

Government Land Standing Advisory Committee

Tranche 12 Report

33-33A Jacksons Road, Mount Eliza

16 March 2018

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List of Abbreviations

CMP	Conservation Management Plan
DDO4	Design and Development Overlay – Schedule 4
DHHS	Department of Health and Human Services
GRZ	General Residential Zone
HO399	Heritage Overlay – Schedule 399
PPN01	Planning Practice Note 1 – Applying the Heritage Overlay
TPZ	Tree Protection Zone
VPO1	Vegetation Protection Overlay – Schedule 1

About this report

On 5 October 2017, the Minister for Planning referred 33-33A Jacksons Road, Mount Eliza to the Government Land Standing Advisory Committee as Tranche 12.

This is the report under Section 151 of the *Planning and Environment Act 1987* of the Government Land Standing Advisory Committee for 33-33A Jacksons Road, Mount Eliza.



Mandy Elliott, Chair

16 March 2018

1 Summary and recommendation

1.1 The site



Figure 1: Site location

The land at 33-33A Jacksons Road, Mount Eliza has been determined surplus to the Victorian Government's current and future requirements. The Department of Health and Human Services (DHHS) has requested that a reduction in the extent of the application of the existing Heritage Overlay controls be applied to the site as the current interim controls are due to expire in June 2018. The land is in the General Residential Zone and is not proposed to be changed.

The site has an area of 3.4 hectares and is located approximately 40 kilometres south of Melbourne. The site is elevated and overlooks Port Phillip Bay. It contains several former hospital buildings, a chapel and scattered vegetation.

1.2 Issues raised in submissions

The Committee considered all written submissions as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Committee has been assisted by the information provided to it as well as its observations from its inspection of the site.

The key issues raised in submissions are: whether the Heritage Overlay should be reduced; and whether the Moreton Bay Fig tree located adjacent to the entrance of Building A is worthy of Heritage Overlay protection.

1.3 Committee conclusion

The Amendment proposes to reduce the extent of the interim the Heritage Overlay – Schedule 399 (HO399) to the following buildings (including a limited curtilage around each), adopting a polygon approach:

- Building A - Former administrative block (central portion only, excluding its wings)
- Building G – Former treatment ward, including indoor swimming pool and sun balcony, and
- Building N – former chapel and morgue.

Based on the heritage evidence and submissions received regarding the condition of the site, the Committee agrees that it is appropriate to apply the reduced Heritage Overlay if the land is to be sold.

The proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the *Ministerial Direction on The Form and Content of Planning Schemes*.

Table 1: Existing and proposed controls

Current planning scheme controls	Proposed planning scheme controls	Advisory Committee Recommendation
General Residential Zone – Schedule 1	Retain	Retain
Design and Development Overlay – Schedule 4	Retain	Retain
Vegetation Protection Overlay – Schedule 1	Retain	Retain
Heritage Overlay – Schedule 399	Reduce	Reduce

1.4 Recommendation

The Committee recommends that:

- **A planning scheme amendment be prepared and approved to apply the Heritage Overlay 399 at 33-33A Jacksons Road, Mount Eliza reduced from the interim controls as exhibited; and**
- **The proposed schedule to Clause 43.01 Heritage Overlay be amended to make it clear that the central portion only of the former administrative block (Building A) is to be included in the HO399 (refer to Appendix C).**

2 Process issues for this site

2.1 Process summary

The following tables set out the details of the process for this matter.

Table 2: Proposal summary

Proposal summary	
Tranche and site reference	Tranche 12: site reference FT111
Site address	33-33A Jacksons Road, Mount Eliza
Previous use	Former hospital and Mount Eliza Centre operated by Peninsula Health
Site owner	Department of Health and Human Services
Council	Mornington Peninsula Shire Council
Exhibition	13 November – 22 December 2017
Submissions	8

Table 3: Proposed planning scheme changes

Existing controls	Proposed changes
General Residential Zone – Schedule 1	Retain
Design and Development Overlay – Schedule 4	Retain
Vegetation Protection Overlay – Schedule 1	Retain
Heritage Overlay – Schedule 399	Reduce

Table 4: Committee process

Committee process	
Members	Mandy Elliott, Chair
Information session	11 December 2017
Hearing	16 February 2018
Site inspection	16 February 2018

Committee process

Appearances	<ul style="list-style-type: none">- Department of Health and Human Services and Peninsula Health represented by Mimi Marcus, Maddocks Lawyers who called expert evidence from Mr Barrett, architectural conservation consultant- Mornington Peninsula Shire Council represented by Rosa Zouzoulas who called expert evidence from Mr Reynolds of Arbor Survey Arboriculture on Arboriculture- Elisabeth Hames-Brooks- Peter H Manger
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Date of this Report	16 March 2018
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2.2 Process issues

(i) List here

There were no specific process issues raised for this site.

3 Site constraints and opportunities

3.1 Overlay context

In 2013, the Mornington Peninsula Shire Council undertook a heritage study of some areas within the Shire (*Mornington Peninsula Heritage Review 2013*) which identified the subject land as an individual place of historical, social and architectural significance and recommended it for inclusion in the Heritage Overlay. The review also recommended the preparation of a Conservation Management Plan (CMP) to guide the decision about the extent of the Heritage Overlay.

A CMP was subsequently prepared by Mr Barrett, architectural conservation consultant, in May 2016 which identified that the following buildings contribute to the significance of the site:

- Administrative block (Building A)
- Ward with the swimming pool and sun balconies (Building G)
- Chapel/mortuary (Building N).

On 6 October 2015, the subject land was declared surplus to government needs and by early 2017 it was listed for public sale. At that time a prospective landowner applied to Council for a building permit for demolition under section 29A of the *Building Act 1993*. In response, Council requested the Minister for Planning to prepare, adopt and approve Amendment C208 to the Mornington Peninsula Planning Scheme under section 20(4) of the *Planning and Environment Act 1987*. On 13 June 2017, the Minister's delegate acceded to Council's request and applied the Heritage Overlay to the whole of the subject land on an interim basis (HO399). The control is due to expire on 30 June 2018.

Figures 2 and 3 show the current and proposed changes to the interim HO399.



Figure 2: Current overlay

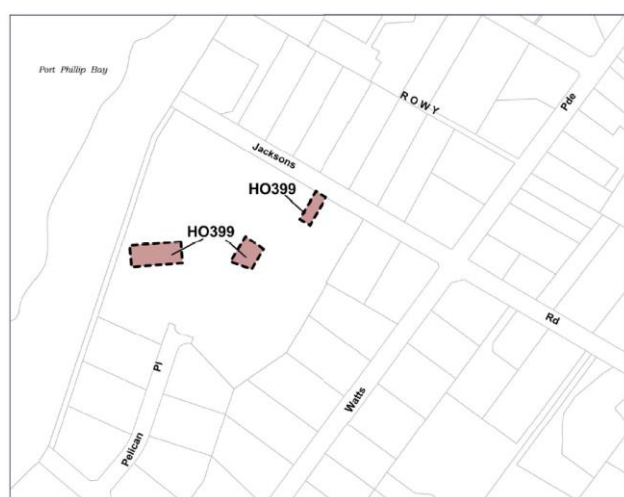


Figure 3: Proposed overlay

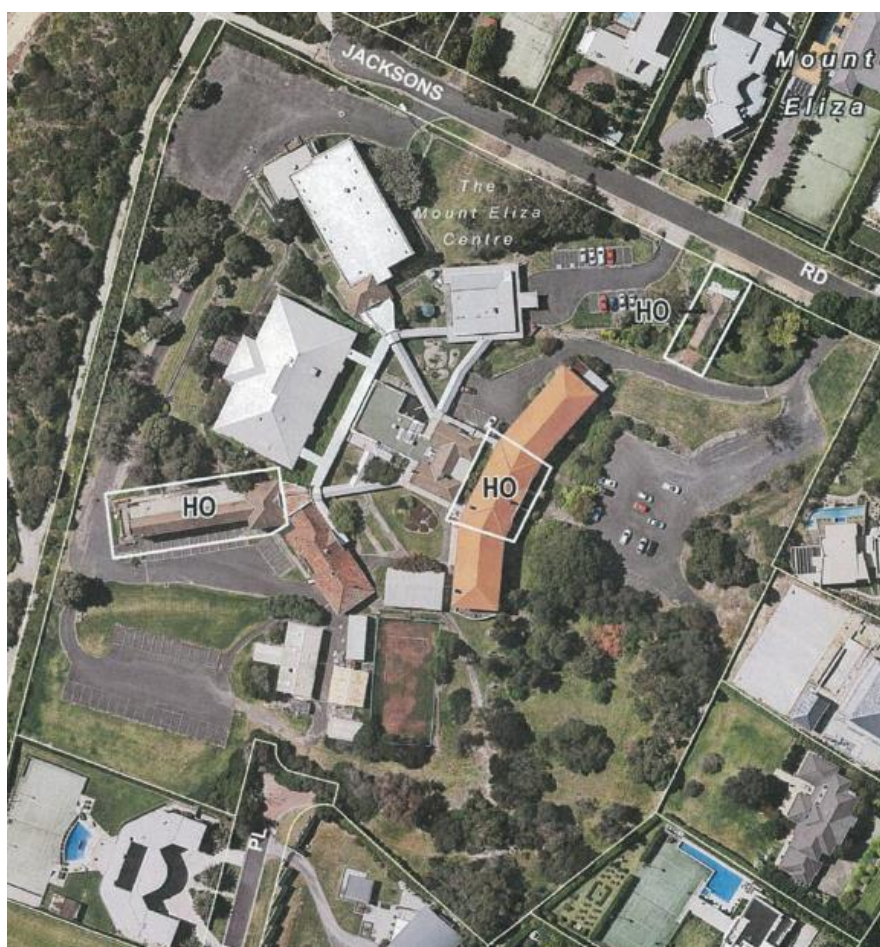


Figure 4 Proposed overlay (aerial)

3.2 Physical constraints

(i) History of the site

The Mount Eliza site was originally developed from the late-nineteenth century as the private residence 'Beachleigh', and from the inter-war years the house and the broader site became the Orthopaedic Branch of the (Royal) Children's Hospital. The Orthopaedic Branch of the (Royal) Children's Hospital was established as a response to what was observed as an 'epidemic' in infantile paralysis within Victoria during the inter-war years¹ and provided treatment for children with muscular-skeletal conditions. Many of the wards were designed to be orientated towards Port Phillip Bay and incorporated terraces for the use of patients undertaking heliotherapy². The saltwater swimming pool used for hydrotherapy of patients was built in the years immediately after the hospital opened.

¹ Mount Eliza Centre, 33 Jacksons Road, Mount Eliza, Conservation Management Plan May 2016, Peter Andrew Barrett, p6

² *ibid*, p9

In more recent years the site and its buildings have been used for the care of the aged (through Peninsula Health).

(ii) Asset easements

Information on easements across the site was not provided to the Advisory Committee.

(iii) Current site conditions

The subject land is irregular in shape and approximately 3.4 hectares in area. Prior to being determined surplus to government needs, the land was used as an aged care facility by Peninsula Health, known as the Mount Eliza Centre.

(iv) Interface with surrounds

The site is elevated and overlooks Port Phillip Bay foreshore to its west and residential allotments to its north, east and south. The site is well vegetated.

(v) Access

Access to the site is via Jackson Road, Mount Eliza.

4 Issues with the proposed changes

4.1 What overlays are suitable

The site is located within the General Residential Zone (Schedule 1) and has the following overlays:

- Design and Development Overlay (Schedule 4) (DDO4)
- Vegetation Protection Overlay (Schedule 1) (VPO1)
- Heritage Overlay (HO399).

There are no proposed changes to the GRZ1, DDO4 or VPO1; only to the HO399.

The interim HO399 currently applies to the site which is due to expire on 30 June 2018. The site owner proposes to reduce the extent of this control so that it only applies to the following identified buildings only on the site, as well as a limited curtilage:

- Building A: Former administrative block (central portion only)
- Building G: Former treatment ward
- Building N: Former chapel.

Figure 5 shows the buildings on site.

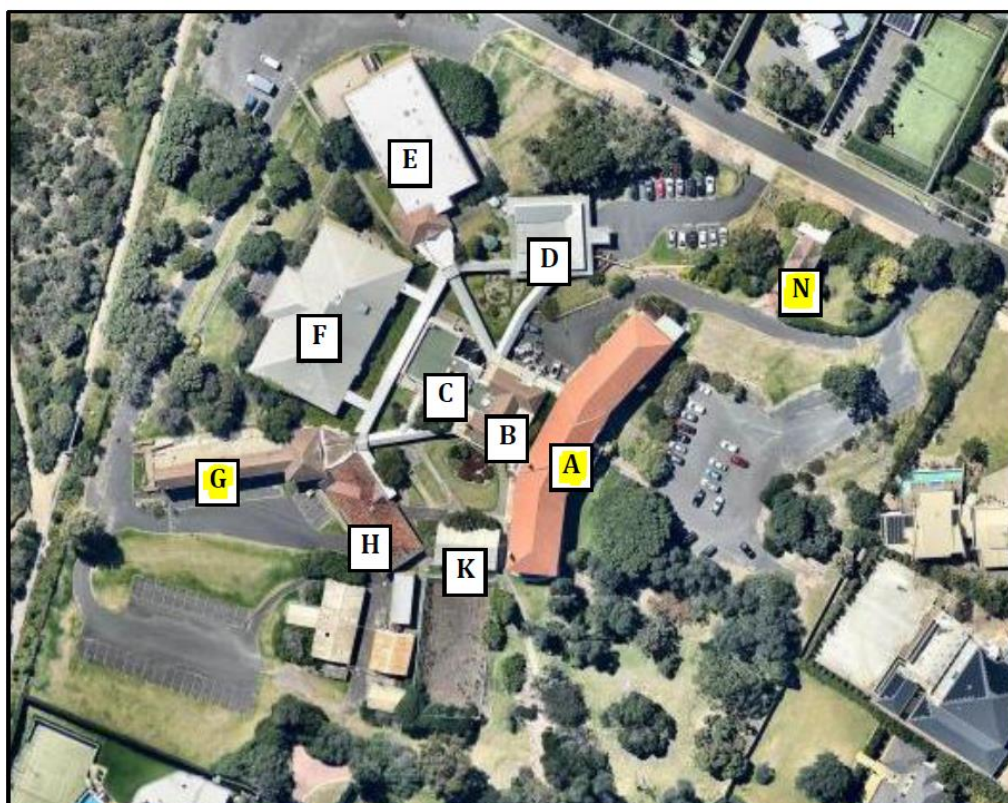


Figure 5 Buildings on the site
(Source: Exhibited Explanatory Report)

(i) Evidence and submissions

The Department of Health and Human Services (DHHS) and Peninsula Health relied upon Mr Barrett's evidence and the Conservation Management Plan (CMP), prepared by Mr Barrett in May 2016. The CMP described Building A (central portion) former administrative block as a two-storey rendered brick building with a terracotta roof. It states:

The central portion of the building retains much of its original character, and is of contributory heritage value to the site as one of the main buildings of the 1929-30 complex. The wings, which have been altered, are mostly of a later origin, and are of a low level of heritage value³.

Building G is a former treatment ward that includes a former balcony (now enclosed) used for the treatment of heliotherapy and includes a swimming pool used for hydrotherapy. Building N is the former chapel of the hospital and is part of the 1929-30 complex of buildings and is "a well-detailed early building on this site and is of contributory heritage value to the Mount Eliza Centre⁴". The CMP states that the Mount Eliza Centre is of architectural, aesthetic, historical, scientific/research and social significance to the State of Victoria and that it is not one element that is of primary significance but rather a number of elements that contribute together to its significance.

The CMP concluded that much of the early landscaping of the site has been altered or removed and that altering or removing the rest of the landscape would not impact upon the heritage value of the site.

The DHHS submitted that it is only those elements (Building A (central portion), Building G and Building N (former chapel)) that require heritage protection and hence why the Heritage Overlay needs to be reduced from that in the interim control.

Mr Barrett, in his evidence statement, said that for Building A his view is:

the wings of the Administrative Building are of lesser aesthetic value than the central portion of the building. The wings are less resolved in their design, having been built in stages and of a composite of rendered/brick on the lower level and timber on the upper-level I believe conservation of only the central portion of the Administrative Block will retain a sufficient level of interpretative value of the function of this part of the site as the Admissions and Administrative area of the hospital (p6) ...

DHHS submitted that there are a number of State and Local planning policies that are relevant to the Amendment, namely clause 15.03 which sets out the objective to 'ensure the conservation of places of heritage significance', relevant guidance in Plan Melbourne (Direction 4.4 respect Melbourne's heritage), and in clause 22.04 of the Mornington Planning Scheme (Heritage Places and Abutting Land). Planning Practice Note 1 (PPN01) – Applying the Heritage Overlay (recently updated in January 2018) states that places

³ Mount Eliza Centre, 33 Jacksons Road Mount Eliza, Conservation Management Plan May 2016, Peter Andrew Barrett, p20

⁴ *ibid.*, p25

identified in a local heritage study should be included in the Heritage Overlay, “*provided the significance of the place can be shown to justify the application of the overlay*” and the PPN01 also sets out the guidelines and criteria for the application of the heritage overlay and expressly recognises the ‘polygon’ method.

The Mornington Peninsula Shire Council submitted that along with Building G and Building N (chapel), the entire extent of Building A (not just the central section) be included in the HO399 as well as appropriate curtilage (suggesting 20 metres) around each of Buildings A, G and N. DHHS stated that a 20 metre curtilage is unsubstantiated by any expert evidence and that the Committee should only accept that an ‘adequate curtilage’ be provided, as exhibited. Council also proposed to include the Moreton Bay Fig tree (located adjacent to the entrance of Building A) and its associated tree protection zone (TPZ), within the HO399.

Council commissioned GJM Heritage to prepare a heritage citation for the subject land which was provided to the Committee during the course of the Hearings (document 12). The citation found that while other buildings could also be regarded as contributing to the significance of the place, the three buildings identified in Mr Barrett’s evidence are considered to have met several of the recognised heritage criteria listed in PPN01 with a local level of significance. Council submitted that the lower levels of the wings of the administrative building are also of heritage value as they were integral to the daily functions of the site as an orthopaedic centre. Council submitted that “*the sum of the buildings should be reflected in the extent of the HO to reflect the significance rather than the sum of some parts of the contributory buildings*”.

Mr Reynolds, arboricultural expert for Council, provided an assessment of the Moreton Bay Fig which focused on the overall condition of the tree (based on the arboricultural characteristics) and an assessment of the tree for possible significance in the local context. Mr Reynolds stated that he used the National Heritage Trust criteria for assessing significant trees which he said has been used by other Councils (Bayside and Kingston) when assessing trees for their significance. Based on the National Heritage Trust criteria, Mr Reynolds found that the Moreton Bay Fig meets the criteria for ‘social’ for its contribution to the landscape and the ‘historic’ criteria as the tree is associated with an important institution (Mount Eliza Centre and possibly the former ‘Beachleigh’ residence (now removed)).

Mr Reynolds assessed the tree as being in good condition with no signs of any major defects. He acknowledges in his evidence that:

there is limited historical evidence of the individual importance of the tree and there is only limited photographic evidence that this tree may have been part of the original ‘Beachleigh’ residence garden. It is highly likely that this tree may be regrowth, or the tree has been significantly pruned or reduced and has regrown possibly over the last 100 years, p4.

Mr Reynolds stated that the Moreton Bay Fig tree should be afforded protection in the local context, within any future register of Significant Trees and that tree controls should apply for any Heritage Overlay that may be applied on the site. Council’s submission is that the VPO1 that exists over the site does not provide adequate protection of the Moreton Bay Fig and “*the VPO1 is predominantly focussed on native vegetation as evidenced by objectives, content and decision guidelines*”.

Mr Barrett, through questioning, said that Mr Reynolds had not shed light on the age of the tree and that he had not used the heritage assessment criteria of Heritage Victoria in undertaking an assessment of significance (document 10).

In relation to the Moreton Bay Fig tree, Mr Barrett stated:

...When preparing the conservation management plan, no information surfaced that indicated that this tree was significant to the Mount Eliza Centre, or it was of early origin...If it can be shown by Council that the tree is part of the early development of the site and of heritage significance, the protection of the Moreton Bay Fig, as proposed by Council, is a reasonable heritage outcome, and it should be included in the portion of the heritage overlay that applies to the Administrative Building (Building A), with some form of tree protection zone, (p7).

Ms Marcus, for DHHS, emphasised that it could not be demonstrated that the Moreton Bay Fig was part of the original 'Beachleigh' residence and that since Mr Reynolds did not use relevant Heritage Victoria criteria for assessing whether something should be provided with a Heritage Overlay, then the tree should not be included in the HO399. She also questioned Mr Reynolds on his expertise regarding heritage, noting that he is a qualified arborist with no heritage qualifications.

The Mornington Peninsula Branch of the National Trust submitted that they agree with the proposed exhibited Heritage Overlay. They also stated that the sites should remain in the States ownership. Other submitters suggested that the proposed Heritage Overlay be reduced to only include the chapel or removed completely. One submitter (number 8) suggested the entire site remain in a Heritage Overlay.

(ii) Discussion

Broadly, Council and the DHHS are in agreement as to the buildings on the site that are proposed to be removed from the HO399. They also agree on the polygon approach to the HO399. Mostly, submitters also agree that the interim HO399 be reduced in extent.

The key matter in dispute is the extent of protection through the HO399 to be provided to Building A and whether the Moreton Bay Fig should be included in the HO399.

Regarding Building A, the Committee accepts the evidence of the Mr Barrett, who is also author of the CMP, which concludes that the heritage significance of the site is the sum of the three buildings (the central part of Building A only) and not one building on its own. The Committee agrees with DHHS that applying the PPN01, the composite rendered brick lower levels of the wings of Building A do not exhibit the same restrained Mediterranean detailing expressed in the central portion of the building and lack sufficient aesthetic value to justify the application of the heritage overlay to the buildings in its entirety. Notwithstanding, the Committee does agree with Council that appropriate curtilages should apply to all of the buildings proposed as part of the HO399, however a curtilage of 20 metres has not been demonstrated through evidence that this is the adequate requirement. There is no dispute about the polygon approach to the HO399 and the Committee recommends that this includes an adequate curtilage, as exhibited.

As recommended by Mr Barrett, and suggested by submitter 4, 5 and 6 (National Trust, Mornington Peninsula Branch), implementing interpretative signage will assist in providing a sufficient level of interpretative value of the function of the former hospital and the Committee encourages the DHHS/future owner to do this.

In regard to the Moreton Bay Fig, the Committee was not presented with sufficient evidence that the tree was part of the original 'Beachleigh' residence, and therefore is not in a position to accept that it should be included in the HO399 as proposed by Council. However the expert arborist, Mr Reynolds, did assess the tree as at least 100 years old and would possibly be included in a future significant tree register if Council were to undertake such a study. The Committee notes that the existing VPO1 protects the Moreton Bay Fig and requires a planning permit to remove vegetation protected under the VPO1 (noting some exemptions do apply), and that a permit would need to be accompanied by a vegetation management plan.

(iii) Conclusion

The Committee accepts the evidence of Mr Barrett that the combination of the three buildings (Building A (central component only), Building G (treatment ward) and Building N (chapel)) provides the heritage context of the site in combination. The exhibited proposed schedule to Clause 43.01 Heritage Overlay would need to be amended to make it clear that the central portion only of the former administrative block (building A) is to be included in the HO399. The Committee has included its version at Appendix C.

The Committee is sympathetic to Council's position of wanting to retain the Moreton Bay Fig tree within the HO399, however there is some uncertainty as to whether the tree is part of the original gardens and neither expert could be certain of this. The Committee does not dispute the evidence of Mr Reynolds that the tree is possibly older than 100 years. The Committee believes it would be a desirable outcome if the Moreton Bay Fig tree could be retained within any future development of the site, including its required tree protection zone; however the Committee does not have sufficient evidence before it to recommend it be part of the Heritage Overlay. The Committee is mindful that applying a Heritage Overlay is different than placing a tree on a Significant Tree Register and it notes there is existing protection within the VPO1.

The Committee agrees with the DHHS that the polygon approach to the proposed Heritage Overlay is the right approach for this site, given that only a number of buildings is proposed to be protected. A limited curtilage is also recommended, similar to the recent GLSAC Tranche 4 (Austin Hospital) site, as noted in DHHS' submission.

Appendix A: About the Government Land Standing Advisory Committee

The Fast Track Government Land Service is a 2015 initiative to deliver changes to planning provisions or correct planning scheme anomalies for land owned by the Victorian Government. The Government Land Standing Advisory Committee (the Committee) was appointed under Part 7, section 151 of the *Planning and Environment Act 1987* in July 2015.

The Minister for Planning approved revised Terms of Reference for the Committee in July 2017.

The purpose of the Committee is:

... to advise the Minister for Planning on the suitability of changes to planning provisions for land owned, proposed to be owned in the future, or to facilitate the delivery of priority projects by the Victorian Government.

The Committee consists of:

- Chair: Lester Townsend
- Deputy Chairs: Brett Davis and Mandy Elliott
- Members: Gordon Anderson, Alan Chuck, Jenny Fraser, Rachael O'Neill, John Ostroff, Tania Quick, Cazz Redding and Lynn Sweeney.

The Committee is assisted by Ms Emily To, Project Officer with Planning Panels Victoria.

The Committee's Terms of Reference state:

25. *The Standing Advisory Committee must produce a written report for the Minister for Planning providing:*
 - *An assessment of the appropriateness of any changes of planning provisions, in light of the relevant planning scheme and State and Local Planning Policy Frameworks.*
 - *An assessment of whether the proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes.*
 - *An assessment of whether planning scheme amendments could be prepared and adopted in relation to each of the proposals.*
 - *An assessment of submissions to the Standing Advisory Committee.*
 - *Any other relevant matters raised in the course of the Standing Advisory Committee Hearing.*
 - *A list of persons who made submissions considered by the Standing Advisory Committee.*
 - *A list of persons consulted or heard.*

Appendix B: List of submitters

No.	Submitter
1	Gordon Frankland
2	Allan J Clarke
3	Mornington Peninsula Shire Council
4	Mornington & District Historical Society Inc
5	Peter H Manger
6	National Trust, Mornington Peninsula Branch
7	William Robinson
8	Elisabeth Hames-Brooks

Appendix C: Proposed Schedule to Clause 43.01 Heritage Overlay (Committee’s version)

PROPOSED SCHEDULE TO CLAUSE 43.01 HERITAGE OVERLAY

The requirements of this overlay apply to both the heritage place and its associated land.

PS Map Ref	Heritage Place	External Paint Controls Apply?	Internal Alteration Controls Apply?	Tree Controls Apply?	Outbuildings or fences which are not exempt under Clause 43.01-3	Included on the Victorian Heritage Register under the Heritage Act 1995?	Prohibited uses may be permitted?	Name of Incorporated Plan under Clause 43.01-2	Aboriginal heritage place?
HO399	<i>Former administrative block (central portion), former treatment ward and former chapel and limited curtilage at Mount Eliza Centre, 33-33A Jacksons Road, Mount Eliza</i>	no	no	no	no	no	no	-	no

Appendix D: Document list

Documents Presented to Hearing (No.)	Description	Presented By
1	DHHS and Peninsula Health submissions	Ms Mimi Marcus, Maddocks Lawyers representing DHHS and Peninsula Health
2	Current zoning and overlay maps	Ms Marcus
3	Cadastral and site context plans	Ms Marcus
4	Current planning provisions	Ms Marcus
5	Planning Practice Note 1 Applying the Heritage Overlay	Ms Marcus
6	Historic photographs of Queen Victoria hospital	Ms Marcus
7	Enlargement of photograph page 11 CMP	Ms Marcus
8	National Trust significant tree criteria	Ms Marcus
9	Page 154 of Council minutes (12 Dec 2017)	Ms Marcus
10	Heritage Council of Victoria Assessment Guidelines (Feb 2015)	Ms Marcus
11	Mornington Peninsula Shire Council submissions	Ms Rosa Zouzoulas, Manager Planning Services, Mornington Peninsula Shire Council
12	Heritage Citation - The Mount Eliza Centre, GJM Heritage (May 2017)	Ms Zouzoulas
13	Examples of Moreton Bay Fig trees of significance	Mr Reynolds, expert for Mornington Peninsula Shire Council
14	A3 aerial of subject site	Ms Zouzoulas
15	Letters of support	Mr Peter Manger
16	Site photographs	Mr Manger
17	'Through the Prism of one site'	Dr Elisabeth Hames-Brooks
18	Submissions	Mr Manger