

# Statement of recommendation from the Executive Director, Heritage Victoria

Pella St Johns Lutheran Church Complex  
220 Pella Church Road, Rainbow, Hindmarsh Shire  
Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and  
Jupagulk Country



## Executive Director recommendation

Under section 37 of the *Heritage Act 2017* (the Act) I recommend to the Heritage Council of Victoria (Heritage Council) that the Pella St Johns Lutheran Church Complex, located at 220 Pella Church Road, Rainbow is of State-level cultural heritage significance and should be included in the Victorian Heritage Register (VHR) in the categories of Registered Place and Registered Object Integral to a Registered Place.

In accordance with section 38 of the Act I include in this recommendation categories of works or activities which may be carried out in relation to the place and objects integral without the need for a permit under Part 5 of the Act.

I suggest that the Heritage Council determine that:

- the Pella St Johns Lutheran Church, 220 Pella Church Road, Rainbow, is of State-level cultural heritage significance and is to be included in the VHR in accordance with section 49(1)(a) of the Act
- that the objects are integral to understanding the cultural heritage significance of the place under section 49(1)(e) of the Act
- that the proposed categories of works or activities which may be carried out in relation to the place and objects integral for which a permit under the Act is not required will not harm the cultural heritage significance of the place and objects integral under section 49(3) of the Act.



**STEVEN AVERY**  
Executive Director, Heritage Victoria

**Date of recommendation: 17/07/2023**



## The process from here

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

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

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

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

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

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

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

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

### **4. Obligations of owners of places and objects (sections 42 and 43)**

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

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

### **5. Further information**

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

## Description

The following is a description of the Pella St Johns Lutheran Church Complex at the time of the site inspection by Heritage Victoria in April 2023

The Pella St Johns Lutheran Church Complex is located on the traditional land of the Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagulk People.

### *The complex*

The Pella St Johns Lutheran Church Complex comprises three coursed limestone rubble single-storey buildings (church, school and manse) four outbuildings, and three water tanks located in an expansive rural landscape setting.

### *School and object integral*

The building at the west of the complex is the school (1903) constructed in a simple utilitarian style. It is a single volume space, and has a timber ceiling, corrugated iron gable roof, and chimney on the west side. The school currently operates as a museum and contains many objects and photos related to the history of German settlement in the area. One object integral is located in this building:

- Original school desk.

### *Church and objects integral*

The building at the centre of the complex is the church (1911). It is constructed in a Federation Gothic Revival style and uses the same masonry techniques as the school and manse. The building has a corrugated iron roof with parapeted gables, stepped buttresses, a timber ceiling and pointed arch windows with leadlight diamond pane glass. The front facade has a group of three pointed arch windows above a central buttress flanked by pointed arch doors. The church retains the following objects integral:

- Timber pulpit
- Hymn board, letters, numbers and wooden box
- Timber baptismal font and glass bowl
- Timber altar and candleholders
- Timber lectern
- 27 church pews
- Fuller organ.

The Fuller Organ (1885) is located at the south end of the nave and retains its attractive painted case, with diapered facade pipes, pipework, tonal scheme, mechanical action and console fittings.

### *Manse*

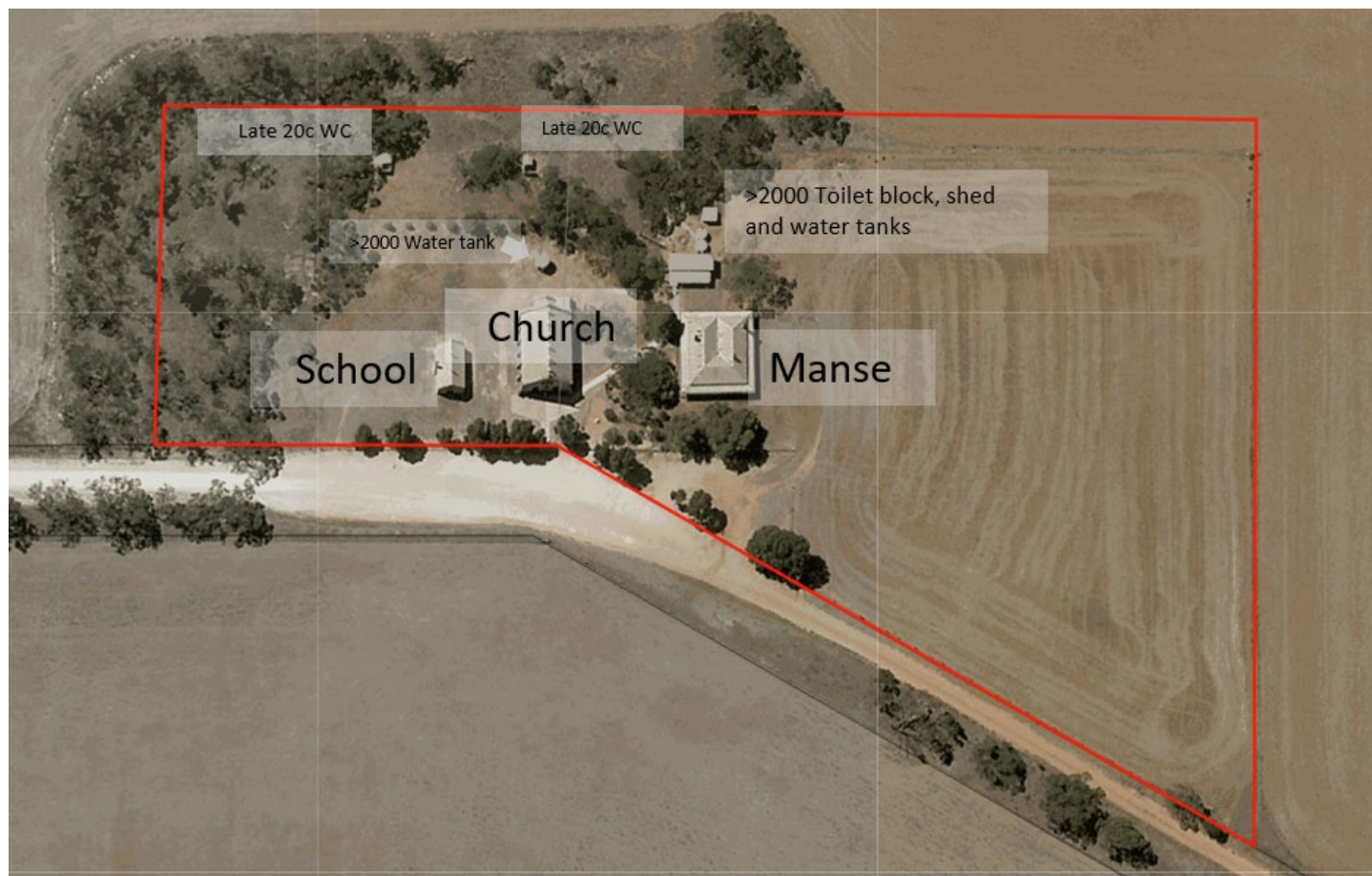
The building at the east of the complex is the manse (1909) constructed using the same masonry techniques as the church and school. It has a corrugated iron verandah supported by timber posts which wraps around the building. There are five rooms and a west facing kitchen.

### *Outbuildings and tanks*

Two older WC structures are located around 30 metres south of the church. A modern toilet block is located about 7 metres south of the manse, and a modern utility shed a further 13 metres south. A stone cairn and plaque celebrating 100 years of worship at St Johns is located around 9 metres southeast of the church. There are three modern circular water tanks at the place, one at the rear of the church, and two at the rear of the modern toilet block.



## Description images



*Marked-up aerial view*



*April, 2023, Southern elevation of church (front entrance)*



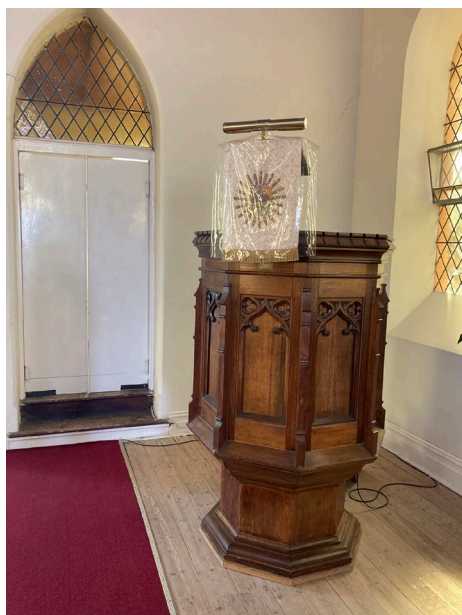
*April, 2023, Southeast elevation of church*



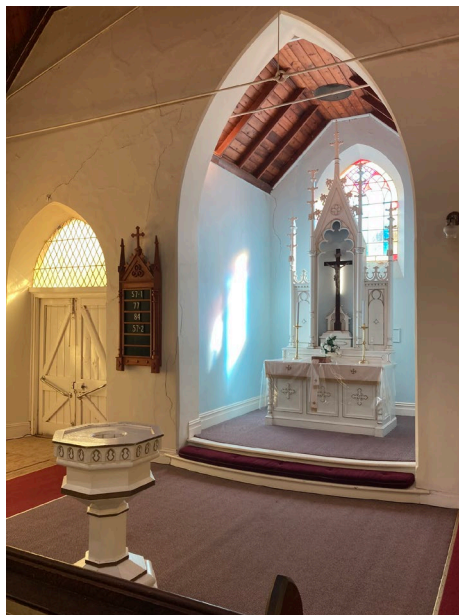
*April, 2023, Northern elevation of church (rear entrance)*



*April 2023 Western elevation of the church*



*April 2023, Pulpit with cloth*



*April 2023, Altar with baptismal font in the foreground*



*April 2023, Baptismal font*



2023, Organ located at the southern end of the church



April 2023, Interior view from the south to the north of the church



March 2023, Lectern



April 2023, Eastern elevation of school building



April 2023, School building interior view from north to south



*April 2023, Western elevation of the manse*



*April 2023, Northern room of the manse*



*April 2023, Interior corridor looking north to south*



*April 2023, North verandah looking east*





## History

### *German Lutheran migration to Victoria*

During the nineteenth and into the twentieth centuries, German-speaking immigrants constituted the largest non-Anglo-Celtic group in Australia<sup>1</sup>. Germans first arrived in Melbourne in the late 1830s and by 1851 there were around 800. These migrants were mostly Lutherans from Prussia and Saxony. They settled in central Melbourne and nearby suburbs, particularly Collingwood, Richmond and Hawthorn, as well as further afield in Westgarthtown, known also as Neu-Mecklenburg (now Thomastown), Waldau (now Doncaster), and Germantown (now Grovedale) near Geelong.

During the 1850s, there was a wave of German migration to the Western District of Victoria from South Australia. Several settlements were established around Hamilton such as Hochkirch (now Tarrington) and Gnadental near Penshurst. From the 1870s, German migration continued into the Wimmera region, from South Australia and western Victoria, in part due to land opening up for selection. Families settled around Horsham, Natimuk, Dimboola and Murtoa.

German settlers made a significant contribution to the development of the wheat industry in north west Victoria, employing European agricultural methods. They brought with them vernacular building traditions, including earth-based and stone building methods, and thatching, which were simple, and cost effective techniques suitable for remote regions.<sup>2</sup> German migrants typically settled in family groups and maintained a degree of cultural identity, the German language being used in Lutheran schools and churches. They were generally regarded as good farmers and their success was sometimes attributed to their thrift and industriousness.<sup>3</sup>

In the 1880s and 90s German settlers moved into the northern Wimmera and southern Mallee, around Beulah, Nhill, Jeparit, Rainbow and Outlet Creek. By 1895 there was a sufficient number of German Lutherans living in Rainbow to form a congregation. The settlement of Outlet Creek, further west of Rainbow, was also growing. Outlet Creek connects Lake Hindmarsh and Lake Albacutya, and German settlers in the area were branches of families which had established themselves in other areas of Victoria or South Australia, seeking more farming land and a place to raise children. In the early 1900s the Outlet Creek community commenced building its own church buildings.

### *The Outlet Creek (Pella) congregation*

#### The school (1903)

In 1902, the Outlet Creek community resolved to construct its own Lutheran School. Prioritised as the first building, it demonstrates the importance of schools, which were considered by German Lutheran congregations to be the 'nurseries of the church'. The school also doubled as a church until the main church was completed in 1911. Work on the school began at the end of August 1903, and the Lutheran community constructed the limestone building in around two months. It was opened on 8 November 1903. Each morning Bible history and religion were taught in German, then academic classes followed. On Sundays when the pastor from Hopetoun did not visit, lay readers read church services in the school building.

#### The manse (1909)

In 1909, there were more Lutherans living in Outlet Creek than Rainbow and the church communities resolved the Outlet Creek community could independently build a new church, and that the pastor for the area should reside there. It was during this 1909 meeting that the name 'Pella' was recorded in the minutes as the name of the new church. According to early Christian texts, Pella (located in present-day Jordan) was a place of refuge for Christians fleeing from the Romans in 70AD when Jerusalem was destroyed.<sup>4</sup> The formal name adopted for the Outlet Creek congregation was 'The Evangelical Lutheran St Johns at Pella'.<sup>5</sup> In March 1909, the Pella Manse was completed and became the new home of the pastor from Hopetoun.

#### The church (1911)

Planning for the Pella Church then commenced in earnest. Mr Barnes, an architect from Nhill was engaged and called for tenders. Given the expense of the endeavour, to be paid for by a loan by the congregation, there was a strong view the construction labour should be provided by the community. Bell and Kormann were the contractors, and Lutheran men

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<sup>1</sup> Gerhard Fischer, [German experience in Australia during WW1 damaged road to multiculturalism](#), The Conversation, 22 April 2015.

<sup>2</sup> See Grieve Gillett, *Horsham Heritage Study (Stage 2)*, Vol 3, August 2014.

<sup>3</sup> Grieve Gillett, *Horsham Heritage Study (Stage 2)*, Vol 3, p.63.

<sup>4</sup> Ian Maroske, *The Story of Pella*, p.95.

<sup>5</sup> Ian Maroske, *The Story of Pella*, p.98. See also p. 106 for more details of the split in the Lutheran Church from 1846 to 1966 between the Evangelical Lutheran Church of Australia (ULCA) and the United Evangelical Lutheran Church of Australia (UELCA).



laboured under supervision during working bees. The foreman was a parishioner, Johann Gustav 'Gus' Stasinowsky, a farmer and stonemason, whose family operated the nearby Stasinowsky's Lime Kiln (VHR H1959).

Construction of the church began in the latter half of 1910. Local limestone was transported in horse-drawn drays and wagons from a twenty acre quarry half a mile (0.8kms) from the building site. It was rough-hewn into rectangular blocks. A lime kiln was built in the church yard to create quicklime for mortar. For scaffolding, long, rough pine poles from nearby trees were used. On 8 September 1910 the foundation stone was laid, and work continued. The timber elements in the church were made by a community member who was a carpenter, Mr Austel, including the altar, forms and doors. The interior of the church emphasised white, at the wish of the Pastor, to signify purity.

At the time of its dedication on 14 May 1911, it was one of the largest Lutheran churches in Victoria.<sup>6</sup> The order of service was printed in German and the service was conducted in German. A gendered seating arrangement was decided: men would occupy the left-hand pews, women the right-hand pews, and families with children the central pews. One of the features of the Pella church is its dual entry doors. It is unclear whether this follows the practice of some early churches to have separate doors for men and women or relates to other aspects of church life.

### *Lutheran church design*

The Pella church demonstrates some central principles of Lutheran ecclesiastical design. Church buildings have traditionally been constructed of natural building materials, such as wood, stones and bricks, to symbolise God's creations. Church interiors are simple and unadorned so that the congregation may focus on worship. Exteriors typically reflect the Gothic style, embodying long vertical lines and many windows. The use of natural light is a central design element in Lutheran churches, as natural light spilling in from clear-glass and stained windows is used to symbolise God's presence.

### *German church culture*

Early church services (preaching services) at Pella were conducted by the pastor wholly in German. On Sundays when the pastor was ministering to other congregations, a German reading service was led by Pella parishioners. Some English language elements were introduced during the 1910s. Ian Maroske, historian of Pella, notes that the first three generations of Lutherans in Australia tended to 'keep somewhat aloof' from their wider communities, and mixed marriages were a source of concern.<sup>7</sup> As a result of this separatism, there was some antagonism towards people with a German background, although this was moderated by the respect that British-Australians had built up for their neighbours over many years.<sup>8</sup>

### *World War I (1914-18)*

After the declaration of war in early August 1914, all 'Germans' living in Australia were called upon to report to the nearest police station. It was then up to the local police officers to impose any restrictions they may have thought fit.<sup>9</sup> By the end of 1914, military authorities were given the power to intern 'enemy subjects with whose conduct they were not satisfied'. Since it was physically impossible for the Australian authorities to detain all German-Australians, the government decided early on to pursue a policy of selective internment. Oral accounts from members of the current Pella Church congregation suggest that members of this particular community were not interned.<sup>10</sup> But there were some 'German baiters' in the Rainbow district who initiated hostile encounters with parishioners.<sup>11</sup>

Lutherans at Pella publicly declared their position three weeks after war was declared, holding a patriotic concert and meeting in Rainbow.<sup>12</sup> A resolution of loyalty was also passed by the Pella congregation after a church service. A central tenant of Lutheran theology was *Zwei-Reich-Lehre* (that is, the doctrine of the two kingdoms, spiritual and temporal) which called for loyalty to the state and respect for the secular authorities.<sup>13</sup> Second and third generation pastors and their congregations were subjects of the British Crown and citizens of their respective Australian colonies, and of the Commonwealth after 1901. Established pastors were conscious of their identity as representatives of an Australian, not a German, church. Relations with Germany were of a purely private nature, concerning the maintenance of language, family ties and cultural traditions.<sup>14</sup>

<sup>6</sup> Ian Maroske, *The Story of Pella*, p.100.

<sup>7</sup> Ian Maroske, *The Story of Pella*, p.127. Maroske uses the word 'separatism'.

<sup>8</sup> Accounts by Pastor Lucas Matuschka, Mr Mal Drendel and Mr Dave Stasinowsky, Tuesday 11 April 2023.

<sup>9</sup> Gerhard Fischer, [German experience in Australia during WW1 damaged road to multiculturalism](#), The Conversation, 22 April 2015.


<sup>10</sup> Accounts by Pastor Lucas Matuschka, Mr Mal Drendel and Mr Dave Stasinowsky, Tuesday 11 April 2023.

<sup>11</sup> Ian Maroske, *The Story of Pella*, p.137.

<sup>12</sup> Ian Maroske, *The Story of Pella*, p.131.

<sup>13</sup> Gerhard Fischer, [German experience in Australia during WW1 damaged road to multiculturalism](#), The Conversation, 22 April 2015.

<sup>14</sup> Gerhard Fischer, [German experience in Australia during WW1 damaged road to multiculturalism](#), The Conversation, 22 April 2015.



Despite this, strong waves of anti-German sentiments were evident across Australia, and Lutheran churches were high profile public targets. Place names of German origin were changed, such as Germantown/Grovedale, Hochkirch/Tarrington and Mount Bismarck/Mount Kitchener. Arsonists burned down Lutheran churches at nearby Murtoa in 1915 and 16, and at Netherby in 1916. Attempts were also made to burn down the Lutheran church at Jeparit (1916 and 1918). All Lutheran schools were closed during the war, as were all German clubs and German-language newspapers. The Lutheran school at Pella ceased teaching in German in 1916, after protracted negotiations with the Minister of Education.<sup>15</sup>

After the war, German communities were engaged in a process of rebuilding their identities. At Pella it was agreed to have alternate English and German reading services in April 1922. In July 1924 the pastor gained approval from the quarterly conference of the Pella Church for the purchase of an English Bible for the altar. In 1926 all German reading services were ceased. In 1932 German and English preaching services were held on alternate Sundays. Throughout the 1920s and 30s the school was at capacity, and the resident pastor moved to Rainbow, and the school teacher moved into the manse.

#### *World War II (1939-45)*

During World War II, there was further anti-German sentiment. In 1940, Lutheran churches were burned down at Willaura and Hopetoun. It was difficult to attract a teacher to Pella, student numbers dwindled, and the school closed in 1943. In following decades, only a small number of afternoon services were conducted in German annually. This was a gesture to the older generation, many of whom believed that Lutheran worship was more pleasing to God if delivered in German, however it signalled the end of an era.

#### *The organ*

The first organ at Pella was purchased in 1906 and was at first used in the school building. In the early 1920s, a Mason and Hamlin organ, was installed in the church. A Bell organ was purchased around 1939. In 1970 a Fuller organ (1885) was purchased by the Pella congregation and installed in the church. It is a fine example of the work of the prominent Melbourne organ builder Alfred Fuller. The instrument retains its attractive painted case, with diapered facade pipes, pipework, tonal scheme, mechanical action and console fittings and is one of the few surviving examples of its builder's work which has not sustained substantial alterations.

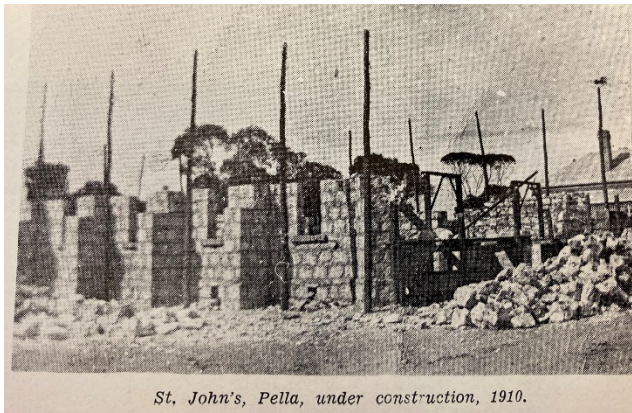
#### *The present day*

In 2023 the school building houses a collection of old books and photos, along with two early school desks, one of which is original to the school. Services are still conducted weekly at St Johns and the manse is now used for Sunday School lessons. Many descendants of the early settlers still live in the Pella area. The surnames of these families, such as Heinrich, Drendel, Keller, Eckermann, Schilling, Keller, Stasinowsky, Krelle and Nuske, are evidence of the origins of their forebears.

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<sup>15</sup> Ian Maroske, *The Story of Pella*, p.137.

## Historical photographs



*St. John's, Pella, under construction, 1910.*

*1910, St Johns Pella under construction  
Source: Ian Maroske, The story of Pella*



*14 May 1911, Procession at the dedication of the Pella Church, Source: Ian Maroske, The story of Pella*



*14 May 1911, Chancel at Pella Church, also showing the baptismal font and pews Source: Ian Maroske, The story of Pella*



*c.1917, Pella Church and School, Source: Ian Maroske, The story of Pella*



*c.1917, Chancel at Pella Church, Source: Ian Maroske, The story of Pella*



*During World War One, Pella Church and School, Source: Ian Maroske, The story of Pella*



## Selected bibliography

Ian Maroske, *The story of Pella*, Pella District Historical Society, 1975.

Pella, [German-Australia website](#), Accessed May 2023.

Grieve Gillett, *Horsham Heritage Study (Stage 2)*, Vol 3, August 2014.

## Consultation and interviews

The Executive Director acknowledges the assistance of the people associated with the preparation of this nomination:

- Pastor Lucas Matuschka
- Mr Mal Drendel
- Mr Dave Stasinowsky



## Further information

<b>Heritage Overlay</b>	Hindmarsh HO8 (with internal controls)
<b>Other Overlays</b>	Environmental Significance Overlay Land Subject to Inundation Overlay
<b>Other Listings</b>	National Trust (1988) Church – Local significance classification National Trust (1989) Organ – State significance classification
<b>Date of construction</b>	<ul style="list-style-type: none"> <li>• School (1903)</li> <li>• Church (1911)</li> <li>• Manse (1912)</li> <li>• Objects integral (various from the early 1900s)</li> <li>• Organ (1886) moved to the Pella Church (1970)</li> </ul>
<b>Architect/Builder</b>	Architect: <ul style="list-style-type: none"> <li>• JB Barnes, Nhill</li> </ul> Builders: <ul style="list-style-type: none"> <li>• Johann Gustav 'Gus' Stasinowsky (foreman)</li> <li>• German Lutheran community</li> </ul>
<b>Architectural style</b>	Federation/Edwardian Period (1902-c.1918)

## Traditional Owner Information

The place and objects integral are located on the land of the Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagulk People people. Under the *Aboriginal Heritage Act 2006*, the Registered Aboriginal Party for this land is the Barengi Gadjin Land Council (BGLC).

## Victorian Aboriginal Heritage Register

The place and objects integral are not included in the Victorian Aboriginal Heritage Register. Aboriginal cultural heritage has been recorded in the vicinity of the place to the west along Outlet Creek.

## Integrity


The integrity of the place and objects integral is excellent. The cultural heritage values can be easily read in the extant fabric. (April 2023)

## Intactness

The intactness of the place and objects integral is excellent. A high degree of the original form and appearance remains. Little has been altered. There have been some internal alterations in the manse. (April 2023)

## Condition

The condition of the place and objects integral is very good. There is some cracking in the interior walls of the church. (April 2023)



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

## Statutory requirements under section 40

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

The Executive Director recommends that the Pella St Johns Lutheran Church Complex is included in the VHR.

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

**Number:** PROV H2444

**Category:** Registered Place and Registered Object Integral to a Registered Place.

**Name:** Pella St Johns Lutheran Church Complex

**Location:** 220 Pella Church Road Rainbow

**Municipality:** Hindmarsh Shire

### Proposed extent of registration

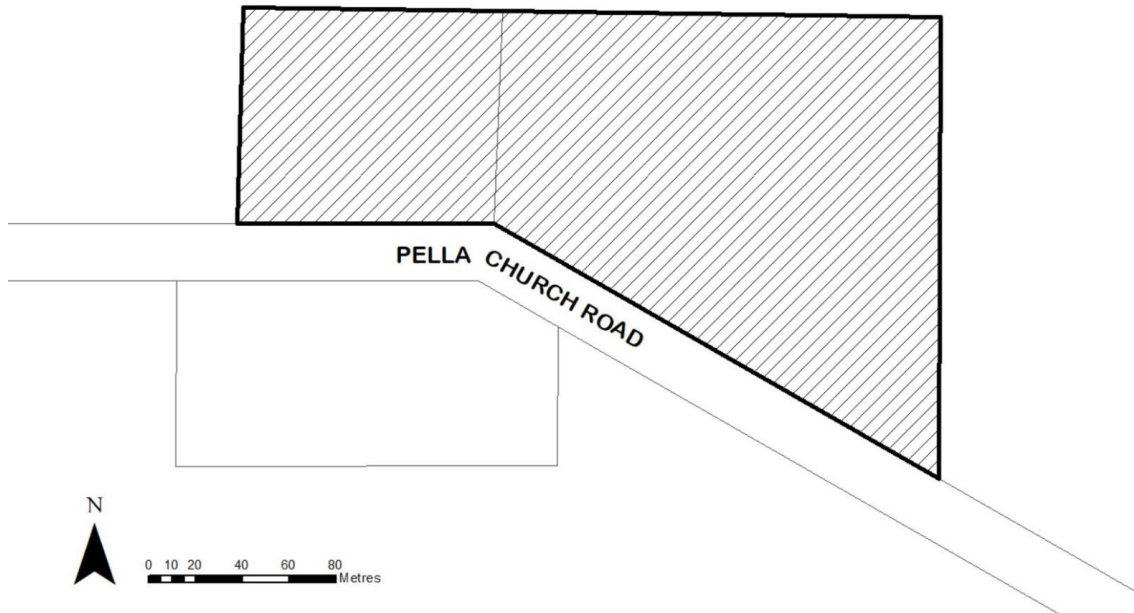
The Executive Director recommends the extent of registration for the Pella St Johns Lutheran Church Complex be gazetted as:

All of the place shown hatched on Diagram 2444 encompassing all of Crown Allotment 1A and 1B Parish of Pigick, and all the registered objects integral to the place being:

1. Timber pulpit
2. Hymn board, letters, numbers and wooden box
3. Timber baptismal font and glass bowl
4. Timber altar and candleholders
5. Timber lectern
6. 27 church pews
7. The Fuller organ (1885), bench, organ case and all mechanical and decorative elements
8. Original school desk.



## DIAGRAM 2444



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



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





## **Rationale for the extent of registration**

The recommended extent of registration comprises all of the built fabric which is the Pella St Johns Lutheran Church Complex (school, church, manse and outbuildings) and its historical setting within the flat, expansive agricultural landscape of the Wimmera-Mallee. The recommended extent also includes original and early objects integral to the place.

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

It should be noted that everything included in the proposed extent of registration including all of the land, all soft and hard landscape features, plantings, all buildings (exterior/s, interior/s and fixtures), and objects integral to the understanding of the cultural heritage significance of the place listed in the extent, are proposed for inclusion in the VHR. A permit or permit exemption from Heritage Victoria is required for any works within the proposed extent of registration, apart from those identified in the categories of works or activities in this recommendation.

## Reasons for the recommendation, including an assessment of the State-level cultural heritage significance of the place and objects integral (section 40(3)(c))

Following is the Executive Director's assessment of Pella St Johns Lutheran Church Complex against the tests set out in *The Victorian Heritage Register Criteria and Thresholds Guidelines (2022)*. A place or object must be found by the Heritage Council to meet Step 2 of at least one criterion to meet the State level threshold for inclusion in the VHR.

### CRITERION A: Importance to the course, or pattern, of Victoria's cultural history.

#### Step 1 Test for Criterion A

No.	Test	Yes/No	Reason
A1)	Does the place/object have a clear association with an event, phase, period, process, function, movement, custom or way of life in Victoria's cultural history?	Yes	The place and objects integral have a clear association with the following historical phases in Victoria's cultural history: <ul style="list-style-type: none"> <li>German migration to northwest Victoria</li> <li>Lutheranism.</li> </ul>
A2)	Is the event, phase, custom or way of life etc of historical importance, having made a strong or influential contribution to Victoria?	Yes	These phases are of historical importance having made a strong and influential contribution to Victoria.
A3)	Is there evidence of the association to the event, phase, custom or way of life etc in Victoria's cultural history?	Yes	There is evidence of the association between the place and objects integral and these historical phases. The fabric was created by the Pella German Lutheran migrant community.

If A1, A2 and A3 are all satisfied, then Criterion A is likely to be relevant (but not necessarily at the State level)

<b>Executive Director's Response:</b>	Yes	Criterion A is likely to be relevant.
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#### Step 2 State-level test for Criterion A

No.	Test	Yes/No	Reason
SA1)	Does the place/object allow the clear association with the event, phase, period, process, function, movement, custom or way of life of historical importance to be understood better than most other places or objects in Victoria with substantially the same association?	Yes	The place and objects integral allow the association with German Lutheran migration to northwest Victoria to be better understood than most other places with similar associations in Victoria for these reasons: <ul style="list-style-type: none"> <li>There are few highly intact Lutheran church complexes which retain their school, church and manse.</li> <li>The place is a striking landmark in the region which powerfully speaks to this history.</li> <li>The buildings were constructed by local Lutheran men using local materials, including limestone and timber.</li> <li>The church has been continuously in use since its construction by descendants of the original Pella community.</li> </ul>

If SA1 is satisfied, then Criterion A is likely to be relevant at the State level

<b>Executive Director's Response:</b>	Yes	Criterion A is likely to be relevant at the State level.
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## CRITERION B: Possession of uncommon, rare or endangered aspects of Victoria's cultural history.

### Step 1 Test for Criterion B

No.	Test	Yes/No	Reason
B1)	Does the place/object have a clear association with an event, phase, period, process, function, movement, custom or way of life of importance in Victoria's cultural history?	Yes	The place and objects integral have a clear association with the following historical phases in Victoria's cultural history: <ul style="list-style-type: none"> <li>• German migration to northwest Victoria</li> <li>• Lutheranism.</li> </ul>
B2)	Is there evidence of the association to the historical phases etc identified at B1)?	Yes	There is evidence of the association between the place and objects integral and these historical phases. The fabric was created by the Pella Lutheran migrant community.
B3)	Is there evidence that place/object is rare or uncommon, <u>or</u> has rare or uncommon features?	No	There is no evidence that the Pella St Johns Lutheran Church Complex is uncommon as a church complex. The Executive Director is of the view that its notable design qualities are more appropriately assessed under <b>Criterion D</b> .

If B1, B2 AND B3 are satisfied, then Criterion B is likely to be relevant (but not necessarily at the State level)

Executive Director's Response: No Criterion B is not likely to be relevant.

## CRITERION C: Potential to yield information that will contribute to an understanding of Victoria's cultural history.

### Step 1 Test for Criterion C

No.	Test	Yes/No	Reason
C1)	Does physical fabric and/or documentary evidence and/or associated oral history or cultural narratives relating to the place/object indicate a likelihood that the place/object contains evidence of cultural heritage significance that is not currently visible and/or well understood or available from other sources?	No	The physical fabric and documentary evidence and associated oral history or cultural narratives relating to the place and objects integral do not indicate a likelihood that they contains evidence of cultural heritage significance that is not currently visible and/or well understood or available from other sources.  There is no evidence to indicate archaeology or hidden areas created by the construction or other processes.
C2)	And, from what we know of the place/object, is the physical evidence likely to be of an integrity and/or condition that it could yield information through detailed investigation?	N/A	The integrity and condition of the place may be good, but it is unlikely to yield information through investigation that is not currently visible and/or well understood or available from other sources (see C1).

If **both** C1 AND C2 are satisfied, then Criterion C is likely to be relevant (but not necessarily at the State level)

Executive Director's Response: No Criterion C is not likely to be relevant.



## CRITERION D: Importance in demonstrating the principal characteristics of a class of cultural places and objects

### Step 1 Test for Criterion D

No.	Test	Yes/No	Reason
D1)	Is the place/object one of a class of places/objects that has a clear association with an event, phase, period, process, function, movement, custom or way of life in Victoria's history?	Yes	The Pella St Johns Lutheran Church Complex belongs to the class of 'Lutheran churches'. This class has a clear association with: a) Lutheranism b) Gothic revival architecture c) Vernacular construction techniques.
D2)	Is the event, phase, period, process, function, movement, custom or way of life of historical importance, having made a strong or influential contribution to Victoria?	Yes	a), b) & c) are historical phases which have made a strong and influential contribution to Victoria.
D3)	Are the principal characteristics of the class evident in the physical fabric of the place/object?	Yes	The principal characteristics of Lutheran churches and Gothic revival architecture, and vernacular construction techniques are evident in the physical fabric of the place.

If D1, D2 AND D3 are satisfied, then Criterion D is likely to be relevant (but not necessarily at the State level)

Executive Director's Response:	Yes	Criterion D is likely to be relevant.
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### Step 2 State-level test for Criterion D

No.	Test	Yes/No	Reason
SD1)	Is the place/object a notable (fine, influential or pivotal) example of the class in Victoria?	Yes	The Pella St Johns Lutheran Church Complex is a notable example of the class of Lutheran churches.  The place is architecturally significant as a fine complex of church buildings which demonstrate vernacular building techniques and the use of local materials including limestone. Constructed by men from the local Lutheran community, the church demonstrates a simple Gothic revival style. The use of natural materials (stone and timber) and the Gothic style is part of a Lutheran ecclesiastical design tradition. The complex retains its three original buildings to a high level of intactness and forms a striking cohesive whole.

If SD1 is satisfied, then Criterion D is likely to be relevant at the State level

Executive Director's Response:	Yes	Criterion D is likely to be relevant at the State level.
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## CRITERION E: Importance in exhibiting particular aesthetic characteristics.

### Step 1 Test for Criterion E

No.	Test	Yes/No	Reason
E1)	Does the physical fabric of the place/object clearly exhibit particular aesthetic characteristics?  <i>See definition of 'aesthetic' on p.5 of the Guidelines.</i>	Yes	The physical fabric of the place clearly exhibits aesthetic characteristics particular to construction, being the use of rough limestone blocks resulting in a rustic aesthetic.

If E1 is satisfied, then Criterion E is likely to be relevant (but not necessarily at the State level)

<b>Executive Director's Response:</b>	Yes	Criterion E is likely to be relevant.
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### Step 2 State-level test for Criterion E

No.	Test	Yes/No	Reason
SE1)	Are the aesthetic characteristics 'beyond the ordinary' or are outstanding as demonstrated by: <ul style="list-style-type: none"><li>Evidence from within the relevant discipline (architecture, art, design or equivalent); and/or</li><li>Critical recognition of the aesthetic characteristics of the place/object within a relevant art, design, architectural or related discipline within Victoria; and/or</li><li>Wide public acknowledgement of exceptional aesthetic qualities of the place/object in Victoria expressed in publications, print or digital media, painting, sculpture, songs, poetry, literature, or other media?</li></ul>	No	There is no evidence that the aesthetic characteristics at the place and objects integral are 'beyond the ordinary' or are outstanding.  Although an attractive complex of limestone buildings, there is no evidence from within relevant disciplines or acknowledgement across Victoria that the aesthetic qualities of the place are 'beyond the ordinary'.

If SE1 is satisfied, then Criterion E is likely to be relevant at the State level

<b>Executive Director's Response:</b>	No	Criterion E is not likely to be relevant at the State level.
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## CRITERION F: Importance in demonstrating a high degree of creative or technical achievement at a particular period.

### Step 1 Test for Criterion F

No.	Test	Yes/No	Reason
F1)	Does the place/object contain physical evidence that clearly demonstrates creative or technical	No	The place and objects integral do not contain physical evidence that clearly demonstrates creative or technical achievement for the time in which they were created.



achievement for the time in which it was created?

There are no elements that demonstrate technical achievement (for example engineering or scientific) or creative achievement beyond what was typical for the time in which it was designed and constructed.

<b>F2)</b>	Does the physical evidence demonstrate a high degree of integrity?	Yes	The physical evidence at the place demonstrates a high degree of integrity.
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If **both F1 and F2** are satisfied, then Criterion F is likely to be relevant (but not necessarily at the State level)

<b>Executive Director's Response:</b>	No	Criterion F is not likely to be relevant.
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### CRITERION G: Strong or special association with a particular present-day community or cultural group for social, cultural or spiritual reasons

#### Step 1 Test for Criterion G

No.	Test	Yes/No	Reason
<b>G1)</b>	Does the place/object demonstrate social value to a community or cultural group in the present day in the context of its cultural heritage significance? Evidence must be provided for all three facets of social value listed here:		
<b>i)</b>	Existence of a community or cultural group; <u>and</u>	Yes	There is evidence that the place has social value in the present day to the congregation and wider German Lutheran community in Pella and the district.
<b>ii)</b>	Existence of a strong attachment of a community or cultural group to the place or object; <u>and</u>	Yes	There is evidence of a strong attachment. The place and objects integral have been very well conserved and it is clear that the Pella community highly values this place and objects integral.
<b>iii)</b>	Existence of a time depth to that attachment.	Yes	There is evidence of the attachment dating to the date of construction of the first building at the complex (1903).

If **all facets** of G1 are satisfied, then Criterion G is likely to be relevant (but not necessarily at the State level)

<b>Executive Director's Response:</b>	Yes	Criterion G is likely to be relevant.
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#### Step 2 State-level test for Criterion G

No.	Test	Yes/No	Reason
<b>SG1)</b>	Is there evidence that the social value resonates across the broader Victorian community as part of a story that contributes to Victoria's identity?	Yes	SG1(i) The social value of Pella St Johns Lutheran Church Complex is part of a story in Victoria that contributes to Victoria's identity.  German Lutheran migration and Lutheranism have been recognised as important aspects of Victoria's history and are part of Victoria's contemporary identity as a State.



No SG1(ii) There is no evidence that the social value of the Pella St Johns Lutheran Church Complex to the congregation and wider German Lutheran community in Pella and the district resonates across the broader Victorian community. The complex is a striking landmark valued by people in the region. There is no evidence that its social value has a broader resonance across Victoria, which is the case with most churches.

If **all facets** of SG1 are satisfied, then Criterion G is likely to be relevant at the State level

Executive Director's Response: No Criterion G is not likely to be relevant 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.

#### Step 1 Test for Criterion H

No.	Test	Yes/No	Reason
H1)	Does the place/object have a direct association with a person, or group of persons who has made a strong or influential contribution in their field of endeavour?	Yes	There is a direct association between Pella St Johns Lutheran Church Complex and German migrants to northern Victoria who made a strong contribution to farming and the agricultural development of the region.
H2)	Is there evidence of the association between the place/object and the person(s)?	Yes	There is evidence of the association between the place and German migrants to northwest Victoria.
H3)	Does the association relate directly to achievements of the person(s); <u>and</u> to an enduring and/or close interaction between the person(s) and the place/object?	Yes	The association between the place and German migrants to northwest Victoria relates directly to the achievements of that group of people. The association relates to a close and enduring interaction between the German migrants to northwest Victoria and the place.

If **all facets** of H1, H2 AND H3 are satisfied, then Criterion H is likely to be relevant (but not necessarily at the State level)

Executive Director's Response: Yes Criterion H is likely to be relevant.

#### Step 2 State-level test for Criterion H

No.	Test	Yes/No	Reason
SH1)	Are the life or works of the person/persons important to Victoria's history?	Yes	The life or works of German migrants to northwest Victoria are important in Victoria's history. From the 1870s German Lutheran migrants were significant settler group in the Wimmera-Mallee region of Victoria. They made a substantial contribution to the development of agriculture and European settlement in the region.



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<b>SH2)</b>	Does this place/object allow the association between the person or group of persons and their importance in Victoria's history to be readily appreciated better than most other places or objects in Victoria?	No	The place and objects integral do not allow the association between German migrants to northwest Victoria to be readily appreciated more than most other places or objects in Victoria. Although the complex retains its original and visually striking buildings to a high level of intactness it does not allow the history of German migrants to northwest Victoria to be better appreciated than other similar churches/church complexes in the region. Many German Lutherans built churches and other community buildings during the process of settlement 1870s to 1914.
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**If SH1 and SH2 are satisfied, then Criterion H is likely to be relevant at the State level**

Executive Director's Response:	No	Criterion H is not likely to be relevant at the State level.
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# Objects Integral

## Definition

The definition of an 'object' can be found in the Heritage Council's *Policy: Objects Integral to a Registered Place*. It should be noted that fixtures (such as window frames or decorative masonry) automatically form part of the registered place and are therefore protected under the Act.

## Background

The objects integral located at the Pella St Johns Lutheran Church Complex are original and/or early church furnishings and the like which have survived at the place for over 100 years. The original school desk is one that survives from a large group.

## Description of objects integral

The objects integral located at the Pella St Johns Lutheran Church Complex are:

1. Timber pulpit
2. Hymn board, letters, numbers and wooden box
3. Timber baptismal font and glass bowl
4. Timber altar and candleholders
5. Timber lectern
6. 27 church pews
7. The Fuller organ (1885), bench, organ case and all mechanical and decorative elements
8. Original school desk.

## Tests for the Inclusion of Objects Integral

The Heritage Council's *Policy: Objects Integral to a Registered Place* notes that for the purposes of the Act, an object will be considered integral to a place if it satisfied the following tests:

No.	Test	Yes/No	Reason
1.	Does the object/s form a key part of that place, being a component in its design, operation or use that contributes importantly to a richer and more complete understanding of its historical, cultural, technical, aesthetic and/or social meaning at a State level?	Yes	The objects integral comprise original and/or early church furnishings which contribute to a deeper understanding of the religious and cultural life of the congregation. The original school desk speaks to the history of the education of Lutheran children in a once busy one-room school. The State-level significance of the place is greatly enriched by the presence of these objects.
2.	Can the contribution be substantiated through physical, documentary or oral evidence?	Yes	The contribution of the objects to a more complete understanding of the place can be substantiated by photographs, written documents and oral testimony of present-day community members.

Executive Director's Response

The objects can be considered integral to the place

## Comparisons

The Pella St Johns Lutheran Church Complex is usefully compared with the following classes of place in the VHR:

1. Lutheran churches
2. Places associated with German migration
3. Places associated with European vernacular construction techniques and local labour.

### Lutheran churches

There are three purpose-built Lutheran churches in the VHR: Westgarthtown Lutheran Church Complex, 1856 (VHR H0899); St David's Lutheran Church and Cemetery, 1866, Freshwater Creek (VHR H1903); German Lutheran Trinity Church, East Melbourne, 1874. (VHR H0015).

#### WESTGARTHTOWN LUTHERAN CHURCH COMPLEX

104-112 GARDENIA ROAD LALOR, WHITTLESEA CITY

VHR H0899

The Westgarthtown Lutheran Church Complex (1856 onwards) is the site of the oldest surviving Lutheran church in Victoria. The place is of historical significance for its association with the state's promotion of German settlement in Victoria. The church, constructed of local bluestone in 1856 is a simple stone preaching-hall, embellished by half round arch-head windows and entry door. The church building reflects the craftsmanship of the early German settlers. The cemetery contains the graves of many of the original German settlers. It is privately owned by the Thomastown Lutheran congregation and remains open to congregation members and descendants of the original settlers.



*Westgarthtown Lutheran Church*

#### ST DAVID'S LUTHERAN CHURCH AND CEMETERY

905 ANGLESEA ROAD FRESHWATER CREEK, SURF COAST SHIRE

VHR H1903

St David's Lutheran Church and Cemetery (1866) is of historical and architectural significance. It is architecturally significant as a simple church of provincial German character with a combination of medieval detailing in the stepped buttresses and the turreted chimney of the vestry and Renaissance treatment of the arched windows. It is historically significant for its rare churchyard cemetery which are uncommon in Victoria, and for its association with the German Lutheran settlers. This association is evident in the German inscriptions and symbolism on the gravestones.



*St David's Lutheran Church*

## Places associated with German migration

### GERMAN COTTAGE

5-9 SMITH STREET AND 222-224 TORQUAY ROAD GROVEDALE, GREATER GEELONG CITY

VHR H0714

The German Cottage is of architectural and historical significance. It is a rare and intact remnant of Victoria's earliest German settlement, Grovedale, and most probably dates from the mid-1850s. The Cottage represents a rare and fine example of the building techniques introduced by German settlers in the area last century which together with their traditional farming methods, churches and schools, amounted to a substantial multi-cultural contribution to nineteenth century colonial society.



*German Cottage*

### HERRNHUT UTOPIAN COMMUNE

KRUMNOW LANE PENSHURST, SOUTHERN GRAMPIANS SHIRE

VHR H2107

Herrnhut Utopian Commune (established 1852) is of historical and archaeological significance to the State of Victoria. The place is of historical significance as the first example of a utopian community in Australia, with particular links to German immigration as the result of religious persecution. It is of historical significance for its association with German immigration and the welfare of oppressed members of the broader community including Aboriginal people, women and destitute men. It is of archaeological significance for the potential of the site remains to demonstrate a communal way of life using simple technology, local materials and vernacular forms and details, and to reveal the farming practices and broader activities associated with the commune.



*Building remains at the Herrnhut Utopian Commune*



## Places associated with vernacular construction techniques and local labour

### **EBENEZER MISSION**

**EBENEZER MISSION ROAD DIMBOOLA,  
HINDMARSH SHIRE**

**VHR H0288**

Ebenezer Mission is of social, historical, archaeological and architectural significance to Victoria. Established by Moravian missionaries in 1859, it is the earliest known example of a mission of the village green plan type in Victoria. The limestone church, built by Aboriginal people using local materials, is the oldest surviving mission church in Victoria. It exhibits an idiosyncratic mixture of Norman Romanesque and classical detailing and is the most striking building on the site.



*Church at Ebenezer Mission*

### **STASINOWSKY'S LIME KILN**

**PELLA CHURCH ROAD, RAINBOW,  
HINDMARSH SHIRE**

**VHR H1959**

Stasinowsky's Lime Kiln is of scientific (technical), archaeological and historic significance to the State of Victoria. Very few such kilns are known to exist in Victoria. It has significance for its archaeological potential to reveal artefacts and evidence of the lime burning process. The place is historically significant as evidence of the South Australian migration to the Mallee area of Victoria. It was mainly farming families that crossed the border, but the Stasinowsky family made a significant contribution to the built form of Pella and Rainbow, in particular the distinctive limestone Lutheran church and manse at Pella.



*Stasinowsky's Lime Kiln, Rainbow*

## ELVEZIA HOMESTEAD COMPLEX

### LIMESTONE ROAD YANDOIT, HEPBURN SHIRE

#### VHR H2065

Elvezia (1860s) is of historic, architectural, scientific and archaeological significance. The buildings display skilled use of local (Ordovician) sandstone in a random coursed rubble manner. The use of stone is both unusual and aesthetically adept and illustrates vernacular construction by Swiss Italians. The place is of historical significance to the history of migration and multicultural from the 1850s. It is a large and intact collection of buildings that demonstrates the self-sufficient Swiss Italian way of life and their adaptation to the land.



*Elvezia Homestead Complex*

## Summary of Comparisons

Like Stasinowsky's Lime Kiln (VHR H1959), the Pella St Johns Lutheran Church Complex is historically significant as evidence of the South Australian and western Victorian migration to the Wimmera-Mallee area of Victoria. Both demonstrate the resourcefulness of Lutheran settlers to construct buildings using materials available in the area, community labour, and vernacular construction techniques. It shares similarities with the Elvezia Homestead (VHR H2065) built by the Swiss Italian community in the Hepburn Shire. One of a series of Lutheran Churches constructed prior to World War I, the Pella church demonstrates the determination of three generations of German migrants to retain their culture and thrive in a British dominion prior to World War I and adapt to the challenges that affected these communities after 1914.



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

The Executive Director recommends that the Pella St Johns Lutheran Church Complex be included in the VHR in the category of Registered Place and Registered Object Integral to a Registered Place.

### Statement of significance

#### What is significant?

The Pella St Johns Lutheran Church Complex being the school building (1903) and original school desk, the manse (1909) and church (1911) built of limestone by the congregation, and the following objects integral:

1. Timber pulpit
2. Hymn board, letters, numbers and wooden box
3. Timber baptismal font and glass bowl
4. Timber altar and candleholders
5. Timber lectern
6. 27 church pews
7. The Fuller organ (1885), bench, organ case and all mechanical and decorative elements
8. Original school desk.

#### How is it significant?

The Pella St Johns Lutheran Church Complex is of historical and architectural significance to the State of Victoria. It satisfies the following criterion for inclusion in the Victorian Heritage Register:

##### Criterion A

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

##### Criterion D

Importance in demonstrating the principal characteristics of a class of cultural places and objects.

#### Why is it significant?

The Pella St Johns Lutheran Church Complex is historically significant for its demonstration of German migration to northwest Victoria. From the 1870s, successive waves of German migrants from western Victoria and South Australia established a strong farming presence in the Wimmera, and from the 1880s and 90s settlements extended into the southern Mallee. Closeknit multigenerational communities developed in which German language and culture was proudly maintained. The Pella Church Complex, once the centre of a thriving rural German settlement with a resident pastor from 1912, speaks to the commitment of migrants to build and sustain a strong community around the Lutheran faith, values and identity in the Wimmera-Mallee region. [Criterion A]

The Pella St Johns Church Complex is architecturally significant as a fine complex of Lutheran church buildings which demonstrate a simple Gothic revival style and the use of natural materials (principally limestone and timber), key elements in the Lutheran design tradition. Constructed in a rustic style by men from the congregation using vernacular building techniques, the school, manse and church all demonstrate high levels of intactness. A visually cohesive complex, the place retains its setting in a flat expansive area of Wimmera-Mallee farmland, and original church furnishings are still located at the place, including the timber baptismal font and altar, which were handmade by a community member, and a Fuller organ (1886) which is a fine example of the work the prominent Melbourne organ builder Alfred Fuller. [Criterion D]

# Recommended permit exemptions under section 38

## Introduction

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

## Permit Policy

It is recommended that a Conservation Management Plan is utilised to manage the place and objects integral in a manner which respects its cultural heritage significance.

## Permit Exemptions

### General Permit Exemptions

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

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

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

### Specific Permit Exemptions

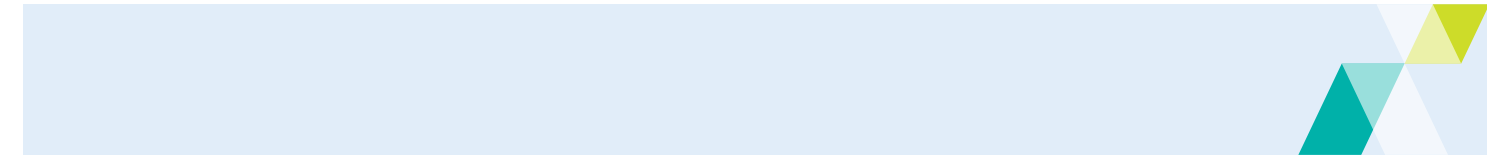
The works and activities below are not considered to cause harm to the cultural heritage significance of the Pella St Johns Lutheran Church Complex subject to the guidelines and conditions which follow:

*Water tanks, Toilet block, Corrugated iron shed (all built after 2000)*

1. Exterior maintenance and repair
2. All interior works
3. Removal

### Specific Permit Exemption Guidelines

1. Where there is an inconsistency between permit exemptions specific to the registered place or object ('specific exemptions') established in accordance with either section 49(3) or section 92(3) of the *Heritage Act 2017* (the Act) and general exemptions established in accordance with section 92(1) of the Act specific exemptions will prevail to the extent of any inconsistency.
2. In specific exemptions, words have the same meaning as in the Act, unless otherwise indicated. Where there is an inconsistency between specific exemptions and the Act, the Act will prevail to the extent of any inconsistency.
3. Nothing in specific exemptions obviates the responsibility of a proponent to obtain the consent of the owner of the registered place or object, or if the registered place or object is situated on Crown Land the land manager as defined in the *Crown Land (Reserves) Act 1978*, prior to undertaking works or activities in accordance with specific exemptions.
4. If a Cultural Heritage Management Plan in accordance with the *Aboriginal Heritage Act 2006* is required for works covered by specific exemptions, specific exemptions will apply only if the Cultural Heritage Management Plan has been approved prior to works or activities commencing. Where there is an inconsistency between specific exemptions and a Cultural Heritage Management Plan for the relevant works and activities, Heritage Victoria must be contacted for advice on the appropriate approval pathway.

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

### **Specific Permit Exemption Conditions**

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



# Appendix 1

## Heritage Council determination (section 41)

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

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

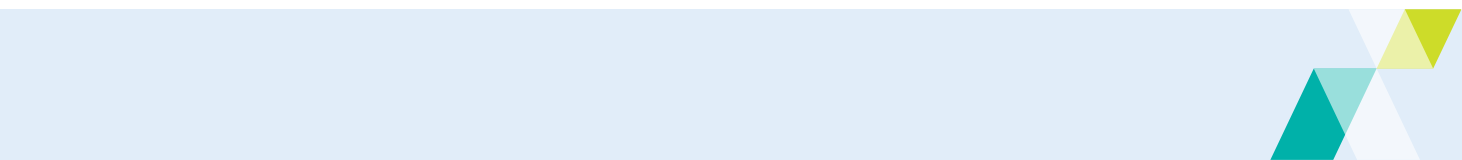
Within the period of 60 days, any person or body with a real and substantial interest in the place or object may make a submission to the Heritage Council regarding the recommendation and request a hearing in relation to that submission. Information about making a submission and submission forms are available on the Heritage Council's website.

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

- (1) The Heritage Council must consider—
  - (a) any written submission made to it under section 44; and
  - (b) any further information provided to the Heritage Council in response to a request under section 45.
- (2) The Heritage Council must conduct a hearing in relation to a submission if—
  - (a) the submission includes a request for a hearing before the Heritage Council; and
  - (b) the submission is made by a person or body with a real or substantial interest in the place or object that is the subject of the submission.
- (3) Despite subsection (2), the Heritage Council may conduct a hearing in relation to a submission in any other circumstances the Heritage Council considers appropriate.

## Determinations of the Heritage Council (section 49)

- (1) After considering a recommendation that a place or object 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, the Heritage Council may—
  - (a) determine that the place or part of the place, or object, is of State-level cultural heritage significance and is to be included in the Heritage Register; or
  - (b) determine that the place or part of the place, or object, is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or
  - (c) in the case of a recommendation in respect of a place, determine that the place is not to be included in the Heritage Register but—
    - (i) refer the recommendation and any submissions to the relevant planning authority for consideration for an amendment to a planning scheme; or
    - (ii) determine that it is more appropriate for steps to be taken under the Planning and Environment Act 1987 or by any other means to protect or conserve the place; or
  - (d) in the case of a recommendation in respect of additional land which has been nominated to be included in the Heritage Register as part of a registered place in accordance with section 32, determine that the land be included in the Heritage Register if—
    - (i) the State-level cultural heritage significance of the place would be substantially less if the land or any part of the land which is or has been used in conjunction with the place were developed; or
    - (ii) the land surrounding the place is important to the protection or conservation of the place or contributes to the understanding of the place; or



- (e) determine that the object is integral to understanding the cultural heritage significance of a registered place or a place the Heritage Council has determined to be included in the Heritage Register.
- (2) The Heritage Council must make a determination under subsection (1)—
  - (a) within 40 days after the date on which written submissions may be made under section 44; or
  - (b) if any hearing is conducted into the written submissions, within 90 days after the completion of the hearing.
- (3) A determination that a place or part of a place, or object, should be included in the Heritage Register may include categories of works or activities which may be carried out in relation to the place or object for which a permit under this Act is not required, if the Heritage Council considers that the works or activities would not harm the cultural heritage significance of the place or object.
- (4) 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.
- (5) If a member of the Heritage Council makes a submission under section 44 in respect of a recommendation, the member must not take part in the consideration or determination of the Heritage Council.
- (6) The Heritage Council must notify the Executive Director of any determination under this section as soon as practicable after the determination.

### **Obligations of owners of places and objects (section 42)**

- (1) The owner of a place or object to whom a statement of recommendation has been given must advise the Executive Director in writing of—
  - (a) any works or activities that are being carried out in relation to the place or object at the time the statement is given; and
  - (b) any application for a planning permit or a building permit, or for an amendment to that permit, that has been made in relation to the place but not determined at the time the statement is given; and
  - (c) any works or activities that are proposed to be carried out in relation to the place or object at the time the statement is given.
- (2) An advice under subsection (1) must be given within 10 days after the statement of recommendation is given under section 40.
- (3) The owner of a place to whom a statement of recommendation has been given must advise the Executive Director in writing of an application, permit or amendment if, before a determination under section 49 or 52 in respect of a place—
  - (a) an application for a planning permit or a building permit or for an amendment to that permit in relation to the place is made; or
  - (b) a planning permit or building permit or an amendment to that permit in relation to the place is granted.
- (4) An advice under subsection (3) must be given within 10 days after the making of the application or the grant of the permit or amendment.
- (5) The owner of a place or object to whom a statement of recommendation has been given must advise the Executive Director in writing of the following activities or proposals if, before a determination is made under section 49 or 52 in respect of a place or object—
  - (a) any activities are carried out in relation to the place or object that could harm the place or object;
  - (b) any activities are proposed to be carried out in relation to the place or object that could harm the place or object.
- (6) An advice under subsection (5) must be given within 10 days after the owner becomes aware of the activity or the proposal, as the case requires.



- (7) If, before a determination is made under section 49 or 52 in respect of a place or object, a proposal is made to dispose of the whole or any part of the place or object, the owner of the place or object must advise the Executive Director in writing of that proposal.
- (8) An advice under subsection (7) must be given at least 10 days before entering into the contract for the disposal of the place or object.
- (9) The owner of a place or object who proposes to dispose of the whole or any part of the place or object before a determination is made under section 49 or 52 in respect of the place or object must, before entering into a contract for that disposal, give a copy of the statement of proposed contract, is to acquire the place or object or part of the place or object.

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

An owner of a place or object to whom section 42 applies must comply with that section.

Penalty: In the case of a natural person, 120 penalty units;

In the case of a body corporate, 240 penalty units.