Flemington for that duration and that for these reasons, the wartime role Caulfield played warrants consideration under Criterion A.



- 110.** GECAN considers that Caulfield satisfies Criterion A as related to the specific nature of the reserves and combined parkland/racing use. Among other submissions, GECAN notes the distinctive manner in which Caulfield was established as a Crown Land reserve set aside for racing, recreation *and* public park purposes distinguishes it from other comparable racecourses.
- 111.** Mr Lovell's evidence includes that while it is important to recognise in the history of the Place, the association of Caulfield with wartime activities was a brief and passing moment in its long history and not one which meets the threshold tests required to satisfy Criterion A at a State level. His opinion is that Caulfield is one of many places with important wartime associations, but not one where they are understood better than at other places with similar associations.
- 112.** In response to submissions noting that Caulfield was established as a Crown Land reserve set aside for racing, recreation and public park purposes, Mr Lovell states that while being distinctive and a potentially unique arrangement, the land ownership and reservation arrangements at Caulfield are not in themselves aspects of the Place which go to heritage significance, rather they are merely a point of historic distinction.
- 113.** Similarly, although the Executive Director considers that the Place has provided important recreational facilities for the local area since the mid-nineteenth century, the Place does not allow the provision of parks and reserves for public recreation in metropolitan Melbourne to be better understood than other places with the same association. Additionally, the Executive Director notes the ongoing public recreational use has often been constrained by the requirements of the racecourse. The Executive Director notes that the open space at the centre of the track is an important quality of the Place which the Executive Director has identified under the heading "What is significant?" but considers that the Place's role as a public reserve and park relates more to its local level cultural heritage values which, while important, do not form the reason for the Place's inclusion in the VHR.
- 114.** The Executive Director accepts in the Recommendation that Caulfield Racecourse has important associations with military operations in Victoria during World War II, but his view is that these are better understood by surviving places and objects already included in the VHR which still demonstrate this association in their physical fabric. Many existing places in Victoria, including schools, parks and public reserves, were co-opted into the war effort in this period and so the Executive Director submits that the Caulfield Racecourse is not unusual in this respect.
- 115.** In oral submissions, the Executive Director concurs that the space that formed the betting ring is still discernible and relates to an important race day function and agrees that horse training is part of the history of the Place.

#### *Discussion and conclusion*

- 116.** The Committee agrees with the Executive Director's assessment that the Caulfield Racecourse has a clear association with the history of horse racing and the development of racecourses in Victoria. Horse racing is of historical importance, having been a popular form of sport and public recreation since the very early years of Melbourne's establishment. Major horse races such as the Melbourne and Caulfield Cups have contributed towards Victoria's reputation as an important home of horse racing in Australia. A great number of racecourses were established across Victoria in the latter half of the nineteenth century and Caulfield dates from this time. Until the 1940s, racecourses were one of the most prolific types of recreation reserve in Victoria. This association is evident in both the physical fabric of Caulfield Racecourse and in resources which document the evolution of the place.
- 117.** Moreover, as the Executive Director's assessment states, Caulfield Racecourse is one of Victoria's most important racecourses, second only to Flemington Racecourse. It has been the site of horse racing since the late 1850s, was more formally established in 1876, and it continues as a major racecourse to the present day. It hosts some of the most important

race days in Australia – including the internationally renowned Caulfield Cup which dates from 1879. It is one of only four major racecourses remaining in metropolitan Melbourne and one of only three (along with Flemington and Moonee Valley) that date from the nineteenth century. It has an array of buildings and features that enable the development, operation and prestige of horse racing in Victoria to be better understood than other places with the same association. Although there are a great number of racecourses in Victoria, particularly in regional areas, few have the number or range of historic features seen at Caulfield satisfying Criterion A at the State level.

- 118. The Committee accepts submissions and evidence the long-term use of the site for stabling and training are important elements of the historical significance of the Place under Criterion A. This should be recognised in Statement of Significance.
- 119. The Place has a clear association with the provision of public parks and public recreation facilities in metropolitan Melbourne, in the mid to late nineteenth century, and that this phase is of historical importance. This has been relevant to the development and character of metropolitan Melbourne as well as enabling the pursuit of various sports and casual outdoor recreation. The recreational use of the Place may be distinctive, but the Committee is not satisfied that the Place allows the provision of parks and reserves for public recreation in metropolitan Melbourne to be better understood than other places.
- 120. The Committee does not regard the public land status as a key matter that elevates this use to State level under Criterion A. It agrees with Dr Lemon that its use as a public reserve (recreation and public park aspects) is likely to be only of significance at the local level.
- 121. The Committee notes that the Place also has an association with Melbourne-based military operations during World War II and that this is a period of historical importance to Victoria, particularly when the city was a major base for wartime operations. However, the Committee considers that these associations are better understood by surviving places and objects already included in the VHR with more direct associations with this period. It accepts the Executive Director's assessment and Mr Lovell's evidence in this regard.
- 122. The Committee finds that **Criterion A is satisfied** at the State level.

## **CRITERION B – POSSESSION OF UNCOMMON, RARE OR ENDANGERED ASPECTS OF VICTORIA'S CULTURAL HISTORY**

### *Overview of submissions and evidence*

- 123. The Executive Director does not consider that Criterion B is met. Although the Caulfield Racecourse has a clear association with the history of horse racing and the development of racecourses in Victoria, and these associations are evident in both the physical fabric of the place and in copious documentary evidence, in his view:

*“the Caulfield Racecourse is not rare or uncommon as one of many places in Victoria which illustrates the history of horse racing or the development of racecourses. There are approximately 70 racecourses in use across Victoria, and a great number have their origins in the nineteenth century.*

*The Caulfield Racecourse contains a wide array of buildings and physical features associated with horse racing, however these cannot be considered unusual or uncommon features of racecourses. Structures such as racetracks, grandstands etc. continue to be key features of racecourses across Victoria, although the size and composition varies.*

*The Caulfield Racecourse is part of a class of racecourses...this class cannot be considered to be endangered to the point of rarity”.*
- 124. The Executive Director does not consider that the nature of the reservation of Caulfield Racecourse is a feature of note that could be considered rare.

- 125.** Although there is agreement as between the Executive Director and the MRC that this Criterion B is not satisfied at the State level, other hearing participants submit that the criterion is met on the basis on the basis of one more of the following:
- the natural qualities of the Place and the association with the formation of the suburb;
  - the rare grouping of pre- and post-war racecourse related buildings; and
  - the Tote Indicator Board and Race day stalls.
- 126.** Mr Hemingway’s evidence, upon which GECC relies, includes that the Boomerang Buffet and Scratchings Board buildings are unusual structures, may be “rare examples of their particular typology at a State level” and therefore may “warrant consideration under Criterion B or rarity significance.” His evidence also includes that:
- “Whilst the horse stalls are less distinctive, the scale of these facilities – the original 1928 section and c1960 extended and rebuilt section – is highly evocative of the importance of the Caulfield Racecourse, and likely an unusual element to survive intact to this extent.”*
- 127.** Mr Hemingway states, in regard to the applicability of Criterion B, the Boomerang Buffet building in particular might meet Criterion B as it is likely a rare example of its type. In relation to the Tote Indicator Board, Mr Hemingway says it was erected about 1960,<sup>12</sup> with the separate masonry block underneath introduced at a later date. In response to the GRC Member’s assertion that it “may be the largest and oldest still remaining in Australia”, Mr Hemingway recommends further research into this point and that potentially this item may have a component of rarity significance under Criterion B rather than of ‘secondary’ significance as identified through the MRC’s submission and evidence.
- 128.** GECAN also submits that Criterion B is met as related to the unique natural qualities of the Place, including “its unique mix of racing facilities and public recreation space” and as related to its role in the formation of Caulfield as a suburb stating that “it has a clear and lasting association with its surrounding suburb, which history shows grew and developed largely in tandem with the racecourse. The two are intertwined and this makes it unique.”
- 129.** GEHS concludes that Criterion B is met based on its distinctive and unique attributes of the Place, including in particular, Caulfield’s extraordinary history and features which raise it clearly above being common. Mr Lemon also says that Caulfield Racecourse “is by most measures unique... Caulfield’s extraordinary history and features raise it clearly above the common level.”
- 130.** The GRC Members suggest that consideration of the Race day stalls, the Tote Indicator Board and the pre- and post-war grouping of structures at the northern end of the racecourse satisfy Criterion B. Specifically, the GRC Members submit that:
- “Based on the evidence previously presented it is contended that the following are worthy of consideration under Criterion B Possession of uncommon, rare or endangered aspects of Victoria’s cultural history.*
- The Northern Precinct collection of buildings and structures (Hiskens Stand, Scratching Board, Boomerang Buffet, 1920s horse stalls, betting ring, racecourse walls) as being a collection of racing infrastructure that has been present since the 1920s in a largely unaltered state, that is not only not matched elsewhere in Melbourne, but most likely Victoria, if not Australia making them rare as a collection.*
- That the 1920s horse stalls in themselves represent a unique collection of stalls given their long history, the large number of high profile famous horses likely to be associated with them (with few if any structures relating to these horses still existent) and the social*

<sup>12</sup> The Committee notes that Mr Del Monaco’s submission suggests an earlier date, as the Executive Director has also acknowledged in his submission.

*history surrounding their creation and uncommon structure to align with the altered curve of the street.*

*That the Totalisator Indicator Board represents a rare and endangered structure from a technology point of view that has been largely removed from all racecourses, and that the Caulfield Totalisator Board is likely the most prominent and significant example still existing today."*

131. The MRC agrees with the Executive Director's findings in relation to Criterion B, that it does not meet this criteria at the State level. It submits that Caulfield Racecourse is not rare or endangered as an example of a racecourse, being the relevant class of place, as there are approximately 70 racecourses across the State and a great number have nineteenth century origins such as Caulfield, Flemington and Moonee Valley. Mr Lovell disagrees with Mr Lemon's evidence about Caulfield's unique characteristics and, in his evidence, states that the qualities are not of such distinction that the racecourse can be elevated within the racecourse class as rare, uncommon or endangered as is required for State recognition.
132. In response to the GRC Members position that "secondary racing structures" dating from the interwar to early post-war period distinguish Caulfield by way of a defined class of place as relevant to assessments under Criterion B, Mr Lovell asserts that the Exclusion Guidelines warn against dependence on too many qualifiers, that is, against a narrowing of the basis on which rarity is claimed by the use of qualifiers. In Mr Lovell's view, the suggestion that Caulfield Racecourse should be considered rare as a racecourse, which retains a particular group of buildings and racing structures as related to a particular configuration/age, is a case where the basis for the claim for rarity moves beyond the intended scope of Criterion B. Mr Lovell considers that this is better recognised in the response to Criterion D (representativeness).
133. In relation to the Tote Indicator Board, Mr Lovell states it was constructed in late 1952 (as opposed to 1958 as was suggested in the CMP). Mr Lovell identifies a number of modifications to the board which have been made, including discarding of the old ribbon indicator, the additional of an electric signaling device (Semaphore Board), the construction of a brick toilet block below the board and the addition to the board itself (which has subsequently been demolished). He states the board is no longer used for its original purpose and now carries a large advertising sign. Mr Lovell accepts that there are unlikely to be many other directly comparable examples of tote indicator boards of this scale remaining, noting that the function is redundant. He notes that there is a 1960s example at Sandown Racecourse, which was also constructed by the VATC. However, he also states "accepting this, the relative rarity of a particular building within the complex does not elevate the place to a State level of significance for reasons of rarity". Rather, his evidence is that the board can be considered in the context of Criterion D, as one of the collection of elements that might characteristically be found as part of a racecourse complex.
134. In his reply submissions the Executive Director:
  - agrees that the Race day stalls are an important part of the cultural heritage significance of the place, but suggests that they are better recognised under Criterion D than Criterion B;
  - is open in his assessment to consideration of information which addresses the Tote indicator board as meeting Criterion B;
  - does not conclude that Criterion B is met in relation to the interwar building grouping as although Caulfield Racecourse contains building types that are now rare or uncommon, it cannot be considered rare or uncommon as a class;
  - considers that the Boomerang Buffet, Scratchings Board building, main gate and Hiskens Stand form an important suite of buildings. He has recognised all as significant to the place under the heading 'What is significant' in the Statement of Significance. He observes that reference to the Hiskens Stand, as part of the suite of



buildings designed in the interwar period, could be mentioned under Criterion D in the Statement of Significance. He concurs that several of the buildings may now be rare examples of individual racecourse buildings in Victoria. He notes though that Criterion B as laid out in the Guidelines limits the application at the State level.

#### *Discussion and conclusion*

135. The Caulfield Racecourse is part of a class of racecourses. This class cannot be considered to be endangered to the point of rarity, as set out by the Executive Director. The Committee accepts submissions by the Executive Director and the MRC that Caulfield Racecourse itself is not rare or uncommon and is one of many places in Victoria which illustrates the history of horse racing or the development of racecourses, there being approximately 70 racecourses in use across Victoria, with a great number having their origins in the nineteenth century.
136. Although the Place has a clear association with the history of horse racing and the development of racecourses in Victoria, as identified under Criterion A, and the Committee agrees that these associations are evident in the physical fabric of the place, the Committee is not persuaded that the features of the Place are so unusual, rare or uncommon as to meet the State-level test. This is not to disregard that aspects of the Place present unique features, and groupings of elements. Using Mr Hemingway's words, the remaining interwar elements act as a suite of buildings in the northern precinct and form a crucial 'heritage backbone' to the complex, which is unlikely to have comparison elsewhere. However, the Committee has not been satisfied that Criterion B is met.
137. The Committee finds that there are several buildings and structures that can be considered as being rare, including the Tote Indicator Board and potentially the Boomerang Building and Race day stalls (including as a grouping notwithstanding their different construction dates) and several other structures. These elements have been identified through this hearing process, and should be further assessed through any permit process on this basis, but do not elevate the Place to State-level significance under Criterion B based on the available information. They are referred to by the Committee in relation to Criterion D wherein they are accepted as elements that make the place a notable example of a racecourse in Victoria.
138. While the Committee accepts that the Caulfield Racecourse contains a wide array of buildings and physical features associated with horse racing, these cannot be considered unusual or uncommon features of racecourses. The noted structures (including structures such as racetracks and grandstands) continue to be key features of racecourses across Victoria, although the size, architecture and composition varies.
139. The Committee concurs with the Executive Director that the nature of the reservation of Caulfield Racecourse does not provide a basis to elevate the Place to State-level significance under Criterion B.
140. The Committee finds that **Criterion B is not satisfied** at the State level.

#### **CRITERION C – POTENTIAL TO YIELD INFORMATION THAT WILL CONTRIBUTE TO AN UNDERSTANDING OF VICTORIA'S CULTURAL HISTORY**

141. In its written submission, the Caulfield Racecourse Reserve Trust noted the Place has evolved substantially over time. It notes the Reserve will need to continue to evolve to achieve contemporary expectations for access, inclusion and safety, suggesting that this criterion might be applicable.
142. The Committee notes no other party has argued that the place meets the State-level threshold for Criterion C, and accepts the Executive Director's conclusion that the Place fails to meet the test for satisfying this criterion. The Trust's submission does not provide information or material to enable a different conclusion to be reached.

143. The Committee finds that **Criterion C is not satisfied** at the State level.

## **CRITERION D – IMPORTANCE IN DEMONSTRATING THE PRINCIPAL CHARACTERISTICS OF A CLASS OF CULTURAL PLACES AND OBJECTS**

### *Overview of submissions and evidence*

144. Hearing participants generally agree that Criterion D is met on the basis that the Place is a notable example of a racecourse within Victoria. However, they differ in their reasoning and in the buildings and characteristics which should be listed in the Statement of Significance under this Criterion.
145. The Executive Director's Recommendation states:
- "The Caulfield Racecourse is significant as a notable example of a racecourse within Victoria. It demonstrates a great number of the principal characteristics of a racecourse and can be considered a fine example. Its interwar buildings and structures are of a higher degree of historical relevance than those found at other racecourses and several, including the Boomerang Building and Afternoon Tea building, demonstrate fine design characteristics. [Criterion D]"*
146. In its submission, based on Mr Hemingway's evidence, the GECC has requested that the Committee consider amending the Statement of Significance under the heading "Why it is significant?" to specify further buildings and elements that are considered to be fine and important representative elements of a racecourse under Criterion D. It suggests inclusion of the 1928 Gatehouse at the main entrance, the 1920s Scratchings Board building, sections of the boundary wall and collection of Race day horse stalls (1920s–1950s) to be added to the buildings already noted.
147. Mr Hemingway's evidence includes that:
- *"given the scale of the site and the broad range of element types, it would be appropriate to identify the key landscape elements in the 'What is Significant' such as the North Lake, the racing tracks, and specific trees (e.g. English Elms, English Oaks, Himalayan Cedars and Canary Island Date Palms).*
  - *Whilst it would not be necessary to have an exhaustive list of elements identified under Criterion D, two other elements are of particular note in terms of their design – the main gates and scratchings board buildings.*
  - *Whilst the horse stalls are less distinctive, the scale of these facilities – the original 1928 section and c1960 extended and rebuilt section – is highly evocative of the importance of the Caulfield Racecourse, and likely an unusual element to survive intact to this extent. Similarly, the Boomerang Buffet and Scratchings Board building are likely rare examples of their type.*
  - *The Hiskens Stand, the only grandstand surviving from the Interwar period, was the last of four to be constructed during that period at Caulfield. It may be the only and or finest example in the state of its type from the period. The inclusion of internal ramps (rather than stairs) was a new feature at the time (1935).*
  - *Some reference to the continuity of the landscaped setting under Criteria D would also be appropriate."*
148. GECAN submits that the Coastal Manna Gums should be noted in consideration of this criterion as they "have an important connection to pre-colonial history and were grown on the southern side of the Racecourse" until 1994, when they were cut down by the MRC. GECAN submits that trees grown from their seeds now grow in this same area and five of these trees have been placed on the Glen Eira Significant Tree Register.

149. GEHS proposes further emphasis on the pre- and post-war works designed by Albion H Walkley as an ensemble of buildings with a single design hand and that the larger group of buildings associated with architect Mr Walkley are of primary significance as a group. Mr Lemon suggests that considering the Walkley buildings in this way leads to “strong claims for increased significance to be given to them as a group reflecting almost 40 years of cohesive development”. In its submission in reply, GEHS also considers that the “special quality characteristic of an urban racecourse reserve, a place of open space within a metropolis” could also be noted under this criterion.
150. GRC Members submit that uniqueness and heritage of the Tote Indicator Board requires further investigation. It is believed that it is the largest and oldest still remaining of its kind in Australia and as a result, that it should be specifically detailed under Criterion D.
151. MRC and Mr Lovell agree with Executive that Criterion D is met at a State level and recommend changes to the Executive Director’s Statement of Significance which they have submitted through reply material. Mr Lovell’s other recommended changes include specific mention of the 1919 Boomerang Buffet building; 1928 Gatehouse at the main entrance; sections of the boundary wall to the racecourse, 1920s Scratchings Board; 1939 Afternoon Tea Room; the Race day horse stalls (1920s–1950s) as “comparatively intact racecourse related buildings and elements of some distinction” as well as to the grouping (planning and arrangement of buildings in the Northern Precinct) as recommended by Mr Del Monaco. At the hearing, Mr Lovell also agreed to the listing including the rare Tote Indicator Board in the Statement of Significance for this criterion.
152. Changes recommended by Mr Lovell to the Statement of Significance also include the addition of a comparison of Caulfield with “other *metropolitan* racecourses”. This is necessary in his view as “while all operating racecourses variously include buildings, structures and features of the typology (racecourses as a class of place), only the major metropolitan courses would require or be expected to have the range of elements on a comparable scale (i.e. Moonee Valley, Flemington, Caulfield, Sandown). Additionally, his evidence is that the requirements of a major racecourse change over time and that process has occurred or is occurring at all of the major courses.
153. The Executive Director agrees with Mr Hemingway that the landscape qualities of the Place could be addressed in the Statement of Significance under Criterion D if it is not recognised under Criterion E. The Executive Director supports inclusion of a reference to the Race day stalls and the Stewards’ tower at the mounting yard and betting ring under Criterion D. The Executive Director does not agree to the inclusion of a reference to other metropolitan racecourses in the Statement of Significance regarding Criterion D, as suggested by Mr Lovell, because this unnecessarily reads as a diminution of the Place’s notable qualities.

#### *Discussion and conclusion*

154. The Committee accepts submissions and evidence that the Place, Caulfield Racecourse, is of a class of racecourses. As described by the Executive Director, it has a clear association with the history of horse racing and the development of racecourses in Victoria.
155. The Committee accepts the Executive Director’s recommendation that Caulfield Racecourse can be considered a notable example of the class. It can be considered a fine example because:
  - it exhibits a wide range of features that are characteristic of its class and that demonstrate key racecourse activities. Of the many racecourses in Victoria, few apart from Flemington and Moonee Valley have the range of characteristics noted above, with many consisting of a racetrack, grandstand and a few ancillary buildings; and
  - it exhibits characteristics that are of a higher quality and historical relevance compared with other racecourses in Victoria.

156. It retains an important suite of interwar buildings and structures including main entrances, Scratchings Board building, tea rooms and a grandstand. These buildings and structures are complemented by surviving mature tree plantings. Some of the buildings exhibit features that are of a higher architectural distinction compared with others in the State.
157. The submissions and evidence focus on inclusion of express reference in the Statement of Significance to structures, elements, and vegetation including individual trees. The Committee agrees with many of the proposed inclusions and variations to the Statement of Significance as the buildings and elements are factors that make the place a notable example of a racecourse in Victoria.
158. The Committee concurs with the Executive Director that an exhaustive list does not need to be included under Criterion D but it is appropriate to draw attention to particularly fine buildings. The Committee agrees to specifying elements including the entries, the 1920s Scratchings Board building, sections of the boundary wall and the collection of Race day horse stalls (1920s–1950s).
159. The Committee is not, however, persuaded to refer to the betting ring. It is also not persuaded to cite individual trees (including ones removed in the 1990s) or existing trees germinated from those removed. Rather, it accepts the broader reference to the complementary landscape that is characterised by the expanse of the track, central flat and mature trees. It is also not persuaded that the role of the architect, Mr Walkley, is of specific significance at a State level, even though it accepts his role is a notable matter of interest.
160. The Committee finds that **Criterion D is satisfied** at the State level.

## **CRITERION E – IMPORTANCE IN EXHIBITING PARTICULAR AESTHETIC CHARACTERISTICS**

### *Overview of submissions and evidence*

161. The Executive Director's recommendations were made on the basis that Criterion E is not likely to be satisfied at a State level. This was because its aesthetic qualities have not received critical recognition by an appropriate discipline, nor have they attracted wide public acknowledgement of exceptional merit and there is no evidence that the aesthetic characteristics of the place as a whole are appreciated or valued by the wider community or appropriately related disciplines.
162. Relying on Dr Lemon's evidence, GEHS argues that Criterion E is met. It submits that it is not essential that these aesthetic characteristics are celebrated in songs, poetry and literature and all that is required is that they are appreciated or valued by the wider community.
163. Mr Del Monaco recommends consideration of the main entry gates as meeting Criterion E. In his view, the "the main gates are a prominent heritage feature not only from Station Street, but also from the trains passing through Caulfield Station." Given the long historical nature and uniqueness of these sightlines from the train line which contribute to the aesthetics of the racecourse, Mr Del Monaco submits that these are worthy of consideration for protection under Criterion E.
164. GECAN concludes that Criterion E is met as a place appreciated and valued by the wider community, focusing its attention on the use of the reserve by numerous community members for active and passive recreation and to enjoy its indigenous and natural landscape values and qualities. Among other submissions, it references the mature and large trees around the racecourse and the two lakes.
165. Mr Lovell disagrees with the Executive Director's recommendations with respect to Criterion E. His opinion is that the Place has aesthetic characteristics that warrant recognition at a State level. Mr Lovell considers the broader setting of the Place which includes the central flat and lakes, the mature trees and landscape character, as well as the collection of brick buildings from the first half of the twentieth century in the Northern Precinct, all combine to



convey a strong sense of an historic racecourse and that these values should be recognised in the Statement of Significance for this criterion.

166. Having considered the submissions and evidence, the Executive Director is equivocal about the whether the place as a whole is considered to meet Criterion E but notes that the “bar for State-level aesthetic significance is currently particularly high” and is seldom applied. The Executive Director notes that the wording of Criterion E in the Guidelines specifies that appreciation of a place’s aesthetic values must have a strong evidentiary basis, having received, for example, critical recognition or “wide public acknowledgement of exceptional merit in Victoria in medium such as songs, poetry, literature, painting, sculpture, publications, print media etc.” He gives Hanging Rock Reserve (VHR H2339) as an example of this form of wide public acknowledgement inspiring written and artistic responses, including sketches, paintings, photographs, writing, film and music since the 1850s.

#### *Discussion and conclusion*

167. The Committee accepts submissions and the consistent expert evidence that the physical fabric of the place exhibits particular aesthetic characteristics that warrant recognition at a State level. This is with respect to the built elements as well as landscape and nature elements. The Committee accepts that the aesthetic characteristics are appreciated or valued by the wider community and provide valued amenity for race goers. The sense of space is also relevant to the Committee’s finding.
168. Caulfield is distinct compared with the example given in the Recommendation of the manicured gardens of Flemington Racecourse.
169. The Committee does not consider the main entry gates warrant express mention.
170. The Committee’s conclusion is reached even though the documented evidence of the aesthetic characteristics and qualities with respect to receipt of specific acclaim is limited beyond the local level. By comparison, Flemington Racecourse has been cited as a stimulus for the arts including literature, drama and ballet.
171. These elements are relevant to both Criteria D and E; the Committee does not favour reference in one of these in lieu of reference in the other.
172. The Committee finds that **Criterion E is satisfied** at the State level.

### **CRITERION G – STRONG OR SPECIAL ASSOCIATION WITH A PARTICULAR PRESENT-DAY COMMUNITY OR CULTURAL GROUP FOR SOCIAL, CULTURAL OR SPIRITUAL REASONS.**

#### *Overview of submissions and evidence*

173. All Hearing Participants agree that Criteria G is satisfied at the State level for its strong and special association within the racing community in Victoria.
174. The Executive Director found that Criterion G is met at a State level. In his Recommendation it was submitted that that:

*“Evidence exists that the social value of Caulfield Racecourse resonates at the state level. The racing community is a sizable and widespread one, and those involved with racing at Caulfield or who attend races come from across the State and further afield. The place has been a focus of activity for the Victorian horse racing community since the mid-nineteenth century and this history continues into the present day. It is renowned within the horse racing community as the location of several of Australia’s premier horse races and there is a high degree of public recognition for the place. It has been visited in person by sizeable crowds for much of its history who have gathered to participate in, officiate, work at, watch or bet on horse races. Horse racing has been an immensely popular pastime in Victoria since the earliest days of the*

*colony. The social values attached to it, as both a popular sport and sizeable industry, contribute to Victoria's identity."*

- 175. GECC agrees with the Executive Director's assessment in relation to Criterion G, noting that the Place has significant historical and social significance to both the local community of Glen Eira as well as the wider Victorian community.
- 176. GECAN supports the Executive Director's assessment in relation to Criterion G.
- 177. Mr Del Monaco on behalf of the GRC Members submits that particular aspects of the Place have special social significance to racegoers. GEHS and Mr Del Monaco refer to the important role of the Place with respect to individuals including media personality/race caller Bill Collins, horses, and Australian/Victorian fallen jockeys who are commemorated by a memorial on-course.
- 178. The Executive Director notes that the Caulfield Racecourse has a direct association with Victorian racing identities, including prominent trainers and jockeys. One of the most successful trainers of the twentieth century, Bart Cummings (1927–2015), won seven Caulfield Cups between the 1960s and 2000s. Legendary jockey Arthur 'Scobie' Breasley (1914–2006), inaugural inductee into the Australian Racing Museum's Hall of Fame, won numerous races at Caulfield, including the Caulfield Stakes in 1952, Toorak Handicap in 1947 and the Caulfield Cup in 1945 and 1952.
- 179. Dr Lemon says that there is a host of others of major importance in their day. He says these people were not just "racing identities" but were household names in their day, as set out in Dr Lemon's evidence – "It is about a vast number of people who were highly significant to Victorian and Australian history".
- 180. The MRC largely agrees with the Executive Director's assessment for Criterion G in the Recommendation though some refinements are proposed to the Statement of Significance.<sup>13</sup> These are accepted by the Executive Director and reflected in Executive Director's proposed amended Statement of Significance.

#### *Discussion and conclusion*

- 181. The Committee agrees that that the Place satisfies Criterion G at the State level for its direct and strong association with the Victorian racing community. This community can reasonably be said to comprise the many players in the industry (as cited in the Statement of Significance) which properly includes race callers and trainers.
- 182. The issues raised in submissions and evidence focus on additional strong and/or special associations that are said to have State-level significance. The Committee does not doubt associations with particular persons or groups exist, or have existed. However, it has doubts that the social value resonates across the broader Victorian community as part of a story that contributes to Victoria's identity. The Guidelines say that in this context 'resonance' means the extent to which the social value of a place/object can be demonstrated to exert an influence.
- 183. The Committee finds that **Criterion G is satisfied** at the State level.

### **CRITERION H – SPECIAL ASSOCIATION WITH THE LIFE OR WORKS OF A PERSON, OR GROUP OF PERSONS, OF IMPORTANCE IN VICTORIA'S HISTORY**

#### *Overview of submissions and evidence*

- 184. In addressing Criterion H, the Executive Director's has focused on the Place being significant for its associations with the VATC, now known as the MRC. It says that from the late nineteenth century, the VATC became one of the most influential racing associations in

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<sup>13</sup> Refinements to that section were set out in section 4.2 of Mr Lovell's evidence.

Victoria, having founded one of the State's most prestigious horse racing events (the Caulfield Cup) and premier racing and training facilities (Caulfield Racecourse) and that the VATC/MRC has continually developed, expanded and improved the racecourse since selecting Caulfield as its home venue in 1876. The club's principal event, the Caulfield Cup, has also been held at the racecourse annually (apart from the period of World War II) for close to 140 years.

185. The MRC, relying on Mr Lovell's evidence, does not consider Criterion H is satisfied at a State level. Mr Lovell's opinion includes that the association with the VATC is important but is more appropriately considered and acknowledged under Criterion A. He recommends modified wording of the Statement of Significance in this regard.
186. The GECC supports the inclusion of the VATC under Criterion H and agrees that the VATC is inextricably linked with the key phases of development of the Caulfield and is not similarly associated with any other major racecourse. Mr Hemingway's evidence that the Caulfield Racecourse is not necessarily associated with a particular jockey or other racing identity such that the association of such people is not specific enough for it to be identified under Criterion H. He states "Criterion H is typically utilised at places where the instigator is inextricably linked to its development, often in a distinctive/visionary way. In some case, a famous incident occurred at the site."
187. GEHS seeks to include the special relationship between Caulfield Racecourse and Australian / Victorians jockeys, the Jockey's memorial (depicting jockey Hughie Cairns). GEHS also seeks recognition of the special relationship between Caulfield Racecourse and sports icon Bill Collins and his memorial statue, unveiled on 27 February 1999, under Criterion H. Generally, the GEHS and Mr Lemon strongly suggests rewriting Criterion H to better reflect the strength of the relationships with "people who were highly significant to Victorian and Australian history."
188. For GRC Members, Mr Del Monaco also submits that the association with Bill Collins among other media commentators and journalists satisfies Criterion H. Additions are suggested to the Statement of Significance to include Victorian racing identities (trainers, jockeys) and racing media and journalists, in particular legendary race caller Bill Collins. Mr Collins had a particular association with Caulfield Racecourse. His last race call was at Caulfield on Easter Saturday 1988, his memorial statue until recently was located at the entrance to Caulfield Racecourse and welcomed race goers to the track for several decades (and was a popular meeting place and photographic point), and whose memorial service was held in the Terrace Grandstand (demolished 2009) in June 1997 and was telecast on Channel 7.
189. The Executive Director is equivocal about whether or not other individuals or groups are of sufficient significance to satisfy this criterion.

#### *Discussion and conclusion*

190. The Committee accepts the Executive Director's submission that Criterion H is met, for the reasons he gives. There is a clear enduring association with an influential body, being the VATC/MRC. The overlap with Criterion A does not negate this, and it can properly be referred to in both Criterion A and Criterion H.
191. The Committee does not ignore nor under-value the role of race callers, nor the tragic circumstances of fallen jockeys, and horses. Relevantly for current consideration, and as the Executive Director states, there is no specific fabric associated with their involvement at the site, except for memorials which do not distinguish Caulfield from associations with other racecourses. From the perspective of applying the Guidelines, their valuable association and contribution are not distinguishable from other places. The Committee does not find that the Place allows an association with jockeys, nor other individuals or groups, to be readily appreciated "better than most other places or objects in Victoria" as the Guidelines suggest is necessary to meet Criterion H at a State level.

**192.** The Committee finds that **Criterion H is satisfied** at the State level.

### COMMITTEE'S AMENDMENTS TO THE STATEMENT OF SIGNIFICANCE

**193.** In accordance with section 40(4)(a) of the Act, the Executive Director's Recommendation included a summary of the State-level cultural heritage significance of the Place and the categories in which it should be included. As is clear from earlier parts of this determination, there is a common position in submissions and evidence that the Place has State-level significance. The Committee has thoroughly assessed the Recommendation and summary of the State-level cultural heritage significance of the place and the categories in which it should be included. Submissions and evidence have been referred to earlier. There are multiple points of agreement but also differences as to matters that should be referred to or emphasised in the summary. Having regard to the Committee's findings with respect to the categories in which it should be included, **Attachment 3** contains the Committee's summary of the State-level cultural heritage significance of the Place and the category or categories in which it should be included.

### COMMITTEE'S COMMENTS ON THE FACTUAL TIMELINE INCLUDED IN THE EXECUTIVE DIRECTOR'S RECOMMENDATION

**194.** The Committee recommends that the timeline included in the Executive Director's Recommendation should be corrected having regard to comments and facts provided in submissions and evidence.

### PERMIT EXEMPTIONS

**195.** Section 40(4)(b) of the Act enables the Executive Director as part of his recommendation to the Heritage Council concerning a place proposed for registration to include recommendations concerning the categories of works and activities which should be exempt from the need for a subsequent permit under Part 5 of the Act (see also section 38 of the Act), 'permit exemptions'. The Executive Director must not make such recommendations if it is considered that the works or activities may harm the cultural heritage significance of the place. The Heritage Council is similarly enabled by section 49(3) of the Act to include permit exemptions.

#### *Issues arising in submissions and evidence*

**196.** The Recommendation included permit exemptions which have been the subject of submissions and evidence, and reply submissions and evidence. Some changes have been agreed through this process, but points of difference remain. The multiple versions are not described in detail but have been considered fully by the Committee.

**197.** The Committee considers the key issues focus on:

- the inclusion and content of any explanatory note at the start of the permit exemptions document;
- whether to refer to levels of significance by listing and/or mapping;
- whether to list or buildings of significance and/or regarded as of "little or no significance" or about which there is "not doubt or debate"<sup>14</sup>, such as the Administration Building, Marketing store, Racebook sales kiosk, Glasshouse building, Former toilets at gate 22, TAB Office, Race day office and Tent structures;
- whether to refer to building or structures that have been demolished or approved for demolition by permits issued by the Executive Director;
- exemptions for temporary events/structures/services;

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<sup>14</sup> Citing a version of the recommendation by the Executive Director, Appendix D and the text of the exemptions refers to them as having no significance.



- works that may impact or lie within tree protection zones and/or are proximate to significant trees, and whether to list trees, and distances from heritage elements;
- exemptions relating to signage; and
- the weight and role of the CMP by Lovell Chen 2019 (updated 2021).

### *Discussion and conclusion*

- 198.** In broad terms the Committee accepts the agreed position of the parties in relation to many refinements or changes. Following are the Committee's findings in relation to the remaining areas of disagreement and where it has formed the view that further refinements are required.

### *Explanatory notes or information*

- 199.** Explanatory notes or comments, including those proposed by the Executive Director and added to by GECAN, are not considered to be required. The material does not need to cite permit exemptions associated with the IPO nor a broader history of decision-making. The Committee has excluded this material.
- 200.** Further, the document does not have the role of pre-determining any applications for tree removal or foreshadowing decisions on permits, as some of the requested inclusions seek to do. Such matters are for assessment when permit applications are made. The same is the case with respect to other inclusions requested by GECAN such as fish releases and the species of replacement trees.

### *Mapping or citing levels of significance*

- 201.** The MRC's position, based on Mr Lovell's evidence, is that mapping of levels of significance is desirable. Among its submissions, the MRC says that failure to identify buildings and features of significance clearly and concisely and to rely on exemptions as the mechanism to inform decision-making regarding future works on such a large and complex site is considered to be unworkable in practice and difficult to implement/manage. At a minimum the registration should include a plan which clearly identifies levels of significance.
- 202.** The basis of the submission is understood but it is not accepted. The Committee accepts the submission of the Executive Director and some other hearing participants that a breakdown into elements of primary and contributory significance is in many cases unhelpful since it may imply or suggest that contributory elements are of secondary importance and that their retention is not critical. Further, as the Executive Director states, the whole of the Place will be registered. The approach of registering an area rather than itemising individual buildings, features, trees and other elements represents a more holistic approach to assessing and managing heritage significance. It reflects the fact that:
- The cultural heritage significance of the place (i.e. the aesthetic, archaeological, architectural, historical, scientific, or social values) may be embodied in the whole of the place and not just in individual elements dispersed across the land.
  - That the land itself and the spaces between the individual elements may be of intrinsic significance and require to be managed and not just the individual elements themselves.
- 203.** As discussed below, although the Executive Director says elements of little or no significance are normally handled by the permit exemption provisions of the Act, the Committee has concerns about this approach in the current situation.

### ***Listing buildings of “no or little” significance***

- 204.** The Executive Director proposes modifications to its Recommendation to list buildings of no, or little, significance in response to submissions and evidence particularly by MRC. The MRC’s position, based on Mr Lovell’s evidence, is that listing non-contributory/non-significant buildings is desirable and necessary.
- 205.** The Committee does not accept this approach nor the proposed exemptions exempting the listed buildings and structures from demolition or removal subject to notification to the Executive Director within seven days of the works occurring. The Committee has not assessed, found or determined all of the fabric referred to can be demolished. This has not been its task and some of the fabric may be regarded as relevant to the collection of buildings and spaces that are part of the significance of the Place. Any proposed demolition of these buildings should be assessed through a permit process.
- 206.** By way of examples:
- It seems accepted by the MRC through Mr Lovell’s evidence that the Glasshouse building should be removed from the proposed list because of its physical attachment to the Afternoon Tea Room building.
  - The Committee does not accept that the Rupert Clarke Stand is not in debate as a building with no significance. Submissions at the hearing, including by the Executive Director, made this clear.
  - The Aquanita and western stables are part of horse training and stabling history of the place again are not appropriate for exemption.
- 207.** The Committee shares concerns raised by Mr Del Monaco about the extent of internal exemptions for the Boomerang Buffet and Scratchings Board buildings in the Recommendation, beyond several key elements cited in evidence and submissions. It has modified the recommended permit exemptions in this regard.

### ***Demolished buildings/buildings approved for demolition***

- 208.** The Committee disagrees with Mr Del Monaco’s proposed approach of deleting reference to buildings that have been demolished, or approved for demolition.
- 209.** The Committee has proceeded on the basis of what has been the subject of submissions, recommendations and assessment.

### ***Tree protection***

- 210.** The Committee accepts that care is required with respect to exemptions where works, structures, and infrastructure installation or removal (whether or not temporary) may be proximate or affect the tree protection zones of retained and relocated trees. Mature trees are significant to the Place. The Committee accepts concerns raised in some submissions about this, and also raised by the Committee at the hearing.
- 211.** The Committee has strengthened and clarified wording in this respect. The Committee also seeks to ensure that the nomination of tree protection areas is based on qualified professional assessment and that any works or structures encountering sensitive areas are assessed through a permit process.
- 212.** The Committee does not consider it necessary to list all and individual trees, as sought by GECAN, as all are within and part of the Place.

### ***Duration of exemptions for temporary or short-term events***

- 213.** The Committee has considered the timeframe for temporary elements proposed by the MRC, being six months per calendar year.
- 214.** The Committee accepts submissions by some parties that this should be modified to three months, as provided in the Executive Director's original (unrevised) Recommendation. This is a more appropriate threshold in the circumstances.

### ***Reference to the Conservation Management Plan 2019***

- 215.** The role and weight to be given to this Plan is in dispute particularly in submissions by Mr Del Monaco, GECAN and GEHS.
- 216.** The Committee accepts the CMP is a relevant document. The Executive Director states that it is a resource for understanding the history and development of the place.
- 217.** However, the Committee further considers that, in light of the Committee's findings, aspects of that Plan would be expected to be reviewed and the Plan revised. This is a different approach than advocated by the MRC which seeks changes to the exemptions to align with the existing Plan.

### ***Signage***

- 218.** The Committee has considered concerns raised with respect to removal and installation of signage. There is limited information upon which the Committee would accept that a broad exemption is appropriate with respect to both the removal of signage and the installation of new signage, including electronic signage.

### ***Conclusions***

- 219.** The Committee finds that the permit exemptions set out in **Attachment 4** are appropriate in all the circumstances, and in particular having regard to the cultural heritage significance of the Place. It has reformatted the exemptions to provide greater clarity in presentation.

### **OTHER MATTERS**

- 220.** Submissions have identified a range of other matters or concerns including:
- recognition of Aboriginal cultural heritage;
  - the management of works;
  - photographic recording of building and other fabric;
  - traffic movement; and
  - development envelopes for land.
- 221.** The Committee does not consider that submissions relating to these matters provide reasons to depart from the findings set out above. A number are addressed through other processes and legislation and some, such as the nomination of development envelopes and management regimes, are outside the Committee's scope.

## CONCLUSION AND DETERMINATION

- 222.** After considering the Executive Director's Recommendation and all submissions, and after conducting a hearing into the submissions, the Heritage Council has determined, pursuant to section 49(1)(a) of the *Heritage Act 2017*, that the Caulfield Racecourse is of cultural heritage significance to the State of Victoria and is to be included as a Registered Place in the Victorian Heritage Register.
- 223.** Caulfield Racecourse meets Criteria A, D, E, G and H in the Victorian Heritage Register Criteria and Threshold Guidelines:
- Being of importance to the course, or pattern, of Victoria's cultural history.
  - Being of importance in demonstrating the principal characteristics of a class of cultural places and objects.
  - Being of importance in exhibiting particular aesthetic characteristics.
  - Having strong or special association with a particular present-day community or cultural group for social, cultural or spiritual reasons.
  - Having special association with the life or works of a person, or group of persons, of importance in Victoria's history.
- 224.** The Committee has adopted the extent of registration originally recommended by the Executive Director without any reduction or change as shown in **Attachment 2**.
- 225.** Everything included in the proposed extent of registration including all the land, all soft and hard landscape features, plantings, trees, all buildings (interior and exterior structures, works and fixtures) is to be included the VHR. A permit or permit exemption from Heritage Victoria is required for any works within the proposed extent of registration, apart from those identified in the categories of works or activities determined by the Committee. The exemptions are set out in **Attachment 4**.



## ATTACHMENT 1

### CRITERIA IN THE VICTORIAN HERITAGE REGISTER CRITERIA AND THRESHOLD GUIDELINES 2020

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 or environments.
CRITERION E	Importance in exhibiting particular aesthetic characteristics.
CRITERION F	Importance in demonstrating a high degree of creative or technical achievement at a particular period.
CRITERION G	Strong or special association with a particular present-day community or cultural group for social, cultural or spiritual reasons.
CRITERION H	Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

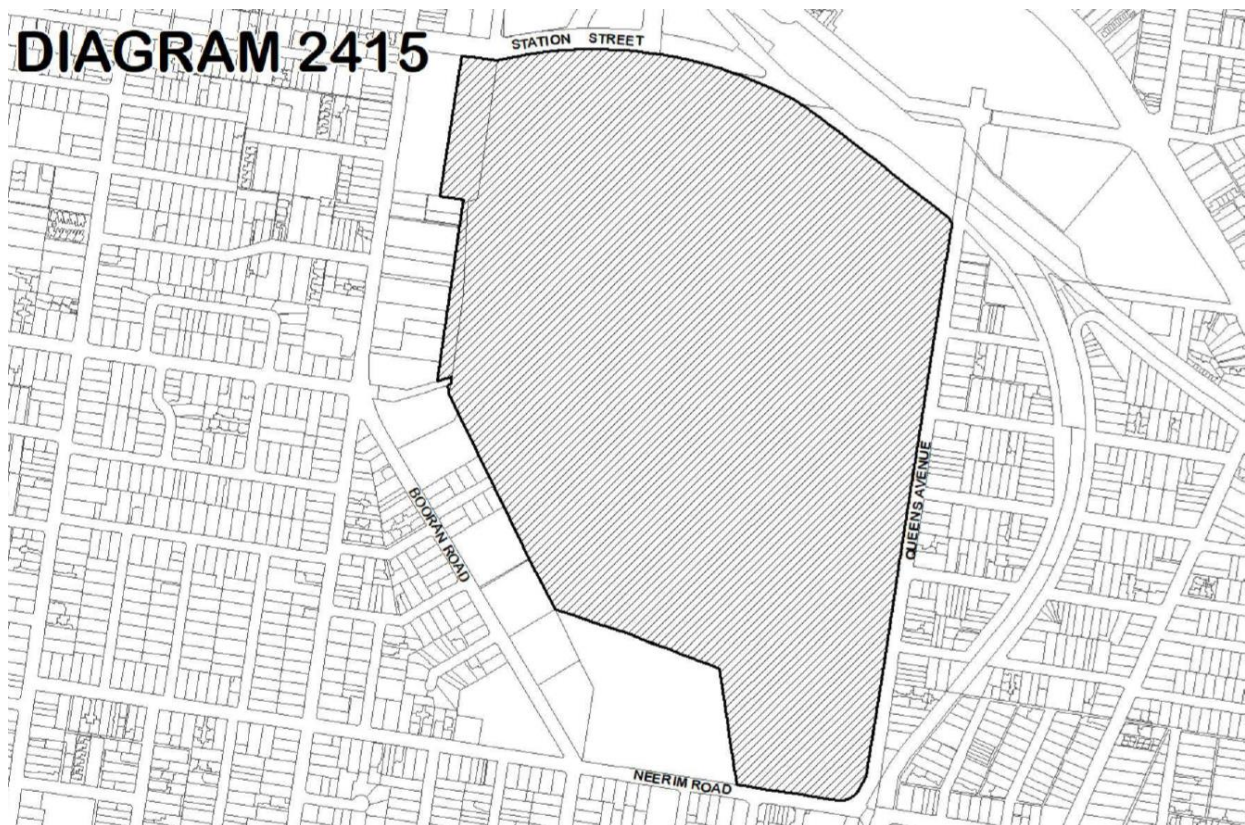
These were updated by the Heritage Council at its meeting on 3 December 2020, and replace the previous criteria adopted by the Heritage Council on 6 December 2012.

Note – On 1 December 2022, the Heritage Council adopted a revised version of the Guidelines. All hearing participants were advised by email that the *Victorian Heritage Register Criteria and Threshold Guidelines 2020* apply to the Caulfield Racecourse Registration review and other nominations and reviews that pre-date adoption of the revised document. No further submissions have been sought or received.

## ATTACHMENT 2

### EXTENT OF REGISTRATION

All of the place shown hatched on Diagram 2415, encompassing all of Allotment A at Caulfield, Parish of Prahran, and part of Plan PC380965 including 20 metres west from the brick wall in the northwest corner of the site.



## ATTACHMENT 3

### SUMMARY OF CULTURAL HERITAGE SIGNIFICANCE PURSUANT TO SECTION 40(4)(A) AND SECTION 49(3) OF THE *HERITAGE ACT 2017*

#### What is significant?

The Caulfield Racecourse, a premier racecourse in metropolitan Melbourne, which has been the site of horse racing since the late 1850s and was more formally developed from 1876 by the Victoria Amateur Turf Club (VATC). It also had long standing use for training and stabling. Buildings and features of particular significance include the racetrack; the Flat and North lake at the centre of the course; the Boomerang Buffet building (1919); the Scratchings Board building (c.1920s); main entry gate (1928), east and west delivery gates and boundary walls (1920s and 1950s); surviving mature exotic trees; Race day stalls (dating c.1920s onwards); the Hiskens Stand (1935); the Afternoon Tea Room (1939); Maple building (c.1958); Betting Indicator Board (c.1952); the Norman Robinson Stand (1960); and Stewards' towers.

#### How is it significant?

Caulfield Racecourse is of historical and social significance to the State of Victoria. It satisfies the following criteria for inclusion in the Victorian Heritage Register:

- Criterion A – Importance to the course, or pattern, 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 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.

#### Why is it significant?

The Caulfield Racecourse is historically significant as one of Victoria's and Australia's premier racecourses, and as one of only three major metropolitan racecourses in Victoria in operation since the nineteenth century. The place was permanently established as a racecourse reserve in 1876, although races have been run in this location since the late 1850s. Since 1879 it has been home to the Caulfield Cup, an internationally renowned handicap race, and a key lead up and qualifying event to the Melbourne Cup.

Since the 1870s it has been associated with the VATC one of three major metropolitan racing clubs, continuing as the Melbourne Racing Club (MRC). Caulfield is an evolved complex comprising a range of buildings and site features associated with racing operations (including the preparation of horses, betting, officiating of races and the provision of hospitality). Collectively, these reflect both on Caulfield's long history and status as a major and prestigious metropolitan racecourse in Victoria and on the different phases in that history. In particular, Caulfield is distinguished by its cohesive collection of racecourse-related buildings and elements dating from the interwar period. [Criterion A]

The Caulfield Racecourse is significant as a notable example of a racecourse within Victoria. It demonstrates a great number of the principal characteristics of a racecourse and can be considered a fine example. It retains a collection of comparatively intact racecourse-related buildings and elements of some distinction, dating from the first half of the twentieth century. These include the 1919 Boomerang Buffet building; 1928 Gatehouse at the main entrance; sections of the boundary wall to the racecourse, 1920s Scratchings Board building; 1939 Afternoon Tea Room (Luncheon Room); 1935 Hiskens Stand and the extensive collection of

Race day horse stalls (1920s–1950s). The 1950s Betting Indicator (‘tote’) Board is an early, rare and substantial surviving example. More generally, the buildings and structures, in their planning and arrangement, demonstrate aspects of the historic layout and function of the racecourse, including the concentration of racecourse-related structures at the northern end where they are the focus of race day operations, members’ facilities, and the spectator experience. The built elements of the place are complemented by a landscape that is characterised by the expanse of the track, central flat and mature trees. [Criterion D]

Aesthetically, the landscape of the racecourse is also significant, with the powerful combination of the course, the expanse of the central flat and the remaining mature trees in the northern precinct which enhance the setting of the collection of historic buildings, augmenting the race day experience and provide valued amenity for race goers. A number of the interwar buildings which share design features that are of aesthetic distinction. [Criterion E].

The setting, including the Central Flat, and mature landscape character, as well as the collection of brick buildings from the first half of the twentieth century, also conveys a strong sense of an historic racecourse [Criterion E].

The Caulfield Racecourse is socially significant for its associations with the horse racing community since the mid-nineteenth century. Caulfield Racecourse is renowned as the location of several of Australia’s premier horse races and there is a high degree of public recognition for the place. It is home to the most Group 1 races in Victoria apart from Flemington. For much of its history it has been visited in person by sizeable crowds who have gathered to participate in, officiate, work at, watch or bet on horse races. Caulfield is popular and valued for these reasons, including by punters, members of the Victorian racing community and people associated with the industry, and members of the Melbourne Racing Club. [Criterion G]

The Caulfield Racecourse is significant for its associations with the VATC, now known as the MRC. From the late nineteenth century, the VATC became one of the most influential racing associations in Victoria, having founded one of the state’s most prestigious horse racing events (the Caulfield Cup) and premier racing and training facilities (Caulfield Racecourse). The VATC/MRC has continually developed, expanded and improved the racecourse since selecting Caulfield as its home venue in 1876. The club’s principal event, the Caulfield Cup, has also been held at the racecourse annually for close to 140 years. [Criterion H]



## ATTACHMENT 4

### **CATEGORIES OF WORKS OR ACTIVITIES WHICH MAY BE CARRIED OUT IN RELATION TO THE PLACE FOR WHICH A PERMIT IS NOT REQUIRED PURSUANT TO SECTION 49(3) OF THE *HERITAGE ACT 2017* ('PERMIT EXEMPTIONS')**

#### **GENERAL INFORMATION AND CONDITIONS**

##### **Preamble**

The purpose of this information is to assist owners and other interested parties when considering or making decisions regarding works to a registered place. It is recommended that any proposed works be discussed with an officer of Heritage Victoria prior to making a permit application. Discussing proposed works will assist in answering questions the owner may have and aid any decisions regarding works to the place.

It is acknowledged that alterations and other works may be required to keep places and objects in good repair and adapt them for use into the future. However, under the Act a person must not knowingly, recklessly or negligently remove, relocate or demolish, damage or despoil, develop or alter or excavate all or any part of any part of a registered place without approval. It should be noted that the definition of 'develop' in the Act includes any works on, over or under the place.

If a person wishes to undertake works or activities in relation to a registered place or registered object, they must apply to the Executive Director for a permit. The purpose of a permit is to enable appropriate change to a place and to effectively manage adverse impacts on the cultural heritage significance of a place as a consequence of change. If an owner is uncertain whether a heritage permit is required, it is recommended that Heritage Victoria be contacted.

Permits are required for anything which alters the place or object, unless a permit exemption is granted. Permit exemptions usually cover routine maintenance and upkeep issues faced by owners as well as minor works or works to the elements of the place or object that are not significant. They may include appropriate works that are specified in a conservation management plan. Permit exemptions can be granted at the time of registration (under section 38 of the Act) or after registration (under section 92 of the Act). It should be noted that the addition of new buildings to the registered place, as well as alterations to the interior and exterior of existing buildings requires a permit, unless a specific permit exemption is granted.

##### **Disrepair of registered place or registered object**

Under section 152 of the Act, the owner of a registered place or registered object must not allow that place or object to fall into disrepair.

##### **Failure to maintain registered place or registered object**

Under section 153 of the Act, the owner of a registered place or registered object must not fail to maintain that place or object to the extent that its conservation is threatened.

##### **Conservation management plan**

Lovell Chen developed a Conservation Management Plan (CMP) for Caulfield Racecourse in December 2019 (updated 2021). The CMP has not been subject to review and was prepared before the Heritage Council's determination on the registration. The Heritage Council believes that the CMP should be updated to account for the Heritage Council determination on the registration, and further changes to the place.

##### **Archaeology**

There is no identified archaeology of State level significance at the place. However, any works that may affect historical archaeological features, deposits or artefacts at the place are likely to require a permit or permit exemption. Advice should be sought from the Archaeology Team at Heritage Victoria.

## Aboriginal cultural heritage

To establish whether this place is registered under the *Aboriginal Heritage Act 2006* please contact First Peoples – State Relations in the Department of Premier and Cabinet. The *Heritage Act 2017* and the *Aboriginal Heritage Act 2006* are separate pieces of legislation. Please be aware that both Acts are required to be satisfied and satisfying the requirements of one Act may not satisfy the requirements of the other.

If any Aboriginal cultural heritage is discovered or exposed at any time it is necessary to immediately contact First Peoples – State Relations in the Department of Premier and Cabinet to ascertain requirements under the *Aboriginal Heritage Act 2006*. If works are proposed which have the potential to disturb or have an impact on Aboriginal cultural heritage it is necessary to contact First Peoples – State Relations in the Department of Premier and Cabinet to ascertain any requirements under the *Aboriginal Heritage Act 2006*.

## Other approvals

Please be aware that approval from other authorities (such as local government) may be required to undertake works.

## PERMIT EXEMPTIONS

### General exemptions applying to the place

- Works or activities, including emergency stabilisation, necessary to secure safety in an emergency where a structure or part of a structure has been irreparably damaged or destabilised and poses a safety risk to its users or the public. The Executive Director, Heritage Victoria, must be notified within seven days of the commencement of these works or activities.

### General exemptions applying to the exterior of specified buildings and structures

The following general exemptions apply to specified buildings and structures, being the Boomerang Buffet building, Scratchings Board building, Main entry gate, east and west delivery gates, boundary walls, Race day stalls, Hiskens Stand, Afternoon Tea Rooms, Maple building, Betting Indicator Board, Norman Robinson Stand, Rupert Clark Stand, and Stewards' towers:

- Minor repairs and maintenance which replaces like with like. Repairs and maintenance must maximise protection and retention of significant fabric and include the conservation of existing details or elements. Any repairs and maintenance must not exacerbate the decay of fabric due to chemical incompatibility of new materials, obscure fabric or limit access to such fabric for future maintenance.
- Painting of previously painted external surfaces in the same colour, finish and product type provided that preparation or painting does not remove all evidence of earlier paint finishes or schemes. This exemption does not apply to areas stencilling, hand-painting, murals or signwriting.
- Repair to, or removal of items such as antennae, aerials and air conditioners and associated pipe work, ducting and wiring.
- All works to manage and remove graffiti, including but not limited to painting and surface treatment.

### General exemptions for the exterior of all other buildings and structures

- All external works to all other temporary and permanent buildings and structures providing these do not increase the external envelope.

## External services

- Maintenance, repair, inspection, disconnection and removal of existing external services including plumbing, electrical, gas, surveillance systems, communications, fire services etc.
- Replacement of above ground plumbing, electrical, gas, surveillance, communications and fire infrastructure which does not involve changes in location or scale.
- Works to install or maintain services where located outside of the specified tree protection zone of any tree. Existing lawns, gardens and hard landscaping, including paving, paths and roadways are to be returned to the original configuration and appearance on completion of works. [Note: planning and location of subsurface works must be informed by a documented professional tree assessment nominating tree protection zones].
- Disconnection and removal of redundant services infrastructure (including substations, electrical cabling, gas meters and switchboards) and making good where located outside of the specified tree protection zone of any tree. [Note: Such works must be informed by a documented professional tree assessment nominating tree protection zones].
- Installation of temporary power feeds in support of events or the day-to-day operations of the place.
- Repair to, or removal of items such as antennae; aerials; and air conditioners and associated pipe work, ducting and wiring.
- Other than where these impact on the external appearance of the Boomerang Buffet building, the Afternoon Tea Building, the Scratchings Board or the main gate:
  - installation of temporary services such as water, fibre, and gas.
  - Disabled access infrastructure comprising access ramps, handrails and door furniture.
  - Communications cabinets, pits.
  - Installation of services normal to a building, including chimneys, flues, skylights, heating and cooling systems, hot water systems, security systems and cameras, downpipes, window shading devices.

## Racetrack and training tracks maintenance and management

- All works and activities to the existing racetrack and training tracks, their immediate surrounds and associated infrastructure, to facilitate the running of horse races. This includes works such as maintenance, repair and replacement of existing track surface and fences, the removal, replacement or installation of stormwater and drainage infrastructure and replacement, movement or introduction of infrastructure such as moveable track rails and jumps.

*[Note: this exemption does not include the removal of any of the Stewards' towers or construction of new buildings.]*

## Venues / public places / events

- The installation and/or erection of freestanding temporary elements associated with short term events. Temporary elements should be in place for no longer than a total of three months per calendar year. This includes:
  - Erection of temporary structures where located outside of the specified tree protection zone of any tree. [Note: planning and location of temporary structures and elements must be informed by a documented professional tree assessment nominating tree protection zones].
  - Temporary fencing, scaffolding, hoardings or surveillance systems to prevent unauthorised access or to secure public safety.

- Temporary infrastructure, including wayfinding/directional signage, generators, lighting, stages, decking and pedestrian access structures, rides, public address systems, planter boxes, furniture and the like in support of events and performances.
- Installation of above ground broadcast equipment and associated infrastructure.
- Alterations to all existing promotional elements such as billboards and flagpoles provided there are no structural changes.

### **General exemptions applying to the interior of specified buildings and structures**

The following general exemptions apply to specified buildings and structures, being the Boomerang Buffet building, Scratchings Board, Main entry gate, east and west delivery gates, boundary walls, Hiskens Stand, Afternoon Tea Rooms (excluding Glasshouse addition), Maple building, Betting Indicator Board, and Norman Robinson Stand.

If original or early interior features and finishes that are not currently visible are uncovered during permitted works, they should cease and Heritage Victoria should be contacted.

- Minor repairs and maintenance which replaces like with like. Repairs and maintenance must maximise protection and retention of significant fabric and include the conservation of existing details or elements. Any repairs and maintenance must not exacerbate the decay of fabric due to chemical incompatibility of new materials, obscure fabric or limit access to such fabric for future maintenance.
- Works to maintain or upgrade existing bathrooms, kitchens, including installing new appliances, re-tiling and the like.
- Painting of previously painted surfaces provided that preparation or painting does not remove all evidence of earlier paint finishes or schemes. This exemption does not apply to areas where there are specialist paint techniques such as stencilling, hand painting, graining or marbling, murals or signage, or to wallpapered surfaces or to unpainted, oiled or varnished surfaces.
- Installation, removal or replacement of carpets and/or flexible floor coverings, window furnishings, and devices for mounting wall hung artworks.
- Installation, removal or replacement of existing electrical wiring. If wiring is currently exposed, it should remain exposed. If it is fully concealed it should remain fully concealed.
- Installation, removal or replacement of existing lighting, inclusive of tracks, fittings, switches and dimmers, providing the works do not require new penetrations to existing fabric.
- Removal or replacement of light switches or power outlets.
- Removal or replacement of smoke and fire detectors, alarms, CCTV, exit signs and the like, of the same size and in existing locations.
- Repair, removal or replacement of existing ducted, hydronic, split system or concealed radiant type heating provided that the central plant is concealed, and that the work is done in a manner which does not alter building fabric.
- Repair, removal or replacement of plant within existing plant areas, providing that it does not impact on the external appearance of the building or involve structural changes.
- Installation, removal or replacement of bulk insulation in the roof spaces.

### **Additional exemptions applying to the interior of the specified buildings and structures:**

- *Hiskens Stand, main gate, east and west delivery gates, Betting Indicator Board, Norman Robinson Stand, Maple Building:*
  - Installation or removal of lightweight partition walls
  - Works to existing bar, hospitality and associated back of house areas
  - Repair and maintenance of existing vertical transportation including lifts and escalators, mechanisms and associated elements.



## General exemptions for the interior of all other buildings and structures

The following internal exemptions apply to all buildings and structures (temporary and permanent) with the exception of the Boomerang Buffet building, Scratchings Board, Main entry gate, boundary walls, Hiskens Stand, Afternoon Tea Rooms (excluding Glasshouse addition), Maple building, Betting Indicator Board, Norman Robinson Stand, east and west delivery gates, Race day stalls:

- All internal works.

## Landscape/outdoor areas

### *Hard landscaping*

- Repair and maintenance of existing hard landscaping including paving, car parks, walls, curbs, edging, roadways, footpaths, vehicle and pedestrian tunnels and driveways.
- Repair and maintenance of existing gates and fences and replacement where colour, material and scale remain the same.
- Maintenance, repair or removal of light and pole fittings and replacement where new light poles adopt the same height, form, style, light orientation and materiality.
- Subsurface works to existing watering and drainage systems where located outside of the specified tree protection zone of any tree (including any trees that have been relocated). Existing lawns, gardens and hard landscaping, including paving, paths and roadways are to be returned to the original configuration and appearance on completion of works. [Note: planning and location of landscaping must be informed by a documented professional tree assessment nominating tree protection zones].
- Repair, removal or installation of rubbish receptacles, bicycle parking, drinking fountains, park benches and the like.
- Installation of cycling and pedestrian paths.
- Installation, removal or maintenance of features required for vehicle access and car parking operations such as line marking, bollards, speed humps, wheel stops and automatic and boom gates.
- Installation of physical barriers or traps to enable vegetation protection and management of vermin such as rats and mice.
- Installation of planter boxes.

### *Gardening, trees and plants*

- The processes of gardening including mowing, pruning, mulching, fertilising, removal of dead or diseased plants (excluding trees), replanting of existing garden beds, disease and weed control and maintenance to care for existing plants.
- Works and management of trees in accordance with Protection of Trees on Development Sites AS4970, and Pruning of amenity trees AS4373, removal of plants listed as noxious weeds in the Catchment and Land Protection Act 1994.
- Emergency tree works essential to maintain public safety provided they are carried out by a qualified arborist and the Executive Director, Heritage Victoria is notified within seven days of the removal or works occurring.
- Establishment of new garden beds and low level planting except where this involves excavation in Tree Protection Zones of existing trees (including trees that have been relocated). [Note: planning and location of such works and planting must be informed by a documented professional tree assessment nominating tree protection zones].
- Planting of new trees.

--End--