

**Nillumbik Planning Scheme Amendment C149nill
Nillumbik Shire Heritage Review (Stages A & B)**

Panel Report

Planning and Environment Act 1987

19 December 2023

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Nillumbik Planning Scheme Amendment C149nill

Nillumbik Shire Heritage Review (Stages A & B)

19 December 2023



Tim Hellsten, Chair



John Roney, Member

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Glossary and abbreviations

Council	Nillumbik City Council
GRZ	General Residential Zone
GWZ	Green Wedge Zone
LDRZ	Low Density Residential Zone
Nillumbik Thematic History	<i>Nillumbik Shire Thematic Environmental History, Revision 2016</i> (Nillumbik Shire Council, 2016)
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Nillumbik Planning Scheme
Post war Thematic History	<i>Nillumbik Gap Study Stage B – Thematic Environmental History Post-war Update</i> (Trethowan, 2022)
PPN01	<i>Planning Practice Note 1: Applying the Heritage Overlay</i> , June 2023
RCZ	Rural Conservation Zone
Stage A Heritage Review	<i>Nillumbik Shire Heritage Review - Stage A</i> (Context, 2021)
Stage B Heritage Review	<i>Nillumbik Shire Heritage Review - Stage B</i> (Trethowan, 2022)

Overview

Amendment summary

The Amendment	Nillumbik Planning Scheme Amendment C149nill
Common name	Nillumbik Shire Heritage Review (Stages A & B)
Brief description	The Amendment implements the recommendations of the <i>Nillumbik Shire Heritage Review</i> (Stage A and Stage B) by applying the Heritage Overlay to 63 individual places, one serial listing and one precinct. It includes corrections to existing Heritage Overlay curtilages and removes the Heritage Overlay from properties that have been demolished or will be covered by a new Heritage Overlay
Subject land	Land identified within Arthurs Creek, Christmas Hills, Diamond Creek, Eltham, Eltham North, Hurstbridge, Kangaroo Ground, North Warrandyte, Panton Hill, Plenty, Research, St Andrews, Wattleglen and Yarrambat (see Table 1)
Planning Authority	Nillumbik Shire Council
Authorisation	1 May 2023
Exhibition	22 June to 3 August 2023
Submissions	Number of Submissions: 26 Opposed or seeking changes: 23

Panel process

The Panel	Tim Hellsten (Chair), John Roney
Directions Hearing	By videoconference, 16 October 2023
Panel Hearing	Nillumbik Shire Council Chambers, Greensborough and online, 15 and 16 November 2023
Site inspections	Unaccompanied, 8 November 2023 Accompanied (10 Diosma Road, Eltham and 61 & 61A York Street, Eltham), 16 November 2023
Parties to the Hearing	Nillumbik Shire Council, represented by Emrys Williams (Senior Strategic Planner) and Leigh Northwood (Manager Strategic Planning and Environment) who called heritage evidence from: - Mark Huntersmith of GML Heritage - Dr Aron Paul of Trethowan David Mulholland Bronnie Hattam Julie Fink Brian Hill Frank Rusiovoski, represented by Dominique Trickey of Crossroads Town Planning Robert Fonhof Cathie McRobert

Panel process

Eltham Community Action Group, represented by Sue Dyet (Secretary)

Citation

Nillumbik PSA C149nill [2023] PPV

Date of this report

19 December 2023

Executive summary

Nillumbik Planning Scheme Amendment C149nill (the Amendment) seeks to implement the recommendations of the *Nillumbik Shire Heritage Review: Stage A* (Context, 2021) and *Nillumbik Shire Heritage Review: Stage B* (Trethowan, 2022) prepared for the Nillumbik Shire Council (Council). Council is the planning authority for the Amendment.

The Amendment proposes to amend the Nillumbik Planning Scheme by applying the Heritage Overlay to 63 individual places, one serial listing and one precinct. It includes:

- correcting existing Heritage Overlay mapping curtilages
- removing the Heritage Overlay to properties that have been demolished or will be covered by a modified heritage place description or curtilage
- introducing 66 new or amended statements of significance as incorporated documents
- introducing the Stage A and B Heritage Reviews and two thematic histories as background documents
- making related changes to the Heritage Overlay Schedule.

Key issues raised in submissions included:

- building integrity as a result of alterations, removal of fabric or building condition
- lack of heritage significance
- impacts on future development
- financial impacts associated with maintenance or approval processes
- the content of citations or statements of significance for specific individual places
- the Heritage Overlay curtilage of individual places.

Strategic basis for Amendment

There is a clear strategic policy basis and statutory framework for the Amendment and support for identifying and conserving local heritage places within the *Planning and Environment Act 1987*, Municipal Planning Strategy and Planning Policy Framework.

The introduction of heritage controls must follow an appropriate level of analysis to establish if the threshold of significance is met at the local level. In this instance the Amendment is supported by:

- two municipal wide Heritage Reviews, the most significant reviews in over two decades
- a review of the Nillumbik Thematic Environmental History 2016
- preparation of a Post-war Thematic Environmental History which establish the basis for including a number of former farm, interwar and post-war places.

The methodologies applied to the two Heritage Reviews which underpin the Amendment are appropriately robust, apply established contemporary practice, and are consistent with the guidance contained within *Planning Practice Note 1: Applying the Heritage Overlay* (PPN01).

Building condition and other common issues

Building condition and the extent of building alterations on heritage values has been considered by Council, its experts and the Panel in establishing whether the level of intactness and integrity of a place meets identified heritage thresholds. In some instances, Council has proposed places be removed from the Amendment or the Statement of Significance be amended to clarify what is not significant following further inspections and analysis. This approach is supported by the Panel.

Potential impacts of the Amendment on the ability to develop or alter places, undertake maintenance and associated costs are noted, but are not relevant to establishing whether a place is of local heritage significance. The Heritage Overlay should apply where the threshold for significance is met and there is something to manage. The Heritage Overlay does not prohibit development or alterations but provides an appropriate mechanism to manage change and consider issues, policies and provisions of the Planning Scheme as appropriate.

Curtilage

The Panel considered submissions to reduce the curtilage of the Heritage Overlay and concludes there was no clear basis to depart from the usual practice of applying it to the whole property consistent with PPN01, except in the respect of:

- 14 -16 Warringah Crescent, Eltham where the Heritage Overlay is recommended to be removed from 14 Warringah Crescent, a vacant lot
- 61 and 61A York Street, Eltham where a reduced curtilage is recommended to apply only to 61 York Street (Lot S3 PS320805 north of the common property area).

Prohibited uses

The Amendment proposes to permit prohibited uses for approximately a third of proposed heritage places. For many of the places considered by the Panel the control is unnecessary and not strategically justified. Council should further review its approach to permitting prohibited uses before finalising the Amendment to ensure there is a consistent and clear strategic basis for their application.

Tree controls and outbuilding notice exemptions

The methodology applied by Council for assessing the significance of outbuildings or their contribution to a place, including proposed post-exhibition changes is generally appropriate. The proposed application of the Heritage Overlay 'Tree controls' and 'Outbuilding and fences exemptions' is generally appropriate. The support for tree controls in the Stage B Heritage Review was prefaced on undertaking arborist reports to establish species, age and health. This position was supported by the heritage evidence of Dr Paul but has not been undertaken by Council. Council is encouraged to undertake a final review of the application of tree controls to ensure the identified Heritage Overlay curtilages are appropriate.

Individual places

The Panel supports Council's post-exhibition changes to remove the Heritage Overlay from five places (one forming part of a serial listing) following the further expert analysis undertaken.

The Panel supports application of the Heritage Overlay to the remaining places it has considered in response to submissions. Based on the evidence it considers these places meet the threshold of local significance.

Changes are required to the statements of significance for 15 places to clarify what is not significant, respond to additional information and evidence or correct errors.

Form and content of the Amendment

During the Hearing the Panel raised a number of concerns with Council and its witnesses over the Amendment documentation including:

- consistent errors in the statements of significance

- inconsistencies in the use of incorporated document titles, place descriptions and associated references in the schedules to clauses 43.01 and 72.04.

A number of these errors were corrected in amended statements of significance and citations however some inconsistencies and errors remain. These inconsistencies and errors be addressed. The changes are generally minor and do not substantially change the Amendment. They will however, greatly assist the readability, consistency and application of the documents and the related Planning Scheme provisions.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Nillumbik Planning Scheme Amendment C149nill be adopted as exhibited subject to the following:

- 1. Delete the Heritage Overlay from:**
 - Larch Hill, 2 Hillmartin Lane, Diamond Creek (HO319)
 - 'Greet', 162 Murray Road, Diamond Creek (HO321)
 - 61A York Street, Eltham (HO279)
 - 'Hillside' House, 23 Glen Park Road, Eltham North (HO280)
 - House, 144 Progress Road, Eltham North (HO281)
 - 191 Cherry Tree Road, Hurstbridge (HO285).
- 2. Amend the Heritage Overlay Maps to:**
 - delete HO280, HO281, HO319 and HO321
 - delete HO284 from 14 Warringah Crescent, Eltham
 - apply HO279 to 61 York Street, Eltham (Lot S3 PS320805 north of the common property) only
 - delete HO285 from 191 Cherry Tree Road, Hurstbridge.
- 3. Amend the Schedule to Clause 43.01 (Heritage Overlay) to:**
 - a) Amend 'Heritage place' descriptions and Statement of Significance titles consistent with the final Statement of Significance titles.**
 - b) Delete reference to:**
 - Larch Hill, 2 Hillmartin Lane, Diamond Creek (HO319)
 - 'Greet', 162 Murray Road, Diamond Creek (HO321)
 - 61A York Street, Eltham (HO279)
 - 'Hillside' House, 23 Glen Park Road, Eltham North (HO280)
 - House, 144 Progress Road, Eltham North (HO281)
 - 191 Cherry Tree Road, Hurstbridge (HO285).
 - c) Amend the heritage place description and address for:**
 - 'Villa Bereguardo 32 Perversi Avenue Diamond Creek' (HO323) to '32-36 Perversi Avenue, Diamond Creek'
 - 'Post Office & General Store' (HO327) to 'Post Office, General Store & Residence'
 - 'House 14-16 Warringah Crescent, Eltham' (HO284) to 'House 16 Warringah Crescent, Eltham'
 - 'Macmahon Ball House and Studio, 61 & 61A York Street, Eltham' (HO279) to 'Macmahon Ball House and Studio, 61 York Street, Eltham'

- d) Amend the 'Tree controls apply?' column for '32-36 Perversi Avenue, Diamond Creek' (HO323) to replace 'Yes – palm trees' with 'No'.
 - e) Amend the 'Prohibited uses permitted?' column for:
 - 32-36 Perversi Avenue, Diamond Creek (HO323) to replace 'Yes' with 'No'
 - 'Tilwinda, 130 Laughing Waters Road, Eltham', (HO302) to replace 'No' with 'Yes'
 - 'Nilgiris, 183 Yan Yean Road, Plenty' (HO330) to replace 'Yes' with 'No'
 - 'Former Farmhouse, 52 Kurrak Road, Yarrambat' (HO331) to replace 'Yes' with 'No'.
 - f) Amend the 'Outbuildings or fences not exempt under Clause 43.01-4' column for:
 - 'Mechanics Institute, 906 Arthurs Creek Road, Arthurs Creek' (HO309) to replace 'Yes - Former Stables' with 'No'
 - 'Arthurs Creek Cemetery, 1165 Arthurs Creek Road, Arthurs Creek' (HO311) to replace 'Yes – Gates' with 'Yes – Road and Cemetery Reserve Gates'.
4. Amend the Schedule to Clause 72.04 (Documents Incorporated In This Planning Scheme) to delete reference to:
 - 'Statement of Significance: Larch Hill, 2 Hillmartin Lane, Diamond Creek, July 2022'
 - 'Statement of Significance: 'Greet', 162 Murray Road, Diamond Creek, July 2022'
 - 'Statement of Significance: 'Hillside' House, 23 Glen Park Road, Eltham North, June 2021'
 - 'Statement of Significance: House, 144 Progress Road, Eltham North, June 2021'.
5. Amend the following statements of significance:
 - a) 'Statement of Significance: 125, 173 and 191 Cherry Road, Hurstbridge (June 2021)' consistent with the Panel preferred version in Appendix D:1 and with further changes under 'Why is it significant' to include separate paragraphs for Criterion A, D and H.
 - b) 'Statement of Significance: Mechanics Institute, 906 Arthurs Creek Road, Arthurs Creek, July 2022' consistent with the Panel preferred version in Appendix D:2.
 - c) 'Statement of Significance: Arthurs Creek Cemetery, 1165 Arthurs Creek Road, Arthurs Creek, July 2022' consistent with the Panel preferred version in Appendix D:3.
 - d) 'Statement of Significance: 42 Collins Street, Diamond Creek, July 2022' consistent with the Panel preferred version in Appendix D:4.
 - e) 'Statement of Significance: Villa Bereguardo, 32-34 Perversi Avenue, Diamond Creek, July 2022' consistent with the Panel preferred version in Appendix D:5.
 - f) 'Statement of Significance: Post Office & General Store, 920 Yan Yean Road, Doreen, July 2022' consistent with the Panel preferred version in Appendix D:6.
 - g) 'Statement of Significance: 'Choong House' 10 Diosma Road, Eltham, June 2021' consistent with the Panel preferred version in Appendix D:7.
 - h) 'Statement of Significance: 130 Laughing Waters Road, Eltham, June 2021' to add "historic and" to the description under 'How is it significant?'.
 - i) 'Statement of Significance: Diamond Valley Miniature Railway, 570-576 Main Road, Eltham, June 2021' consistent with the Panel preferred version in Appendix D:8.

- j) **‘Statement of Significance: Eltham War Memorial Building Complex, 903-907 Main Road, Eltham, June 2021’ to replace the sentence under ‘How is it significant?’ with "The Eltham War Memorial Buildings, Eltham, are of local historic, representative and social significance to the Shire of Nillumbik."**
 - k) **‘Statement of Significance: House, 14-16 Warringah Crescent, Eltham, June, 2021’ consistent with the Panel preferred version in Appendix D:9 with further changes under ‘Why is it significant’ to include separate paragraphs for Criterion D and Criterion E.**
 - l) **‘Statement of Significance: McMahon Ball House and Studio, 61 & 61A York Street, Eltham, June 2021’ consistent with the Panel preferred version in Appendix D:10.**
 - m) **‘Statement of Significance: Souter House, 17 Koornong Crescent, North Warrandyte, July 2022’ consistent with the Panel preferred version in Appendix D:11.**
 - n) **‘Statement of Significance: Former Farmhouse, 145 River Avenue, Plenty, July 2022’ consistent with the Panel preferred version in Appendix D:12.**
 - o) **‘Statement of Significance: Nilgiris, 183 Yan Yean Road, Plenty, July 2022’ consistent with the Panel preferred version in Appendix D:13.**
 - p) **‘Statement of Significance: Former Farmhouse, 52 Kurrak Road, Yarrambat, July 2022’ consistent with the Panel preferred version in Appendix D:14 and to replace the heritage place image with an alternative appropriate image of the place.**
6. **Review and amend as necessary, all statements of significance to:**
 - a) **apply consistent place descriptions, names and addresses**
 - b) **ensure the criterion applied under ‘How is it significant?’ match those in the significance description under ‘Why is it significant?’**
 - c) **separate any combined criterion paragraphs with separate paragraphs for each criterion**
 - d) **include consistent ‘primary source’ document title references.**
 7. **Amend the following incorporated documents:**
 - a) **Nillumbik Heritage Review - Stage A (Context, 2021) to include a dated document title page and citation index.**
 - b) **Nillumbik Heritage Review - Stage B (Trethowan, 2022) to include a citation index.**
 8. **Consolidate the Nillumbik Shire Thematic Environmental History, Revision 2016 (Nillumbik Shire Council, 2016) and Nillumbik Gap Study Stage B - Thematic Environmental History Post-war Update (Trethowan, 2022) into a single background document with addendum.**
 9. **Amend the Schedule to Clause 72.08 (Background documents) to apply consistent references to the Nillumbik Heritage Review - Stage A (Context, 2021) and Nillumbik Heritage Review - Stage B (Trethowan, 2022) and an updated title for the Nillumbik Shire Thematic Environmental History.**

1 Introduction

1.1 The Amendment

The Amendment proposes to implement the recommendations of *Nillumbik Shire Heritage Review - Stage A* (Context, 2021) and *Stage B* (Trethowan, 2022).

The Amendment affects land within the suburbs of Arthurs Creek, Christmas Hills, Diamond Creek, Eltham, Eltham North, Hurstbridge, Kangaroo Ground, North Warrandyte, Panton Hill, Plenty, Research, St Andrews, Wattle Glen and Yarrambat within the municipality of Nillumbik Shire Council (Council).

Council is the planning authority for the Amendment.

Specifically, the Amendment makes the following changes to the Nillumbik Planning Scheme (Planning Scheme):

- amend the Schedule to Clause 43.01 (Heritage Overlay) to:
 - apply the Heritage Overlay to 63 individual heritage places, one serial listing and one precinct
 - delete heritage places HO144, HO182, HO213, HO248 and HO250 which have either been demolished or included in other Heritage Overlay places
- correct mapping anomalies and adjust the curtilage for HO49, HO50 and HO112
- amend the Schedule to Clause 72.04 (Incorporated Documents) to insert 66 new or amended statements of significance
- amend the Schedule to Clause 72.08 (Background Documents) to include the following as background documents:
 - *Nillumbik Shire Heritage Review - Stage A* (Context, 2021)(Stage A Heritage Review)
 - *Nillumbik Shire Heritage Review - Stage B* (Trethowan, 2022)(Stage B Heritage Review)
 - *Nillumbik Gap Study Stage B – Thematic Environmental History Post-war Update* (Trethowan, 2022)(Post-war Thematic History)
 - *Nillumbik Shire Thematic Environmental History, Revision 2016* (Nillumbik Shire Council, 2016)(Nillumbik Thematic History).

Table 1 shows details of each place and proposed change.

Table 1 **Subject land**

Heritage place description and address	Place reference
Individual places	
Methodist Church, 893 Arthurs Creek Road, Arthurs Creek	HO307
Shelter Shed, 900 Arthurs Creek Road, Arthurs Creek	HO308
Mechanics Institute, 906 Arthurs Creek Road, Arthurs Creek*	HO309
Park View, 25 Brennans Road, Arthurs Creek	HO310
Arthurs Creek Cemetery, 1165 Arthurs Creek Road, Arthurs Creek *	HO311
Sherwood, 110 Deep Creek Road, Arthurs Creek	HO312
Charmwood, 870 Arthurs Creek Road, Arthurs Creek	HO336

Heritage place description and address	Place reference
Christmas Hills War Memorial, cnr Eltham - Yarra Glen Road & Ridge Road, Christmas Hills	HO273
McPherson's Yarra Glenn Station, 75 Wendy Way, Christmas Hills	HO313
Former Felton House, 12 Broad Gully Road, Diamond Creek	HO314
House & Palm, 34 Clyde Street, Diamond Creek	HO315
House, 38 Collins Street, Diamond Creek	HO316
Former Loyal Diamond Creek, Lodge, 42 Collins Street, Diamond Creek*	HO317
'Ghirrawheen', 349 Diamond Creek Road, Diamond Creek	HO318
Larch Hill, 2 Hillmartin Road, Diamond Creek*	HO319
Diamond Creek War Memorial, 28 Main Hurstbridge Road, Diamond Creek	HO320
'Greet', 162 Murray Road, Diamond Creek*	HO321
Windmill House, 25 Nicole Crescent, Diamond Creek	HO322
Villa Bereguardo, 32 Perversi Avenue, Diamond Creek*	HO323
Former Farmhouse, 75-99 Phipps Crescent, Diamond Creek	HO324
Harton Hill, 405 Ryans Road, Diamond Creek	HO325
Oak Tree, 477 Broad Gully Road, Diamond Creek	HO337
Hazलग्लेन Uniting Church, 1070 Yan Yean Road, Doreen	HO326
Post Office & General Store, 920 Yan Yean Road, Doreen*	HO327
Zandic House, 7 Banoon Road, Eltham	HO305
Bell Vue, 2 Batman Road, Eltham	HO274
Choong House, 10 Diosma Road, Eltham*	HO275
Mitchell House, 19 Fordhams Road, Eltham	HO297
Nichols House, 17 Haldane Road, Eltham	HO306
Eucalyptus melliodora (Yellow box), 35 Laughing Waters Road, road reserve, Eltham <i>Amended to extend curtilage to cover the heritage significant tree</i>	HO112
Tilwinda, 130 Laughing Waters Road, Eltham*	HO302
Laughing Water, 220 Laughing Waters Road, Eltham	HO303
Diamond Valley Miniature Railway, 570-576 Main Road, Eltham*	HO276
Former House, 856 Main Road, Eltham	HO277
Eltham War Memorial Building Complex 903-907 Main Road, Eltham*	HO293
Alan Martin House and Studio, 42 and 1/44 Park West Road, Eltham	HO278
House, 14-16 Warringah Crescent, Eltham*	HO284
Macmahon Ball House and Studio, 61 York Street, Eltham*	HO279
'Hillside' House, 23 Glen Park Road, Eltham North*	HO280

Heritage place description and address	Place reference
Welfare Centre, 24 Glen Park Road, Eltham North	HO281
House, 144 Progress Road, Eltham North*	HO282
'Coombe' House 200 Ryans Road, Eltham North*	HO283
Smith Orchard House, 125 Cherry Tree Road, Hurstbridge <i>Proposed to be deleted as place has been listed under serial listing HO285</i>	HO182
Moore's Cool Store, 180 Cherry Tree Road, Hurstbridge	HO286
War Memorial Tower, Sandstone building & park, 385 Eltham – Yarra Glen Road, Kangaroo Ground <i>Amended to extend curtilage to the property title boundary including the rest of the Kangaroo Ground Reserve and the Kangaroo Ground Tower Car Park</i>	HO49
Garden Hill – timber dwelling & in ground water tanks, 425 Eltham – Yarra Glen Road, Kangaroo Ground <i>Amended to extend curtilage to include significant elements</i>	HO50
Stevens House Mudbrick 160 Henley Road, Kangaroo Ground	HO287
'Landfall', 15 Castle Road, North Warrandyte	HO334
Janeba House, 3 Dingley Dell Road, North Warrandyte	HO292
Souter House, 17 Koornong Crescent, North Warrandyte*	HO304
Tarrangower, 30 Koornong Crescent, North Warrandyte	HO301
Carson House – Casa Warrandyte, 33 Koornong Crescent, North Warrandyte	HO300
Dwelling, 28 Osborne Road, North Warrandyte <i>To be deleted as place has been demolished/removed</i>	HO144
Wigley House, 35-37 Warrandyte - Kangaroo Ground Road, North Warrandyte	HO298
Queen of the Shire, cnr Research - Warrandyte & Kangaroo Ground - Warrandyte Roads, North Warrandyte	HO299
Panton Hill Hotel, 633 Kangaroo Ground - St Andrews Road, Panton Hill	HO288
Plenty State School 17 Howell Road, Plenty <i>To be deleted as place has been demolished/removed</i>	HO213
Plenty Heritage Park, 2-6 Memorial Drive, Plenty	HO335
Former Farmhouse, 145 River Avenue, Plenty*	HO329
Plenty Hall, 109-115B Yan Yean Road, Plenty <i>To be deleted and included in HO335</i>	HO248
Church, 171 Yan Yean Road, Plenty <i>To be deleted as church has been relocated to 2-6 Memorial Drive, Plenty and the significant elements of HO250 are included in HO335 (Plenty Heritage Park)</i>	HO250
Nilgiris, 183 Yan Yean Road, Plenty*	HO330

Heritage place description and address	Place reference
Circular Adobe House, 57 Thomson Crescent, Research	HO289
St Andrews General Store and Residence, 10 Caledonia Street, St Andrews	HO291
St Andrews Hall, 1 Proctor Street, St Andrews	HO290
Weatherboard Cottage, 631 Heidelberg-Kinglake Road, Wattle Glen	HO296
Yarrambat General Store, 466 Ironbark Road, Yarrambat	HO295
Former Farmhouse, 52 Kurra Road, Yarrambat*	HO331
Stuchbery Farm, 87 Latrobe Road, Yarrambat	HO332
Farm Complex and Former State School, 651 Yan Yean Road, Yarrambat	HO333
Precinct	
Panton Hill General Store Precinct – comprising 586 & 588 Kangaroo Ground Street, Panton Hill	HO328
Serial listing	
‘Wendouree’ and Canary Island Palms, and Smith Orchard Houses – comprising 125, 127 & 191 Cherry Tree Road, Hurstbridge*	HO285

* Proposed heritage places with submissions

1.2 Background

Council provided a chronology of events leading up to the exhibition and consideration of submissions which is summarised in Table 2.

Table 2 Chronology of events

Date	Event
2013	A review of heritage studies identified 144 potential places to be considered for heritage assessment with initial work commencing on 36 places
2019	A further review was undertaken of places including 38 of the 144 places identified in the 2013 review as appropriate for assessment. 74 properties were identified for inclusion in the Heritage Overlay
Feb 2019	Land owners advised of commencement of heritage place investigations
Oct 2020 – Feb 2021	Council appointed Context (subsequently GML) to undertake the Stage A Heritage Review focusing on 38 places included in the 2013 review and identified as warranting assessments in 2019
Mar – Apr 2021	Full assessment, histories and drafting of Stage A Heritage Review carried out by GML Heritage
29 Jun 2021	Stage A Heritage Review and citations adopted by Council
Oct 2021	Council appointed Trethowan Architects to undertake the Stage B Heritage Review, including Post-war History Gap Analysis and Post-war Thematic History as a Nillumbik Thematic History update
Feb 2022	Trethowan conducted site visits of potential heritage places from the public realm

Date	Event
26 Jul 2022	Stage B Heritage Review and Post-war Thematic History adopted by Council
7 Oct 2022	Council sought authorisation to prepare and exhibit the Amendment under Section 8A of the <i>Planning and Environment Act 1987</i> (PE Act) including a request for interim heritage controls
26 Apr 2023	Amendment C148nill approved to apply the Heritage Overlay to 51 places on an interim basis until 1 October 2024
1 May 2023	Authorisation of Amendment received by Council subject to conditions relating to minor technical drafting matters. Council advised all conditions were satisfied prior to exhibition
22 Jun – 3 Aug 2023	Amendment exhibited. 26 submissions received including two late submissions
Sep 2023	Council undertook further consultation and inspection of submission places
26 Sep 23	Council considered submissions, adopted recommended changes to the exhibited amendment and requested an independent panel to consider submissions

1.3 Submissions and post-exhibition changes

(i) Submissions

Council received 26 submissions to the Amendment including:

- 18 submissions opposing the Amendment with concerns about:
 - building integrity as a result of alterations, removal of fabric or building condition
 - lack of heritage significance
 - content of citations and statements of significance
 - impacts on future development
 - financial impacts associated with maintenance or approval processes
- 8 submissions supported the Amendment or supported it with changes including to:
 - a citation or Statement of Significance
 - the Heritage Overlay curtilage.

In addition, correspondence from Manningham Shire Council, Melbourne Water and Department of Transport was received relating to the Amendment (which were not numbered as submissions) and which did not object to the Amendment.

(ii) Initial post-exhibition changes

Council considered the submissions on 26 September 2023 and proposed changes to the exhibited Amendment following further investigation and input from its heritage consultant as summarised in Table 3. This included:

- removal of the Heritage Overlay from five places because alterations to those places had impacted their intactness and integrity to an extent that they no longer met the threshold for local heritage significance
- changes to citations, statements of significance and in some instances amending the Heritage Overlay curtilage extent.

Table 3 Council's initial proposed post-exhibition changes

Place name and address (HO)	Summary of Council proposed post-exhibition changes
Larch Hill, 2 Hillmartin Road, Diamond Creek (HO319)	Do not apply the Heritage Overlay
'Greet', 162 Murray Road, Diamond Creek (HO321)	Do not apply the Heritage Overlay
House, 144 Progress Road, Eltham North (HO282)	Do not apply the Heritage Overlay
'Hillside' House, 23 Glen Park Road, Eltham North (HO280)	Do not apply the Heritage Overlay
'Wendouree' and Canary Island Palms, and Smith Orchard Houses (HO285)	Do not apply the Heritage Overlay to 191 Cherry Tree Road
Mechanics Institute, 906 Arthurs Creek Road, Arthurs Creek (HO309)	Amend Statement of Significance to remove reference to stables and add 'No' to 'outbuildings and fences not exempt' in the Schedule to Clause 43.01
Choong House, 10 Diosma Road, Eltham (HO275)	Review and revise citation and Statement of Significance
Tilwinda, 130 Laughing Waters Road, Eltham (HO302)	Amend Schedule to Clause 43.01 to allow prohibited uses
Diamond Valley Miniature Railway, 570-576 Main Road, Eltham (HO276)	Amend citation and Statement of Significance to add Criterion G, clarify elements of significance and remove references to rolling stock as being significant
Macmahon Ball House and Study 61 & 61A York Street, Eltham (HO279)	Amend citation (to remove certain figures and names) and Statement of Significance and revise curtilage
House, 14-16 Warringah Crescent, Eltham (HO284)	Amend curtilage to apply to 16 Warringah Crescent only
Former Farmhouse, 145 River Avenue, Plenty (HO329)	Amend citation and amend Schedule to Clause 43.01 to allow prohibited uses
183 Yan Yean Road, Plenty (HO330)	Amend citation and Statement of Significance to acknowledge post war alterations and that additions and outbuildings are not significant

(iii) Further post-exhibition changes

Council's Part A submission included:

- amended Heritage Overlay mapping for HO284, HO279, HO285 and for the places to be removed from the Amendment consistent with the changes identified in Table 3
- an amended Heritage Overlay Schedule consistent with the changes identified in Table 3.

During the Hearing Council sought further post-exhibition changes in response to evidence and submissions and to the Panel's identified document errors and inconsistencies. The Panel's preferred versions of statements of significance are based on Council's amended versions of statements of significance or the final versions of citations provided at the Hearing. In summary these included:

- seven amended statements of significance (in shortened form without images and references) produced in the heritage evidence of Mark Huntersmith of GML and Dr Aaron Paul of Trethowan for HO275, HO276, HO279, HO285, HO304, HO329 and HO330
- additional heritage expert prepared and amended statements of significance for HO304, HO309, HO329 and HO330
- additional heritage expert prepared and amended citations HO275, HO327 and HO329
- closing submission versions of citations for HO317, HO323, HO327, HO329, HO330 and HO331 which Council proposed to be used to finalise related statements of significance
- amended citations for four places for which no submissions had been received - HO310, HO312, HO318 and HO325.

The Panel discusses the amended documents in Chapters 5, 6 and 7 of this Report.

As discussed in Chapter 7, many of the Amendment documents included errors in the way which documents were titled and cross referenced in different schedules as well as consistency issues in the content of the exhibited statements of significance. While Council addressed some of these issues in its amended versions, many errors remain. This has meant that Panel has had to spend additional time reviewing the amendment documents to ensure they are consistent and appropriate. Council should undertake a final review all final versions of statements of significance and other Amendment documents to correct these inconsistencies before finalising the Amendment.

1.4 The Panel's approach

Panel assessment and Report

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material, and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials submitted have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned.

This Report deals with the issues under the following headings:

- Strategic context
- General issues
- Preliminary considerations
- 'Wendouree' and Canary Island Palms, and Smith Orchard Houses Group
- Individual heritage places
- Form and content.

Documents references used in this Report

The documents forming part of the Amendment included different references to the two Heritage Reviews, the titles and place descriptions within the statements of significance and schedules to clauses 43.01 and 72.04.

For consistency, the Panel has adopted the following references in this Report:

- Stage A Heritage Review for the *Nillumbik Shire Heritage Review - Stage A* (Context, 2021)
- Stage B Heritage Review for the *Nillumbik Shire Heritage Review - Stage B* (Trethowan, 2022)
- the title included in the exhibited Schedule to Clause 72.04 for the statements of significance.

The use of inconsistent terminology in Amendment documents is discussed in Chapter 7.

1.5 Accompanied site inspections

The Panel undertook an unaccompanied inspection from the public realm of all proposed heritage places with submissions.

On the last day of the Hearing, and before Council's closing submission, the Panel undertook an accompanied inspection of two sites which could not be clearly viewed from the public realm – 10 Diosma Road, Eltham and 61 and 61A York Street, Eltham (both Stage A Heritage Review identified properties). The Panel was accompanied by the respective landowner, Ms Northwood representing Council and Mr Huntersmith (Council's heritage expert for Stage A places). No submissions were made during these inspections. The Panel thanks the landowners for accommodating the site visits which greatly assisted the Panel's understanding of those places.

2 Strategic context

2.1 Planning context

This chapter identifies the planning context relevant to the Amendment. Appendix A highlights key imperatives of relevant provisions and policies.

Table 4 Planning context

	Relevant references
Victorian planning objectives	- section 4(1)(d) of the PE Act
Municipal Planning Strategy	- Clause 02.03-5 (Built Environment – Heritage)
Planning Policy Framework	- Clause 11.03-3S (Peri-urban areas) - Clauses 15.01-1R (Urban design), 15.01-5S (Neighbourhood character), 15.03-1S (Heritage conservation)
Other planning strategies and policies	- <i>Plan Melbourne 2017-2050</i> , Outcome 4, Direction 4.4, Policies 4.4.1, 4.4.2, 4.4.3 and 4.4.4 - <i>Heritage Strategy: Identifying and Conserving Nillumbik's Cultural Heritage</i> - <i>Nillumbik Green Wedge Management Plan 2010-2025 Part 2: Delivering the Vision</i>
Planning scheme provisions	- Heritage Overlay
Planning scheme amendments	- Amendment C148nill applied the Heritage Overlay on an interim basis to 51 places
Ministerial directions	- Ministerial Direction section 7(5) (The Form and Content of Planning Schemes) - Ministerial Direction 9 (Metropolitan Strategy) - Ministerial Direction 11 (Strategic Assessment of Amendments)
Planning practice notes	- Planning Practice Note 1: Applying the Heritage Overlay, June 2023 (PPN01)

2.2 Heritage Studies and thematic history methodology

(i) Background

Nillumbik Thematic History

This Nillumbik Thematic History is a revision of the Environmental History included in the *Nillumbik Shire Heritage Study Stage 1, Review, Heritage Survey and Environmental History* (Graeme Butler and Associates, 1996). The Nillumbik Thematic History includes newly researched chapters and reworks the 1996 environmental history to fit within Victoria's Framework of Historic Themes. Key themes include:

- Transforming and managing the land and natural resources, including 'Agriculture, orchards and viticulture'
- Building Nillumbik's workforce, including 'Catering for tourists'

- Building towns and shaping suburbs, including ‘early township development’, ‘Interwar subdivisions and estates’ ‘Postwar growth and experimentation’, ‘From green belt to green wedge’ and 1960s and 1970s suburbanisation’
- Building community life, including ‘Commemorating’.

Stage A Heritage Review

The Stage A Heritage Review assessed 38 places and recommended the Heritage Overlay be applied to 22 places (including one serial listing). The Heritage Overlay (HO269) was applied to one of these places ‘Fermanagh’ at 1080 Heidelberg-Kinglake Road, Hurstbridge on 26 May 2022 (Nillumbik Planning Scheme Amendment C140nill). The Stage A Heritage Review recommended the assessment of five further places, and subject to a future thematic or typological review, the analysis of four additional places.

The review identified a lack of representation of post-war (c1945-1975) and late 20th century (c1975-1990’s) places and recommended municipal-wide typological or gap study.

Stage B Heritage Review

The Stage B Heritage Review assessed 61 places recommended by previous heritage studies including the Stage A Heritage Review and undertook a gap analysis of the Nillumbik Thematic History. The tasks included review of earlier draft citations from 2016 (Samantha Westbrooke Pty Ltd with Dr Peter Mills) and an additional 19 potential places identified in the Stage A Heritage Review.

The aim of the Stage B Heritage Review was to fill gaps in the Heritage Overlay to ensure a range of places that reflect the full range of built heritage in the Shire are protected. Particular attention was given to comparators that illustrated the following, given the relatively large number of places of these types:

- the Eltham Style
- Alistair Knox designs
- post-war houses
- farmhouses or complexes.

The ‘Eltham style’ of architecture primarily uses mud brick or adobe wall construction coupled with the use of exposed timber structural elements such as posts and beams and timber and/or recycled doors and windows. A subset of the ‘Eltham Style’ belongs to the design work of Alistair Knox (1912-1986) one of a small number of architects and building designers in Victoria recognised for giving rise to a regional architectural style. Knox’s stylistic periods are:

- the first Mud Brick (or earth building) Period (1947-53)
- Modular Houses (1955-c1961)
- the Second Mud brick stage (1964-72).

The review identified:

While significant residential settlement took place in the Shire in the post-war period of the twentieth century, this period remains under represented on the Shire of Nillumbik’s Heritage Overlay. Nonetheless there are a few post-war houses on the Heritage Overlay apart from ‘Eltham Style’ or Knox designs. Post-war houses on the Heritage Overlay have tended to be architect designed and/or associated with significant local figures, particularly artists. In this there is much crossover with elements of the ‘Eltham Style’. The emphasis on Robin Boyd designs in the current post-war residential heritage is evident. The history of the Shire in the post-war period suggests that architect designed residences are an important theme in this period of the Shire of Nillumbik’s development.

An important part of the Shire of Nillumbik's current Heritage Overlay is devoted to places associated with the farming history of the area, particularly early homesteads or farm complexes.

The review recommended:

- applying the Heritage Overlay to 45 individual places assessed as being of local significance including 19 places identified in Stage A as places of potential cultural significance, but not assessed (labelled Stage 1B properties) and other properties which had citations in need of review (updated to current standards or extant fabric confirmed (labelled Stage 1)
- amending the extent of HO112 as recommended by a qualified arborist
- deleting the former Plenty School at 17 Howell Road (HO213) and former White's Cottage (HO144) from the Heritage Overlay.

Post-war Thematic History

The Post-war Thematic History is intended to be read as an addition to the Nillumbik Thematic History. It includes additional information about post 1975 residential development broadly in the municipality, and expanded content concerning post-war developments in infrastructure, community and recreation, work and education.

(ii) The issue

The issue is whether the Stage A and B Heritage Reviews are appropriately robust to justify the Amendment.

(iii) Evidence and submissions

Submissions 5, 15 and 21 were concerned that the development of the heritage studies and place citations relied on street surveys rather than on site detailed analysis and discussions with owners. In a number of instances (as discussed in Chapter 4) submitters identified that the citations were factually incorrect, inappropriately sourced images or included private information.

Submission 20 stated:

- the heritage consultant had quoted the submitter in relation to other properties without permission
- the assessment process was flawed with junior staff visiting places and misquoting information provided
- a peer review of the Stage B Heritage Review was required
- the assessment seemed to focus on *"pretty houses that had been subject to magazine articles"* yet other potentially notable buildings not examined.

Submission 17 considered the Heritage Reviews and Amendment process to be flawed. The submitter relied on desktop analysis and had not been undertaken in a systematic or holistic manner with the community. The outcome appeared to be a cherry picking exercise coming too late when many places had already been lost in the area. The submitter stated the controls were a disproportionate approach to protect *"the ambience"* of the area.

Submission 11 was critical that the place assessments and listings were not based on clear criteria. The submitter considered there were *"many examples of places which are on the list"* which may not meet the threshold for significance, be rare or possess a special identity or connection with Eltham or reflect *"the preferences and opinions of the local community"*. The submitter suggested

community views should be sought through a poll so that the proposed heritage places were not “*arbitrary and without consultation*”.

Council submitted the Stage A and B Heritage Reviews had applied appropriate methodologies and the Amendment included an appropriate exhibition and submissions consideration process.

Mr Huntersmith’s evidence set out the methodology for the Stage A Heritage Review which involved:

- a preliminary assessment stage including of the Nillumbik Thematic History and other heritage studies, desktop review and preliminary site inspections
- detailed assessment stage of shortlisted places including:
 - locality and individual place history developed from previous studies from 1992, 1996 and 2001, permit and rates data bases, local histories, newspapers and online collections
 - descriptions and integrity statements for places developed based on site inspections or other sources
 - comparative analysis
 - assessment against PPN01 criteria
 - development of statements of significance consistent with PPN01 and *The Burra Charter: The ICOMOS Charter for Places of Cultural Significance, 2013*
 - consideration of the appropriate use of Heritage Overlay Schedule controls
- internal peer review of citations and statements of significance.

Dr Paul’s evidence on the Stage B Heritage Review methodology was similar to that applied for Stage A but included a review of existing draft citations and updating statements of significance or drafting new ones.

(iv) Discussion

Methodology and applying thresholds

PPN01 does not provide guidance on how to prepare a heritage study or the process for gathering information to develop prepare a citation and Statement of Significance. It does however identify the eight criteria that should be used to assess the heritage value of a place. It also identifies that:

To apply a threshold, some comparative analysis will be required to substantiate the significance of each place. The comparative analysis should draw on other similar places within the study area, including those previously included in a heritage register or overlay.

The Panel considers that the Stage A and B Heritage Reviews are appropriately robust and have been based on contemporary practice including:

- extensive desk top and street view analysis
- onsite inspections where the landowner has agreed
- using a range of information including aerial photographs, permit and rates records and other online resources
- applying PPN01 threshold criteria and including appropriate comparative analysis.

For those places Council proposes to retain in the Amendment and apply the Heritage Overlay to, the Panel considers that the PPN01 criterion have been appropriately applied to establish that the necessary threshold of significance has been reached. However, the Panel has not considered in detail whether this is the case for places for which no submissions were received. Some of the

inconsistencies in documentation identified in Chapter 7 are likely to be found in the statements of significance for these other places.

The Panel observed that one place for which submissions were not received may not have applied PPN01 criteria to establish that the necessary threshold of significance has been achieved. The Amendment proposes to apply the Heritage Overlay to a contemporary sculpture installed in 2015 at the corner of Research-Warrandyte Road and Kangaroo Ground-Warrandyte Road, Warrandyte North, the 'Queen of the Shire' (HO299). Consistent with other places for which no submissions have been received, the Panel makes no recommendations about it, however the Panel has some concerns about whether the place achieves the appropriate threshold level for aesthetic and associative significance. This is because:

- the sculpture is less than 10 years old, when the typical approach to applying the Heritage Overlay is for places to be at least a generation old (25 plus years)
- the comparators:
 - in the Nillumbik Planning Scheme (two) are over 34 years of age
 - include older works of the artist (within Nillumbik and City of Melbourne) which are not in the Heritage Overlay
- the significance of the artist to Nillumbik is not clearly established in the citation or relevant thematic histories.

While the sculpture may have significant artistic merit and local importance this does not necessarily equate to heritage significance. Council is encouraged to review the citation and whether it meets the necessary threshold for local heritage significance at this point in time.

Consultation

As identified in Chapters 5 and 6, Council and its experts have revisited sites (and where in a position to, attending site inspections with landowners), proposed deletion of some places and updated many citations and statements of significance as a result. This is an appropriate and proactive approach.

There is no obligation for Council's to undertake extensive consultation with the community to develop a heritage study. However, community consultation is often undertaken to elicit potential sites by directly engaging with historical societies or similar groups to identify potential sites or historical information. The heritage assessment of a place is however a technical exercise and requires particular expertise and cannot be determined by popular opinion.

While it is not unusual for citations to utilise a range of primary and secondary sources of information, Council has proposed to amend several citations to remove photographs or other personal references to family members. The Panel's recommended approach to citation changes is discussed in Chapter 7.

(v) Conclusions

The Panel concludes:

- The methodology applied in the development of the Stage A and B Heritage Reviews is appropriately robust and consistent with PPN01.
- The Stage A and B Heritage Reviews are appropriate strategic documents on which to prepare heritage controls.
- Council should review whether the 'Queen of the Shire' (HO299) meets the necessary threshold level for heritage significance.

2.3 Strategic justification

(i) Evidence and submissions

Submissions 5, 8 and 11 considered application of the Heritage Overlay would constrain development. This was inconsistent with planning policy including Plan Melbourne which sought to support growth and provision of housing.

Submission 16 identified that heritage considerations needed to be balanced with *“other relevant planning provisions affecting the site and the surrounding urban context”*.

Mr Huntersmith’s evidence was:

The *Planning and Environment Act 1987* obliges municipal councils ‘to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or other of specific cultural value’. The concept of heritage evolves over time, and it is reasonable to undertake a review to identify and protect new places and areas of heritage significance. The loss of heritage buildings is a key concern for many areas of Melbourne and the Heritage Overlay is a recognised mechanism in the Victorian planning system for protecting valued heritage places and precincts.

Council submitted that the Amendment is the first significant amendment to the Heritage Overlay since 2008 and the Thematic History had not been updated since 2016. The Amendment was also necessary because of:

The number of lost heritage properties and the cost of numerous last minute amendments to apply interim protection to individual places that have been identified for investigation is increasing.

It submitted:

Heritage is an important part of the historical and cultural identity of the community. Sharing the local history of the shire and protecting the existing heritage fabric will preserve the stories of the Nillumbik Shire for the community and future generations, creating a place of belonging and enriching the cultural values of the community.

Council concluded the Amendment:

- was supported by the Municipal Planning Strategy and Planning Policy Framework
- fulfilled its statutory obligations as a responsible authority to implement the objectives of the PE Act, the Municipal Planning Strategy and Planning Policy Framework
- would have positive social effects through retaining and protecting places of heritage significance for present and future generations, thereby resulting in a net community benefit.

(ii) Discussion

There is a strong regulatory and policy framework supporting the identification and protection of places of heritage significance, including Plan Melbourne which recognises the need to support housing diversity and respect and protect Melbourne’s heritage. As concluded above, the Stage A and B Heritage Reviews are appropriately robust and support the introduction of heritage controls.

Clause 71.02-3 recognises there will be policy tensions, and in this instance they exist between the protection of heritage places and supporting housing growth.

The Panel considers the Amendment to be a balanced one. It is the first substantial heritage amendment within the Shire of Nillumbik for decades and has not sought to apply widespread

heritage controls but rather recognise and protect representative examples of key phases of the municipality's development.

There was no evidence provided or compelling submissions that application of the Heritage Overlay would compromise other strategic planning outcomes for Nillumbik or Melbourne's broader housing objectives. The Amendment introduces controls to manage identified heritage fabric and allows for future permit applications to consider heritage outcomes in balance with other strategic objectives.

The Amendment will have a positive effect through the retention and protection of heritage for present and future generations within the Shire of Nillumbik, resulting in a net community benefit.

(iii) Conclusions

The Panel concludes the Amendment:

- is supported by, and implements, the relevant sections of the Municipal Strategic Framework and Planning Policy Framework
- is well founded and strategically justified
- will deliver a net community benefit and sustainable development as required by Clause 71.02-3
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

3 General issues

This chapter refers to issues which apply across more than one place. Where a submission raised only general issues, it is not referred to in subsequent chapters.

3.1 Building condition, intactness and integrity

(i) The issue

The issue is whether building condition is relevant when assessing the heritage significance of a place.

(ii) Evidence and submissions

Several submissions identified that the condition of buildings (ranging from structural issues, material deterioration or termite damage) impacted the integrity of the place or would require extensive repairs to restore them.

Submission 26 was concerned that their house had been extensively renovated, modernised, and extended, to the point where there was little of the original structure remaining.

Submissions 15 and 16 identified the dwellings on their properties would require substantial restoration due to the extent of additions and highly altered outbuildings. Submission 16 sought an amendment to the Design and Development Overlay to enable *“a considered development of the site that incorporates the restoration of the heritage place”*. This would provide for feasible development and support a practical outcome that was respectful of heritage values *“as well as other relevant planning provisions affecting the site and the surrounding urban context”*.

The evidence of Mr Huntersmith was¹:

The structural condition of a house is not directly relevant to whether a recommendation can be made to include a property in a Heritage Overlay. Only matters of heritage significance are considered. Condition generally is not a consideration unless there is a danger of imminent collapse or if works required to return a building to an acceptable condition will require extensive rebuilding to the point that it has lost its significance.

It is important not to confuse the intactness of a place with the condition of a place. A place may be rundown but still substantially intact and retain its heritage values. Being in poor condition does not disqualify a place from being included in the Heritage Overlay, whereas lack of intactness may do so (depending on the heritage criterion that applies).

Council supported Mr Huntersmith’s observations and submitted it had carefully examined the impact of building changes when assessing the integrity of a place and whether heritage controls were warranted.

(iii) Discussion

In the context of ‘building condition’ there is a key difference between:

- a building that may be structurally or otherwise unsound or at risk of collapse

¹ Document 6 paragraphs 93 and 94 respectively

- a place that may have been extensively altered and where those alterations have impacted its intactness ('wholeness' or lack of alteration) and integrity (the degree to which it meaningfully demonstrates the significance attributed to it).

Structural integrity is generally not an issue unless the heritage fabric is unlikely to exist by the time the Amendment is introduced into the Planning Scheme. Where the condition of a building has changed or would require extensive fabric loss to restore it Council has proposed to delete it from the Amendment or modify outbuilding controls in the Heritage Overlay Schedule (as discussed in Chapters 4 and 6). The Panel is required to consider each property in its current form, even if there is an approved permit to redevelop the site. There is no assurance an owner will act on the permit and if they do, Council can reassess the property through a future heritage review.

The interrelationship between building intactness and integrity on the other hand, is an important consideration for determining whether the threshold for local significance is met. For example, a high level of intactness of place elements (such as architectural details) may be required to demonstrate a high level of integrity for historic, aesthetic or technical significance. A reduction in intactness (through loss of key fabric) could result in a low integrity level for these criteria but still remain high for historical association. The Panel is satisfied that the Stage A and Stage B Heritage Reviews have appropriately considered the issue of building intactness and its impact on integrity of the places proposed to be included in the Heritage Overlay, subject to consideration in the following chapters.

There is no strategic basis to amend other controls that seek to manage other planning considerations such as design. The Heritage Overlay provides a framework to consider heritage significance in a wider context of planning policy.

(iv) Conclusions

The Panel concludes:

- Building condition is not relevant when assessing the heritage significance of an individual place.
- The level of intactness of a place is however, a critical threshold consideration for establishing integrity and heritage significance.

3.2 Development opportunity, building alterations and maintenance

(i) The issue

The issue is whether impact on development opportunity or impact on building alterations and maintenance are relevant when assessing the heritage significance of a place.

(ii) Evidence and submissions

Submission 5 identified that the Heritage Overlay would make it difficult to subdivide the land.

Submission 22 was concerned about the impact of the Heritage Overlay on the:

- ability to modify existing or build new structures to meet safety requirements without impacting their insurance and minimise delays associated with approvals
- status of existing planning permits
- ability to expand and install solar panels
- time associated with making planning permit applications

Submission 14 considered the Heritage Overlay would make it difficult to extend the dwelling or add a second storey. Submission 24 raised a similar concern, stating:

We originally purchased this property with plans to one day extend for our growing family. If a Heritage Overlay is applied that prevents us from being able to extend, the implications for our family are significant.

Submission 20 was concerned the Heritage Overlay would require future alterations or extensions to differentiate between old and new elements. Such a requirement could mean that extending the building using the same roof line and stone wall materials might not be possible, impacting on the building's visual continuity and original design vision. The submission also noted the lack of guidance in the Planning Scheme or other Council documentation to assist owners when designing heritage place alterations.

Mr Huntersmith's evidence was²:

The Heritage Overlay does not prohibit redevelopment (or land subdivision) or architectural innovation, but requires that the identified heritage values are considered as part of the planning permit application process for any development.

...

Heritage controls would require a planning permit for affected places but do not place restrictions on internal works (unless internal controls are proposed) or on-going maintenance. Works to satisfy the Disability Discrimination Act (DDA), Building Code Australia (BCA) and other relevant compliance requirements are generally supported for heritage places but should be undertaken with consideration of their heritage values.

...

All places will require on-going maintenance, whether in the Heritage Overlay or not. The introduction of heritage controls does not mandate a property owner or manager to maintain the property to a particular standard. Further, maintenance requirements are not relevant to considerations for inclusion in the HO.

Council recognised applying the Heritage Overlay introduces a layer of additional planning control for affected properties, including "*properties that may be consolidated or capable of consolidation and bearing the hallmarks of 'development potential'*". It submitted this was appropriate to ensure the heritage significance of places was recognised, properly documented and appropriately managed.

(iii) Discussion

The Panel agrees with Council that the effect of the Heritage Overlay on future development outcomes is not relevant to establishing whether the building meets the threshold for local significance.

The Heritage Overlay is not a defacto prohibition on demolition or alteration. It does not require maintenance and includes exemptions for some alterations. It does however provide a mechanism to manage the significant heritage fabric of a place and to consider the related decision guidelines and heritage policies through the planning permit application process.

The permit assessment process requires a balanced consideration of other policies consistent with Clause 71.02-3 (Integrated decision making). This might include policies relating to urban consolidation, sustainable development, urban design or environmental performance objectives or other economic and social drivers. This also includes responding to accessibility, health and

² Document 6 paragraphs 103, 216 and 218 respectively

safety considerations. Discretion within this decision making framework allows, in some instances, for buildings to be demolished or partly demolished, and more frequently, altered or adapted. Such scenarios are, however, hypothetical at the Amendment stage of the process which is to identify places of heritage significance and consider whether the Heritage Overlay should be applied, having regard to PPN01.

The Panel notes the Planning Scheme does not contain specific guiding local policy for heritage places or have a Heritage Overlay incorporated plan to reduce the need for permits for more minor alterations or heritage design guidelines to assist applicants. Such guidance may be of value for some of the more contemporary post-war places to guide how alterations might be managed.

(iv) Conclusion

The Panel concludes:

- Issues relating to loss or impact on development opportunity or undertaking building alterations and maintenance are not relevant when assessing the heritage significance of an individual place.

3.3 Financial implications

(i) The issue

The issue is whether property value and financial implications are relevant when assessing heritage significance or when deciding whether to apply the Heritage Overlay.

(ii) Evidence and submissions

Several submissions raised issues about the potential costs associated with the application of the Heritage Overlay including for maintenance, restoration or designing alterations in keeping with identified heritage values. For example, Submission 21 stated:

The application of a Heritage Overlay has considerable financial implications on a landowner so a change to the planning controls should be carried out thoroughly, and result in a fair outcome.

Submission 17 considered it unfair that landowners had the financial burden of protecting heritage for the public benefit without monetary support from Council. Submission 11 identified similar issues and the costs associated with permit fees, engaging heritage consultants as well as loss of property value. Submission 11 called for this burden to be shared through grants, rates offsets, fee waivers or free heritage advice.

Mr Huntersmith's evidence was:

The financial implications and/or concerns about inclusion in the Heritage Overlay are not relevant considerations in the assessment of heritage controls. PPN01 identified the criteria for assessing heritage significance of a heritage place and only refers to matters of a heritage nature.

Council referred to several previous Panel reports relating to the issue of economic impacts and which found the PE Act and Planning Scheme require social and economic matters and the principles of net community benefit and sustainable development to be considered. These related to the interests of the broader community and did not extend to individual impacts. In relying on such findings, it submitted there was an *"inherent economic value to the shire as a whole in preserving heritage character where such character is established from a robust and rigorous*

assessment undertaken” in accordance with PPN01. Any private economic impacts would be offset by the public benefit from the heritage places to the broader community over many generations.

(iii) Discussion

The private financial impact of the Heritage Overlay is not relevant to the primary question of whether a building meets the threshold for local heritage significance. Such considerations are matters for the planning permit stage. Property values are influenced by many factors outside the planning system. In this instance the social and community benefit of applying the Heritage Overlay and protecting important places for future generations outweighs and private economic impacts.

In relation to the suggested provision of financial support to landowners within the Heritage Overlay, the Panel acknowledges that while some Councils and the State government often provide grants or other incentive schemes or support mechanisms to enable restoration of heritage places, this is not relevant to the consideration of this Amendment.

(iv) Conclusion

The Panel concludes:

- Property value and financial implications are not relevant when assessing heritage significance or when deciding whether to apply the Heritage Overlay.

4 Preliminary considerations

Submissions were received about:

- reducing the Heritage Overlay curtilage
- allowing for prohibited uses
- applying heritage controls for trees and outbuildings.

While these issues are discussed in greater detail in Chapters 5, 6 and 7 the purpose of this Chapter is to identify what guidance is provided for these considerations within PPN01, summarise the evidence on these issues and sets out the conclusions which underpins the Panel's general position on their application.

4.1 Heritage Overlay curtilage

(i) The issue

The issue is when is it appropriate to reduce the Heritage Overlay curtilage to less than the whole property.

(ii) Evidence and submission

Submissions sought to reduce the curtilage of the Heritage Overlay for four individual places.

Mr Huntersmith's evidence was that most of the Stage A Heritage Review places are mapped to the title boundaries, the exception being three places on larger land parcels where a reduced curtilage was recommended:

- Christmas Hills War Memorial
- Diamond Valley Miniature Railway
- St Andrews Hall.

Two curtilage reductions were however supported by Mr Huntersmith (10 Diosma Road, Eltham and 61 and 61A York Street, Eltham) as discussed in Chapter 6.

(iii) Discussion

In relation to curtilage, PPN01 states:

The Heritage Overlay applies to both the listed heritage item and its associated land. It is usually important to include land surrounding a building, structure, tree or feature of importance to ensure that any development, including subdivision, does not adversely affect the setting, context or significance of the heritage item.

The land surrounding the heritage item is known as a curtilage and will be shown as a polygon on the Heritage Overlay map. In many cases, particularly in urban areas and townships, the extent of the curtilage will be the whole of the property for example, a suburban dwelling and its allotment.

There will be occasions where the curtilage and the Heritage Overlay polygon should be reduced in size as the land is of no significance. This has the potential benefit of lessening the number of planning permits that are required with advantages to both the landowner and the responsible authority.

Examples of situations where a reduction in the curtilage and polygon may be appropriate include:

- A homestead on a large farm or pastoral property where it is only the house and/or outbuildings that is important. In most cases with large rural properties, the inclusion of

large areas of surrounding farmland is unlikely to have any positive heritage benefits or outcomes.

- A significant tree on an otherwise unimportant property.
- A horse trough, fountain or monument in a road reservation.
- A grandstand or shelter in a large but otherwise unimportant public park.

Suggested steps in establishing a curtilage include:

- reviewing the heritage study and considering ‘What is significant? The curtilage should capture the elements of the place that are significant. *“If there are multiple elements that are widely dispersed on the property, one option may be to have multiple polygons which share the same Heritage Overlay number”*
- ensuring it retains the setting or context of the significant building, structure, tree or feature and includes sufficient land to *“regulate development, including subdivision, in proximity to the significant building, tree or feature”*
- where possible using uncomplicated and easily recognised boundaries, such as a fence line to avoid potential dispute about the land affected
- utilising aerial photos to assist with ‘ground truthing’ and explain the basis for the reduced curtilage in the heritage study documentation.

The Panel considers there should be a clear reason to depart from the standard practice of applying curtilages to the entire property, particularly in urbanised locations. The more typical exceptions include:

- large properties such as farms where sufficient provision can be made to accommodate an appropriate setting including preservation of key views and associated landscaping features or outbuildings
- for trees where other elements of the place are not important.

Simply avoiding the need for planning permits is not an appropriate basis to reduce a curtilage. Consistent with PPN01 a reduced curtilage should only result from a considered approach that establishes what is significant and represents an appropriate setting, and uses uncomplicated and easily recognised boundaries to avoid uncertainty. This includes the use of fence lines, lot boundaries (where the site consists of multiple parcels for example) or points between distinct changes in boundary lines which are readily apparent, or uniform shaped and measured distances from buildings.

(iv) Conclusion

The Panel concludes:

- There should be a clear reason to depart from the standard practice of applying curtilages to the entire property. A reduced curtilage should only be contemplated through a considered assessment consistent with the guidance in PPN01.

4.2 Prohibited uses

(i) The issues

The issues are:

- when is it appropriate to allow for prohibited uses
- whether Council’s approach to permitting prohibited uses is appropriate.

(ii) Background

What is proposed?

The Heritage Overlay Schedule allows the identification of places for which prohibited uses are permitted. The Amendment proposes to permit prohibited uses for 20 individual places (19 originating from the Stage B Heritage Review. These are shown in Table 5 along with associated zones and current land uses where known through the Panel's site inspections, submissions or citations. Three of the places are publicly owned (HO302, HO332 and HO333).

Table 5 Heritage places where prohibited uses permitted controls are proposed by Council

Place	Current use	Zone
(HO307) 893 Arthurs Creek Road, Arthurs Creek	Church	Green Wedge Zone (GWZ)
(HO314) 12 Broad Gully Road, Diamond Creek	Dwelling	General Residential Zone (GRZ)
(HO316) 38 Collins Street, Diamond Creek	Dwelling	GRZ
(HO317) 42 Collins Street, Diamond Creek (Former Lodge)	Dwelling	GRZ
(HO318) 349 Diamond Creek Road, Diamond Creek	Dwelling	Rural Conservation Zone (RCZ)
(HO294) 49-55 Main Street, Diamond Creek	Church	GRZ
(HO322) 25 Nicole Crescent, Diamond Creek (Windmill house)	Dwelling	GRZ
(HO325) 405 Ryans Road, Diamond Creek (Farm complex)	Dwelling	GRZ
(HO323) 32 Perversi Avenue, Diamond Creek	Dwelling	RCZ
(HO 327) 920 Yan Yean Road, Doreen (General Store)	Dwelling and shop/storage (currently vacant)	RCZ
(HO326) 1070 Yan Yean Road, Doreen	Church	GWZ
(HO302) 'Tilwinda' 130 Laughing Waters Road, Eltham	Artists' residency	RCZ
(HO334) 15 Castle Road, North Warrandyte	Dwelling	Low Density Residential Zone (LDRZ)
(HO328) 586 & 588 Kangaroo Ground-St Andrews Road, Panton Hill	Store & residence former Post Office & residence	Township Zone
(HO335) 2-6 Memorial Drive, Plenty (Plenty Heritage Memorial Park)	Memorial park	Public Park and Recreation Zone (PPRZ)
(HO330) 183 Yan Yean Road, Plenty (Farm complex)	Dwelling	LDRZ
(HO295) 466 Ironbark Road, Yarrambat	Unknown/not inspected	LDRZ

Place	Current use	Zone
(HO331) 52 Kurrak Road, Yarrambat (Farm complex)	Dwelling	LDRZ
(HO332) Stuchbery Farm, 87 La Trobe Road, Yarrambat (Farm complex)	Part of Plenty Gorge Park	Public Conservation and Resource Zone
(HO333) 651 Yan Yean Road, Yarrambat (Farm Complex and Former State School)	Unknown/not inspected	PPRZ and Public Conservation and Resource Zone

(iii) Evidence and submissions

Dr Paul considered permitting prohibited uses:

allows additional uses not normally permitted in a given zone, subject to a planning permit; it is most frequently used to give redundant buildings a wider range of future use options to ensure their long-term survival, e.g., purpose-built shops in residential areas.

Council's Part C (Part 2) submission identified the following place characteristics or reasons for allowing prohibited uses:

- *to give the building a wider range of future use options to ensure its long-term survival if necessary.* In some instances, this extended to uses *"relating to farming or animals"* or *"entertainment or amusement"* or *"education"* uses
- complex sites with a number of elements.

Council submitted that applications for prohibited uses would still be assessed by Council.

(iv) Discussion

In relation to prohibited uses PPN01 states:

The provision should only be applied to specific places. For example, the provision might be used for a redundant church, warehouse or other large building complex where it is considered that the normally available range of permissible uses is insufficient to provide for the future conservation of the building.

PPN01 provides specific guidance as to when to use the prohibited uses allowed provisions, including consideration of:

- the nature of the building(s) including the use for which they were built and their ability to be used for other alternative uses which will assist with their ongoing conservation
- the current predominant use of the place and of the neighbouring land
- the existing zoning and the range of more likely permissible uses given the type of building or size of the land.

The Panel is concerned Council's application of the provision lacks an appropriate level of consideration and strategic justification, particularly for places in the GRZ and LDRZ when:

- many of these places are constructed as dwellings and currently used for this purpose (the primary purpose of these zones) and within established residential areas
- the properties are not large enough to support farming uses
- realistic potential prohibited uses have not been identified by Council or the landowner.

The approach of simply permitting prohibited uses for all heritage places in a zone like the RCZ or GWZ which have a more limited number of permitted uses than other zones is not sufficient basis to allow them. While prohibited uses still require a planning permit and the usual assessment

against policy and planning scheme provisions, permitting prohibited uses can have perverse planning outcomes and provide uncertainty for landowners and the community. Accordingly, the provision should only be used following a considered, place by place assessment.

Council has identified RCZ as a candidate for allowing prohibited uses given the extensive range of prohibited uses. In this zone prohibited uses include (but are not limited to):

- Accommodation (other than Bed and breakfast, Dependent person's unit, Dwelling, Group accommodation, Host farm and Residential hotel)
- Education centre (other than Primary school and Secondary school)
- Industry (other than Rural industry)
- Intensive animal production
- Office
- Leisure and recreation (other than Informal outdoor recreation)
- Place of assembly (other than Carnival and Circus)
- Retail premises (other than Landscape gardening supplies, Market, Primary produce sales and Restaurant).

However, in half the instances the current use of identified heritage places in the RCZ is as a dwelling. Most of them are not located on large land parcels. There were no reasons provided to suggest that continuing these current or permitted uses (which still permits a range of accommodation uses) is prohibitive to the ongoing conservation of the place.

The approach of simply permitting prohibited uses for all heritage places in a zone like the RCZ or GWZ which are more restrictive than other zones is not sufficient basis to allow them. While prohibited uses still require a planning permit and the usual assessment against policy and planning scheme provisions, permitting prohibited uses can have perverse planning outcomes and provide uncertainty for landowners and the community. Accordingly, the provision should only be used following a considered, place by place assessment.

There are however some clear examples where allowing prohibited uses might be considered:

- a building not designed or easily used as a dwelling, for example a shop, church, hall or warehouse
- a former house in an industrial zone
- a working farm, agricultural or industrial building in a residential zone
- a place located on public land where the zoning (for example PPRZ) is restrictive and may limit uses which provide a community benefit or assist with ongoing maintenance.

There are several examples discussed in Chapter 6 where allowing prohibited uses is consistent with this approach and supported by the Panel. However the Panel is not convinced Council's approach to allowing prohibited uses is sufficiently robust or clearly justified for each heritage place where it is proposed.

(v) Conclusions

The Panel concludes:

- Permitting prohibited uses requires a considered approach and assessment of a range of factors.
- Prior to Council finalising the Amendment it should further review the places not subject to submissions to consider whether prohibited uses should be permitted.

4.3 Tree controls, outbuildings and fences exemptions and solar energy system controls

(i) The issues

The issues are:

- when is it appropriate to apply tree controls, solar energy system controls, outbuilding and fence exemptions
- whether Council's approach to applying tree controls, solar energy system controls and outbuilding and fence exemptions is appropriate.

(ii) Background

The Amendment proposes to amend the Heritage Overlay Schedule to:

- apply tree controls for 12 places (including one place, HO337, where the Heritage Overlay applies to a tree only)
- remove notice exemptions for 'Outbuildings or fences' for 10 places
- apply 'Solar energy system' controls for all proposed places.

(iii) Evidence and submissions

Tree controls

Mr Huntersmith stated that where tree controls (and outbuilding exemptions) were recommended they were appropriately identified in the Heritage Overlay Schedule to provide clear guidance.

Dr Paul's evidence was:

Tree controls are recommended for selected mature trees that particularly enhance the setting of the place and relate directly to its historical or aesthetic significance. An arborist report is recommended to identify the species and age of the trees. The trees of interest are specified in the Heritage Overlay.

Council advised the Panel that despite the Stage B Heritage Review recommendations for arborist reports they had not been undertaken.

Outbuilding and fence exemptions

Dr Paul's evidence was:

It was found during the review of the draft citations that significance had often been proposed for a range of outbuildings, particularly in former farming properties, on the basis that the outbuildings supported the historical significance of the place as a former working farm. The review established that most of these appear to be vernacular and utilitarian farm structures of uncertain age, and unless an outbuilding was established as significant, outbuilding controls were not proposed.

The main issue from a heritage perspective is the weight that should be given to vernacular outbuildings relating to the former use of places as farms or orchards. In my view it would not be proportionate to apply additional outbuilding controls necessitating public notice where these buildings are simply vernacular corrugated iron or asbestos sheds...

Another issue arises in relation to the residual places, former farm complexes, where the significance of individual outbuildings noted in the previous Westbrooke & Mills studies were not able to be reassessed in the Stage B Study. The Stuchberry farm was unable to be inspected, however the photos and description in the 2016 Citation makes the case for the protection of the remnant farm buildings given that these are all that may remain of the historic farm.

In the case of 25 Brennan's Road, it has been suggested in the 2016 Citation that some of the outbuildings may include those 'from an early period' including stables. Similarly, 110 Deep Creek Road is noted as including 'early outbuildings'.

In the case of 870 Arthurs Creek, the 2016 Citation includes a description of the stables, with 'simple gable form with three windows and two doors on the front elevation'.

In all four instances above, Trethowan was not satisfied that there was a factual basis to overturn the original assessment to include additional outbuilding controls given the potential significance of early outbuildings on the historical understanding of these early farm complexes, without having been able to reassess the outbuildings in question ourselves.

Council provided amended citations for several places not subject to submissions where post-exhibition changes were proposed relating to outbuildings including to the Heritage Overlay Schedule:

- Parkview, 25 Brennans Road, Arthurs Creek (HO310)(Document 41) to identify that the 'early buildings and stables' are elements which contribute to the understanding of the place but are not significant
- Sherwood, 110 Deep Creek Road, Arthurs Creek (HO312)(Document 36) to add that the 'early buildings' are elements which contribute to the understanding of the place but are not significant
- 'Ghirrawheen', 349 Diamond Creek Road, Diamond Creek (HO318)(Document 43) to remove outbuilding controls and references in the Statement of Significance because the outbuildings had been severely fire damaged
- Harton Hill Farm, 405 Ryans Road, Diamond Creek (HO325)(Document 44) to: amend the place name (to 'Harton Hill Farm' and removing 'House, Outbuildings and Monterey Cypress Drive'); amend Statement of Significance under 'What is significant?' to identify outbuildings contribute to the understanding of the place and to 'Why is it significant?' under Criterion A (rather than Criterion E), and to switch on outbuilding exemptions.

Solar energy systems

The Diamond Valley Railway Inc. was concerned the Amendment would make it difficult to install solar panels.

The evidence of Mr Huntersmith was that the Heritage Overlay Schedule was amended to include solar energy system provisions after the completion of the Part A Heritage Review and were not included in the individual place assessments.

(iv) Discussion

Tree controls

PPN01 states the following for applying tree controls:

This control is designed to protect trees that are of intrinsic significance, such as trees that are included on the National Trust Heritage Register, or trees that contribute to the significance of a heritage place, for example, trees that contribute to the significance of a garden or area.

The control is not meant to protect trees for their amenity value.

PPN01 is silent on what sort of analysis is required to support the application of tree controls. Trees identified do however need to contribute to the significance of a heritage place. This implies that the same criterion threshold should apply to trees as individual places. This includes a comparative analysis and a reasonable level of evidence about the age and species, who planted them or designed their arrangement for example, particularly when the trees are linked to the

historic, aesthetic or associative significance of the place. This might be done through primary information sources including plans and photographs and aerial images or arborist reports that confirm species and age. It is not sufficient or appropriate to speculate about the provenance, for example if a type of tree was typically planted during the same era as the place, or identify them because they have amenity value.

Other than for the property at 32-36 Perversi Avenue, Diamond Creek, (as discussed in Chapter 6) the Panel considers the Heritage Review citations support the basis for their application and the relevant trees are appropriately identified in the Heritage Overlay Schedule. The Panel however has not viewed all places where tree controls have been proposed or if the identified trees are within the same curtilage as related buildings or in their own curtilage. The Panel is aware that at least one place (HO337) where the Heritage Overlay applies to a single tree the basis of the curtilage is unknown. Council confirmed that the arborist reports recommended in the Stage B Heritage Review have not been undertaken.

Outbuilding and fence exemptions

PPN01 identifies for 'Outbuildings and fences':

The statement of significance for the heritage place should also identify the particular outbuildings and/or fences that are significant under What is significant? and why they are important.

For the places considered by the Panel, the Heritage Review citation methodology supports the basis for the identification of outbuildings and the relevant outbuildings where notice exemptions should not apply are appropriately identified in the Heritage Overlay Schedule. The Panel however has not viewed all places where outbuilding exemptions have been proposed to be removed.

PPN01 is silent on what sort of analysis is required to support the application of outbuilding controls. Like tree controls they do need to contribute to the significance of a heritage place and their identification be based on thorough analysis. The Panel is confident based on the evidence of Dr Paul this has been done and a clear methodology applied to their inclusion.

While the Panel has not considered the proposed citation and Heritage Overlay Schedule changes relating to outbuildings proposed by Council for the four places where no submissions were received, it supports the rationale for those changes being made as discussed in Chapter 7.

Given some of the other inconsistencies in documentation observed by the Panel, a final check of Amendment documents is encouraged by Council to ensure their form and content is appropriate including their application in the Heritage Overlay Schedule.

Solar energy systems

PPN01 is silent on solar energy system controls. The Panel supports Council's approach to applying solar energy system controls for the proposed heritage places so that they require a permit. A considered approach should be adopted when turning off solar energy controls to ensure identified heritage values are not compromised. The Panel was not provided with any substantial reasons why they should be turned off for any of the proposed places. The Heritage Overlay provides the appropriate control to manage the appropriate location of solar energy systems.

(v) Conclusions

The Panel concludes:

- Based on the evidence of Mr Huntersmith, Council should undertake an arboricultural assessment of places where tree controls are proposed to determine the age and health of the trees and to establish an appropriate curtilage.
- Council should review all places where tree controls are proposed to ensure the form and content of statements of significance and the Heritage Overlay Schedule are appropriate before finalising the Amendment.
- Council's approach to applying outbuilding controls is generally appropriate.
- Council's approach to solar energy system controls is appropriate.

5 ‘Wendouree’ and Canary Island Palms, and Smith Orchard Houses Group (HO285)

Exhibited Statement of Significance



Figure 1. ‘Wendouree’ at 125 Cherry Tree Road, Hurstbridge. (Source: Context 2020)



Figure 2. 173 Cherry Tree Road, Hurstbridge. (Source: Context 2020)

What is significant?

‘Wendouree’ and Canary Island Date Palms at 125 Cherry Tree Road (built in 1910), and the two Smith Orchard Houses at 173 (c1915) and 191 (c1903) Cherry Tree Road, Hurstbridge, a group of houses associated with generations of the Smith family, is significant.

Elements that contribute to the significance of the place include:

- original single-storey forms and scale (125, 173 and 191);
- original or early timber cladding and corrugated metal roofs (125, 173 and 191);
- M-profile hipped roof and symmetrical double-fronted façade design (125);
- two mature Canary Island Date Palms (*Phoenix canariensis*) in the front garden of no 125;
- asymmetric form with a projecting gabled wing, high-pitch hipped roof with a transverse gable, front verandah inset under the main roof form (173);
- stylistic detailing including the face brick chimney, half-timbering treatment to the gable end, doorway with a sidelight and highlight, and turned timber verandah posts and timber brackets (173); and
- single-storey gable roofed form with an early weatherboard-clad rear wing with skillion roof, as well as the original or early weatherboard cladding to the east elevation (191).

Later changes (especially those applied after the Smith family’s ownership) are not significant.

How is it significant?

Wendouree and Canary Island Date Palms at 125 Cherry Tree Road, and the two Smith Orchard Houses at 173 and 191 Cherry Tree Road, Hurstbridge, is of local historical, representative and associative significance to the Shire of Nillumbik.

Why is it significant?

The group of houses built for generations of the Smith family at 125, 173 and 191 Cherry Tree Road, Hurstbridge, are historically significant for its demonstration of the shire's key historical development period. The cluster of properties evidence the hayday of the fruit-growing industry between 1880 and 1910, and the continuation of the smaller-scale orcharding industry into the 1970s. The houses are built of timber and are basic in form and design reflecting the rural origins of the area. The Smith properties had close association with surrounding land, where they operated commercial orchards and other agricultural businesses including poultry farm. The two mature Canary Island Date Palm trees in the front garden of no 125 are good specimens of a very fashionable tree during the first decades of the twentieth century. **(Criterion A and D)**

The group of houses at 125, 173 and 191 Cherry Tree Road, Hurstbridge, is significant for their generational association with the Smith family. Edwin Smith and his wife Louise established orchard and farm from 1877 with 20-acre occupation licence issued under the Amending Land Act 1869. Edwin and Louisa raised their 11 children at the earlier family home 'Beaumont'. Some of their children continued working at the family orchards, settling in new homes built in the vicinity. 'Wendouree' at 125 Cherry Tree Road was built c1910 for George John Smith and his wife Barbara (née Bradley) shortly after their marriage. The c1915 house at 173 Cherry Tree Road was built for Bert Smith and his wife Mabel (née Suttie). Edwin and Violet Smith (née Bartlett) brought up nine children in the house at 191 Cherry Tree Road. The Smiths were among a number of local families who settled in the Hurstbridge/Panton Hill area, taking up a number of occupation licences in the 1860s in close proximity under the names of various family members. Members of the Smith family continued the agricultural operation for over 100 years into the 1970s. **(Criterion A and H)**

(i) The issues

The issues are whether:

- the property at 191 Cherry Tree Road, Hurstbridge should be removed from the 'Wendouree' and Canary Island Palms, and Smith Orchard Houses Group serial listing (HO285)
- the 'Wendouree' and Canary Island Palms, and Smith Orchard Houses Group (HO285) serial listing meets the threshold for historic, representative and associative significance without 191 Cherry Tree Road, Hurstbridge
- the Statement of Significance and citation for the heritage place should be amended.

(ii) Planning Practice Note 1: Applying the Heritage Overlay

In relation to group, thematic and serial listings PPN01 states:

Places that share a common history and/or significance, but which do not adjoin each other or form a geographical grouping may be considered for treatment as a single heritage place. Each place that forms part of the group might share a common statement of significance; a single entry in the Heritage Overlay schedule and a single Heritage Overlay number.

(iii) Evidence and submissions

The landowner opposed application of the Heritage Overlay to 191 Cherry Road, Hurstbridge.

The landowner of 191 Cherry Tree Road submitted:

- the house was in extremely poor condition and in a substantially altered form
- key windows and door openings had been replaced and the chimney no longer remained
- subdivision of the land has impacted its setting
- the exterior cladding and roofing materials were dilapidated and need replacing.

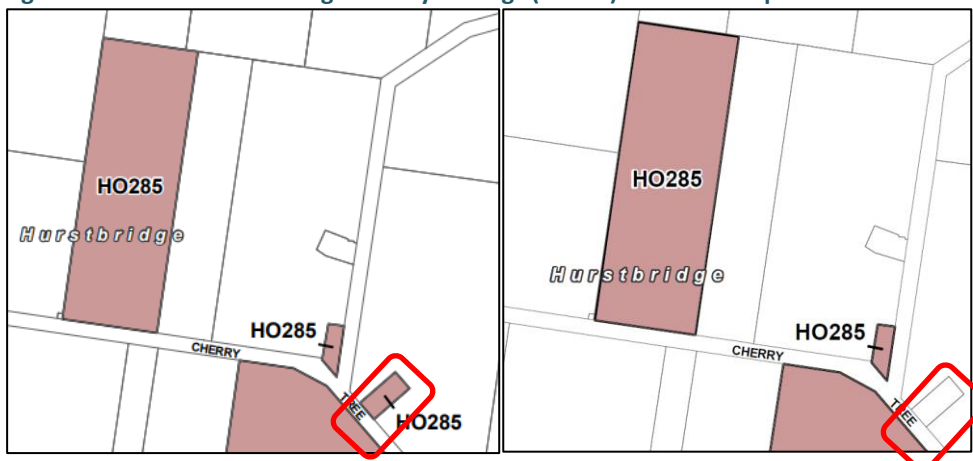
Mr Huntersmith's evidence was limited to 191 Cherry Tree Road. He:

- acknowledged the extent of alterations

- noted the house while legible as an early house, its intactness was greatly diminished by its alterations
- considered extensive remedial work would be required to bring the house back to a fair condition which would involve the removal of extensive fabric, resulting in integrity loss
- agreed the loss of the house's original setting had impacted intactness of the place
- considered while the house has historical value, its significance was better recognised through archival recording and interpretation
- recommended the following changes as part of a revised Statement of Significance:
 - 191 Cherry Tree Road be removed from the Heritage Overlay and the place name revised to *'Wendouree' and Canary Island Date Palms, and Smith orchard house*
 - the place address revised to 125 and 173 Cherry Tree Road, Hurstbridge
 - to delete references to 191 Cherry Tree Road under 'What is significant?' and 'Why is it significant?'.

In response to questions from the Panel, Mr Huntersmith considered the serial listing of the remaining two properties remained appropriate and consistent with PPN01. Council supported the evidence of Mr Huntersmith and his proposed changes to the Statement of Significance and reduction of the curtilage consistent with the revised mapping in Figure 1.

Figure 1 Exhibited Heritage Overlay curtilage (HO285) and Council's post-exhibition amended curtilage



Source: Exhibited Heritage Overlay mapping (left) and Council Part A submission (Attachment 2) amended mapping (right). Images annotated by Panel

The Panel sought clarification from Mr Huntersmith regarding the drafting of the Statement of Significance. It observed that Criterion A is grouped with both Criteria D and Criteria H under the heading 'Why is it significant?'. Mr Huntersmith advised the Panel he considered this was consistent with PPN01 and avoided content duplication. He indicated however they could be separated out. Mr Paul, when asked by the Panel, supported singling out each criterion.

In response to the submission and following further analysis Council observed:

the extent and degree of remedial works required [to the place] would be substantial. A large portion of the significant fabric would need to be replaced in order to bring the house back to fair condition resulting in a loss of the integrity of the house.

Council's post-exhibition changes proposed that 191 Cherry Road be removed from the Amendment.

While Mr Huntersmith's evidence included a list of recommended changes, neither he or Council provided a revised Statement of Significance or citation.

(iv) Discussion

Significance

The Panel's inspection of the three properties forming the exhibited serial listing confirmed:

- the extent of alterations and additions to the earlier structure at 191 Cherry Tree Road consistent with the description in Mr Huntersmith's evidence (Figure 2)
- the level of intactness and integrity of 125 and 173 Cherry Road, consistent with the description in the citation
- their spatial separation.

The Panel accepts that 191 Cherry Tree Road does not meet the threshold for significance because of the impact of changes on its integrity, and it should not be included as part of the serial listing.

The buildings at 125 and 173 Cherry Tree Road are of historical, representative and associative significance.

Figure 2 191 Cherry Tree Road, Hurstbridge



Source: Evidence of Mr Huntersmith (Figure 6.1)(Document 6)

Serial listing

The deletion of 191 Cherry Tree Road reduces the serial listing to two properties. The Panel has considered whether, in these circumstances, it is appropriate for a serial listing to apply to 125 and 173 Cherry Tree Road.

The Panel considers it is appropriate to apply a serial listing to 125 and 173 Cherry Tree Road because the buildings:

- have a common basis of heritage significance and are capable of being managed by a single Statement of Significance
- have well defined characteristics
- are recognisable as a group
- are significant heritage buildings.

Canary Island Date Palms

While no submission objected to the inclusion of the Canary Island Date Palms at 125 Cherry Tree Road as significant elements, the Panel makes the following observations consistent with its conclusions in Chapter 4.

The citation notes:

- 'Wendouree' is visible in the two aerial photographs taken in 1951 and 1987.
- The Canary Island Date Palms existed by 1951, indicating that they were planted between 1918 and 1951, during George and Barbara Smith's ownership.

On this basis, the Panel accepts it is appropriate to include the Canary Island Date Palms as heritage elements because they were planted contemporaneously with the development of the house at 125 Cherry Tree Road.

Statement of Significance and citation changes

PPN01 states:

The importance of the place needs to be justified against the heritage criteria listed above. A separate point or paragraph should be used for each criterion satisfied.

On this basis, the Panel considers the grouping of 'Criteria A and D' and 'Criteria A and H' is inappropriate. Criteria A, D and H should be explained in the Statement of Significance within separate paragraphs relevant to each criterion.

The Panel preferred version of the Statement of Significance is included in Appendix D:1. It includes the:

- changes recommended by Mr Huntersmith
- other minor changes identified by the Panel to improve clarity under 'What is significant?' and removal of the reference to a 'cluster of houses' under 'Why is it significant?'
- a notation that the criterion under 'Why is it significant?' be redrafted into separate paragraphs for each citation.

(v) Conclusions and recommendations

The Panel concludes:

- The property at 191 Cherry Tree Road, Hurstbridge does not achieve the necessary threshold for local significance.
- The remainder of the serial listing achieves the threshold of local historical, representative and associative significance, and it is appropriate to apply the Heritage Overlay to 125 and 173 Cherry Tree Road.
- The citation should be amended consistent with changes to the Statement of Significance.

The Panel recommends:

Delete application of the Heritage Overlay (HO285) to 191 Cherry Tree Road, Hurstbridge.
Amend the 'Statement of Significance: 125, 173 and 191 Cherry Road, Hurstbridge, June 2021' consistent with the Panel preferred version in Appendix D:1 and with further changes under 'Why is it significant' to include separate paragraphs for Criterion A, D and H.

6 Individual heritage places

6.1 Mechanics Institute, 906 Arthurs Creek Road, Arthurs Creek (HO309)

Exhibited Statement of Significance



What is significant?

Arthurs Creek Mechanics' Institute located at 906 Arthurs Creek Road, Arthurs Creek. The original form, materials and detailing of the Mechanics Institute with later rear addition and the former stables (1890) are integral to the significance of the site.

Additions and alterations after 1945 are not significant.

How is it significant?

Arthurs Creek Mechanics' Institute is of local historic, aesthetic and social significance to the Shire of Nillumbik.

Why is it significant?

Arthurs Creek Mechanics' Institute is historically significant as an early and important public building in the township of Arthurs Creek since 1887. Constructed in 1887, the Mechanics' Institute demonstrates the heyday of Arthurs Creek in the late 19th century, when there was a much larger population in the area and it played an important role in the townships continuing development. The building is of significance a substantially intact example of a Mechanics' institute constructed in the Shire during the Victorian period. The Mechanics' Institute is a visual reminder of the once more populous township of Arthurs Creek as it developed in the late Victorian period and early twentieth century. The Mechanics' Institute has been the venue for meetings of various clubs and associations and a wide variety of benefit events in the area's community life during that time. This has included its provision of a library and adult education services focussed on the particular needs of the local area. **(Criterion A)**

Arthurs Creek Mechanics' Institute is aesthetically significant as a substantially intact example of a weatherboard Victorian Mechanic's Institute. Key features of its late Victorian style include the all-encompassing gable roof form, timber framed double hung windows and their placement, double doors to the front, gable end decoration and weatherboard cladding. A former stable is located at the rear of the site. **(Criterion E)**

(i) The issues

The issues are whether:

- the Statement of Significance and citation for the place are accurate
- outbuildings should be exempt from notice requirements.

(ii) Evidence and submissions

The Arthurs Creek Community Centre Management Committee which manages the hall (former Mechanics Institute) acknowledged the heritage significance of the building. The submission identified two specific issues relating to the content of the citation.

First, the citation identified there was 'No' incorporated plan, however the submission said the management committee was an Incorporated body. Second, the 'former stables' referred to under 'Outbuildings and fences exempted' have been demolished. The other external structure was a storage shed constructed in 2015. It submitted this section of the Heritage Overlay Schedule should say 'No'.

Dr Paul's evidence was:

- a review of the citation and the submission confirmed *"the supposed early stables building was misidentified in the original citation"*
- the Heritage Overlay Schedule should be amended to replace 'Yes' with 'No' under the 'Outbuildings or fences not exempt under Clause 43.01' column.

Council supported the changes proposed by Dr Paul and provided an updated Statement of Significance during the Hearing (Document 24) which removed references to the outbuildings. An amended citation (Document 47) was provided with Council's Part C (Part 2) submission which included a number of grammatical and criterion corrections identified by the Panel. Council advised that the citation changes would be used to amend the final Statement of Significance.

(iii) Discussion

Significance and outbuilding controls

The Panel inspected the subject land and observed that the former Mechanics Institute Building and grounds were well presented and maintained. It was difficult to establish when the two storage buildings were erected given they have been sympathetically constructed using similar materials and roof forms. The Panel however accepts the evidence of Dr Paul that they were not stables associated with the Mechanics Institute, and there is no need for the usual notice exemptions for outbuildings not to apply.

Statement of Significance

Dr Paul did not provide a copy of an amended Statement of Significance in his evidence but acknowledged the need to remove references to the stables in the Statement of Significance. The Panel identified several errors in the Statement of Significance including (Panel's emphasis):

- reference to Mechanics'
- Heritage Place description reference to 'Arthur's Creek'
- reference to '**social**' significance in 'Why is it significant?' when it is not an attributed criterion under 'How is it significant?' (this is an error repeated in many Stage B Heritage Review statements of significance and is discussed in Chapter 7).

Dr Paul acknowledged these errors which were largely addressed in the amended citation (Document 47) although the Panel notes that the description under 'What is significant?' is expressed differently to the amended Statement of Significance (Document 24). Given the amended citation is more recent the Panel has relied on this content to inform its preferred version of the Statement of Significance. The Panel preferred version includes the removal of extraneous apostrophes under 'Why is it significant?'. The Panel notes the 'Primary source'

citation reference also needs to remove an apostrophe. Changes to the source references are discussed further in Chapter 7.

The reference in the citation to there being no 'incorporated plan' has a different statutory planning control meaning than the Centre Management Committee attributed to it being an incorporated entity. The Amendment does not provide for an incorporated plan that might for example provide for a range of further permit exemptions. The citation appropriately identifies that there is no incorporated plan.

(iv) Conclusion and recommendations

The Panel concludes:

- The Heritage Overlay Schedule should be amended to replace 'Yes - Former Stables' with 'No' in the 'Outbuildings or fences not exempt under Clause 43.01-4'.
- The Statement of Significance should be amended, generally consistent with Council's amended citation (Document 47) and consistent with the Panel preferred version in Appendix D:2.
- The citation should be amended consistent with Council's amended citation (Document 47). The updating of citations is discussed in Chapter 7.

The Panel recommends:

Amend the 'Statement of Significance: Mechanics Institute, 906 Arthurs Creek Road, Arthurs Creek, July 2022' consistent with the Panel preferred version in Appendix D:2.

Amend the Schedule to Clause 43.01 Heritage Overlay to replace 'Yes - Former Stables' with 'No' in the 'Outbuildings or fences not exempt under Clause 43.01-4' column for the 'Mechanics Institute, 906 Arthurs Creek Road, Arthurs Creek' (HO309).

6.2 Arthurs Creek Cemetery, 1165 Arthurs Creek Road, Arthurs Creek (HO311)

Exhibited Statement of Significance



What is significant?

Arthurs Creek Cemetery at 1165 Arthurs Creek Road, Arthurs Creek. The cemetery landscaping, grave sites, chapel, gates and entry tree avenue containing Cypress planted in 1959 and Sugar Gums and Oaks planted in 1963 and the pines to the boundaries and cemetery setting contribute to the significance of the place.

How is it significant?

Arthurs Creek Cemetery is of local historic, aesthetic, social and associative significance to the Shire of Nillumbik.

Why is it significant?

Arthurs Creek Cemetery is historically significant for demonstration of the early settlement of the Arthurs Creek area as well as providing documentary history of the families living in the district from its beginnings until the present day. The cemetery was gazetted in 1867 however the land on which it sits was previously part of the property, Hazel Glen owned by the Reid family. A private cemetery was established when Agnes Reid died in 1847 and was buried on a hill on the property that provided views of the ranges. The cemetery was later to be gazetted on this hilltop location. The cemetery not only demonstrates an early cemetery layout and features but the changing practices and operation of cemeteries illustrated by the initial establishment as a private burial, early, denominational layout, accommodation of multi-faiths and cremations, on site chapel, non-denominational section and bush garden landscape. **(Criterion A)**

Arthurs Creek Cemetery is aesthetically significant as a representative example of a rural cemetery established in the mid-1800s. It provides examples of late Victorian headstones and cast iron cemetery surrounds as well as demonstrating the early denominational layout of a cemetery. The bush garden section for cremated ashes is of aesthetic interest and links to the history of native landscaping in the Shire. The two sets of entry gates, pine boundary planting, entry avenue with Cypress, Sugar Gums and Oaks and picturesque hillside setting contribute to the aesthetic significance of the place. **(Criterion E)**

Arthurs Creek Cemetery is of social significance as an important commemorative site valued by the Arthurs Creek district community **(Criterion G)**.

The Arthurs Creek Cemetery contains graves of prominent families who have had a long association with the district, including the Bassett, Christian, Draper, Murphy, Reid, Sutherland and Smith families. **(Criterion H)**

(i) The issue

The issue is whether the Arthurs Creek Cemetery at 1165 Arthurs Creek Road, Arthurs Creek is of local heritage significance and the Heritage Overlay (HO311) applied.

(ii) Evidence and submissions

The Arthurs Creek Cemetery Trust opposed the Amendment because:

- Council does not have jurisdiction over crown land
- the history and heritage of the cemetery was a focus for the Cemetery Trust and further controls were not in the best interests of the cemetery or community
- the citation contains errors and inaccuracies (although these were not specified).

The evidence of Dr Paul was that it was not unusual for Heritage Overlay to apply to cemeteries at a local level. Dr Paul was unable to advise the Panel about which set of gates (at the road frontage entry or to the cemetery reserve) were significant.

Council's Part C (Part 2) submission confirmed that both sets of gates are significant. An amended citation was provided (Document 37) which included changes under the 'Statement of Significance' section to include both sets of gates under 'What is significant?' and to correct other minor errors.

(iii) Discussion

The Panel is aware that many cemeteries have the Heritage Overlay apply. In response to Panel questions, Dr Paul indicated that the rural setting and number of early graves including those of families associated with key phases of the local district's early development was significant.

In the absence of an understanding of the errors referred to in the submission, the Panel was unable to seek clarification from Dr Paul on whether further changes to the Statement of Significance or citation were required to address them. However, the Panel is satisfied that the citation provides sufficient information to underpin the Statement of Significance and establish that Arthurs Creek Cemetery meets the threshold for historic, aesthetic, social and associative significance. Council's amendments to the citation are appropriate and have been incorporated into the Panel preferred version of the Statement of Significance in Appendix D:3. The Panel preferred version includes additional minor changes to improve clarity by deleting 'representative' from the Criterion E statement. Citation changes are discussed in Chapter 7.

The Panel observes that Clause 43.01 exempts the need for a permit for future burials at the cemetery minimising the impacts of the Amendment on the Cemetery Trust.

(iv) Conclusions and recommendations

The Panel concludes:

- The Arthurs Creek Cemetery is of local historic, aesthetic, social and associative significance and the Heritage Overlay (HO311) should be applied.
- The Statement of Significance should be amended consistent with Council's amended citation (Document 37) and the Panel preferred version of the Statement of Significance in Appendix D:3.
- The 'Outbuildings or fences not exempt under Clause 43.01-4' provisions for Arthurs Creek Cemetery, should be amended to refer to the 'Road and Cemetery Reserve Gates'.

The Panel recommends:

Amend the 'Statement of Significance: Arthurs Creek Cemetery, 1165 Arthurs Creek Road, Arthurs Creek, July 2022' consistent with the Panel preferred version in Appendix D:3.

Amend the 'Outbuildings or fences not exempt under Clause 43.01-4' column for 'Arthurs Creek Cemetery, 1165 Arthurs Creek Road, Arthurs Creek' (HO311) to replace 'Yes – Gates' with 'Yes – Road and Cemetery Reserve Gates'.

6.3 Larch Hill, 2 Hillmartin Lane, Diamond Creek (HO319)

(i) The issue

The issue is whether Larch Hill at 2 Hillmartin Lane, Diamond Creek should be removed from the Amendment and the Heritage Overlay not be applied.

(ii) Evidence and submissions

Submissions 1 and 19 opposed the Amendment. In response to the submissions, Council reviewed the place and agreed that:

much of the fabric of the house is new. Some original material has been recycled but comprises only a window and verandah posts. The house no longer meets a local threshold in terms of intactness and integrity of the house.

The evidence of Dr Paul was adopted by Council and confirmed its proposed post-exhibition position to no longer apply the Heritage Overlay to 2 Hillmartin Lane, Diamond Creek. He stated:

The 2004 plans indicate that the entire house was rebuilt apart from the chimneys. The replacement house, while substantially similar to the original in overall form and recycling some limited material in terms of a window and some verandah posts, incorporated different and new window openings, new French doors to the front elevation and removed the original doorway entry as well as original verandah deck.

Consequently, the combination of alterations in detail and nearly completely new fabric mean the house no longer meets a threshold of significance in terms of integrity to the original.

(iii) Discussion

The Panel viewed the subject land from the public realm. While the house has an attractive landscape setting and retains the form characteristic to the earlier rural dwelling, the fabric has essentially been replaced. As a result, it has lost much of the original building integrity and does not achieve an appropriate threshold level to be of local heritage significance.

(iv) Conclusion and recommendation

The Panel concludes:

- Larch Hill at 2 Hillmartin Lane, Diamond Creek does not meet the threshold for local heritage significance and should be removed from the Amendment and the Heritage Overlay (HO319) not be applied.

The Panel recommends:

Delete the Heritage Overlay (HO319) from Larch Hill at 2 Hillmartin Lane, Diamond Creek.

6.4 'Greet', 162 Murray Road, Diamond Creek (HO321)

(i) The issue

The issue is whether 'Greet' at 162 Murray Road, Diamond Creek should be removed from the Amendment and the Heritage Overlay not be applied.

(ii) Evidence and submissions

The landowner submission opposed the Amendment.

Dr Paul advised that the site was visited in September 2023 with the owner and he viewed plans of previous alterations and additions. He was of the opinion the house did not meet the threshold of significance in terms of intactness and integrity and observed:

- only two rooms from the 1926 plan are unaltered
- most windows and doors have been altered, including to the front windows
- two of the four sides of the house have been completely changed by glazing at rear and addition to the side
- a new verandah and addition made to the front of the house
- original entry is no longer extant
- it is difficult to discern any original 1890s fabric or original form of the nineteenth century house within the enveloping interwar additions, rendering the section of the citation and statement of significance relating to the nineteenth century redundant
- the form of the interwar house has also been overwhelmed by multiple post-war alterations and additions, including to the front windows and doorways and the addition of the new verandah
- the outbuildings were inspected and were not considered to demonstrate any c.1917 or other notable early fabric.

Council's submission supported the evidence of Dr Paul and confirmed that it no longer proposed to apply the Heritage Overlay to 162 Murray Road, Diamond Creek.

(iii) Discussion

The Panel viewed the subject land from the public realm. While externally the original form of the dwelling can be discerned from the extension, it was readily apparent that the street facing façade had been reclad to match the extension. The Panel accepts the evidence of Dr Paul that the place has had much of its original fabric removed which has significantly impacted its level of intactness and integrity. The place does not achieve the necessary threshold to establish historic and representative significance.

(iv) Conclusion and recommendation

The Panel concludes:

- 'Greet' at 162 Murray Road, Diamond Creek does not meet the threshold for local heritage significance and should be removed from the Amendment and the Heritage Overlay (HO321) not be applied.

The Panel recommends:

Delete the Heritage Overlay (HO321) from 'Greet' at 162 Murray Road, Diamond Creek.

6.5 'Villa Bereguardo', 32-34 Perversi Avenue, Diamond Creek (HO323)

Exhibited Statement of Significance



What is significant?

The house at 32-34 Perversi Avenue, Diamond Creek, built in 1934 to designs by the architect FW Thomas for Giuseppe and Sicilia Perversi, is significant. Elements that contribute to the significance of the place include its original form, materiality and detailing, the early or original outbuilding to the northeast of the house, and the palm trees.

How is it significant?

The property at 32-34 Perversi Avenue, Diamond Creek is of local historic, aesthetic and technical significance to the Shire of Nillumbik. The property is also significant for its rarity within the Shire.

Why is it significant?

The property at 32-34 Perversi Avenue, Diamond Creek, is historically significant as a house built as a weekend residence for a prosperous Italian family based in Melbourne. Constructed in 1924, the property was initially used for leisure until 1929, when the family relocated to the site as their permanent residence. The house was named Villa Bereguardo after the town in Italy from which the Perversi family came. The presence of the Perversi family demonstrates pre-WW2 Italian migration to the Nillumbik area, and more broadly within Victoria. The house is also historically significant as an example of the increasingly popular use of concrete for residential construction in the early interwar period. **(Criterion A)**

The property at 32-34 Perversi Avenue, Diamond Creek is significant as a rare and substantially intact example of a 1920s residence demonstrating the early use of reinforced concrete in the Shire. Surviving examples of this type of construction from this period are rare, and were usually concentrated around the inner suburbs of Melbourne rather than rural areas, as the Shire of Nillumbik was at the time. **(Criterion B)**

The property at 32-34 Perversi Avenue, Diamond Creek is aesthetically significant for the substantially intact 1920s architect designed concrete house that retains many of its original features including its overall original form with hipped roof, veranda to three sides, and corner wings to the rear. The pavilion form of the house, decorative undulating veranda balustrade, timber fretwork, leadlight windows, chimneys and small gables make it a particularly good example of non-suburban bungalow design in the 1920s. The location of the house on the crest of a hill, facing the valley, and the two palm trees at the front contribute to the aesthetic significance of the site. **(Criterion E)**

(i) The issues

The issues are whether the:

- property at 32-34 Perversi Avenue, Diamond Creek is of local heritage significance and the Heritage Overlay (HO323) be applied
- palm trees should be identified as significant elements of the place and tree controls apply

- curtilage of the Heritage Overlay is appropriate
- prohibited uses permitted provisions are appropriate.

(ii) Evidence and submissions

The landowner accepted the house and outbuilding had historical significance but opposed the extent of the curtilage to the whole property and the identification of the palm trees as significant elements. The submission indicated the three palm trees were not native, two had been moved and one was in poor health and did not contribute to the significance of the place.

Dr Paul's evidence was:

- the house appears substantially intact to its original design that architecturally and aesthetically compares well with other houses of the type in the Heritage Overlay in Nillumbik
- the palm trees contribute to the aesthetic significance of the house as representative plantings of the period that contribute to the grand setting of the house and may also be contemporaneous with the occupation of the house by the Perversi family.

Dr Paul noted:

If it were established that the trees were not contemporaneous with the occupation of the house by the Perversi family, then this would reduce their contribution to the historical significance of the place.

Dr Paul confirmed in response to Panel questions that the place was of historic, rarity and aesthetic significance and not of technical significance as identified under 'What is significant?'.

The Panel questioned Dr Paul regarding the justification for permitting prohibited uses. He stated there was no reason to allow prohibited uses at this place. Council's closing submission supported permitting prohibited uses:

To give the building a wider range of future use options to ensure its long-term survival should it become necessary, including relating to farming or animals. Applications for prohibited uses would still be assessed by Council.

At the Hearing the landowner proposed the curtilage be reduced so that it applied only to the dwelling (and an adjoining 1.2-2.0 metre strip to the southern, eastern and western building edge), original outbuilding and the adjacent portion of the front garden including the larger, healthier palm tree (Figure 3). The landowner submitted the reduced curtilage would allow development of the site balance without the need for a planning permit.

Figure 3 Submitter proposed reduced Heritage Overlay curtilage



Source: Document 29

Council's Part C (Part 2) submission:

- confirmed its position that the curtilage should apply to the entire property to allow for the consideration of the impact on the place of any future additions
- included an amended citation (Document 42) which clarified the inconsistencies between the significance criteria that were applied under 'How is it significant?' and 'Why is it significant?' identified by the Panel. Council advised the revised citation would be used to finalise the Statement of Significance.

(iii) Discussion

Significance

The Panel accepts the evidence of Dr Paul that the house and original outbuilding are highly intact and have a high level of integrity. The citation provides an appropriate basis for establishing the place meets an appropriate threshold for historic, rarity and aesthetic significance.

The amended citation (Document 42) appropriately:

- confirms the place is of historic, rarity and aesthetic significance
- permits prohibited uses (although this was inconsistent with Council's stated position)
- corrects the place address to 32-36 Perversi Avenue.

Palm trees

The Panel accepts the submission of the landowner that at least two of the three palm trees have been relocated, one is not visible from the public realm and one (to the west of the driveway) is in poor health. Although no arborist reports were provided on the health of the trees this condition was not challenged by the Council or Dr Paul's evidence.

While the Panel acknowledges palm trees were an element of inter-war period landscaping (and indeed earlier periods) and they contribute to the setting of the place, it has not been adequately established that the trees were planted at the time the dwelling was constructed or planted by the Perversi family. No documents were provided such as early site plans or aerial photographs that demonstrate their provenance. The Panel is not satisfied that an appropriate threshold has been reached to reasonably conclude the palms contribute to the significance to the place beyond being consistent with the era of the dwelling and that they complement the place. This is not a sufficient basis on which to apply tree controls within a Heritage Overlay.

Curtilage

The reduced curtilage proposed by the landowner provides insufficient land around the dwelling to provide an adequate setting from the north and west (the main façade of the dwelling) given its prominent, elevated location. Given the historic, rarity and aesthetic significance of the place in this instance there is no clear basis for departing from the conventional practice of including the entire property within the curtilage. This provides an appropriate context for the place to be managed but does not prohibit other development on the site subject to a permit. In this regard the Statement of Significance would benefit from identifying the elements of the place that are not significant such as the garage, pool and associated infrastructure and other outbuildings to the rear of the dwelling. As identified in PPN01 it is useful to identify elements that are not of significance under 'What is significant?'.

Prohibited uses

There is no basis for permitting prohibited uses for this place. Despite the current application of the RCZ, the house is located in an established residential neighbourhood. Given the property size, extent of buildings, pool areas and established garden there is limited prospect of the place being used for farming.

(iv) Conclusions and recommendations

The Panel concludes:

- The house at 32-36 Perversi Avenue, Diamond Creek is of local historic, rarity and aesthetic significance and the Heritage Overlay (HO323) should be applied.
- The Heritage Overlay (HO323) should apply to the whole of the property.
- The Statement of Significance be amended, generally consistent with Council's amended citation (Document 42) but further amended consistent with the Panel preferred version (Appendix D:5) to:
 - remove references to the palm trees unless it can be established through aerial photography the trees were part of the early landscape planting by the Perversi family
 - identify the elements of the place that are not significant including later alterations and additions such as the garage, pool and associated infrastructure and other outbuildings to the rear of the dwelling.
- The citation should be amended consistent with the Panel preferred version of the Statement of Significance.
- The Heritage Overlay Schedule should be amended to:
 - not apply tree controls or permit prohibited uses
 - correct the property address as 32-36 Perversi Avenue, Diamond Creek.

The Panel recommends:

Amend the 'Statement of Significance: Villa Bereguardo, 32-34 Perversi Avenue, Diamond Creek, July 2022' consistent with the Panel preferred version in Appendix D:5.

Amend the Schedule to Clause 43.01 (Heritage Overlay) for 'Villa Bereguardo' 32 Perversi Avenue, Diamond Creek' (HO323) to:

- amend the heritage place address to '32-36 Perversi Avenue, Diamond Creek'
- replace 'Yes – palm trees' with 'No' in the 'Tree controls apply?' column
- replace 'Yes' with 'No' in the 'Prohibited uses permitted?' column.

6.6 Post Office and General Store, 920 Yan Yean Road, Doreen (HO327)

Exhibited Statement of Significance



What is significant?

The Doreen Post Office and General Store with attached residence and storeroom at 920 Yan Yean Road, Doreen, is Significant.

Elements that contribute to the significance of the place include:

- The original form of the store with splayed corner to address its siting on the intersection of two major roads
- The original materiality of the building, including brick walls and corrugated iron roof
- Key detailing of the store, including parapet wall with projecting courses, original lettering, and small window above the door on the corner splay
- The original form of the storeroom building
- The original materiality of the storeroom building, including brick walls and corrugated iron roof
- The original form of the attached residence
- The original timber materiality of the attached residence
- Original key details of the residence, including exposed rafters, timber framed windows and chimney

Other buildings on the site are not significant.

How is it significant?

The Doreen Post Office and General Store 920 Yan Yean Road, Doreen is of local historic and aesthetic significance to the Shire of Nillumbik.

Why is it significant?

The Doreen Post Office and General Store is historically significant as an early social centre for the township of Doreen, having functioned as the Post Office since 1902. The period of ownership by the Owens during the 1930s is especially significant, as the family was the longest serving storekeepers, and the current building relates to their occupation. The Post Office and Store also has associations with the tourism history of the Shire. From the late nineteenth the General Store facilitated excursionists from the city en route to the scenic points of interest in the district. It is one of only a few surviving premises that evidence the early township of Doreen and at this key crossroads within the Shire. **(Criterion A)**

The Doreen Post Office and General Store is significant as an example of an interwar brick corner commercial building with earlier attached residence. The prominent corner location on a crossroads is also evocative of the Post Office and Store's role in the centre of social activity in the town. The shop retains its original brick walls, parapet with cornice and lettering, corner entry and shop windows. The residence retains its original roof form, weatherboard walls and front inset veranda. The store on the south side contributes to the site and demonstrates the changing needs and expansion of the commercial aspects of the site. **(Criterion D)**

(i) The issues

The issues are whether the:

- Doreen Post Office and General Store at 920 Yan Yean Road, Doreen, is of local heritage significance and the Heritage Overlay (HO327) should be applied
- Statement of Significance and citation are accurate.

(ii) Evidence and submissions

The submission on behalf of the landowner, supported by heritage advice from Peter Andrew Barrett (dated 2 August 2023). Mr Barrett's advice, including suggested tracked changes to the citation, did not oppose the Amendment and supported permitting prohibited uses, but was concerned:

- about the reliance on street views rather than a detailed on site analysis, considering further detailed assessment should be undertaken before the Heritage Overlay is applied
- the citation was unclear about the significant elements of the place and greater certainty was required to minimise the financial implications of applying the Heritage Overlay.

Dr Paul advised he had undertaken a further inspection of the property and:

- the citation relied upon the exhaustive historical research carried out by Westbrooke and Mills
- despite the brick walls having been altered in recent years (including the painting of a mural on the west wall which is of no significance) they continued to illustrate the original form of the 1932-33 building
- the house dates from the period of John Davis' tenure as postmaster (1905/6-08) and it was during this period that a fire destroyed the original general store which was then rebuilt (the extant house can be dated to this period)
- the shop was extended with the current form dating to the interwar period (1933)
- the portion of the shop and house under the combined Dutch gable date to c1908
- the shop façade and extension under the hipped roof section dates to 1933, while the verandah posts are not original
- while the building has undergone change over time, these changes relate to its evolution as a combined shop and residence at the centre of the community
- its level of integrity is comparable to similar places on the Heritage Overlay and was a historical reminder of the former pattern of settlement and development in the municipality
- the place should be included in the Heritage Overlay
- no changes to the Statement of Significance were necessary.

While Dr Paul's evidence referred to changes to the citation that were not circulated with his evidence. An updated citation was subsequently provided before the commencement of Hearing Day 2 (Document 19) and prior to the landowner's Hearing submission. It included:

- in the name of the place: "*with attached residence*"
- '1908' among the relevant construction dates for the residence
- under 'Historical Context' and 'History' additional wording responding to some of Mr Barrett's comments and suggested changes
- more recent photos of the place
- minor changes against Criterion A and D under 'Assessment against criteria'
- a new 'Statement of Significance' section which:

- clarified the dates for construction of the Post Office and Store (1932-33) and residence (1908) and identified that post-war alterations are not significant under 'What is significant?'
- replaced 'aesthetic' with 'representativeness' under 'How is it significant?'

The landowner was provided with an opportunity to provide a further written submission addressing the revised citation. This was received on 20 November 2023 and sought further changes to address issues of concern including:

- not identifying buildings that are not significant, in particular the outbuildings to the east
- the lack of description of alterations for example, bricked-in sections of the western wall, now covered by the mural, insertion of an air conditioner in one of the smaller above door level windows, replacement of shop windows and that the shop verandah was a later addition
- inconsistencies about the period of construction of the Post Office and Store extension and the storeroom building, which if of a later period may not be significant
- the 'Description & Integrity' section was unclear, poorly constructed and confusing including about construction periods
- the Statement of Significance section did not include the storeroom building in the description, however it is listed as an element that contribute to the significance of the place.

Council's Part C (Part 2) submission included a further revised citation (Document 48 which was further corrected in Document 49) which:

- identified the verandah as postwar additions
- amended the place description to 'Post Office, General Store & Residence'
- under 'Statement of Significance' deleted references to the 'storeroom' building under 'What is significant?' and 'Why is it significant?' under Criterion D.

(iii) Discussion

Significance

The Panel visited the site from the public realm. While alterations to the place are evident, they have not diminished the level of intactness and integrity of the main elements of the place (the house, former Post Office and Store and storeroom, refer Figure 4).

Figure 4 920 Yan Yean Road, Doreen



Source: Stage B Heritage Review citation Figure 1. Green highlight – General Store element, yellow – residence, red – storeroom.

The significant elements of the place are clearly visible and the use of the buildings and their typology readily apparent through building form, materiality and detailing including window forms and early Post Office signage. The Panel agrees that post-war alterations and outbuildings are not significant including the storeroom to the south.

The Panel is satisfied that the place with its collective and related elements meets the threshold for historic and representative significance. This is supported by the detailed analysis contained in the citation including the comparative analysis.

Statement of Significance and citation

The Panel supports updating the Statement of Significance to reflect the proposed changes to the citation including deleting references to the storeroom and clearly identifying the elements of the place that are not significant (other buildings and post-war alterations) under 'What is significant?'. These changes reflect that outbuildings and later alterations such as changes to windows and the verandah addition are not significant. Further description of elements that are not significant are not required in the Statement of Significance.

The description of the place as 'Post Office, General Store & Residence' in the amended citation is appropriate and avoids the argument of which buildings preceded the other or are the attached buildings. The Panel preferred version of the Statement of significance (Appendix D:6) is based on Council's amended citation (Attachment 49) but amended to:

- consistently refer to 'store' as 'general store' to avoid confusion with the storeroom building
- clarify the location of the smaller general store windows above door level
- including 'elements' in the description of buildings not significant.

It is appropriate for the citation to clearly identify the later alterations, elements and additions as part of the 'Description & Integrity' section to assist in the interpretation of what is not significant about the place.

Prohibited uses

The Panel observes that the location of a former shop and storeroom building in the RCZ which prohibits these uses is an appropriate example of where using the prohibited uses permitted control can achieve a sensible planning outcome. The provision recognises the location of the place on the intersection of two main roads and the spatial relationship with the commercial precinct on the opposite corner. It also avoids ongoing uncertainty about existing use rights and enables uses that are consistent with the historic significance of the place to be allowed subject to a permit.

(iv) Conclusions and recommendations

The Panel concludes:

- The Doreen Post Office, General Store and Residence at 920 Yan Yean Road, Doreen, is of local historic and representative significance and the Heritage Overlay (HO327) should be applied.
- The Statement of Significance should be amended, generally consistent with Council's amended citation (Document 49) but further amended to reflect the Panel preferred version in Appendix D:6.
- The citation should be amended:

- generally consistent with amended version provided by Council (Document 49) and the Panel preferred version of the Statement of Significance
- to include further detail about buildings, elements and alterations which are not significant
- correct spelling and grammatical errors.

The Panel recommends:

Amend the 'Statement of Significance: Post Office & General Store, 920 Yan Yean Road, Doreen, July 2022' consistent with the Panel preferred version in Appendix D:6.

Amend the Schedule to Clause 43.01 (Heritage Overlay) heritage place description of 'Post Office & General Store' (HO327) to 'Post Office, General Store & Residence'.

6.7 'Choong House', 10 Diosma Road, Eltham (HO275)

Exhibited Statement of Significance



What is significant?

The Choong House and garden, 10 Diosma Road, Eltham, designed by architects Biltmoderne and built between 1985 and 1988 for owner Ken Choong, is significant.

Elements that contribute to the significance of the place include the:

- original sculptural built form and scale, including the distinctive 'spinal wall' and central atrium;
- Mount Gambier limestone walls;
- expanses of glazing and ribbed aluminium panels;
- elements of Gordon Ford's original bush garden landscape design, including the central atrium and courtyard spaces, ponds, volcanic boulders and native plantings; and
- open steel carport, designed by Wood Marsh and built in 1988.

How is it significant?

The Choong House and garden, 10 Diosma Road, Eltham, is of local aesthetic and associative significance to the Shire of Nillumbik

Why is it significant?

The Choong House and garden, 10 Diosma Road, Eltham, is aesthetically significant as particularly well designed and detailed architect-designed house that is carefully sited within a bush garden landscape designed by Gordon Ford. Designed by architects Biltmoderne, the building's sculptural form is expressed in a palette of limestone, aluminium and glass. The use of fluid lines, refined metal and glazing juxtaposes with the house's solid limestone massing; both a reference to and clear break from the 'Eltham style'. The architects also designed furniture for the interiors of the house, showing an integrated approach to all aspects and functions of the site. In recognition of the innovative design, the house won the 1987 RAIA Victorian Merit Award for Outstanding Architecture and was profiled in the media and in books on architecture, including Graham Jahn's *Contemporary Australian Architecture* (published in 1994). The property's aesthetic significance is further enhanced by the bush garden elements including Ford's signature use of ponds, volcanic boulders and native plantings in the various garden spaces, designed to blend with the surrounding natural vegetation on the site, as well as the steel carport, built in 1988 to designs by Wood Marsh (the architectural firm created after Biltmoderne by two of its directors, Roger Wood and Randal Marsh) in a complementary style to the house. **(Criterion E)**

The Choong House is significant as an important early residential commission for the firm of Biltmoderne. The firm were to quickly become Wood Marsh with the departure of founding partner Dale Jones-Evans in 1987, and as such the site is one of only a handful of residences designed by the earlier partnership. It can be read as a formative piece of work that influenced the designs of many of the later commissions by Wood Marsh. The commissioning of Choong House coincided with a period of great recognition for Biltmoderne, where their work was celebrated widely in the architectural community. The firm has since become internationally recognised for their work. **(Criterion H)**

(i) The issues

The issues are whether the:

- Statement of Significance and citation are accurate
- Heritage Overlay curtilage should be amended.

(ii) Evidence and submissions

The landowner supported application of the Heritage Overlay to the place but requested:

- the Statement of Significance should be revised to provide a clear and accurate basis for applying the Heritage Overlay
- the citation be updated to reflect information provided since the Stage A Heritage Review, consistent with a tracked changes version of the draft citation prepared for the landowner by Jim Gard'ner of GJM Heritage including:
 - referring to the remnants of the Gordon Ford landscape design
 - deleting the Eltham Style and furniture references
- reconfigure the curtilage of the Heritage Overlay as recommended by Mr Gard'ner, to protect the elements of the place that are of heritage significance such as the house, carport, and remnants of the Gordon Ford garden and its setting.

Mr Huntersmith's evidence acknowledged the need to correct the Statement of Significance and citation. His evidence supported:

- removing the ponds from the list of elements of Gordon Ford's original bush garden landscape design under 'What is significant?'
- removing references to the 'Eltham style' and architect designed furniture
- making minor editorial changes to the citation.

Mr Huntersmith did not support Mr Gard'ner's recommended curtilage because it did not allow for the full retention of the final stretch of the driveway from the west side of the property to the carport (including its serpentine layout) or provide a sufficient buffer to protect the native landscape setting to both sides of the driveway and ensure the landscape setting, approach experience and views of the house on approach are protected.

Through cross examination Mr Huntersmith supported a number of additional citation changes recommended by Mr Gard'ner while others received qualified support. An amended citation was subsequently provided to parties during the Hearing (Document 18). The amended citation included:

- the deletion of 'and garden' from the place description
- aspects of the Gard'ner advice and changes made to the 'Statement of Significance' including those identified in his evidence. The changes are summarised in Appendix E.

Through cross examination by the landowner, it emerged that Mr Huntersmith had:

- viewed the Gard'ner advice and reduced curtilage and provided a response to Council on a second dwelling and two lot subdivision application for the property, albeit in his role as Heritage Adviser to Council
- provided advice in response to the Amendment submission to Council that supported a reduced curtilage broadly consistent with that proposed by Mr Gard'ner but including more of the vegetation along the driveway and providing a view to the dwelling (refer Figure 5).

Mr Huntersmith verbally confirmed his support for the reduced curtilage contained in the advice to Council on the property submission.

Figure 5 Gard'ner and Paul Heritage Overlay curtilage recommendations for 10 Diosma Road, Eltham



Source: Heritage advice to Nillumbik Council from Dr Paul (GML Heritage) 15/7/22 regarding 10 Diosma Road, Eltham (Document 17). Pink shaded area – curtilage recommended by Jim Gard'ner. Orange line - curtilage extent recommended by Dr Paul. Internal white lines relate to a proposed subdivision.

(iii) Discussion

Statement of Significance

The aesthetic and associative significance of the place or the application of the Heritage Overlay was not disputed by the parties. The main concern for the landowner was ensuring the documents were accurate and appropriately reflected the Gordon Ford landscape elements. The Panel's accompanied site inspection was helpful in understanding both the level of intactness and integrity of the house and its bush setting but also the different landscape elements. The Panel is satisfied Mr Huntersmith's amended version of the Statement of Significance and citation appropriately addresses most of the submitter concerns.

Curtilage

The Heritage Overlay curtilage remains as the main issue although the curtilage supported by Mr Huntersmith was ultimately supported by the landowner and aligned with earlier officer advice to Council. The Panel was disappointed that Mr Huntersmith's earlier advice to Council regarding his response to the Gard'ner reduced curtilage and landowner's original submission was not set out in his evidence and only became apparent to the Panel through cross examination.

While there was effectively agreement between the landowner and Mr Huntersmith about the alignment of a reduced curtilage, the Panel is of the view that the basis for it has not been adequately justified. The Panel accepts the site is large with parts densely vegetated which at the eastern portion of the site screen or allow only filtered views to the dwelling. Areas to the north of the dwelling are more sparsely vegetated and provide secondary views to the service areas or rear elevations of the dwelling. While it might be possible to reduce the curtilage to exclude areas to the north and east of the parcel there are no obvious features or clear points of references such as fences to establish the curtilage boundary. This is not a good planning outcome as it creates

uncertainty and potential for future dispute. The reduced curtilage is impractical and inconsistent with the guidance in PPN01 and there are no exceptional circumstances to warrant departure from standard heritage practice.

If a reduced curtilage was to apply it could potentially be limited to the most easterly section using observable boundary angle change points. However, the utility of reducing the curtilage for this portion of the property is unclear (other than to avoid the need for permits which may still be required under other overlays that apply to the place), particularly when the remnant bush setting is identified as an element of aesthetic significance.

The exclusion of the end of the driveway's landscaped edges to align with a potential additional lot is not an appropriate basis on which to reduce the curtilage. The reduction of the curtilage consistent with an approved lot may have some merit, however the landowner advised the subdivision application that was previously proposed did not proceed and no specific development proposal was presented to the Panel.

Future vegetation removal, development or subdivision of the parcel is a matter more appropriately dealt with through a permit application which would allow the impacts of the place to be holistically assessed and managed. In this regard the curtilage analysis advice of Mr Gard'ner is an example of how a permit process might determine where future development might occur in consideration of key view lines and the significant elements of the place.

Whether or not Choong House is of State significance is not a relevant consideration for determining local significance or establishing what the curtilage should be. The issue of potential State significance is a matter for a separate Heritage Council assessment process.

(iv) Conclusions and recommendation

The Panel concludes:

- The Heritage Overlay (HO275) should be applied to the whole of the property.
- The Statement of Significance should be amended, generally consistent with Council's amended citation (Document 18) and consistent with the Panel preferred version in Appendix D:7.
- The citation should be amended consistent with Council's amended version (Document 18).

The Panel recommends:

- **Amend the 'Statement of Significance: 'Choong House' 10 Diosma Road, Eltham, June 2021' consistent with the Panel preferred version in Appendix D:7.**

6.8 ‘Tilwinda’, 130 Laughing Waters Road, Eltham (HO302)

(i) The issue

The issue is whether prohibited uses should be permitted for ‘Tilwinda’ at 130 Laughing Waters Road, Eltham (HO302).

(ii) Evidence and submissions

Parks Victoria’s submission did not oppose the Amendment but sought a change to the Heritage Overlay Schedule to allow for prohibited uses.

Parks Victoria submitted:

Parks Victoria acknowledges the importance of having Heritage Overlays on land and buildings that are accurate and enabling for the protection and enhancement of the purpose of the heritage. As a land manager with an extensive estate and a history of managing some of Victoria’s best heritage, Parks Victoria understands that the zoning and overlays need to enable the land manager to protect and conserve through a variety of means. Activating these spaces is a way that Parks Victoria can achieve the heritage values into the future.

...

Further to the reasoning here, Schedule 332 at 87 Latrobe Road Yarrambat already has the prohibited uses permitted by using the ‘yes’ function.

Parks Victoria manages a large number of heritage places across Victoria where zoning prohibits a range of uses that would otherwise enable a viable reuse. PPN1, Applying the Heritage Overlay advises that this provision “should only be applied to specific places. For example, the provision might be used for a redundant church, warehouse or other large building complex where it is considered that the normally available range of permissible uses is insufficient to provide for the future conservation of the building.” 130 Laughing Waters Road meets the test provided in the PPN-1.

Council’s submission supported allowing prohibited uses but provided no basis for the position despite being requested to do so. Dr Paul’s evidence did not address the use of the provision for this place, observing in a more general statement that allowing prohibited uses may support the adaptive reuse of redundant buildings.

(iii) Discussion

Prohibited uses

The Panel understands that ‘Tilwinda’ is currently used as an artist’s retreat and is located within the RCZ. It is not the Panel’s role to provide advice as to whether the existing or primary use of the property is a permitted use or has existing use rights.

The Panel considers that, on balance, allowing for prohibited uses is appropriate in this instance. Parks Victoria is the land manager for ‘Tilwinda’ and it is appropriate to ensure that the place is able to be used for a variety of community type uses that could otherwise be prohibited in the zone. This provides for viable uses and a potential net community benefit. Any prohibited use would still be subject to the usual planning permit process and consideration of other planning policies and the purpose and decision guidelines of the RCZ.

Statement of Significance

The Panel notes the exhibited Statement of Significance does not identify the house as being of ‘historic’ significance under ‘How is it significant?’ despite it being an identified criterion under

‘Why is it significant?’ which identify it as being of historic and aesthetic significance. This consistency error is discussed in Chapter 7.2.

(iv) Conclusions and recommendations

The Panel concludes:

- Permitting prohibited uses is supported for this place.
- The Statement of Significance should be amended to add that the place is also of ‘historic’ significance under ‘How is it significant?’.

The Panel recommends:

- **Amend the Schedule to Clause 43.01 (Heritage Overlay) to replace ‘No’ with ‘Yes’ under the ‘Prohibited uses permitted?’ column for ‘Tilwinda’, 130 Laughing Waters Road, Eltham’(HO302).**
- **Amend the ‘Statement of Significance: 130 Laughing Waters Road, Eltham, June 2021’ to add “historic and” to the description under ‘How is it significant?’.**

6.9 Diamond Valley Miniature Railway, 570-576 Main Road, Eltham (HO276)

Exhibited Statement of Significance



What is significant?

The Diamond Valley Miniature Railway, Eltham Lower Park, at part of 570 Main Road, Eltham, a miniature railway complex constructed from 1961, is significant.

Elements that contribute to the significance of the place include:

- the original scale and form of the complex within the natural bush landscape setting;
- Edwardian-style train stations and platforms, workshop and picket fencing;
- other railway elements reflecting the use such as the signal box, turntable and tracks and signage; and
- the rolling stock, which includes privately-owned assets.

Other elements that support the general recreational use of the place contribute to the use of the place but should be open to alteration.

How is it significant?

The Diamond Valley Miniature Railway Eltham Lower Park, at part of 570 Main Road, Eltham, is of local historic and representative significance to the Shire of Nillumbik.

Why is it significant?

The Diamond Valley Miniature Railway, Eltham Lower Park, at part of 570 Main Road, Eltham is historically significant as an early miniature railway complex built in Victoria. Operating at its current site since 1961, it is important as a popular long-term recreational facility within Nillumbik. It is evidence of the ongoing fascination with railways and their components. It provides physical evidence of a form of leisure activity, and tourism, that emerged during the postwar period and has remained popular as a community recreational complex. **(Criterion A)**

Constructed from 1961, the Diamond Valley Miniature Railway is significant as an early and detailed representative example of a miniature railway complex built in Victoria. It is distinguished as a substantial example that includes a comprehensive complex of buildings and infrastructure elements which are designed to be convincing replicas of an Edwardian railway system and its components. It contains numerous buildings and landscape elements which enhance the experiential qualities of the place. The incorporation of picnic facilities encouraging use, and gatherings, by the public and broader community for events and recreation is also significant. **(Criterion D)**

(i) The issues

The issues are:

- whether the place is of social significance
- whether the Statement of Significance and citation should be amended.

(ii) Evidence and submissions

The Diamond Valley Railway Inc. supported the identification of the place as being of historic and representative significance. It submitted however it had concerns about the impact of the Heritage Overlay including:

- ability to modify existing or build new structures to meet safety requirements without impacting their insurance and minimise delays associated with approvals
- on the status of existing planning permits
- on the ability to expand the current circuit and to install solar panels
- costs and time associated with making planning permit applications, designing new structures sympathetic to the Edwardian-style architecture of the place.

It submitted the “*rolling stock*” should be removed as an element contributing to the significance of the place in the Statement of Significance.

Mr Huntersmith carried out a detailed site inspection of the site in August 2023 with a member of the Diamond Valley Railway Inc. which explained identified:

the strong and special association between the railway complex and members of the Diamond Valley Railway Inc, which is longstanding and continuing. The place has been the gathering place of its members for 62 years. As noted in the submission, the development, maintenance and operation of the railway have been realised by members' efforts, who devoted their time and resources on a volunteer basis. The extant miniature railway facilities and landscaping features, such as the 'Avenue of Honour' that commemorates members who passed, are tangible evidence of this strong attachment. I recommend that the strong social value is acknowledged through the application of Criterion G (social value).

He included an amended Statement of Significance in his evidence which included under 'What is significant?' removing 'rolling stock' as a significant element and:

- adding the ongoing use of the site as a miniature railway and integration with the landscape setting and its railway operation
- adding the 'Avenue of Honour'
- clarifying signal box and signals references, gauge scale and scale of the Edwardian-style elements
- adding contributing elements including later railway infrastructure and other operational supporting structures.

These changes were included in a track-change version of the Statement of Significance. Council supported Mr Huntersmith's recommended changes but was unaware if the Diamond Valley Railway Inc. was aware of his recommendation to add Criterion G. It undertook to advise the submitter before providing its Part C (Part 2) submission although that submission did not refer to that discussion having taken place.

(iii) Discussion

Significance

There was no dispute through submissions or evidence that the Diamond Valley Miniature Railway is of historic and representative significance. On this basis the Panel has not considered whether the threshold for significant against Criterion A and D has been achieved. The Panel supports the methodology applied to preparing the Heritage Reviews and citations which have informed the Statement of Significance.

PPN01 identifies that Criterion G (social) relates to *“Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons.”* The Panel is satisfied that based on the evidence of Mr Huntersmith there has been an important and ongoing association between the volunteers who have been operating the miniature railway for over 60 years. This is not reflected in the exhibited Statement of Significance.

The Panel encourages Council to pursue discussions with the Diamond Valley Railway Inc. to discuss the addition of social significance prior to adopting the Amendment and final version of the Statement of Significance.

Changes to Statement of Significance

The Panel supports the changes to the Statement of Significance proposed by Mr Huntersmith to clarify elements of significance and add social significance as set out in its preferred version in Appendix D:8. Proposed changes include, under the heading ‘What is significant?’:

- removing reference to the ‘ongoing use’ of the site as a significant element
- removing the statement *“Other elements that support the general recreational use of the place contribute to the use of the place but should be open to alteration”* which is vague and unclear
- identifying that later railway infrastructure is not significant.

The Panel has observed the Statement of Significance and citation describes the place as ‘part of 570 Main Road’ whereas the place references in the schedules to clauses 43.01 and 72.04 refer to ‘570-576 Main Road’. Council should review the address descriptions and apply the appropriate one.

Other issues

Issues relating to the ability to expand and modernise infrastructure, application costs or status of existing permits are discussed in Chapter 3. They are not a relevant consideration in determining the heritage significance of a place. Solar panel provisions are discussed in Chapter 4. The Panel supports Council’s position not to exempt the need for planning permits for solar panels to ensure any impacts of their siting can be appropriately managed.

(iv) Conclusions and recommendation

The Panel concludes:

- The Diamond Valley Miniature Railway meets the threshold for local social significance, in addition to historic and representative significance.
- The Statement of Significance should be amended consistent with the changes identified in the evidence of Mr Huntersmith and the Panel preferred version in Appendix D:8 including adding ‘social’ to the description of ‘How is it significant?’.
- The place address references should be confirmed to ensure document consistency before finalising the Amendment documentation.
- The citation should be amended consistent with the changes to the Statement of Significance.

The Panel recommends:

Amend the ‘Statement of Significance: Diamond Valley Miniature Railway, 570-576 Main Road, Eltham, June 2021’ consistent with the Panel preferred version in Appendix D:8.

6.10 Eltham War Memorial Building Complex 903-907 Main Road, Eltham (HO293)

Exhibited Statement of Significance



What is significant?

The Eltham Memorial Building Complex at 903-907 Main Road, Eltham, is significant.

The following features / components contribute to the significance of the place:

- Former Infant Welfare Centre building (1950-51);
- War Memorial Gates (1954);
- Eltham Preschool (1956);
- War Memorial Hall (former Children's Library) (1961);
- Stone sundial dedicated to Mrs Ada Lyon;
- Remnant stone rubble garden walls.

The Senior Citizens Centre building is of historical interest only.

How is it significant?

The Eltham War Memorial Buildings, Eltham, are of local historical, architectural (representative), and social significance to the Shire of Nillumbik.

Why is it significant?

The Eltham War Memorial Building Complex is historically significant as a group of community buildings in Nillumbik that incorporated a range of community services and facilities. The complex included infant and child welfare, children's library, senior citizens centre, gates and gardens, and demonstrates the concept of a 'useful' or functional war memorial. The complex evidences the dedicated work by community groups in the postwar period in organising fundraising and managing the construction both of local war memorials and local community facilities across Victoria. The combined community and memorial functions of the Eltham War Memorial complex demonstrate the efficient and pragmatic use of limited resources. While the construction of buildings associated with infant and child welfare was not a rare type of war memorial building, a coordinated complex of several child welfare buildings as a war memorial is rare in Victoria.

(Criterion A)

The collection of structures comprising the Eltham War Memorial Building Complex are largely intact, highly representative examples of Modernist architect-designed community buildings. Key design elements across the collection of buildings include the overall simplicity of the buildings, the simple box-like built forms with flat (Infant Welfare centre) or low-pitched gable roofs (Preschool and War Memorial Hall) and large expanses of windows. The War Memorial Gates are an excellent representative example of memorial gates for their period. The slate clad pillars, wrought-iron gates and arched wrought iron scroll are all typical landscaping materials used in the 1950s. **(Criterion D)**

The former Infant Welfare Centre is distinguished by its box-like form, which is emphasised through its use

of planar wall surfaces and parapet, and is representative of a modern functionalist approach to design. The Preschool and War Memorial Hall buildings demonstrate characteristics of the 'Melbourne School' of post-war modernist architecture. This is reflected in their use of a steel portal frame to create an internal single span space that is enclosed with a lowpitched gable roof and large non-structural timber framed window walls. **(Criterion D)**

The Eltham War Memorial Building Complex is of social significance for its long and continuing associations with the local Eltham community to remember and honour those who fought in World War II. The site as a whole has played an ongoing role in the civic life of the local Eltham community since 1952, when the Infant Welfare Centre first opened on the site. The Eltham preschool, which has operated from the site since 1956, and the War Memorial Hall (former Children's Library) have served the community for over sixty years for various functions and activities, including the provision of services for children and meetings of local groups. **(Criterion G)**

(i) The issue

The issue is whether the Heritage Overlay curtilage is appropriate.

(ii) Submissions

Submissions 10 and 18 (Eltham Community Action Group) supported application of Heritage Overlay (HO293) without change. The Eltham Community Action Group identified it had sought inclusion of the place on the Victorian Heritage Register. While that application for listing at a state level was not ultimately supported, it relied on its submission to the Heritage Council Victoria in support of local heritage protection.

While not identified in the original submission, Submitter 11 considered that inclusion of the whole place within the Heritage Overlay prevented the redevelopment of part of the site for other community uses.

(iii) Discussion

The Panel supports the inclusion of the Eltham War Memorial Building Complex in the Heritage Overlay. While the buildings themselves are not aesthetically significant, they are of historic value as they are representative of Modernist architect designed community buildings. The places' heritage values also relate to:

- historic significance, particularly as a potentially rare example of a war memorial that incorporates a complex of community buildings funded by the community
- social significance to the local community, for its ongoing use for community use and memorials.

The significance of these elements is well set out in the citation. As identified by Council the application of the Heritage Overlay does not prohibit appropriate future development of the site and there is no need to reduce the curtilage to provide for future development opportunity.

The Statement of Significance should be revised to replace the reference to 'architectural (representative)' significance under the 'How is it significant?' with 'representative' consistent with the PPN01 criterion terminology.

(iv) Conclusions and recommendation

The Panel concludes:

- It is appropriate to include the entire place in the Heritage Overlay as proposed.
- The Statement of Significance should be amended under 'How is it significant?' to read:

“The Eltham War Memorial Buildings, Eltham, are of local historic, representative and social significance to the Shire of Nillumbik.”

The Panel recommends:

Amend the ‘Statement of Significance: Eltham War Memorial Building Complex, 903-907 Main Road, Eltham, June 2021’ to replace the sentence under ‘How is it significant?’ with:

“The Eltham War Memorial Buildings, Eltham, are of local historic, representative and social significance to the Shire of Nillumbik.”

6.11 House, 14-16 Warringah Crescent, Eltham (HO284)

Exhibited Statement of Significance



What is significant?

The house at 14-16 Warringah Crescent, Eltham, a concrete block and timber house built c1975 to a design by Peter Carmichael of Cocks Carmichael, is significant.

Elements that contribute to the significance of the place include:

- original form and scale of the house, designed to embrace the steeply sloping site;
- original materiality of the house, including concrete blocks, concealed flat steel deck roofs and horizontal timber boarding;
- original window and door openings and joinery
- open carport, constructed out of matching concrete blocks and timber; and
- siting on a steeply sloping block of land with the retention of its bush setting.

How is it significant?

The house at 14-16 Warringah Crescent, Eltham, is of local representative and aesthetic significance to the Shire of Nillumbik.

Why is it significant?

The house at 14-16 Warringah Crescent, Eltham, is of aesthetic and representative significance as a well-detailed architect-designed house that responds to its sloping bushland block. Designed by architect Peter Carmichael of Cocks Carmichael, the building's form is a carefully composed arrangement of low interlocking angular and rectilinear volumes set over two levels. Materially, the house has a restrained palette of clay-coloured concrete blocks and naturally finished horizontal timber weatherboard cladding. This palette responds chromatically to its landscape setting. The pursuit of complex and abstract geometry marks a distinct break from the 'Eltham Style' while the use of a natural palette of materials and low-lying forms maintains links with the earlier style. The property's aesthetic significance is further enhanced by the purposeful retention of its bush setting. **(Criteria D and E)**

(i) The issues

The issues are whether the:

- House at 14-16 Warringah Crescent, Eltham is of local heritage significance and the Heritage Overlay (HO284) should be applied
- Heritage Overlay curtilage should be reduced to apply to 16 Warringah Crescent, Eltham only
- Statement of Significance and citation are accurate.

(ii) Evidence and submissions

The landowner of 14 and 16 Warringah Crescent, Eltham opposed the Amendment because of the nature of changes to Warringah Crescent which had diminished the heritage character of the area and that the Amendment was *“too little, too late”*. The submission requested that if the Amendment was to proceed, it should not apply to the vacant parcel at 14 Warringah Crescent which was purchased after the construction of the house.

The evidence of Mr Huntersmith was:

The subject house, a concrete block and timber house built c1975 to a design by Peter Carmichael of Cocks Carmichael, is assessed to be of local representative and aesthetic significance to the Shire of Nillumbik as a well-detailed house that responds to its sloping bushland block.

He considered it a notable example of the style and period that retains its original material palette and materiality, is highly intact and compared well (better than most) to its comparators.

Mr Hammersmith’s research confirmed that the dwelling at 14 Warringah was constructed in 1973-74 before purchase of 16 Warringah Crescent. He considered the ‘bushscape’ at 16 Warringah provided an adequate setting and that the Heritage Overlay curtilage should exclude 14 Warringah Crescent.

Council provided an amended curtilage map (Figure 6) with its Part A submission.

Figure 6 Exhibited Heritage Overlay curtilage (HO284) 14 and 16 Warringah Crescent, Eltham and Council’s post-exhibition amended curtilage



Source: Exhibited Heritage Overlay mapping and Council Part A submission (Attachment 7)

(iii) Discussion

Significance

The Panel had some concern that the bar of significance threshold was potentially being set too low with references to an architect designed house on a sloping block. However, following its

inspection of the place from the public realm, the Panel accepts the evidence of Mr Huntersmith that the house demonstrates a high level of intactness and integrity to its original design and setting. It represents a marked departure from the 'Eltham Style' and is a good example of an architectural style of the period identified as important in the development of Eltham and identified in the thematic environmental histories. Notably the historic significance criterion has not sought to be applied.

The Panel considers that the statements for Criteria D and E should be separated out under 'Why is it significant?' to provide greater clarity about the reasons for significance. This should be done in such a way that does not introduce new material or material that is not within the citation.

Curtilage

The Panel supports the reduction in curtilage so the Heritage Overlay only applies to 16 Warringah Crescent. The reduced curtilage provides sufficient contextual bush setting for the house and views to it from the street, and relates to the lot as it existed when the house was first constructed.

Other issues

As discussed in Chapter 3 issues associated with maintenance and the need for permits for alterations and financial impacts are not a basis for determining whether a place is of heritage significance or not.

(iv) Conclusions and recommendations

The Panel concludes:

- 16 Warringah Crescent, Eltham is of local representative and aesthetic significance and the Heritage Overlay (HO275) should be applied.
- The curtilage of the Heritage Overlay (HO275) should be reduced to apply to 16 Warringah Crescent, Eltham only.
- The Statement of Significance should be amended consistent with the Panel preferred version in Appendix D:9 to:
 - remove references to 14 Warringah Crescent
 - redraft the statement under 'Why is it significant' to provide separate paragraphs for Criterion D and Criterion E.
- The Heritage Overlay Schedule should be amended to reflect the amended heritage place address.
- The citation should be amended consistent with the changes to the Statement of Significance.

The Panel recommends:

Amend the curtilage of the Heritage Overlay (HO284) to apply to 16 Warringah Crescent, Eltham only.

Amend the Schedule to Clause 43.01 (Heritage Overlay) to amend the heritage place description and address for 'House 14-16 Warringah Crescent, Eltham' (HO284) to 'House 16 Warringah Crescent, Eltham'.

Amend the 'Statement of Significance: House, 14-16 Warringah Crescent, Eltham, June, 2021' consistent with the Panel preferred version in Appendix D:9 and with further changes under 'Why is it significant' to include separate paragraphs for Criterion D and Criterion E.

6.12 Macmahon Ball House and Study, 61 and 61A York Street, Eltham (HO279)

Exhibited Statement of Significance



What is significant?

The Macmahon Ball House and Study at 61 York Street, Eltham, comprising of a study built in 1948 to a design by Alistair Knox, a pise section with attic floor constructed c1948 to a design by John Harcourt, and an extension built in 1959 to another design by Alistair Knox, all for the owner Professor (William) Macmahon Ball, is significant.

Elements that contribute to the significance of the place include:

- 1948 mudbrick study, inclusive of its mudbrick walls, chimney gable roof and original window and door openings and joinery;
- c1948 pise portion of the house, inclusive of steep gable roof form, dormer window, chimney and original window and door openings and joinery; and
- 1959 main portion of the house, inclusive of its original built form, shallow gable roof, vertical timber wall linings and horizontal base boards, and original window and door openings and joinery.

The mudbrick 1950 pottery ('The Pottery') with contemporary extension and the bush setting also contribute to the significance of the place.

How is it significant?

The Macmahon Ball House and Study at 61 York Street, Eltham, is of local historic, representative, and associative significance to the Shire of Nillumbik

Why is it significant?

The Macmahon Ball House and Study at 61 York Street, Eltham, are of historical significance to the Shire of Nillumbik. Like many properties associated with other local artists and intellectuals houses in the area, the property was developed in stages as needs arose and finances became available, using simple building forms and materials. The buildings show the development of the site as the residence for prominent professor of political science, diplomat, author, journalist and radio broadcaster William Macmahon Ball who lived at the property between 1945 until his death in 1986. The complex of buildings provides important evidence of the collaborative work of key building designers active in Eltham in the postwar period, namely Alistair Knox and John Harcourt. In this way the buildings on the site are significant for their contribution to the ongoing understanding of the history of the Shire of Nillumbik and particularly Eltham as a centre for artists, writers, and intellectuals after World War II (**Criterion A**).

The mudbrick study at 61 York Street, Eltham, is an important example of the early work of designer and builder Alistair Knox in the suburb. The building is predated only by the English House in Lower Plenty (now Shire of Banyule), and is the first example in Eltham of the earlier building forms and materials that would inform much of Knox's later career as a well-known and prolific local designer and builder. Between 1946 and 1986 Knox designed over 1000 houses, and a number of churches, schools and other buildings in

Nillumbik. Knox built approximately 350 of these himself, and he is best remembered for his use of mudbrick throughout many of these sites. Knox was integral in the development of the recognisably regional 'Eltham style' of architecture and landscape practice. Builder John Harcourt also contributed to the complex as a builder of the c1948 pottery studio (likely at today's 61A York Street). Harcourt, along with Alistair Knox and Peter Glass, played a significant role in the development of the 'Eltham style' of architecture and design and were associated with the development of the Australian bush garden aesthetic. **(Criterion D)**

The site is significant to the Shire of Nillumbik for its associations with William Macmahon Ball (1901-1986), prominent professor of political science, diplomat, author, journalist and radio broadcaster. Ball lived at the site for 41 years from 1945 until his death in 1986. In 1946 Ball was appointed British Commonwealth member of the allied Council for Japan and was Australia's delegate in the Japanese peace negotiations. Ball wrote innumerable articles and book reviews while living at 61 York Street presumably working on many of these from his desk in his mudbrick study. **(Criterion H)**

(i) The issues

The issues are whether the:

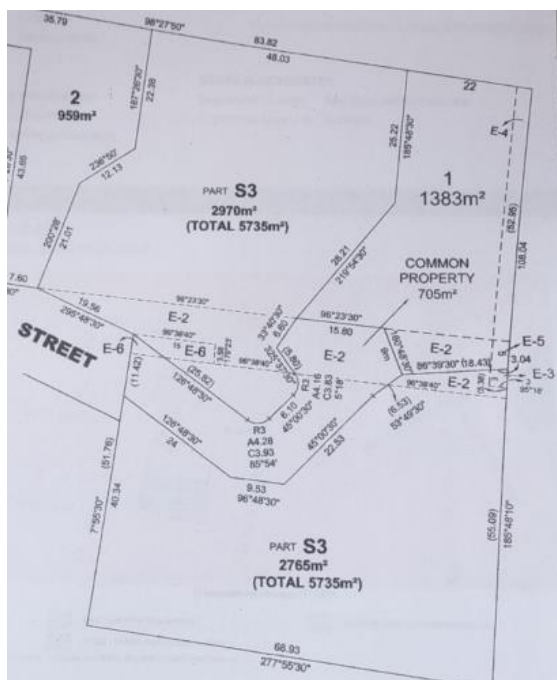
- Macmahon Ball House and Study, 61 York Street, Eltham is of local heritage significance and the Heritage Overlay (HO279) should be applied
- Statement of Significance and citation are accurate
- Heritage Overlay curtilage should be reduced.

(ii) Evidence and submissions

Submission 5 set out the land ownership arrangements for the family members occupying 61, 61A and 71 York Street, Eltham which included (refer Figure 7):

- the Macmahon Ball House and Study located at 61 York Street (the northern portion of Lot S3 PS320805)
- the pottery located at 61A York Street (the southern portion of Lot S3 PS320805)
- a common property driveway area separating the two portions of Lot S3 and providing access to 71 York Street (Lot 1 PS320805).

Figure 7 Plan of subdivision PS320805 61, 61A and 71 York Street, Eltham



Source: Document 12

The submission from the part owner of the property did not support the application of the Heritage Overlay to the entire property and submitted that it should be limited to the early Harcourt building (excluding the 1959 extension which has been partly demolished or renovated) and the Macmahon Ball Study. It was submitted:

- the curtilage extent did not reflect the subdivision of the land that created 61 and 61A York Street and provided access to 71 York Street
- the citations and statements of significance should reflect the current conditions and remove interior photographs that were incorrectly identified or taken without consent
- the Heritage Overlay would make future amenity upgrades to make the place more habitable difficult.

Submitter 5 (related to the current owners) and who accesses their property across 61 York Street (common property area), supported inclusion of part of the place in the Heritage Overlay ('Mac's old study' and the 'pise' portion of the house). The submission however opposed application of the Heritage Overlay to the entire property because of:

- the poor condition of the pottery and the house, and nature of alterations and additions (including the 1980's house extensions, use of different roof materials, the location of services, solar panels, water tank and air conditioner) which impact the integrity of the place
- the cramped and uncomfortable dwelling amenity
- issues relating to the accuracy or appropriateness of the citation and Statement of Significance content including:
 - building extension timing and descriptions
 - attributions to Alistair Knox
 - incorrect names or inclusion of former resident names without consent (raising issues of privacy)
 - incorrectly attributing associative significance to the place
 - its reliance on secondary historic sources and street inspection.

The evidence of Mr Huntersmith was:

During the Stage A assessment, the site was inspected from the public domain only, which is not unusual, especially for individual houses. The assessment considered the intactness and integrity of the place based on the findings from the inspection and contemporary aerial photographs.

Following a more recent site visit he recommended that the citation be amended to account for the following changes:

- the 1980s building in the breezeway between the c1948 'pise' house and the 1959 Knox extension
- the 1980s demolition of the original entry to the house, the building of a new entry hall and link joining the 1959 Knox extension to the 1948 Knox mudbrick study
- recladding of the roof to the c1948 pise house with corrugated metal
- the location of the 1950 pottery building was confirmed and found to have a high level of intactness and integrity.

Mr Huntersmith considered the alterations were sympathetic to the 1959 Knox extension using similar materials and architectural details. While the joining of the 1959 Knox house to the c1948 'pise' house and 1948 mudbrick study in the 1980s with a breezeway had impacted the intactness of the place, the 'pise' house and mudbrick study remain legible (1959 Knox extension less so).

The two earlier buildings were of 'primary' significance for their association with Knox and Harcourt as early examples of what would evolve into a recognised regional 'Eltham Style'. During the late 1950s and early 1960s Knox developed an 'experimental house' using a purer Modernist idiom. The 1959 extension falls into this period of Knox's mid-career work and while of interest was of 'secondary' significance.

Mr Huntersmith's evidence included an amended Statement of Significance which:

- included only the mudbrick study (1948), pise house (c1948) and the mudbrick pottery (1950) as early examples of the 'Eltham style'
- deleted reference to the 1959 Knox extension.

In relation to the Heritage Overlay curtilage Mr Huntersmith observed:

After visiting the site, it is agreed that the largely vacant land to the south of the shared driveway and the driveway itself could be excluded from the curtilage of the proposed HO. This approach aligns with the PPN01 guidance,...

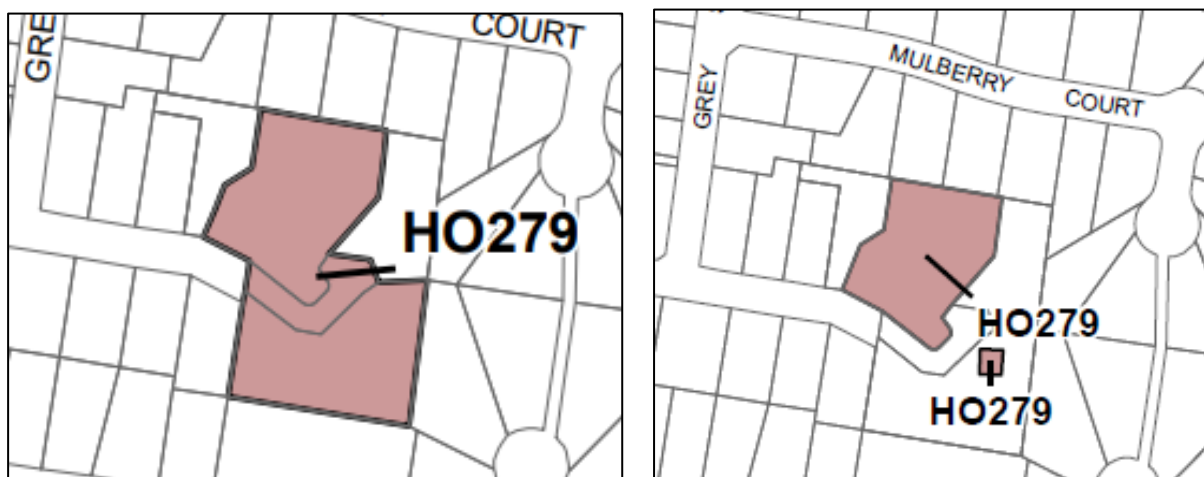
In this instance, the upper portion of the land to the north of the shared driveway provides sufficient curtilage to ensure that the setting and context of the heritage place are retained. The inclusion of a larger area of surrounding land is unlikely to have any positive heritage benefits or outcomes. It is proposed to place a second polygon over the 1959 pottery with a three-metre (to the north and south) and five-metre (to the west) buffer zone.

Mr Huntersmith's other recommended changes included:

- amending the place name to 'The Macmahon Ball house (pise section), study and pottery'
- amending the place address to '61 and 61A York Street, Eltham'
- minor changes to the place citation to:
 - replace cover images (Figures 1 and 2) with GML photographs
 - reflect information about the pottery
 - remove personal names and Figures 15, 16 and 17.

Council supported Mr Huntersmith's proposed changes and provided a revised Heritage Overlay map with a reduced curtilage (Figure 8).

Figure 8 Exhibited Heritage Overlay curtilage (HO279) and Council's post-exhibition amended curtilage



Source: Exhibited Heritage Overlay mapping (left image) and Council Part A submission (Attachment 2)(right image)

(iii) Discussion

Significance

The significance of Alistair Knox is well set out in evidence, citations and the Nillumbik thematic histories. He is generally regarded as Victoria's foremost mud brick house designer of the twentieth century and was one of the early main proponents of environmental design. He designed approximately 300 mud brick houses, most of which were constructed in two periods - the period before 1955, and the period broadly after 1964. Mud brick buildings, of which the Study on this property is the second he designed, were an innovative response to the shortages of building materials in the years that immediately following World War 2.

There was general agreement between Council, Mr Huntersmith and submitters that the 1948 mudbrick study and c1948 'pise' portion of the house were significant. Despite some alterations, repairs and façade deterioration these elements are substantially intact and have a high level of integrity. The citation and evidence provides a sufficient basis to conclude that despite later additions which are not significant, these elements meet the threshold for historic, representative and associative significance.

The changes proposed to the Statement of Significance and citation by Mr Huntersmith are generally appropriate. However, the Panel is not satisfied that pottery building meets the threshold for significance. While the pottery is contemporaneous with the 1948 elements and shares the same materiality and contributes in part to the setting, it has been largely subsumed into the later dwelling to the point where it is overwhelmed by it. The dwelling while using sympathetic materials and form contrasts the simpler form of the pottery which was partially demolished to accommodate it. The pottery appears now to be an extension to the dwelling and has lost its stand alone outbuilding quality. The building roof has been entirely replaced by colorbond roofing and guttering. There remains some doubt it was ever used as a pottery. Even if the building was used as a pottery or artist studio, it is difficult to appreciate it for this purpose as it now exists.

Curtilage

On the basis that the Panel considers the pottery is not a significant element, it should not be included in the Heritage Overlay curtilage. The Panel supports the reduction of curtilage so that it extends only to 61 York Street (the portion of Lot S3 to the north of the common property). While the Panel acknowledges this curtilage still retains the later carport structure and other outbuildings, these areas are important for protecting the setting of the significant place elements and views to them from within the site.

Statement of Significance

The Statement of Significance should be amended consistent with the Panel preferred version in Appendix D:10 to:

- remove references to the pottery including the involvement of John Harcourt in its construction
- remove the statement under Criterion H suggesting Ball's writing took place while *"presumably working on many of these from his desk in his mudbrick study"*. This is speculative and should not be attributed to the threshold for significance without some substantiation.

(iv) Conclusions and recommendations

The Panel concludes:

- The Macmahon Ball House and Study at 61 York Street, Eltham is of local historic, representative and associative significance and the Heritage Overlay (HO279) should be applied.
- The former pottery building does not achieve the necessary threshold for heritage significance.
- The Statement of Significance as amended by Council is generally appropriate subject to the removal of the pottery as a significant element, and other changes consistent with the Panel preferred version in Appendix D:10.
- The Heritage Overlay curtilage should be reduced to the mapped extent proposed by Council for 61 York Street (north of the common property on PS320805) and the separate mapped polygon for the pottery identified in Figure 8 deleted.

The Panel recommends:

Amend the curtilage of the Heritage Overlay (HO275) so that it applies to 61 York Street, Eltham (Lot S3 PS320805 north of the common property) only.

Amend the 'Statement of Significance: Mcmahon Ball House and Studio, 61 & 61A York Street, Eltham, June 2021' consistent with the Panel preferred version in Appendix D:10.

Amend the Schedule to Clause 43.01 (Heritage Overlay) to amend the heritage place description and address to 'Macmahon Ball House and Studio, 61 York Street, Eltham'.

6.13 'Hillside', 23 Glen Park Road, Eltham North (HO280)

(i) The issue

The issue is whether 'Hillside' at 23 Glen Park Road, Eltham North should be removed from the Amendment and the Heritage Overlay not be applied.

(ii) Evidence and submissions

The landowner submission opposed the Amendment based on the extensive changes made to the dwelling and the removal of all orchard plantings.

In response to the submission Council reviewed the place and agreed:

the extent and degree of remedial works required [to the place] would be substantial, due to the deterioration of the structural timber and exterior cladding.
the overall impact of the compounded building alterations diminishes the place's integrity
...we agree that this place does not meet the threshold for local significance.

Mr Huntersmith said:

- I agree that the physical fabric of the house evidences its development in stages. The eastern and central rooms appeared to have been built at the same time or close together. The western room and the rear portion comprising the kitchen and bathroom appear to have been built later, likely dating from the postwar period. (The lean-to had been identified as a postwar addition in the GML assessment, based on evidence available through historical aerial photographs.)
- Further alterations to the exterior are also noted. These include changes to the fenestration (infill of doorways) and the front verandah.
- While the house is legible as an early house in the area, its intactness has been diminished due to the stages of change introduced to the building.

Council's submission confirmed its proposed post-exhibition position to no longer apply the Heritage Overlay to 'Hillside' House. Council advised that an application for demolition was received on 11 May 2023 and a decision was pending.

(iii) Discussion

The Panel viewed 'Hillside' from the public realm. It observed alterations to the building consistent with Mr Huntersmith and agrees those changes have compromised the integrity of the place.

(iv) Conclusion and recommendation

The Panel concludes:

- 'Hillside' at 23 Glen Park Road, Eltham North does not meet the threshold for local heritage significance and should be removed from the Amendment and the Heritage Overlay (HO280) should not be applied.

The Panel recommends:

Delete the Heritage Overlay (HO280) to 'Hillside' at 23 Glen Park Road, Eltham North.

6.14 House, 144 Progress Road, Eltham North (HO282)

(i) The issue

The issue is whether the house at 144 Progress Road, Eltham North should be removed from the Amendment and the Heritage Overlay not be applied.

(ii) Evidence and submissions

Submission 13 opposed the Amendment. In response to submissions Council reviewed the place and agreed:

the overall impact of the compounded building alterations diminishes the place's integrity
...we agree that this place does not meet the threshold for local significance.

Mr Huntersmith's evidence was:

At the time of the Context assessment, the house was believed to be a 'fine' example that is exemplar of the development phase of Nillumbik when it became a more sought-after suburban area. The house was among one of the houses designed by an up-and-coming architect that featured better than typical attributes of its type.

During the review of the submission and recent site images (provided by the Nillumbik Shire Council) and preparation of this response, I noted the following alterations, in addition to the changes noted in the citation:

- demolition of an external blockwork partition wall;
- bagging rendering and painting to the original exposed concrete blocks;
- skylights on the primary (northern) roof plane;
- polycarbonate roof sheeting over the sloping path to the front door;
- levelling and replacement pavement along the front footpath; and
- some replacement doors and windows.

While some of these changes are reversible and are maintenance works, the overall impact of the compounded alterations diminishes the place's integrity.

Council confirmed its proposed post-exhibition position to no longer apply the Heritage Overlay to the house at 144 Progress Road, Eltham North.

(iii) Discussion

The Panel inspected the house at 144 Progress Road. It agrees that the extent of building changes has compromised the level of intactness and integrity of the place, and application of the Heritage Overlay is not warranted.

(iv) Conclusion and recommendation

The Panel concludes:

- The house at 144 Progress Road, Eltham North Greet does not meet the threshold for local heritage significance and should be removed from the Amendment and the Heritage Overlay (HO282) should not be applied.

The Panel recommends:

Delete the Heritage Overlay (HO282) from 144 Progress Road, Eltham North.

6.15 'Coombe House', 200 Ryans Road, Eltham North (HO283)

Exhibited Statement of significance



What is significant?

The Coombe House at 200 Ryans Road, Eltham North, a single-storey timber-framed and clad interwar bungalow built c1933 for Elsie and George Coombe, is significant.

Elements that contribute to the significance of the place include:

- original asymmetrical bungalow form and scale;
- transverse gable roof form, with front verandah;
- remaining brick chimney;
- canted bay window with flat roof and exposed rafters; and
- deep setback, garden setting and elevated position above the roadway.

The outbuildings, front fence and rear extensions are not significant.

How is it significant?

The Coombe House at 200 Ryans Road, Eltham North, is of local historic and representative significance to the Shire of Nillumbik.

Why is it significant?

The Coombe House at 200 Ryans Road, Eltham North, is historically significant as a house built in the Glen Park Estate area of Eltham North during the 1930s, demonstrating the uptake of properties during the interwar period. Although the Glen Park Estate had been subdivided prior to World War I, the interruptions resulting from the outbreak of war, the Depression, and a lack of services, meant that the land was not rapidly developed. The subject site is important as one of the earliest surviving houses from this initial development period of the Glen Park Estate area of Eltham. **(Criterion A)**

The house at 200 Ryans Road is also of representative significance, as a 1930s timber house built during the time when a general lack of material affluence was evident. The house demonstrates key elements typical of 1930s bungalow, which were designed with more restrained decorative detailing than bungalow types of earlier decades. The house displays elements of the bungalow style, including a main gabled roof form with an intersecting transverse gable to the principal façade and projecting bay with a flat roofed canted bay window. 200 Ryans Road is also representative of the type of housing being built in formerly rural areas surrounding Melbourne, as they rapidly suburbanised during the interwar period. **(Criterion D)**

(i) The issue

The issue is whether Coombe House at 200 Ryans Road, Eltham North is of local heritage significance and the Heritage Overlay (HO283) should be applied.

(ii) Evidence and submissions

The landowner submission opposed the Amendment because of the extent of changes to the house including renovations and extensions to *“to the point there is little of the original structure remaining”*. The application of the Heritage Overlay was anticipated to make future development difficult.

Mr Huntersmith’s evidence:

- confirmed *“the physical description and integrity statement are still warranted. I note that the elements that contribute to significance and those that are not significant are clearly stated in the statement of significance”*
- considered the house *“remains clearly legible as a 1930s house that represents the particular class of place; it is an example of 1930s bungalow types which reflect the frugal economic context of their construction period in their simple forms and restrained detailing.”*
- considered Criterion A and D were met.

In response to Panel questions, Mr Huntersmith confirmed the dwelling was one of only two remaining houses built in the Glen Park Estate in the 1930s, with the other place recommended to be removed from the Amendment given issues associated with intactness and integrity.

(iii) Discussion

The Panel agrees with Mr Huntersmith that the house at 200 Ryans Road remains as described in the citation and Statement of Significance despite alterations which are generally not visible from the street. The identified elements of significance are highly legible and highly intact. The comparative analysis provides an appropriate basis for establishing that thresholds for local historic and representative significance are met to an appropriate level.

Issues associated with impacts on the ability to develop are discussed in Chapter 3. They are not relevant to establishing whether a place is of heritage significance.

(iv) Conclusion

The Panel concludes:

- The property at 200 Ryans Road, Eltham North is of local historic and representative significance and the Heritage Overlay (HO283) should be applied.

6.16 ‘Souter House’, 17 Koornong Crescent, North Warrandyte (HO304)

Exhibited Statement of Significance



What is significant?

The residence and its landscaped setting.

How is it significant?

17 Koornong Crescent is socially and aesthetically significant to the Shire of Nillumbik.

Why is it significant?

17 Koornong Crescent is historically significant as a good example of a residence that marks the early phase of the post-war residential development in the Shire, in this case around the former Koornong School site in the 1950s and chosen by a war veteran for their home. The house demonstrates the change in living requirements and lifestyle that differed from the previous pre-war farming communities in the Nillumbik Shire. **(Criterion A)**

The residence is of aesthetic and architectural significance to the Nillumbik Shire as an example of a local residence displaying the early influence of the Melbourne Regional Style. The house demonstrates characteristic features such as the flat roof, broad eaves, window walls, incorporation of timber cladding and rockwork, and the particular plan elongated to sit the curve of the terrain. The stone elements of the residence were constructed by the McAuley Brothers, a local stonemason. **(Criterion E).**

(i) The issue

The issue is whether Souter House at 17 Koornong Crescent, North Warrandyte is of local heritage significance and the Heritage Overlay (HO304) should be applied.

(ii) Evidence and submissions

The landowner submission opposed the Amendment because of:

- the size of the 1970s extension and other post 1950s extensions and renovations which impact its intactness
- potential impacts on future alterations and extensions and lack of Council guidance.

Dr Paul's evidence was:

- the additions and alterations were acknowledged in the citation, and it is considered that they are sympathetic and have not detracted from or overwhelmed the original house, which is still extant and distinguishable
- future sympathetic additions that 'further' the original intent of the design could be considered under the Heritage Overlay

- changes should be made to the Statement of Significance under ‘Why is it significant?’ Criterion E to delete references to the stone elements of the residence constructed by the McAuley Brothers and to correct minor grammatical errors
- the citation should be reviewed to correct or remove reference to personal communication with the owner.

An amended Statement of Significance with tracked changes was provided with Dr Paul’s evidence. A further updated version was provided at the Hearing (Document 23) which corrected the inconsistency in the attributed criterion under ‘Why is it significant?’ and ‘How is it significant?’. Council adopted the evidence of Dr Paul including his recommended changes.

In its closing submission, Council:

- provided an amended citation which appears to have reintroduced elements of the exhibited version not included in Dr Paul’s evidence
- submitted the use of the word ‘good’ to describe the house under Criterion A was appropriate and refers to the place being a comparatively good example.

(iii) Discussion

The Panel agrees with the evidence of Dr Paul that the additions to the dwelling have not diminished the level of intactness or integrity of the dwelling. The visible alternations including carport have been undertaken in a sympathetic manner and do not overwhelm the house or prevent a clear understanding of the original house form. The House compares well with other comparators.

The Panel supports the corrections made by Dr Paul and Council to the later updated citation Statement of Significance content in Document 39. However, the Statement of Significance should be further amended:

- under ‘How is it significant?’ to replace the phrase “*is historically and aesthetically significant to...*” with “*... is of historic and aesthetic significance to ..*” to ensure it is consistent with the majority of the exhibited statements of significance
- under ‘Why is it significant?’ delete the word ‘good’ under Criterion A, and delete “*and architectural*” and correct the spelling of ‘elongated’ under Criterion E.

Issues of future dwelling extensions are discussed in Chapter 3 and are not relevant to determining the heritage significance of a place.

(iv) Conclusions and recommendation

The Panel concludes:

- The property at 17 Koornong Crescent, North Warrandyte is of local historic and aesthetic significance and the Heritage Overlay (HO304) should be applied.
- The Statement of Significance be amended to generally consistent with the amended citation (Document 39) and with the further changes in the Panel preferred version in Appendix D:11.

The Panel recommends:

Amend the ‘Statement of Significance: Souter House, 17 Koornong Crescent, North Warrandyte, July 2022’ consistent with the Panel preferred version in Appendix D:11.

6.17 Former Farmhouse, 145 River Avenue, Plenty (HO329)

Exhibited Statement of Significance



What is significant?

The interwar bungalow farmhouse at 145 River Avenue, Plenty is significant to the Shire of Nillumbik. The original form, materials and detailing of the farmhouse and its rural setting contribute to the significance of the place.

How is it significant?

145 River Avenue, Plenty is of local historic and representative significance to the Shire of Nillumbik.

Why is it significant?

145 River Avenue, Plenty is historically significant as an example of the early developers within a small-holder subdivision, the Plenty River Estate. The property contains a surviving intact example of a brick interwar farmhouse. **(Criterion A)**

145 River Avenue, Plenty is significant as a substantially intact brick interwar farmhouse, which retains its original form and main features including the all-encompassing main hipped roof, timber framed windows, front gable-roofed wing and front verandah with brick balustrade and pillars. The residence was constructed in the 1920s and demonstrates developing architectural ideas around suburban bungalows, and a transition away from Edwardian-era design. **(Criterion D)**

(i) The issues

The issues are whether:

- former farmhouse at 145 River Avenue, Plenty is of local heritage significance and the Heritage Overlay (HO329) should be applied
- Statement of Significance and citation are accurate
- prohibited uses should be permitted.

(ii) Evidence and submissions

The landowner identified that the place citation and Statement of Significance incorrectly:

- described it as a brick bungalow when in fact it was weatherboard (and suffering from termite damage)
- stated the attributed Californian Bungalow styling was an addition.

Dr Paul's evidence was:

The original citation described the house as a brick house and included photographs from the public realm. Closer inspection confirms that the house is weatherboard with brick verandah rather than entirely in brick. Minor alterations noted were infill of side timber verandah. Most doors and windows are original.

It is my opinion that the house remains substantially intact to its original design and continues to compare well against comparable weatherboard small-holder properties as an adoption of the suburban bungalow idiom in the rural context. The detailing, including shingles under the gable and the brick and render porch with square columns distinguish this among weatherboard examples of the type in terms of the adoption of a suburban bungalow style in the rural context.

Dr Paul's evidence included an amended Statement of Significance (Document 21) which:

- identified elements that were not significant (post-war verandah additions and outbuildings)
- replaced references to 'brick' with 'weatherboards'.

In response to Panel questions, Dr Paul advised that while the comparators for the place were timber the place still compared favourably with places of a similar era and style. A revised citation was provided during the Hearing (Document 20) which reflected proposed changes to the Statement of Significance and updated the comparative analysis.

Council's Part C (Part 2) submission included a further revised citation (Document 38) which made changes to clarify materiality, alterations (including to the verandah) and place comparators.

Council's post exhibition changes proposed prohibited uses be permitted although it did not identify the basis for this approach.

The Panel questioned Dr Paul about permitting prohibited uses and he advised that although the citation did not recommend prohibited uses be permitted, it provided the option for holiday accommodation.

(iii) Discussion

Significance

The Panel accepts the evidence of Dr Paul that the house compares favourably with relevant comparators. Alterations to the building are relatively minor and it remains substantially intact. The proposed amendments to the Statement of Significance and citation are supported as they clarify what is not of significance, provide a better basis for comparative analysis and more accurately reflect materiality.

Prohibited uses

Council did not articulate a reason for proposing to apply the prohibited uses permitted provisions in response to the submission, and the submission did not seek it. Permitting prohibited uses is not supported by the exhibited citation or the written evidence of Dr Paul. While he did suggest that it would allow for holiday accommodation, the heritage or strategic basis for this remains unclear. It is unclear to the Panel whether holiday accommodation would be prohibited in the RCZ1, given a range of accommodation related uses are permitted within the zone. The property is located within the RCZ1 and characterised by lots of approximately 1 hectare, and located close to a LDRZ node. The use of the subject and surrounding land is characterised as rural residential rather than farming. In this instance there is no clear basis for supporting prohibited uses.

(iv) Conclusions and recommendation

The Panel concludes:

- The former farmhouse at 145 River Avenue, Plenty is of local historic and representative significance and the Heritage Overlay (HO329) should be applied.
- The Statement of Significance should be amended consistent with the changes recommended by Dr Paul (Document 21) as shown in the Panel preferred version in Appendix D:12.
- The amended citation (Document 20 and later updated in Document 38) is appropriate.
- Prohibited uses should not be permitted for 145 River Avenue, Plenty.

The Panel recommends:

Amend the 'Statement of Significance: Former Farmhouse, 145 River Avenue, Plenty, July 2022' consistent with the Panel preferred version in Appendix D:12.

6.18 'Nilgiris', 183 Yan Yean Road, Plenty (HO330)

Exhibited Statement of Significance



What is significant?

Nilgiris at 183 Yan Yean Road, Plenty is significant to the Shire of Nillumbik. The original form, materials and detailing of the farmhouse and its rural setting contribute to the significance of the place.

How is it significant?

Nilgiris at 183 Yan Yean Road, Plenty is of local representative significance to the Shire of Nillumbik.

Why is it significant?

Nilgiris is significant as a representative example of the farm properties established during the development of Plenty in the 1920s after the major subdivisions in the early twentieth century. It is significant as an example of a War Service Home erected in the 1920s. It is an example of a successful poultry farm established and operated from the 1930s by John Edgcumbe, a returned serviceman. It is an important example of the once-common farming practice of poultry farming in the area. **(Criterion A)**

Nilgiris is significant as a representative example of a 1920s weatherboard bungalow. It demonstrates the shift in architectural tastes and influences from suburban Melbourne. **(Criterion D)**

(i) The issues

The issues are whether:

- Nilgiris at 183 Yan Yean Road, Plenty is of local heritage significance and the Heritage Overlay (HO330) should be applied

- the Statement of Significance and citation are accurate
- prohibited uses should be permitted.

(ii) Evidence and submissions

The submission on behalf of the landowners opposed the Amendment considering:

- the place was compromised by substantial alterations to the dwelling and to outbuildings which post-date farming use
- only two outbuildings associated with the former farming use remain and which are either highly altered or in dilapidated condition.

Dr Paul's evidence was:

Site inspection on 5/9/23 confirmed the main house is extant, with large single storey addition to rear. The other three main sides are substantially intact. Front façade retains distinctive interwar period verandah with piers, doorways and box windows within. Two side windows have been altered and gable decoration removed.

It is my opinion that the house remains substantially intact to its appearance as an interwar War Service home on the principal front and side elevations.

The house continues to compare well to its comparators in terms of a predominantly weatherboard interwar bungalow in the municipality. It is further distinguished by its broad and enclosed front verandah with brick piers that runs the length of the front façade under the single roof form.

The addition itself is to the rear and does not detract from or overwhelm the other principal elevations when viewed from the front. The original house is still evident and retains its historical identity forward of the addition. From this perspective, the addition is sympathetic and has not extinguished the historical and aesthetic significance of the place that can still be identified through its remaining original fabric and form of the principal volume of the original house.

The outbuildings are mostly vernacular. It is acknowledged from the site visit that, as per the Submission, that only the former egg incubator room retains some integrity to its original design relating to the house and that this is in poor condition.

He recommended the changes to:

- the Statement of Significance:
 - under 'What is significant?' to add:
 - Post-war additions and alterations are not significant.
 - The former egg incubator shed contributes to the historical understanding of the place.
 - Other outbuildings are not significant.
 - under 'Why is it significant?' to consolidate the two Criterion A statements
- the citation to identify:
 - later alterations and additions as not significant
 - the egg incubator room is contributory but in poor condition, while other outbuildings are not significant
 - further updates to the description.

An amended 'short form' Statement of Significance was provided during the Hearing (Document 22) which included these alterations and the addition of historic significance under 'How is it significant?' consistent with the criterion identified under 'Why is it significant?'.

In response to Panel questions, Dr Paul indicated while the incubator was in a dilapidated condition, it contributed to an understanding of the site, was not a vernacular outbuilding and remained readable to its former use. In relation to dwelling alterations, he advised the verandah

infill had not impacted earlier dwelling front façade elements or verandah space and was potentially an interwar or early post war alteration.

Council's Part C (Part 2) submission was supported by an amended citation (Document 40) which included additional information about the condition of the egg incubator room and dwelling alterations.

In relation to its support for switching on prohibited uses permitted provisions, Council submitted it was:

To give the building a wider range of future use options to ensure its long-term survival should it become necessary, including relating to farming or animals. Applications for prohibited uses would still be assessed by Council.

(iii) Discussion

The Panel accepts the evidence of Dr Paul that the dwelling, despite the verandah alterations and rear alterations retains its integrity and the earlier building can be readily distinguished. The verandah alterations have been undertaken in a way that enables the verandah post elements to be clearly read and remain prominent. They have not impacted on the dwelling front façade or verandah space. The amended Statement of Significance appropriately identifies the post-war additions and alterations are not significant.

In relation to the incubator structure, the Panel accepts that while in a dilapidated condition, it represents a remnant element associated with the site's former poultry farming activity and contributes to an understanding of the place. The Panel notes outbuilding exemption provisions have not been proposed.

The Panel has based its preferred version of the Statement of Significance (Appendix D:13) on the updated version provided by Dr Paul (Document 22) and the revised citation (Document 40).

The Panel does not support permitting prohibited uses for this property. The property and adjoining places are located in the LDRZ and generally used for low density residential purposes rather than actively used for agriculture or other related commercial purposes. Given the purpose of the LDRZ and what has been identified as significant (the house and setting) there appears no strategic basis or heritage benefit for allowing for prohibited uses.

(iv) Conclusions and recommendations

The Panel concludes:

- Nilgiris at 183 Yan Yean Road, Plenty is of local historic and representative significance and the Heritage Overlay (HO330) should be applied.
- The Statement of Significance should be amended consistent with the changes recommended by Dr Paul (Document 22), the amended citation (Document 40) as shown in the Panel preferred version in Appendix D:13.
- Prohibited uses provisions are not justified and should not be applied.

The Panel recommends:

Amend the 'Statement of Significance: Nilgiris, 183 Yan Yean Road, Plenty, July 2022' consistent with the Panel preferred version in Appendix D:13.

Amend the Schedule to Clause 43.01 (Heritage Overlay) for 'Nilgiris, 183 Yan Yean Road, Plenty' (HO330) to replace 'Yes' with 'No' in the 'Prohibited uses permitted?' column.

6.19 Former Farmhouse, 52 Kurrak Road, Yarrambat (HO331)

Exhibited Statement of Significance

Panel Note: Incorrect place image used in exhibited document

What is significant?

52 Kurrak Road, Yarrambat is significant to the Shire of Nillumbik. The original 1920s weatherboard residence including its form, materials and detailing contribute to the significance of the place. The setting of the place including its relationship to the road and the driveway separating the house from the outbuildings contribute to the significance of the place.

The corrugated iron outbuildings are not significant.

Later fabric, including the front fence and alterations to the house, are not significant.

How is it significant?

52 Kurrak Road, Yarrambat is of local historic significance to the Shire of Nillumbik

Why is it significant?

2 Kurrak Road, Yarrambat is historically significant as a representative surviving example of the interwar farmstead group connected with orcharding and poultry farming activity in the Shire of Nillumbik. The farmhouse is a modest example of the period and retains its original form and main features including footprint, weatherboard cladding and return verandah. It is also historically significant for the ongoing connection to the Marshall family since the 1920s. The Marshalls were one of the early orcharding and poultry farming families associated with the significant interwar agricultural theme of the area. **(Criterion A)**

The farm complex at 52 Kurrak Road, Yarrambat is significant as a representative farm house from the 1920s (interwar period) in the Shire. The farmhouse is an example of the period farmhouse in the Shire and retains its original form and main features including weatherboard cladding and return verandah at the front. **(Criterion D)**

(i) The issues

The issues are whether:

- the former farmhouse at 52 Kurrak Road, Yarrambat is of local heritage significance and the Heritage Overlay (HO331) should be applied
- prohibited uses should be permitted.

(ii) Evidence and submissions

The landowner submission identified that *“substantial work is needed to restore the dwelling on the site in a manner that protects the site’s heritage values.”* To ensure that restoration was feasible, it requested Schedule 2 to the Design and Development Overlay be amended to enable the site to be developed holistically and allow *“a considered development of the site that incorporates the restoration of the heritage place”*. This, it was submitted, would avoid substantial cost to future development.

Dr Paul’s evidence was:

... the house is intact but in poor condition. Photographs were taken within the site and the visit confirmed the outbuildings are vernacular and not significant. No remnant orchard plantings are on site. Tree and outbuildings controls are not recommended.

Poor condition alone is not generally accepted to be a matter for consideration in assessing significance. In this instance, enough original fabric and the original form and details are

extant to enable restoration and replacement of fabric sympathetically where necessary in order to maintain the place's legibility as a former farmhouse. The house represents well the common form, materiality and detailing of weatherboard farmhouses in the municipality, such as the closest comparator at 14-26 Browns Lane, Plenty (HO270), which suffered from similar extent of dilapidation.

In response to Panel questions, Dr Paul accepted the Statement of Significance:

- had used the wrong place image (183 Yan Yean Road, Plenty) and should use the main citation image
- had not identified the place was of representative significance under 'How is it significant?'.

Council's Part C (Part 2) submission included a revised citation (Document 46) which added that the place was of representative significance consistent with the application of Criterion D under 'Why is it significant?'

Dr Paul's evidence around the curtilage was:

- The curtilage is currently drawn around the property boundaries. As the property is not particularly extensive, this is appropriate to provide a setting to the place
- and,
- Some reduction in curtilage around the house itself, as occurred at 14-26 Browns Lane, could also be acceptable.

Council submitted that changes to the curtilage were not supported.

In response to requested changes to the Design and Development Overlay, Council submitted this was not strategically justified.

In related to prohibited use provisions, Council supported application to the property:

To give the building a wider range of future use options to ensure its long-term survival, including relating to farming or animals. Applications for prohibited uses would still be assessed by Council.

(iii) Discussion

Significance

The landowner submission did not dispute the attributed heritage significance of the place although this was subject to changes to other Planning Scheme controls to support development. The Panel accepts the evidence of Dr Paul and supports the Heritage Review methodology that supports the citation and Statement of Significance.

Curtilage

The evidence around the proposed Heritage Overlay curtilage was inconsistent and unclear. Council did not propose changes to the curtilage. The Panel considers the exhibited curtilage is acceptable as it includes the significant elements and an appropriate context for the place. While there may be some basis for considering a reduction consistent with comparable places (such as 14-26 Browns Lane) this should not be done without some deliberative consideration including analysis against PPN01. An amended curtilage was not put to the Panel for consideration. It is not appropriate to make a recommendation about reducing the curtilage without a considered position from Council and its expert.

Prohibited uses

While the Panel acknowledges the property contains outbuildings associated with its former use as a farm, the Panel does not support permitting prohibited uses for this property. The outbuildings are not identified as significant. The property and adjoining places are located in the LDRZ and generally used for low density residential purposes rather than actively used for agriculture or other related commercial purpose. Given the purpose of the LDRZ and what has been identified as significant (the house and setting) there appears no strategic basis or heritage benefit in allowing for prohibited uses.

Other issues

The Panel has addressed issues around development and financial impacts in Chapter 3. They are not a basis for determining whether a place is of heritage significance.

Regarding the Design and Development Overlay, the Panel agrees with Council that amending another planning control without proper strategic consideration of the wider strategic implications is not appropriate or within the scope of the Amendment.

(iv) Conclusions and recommendations

The Panel concludes:

- The former farmhouse at 52 Kurrak Road, Yarrambat is of local historic and representative significance and the Heritage Overlay (HO331) should be applied.
- The 'Statement of Significance: 52 Kurrak Road, Yarrambat (July, 2022)' should be amended generally consistent with the amended citation (Document 46) and consistent with the Panel preferred version (Appendix D:14) and to include an alternative image of the place.
- The curtilage of HO331 should not be amended without a considered analysis by Council's heritage consultants including whether any reduction is consistent with PPN01.
- Prohibited uses provisions are not justified and should not be applied.

The Panel recommends:

Amend the 'Statement of Significance: Former Farmhouse, 52 Kurrak Road, Yarrambat, July 2022' consistent with the Panel preferred version in Appendix D:14 and to replace the heritage place image with an alternative appropriate image of the place.

Amend the Schedule to Clause 43.01 (Heritage Overlay) for 'Former Farmhouse, 52 Kurrak Road, Yarrambat' (HO331) to replace 'Yes' with 'No' in the 'Prohibited uses permitted?' column.

7 Form and content

7.1 Form and content of Amendment documents

(i) The issue

The issue is whether the following Amendment documents and provisions are appropriately drafted:

- statements of significance
- background documents including citations and thematic histories
- schedules to clauses 43.01, 72.04 and 72.08.

(ii) Discussion

Statements of significance

The Panel has identified several inconsistencies with the form and content of the individual statements of significance particularly those derived from *Nillumbik Shire Heritage Review Stage A* which included:

- multiple criteria applied together:
 - 'Wendouree' and Canary Island, Palms and, Smith Orchard Houses (combines Criterion A and D, and A and H) as discussed in Chapter 5
 - 42 and 1/44 Park Road, Eltham (HO278) (combines A and H)
 - 180 Cherry Tree Road, Hurstbridge (HO286)(combines A and B)
- the consistency between the significance criterion applied under 'How is it significant?' and 'Why is it significant?'. For example, attributing aesthetic significance under 'How is it significant?' when it is not a criterion applied under 'Why is it significant?'
- consistent referencing of the Heritage Reviews including document titles, dates ('June, 2021' or '(June, 2021)') and in the primary source review and citation references
- statement of significance titles inconsistent with titles, descriptions and addresses and dates referenced in Schedule to Clause 43.01 under 'Heritage place' and the Schedule to Clause 72.04 (refer to examples in Table 6, Panel underlined to identify inconsistencies).

Table 6 Examples of inconsistencies in description of heritage places in exhibited documents

	Heritage Place example (HO279)	Heritage Place example (HO276)
Schedule to Clause 43.01	MacMahon Ball House and <u>Studio</u> 61 York Street, Eltham Statement of Significance: Macmahon Ball House and Studio, 61 York Street, Eltham, June 2021	Diamond Valley Miniature Railway 570 – 576 Main Road, Eltham Statement of Significance: Diamond Valley Miniature Railway 570 – 576 Main Road, Eltham
Schedule to Clause 72.04	Statement of Significance: Macmahon Ball House and Studio, 61 & <u>61A</u> York Street, Eltham, June 2021	Statement of Significance: Diamond Valley Miniature Railway 570 – 576 Main Road, Eltham, June 2021
Statement of Significance	Statement of Significance: 61 & 61A York Street, Eltham	Statement of Significance: <u>part of</u> <u>570</u> Main Road, Eltham

	Heritage Place example (HO279)	Heritage Place example (HO276)
Citation	61 & 61A York Street, Eltham - Macmahon Ball House and <u>Study</u>	<u>Part of 570 Main Road, Eltham -</u> Diamond Valley Miniature Railway'

PPN01 states:

The title of the statement of significance must be specified in the schedule to the overlay.
The title of the statement must also be listed in the schedule to Clause 72.04.

While some of these inconsistencies in titles, descriptions and references have been corrected in the amended statements of significance and citations provided by Council, elements of them still persist. In reviewing the Amendment documents, the Panel has observed these inconsistencies are not limited to the statements of significance for places with submissions. It is not the role of the Panel to review every Statement of Significance and match them against both Heritage Review citations however this work should be done and errors corrected before the Amendment is finalised.

Council should review all proposed statements of significance to ensure:

- under 'How is it significant?' ensure the statement correlates with the criterion applied under 'Why is it significant?'. This section should also use the correct criterion name for example historic (rather than 'historically'), representative (rather than 'architectural (representative)'), aesthetic (rather than 'aesthetically') and social (rather than 'socially')
- under 'Why is it significant?' separate out the criterion paragraphs that attribute significance to multiple criterion into separate paragraphs for each criterion. This should be done in a manner that relies on material within the citation rather than introducing new material or reasons
- their titles, place descriptions and addresses and dates are consistent with the references to be applied in Schedule to Clause 43.01 under 'Heritage place' and in the Schedule to Clause 72.04.

Citations

While the citations are only background documents and not relied on for decision making, where possible these same inconsistencies should be corrected to ensure the controls remain clear and their context properly understood. This is good practice particularly for descriptions of elements that are significant or not significant.

The Panel has summarised Council's proposed key changes citations relevant to submissions in Appendix E. The Panel broadly supports these changes but observes some of the amended citations still contain spelling errors and will require further review to ensure consistency with the amended statements of significance.

It is not necessary to remove the citations for places that have since been demolished or are no longer to have the Heritage Overlay applied. This is because these places provide a basis for comparative analysis and reflect existing conditions at the time of review and may assist landowners with future alterations or for recording or interpretation.

Background documents

The Amendment includes different titles assigned to the four background documents. As identified in Tables 7 and 8 (including Panel underlined to identify inconsistencies) the titles and in some instances the dates are different across different Planning Scheme schedule references.

Table 7 Heritage Review titles applied in Amendment documents

Amendment documents	Stage A Heritage Review	Stage B Heritage Review
Background document title	In form of memo from Context with subject title: <i>Shire of Nillumbik Advisory Consultant Services: Nillumbik Shire Stage A Places – Key Findings</i> and dated 7 June 2021	<i>Draft Nillumbik Heritage Review: Stage B, Trethowan, April 2022</i>
statements of significance	<i>Nillumbik Shire Stage A Heritage Review</i>	<i>Nillumbik Shire Stage B Heritage Review</i>
Clause 72.08	Nillumbik Shire Heritage <u>Study</u> - Stage A (<u>Context</u> , 2021)	Nillumbik Shire Heritage <u>Study</u> - Stage B (Trethowan, 2022)

Table 8 Thematic History titles applied in Amendment documents

Amendment documents	2016 Thematic History	Post-war Thematic History
Background document title	Nillumbik Shire Thematic Environmental History, Revision 2016 (Nillumbik Shire Council, 2017)	<i>Nillumbik Gap Study Stage B, Thematic Environmental History Post-war Update</i> , Trethowan, June 2022
Clause 72.08 Explanatory Report	Nillumbik Shire Thematic Environmental History, Revision 2016 (Nillumbik Shire Council, 2016)	<i>Nillumbik Gap Study Stage B - Thematic Environmental History Post-war Update</i> (Trethowan, 2022)

These inconsistencies should be resolved to ensure each document has one consistent title throughout the Planning Scheme so the controls remain clear and their context properly understood and avoid the risk of confusion.

Consistency and ability to readily find the citations within the Heritage Reviews would be aided by:

- a front cover with clear title and date for the Stage A Heritage Review
- an index for citations in each Heritage Review.

The Nillumbik Thematic History has not been introduced into the Planning Scheme as a background document since its original development in 2016. The subsequent reviews of it by Trethowan including the Post-war Thematic History are effectively updated municipal wide content and should be read together. It is therefore unnecessary to introduce two separate documents into the Nillumbik Planning Scheme. The two thematic histories should be consolidated with the Post-war document an addendum to avoid having to reformat the original document. The Panel suggests a new document title be applied for example:

'Nillumbik Shire Thematic Environmental History including Post-war addendum (Nillumbik Shire Council, 202#)'.

(iii) Conclusions and recommendations

The Panel concludes:

- All statements of significance should be reviewed to ensure:
 - the significance description under 'How is it significant?' correlates with the criterion applied under 'Why is it significant?'
 - any consolidated criterion paragraphs are separated into paragraphs for each criterion

- their titles, place descriptions and addresses are consistent with the references to be applied in Schedule to Clause 43.01 and 72.04.
- The schedules to clauses 43.01 and 72.04 are updated to reflect any amended Statement of Significance titles, dates, place descriptions and addresses.
- The Stage A Heritage Review should be amended to include a dated document title page and citation index.
- The Stage B Heritage Review should be amended to include a citation index.
- All citations should be reviewed to ensure they are consistent with the final versions of statements of significance and include the final changes agreed by Council or identified by the Panel in its individual place conclusions.
- The Nillumbik Thematic History and Post-war Thematic History should be consolidated into a single document with addendum and renamed accordingly. The Schedule to Clause 72.08 should be amended to reflect the new title.

The Panel recommends:

Before finalising the Amendment, review all statements of significance and amend, as necessary, to:

- **apply consistent place descriptions, names and addresses**
- **ensure the criterion applied under ‘How is it significant?’ match those in the significance description under ‘Why is it significant?’**
- **separate any combined criterion paragraphs with separate paragraphs for each criterion**
- **include consistent ‘primary source’ document title references.**

Amend the Schedule to Clause 43.01 (Heritage Overlay) to ensure ‘Heritage place’ descriptions and statement of significance titles are consistent with the final versions of the statements of significance.

Amend Schedule to Clause 72.08 (Background documents) to apply consistent references to the Nillumbik Heritage Review - Stage A (Context, 2021) and Nillumbik Heritage Review - Stage B (Trethowan, 2022).

Amend the Nillumbik Heritage Review - Stage A (Context, 2021) to include a dated document title page and citation index.

Amend the Nillumbik Heritage Review Stage B (Trethowan, 2022) to include a citation index.

Consolidate the Nillumbik Shire Thematic Environmental History, Revision 2016 (Nillumbik Shire Council, 2016) and Nillumbik Gap Study Stage B - Thematic Environmental History Post-war Update (Trethowan, 2022) into a single background document with addendum, and amend the Schedule to Clause 72.08 accordingly.

7.2 Places to be deleted from the Heritage Overlay

(i) Discussion

For the reasons set out in Chapters 5 and 6, the Panel concludes:

- the Heritage Overlay not be applied to:
 - ‘Larch Hill’, 2 Hillmartin Lane, Diamond Creek
 - ‘Greet’, 162 Murray Road, Diamond Creek

- 'Hillside' House, 23 Glen Park Road
- 144 Progress Road, Eltham North
- the Heritage Overlay curtilage not be applied to:
 - 14 Warringah Crescent, Eltham
 - 61A York Street (southern portion of Lot S3 PS320805) and associated common property, Eltham
 - 191 Cherry Tree Road, Hurstbridge.

These conclusions require consequential changes to:

- the Heritage Overlay Schedule to either remove their identification (for those places to be abandoned) or to correct property descriptions and addresses (for those places where a portion of the site are to be removed)
- remove them entirely or partially from the Planning Scheme Heritage Overlay maps
- remove the related Statement of Significance references from the Schedule to Clause 72.04 (for those places to be abandoned).

(ii) Recommendations

The Panel recommends:

Amend the Schedule to Clause 43.01 (Heritage Overlay) to delete reference to:

- Larch Hill, 2 Hillmartin Lane, Diamond Creek (HO319)
- 'Greet', 162 Murray Road, Diamond Creek (HO321)
- 61A York Street, Eltham (HO279)
- 'Hillside' House, 23 Glen Park Road, Eltham North (HO280)
- House, 144 Progress Road, Eltham North (HO281)
- 191 Cherry Tree Road, Hurstbridge (HO285).

Amend Heritage Overlay (HO) Maps to:

- delete HO280, HO281, HO319 and HO321
- remove HO284 from 14 Warringah Crescent, Eltham
- apply HO279 only to 61 York Street, Eltham (Lot S3 PS320805 north of the common property area)
- remove HO285 from 191 Cherry Tree Road, Hurstbridge.

Amend the Schedule to Clause 72.04 (Documents Incorporated In This Planning Scheme) to delete reference to:

- 'Statement of Significance: Larch Hill, 2 Hillmartin Lane, Diamond Creek, July 2022'
- 'Statement of Significance: 'Greet', 162 Murray Road, Diamond Creek, July 2022'
- 'Statement of Significance: 'Hillside' House, 23 Glen Park Road, Eltham North, June 2021'
- 'Statement of Significance: House, 144 Progress Road, Eltham North, June 2021'.

7.3 Other heritage places

(i) Discussion

The Former Loyal Diamond Creek Lodge (MUIOOF), 42 Collins Street, Diamond Creek (HO317)

The former Loyal Diamond Creek Lodge, 42 Collins Street, Diamond Creek is proposed to be individually listed on the basis that it meets the threshold criteria for local significance (historic, rarity and aesthetic significance). The landowner submission supported the inclusion of the place in the Heritage Overlay. The significance of the place was not identified in the heritage evidence or submission of Council. Accordingly, the Panel has not considered whether the place has local heritage significance. The Panel did however view the site and as discussed elsewhere in this report supports the methodology applied in the Stage B Heritage Review which identified it.

An amended citation was provided by Council with its Part C (Part 2) submission (Document 45) in response to Panel questions to:

- replace the incorrect attribution of social significance under 'How is it significant?' with 'rarity'
- clarify the rarity criterion description to the place, so that the threshold for rarity was not set to low, with the following change:

'The building is the only surviving ~~Loyal Diamond Creek Lodge~~ Manchester Unity Independent Order of Oddfellows known to exist in the Nillumbik Shire. (Criterion B)'

The Panel supports these changes and has included them in the Panel preferred version of the statements of significance in Appendix D:4.

Other places

As identified in Chapter 4 Council provided amended citations for four places which included outbuilding information and changes to the Statement of Significance content for each place:

- 'Park View', 25 Brennans Road East, Arthurs Creek (HO310)
- 'Sherwood', 110 Deep Creek Road, Arthurs Creek (HO312)
- 'Ghirrawheen', 349 Diamond Creek Road, Diamond Creek (HO318)
- 'Harton Hill', 405 Ryans Road, Diamond Creek (HO325).

No submissions were received to these places. The Panel has therefore not considered whether each place meets the threshold for local heritage significance or if the outbuildings have been appropriately identified for inclusion or deletion as significant elements. As identified in Chapter 4, the Panel considers the methodology adopted by Dr Paul for deleting or including outbuildings appropriately robust. It is appropriate to update references to outbuildings which have since been destroyed by fire.

(ii) Conclusions and recommendation

The Panel concludes:

- The 'Statement of Significance: 42 Collins Street, Diamond Creek, July 2022' should be amended consistent with the revised citation (Document 45).
- The proposed citation changes for HO310, HO312, HO318 and HO325 appear logical and considered. The Panel makes no recommendations about these places because they were not the subject of submissions. If Council progresses with the citation changes the

‘Outbuilding or fences’ column of the Heritage Overlay Schedule will need to be amended for each place. Council will need to work with the Department of Transport and Planning to satisfy itself adequate notice has been given for anything not exhibited.

The Panel recommends:

Amend the ‘Statement of Significance: 42 Collins Street, Diamond Creek, July 2022’ consistent with the Panel preferred version in Appendix D:4.

Appendix A Submitters to the Amendment

No	Submitter
1	Rodney Holland
2	Pam O'Connor
3	Parks Victoria
4	Brian and Helen Hill
5	Bronnie Hattam
6	Brodie Legg & Olivia Tymms
7	Arthurs Creek Cemetery Trust
8	Michael Ellis
9	Cathie McRobert
10	Jill Chan
11	David Mullholland
12	Timothy Cunningham
13	Vaughan and Jenny Mitchell
14	Robert Fonhof
15	Cameron and Annemarie Webb
16	L & S Realty Holdings P/L
17	Julie Fink
18	Eltham Community Action Group
19	Michelle Holland
20	Andrew and Vy Costen
21	Frank Rusitovski
22	Diamond Valley Railway Inc
23	Arthurs Creek Mechanics Institute Inc
24	Jose Marques
25	Eltham District Historical Society
26	Nick and Janet Shilo

Appendix B Document list

No.	Date	Description	Provided by
1	18 Oct 23	Panel Directions and Hearing Timetable (version 1)	Planning Panels Victoria (PPV)
2	19 Oct 23	Nillumbik Shire Thematic Environmental History Revision 2016	Nillumbik Shire Council (Council)
3	23 Oct 23	Submitter location maps with aerial images and suggested site inspection route as required by Panel Direction 5	Council
4	2 Nov 23	Updated Panel Directions, Distribution List and Hearing Timetable (version 2)	PPV
5	3 Nov 23	Part A submission including Attachments 1 - 7	Council
6	3 Nov 23	Mark Huntersmith expert witness statement	Council
7	3 Nov 23	Dr Aron Paul expert witness statement including Appendix B (Revised Statements of Significance)	Council
8	6 Nov 23	Updated directions and Hearing Timetable (version 3)	PPV
9	6 Nov 23	Bronnie Hattam submission	Ms Hattam
10	9 Nov 23	Updated Timetable (version 4)	PPV
11	14 Nov 23	Part B submission	Council
12	14 Nov 23	Ms Hattam submission attachments (3)	Ms Hattam
13	15 Nov 23	Council officer recommendation 26 September 2023 regarding 10 Diosma Road, Eltham	Ms McRobert
14	15 Nov 23	Aerial photos, 10 Diosma Road, Eltham	Ms McRobert
15	15 Nov 23	Photos of house and surrounds, 10 Diosma Road, Eltham	Ms McRobert
16	15 Nov 23	Attachments (4) to Submission 9	Council
17	15 Nov 23	Heritage advice to Nillumbik Council from Dr Paul (GML Heritage) 15 July 2022 regarding 10 Diosma Road, Eltham	Ms McRobert
18	16 Nov 23	Revised citation (with tracked changes) for HO275 – 10 Diosma Road, Eltham (GML)	Council
19	16 Nov 23	Revised citation (with tracked changes) for HO327 – 920 Yan Yean Road, Doreen (Trethowan)	Council
20	16 Nov 23	Revised citation (with tracked changes) for HO329 – 145 River Avenue, Plenty (Trethowan)	Council
21	16 Nov 23	Revised Statement of Significance for HO329 – 145 River Avenue, Plenty (Trethowan)	Council
22	16 Nov 23	Revised Statement of Significance for HO330 – 183 Yan Yean Road, Plenty (Trethowan)	Council
23	16 Nov 23	Revised Statement of Significance for HO304 – 17 Koornong Crescent, North Warrandyte (Trethowan)	Council

No.	Date	Description	Provided by
24	16 Nov 23	Revised Statement of Significance for HO309 – Mechanics Institute, 906 Arthurs Creek Road, Arthurs Creek (Trethowan)	Council
25	16 Nov 23	Email sent to Submitter 9 detailing GML recommendations prior to Council Meeting of 26 September 2023	Council
26	16 Nov 23	GML Response to Submissions recommendations (noting amended curtilage for Submitter 5)	Council
27	16 Nov 23	Submission – McRobert, including attachments: - Addendum to submission - PowerPoint presentation slides - Images illustrating Gordon Ford landscaping soon after construction (duplicate of Document 15) - Draft Peer review and preliminary advice 22 September 2021 prepared by GJM Heritage for Ms McRobert regarding heritage citation and Statement of Significance - Peer review and preliminary advice 24 September 2021 prepared by GJM Heritage for Ms McRobert regarding heritage citation and Statement of Significance - Revised citation including Statement of Significance (showing Tracked changes) prepared by GJM Heritage - Email from Council officers to Ms McRobert regarding officer recommendation associated with Amendment C149nill proposed to be presented to Council meeting 26 September 2023 (duplicate of Document 13) - Extract from email 26 September 2023 (aerial photo) setting out Council heritage adviser recommendations regarding heritage curtilage - Heritage advice 15 July 2022 prepared by GML heritage for Council regarding Permit Application 1230/2021/03P (duplicate of Document 17) - Draft heritage advice 31 March 2023 prepared by GJM Heritage for Harwood Andrews regarding Permit Application 1230/2021/03P (VCAT P1368/2022) - Draft 2 heritage advice 31 March 2023 prepared by GJM Heritage for Harwood Andrews regarding Permit Application 1230/2021/03P (VCAT P1368/2022) - Email from Heritage Victoria to Ms McRobert 16 November 2022	Ms McRobert
28	16 Nov 23	Submission – Mr Hill	Mr Hill
29	16 Nov 23	Aerial photo with proposed revised Heritage Overlay curtilage for 32-36 Perversi Avenue, Diamond Creek	Mr Fonhoff
30	17 Nov 23	Council Part C submission (Part 1)	Council
31	17 Nov 23	Email – Further Panel Directions regarding distribution of final submissions	PPV

No.	Date	Description	Provided by
32	20 Nov 23	Written response to amended citation	Ms Trickey, Crossroads Town Planning for Mr Rusiovoski
33	21 Nov 23	Copy of written submission - Eltham Community Action Group	Eltham Community Action Group
34	27 Nov 23	Submission (typed version of submission presented verbally) – Ms Fink	Ms Fink
35	27 Nov 23	Council Part C submission (Part 2)	Council
36	27 Nov 23	Revised citation (with tracked changes) for Sherwood 110 Deep Creek Road, Arthurs Creek	Council
37	27 Nov 23	Revised citation (with tracked changes) for Arthurs Creek Cemetery, 1165 Arthurs Creek Road, Arturs Creek	Council
38	27 Nov 23	Revised citation (with tracked changes) for 145 River Avenue, Plenty	Council
39	27 Nov 23	Revised citation (with tracked changes) for Souter House 17 Koorong Crescent, North Warrandyte	Council
40	27 Nov 23	Revised citation (with tracked changes) for 183 Yan Yean Road, Plenty	Council
41	27 Nov 23	Revised citation (with tracked changes) for Park View 25 Brennans Road East, Arthurs Creek	Council
42	27 Nov 23	Revised citation (with tracked changes) for 32-36 Perversi Avenue, Diamond Creek	Council
43	27 Nov 23	Revised citation (with tracked changes) for Ghirrawheen 349-361 Diamond Creek Road, Diamond Creek	Council
44	27 Nov 23	Revised citation (with tracked changes) for Harton Hill Farm 405 Ryans Road, Diamond Creek	Council
45	27 Nov 23	Revised citation (with tracked changes) for Former Loyal Diamond Creek Lodge of the Manchester Unity Independent Order of Oddfellows, 42 Collins Street, Diamond Creek	Council
46	27 Nov 23	Revised citation (with tracked changes) for 52 Kurak Road, Yarrambat	Council
47	27 Nov 23	Revised citation (with tracked changes) for Arthurs Creek Mechanics Institute 906 Arthurs Creek Road, Arthurs Creek	Council
48	27 Nov 23	Revised citation (with tracked changes) for Post Office, General Store & residence, 920 Yan Yean Road, Doreen	Council
49	28 Nov 23	Corrected revised citation (with tracked changes) for Post Office, General Store & residence, 920 Yan Yean Road, Doreen	Council

Appendix C Planning context

C:1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below.

Victorian planning objectives

The Amendment will implement section 4(1)(a), (d), (e) and (g) of the *Planning and Environment Act 1987* (the PE Act) to:

- provide for the fair, orderly, economic and sustainable use and development of land
- conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value
- balance the present and future interests of all Victorians.

Municipal Planning Strategy

The Amendment supports:

- **Clause 02.03-5** (Built environment – Heritage) which seeks to:
 - Protect and enhance places of heritage significance, including sites of Aboriginal heritage significance.

Planning Policy Framework

The Amendment supports:

- **Clause 11.03-3S** (Peri-urban areas) by managing growth to protect and enhance identified values including through identification and protection of cultural heritage
- **Clause 15.01-1R** (Urban design) which seeks to create a distinctive and liveable city with quality design and amenity
- **Clause 15.01-5S** (Neighbourhood character) which seeks to recognise, support and protect neighbourhood character, cultural identity, and sense of place
- **Clause 15.03-1S** (Heritage conservation) which seeks to ensure the conservation of places of heritage significance. Relevant strategies are:
 - Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.
 - Provide for the protection of natural heritage sites and man-made resources and the maintenance of ecological processes and biological diversity.
 - Provide for the conservation and enhancement of those places which are of, aesthetic, archaeological, architectural, cultural, scientific, or social significance.
 - Encourage appropriate development that respects places with identified heritage values.
 - Retain those elements that contribute to the importance of the heritage place.
 - Encourage the conservation and restoration of contributory elements.
 - Ensure an appropriate setting and context for heritage places is maintained or enhanced.

C:2 Other relevant planning strategies and policies

i) Plan Melbourne

Minister's Direction No. 9 – Metropolitan Strategy requires planning authorities to have regard to the Metropolitan Planning Strategy, Plan Melbourne in preparing an amendment. *Plan Melbourne 2017-2050* sets out strategic directions to guide Melbourne's development to 2050 to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is

accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved. The following are relevant to the Amendment:

- **Outcome 4:** Melbourne is a distinctive and liveable city with quality design and amenity
 - **Direction 4.4:** Respect Melbourne’s heritage as we build for the future
 - **Policy 4.4.1:** Recognise the value of heritage when managing growth and change
 - **Policy 4.4.2:** Respect and protect Melbourne’s Aboriginal cultural heritage
 - **Policy 4.4.3:** Stimulate economic growth through heritage conservation
 - **Policy 4.4.4:** Protect Melbourne’s heritage through telling its stories.

ii) Nillumbik Heritage Strategy 2011

The *Heritage Strategy: Identifying and Conserving Nillumbik’s Cultural Heritage* (Nillumbik Shire Council, 2011) seeks to ensure the protection of heritage places by identifying, assessing and documenting important heritage places and to consider and act on, best practice in their conservation.

iii) Nillumbik Green Wedge Management Plan

A number of the places included in the Amendment are located outside of the Urban Growth Boundary. The *Nillumbik Green Wedge Management Plan 2010-2025 Part 2: Delivering the Vision* (Nillumbik Shire Council 2011) identifies 10 principles and key actions. One of these principles observes that the green wedge’s landscape and cultural heritage are irreplaceable resources for the local and metropolitan community that need to be conserved and enhanced.

iv) The Nillumbik Council Plan 2021-2025

The Amendment is consistent with the *Nillumbik Council Plan 2021 – 2025*, which among other objectives, seeks to celebrate and prioritise the protection of our heritage, arts and culture, places and spaces by focusing on the diversity of experiences that have shaped our shared history. The Council Plan also notes as a priority action to “Undertake a heritage review of the ‘Stage 2’ potential heritage sites of significance”.

C:3 Planning scheme provisions

The Heritage Overlay purposes are:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.
- To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

The Heritage Overlay requires a planning permit to demolish, subdivide, build or carry out works. The Heritage Overlay enables its Schedule to specify additional controls for specific trees, painting

previously unpainted surfaces, internal alterations and an incorporated plan (which may exempt buildings and works and other changes from requiring a planning permit). The Schedule may also identify if a place can be considered for uses that are otherwise prohibited, subject to a planning permit.

C:4 Ministerial Directions, Planning Practice Notes and guides

Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of:

- Ministerial Direction 11 (Strategic Assessment of Amendments)
- Ministerial Direction 9 (Metropolitan Strategy)
- Ministerial Direction (The Form and Content of Planning Schemes pursuant to section 7(5) of The Act) – referred to as Ministerial Direction 7(5) in this Report.

That discussion is not repeated here.

Planning Practice Note 1 (Applying the Heritage Overlay), June 2023

Planning Practice Note 1 (PPN01) provides guidance about using the Heritage Overlay. It states that the Heritage Overlay should be applied to, among other places:

Places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.

PPN01 specifies that documentation for each heritage place needs to include a statement of significance that clearly establishes the importance of the place and addresses the heritage criteria. It recognises the following model criteria (the Hercon criteria) that have been adopted for assessing the value of a heritage place:

- Criterion A:** Importance to the course or pattern of our cultural or natural history (historical significance).
- Criterion B:** Possession of uncommon, rare or endangered aspects of our cultural or natural history (rarity).
- Criterion C:** Potential to yield information that will contribute to an understanding of our cultural or natural history (research potential).
- Criterion D:** Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).
- Criterion E:** Importance in exhibiting particular aesthetic characteristics (aesthetic significance).
- Criterion F:** Importance in demonstrating a high degree of creative or technical achievement at a particular period (technical significance).
- Criterion G:** Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions (social significance).
- Criterion H:** Special association with the life or works of a person, or group of persons, of importance in our history (associative significance).

Practitioner's Guide

A Practitioner's Guide to Victorian Planning Schemes Version 1.5, April 2022 (Practitioner's Guide) sets out key guidance to assist practitioners when preparing planning scheme provisions. The guidance seeks to ensure:

- the intended outcome is within scope of the objectives and power of the PE Act and has a sound basis in strategic planning policy

- a provision is necessary and proportional to the intended outcome and applies the Victoria Planning Provisions in a proper manner
- a provision is clear, unambiguous and effective in achieving the intended outcome.

Appendix D Panel preferred versions of statements of significance

The following Panel versions of statements of significance are based on the amended versions of statements of significance or citations provided by Council during the Hearing (and referred to by Document number) in Chapters 5, 6 and 7 of this Report, with further changes shown as:

Added by the Panel

~~Deleted~~ by the Panel

Panel note: Additional changes required (refer to Report recommendations)

D:1 Statement of Significance: ‘Wendouree’ and Canary Island Date Palms and Smith orchard house

What is significant?

‘Wendouree’ (built in 1910) and Canary Island Date Palms at 125 Cherry Tree Road (~~built in 1910~~), and the Smith orchard house at 173 (c1915) Cherry Tree Road, Hurstbridge, a pair of houses associated with generations of the Smith family, is significant.

Elements that contribute to the significance of the place include:

- original single-storey forms and scale (125 and 173);
- original or early timber cladding and corrugated metal roofs (125 and 173);
- M-profile hipped roof and symmetrical double-fronted façade design (125);
- two mature Canary Island Date Palms (*Phoenix canariensis*) in the front garden of no 125;
- asymmetric form with a projecting gabled wing, high-pitch hipped roof with a transverse gable, front verandah inset under the main roof form (173);
- stylistic detailing including the face brick chimney, half-timbering treatment to the gable end, doorway with a sidelight and highlight, and turned timber verandah posts and timber brackets (173).

Later changes (especially those applied after the Smith family’s ownership) are not significant.

How is it significant?

‘Wendouree’ and Canary Island Date Palms at 125 Cherry Tree Road, and the Smith orchard house at 173 Cherry Tree Road, Hurstbridge, is of local historical, representative and associative significance to the Shire of Nillumbik.

Why is it significant?

The houses built for generations of the Smith family at 125 and 173 Cherry Tree Road, Hurstbridge, are historically significant for its demonstration of the shire’s key historical development period. The ~~cluster of~~ properties evidence the heyday of the fruit-growing industry between 1880 and 1910, and the continuation of the smaller-scale orcharding industry into the 1970s. The houses are built of timber and are basic in form and design reflecting the rural origins of the area. The Smith properties had close association with surrounding land, where they operated commercial orchards and other agricultural businesses including poultry farm. The two mature Canary Island Date Palm trees in the

front garden of no 125 are good specimens of a very fashionable tree during the first decades of the twentieth century. (Criteria A and D)

The pair of houses at 125 and 173 Cherry Tree Road, Hurstbridge, ~~is~~ are significant for their generational association with the Smith family. Edwin Smith and his wife Louise established orchard and farm from 1877 with 20-acre occupation licence issued under the Amending Land Act 1869. Edwin and Louisa raised their 11 children at the earlier family home 'Beaumont'. Some of their children continued working at the family orchards, settling in new homes built in the vicinity. 'Wendouree' at 125 Cherry Tree Road was built c1910 for George John Smith and his wife Barbara (née Bradley) shortly after their marriage. The c1915 house at 173 Cherry Tree Road was built for Bert Smith and his wife Mabel (née Suttie). Edwin and Violet Smith (née Bartlett) brought up nine children in a nearby house at 191 Cherry Tree Road (since altered). The Smiths were among a number of local families who settled in the Hurstbridge/Panton Hill area, taking up a number of occupation licences in the 1860s in close proximity under the names of various family members. Members of the Smith family continued the agricultural operation for over 100 years into the 1970s. (Criteria A and H)

Panel note: Criterion to be separated out into separate criterion paragraphs

D:2 Statement of Significance: Mechanics Institute, 906 Arthurs Creek Road, Arthurs Creek

What is Significant?

Arthurs Creek Mechanics Institute located at 906 Arthurs Creek Road, Arthurs Creek. The original form, materials and detailing of the Mechanics Institute are integral to the significance of the site.

Additions and alterations after 1945 are not significant.

How is it significant?

Arthurs Creek Mechanics Institute is of local historic and aesthetic significance to the Shire of Nillumbik.

Why is it significant?

Arthurs Creek Mechanics Institute is historically significant as an early and important public building in the township of Arthurs Creek since 1887. Constructed in 1887, the Mechanics Institute demonstrates the heyday of Arthurs Creek in the late 19th century, when there was a much larger population in the area and it played an important role in the townships continuing development. The building is of significance a substantially intact example of a Mechanics institute constructed in the Shire during the Victorian period. The Mechanics Institute is a visual reminder of the once more populous township of Arthurs Creek as it developed in the late Victorian period and early twentieth century. The Mechanics Institute has been the venue for meetings of various clubs and associations and a wide variety of benefit events in the area's community life during that time. This has included its provision of a library and adult education services focussed on the particular needs of the local area. (Criterion A)

Arthurs Creek Mechanics Institute is aesthetically significant as a substantially intact example of a weatherboard Victorian Mechanic's Institute. Key features of its late Victorian style include the all-encompassing gable roof form, timber framed double hung windows and their placement, double doors to the front, gable end decoration and weatherboard cladding. (Criterion E)

D:3 Statement of Significance: Arthurs Creek Cemetery, 1165 Arthurs Creek Road, Arthurs Creek

What is Significant?

Arthurs Creek Cemetery at 1165 Arthurs Creek Road, Arthurs Creek. The cemetery landscaping, grave sites, chapel, matching Arthurs Creek Road and cemetery reserve gates and entry tree avenue containing Cypress planted in 1959 and Sugar Gums and Oaks planted in 1963 and the pines to the boundaries and cemetery setting contribute to the significance of the place.

How is it significant?

Arthurs Creek Cemetery is of local historic, aesthetic, social and associative significance to the Shire of Nillumbik.

Why is it significant?

Arthurs Creek Cemetery is historically significant for demonstration of the early settlement of the Arthurs Creek area as well as providing documentary history of the families living in the district from its beginnings until the present day. The cemetery was gazetted in 1867 however the land on which it sits was previously part of the property, Hazel Glen owned by the Reid family. A private cemetery was established when Agnes Reid died in 1847 and was buried on a hill on the property that provided views of the ranges. The cemetery was later to be gazetted on this hilltop location. The cemetery not only demonstrates an early cemetery layout and features, but also the changing practices and operation of cemeteries illustrated by the initial establishment as a private burial site with, early denominational layout, accommodation of multi-faiths and cremations, on site chapel, non-denominational section and bush garden landscape. (Criterion A)

Arthurs Creek Cemetery is aesthetically significant as an [representative](#) example of a rural cemetery established in the mid 1800s. It provides examples of late Victorian headstones and cast cast-iron cemetery surrounds as well as demonstrating the early denominational layout of a cemetery. The bush garden section for cremated ashes is of aesthetic interest and links to the history of native landscaping in the Shire. The two sets of entry gates, pine boundary planting, entry avenue with Cypress, Sugar Gums and Oaks and picturesque hillside setting contribute to the aesthetic significance of the place. (Criterion E)

Arthurs Creek Cemetery is of social significance as an important commemorative site valued by the Arthurs Creek district community. (Criterion G)

The Arthurs Creek Cemetery contains graves of prominent families who have had a long association with the district, including the Bassett, Christian, Draper, Murphy, Reid, Sutherland and Smith families. (Criterion H)

D:4 Statement of Significance: Former Loyal Diamond Creek Lodge (MUIOOF), 42 Collins Street, Diamond Creek

What is Significant?

The former Loyal Diamond Creek Lodge located at 42 Diamond Creek Road, Diamond Creek. The original form, materials and detailing of the meeting room and hall building contribute to the significance of the place.

How is it significant?

The former Loyal Diamond Creek Lodge located at 42 Diamond Creek Road, Diamond Creek is of local historic, rarity and aesthetic significance to the Shire of Nillumbik.

Why is it significant?

The former Loyal Diamond Creek Lodge is of historical significance as an example of a Manchester Unity Independent Order of Oddfellows meeting place. The Manchester Unity Independent Order of Oddfellows (MUIOOF), had its origins in Manchester, England. It was established in Melbourne in 1840 when Augustus Greeves, a member of the MUIOOF in England, migrated to Australia. By the late nineteenth century, MUIOOF had an extensive network of lodges in metropolitan and country Victoria. The Diamond Creek Lodge held its first meeting in 1870 with 15 foundation members. The small block on which the building sits, was purchased in 1906 by Richard Wadeson, Andrew Burgess Herbert and Patrick John Sheahan, all orchardists of Diamond Creek, for the purpose of establishing a meeting room for the Loyal Diamond Creek Lodge Manchester Unity Independent Order of Oddfellows. At least from 1908, the building on the site was used for meetings and lectures and operated as such until 1949. (Criterion A)

The building is the only surviving Manchester Unity Independent Order of Oddfellows known to exist in the Nillumbik Shire. (Criterion B)

The former Loyal Diamond Creek Lodge is of aesthetic significance as the former Loyal Diamond Creek Lodge is a substantially intact picturesque Edwardian weatherboard building retaining its original form of two intersecting gable wings and original fine timberwork details such as the timber framed double hung windows, gable end louvred vents and the decorative gable end bargeboards with finials. (Criterion E)

D:5 Statement of Significance: Villa Bereguardo, 32-36 Perversi Avenue, Diamond Creek

What is Significant?

The house at 32-36⁴ Perversi Avenue, Diamond Creek, built in 19³24 to designs by the architect FW Thomas for Giuseppe and Sicilia Perversi, is significant. Elements that contribute to the significance of the place include its original form, materiality and detailing, and the early or original outbuilding to the northeast of the house, ~~and the palm trees.~~

Later alterations and additions including the garage, pool and associated infrastructure and other outbuildings to the rear of the dwelling are not significant.

How is it significant?

The property at 32-36⁴ Perversi Avenue, Diamond Creek is of local historic and aesthetic significance to the Shire of Nillumbik. The property is also significant for its rarity within the Shire.

Why is it significant?

The property at 32-36⁴ Perversi Avenue, Diamond Creek, is historically significant as a house built as a weekend residence for a prosperous Italian family based in Melbourne. Constructed in 1924, the property was initially used for leisure until 1929, when the family relocated to the site as their permanent residence. The house was named Villa Bereguardo after the town in Italy from which the Perversi family came. The presence of the Perversi family demonstrates pre-WW2 Italian migration to the Nillumbik area, and more broadly within Victoria. The house is also historically significant as an example of the increasingly popular use of concrete for residential construction in the early interwar period. (Criterion A)

The property at 32-36⁴ Perversi Avenue, Diamond Creek is significant as a rare and substantially intact example of a 1920s residence demonstrating the early use of reinforced concrete in the Shire. Surviving examples of this type of construction from this period are rare, and were usually concentrated around the inner suburbs of Melbourne rather than rural areas, as the Shire of Nillumbik was at the time. (Criterion B)

The property at 32-36⁴ Perversi Avenue, Diamond Creek is aesthetically significant for the substantially intact 1920s architect designed concrete house that retains many of its original features including its overall original form with hipped roof, veranda to three sides, and corner wings to the rear. The pavilion form of the house, decorative undulating veranda balustrade, timber fretwork, leadlight windows, chimneys and small gables make it a particularly good example of non-suburban bungalow design in the 1920s. The location of the house on the crest of a hill, facing the valley, ~~and the two palm trees at the front~~ contributes^s to the aesthetic significance of the site. (Criterion E)

D:6 Statement of Significance: Post Office, General Store & Residence, 920 Yan Yean Road, Doreen

What is Significant?

The Doreen Post Office and General Store (1932-33) with attached residence (1908) ~~and storeroom~~ at 920 Yan Yean Road, Doreen, is ~~S~~significant.

Significant elements include:

- The original form of the ~~General S~~store with splayed corner to address its siting on the intersection of two major roads
- The original materiality of the building, including brick walls and corrugated iron roof
- Key detailing of the ~~General Store store~~, including parapet wall with projecting courses, original lettering, and small windows above ~~the door level on the corner splay~~
- The original form of the attached residence
- The original timber materiality of the attached residence
- Original key details of the residence, including exposed rafters, timber framed windows and chimney.

Other buildings ~~and elements~~ on the site are not significant.

Post-war alterations are not significant.

How is it significant?

The Doreen Post Office and General Store 920 Yan Yean Road, Doreen is of local historic and representative significance to the Shire of Nillumbik.

Why is it significant?

The Doreen Post Office and General Store is historically significant as an early social centre for the township of Doreen, having functioned as the Post Office since 1902. The period of ownership by the Owens during the 1930s is especially significant, as the family was the longest serving storekeepers, and the current building relates to their occupation. The Post Office and ~~General~~ Store also has associations with the tourism history of the Shire. From the late nineteenth the General Store facilitated excursionists from the city en route to the scenic points of interest in the district. It is one of only a few surviving premises that evidence the early township of Doreen and at this key crossroads within the Shire. (Criterion A)

The Doreen Post Office and General Store is significant as an example of an interwar brick corner commercial building with earlier attached residence. The prominent corner location on a crossroads is also evocative of the Post Office and ~~General~~ Store's role in the centre of social activity in the town. The ~~General Store shop~~ retains its original brick walls, parapet with cornice and lettering, corner entry and ~~upper shop~~ windows. The residence retains its original roof form, weatherboard walls and front inset veranda. (Criterion D)

D:7 Statement of Significance: ‘Choong House’ 10 Diosma Road, Eltham

What is significant?

The Choong House, 10 Diosma Road, Eltham, designed by architects Biltmoderne and built between 1985 and 1988 for owner Ken Choong, is significant.

Elements that contribute to the significance of the place include the:

- original external built form, including the distinctive ‘spinal wall’ and central atrium;
- original materiality including the use of limestone walls, expanses of glazing and ribbed aluminium panels;
- elements of Gordon Ford’s original landscape design to the front entry, central atrium and courtyard spaces; and
- open steel carport, designed by Wood Marsh and built in 1988.

How is it significant?

The Choong House, 10 Diosma Road, Eltham, is of local aesthetic and associative significance to the Shire of Nillumbik.

Why is it significant?

The Choong House ~~and garden~~, 10 Diosma Road, Eltham, is aesthetically significant as particularly well designed and detailed architect-designed house that is carefully sited within a bush garden landscape. Designed by architects Biltmoderne, the building’s sculptural form is expressed in a palette of limestone, aluminium and glass. The use of fluid lines, refined metal and glazing juxtaposes with the house’s solid limestone massing. In recognition of the innovative design, the house won the 1987 RAA Victorian Merit Award for Outstanding Architecture and was profiled in the media and in books on architecture, including Graham Jahn’s *Contemporary Australian Architecture* (published in 1994). The property’s aesthetic significance is further enhanced by the bush garden elements designed by Gordon Ford including ~~ponds~~, volcanic boulders and native plantings in the various garden courtyard spaces and around the front entry, designed to blend with the surrounding natural vegetation on the site. The steel carport, built in 1988 to designs by Wood Marsh (the architectural firm created after Biltmoderne by two of its directors, Roger Wood and Randal Marsh) is complementary in style to the house. (Criterion E)

The Choong House is significant as an important early residential commission for the firm of Biltmoderne. The firm were to become Wood Marsh with the departure of founding partner Dale Jones-Evans in 1987, and as such the site is one of only a handful of residences designed by the earlier partnership. It can be read as a formative piece of work that influenced the designs of many of the later commissions by Wood Marsh. The commissioning of Choong House coincided with a period of great recognition for Biltmoderne, where their work was celebrated widely in the architectural community. The firm has since become internationally recognised for their work. (Criterion H)

D:8 Statement of Significance: Diamond Valley Miniature Railway, 570-576 Main Road, Eltham

What is significant?

The Diamond Valley Miniature Railway, Eltham Lower Park, at part of 570 Main Road, Eltham, a miniature railway complex constructed from 1961, is significant.

Elements that contribute to the significance of the place include:

- ~~ongoing use of the site as a miniature railway and~~ integration of the [miniature railway](#) built elements within the landscape setting, as well as its railway operation and construction largely based on that of the Victorian Railways;
- the original scale (as a 184 mm (7¼") gauge railway) and form of the complex within the natural bush landscape setting;
- Edwardian-style train stations and platforms (half full size), William G Pert railway workshop and picket fencing and their scales;
- key 1960s railway infrastructure including two reinforced concrete pipe tunnels, and triple arched viaduct bridge);
- other railway elements reflecting the use such as the B signal box and signals and their scale (1/4 full size);
- turntable and tracks and signage; and
- row of trees planted along the tracks and known as the 'Avenue of Honour'.

~~Other elements that support the general recreational use of the place contribute to the use of the place but should be open to alteration.~~

Other later railway infrastructure (including the steel-framed overhead pedestrian bridge, Chelsworth Bridge, Meadmore Junction platform, Pine Creek platform, Gnome's Home Garden Shed, and sanctuary carriage storage) and the elements that support the general recreational use (including the Nillumbik workshop and clubrooms and gazebo) ~~also~~ contribute to the character of the place as a historical miniature railway complex [but are not significant to the place](#).

How is it significant?

The Diamond Valley Miniature Railway Eltham Lower Park, at part of 570 Main Road, Eltham, is of local historic, ~~and~~ representative [and social](#) significance to the Shire of Nillumbik.

Why is it significant?

The Diamond Valley Miniature Railway, Eltham Lower Park, at part of 570 Main Road, Eltham is historically significant as an early miniature railway complex built in Victoria. Operating at its current site since 1961, it is important as a popular long-term recreational facility within Nillumbik. It is evidence of the ongoing fascination with railways and their components. It provides physical evidence of a form of leisure activity, and tourism, that emerged during the postwar period and has remained popular as a community recreational complex. (Criterion A)

Constructed from 1961, the Diamond Valley Miniature Railway is significant as an early and detailed representative example of a miniature railway complex built in Victoria. It is distinguished as a substantial example that includes a comprehensive complex of buildings and infrastructure elements which are designed to be convincing replicas of an Edwardian railway system and its components. It contains numerous buildings and landscape elements which enhance the

experiential qualities of the place. The incorporation of picnic facilities encouraging use, and gatherings, by the public and broader community for events and recreation is also significant. (Criterion D)

The Diamond Valley Railway is socially significant to the Shire of Nillumbik. It is an important recreational facility that has a continuing presence in Eltham and districts, having carried over 4,230,000 passengers since its inception in 1960. It has social significance for its connections with Diamond Valley Railway Inc, a membership-based and volunteer-managed organisation, which has maintained a program of installing and updating miniature railway infrastructure and facilities since inception. Both historical and more recent upgrades to the complex enhance the ongoing connection of the place with Diamond Valley Railway Inc, as demonstrated by the strong and active efforts of members to maintain the facilities. Its community connections are demonstrated in its longstanding use and active membership base. The 'Avenue of Honour' tree planting that commemorates past members is a tangible link to those who had and continue to have a connection with the railway and their families and friends. (Criterion G)

Panel note: Place address references to 'part of 570 Main Road' to be clarified
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D:9 Statement of Significance: 16 Warringah Crescent, Eltham

What is significant?

The house at ~~14~~-16 Warringah Crescent, Eltham, a concrete block and timber house built c1975 to a design by Peter Carmichael of Cocks Carmichael, is significant.

Elements that contribute to the significance of the place include:

- original form and scale of the house, designed to embrace the steeply sloping site;
- original materiality of the house, including concrete blocks, concealed flat steel deck roofs and horizontal timber boarding;
- original window and door openings and joinery;
- open carport, constructed out of matching concrete blocks and timber; and
- siting on a steeply sloping block of land with the retention of its bush setting.

How is it significant?

The house at ~~14~~-16 Warringah Crescent, Eltham, is of local representative and aesthetic significance to the Shire of Nillumbik.

Why is it significant?

The house at ~~14~~-16 Warringah Crescent, Eltham, is of aesthetic and representative significance as a well-detailed architect-designed house that responds to its sloping bushland block. Designed by architect Peter Carmichael of Cocks Carmichael, the building's form is a carefully composed arrangement of low interlocking angular and rectilinear volumes set over two levels. Materially, the house has a restrained palette of clay-coloured concrete blocks and naturally finished horizontal timber weatherboard cladding. This palette responds chromatically to its landscape setting. The pursuit of complex and abstract geometry marks a distinct break from the 'Eltham Style' while the use of a natural palette of materials and low-lying forms maintains links with the earlier style. The property's aesthetic significance is further enhanced by the purposeful retention of its bush setting. (Criteria D and E)

Panel note: Criterion to be separated out into separate criterion statements

D:10 Statement of Significance: Macmahon Ball House and Study, 61 York Street, Eltham

What is significant?

The Macmahon Ball house (pise section), study ~~and pottery~~ at 61 York Street, Eltham, comprising of a study built in 1948 to a design by Alistair Knox, ~~and~~ a pise section with attic floor constructed c1948 to a design by John Harcourt, ~~and a mudbrick pottery built in 1950 to another design by Alistair Knox, all~~ for the owner Professor (William) Macmahon Ball, is significant.

Elements that contribute to the significance of the place include:

- 1948 mudbrick study, inclusive of its mudbrick walls, chimney gable roof and original window and door openings and joinery; ~~and~~
- c1948 pise portion of the house, inclusive of steep gable roof form, dormer window, chimney and original window and door openings and joinery, ~~and~~
- ~~1950 mudbrick pottery, inclusive of its mudbrick walls, chimney, gabled roof and original window and door openings and joinery.~~

~~The contemporary extension to the pottery is not significant.~~

How is it significant?

The Macmahon Ball house (pise section) ~~and~~, study ~~and pottery~~ at 61 York Street, Eltham, is of local historic, representative, and associative significance to the Shire of Nillumbik.

Why is it significant?

The Macmahon Ball house (pise section) ~~and~~, study ~~and pottery~~ at 61 York Street, Eltham, are of historical significance to the Shire of Nillumbik. Like many properties associated with other local artists and intellectuals houses in the area, the property was developed in stages as needs arose and finances became available, using simple building forms and materials. The buildings show the development of the site as the residence for prominent professor of political science, diplomat, author, journalist and radio broadcaster William Macmahon Ball who lived at the property between 1945 until his death in 1986. The complex of buildings provides important evidence of the collaborative work of key building designers active in Eltham in the postwar period, namely Alistair Knox and John Harcourt. In this way the buildings on the site are significant for their contribution to the ongoing understanding of the history of the Shire of Nillumbik and particularly Eltham as a centre for artists, writers, and intellectuals after World War II (Criterion A).

The mudbrick study (1948) ~~and pottery (1950)~~ at 61 York Street, Eltham, ~~is an~~ are important examples of the early work of designer and builder Alistair Knox in the suburb. The mudbrick study is predated only by the English House in Lower Plenty (now Shire of Banyule), and is the first example in Eltham of the earlier building forms and materials that would inform much of Knox's later career as a well-known and prolific local designer and builder. Between 1946 and 1986 Knox designed over 1000 houses, and a number of churches, schools and other buildings in Nillumbik. Knox built approximately 350 of these himself, and he is best remembered for his use of mudbrick throughout many of these sites. Knox was integral in the development of the recognisably regional 'Eltham style' of architecture and landscape practice. ~~Builder John Harcourt also contributed to the complex as a builder of the c1948 pottery studio (likely at today's 61A York Street). Harcourt, along with~~ Alistair Knox and Peter Glass, played a significant role in the development of the 'Eltham style'

of architecture and design and were associated with the development of the Australian bush garden aesthetic. (Criterion D)

The site is significant to the Shire of Nillumbik for its associations with William Macmahon Ball (1901-1986), prominent professor of political science, diplomat, author, journalist and radio broadcaster. Ball lived at the site for 41 years from 1945 until his death in 1986. In 1946 Ball was appointed British Commonwealth member of the allied Council for Japan and was Australia's delegate in the Japanese peace negotiations. Ball wrote innumerable articles and book reviews while living at 61 York Street ~~presumably working on many of these from his desk in his mudbrick study.~~ (Criterion H)

D:11 Statement of Significance: Souter House, 17 Koorngong Crescent, North Warrandyte

What is significant?

The residence and its landscaped setting.

How is it significant?

17 Koorngong Crescent is of local ~~socially~~, historic and aesthetic ~~aesthetically~~ significance ~~significant~~ to the Shire of Nillumbik.

Why is it significant?

17 Koorngong Crescent is historically significant as ~~a good~~ an example of a residence that marks the early phase of the postwar residential development in the Shire, in this case around the former Koorngong School site in the 1950s and chosen by a war veteran for their home. The house demonstrates the change in living requirements and lifestyle that differed from the previous pre-war farming communities in the Nillumbik Shire. (Criterion A)

The residence is of aesthetic ~~and architectural~~ significance to the Nillumbik Shire as an example of a local residence displaying the early influence of the Melbourne Regional Style. The house demonstrates characteristic features such as the flat roof, broad eaves, window walls, incorporation of timber cladding and rockwork, and the particular plan ~~belonged~~ to suit the curve of the terrain. (Criterion E).

D:12 Statement of Significance: 145 River Avenue, Plenty

What is significant?

The interwar bungalow farmhouse at 145 River Avenue, Plenty is significant to the Shire of Nillumbik. The original form, materials and detailing of the farmhouse and its rural setting contribute to the significance of the place.

The post-war infill addition to the side verandah is not significant.

Outbuildings are not significant.

How is it significant?

145 River Avenue, Plenty is of local historic and representative significance to the Shire of Nillumbik.

Why is it significant?

145 River Avenue, Plenty is historically significant as an example of the early developers within a small-holder subdivision, the Plenty River Estate. The property contains a surviving intact example of an interwar farmhouse. (Criterion A)

145 River Avenue, Plenty is significant as a substantially intact interwar farmhouse, which retains its original form and main features including the all-encompassing main hipped roof, weatherboard walls, timber framed windows, front gable-roofed wing and front verandah with brick balustrade and pillars. The residence was constructed in the 1920s and demonstrates developing architectural ideas around suburban bungalows, and a transition away from Edwardian-era design. (Criterion D)

D:13 Statement of Significance: Nilgiris, 183 Yan Yean Road, Plenty

What is significant?

Nilgiris at 183 Yan Yean Road, Plenty is significant to the Shire of Nillumbik. The original form, materials and detailing of the farmhouse and its rural setting contribute to the significance of the place.

Post-war additions and alterations are not significant.

The former egg incubator shed contributes to the historical understanding of the place.

Other outbuildings are not significant.

How is it significant?

Nilgiris at 183 Yan Yean Road, Plenty is of local historic and representative significance to the Shire of Nillumbik.

Why is it significant?

Nilgiris is significant as a farm property established during the development of Plenty in the 1920s after the major subdivisions in the early twentieth century. It is significant as an example of a War Service Home erected in the 1920s. It is an example of a successful poultry farm established and operated from the 1930s by John Edgcumbe, a returned serviceman. It is an important example of the once-common farming practice of poultry farming in the area. (Criterion A)

Nilgiris is significant as a representative example of a 1920s weatherboard bungalow. It demonstrates the shift in architectural tastes and influences from suburban Melbourne. (Criterion D).

D:14 Statement of Significance: Former Farmhouse, 52 Kurrak Road, Yarrambat

What is significant?

52 Kurrak Road, Yarrambat is significant to the Shire of Nillumbik. The original 1920s weatherboard residence including its form, materials and detailing contribute to the significance of the place. The setting of the place including its relationship to the road and the driveway separating the house from the outbuildings contribute to the significance of the place.

The corrugated iron outbuildings are not significant.

Later fabric, including the front fence and alterations to the house, are not significant.

How is it significant?

52 Kurrak Road, Yarrambat is of local historic and representative significance to the Shire of Nillumbik

Why is it significant?

2 Kurrak Road, Yarrambat is historically significant as a surviving example of the interwar farmstead group connected with orcharding and poultry farming activity in the Shire of Nillumbik. The farmhouse is a modest example of the period and retains its original form and main features including footprint, weatherboard cladding and return verandah. It is also historically significant for the ongoing connection to the Marshall family since the 1920s. The Marshalls were one of the early orcharding and poultry farming families associated with the significant interwar agricultural theme of the area. (Criterion A)

The farm complex at 52 Kurrak Road, Yarrambat is significant as a representative farm house from the 1920s (interwar period) in the Shire. The farmhouse is an example of the period farmhouse in the Shire and retains its original form and main features including weatherboard cladding and return verandah at the front. (Criterion D)

Panel note: Replace exhibited place image with an alternative image of the heritage place
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Appendix E Council proposed citation changes

Place	Summary of changes proposed by Council
Arthurs Creek Mechanics Institute, 906 Arthurs Creek Road, Arthurs Creek (HO309)	- amend 'Description and integrity' to refer identify the more recent construction of sheds and outbuildings - amend provisions for outbuildings - amend the Statement of Significance
Arthurs Creek Cemetery, 1165 Arthurs Creek Road, Arthurs Creek (HO309)	- Identifying the marching road and cemetery reserve gates - minor grammatical corrections including under criteria assessment Criterion E correcting spelling of 'cast-iron' - amend the Statement of Significance
The former Loyal Diamond Creek Lodge, 42 Collins Street, Diamond Creek (HO317)	- amend place title to 'Former Loyal Diamond Creek Lodge of the Manchester Unity Independent Order of Oddfellows (MUIOOF) - amend criteria assessment under Criterion B to add no other examples 'of the MUIOOF Lodge' - amend the Statement of Significance
Villa Bereguardo, 32-36 Perversi Avenue, Diamond Creek (HO323)	- correct place address as 32-36 Perversi Avenue - amend the Statement of Significance
Post Office and General Store, 920 Yan Yean Road, Doreen (HO327)	- amend title and place name to 'Post Office, General Store & Residence' - add '1908' as an additional construction date - amend 'Historical context' to clarify stopping place purpose for local sightseeing - minor corrections to 'History' - amend 'Description & integrity' to reference verandah as post-war addition, remove Figure 2, correct title of Figure 3, add more recent images - amend criteria assessment to identify earlier construction of the residence (Criterion A) and as a legible example of early twentieth century shop attached to an earlier residence - amend the Statement of Significance
Choong House, 10 Diosma Road, Eltham (HO275)	- delete 'and garden' from the place description - amending 'History' to: - clarify the Gordon Ford landscape elements - include a quote from architect Roger Wood - delete references to subdivision and Ford's death - changes to the 'Description' section to clarify landscape, design and material elements and remove reference to the 'Eltham style' - minor clarifying changes to the 'Integrity' and 'Comparative Analysis' sections - amend the Statement of Significance

Place	Summary of changes proposed by Council
145 River Avenue, Plenty (HO329)	- amend 'Description and integrity' to refer to the predominantly weatherboard bungalow and that an original entry and verandah has been infilled - amend the comparative analysis to reflect materiality and include additional comparator – '40 Greys Harps Road, Hurstbridge' (HO261) and delete 'Orchard House, 25 Cottles Bridge Strathewan Road, Cottlesbridge' (HO190) - amend the Statement of Significance
Nilgiris, 183 Yan Yean Road, Plenty (HO330)	- amend 'Description and integrity' to refer to the condition of the egg incubator room and enclosed verandah and rear addition - amend the comparative analysis description to identify the broad enclosed verandah with brick piers - amend the Statement of Significance
Souter House, 17 Koornong Crescent, North Warrandyte (HO304)	- delete content from 'History' including Figure 3 image - delete two references - amend the Statement of Significance
52 Kurrak Road, Yarrambat (HO331)	- amend place name to 'Farmhouse, 52 Kurrak Road, deleting 'House, Farm, Fmr Golden Wealth Trotting Stud' - amend the Statement of Significance