

NILLUMBIK PLANNING SCHEME

AMENDMENT C149NILL

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by Nillumbik Shire Council which is the planning authority for this amendment.

The amendment has been made at the request of Nillumbik Shire Council.

Land affected by the amendment

The amendment affects land within the following suburbs:

Arthurs Creek, Christmas Hills, Diamond Creek, Eltham, Eltham North, Hurstbridge, Kangaroo Ground, North Warrandyte, Panton Hill, Plenty, Research, St Andrews, Wattle Glen and Yarrambat.

The amendment also affects several properties resulting from corrections to mapping anomalies or removal of redundant overlays.

The affected properties are identified in Attachment 1 to this Explanatory Report.

What the amendment does

The amendment proposes to implement the recommendations of *Nillumbik Shire Heritage Review Stages A & B* (the Reviews) and apply the Heritage Overlay to 59 individual places, one new serial listing and one new precinct on a permanent basis. It also includes several corrections to clean up the extent of overlays and removes redundant overlays.

Specifically, the amendment:

- Amends the Schedule to Clause 43.01 (Heritage Overlay) to apply the Heritage Overlay to 59 individual heritage places, one (1) new serial listing and one (1) new precinct.
- Amends the Schedule to Clause 43.01 (Heritage Overlay) to delete HO144, HO182, HO213, HO248 and HO250 from properties that have been demolished, or from properties within a new Heritage Overlay.
- Amends Planning Scheme maps 11HO and 14HO to correct mapping anomalies and adjust the curtilage for HO49, HO50 and HO112.
- Amends Planning Scheme maps 2HO, 3HO, 6HO, 7HO, 8HO, 9HO, 10HO, 11HO, 12HO, 13HO, 14HO, 15HO, and 17HO to apply the Heritage Overlay to identified places.
- Inserts Planning Scheme Map No. 5HO to apply HO332 to 87 Latrobe Road, Yarrambat.
- Amends the Schedule to Clause 72.03 (What does this Planning Scheme consist of?) to insert Map No.5HO.
- Amends the Schedule to Clause 72.04 (Incorporated Documents) to insert 62 new Statements of Significance for the heritage places introduced by this amendment.
- Amends the Schedule to Clause 72.08 (Background Documents) to include the following documents as background documents:
 - *Nillumbik Heritage Review – Stage A (Context, 2021)*
 - *Nillumbik Heritage Review – Stage B (Trethowan, 2022)*
 - *Nillumbik Gap Study Stage B – Thematic Environmental History Post-war Update (Trethowan, 2022)*
 - *Nillumbik Shire Thematic Environmental History Revision 2016 (Nillumbik Shire C149 Council, 2016) and Nillumbik Gap Study Stage B - Thematic Environmental History Post-war Update (Trethowan, 2022)*

Strategic assessment of the amendment

Why is the amendment required?

The amendment implements the recommendations of the *Nillumbik Heritage Review Stages A & B* (the Reviews) adopted by the council on 29 June 2021 and 26 July 2022. The amendment will introduce heritage controls that will protect locally significant heritage places and ensure that the potential impact of new development on the heritage value of these places is considered as part of development applications and achieve the best planning outcomes for the Nillumbik Shire Council.

The significance of the 59 individual heritage places, 1 serial listing and 1 heritage precinct was assessed against the standard criteria contained in Planning Practice Note 01: Applying the Heritage Overlay and were considered to meet the requirements and threshold for local protection through the Heritage Overlay. As required by the practice note, Statements of Significance for each proposed heritage place will be included in the Nillumbik Planning Scheme as an incorporated document.

The Heritage Overlay is the appropriate planning mechanism to protect the heritage values of the individual properties and precinct as it requires a planning permit to be granted for building and works, including demolition, that could affect the significance of such places.

The amendment proposes removing the Heritage Overlay from HO144, HO182, HO213, HO248 and HO250:

- HO144 – 28 Osborne Road, North Warrandyte: the Heritage Place has been demolished / removed.
 - HO182 – 125 Cherry Tree Road, Hurstbridge: the property is proposed to be listed under serial listing HO285.
 - HO213 – 17 Howell Road, Plenty: the Heritage Place has been demolished / removed.
 - HO248 – 109-115B Yan Yean Road, Plenty: the proposed HO335 includes the property currently covered by HO248.
- HO250 – 171 Yan Yean Road, Plenty: the Department of Transport (DoT) has moved the significant elements of the heritage place, being the Church, to 2-6 Memorial Drive, Plenty and the significant elements of HO250 will be included in the proposed HO335.

In addition to the Reviews, several anomalies were identified as being incorrectly identified on planning scheme maps and require fixing. They are detailed below:

- HO49 – 385 Eltham-Yarra Glen Road, Kangaroo Ground: The curtilage is proposed to extend to the property title boundary. The new extent covers the rest of the Kangaroo Ground Reserve and the Kangaroo Ground Tower Car Park.
 - HO50 – 425 Eltham-Yarra Glen Road, Kangaroo Ground: The heritage citation for this address clearly outlines the elements of the significant place that should be protected which does not align with the current HO50 curtilage.
- HO112 – 35 Laughing Waters Road, Eltham: The curtilage currently doesn't cover the heritage significant tree, as listed on the National Trust tree register. The National Trust has provided in principle support to amend HO112 as in accordance with the Arborist report dated 02/06/22 by Homewood Consulting.

Adjustments are required to the curtilage of existing overlays to ensure heritage places are correctly located within the overlay polygon. In this case it is proposed to amend overlay boundaries accordingly.

It should also be noted that the proposed heritage place at 10 Diosma Road, Eltham is being assessed by the Victorian Heritage Register (VHR) for State significance.

How does the amendment implement the objectives of planning in Victoria?

The Amendment implements the following objectives as set out in Section 4 of the *Planning and Environment Act 1987*, being:

- Section 4(1) (a) - to provide for the fair, orderly, economic and sustainable use and development of land.
- Section 4(1) (d) - to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.

- Section 4(1) (e) - to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;
- Section 4(1) (g) - to balance the present and future interests of all Victorians.

How does the amendment address any environmental, social and economic effects?

Environmental Effects

The amendment will have no adverse effect on the natural environment and will provide a mechanism for protection of the richness and diversity of the built environment. It is widely understood that the conservation of heritage buildings has environmental sustainability benefits. Reduction in energy usage associated with demolition, and minimising waste disposal from demolition and new construction to landfill is achieved through the conservation of heritage buildings. Retaining and adapting heritage buildings promotes sustainable development by conserving the embodied energy in the existing buildings.

Social and Economic Effects

The amendment is anticipated to have positive social effects through the recognition and protection of sites of heritage significance, for the benefit of current and future generations. This will benefit the community by improving the understanding of local cultural history and thereby contributing to sense of place and local identity. The amendment also has the potential to enhance the special character of some areas.

Inclusion of a site within the Heritage Overlay does not prohibit changes to that site or building, but rather requires an application process whereby heritage considerations can be properly addressed, along with other factors before any decision on an application is made. This may limit development that is inconsistent with maintaining heritage values, which will improve the character of the building and the wider area.

Does the amendment address relevant bushfire risk?

The amendment does not result in increased development potential, nor change of use of land; it will not increase the bushfire risk to life as a priority, property, community infrastructure or the natural environment.

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The amendment is consistent with the form and content of planning schemes established in the Minister's Direction under section 7(5) of the Planning and Environment Act 1987 and Ministerial Direction 11: Strategic Assessment of Amendments under section 12(2)(a) of the Act.

The amendment is consistent with Minister's Direction No. 9 – Metropolitan Strategy, pursuant to Section 12 of the Act that requires planning authorities to have regard to the Metropolitan Planning Strategy, Plan Melbourne in preparing an amendment. Specifically, the Amendment is supported by Policy Direction No. 4.4 - respect Melbourne's heritage as we build for the future. Policies relating to Direction 4.4 relevant to this amendment are as follows:

- 4.4.1 *Recognise the value of heritage when managing growth and change.*
- 4.4.2 *Respect and protect Melbourne's Aboriginal cultural heritage.*
- 4.4.3 *Stimulate economic growth through heritage conservation.*
- 4.4.4 *Protect Melbourne's heritage through telling its stories.*

The amendment complies with Ministerial Direction No 11 – Strategic Assessment of Amendments as outlined in this explanatory report.

How does the amendment support or implement the Planning Policy Framework and any adopted State policy?

The amendment supports the following objectives of Clause 15 (Built Environment and Heritage) in the Planning Policy Framework:

- 15.01-1R (Urban design) – to create a distinctive and liveable city with quality design and amenity.
- 15.03-1S (Heritage conservation) – to ensure the conservation of places of heritage significance.

By including the identified places within the Heritage Overlay, the amendment will ensure that the significance of these heritage places is protected, conserved and enhanced. The Heritage Overlay will require consideration to be given to the significance of the identified heritage place as a decision guideline and will encourage development that is designed and sited to respect the identified significance of heritage places.

How does the amendment support or implement the Municipal Planning Strategy?

The amendment supports the Municipal Planning Strategy of the Nillumbik Planning Scheme, specifically at:

Clause 02.03-5 Built Environment - Heritage - Council seeks to:

- Protect and enhance places of heritage significance, including sites of Aboriginal heritage significance.
- Ensure new use and development do not impede on or detract from sites and features of Aboriginal cultural heritage and archaeological significance.

Does the amendment make proper use of the Victoria Planning Provisions?

The proposed amendment makes proper use of the Victoria Planning Provisions. The Schedule to the Heritage Overlay is the proper Victorian Planning Provision to apply in order to protect a place of heritage significance.

The amendment makes proper use of incorporated documents to clearly define the heritage significance of the places affected by the amendment.

How does the amendment address the views of any relevant agency?

The views of relevant agencies will be sought during the public exhibition process.

Does the amendment address relevant requirements of the Transport Integration Act 2010?

The amendment will have no significant impact on the transport system and will not be inconsistent with the transport system objectives nor the decision-making principles of the Transport Integration Act 2010.

Resource and administrative costs

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The inclusion of additional places within the Schedule to Clause 43.01 (Heritage Overlay) may contribute to a minor increase in the number of planning permit applications on an annual basis.

This increase can be accommodated within the existing resources. These resource and administration costs will be off-set by a reduction in the need for individual responses to the possible demolition of significant heritage places which are not currently included within the Schedule to Clause 43.01(Heritage Overlay).

Where you may inspect this amendment

The Amendment can be inspected free of charge at the Nillumbik Shire Council's public engagement website at <https://participate.nillumbik.vic.gov.au/>

The amendment is available for public inspection, free of charge, during office hours at the following places:

Nillumbik Shire Council Offices
Civic Drive
Greensborough 3088

The amendment can also be inspected free of charge at the Department of Transport and Planning website at www.planning.vic.gov.au/public-inspection.

Submissions

Any person who may be affected by the amendment may make a submission to the planning authority. Submissions about the amendment must be received by Thursday 3rd August 2023.

A submission must be sent to:

Leigh Northwood
Manager Strategic Planning and Environment
Nillumbik Shire Council
Civic Drive (PO Box 476)
Greensborough 3088

Alternatively, a submission can be sent via email to strategic.planning@nillumbik.vic.gov.au

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- directions hearing: Week beginning Monday 16th October 2023
- panel hearing: Week beginning Monday 13th November 2023

ATTACHMENT 1 - MAPPING REFERENCE TABLE

HO No.s	Location	Land /Area Affected	Mapping Reference
307	Arthurs Creek	893 Arthurs Creek Road	Nillumbik C149nill 002hoMaps02_03 Exhibition
308	Arthurs Creek	900 Arthurs Creek Road	Nillumbik C149nill 002hoMaps02_03 Exhibition
309	Arthurs Creek	906 Arthurs Creek Road	Nillumbik C149nill 002hoMaps02_03 Exhibition
310	Arthurs Creek	25 Brennans Road	Nillumbik C149nill 002hoMaps02_03 Exhibition
311	Arthurs Creek	1165 Arthurs Creek Road	Nillumbik C149nill 001hoMap02 Exhibition
312	Arthurs Creek	110 Deep Creek Road	Nillumbik C149nill 002hoMaps02_03 Exhibition
336	Arthurs Creek	870 Arthurs Creek Road	Nillumbik C149nill 002hoMaps02_03 Exhibition
273	Christmas Hills	cnr Eltham - Yarra Glen Road & Ridge Road	Nillumbik C149nill 013hoMap12 Exhibition
313	Christmas Hills	75 Wendy Way	Nillumbik C149nill 037hoMap17 Exhibition
294	Diamond Creek	49-55 Main Street	Nillumbik C149nill 018hoMap09 Exhibition
314	Diamond Creek	12 Broad Gully Road	Nillumbik C149nill 018hoMap09 Exhibition
315	Diamond Creek	34 Clyde Street	Nillumbik C149nill 018hoMap09 Exhibition
316	Diamond Creek	38 Collins Street	Nillumbik C149nill 018hoMap09 Exhibition
317	Diamond Creek	42 Collins Street	Nillumbik C149nill 018hoMap09 Exhibition
318	Diamond Creek	349 Diamond Creek Road	Nillumbik C149nill 017hoMap09 Exhibition
320	Diamond Creek	28 Main Hurstbridge Road	Nillumbik C149nill 019hoMap09 Exhibition
322	Diamond Creek	25 Nicole Crescent	Nillumbik C149nill 020hoMap09 Exhibition
323	Diamond Creek	32-36 Perversi Avenue	Nillumbik C149nill 021hoMap10 Exhibition
324	Diamond Creek	75-99 Phipps Crescent	Nillumbik C149nill 021hoMap10 Exhibition
325	Diamond Creek	405 Ryans Road	Nillumbik C149nill 020hoMap09 Exhibition
337	Diamond Creek	477 Broad Gully Road	Nillumbik C149nill 008hoMap07 Exhibition
327	Doreen	920 Yan Yean Road	Nillumbik C149nill 004hoMap02 Exhibition
274	Eltham	2 Batman Road	Nillumbik C149nill 027hoMaps13_14 Exhibition
275	Eltham	10 Diosma Road	Nillumbik C149nill 030hoMap14 Exhibition
276	Eltham	570-576 Main Road	Nillumbik C149nill 029hoMap13 Exhibition
277	Eltham	856 Main Road	Nillumbik C149nill 028hoMap13 Exhibition
278	Eltham	1/44 Park West Road	Nillumbik C149nill 027hoMaps13_14 Exhibition
278	Eltham	42 Park West Road	Nillumbik C149nill 027hoMaps13_14 Exhibition
279	Eltham	61 York Street	Nillumbik C149nill 028hoMap13 Exhibition
293	Eltham	903-907 Main Road	Nillumbik C149nill 028hoMap13 Exhibition
297	Eltham	19 Fordhams Road	Nillumbik C149nill 029hoMap13 Exhibition
302	Eltham	130 Laughing Waters Road	Nillumbik C149nill 033hoMap14 Exhibition
303	Eltham	220 Laughing Waters Road	Nillumbik C149nill 033hoMap14 Exhibition
305	Eltham	7 Banoon Road	Nillumbik C149nill 029hoMap13 Exhibition

HO No.s	Location	Land /Area Affected	Mapping Reference
306	Eltham	17 Haldane Road	Nillumbik C149nill 029hoMap13 Exhibition
112	Eltham	Eucalyptus melliodora (Yellow box) - 35 Laughing Waters Road, road reserve	Nillumbik C149nill 031d-hoMap14 Exhibition
112	Eltham	Eucalyptus melliodora (Yellow box) - 35 Laughing Waters Road, road reserve	Nillumbik C149nill 032hoMap14 Exhibition
284	Eltham	16 Warringah Crescent	Nillumbik C149nill 026hoMap13 Exhibition
281	Eltham North	24 Glen Park Road	Nillumbik C149nill 025hoMaps09_13 Exhibition
283	Eltham North	200 Ryans Road	Nillumbik C149nill 025hoMaps09_13 Exhibition
286	Hurstbridge	180 Cherry Tree Road	Nillumbik C149nill 011hoMap11 Exhibition
285	Hurstbridge	125 Cherry Tree Road	Nillumbik C149nill 011hoMap11 Exhibition
285	Hurstbridge	173 Cherry Tree Road	Nillumbik C149nill 011hoMap11 Exhibition
182	Hurstbridge	Smith Orchard House - 125 Cherry Tree Road	Nillumbik C149nill 010d-hoMap11 Exhibition
287	Kangaroo Ground	160 Henley Road	Nillumbik C149nill 024hoMaps11_15 Exhibition
50	Kangaroo Ground	Garden Hill – timber dwelling & in ground water tanks - 425 Eltham – Yarra Glen Road	Nillumbik C149nill 022d-hoMap11 Exhibition
50	Kangaroo Ground	Garden Hill – timber dwelling & in ground water tanks - 425 Eltham – Yarra Glen Road	Nillumbik C149nill 023hoMap11 Exhibition
49	Kangaroo Ground	War Memorial Tower, sandstone building and park - 385 Eltham – Yarra Glen Road	Nillumbik C149nill 022d-hoMap11 Exhibition
49	Kangaroo Ground	War Memorial Tower, sandstone building and park - 385 Eltham – Yarra Glen Road	Nillumbik C149nill 023hoMap11 Exhibition
292	North Warrandyte	3 Dingley Dell Road	Nillumbik C149nill 035hoMap15 Exhibition
298	North Warrandyte	35-37 Warrandyte - Kangaroo Ground Road	Nillumbik C149nill 035hoMap15 Exhibition
299	North Warrandyte	cnr Research - Warrandyte & Kangaroo Ground - Warrandyte Roads	Nillumbik C149nill 039hoMap15 Exhibition
300	North Warrandyte	33 Koornong Crescent	Nillumbik C149nill 034hoMap15 Exhibition
301	North Warrandyte	30 Koornong Crescent	Nillumbik C149nill 034hoMap15 Exhibition
304	North Warrandyte	17 Koornong Crescent	Nillumbik C149nill 034hoMap15 Exhibition
334	North Warrandyte	15 Castle Road	Nillumbik C149nill 035hoMap15 Exhibition
144	North Warrandyte	Dwelling - 28 Osborne Road	Nillumbik C149nill 036d-hoMap15 Exhibition

HO No.s	Location	Land /Area Affected	Mapping Reference
328	Panton Hill	586 Kangaroo Ground Street	Nillumbik C149nill 012hoMap11 Exhibition
328	Panton Hill	588 Kangaroo Ground Street	Nillumbik C149nill 012hoMap11 Exhibition
288	Panton Hill	633 Kangaroo Ground - St Andrews Road	Nillumbik C149nill 012hoMap11 Exhibition
326	Plenty	1070 Yan Yean Road	Nillumbik C149nill 004hoMap02 Exhibition
329	Plenty	145 River Avenue	Nillumbik C149nill 014hoMaps08_09 Exhibition
330	Plenty	183 Yan Yean Road	Nillumbik C149nill 014hoMaps08_09 Exhibition
335	Plenty	2-6 Memorial Drive	Nillumbik C149nill 016hoMap09 Exhibition
213	Plenty	Plenty State School - 17 Howell Road No.'s 1,2,4,6,8,9,10,11,12,13,14,16 Fineran Court	Nillumbik C149nill 015d-hoMap09 Exhibition
248	Plenty	Plenty Hall - 109-115B Yan Yean Road	Nillumbik C149nill 015d-hoMap09 Exhibition
250	Plenty	Church - 171 Yan Yean Road	Nillumbik C149nill 015d-hoMap09 Exhibition
289	Research	57 Thomson Crescent	Nillumbik C149nill 030hoMap14 Exhibition
290	St Andrews	1 Proctor Street	Nillumbik C149nill 003hoMap03 Exhibition
291	St Andrews	10 Caledonia Street	Nillumbik C149nill 003hoMap03 Exhibition
296	Wattle Glen	631 Heidelberg-Kinglake Road	Nillumbik C149nill 009hoMap10 Exhibition
295	Yarrambat	466 Ironbark Road	Nillumbik C149nill 005hoMaps05_06 Exhibition
331	Yarrambat	52 Kurrak Road	Nillumbik C149nill 006hoMap06 Exhibition
332	Yarrambat	87 Latrobe Road	Nillumbik C149nill 005hoMaps05_06 Exhibition
333	Yarrambat	651 Yan Yean Road	Nillumbik C149nill 005hoMaps05_06 Exhibition