

Appendix 1 - Remaining Recommendations and actions from the 2019 Planning Scheme Review

Remaining Recommendations – 2019 Planning Scheme Review	Description and Remaining Actions
Housing Strategy	In June 2020 Council abandoned the previous draft Housing Strategy to prioritise the creation of the Neighbourhood Character Strategy (adopted in 2023). The new draft Housing Strategy has undergone an initial stage of community consultation in April 2024 and is now currently on hold while Council waits for the State Government to release new population forecasts, a significant basis for the new Housing Strategy. Once new population forecasts and further State Government guidance is provided the project will continue.
Open Space Strategy	The current Open Space Strategy is now twenty (20) years old. Providing a framework for the planning, development and management of public open space in the shore it aims to ensure that open spaces meet the recreational, environmental and social needs of the community. The State Government has released a number of Open Space guides, strategies and resources and is continuing to engage with Councils to produce standards and recommendations for Open Space Strategies. Council is providing feedback and advice on this work and will commence its Open Space Strategy upon release of the State Government’s updated policy and procedures.
Major Activity Centre Structure Plan Amendments	The adopted Eltham and Diamond Creek Structure Plans need to be translated and implemented into the Planning Scheme. Amendments C143nill and C144nill, which are designed to implement these Structure Plans, have commenced but are currently on hold due to recent planning reforms. Meanwhile, recent announcements from the State Government, coupled with changes to policy and planning provisions concerning Activity Centres, indicate that updates to the Structure Plans will be necessary before 2029.
Planning Scheme Review Update Amendment	A number of completed projects associated with the previous Planning Scheme Review and Council Plan remain to be implemented into the Planning Scheme. These projects include the updated Municipal Planning Strategy, updates to local policy and further strategic work.
Heritage Review Amendment	During the review period a number of heritage reviews and amendments were undertaken, including the identification of sixty three (63) new heritage places. The heritage work culminated in Heritage Review Amendment (C149nill) and Council is currently waiting for a decision from the Minister for Planning. The Heritage Reviews, Stage A & B identified a number of additional places that will need to be added to Council’s Heritage Watch List and reviewed at a later date. Post-War heritage was also identified as an area of interest for the next heritage Review.

Appendix 2 - Process of 2019 Review

2019 Planning Scheme Review Recommendations	Current Status	Description / Reasoning
Green Wedge Management Plan	Completed 2019	The Green Wedge Management Plan 2019 is in its fifth year of implementation and continues to be actioned by Council and managed by the Strategic Planning team. The actions as part of this plan are reported to Council annually.
Economic Development Strategy 2020-2030	Completed 2020	Designed to strengthen the local economy and facilitate job creation, the Nillumbik Economic Development Strategy 2020–2030 focuses on the following key objectives; Enhancing support for local businesses, revitalising activity centres, promoting sustainable land use and showcasing local attractions.
Activity Centre Structure Plans (Diamond Creek and Eltham)	Completed 2020	The Eltham and Diamond Creek Structure Plans outline the vision for these activity centres out to 2030. The structure plans focus on land use activities, development, built form character, movement and access, landscape and place activation, community and leisure, to guide and promote these thriving centres of activity.
Errors & Anomalies Amendment (C115nill)	Completed 2020	The amendment was first drafted back in 2018 and the DELWP manager at the time recommended using a 20 (4) and confirmed that the Environmental Audit Overlay (EAO) removal part of that amendment proposal could be included. Between 2018-2019 there was a change in what could be considered as a ministerial amendment. Nillumbik was asked to withdraw C115nill and resubmit as a Prescribed Amendment C124nill. The EAO removal was separated out and became a later amendment C129nill.

Rezoned to Public Park and Recreation Zone (C117nill)	Completed 2020 & 2021	<p>Amendment C117nill to the Nillumbik Planning Scheme addressed the rezoning and management of specific parcels of land within the Shire. The amendment was divided into two parts:</p> <p>Part 1: Rezoning several parcels of land to better reflect their current use and to facilitate appropriate management. The affected sites included: 20A Henry Street, Eltham: Rezoned to align with its existing use, 12 The Eyrle, Eltham: Rezoned to reflect its current function and 26 Renshaw Drive, Eltham: Rezoned to match its established use.</p> <p>Part 2: This segment addressed the rezoning of land at Graysharps Road, Hurstbridge. The objective was to facilitate the development of community infrastructure and open space in line with local needs. A Panel Report dated 10 March 2020 provided recommendations on this rezoning proposal, guiding the Council's decision-making process.</p>
Translation of Local Planning Policy Framework (LPPF) to the new Planning Policy Framework (PPF) Amendment (C135nill)	Completed 2021	Amendment C135nill was a significant update to the Nillumbik Planning Scheme, implemented as part of Stage 3 of Victoria's Smart Planning Rules and Policy Program. In 2018, Amendment VC148 introduced extensive changes to the Victoria Planning Provisions (VPP). Amendment C135nill continued this reform by translating the existing Local Planning Policy Framework (LPPF) and Municipal Strategic Statement (MSS) into a new, integrated format. This translation consolidated local policies, ensuring they aligned with the updated VPP structure and reflected strategic objectives at the time.
Council Plan 2021-2025	Completed 2021	The Nillumbik Council Plan 2021–2025 outlines the strategic priorities and objectives for the Nillumbik Shire over a four-year period. Adopted in October 2021, the plan serves as a roadmap for delivering Council's policy and project commitments, as well as managing services for residents.
Errors & Anomalies Amendment (C116nill)	Completed 2024	Amendment C116nill was a prescribed – S20(A) and amended Schedule 2 to Clause 37.08 (Activity Centre Zone), correcting the first condition relating to Industry in Section 2 - Permit required and makes a consequential clarification in sub-section 5.1-4 Precinct guidelines. It also makes alterations in line with the Ministerial Direction on The Form and Content of Planning Schemes.

Major Activity Centres Structure Plans Implementation Amendments (C143nill and C144nill)	Commenced but on hold	Planning Scheme amendments C143nill and C144nill seek to implement the Eltham and Diamond Creek Major Activity Centre Structure Plans (respectively) into the Planning Scheme. The amendments have been exhibited, and a Planning Panel is scheduled for June 2025 to resolve submissions.
Heritage Amendment (C104nill)	Underway	Combined into C149nill, currently with the Minister of Planning for a decision.
Housing Strategy	Commenced but on hold	Extensive research and engagement has been undertaken and documented, and a draft strategy completed. However, the State Government is currently reforming housing policy, including new population forecasts, planning provisions and controls that will have a profound effect on Victoria and the draft Nillumbik Housing Strategy. Until these reforms are confirmed and further guidance is released, this project remains on hold.
Open Space Strategy	Proposed	The State Government is currently engaging with local councils and stakeholders on updating the requirements and guidance for Open Space Strategies. The findings are expected to be released in 2025/2026 and the project will commence then.
Planning Scheme Review Amendment (Municipal Planning Scheme, Local Planning, Zones & Overlays). Covering Housing, Economic Development, Small Lots & Green Wedge Management Plan.	Proposed	A number of amendments were undertaken to implement this recommendation including C135nill to update local policy, however other parts of this recommendation are yet to be addressed and are further discussed as part of the 2025 Review.
Linear reserve between Diamond Creek Rd, Greensborough and Ryans Rd, Diamond Creek strategic land use opportunities.	Abandoned	Originally reserved for part of North East Link isn't being developed. Investigate this land is owned by the State Government. Council has no strategic position given it is not our land.

Appendix 3 - Completed Amendments and Projects from 1/7/2019 to 1/7/2024

Amendment/Strategy	Gazetted/Completion Date	Brief Description
Corrections amendment (116nill)	7-Feb-2019	The Amendment amends Schedule 2 to Clause 37.08 (Activity Centre Zone) to correct the first condition relating to Industry in Section 2 - Permit required and makes a consequential clarification in sub-section 5.1-4 Precinct guidelines. It also makes alterations in line with the Ministerial Direction on The Form and Content of Planning Schemes.
Heritage Overlay Amendment (C123nill)	24-Oct-2019	S56 Heritage Act 2017 amendment. The amendment makes the local planning scheme Heritage Overlay Schedule and Maps consistent with the Victorian Heritage Register.
Specific Controls Overlay Amendment (C119nill)	12-Dec-2019	The amendment maps and transfers existing incorporated documents specified in the schedule to 'Specific Sites and Exclusions' (Clause 51.01) into the new Specific Controls Overlay (Clause 45.12).
Eltham and Diamond Creek Major Activity Centre Structure Plans	Sep-2020	The revised 2020 Eltham and Diamond Creek Structure Plans provide strategic guidance for land use, built form, and public space enhancements in these major activity centres, incorporating community input and extensive research to support economic, social, and environmental goals.
Rezoning to Public Park and Recreation Zone Amendment (C117nillpt1)	6-Feb-2020	Rezones existing public open space from various zones to Public Park and Recreation Zone.
Corrections Amendment (124nill)	6-Feb-2020	Corrects mapping errors in the application of the heritage overlay and significant landscape overlay, deletes expired local policies, updates associated cross references in the Municipal Strategic Statement and corrects errors in the schedule to the heritage overlay.

Specific Controls Overlay Amendment (C125nill)	2-Jul-2020	This Amendment proposes to apply a Specific Controls Overlay to land at 130 and 195 Laughing Waters Road with a specific control contained in an Incorporated Document to allow for a use that is currently prohibited under the Public Conservation and Resource Zone.
Rezoning to Public Park and Recreation Zone Amendment (C117nillpt2)	22-Oct-2020	Rezoning of 44 Graysharps Road Hurstbridge from Township Zone to Public Park and Recreation Zone
Heritage Overlay Amendment (C132nill)	18-Dec-2020	The Amendment will remedy a mapping error with Heritage Overlay 147 (HO147) by applying new Heritage Overlay 268 (HO268) on an interim basis to part of the property at 13 Park West Road, Eltham that is not mapped by HO147, thereby ensuring that heritage controls apply to the entire structure known as the Alan Marshall Bungalow.
Corrections Amendment (C134nill)	6-May-2021	The amendment corrects a mapping anomaly that occurred as part of Nillumbik Planning Scheme Amendment C117 Part 1 by rezoning 20 Dudley Street, Eltham to the Activity Centre Zone - Schedule 1 and 20A Henry Street, Eltham to the Public Park and Recreation Zone.
Heritage Overlay Amendment (C136nill)	24-Jun-2021	The amendment extends the expiry date of interim Heritage Overlay HO268 applying to the Alan Marshall Bungalow at 13 Park West Road, Eltham, until 24 June 2022.
Local Planning Policy Framework Transformation (C135nill)	22-Jul-2021	Replaces the Local Planning Policy Framework of the Nillumbik Planning Scheme with a new Municipal Planning Strategy at Clause 02, local policies within the Planning Policy Framework at Clauses 11-19 and a selected number of local schedules to overlays and operational provisions consistent with changes to the Victoria Planning Provisions introduced by Amendment VC148.
Heritage Overlay Amendment (C139nill)	27-Aug-2021	The amendment applies the Heritage Overlay to 1080 Heidelberg-Kinglake Road, Hurstbridge on an interim basis until 1 December 2021.

Heritage Overlay Amendment (C133nil)	25-Nov-2021	Amends the mapping boundary of the Heritage Overlay HO147 applying to the Alan Marshall Bungalow and surrounds at 13 Park West Road, Eltham and updates the Schedule to the Heritage Overlay, inserts a Statement of Significance and references the updated Heritage Citation for the identified individually significant place.
Heritage Overlay Amendment (C145nil)	29-Nov-2021	The amendment extends the expiry date of the interim Heritage Overlay HO269 for 1080 Heidelberg-Kinglake Road, Hurstbridge until 1 October 2022.
Heritage Overlay Amendment (C137nil)	10-Feb-2022	Apply the Heritage Overlay (HO270) to part of 14-26 Browns Lane, Plenty, on an interim basis, until 1 December 2022.
Environmental Audit Overlay Removal Amendment (C129nil)	24-Feb-2022	Removal of the Environmental Audit Overlay (EAO) from land at 18, 20, 21, 22, 23, 24, 25, 25A, 27, 29, 31, 33 and 1/35 Thornbill Drive, Plenty and part of the road reserve of Thornbill Drive, Plenty.
John and Bridge St Rezoning Amendment (C126nil)	18-Mar-2022	The amendment rezones land at the eastern end of John Street and Bridge Street, Eltham from Schedule 1 to the Neighbourhood Residential Zone (NRZ1) to the Public Park and Recreation Zone (PPRZ)
Heritage Overlay Amendment (C141nil)	14-Apr-2022	The Amendment applies the Heritage Overlay to part of 50 Oatland Road, Plenty on an interim basis until 9 February 2023.
Earthworks in the Green Wedge Amendment (C131nil)	13-May-2022	The amendment amends the Schedule to Clause 35.04 (Green Wedge Zone) and Schedules 1 to 5 of Clause 35.06 (Rural Conservation Zone) to include a permit trigger for earthworks which involve the receipt, importation, stockpiling or placement of more than 100 cubic metres of fill on all land within those specified zones.

Interim Heritage Controls Amendment (C140nill)	26-May-2022	Replaces the interim heritage controls applying to the site known as Fermanagh at 1080 Heidelberg-Kinglake Road, Hurstbridge, with a permanent Heritage Overlay (HO269), updates the Schedule to the Heritage Overlay, inserts a statement of significance and a heritage citation for the identified individually significant place.
Corrections Amendment (C118nill)	07-Jul-2022	Corrections amendment to remove inconsistencies in local schedules with the Victorian Planning Provisions and Ministerial Direction - Form and Content of Planning Schemes as part of the Smart Planning Local Schedules Update.
Heritage Overlay Amendment (C138nill)	21-Jul-2022	The amendment replaces the interim heritage controls applying to part of 14-26 Browns Lane, Plenty, with a permanent Heritage Overlay (HO270), updates the Schedule to the Heritage Overlay, inserts a statement of significance and heritage citation for the identified individually significant place.
Heritage Review Study	26-Jul-2022	Nillumbik Heritage Review Stages A & B present the research and findings of previous heritage studies and identified places of potential heritage. It recommended the inclusion of numerous properties and provides the background for an update to the Shire's Thematic Environmental History.
Heritage Control Amendment (C142nill)	27-Aug-2022	The amendment applied to part of 50 Oatland Road, Plenty and proposed permanent heritage controls associated with Amendment C141nill. The amendment was requested to be abandoned due to the findings of the Panel Hearing dated 12 July 2022.
Heritage Overlay Amendment (C150nill)	18-Nov-2022	The amendment removes the interim Heritage Overlay (HO272) from part of 50 Oatland Road, Plenty.
Municipal Planning Strategy	27-Jun-2023	In June 2023, the Nillumbik Shire Council adopted the Municipal Planning Strategy after extensive community engagement, planning to integrate it into the Nillumbik Planning Scheme to guide future land use and development based on the community's current interests and visions for the municipality.

Neighbourhood Strategy	Character	12-Dec-2023	The Nillumbik Neighbourhood Character Strategy, which extends to all residential areas including rural townships, aims to guide development to preserve the area's distinct features and character, supported by detailed policies and community input from multiple engagement phases; it will be implemented in conjunction with a new Housing Strategy to ensure future growth respects local character.
Interim Heritage Amendment (C148nill)	Controls	28-Apr-2023	To amend the Schedule to Clause 43.01 to apply individual Heritage Overlays to 51 places (55 property addresses) on an interim basis until 1 October 2024.
Wattle Glen Public Realm Framework Project		27-Aug-2024	A new public realm framework for Wattle Glen envisions a more sustainable and liveable township by addressing safety and connectivity in the area while retaining its rural character. It provides strategic direction to address the community's concerns about the area's safety and connectivity for non-motorists and the need to retain Wattle Glen's rural character and natural and environmental setting. The framework does not provide detailed solutions for the key initiatives it outlines; these would be developed in partnership with DTP and in consultation with the community as future project funding allows.
Interim Heritage Amendment (C152nill)	Controls	01-Oct-2024	The Amendment extends the expiry date of the interim heritage controls applied by Amendment C148nill until 1 February 2025 in order to progress the Amendment for permanent heritage controls (Amendment C149nill).
Interim Heritage Amendment (C153nill)	Controls	22-Jan-2025	The amendment extends the expiry date of the interim heritage controls originally applied by Amendment C148nill until 1 August 2025 while the amendment for permanent heritage controls (Amendment C149nill) progresses to a decision.

Appendix 4 - Strategic work underway

Amendment/Strategy	Brief Description
Nillumbik Housing Strategy	Housing Strategy is a Council planning policy document that guides future residential development and the location and types of homes needed for next 15 years to suit a municipality's forecast population. It also aims to balance growth and change by pinpointing areas for housing growth and those where minimal changes are preferred.
Eltham Major Activity Centre Zone Amendment (C143nill)	The proposed amendment intends to implement the findings of the new Eltham Major Activity Centre Structure Plan (Kinetica, July 2020). The amendment proposes to update the local policy in Clause 11-03-1L-01 (Activity Centres in Nillumbik) by deleting Clause 11.03-1L-02 (Bridge Street Business Area) that is superseded by the proposed extension of the Activity Centre 1 to include the existing Industrial 3 Zone in Eltham. It also proposes to amend Schedule 1 to Clause 42.03 (Significant Landscape Overlay – Eltham Town Centre) to require a planning permit for buildings and works, and correct an administrative error that applies two SLOs on 1-13 Henry Street, Eltham (Figure 2) by removing Schedule 7 to Clause 42.03 (Significant Landscape Overlay - Eltham Gateway).
Diamond Creek Major Activity Centre Zone Amendment (C144nill)	The proposed amendment intends to implement the findings of the new Diamond Creek Major Activity Centre Structure Plan (Kinetica, July 2020). The changes include implementing the findings by amending Clause 11.03-1L-01, Schedule 2 to the Activity Centre Zone, Schedule 6 to the Significant Landscape Overlay and the Schedule to Clause 72.08 (background Documents) to reflect and implement the recommendations of the structure plan.
Heritage Review Amendment (C149nill)	Planning Scheme Amendment C149nill proposes to apply the Heritage Overlay (HO) to sixty-three (63) new places, create one (1) new serial listing and one (1) new precinct in the Shire, along with deleting five (5) disused overlays and amending HO49, HO50 & HO112. This is in accordance with the recommendations of the Nillumbik Heritage Review Stages A & B adopted by Council on 26 July 2022.
Diamond Creek Facilities Master Plan	A key deliverable of the 2021 Council Plan, the strategic plan was completed in 2022 and the master plan is underway with the technical and needs analysis completed. The final phase of the masterplan including design and business case is being prepared.
Implementation of Green Wedge Management Plan	The Green Wedge Management Plan was adopted in 2019 and continues to be implemented and reported on annually. It is a ten-year plan and will need to be reviewed and updated in 2029.

<p>Christmas Hills (Melbourne Water Land Divestment)</p>	<p>In the 1970s, Melbourne Water acquired approximately 1,000 hectares of land in Christmas Hills, Smiths Gully, and Panton Hill for the proposed Watsons Creek Storage Reservoir. However, a 2012 review determined that the reservoir was no longer necessary, rendering the land surplus to requirements. In response, Melbourne Water developed the Christmas Hills Land Use Study, aiming to guide the future use and development of the area. The study proposed transferring 340 hectares of this land to the Crown for conservation purposes, with the remaining parcels to be rezoned and sold on the open market. The divestment process has been met with community concerns, particularly regarding environmental preservation, bushfire risks, and the future of local amenities like the Christmas Hills Mechanics Institute Hall and tennis courts. In October 2022, the Nillumbik Shire Council expressed opposition to the proposed planning scheme amendment facilitating the land sale, citing these issues. As of June 2023, Melbourne Water continues to engage with stakeholders to address these concerns and ensure that the land's future use aligns with community interests and environmental sustainability. Nillumbik Shire Council continues to advocate for the community and assist Melbourne Water.</p>
<p>Implementation of the Municipal Planning Strategy</p>	<p>The Municipal Planning Strategy (MPS) was adopted by Nillumbik Shire Council in June 2023 following three rounds of community engagement and will be integrated into the Nillumbik Planning Scheme through a future amendment. The new Municipal Planning Strategy will be important planning policy within the Nillumbik Planning Scheme that will be used by Council and the community to implement and execute on the vision and high-level strategic directions that have been established for the Shire regarding the future planning of land use and development in the municipality.</p>
<p>Implementation of the Neighbourhood Character Strategy</p>	<p>The Nillumbik Neighbourhood Character Strategy (NCS) (adopted in 2023) applies to all residential areas, including rural townships, and aims to guide new development to align with the area's valued features and character. The Council is now developing a Housing Strategy to work alongside the Neighbourhood Character Strategy. Under Planning Practice Note 90, the Housing Strategy and Neighbourhood Character Strategy should be integrated into the planning scheme together to achieve a cohesive approach that balances competing objectives.</p>
<p>Implementation of the Urban Tree Canopy Strategy and Landscape Guidelines</p>	<p>Nillumbik's Urban Tree Canopy Strategy 2024-2040 was adopted by Council on August 27, 2024. The 15 year strategy aims to protect and enhance the Shire's urban tree canopy. Key objectives include overall average urban canopy coverage targets of 40% and a minimum of 25% canopy cover in every suburb and township. The Neighbourhood Character and Urban Tree Canopy Strategies both support the creation of landscape guidelines that support both strategies, provide landscape and planting direction to the community and provide the basis for controls in the planning scheme that will help achieve the objectives of both strategies.</p>
<p>Implementation of Yarra Strategic Plan</p>	<p>The Yarra Strategic Plan, titled Burndap Birrarung burndap umarkoo, is a collaborative framework developed to guide the management and protection of the Yarra River and its surrounding lands. Nillumbik Shire Council, with over 45 kilometres of the Yarra River running through its jurisdiction, plays a pivotal role in implementing this plan within its boundaries. Key responsibilities of Nillumbik Shire Council include collaborative management, community engagement, environmental stewardship, cultural preservation, policy integration and resource allocation. Council continues to support the Yarra Strategic Plan and actions its key responsibilities of completing and implementing the Yarra Strategic Plan.</p>

Appendix 5 - State Level Amendments

Amendment number	Gazetted/Completion Date	Brief description
VC159	8-Aug-19	Amend the Victoria Planning Provisions to introduce new land use terms, revise the definition of land use terms and change where land use terms are nested.
VC161	17-Sep-19	Introduce new requirements for solar energy facilities.
VC158	26-Nov-19	Amendment VC158 amends the Victoria Planning Provisions and all planning schemes to introduce planning exemptions for combustible cladding rectification.
VC165	3-Dec-19	Amendment VC165 amends the Victoria Planning Provisions and all planning schemes to introduce notice and review exemptions and to amend the responsible authority status for certain planning applications for non-government schools.
VC170	31-Jan-20	Introduces a new particular provision to facilitate the Level Crossing Removal Project.
VC168	11-Feb-20	This amendment updates the Planning Policy Framework and Operational Provisions to reference the Plan Melbourne 2017-2050: Addendum 2019 and introduces a new strategy at Clause 11.01-1R Settlement-Metropolitan Melbourne.
VC177	11-Mar-20	This amendment inserts a new particular provision at Clause 52.07 to facilitate and support recovery from bushfire.
VC181	6-Apr-20	The amendment changes the Victoria Planning Provisions and all planning schemes by replacing Clause 52.18 [No content] with a new Clause 52.18 (State of emergency exemption), to facilitate the delivery of food and other essential goods during and following a state of emergency declared in relation to Novel Coronavirus 2019 (2019-nCoV).
VC179	6-May-20	The amended inserts a new provision at Clause 52.10 to facilitate rebuilding following the 2019/20 bushfires and amends the Schedule to Clause 72.01 in all planning schemes to designate the CEO as the responsible authority for Clause 52.10.
VC175	26-May-20	Improves the way the planning system addresses buffers for amenity, human health and safety impacts by updating the Planning Policy Framework (PPF) and Clause 53.10.

VC176	5-Aug-20	Amends Clause 52.12 (Bushfire Protection: Exemptions) to align the 10/30 and fence line vegetation exemptions with the Bushfire Prone Area map across all Victorian councils, make administrative updates and further clarify the exemptions for dwellings and defendable space under the Bushfire Management Overlay.
VC183	28-Sep-20	The amendment introduces a new state planning policy Clause 13.07-3S (Live Music) and makes changes to Clause 53.06 (Live Music Entertainment Venues) of the Victoria Planning Provisions (VPP) and all planning schemes to encourage, create and protect opportunities for the enjoyment of live music.
VC169	9-Oct-20	Amendment VC169 changes the Planning Policy Framework to help direct balanced outcomes for housing growth and built form, while also clarifying and consolidating housing policy.
VC193	21-Oct-20	The amendment amends clause 52.18 (State of emergency exemption) to support Victorias social and economic recovery from the coronavirus (COVID-19) pandemic through temporary planning scheme and permit condition exemptions that enable outdoor dining and facilitate the reopening and safe operation of restaurants and other food and drink businesses.
VC191	5-Nov-20	VC191 amends the Combustible cladding rectification exemptions at 52.01
VC192	16-Nov-20	Amend the Victoria Planning Provisions (clause 72.01-1) to make the Minister the responsible authority for all large energy generation facilities and utility installations,.
VC187	1-Dec-20	Introduces a new particular provision, Housing by or on behalf of the Director of Housing at clause 53.20 of the Victoria Planning Provisions and all planning schemes to streamline the planning permit process to construct or extend a dwelling, or to construct or extend a front fence if the application is made by or on behalf of the Director of Housing. It amends clause 72.01 to specify the Minister for Energy, Environment, and Climate Change to be the responsible authority for the development of 10 or more dwellings and any apartment development.
VC190	1-Dec-20	Introduces a new particular provision, Victoria's Big Housing Build at clause 52.20 of the Victoria Planning Provisions and all planning schemes. Clause 52.20 removes the need for a planning permit to develop a housing project if funded under Victoria's Big Housing Build and supported by the Director of Housing. It amends clause 72.01 to specify the Minister for Energy, Environment, and Climate Change to be the responsible authority.
VC180	4-Dec-20	Facilitates the development of new, and the upgrade and expansion of existing, non-government primary and secondary schools.

VC188	14-Dec-20	Removes Clause 52.13 2009 Bushfire: Recovery Exemptions and references to it from all planning schemes following its expiry.
VC195	11-Mar-21	Amendment VC195 changes the Victoria Planning Provisions and all planning schemes by modifying the particular provision at clause 52.32 (Wind energy facilities) to streamline the application process for minor changes to approved wind energy facilities, clarify consent requirements and simplify review and panel exemptions.
VC194	25-Mar-21	The amendment inserts two new particular provisions at clauses 52.30 and 52.31 to facilitate state projects and local government projects.
VC197	20-Apr-21	The amendment removes expiry dates and updates existing Design and Development Overlay (DDO) and Significant Landscape Overlay (SLO) schedules within the Yarra River corridor. Amendment VC197 also makes policy-neutral updates and consequential changes.
VC198	14-May-21	The amendment introduces new particular provisions at clauses 52.35 (Major Road Projects) and 52.36 (Rail Projects) and makes other changes related to delivery of projects carried out by or on behalf of Major Road Projects Victoria and Rail Projects Victoria.
VC203	1-Jul-21	This amendment implements the new environment protection framework in the Victoria Planning Provisions and all planning schemes.
VC206	3-Aug-21	The amendment implements requirements of the Environment Protection Act 2017 for the regulation of wind turbine noise from a wind energy facility.
VC196	19-Aug-21	Amendment VC196 reforms the Victorian planning system by introducing new zone and overlay controls to provide stronger recognition and protection to existing extractive industries, and to designate land with State-significant earth resources, where extractive industries may be established in the future, as strategic extractive resource areas.
VC211	14-Sep-21	Amendment VC211 updates the notice requirements at clause 67.02 of the Victoria Planning Provisions and all planning schemes. The amendment also updates clauses 66.05 and 67, and consolidates the provisions in clauses 67.02, 67.03 and 67.04.
VC208	5-Oct-21	Amends Clause 52.10 to apply the use, notice and review exemptions to other types of emergencies.
VC202	12-Oct-21	VC202 introduces a definition for 'Rural worker accommodation' in clauses 73.03 (Land Use Terms) and 73.04 (Nesting Diagrams), and permit requirements to facilitate this type of accommodation in the Farming Zone (FZ).

VC212	13-Oct-21	The amendment makes changes to Clause 35.07 (Farming Zone) and to Clause 66.05 (Notice of permit applications under State standard provisions) to support the ongoing operation of wind energy facilities and amenity protections for nearby accommodation uses.
VC214	19-Nov-21	This amendment will amend the public land exemptions in clause 52.18 (State of emergency and recovery exemptions) to apply to a broad range of uses.
VC204	9-Dec-21	The amendment modifies Clause 18 of the Victoria Planning Provisions to implement changes to State planning policy for transport and makes associated changes.
VC174	20-Dec-21	Amendment VC174 implements the recently announced revised Better Apartment Design Standards, which delivers improved external amenity and design outcomes for all apartment developments.
VC207	20-Dec-21	Consequential amendment to update clauses 52.20 and 53.20.
VC205	20-Jan-22	The amendment introduces a new Transport Zone to replace the Road Zone and Public Use Zone Schedule 4. The amendment also makes consequential changes.
VC219	22-Mar-22	The Amendment changes the VPP and all planning schemes in Victoria to support the ongoing operation of extractive industry across Victoria and increase amenity protections for nearby accommodation.
VC220	30-May-22	The amendment supports the efficient delivery of neighbourhood batteries into the electricity distribution network by amending clause 73.03 Land use terms of the Victoria Planning Provisions (VPP) and all planning schemes.
VC216	10-Jun-22	Amendment VC216 makes changes to the Planning Policy Framework (PPF) in the Victoria Planning Provisions (VPP) and all planning schemes to support Environmentally Sustainable Development (ESD).
VC213	14-Jul-22	Amendment VC213 makes changes to the Victoria Planning Provisions (VPP) and all planning schemes to ensure consistency with existing requirements under the Melbourne Strategic Assessment (MSA) Program to achieve specific biodiversity outcomes within Melbournes growth corridors.
VC230	14-Jul-22	Revises clauses 52.20 and 72.01 to make the Minister for Planning the responsible authority for relevant applications to reflect the General Order dated 27 June 2022.
VC221	4-Aug-22	The amendment facilitates all-electric developments to support implementation of Victoria's Climate Change Strategy 2021 (Strategy) and Gas Substitution Roadmap 2022 (Roadmap). The amendment changes the Victoria Planning Provisions (VPP) and all planning schemes by amending clauses that require developments to be connected to reticulated gas and amending the referral requirements.

VC223	12-Aug-22	Amends clause 73.01 (General terms) of the VPP and all planning schemes to define Minister for Planning to mean a Minister for the time being administering the P&E Act.
VC222	29-Sep-22	Amendment VC222 makes changes to the Victoria Planning Provisions and all planning schemes to support the co-location of new government primary schools with kindergartens and facilitate projects that support the 2026 Commonwealth Games.
VC224	28-Oct-22	Amends the Victoria Planning Provisions and all planning schemes that relate to declared irrigation districts and solar energy facilities, delivery exemptions, electorate offices, Future Homes, healthy waterways, land use terms, stormwater management and tree removal under VicSmart.
VC226	4-Nov-22	Amendment VC226 makes changes to the Victoria Planning Provisions (VPP) and all planning schemes to support emergency recovery, telecommunications, solar energy systems and community care accommodation.
VC228	22-Nov-22	Amendment VC228 makes changes to the Victoria Planning Provisions and all planning schemes to facilitate Victoria's recovery from emergencies by allowing an exemption from operation hours for extractive industries.
VC201	16-Dec-22	The amendment updates the Planning Policy Framework, introduces two new regional policies and a series of new Significant Landscape Overlays to recognise, protect and improve waterway health, amenity, access and community values.
VC215	3-Mar-23	The amendment implements the Melbourne Industrial and Land Use Plan (MICLUP) (Department of Environment, Land, Water and Planning, 2020) in the Planning Policy Framework.
VC234	4-Jul-23	The amendment clarifies noise requirements for wind energy facilities and the responsible authority for enforcement matters.
VC236	14-Aug-23	The amendment supports renewable hydrogen gas production and distribution and makes the Minister for Planning the responsible authority for large-scale production of hydrogen gas.
VC242	20-Sep-23	Amendment VC242 makes changes to the Victoria Planning Provisions (VPP) and all planning schemes by introducing two new particular provisions to facilitate significant residential development and significant economic development.
VC243	22-Sep-23	Amendment VC243 makes changes the Victoria Planning Provisions (VPP) and all planning schemes to codify residential development standards, implement the Future Homes project across Victoria, remove permit requirements for single dwellings on lots of 300 square metres or more and introduce VicSmart permits for single dwellings on lots less than 300 square metres. These changes support the delivery of housing in Victoria.

VC241	17-Oct-23	The amendment removes prohibitions for specified sign types for a Freeway service centre, Service station and Open sports ground in a zone where Category 4 - Sensitive areas sign controls apply.
VC217	1-Dec-23	The amendment changes the Victoria Planning Provisions (VPP) and all planning schemes to implement the decriminalisation of sex work.
VC253	14-Dec-23	Amendment VC253 introduces a new land use term and siting, design and amenity requirements for a small second dwelling into the Victoria Planning Provisions (VPP) and all planning schemes to implement Victoria's Housing Statement: The decade ahead 2024-2034 by making it easier to build a small second dwelling.
VC250	1-Jan-24	The amendment supports Victoria's Gas Substitution Roadmap (Victorian Government, 2022) by prohibiting new gas connections for new dwellings, apartments and residential subdivisions where a planning permit is required.
VC249	15-Jan-24	The amendment changes the Victoria Planning Provisions and all planning schemes in Victoria by exempting development for a small second dwelling from Development Contributions Plan requirements and correcting typographical errors related to small second dwellings.
VC261	4-Apr-24	The amendment expands the operation of the existing Development Facilitation Program (DFP) planning provisions that fast-track the assessment of significant economic development by enabling an application for renewable energy facility, utility installation and associated subdivision to be assessed.

Appendix 6 - Advocacy & Submission

Projects	Description	Key points
Better Apartments in Neighbourhoods Submission (September 2019)	<p>The Better Apartments in Neighbourhoods submission acknowledges the State Government's initiatives to enhance apartment design and supports the focus on improving landscaping, community integration, and sustainability. Council stresses the need for clear, practical standards and tailored approaches that align with local priorities and protect the Shire's character. It also raises concerns about unintended burdens on councils and the need for stronger collaboration with developers and service providers.</p>	<ul style="list-style-type: none"> • Strong support for enhanced landscaping and green space requirements, including canopy trees, but concerns about practicality and enforcement. • Advocacy for improved communal open spaces with clear design standards and adequate facilities. • Emphasis on maintaining local character through thoughtful external building design and materials. • Call for better integration of developments with streetscapes and public spaces, ensuring accessibility and active uses. • Support for addressing wind impacts but a need for clear tools and measurable standards. • Concern with shifting responsibility for construction impacts to the planning process, citing existing mechanisms under other legislation. • Advocacy for collaboration and early consultation between developers, service providers, and councils to ensure better outcomes.
Draft EPA Reforms (May 2020)	<p>Council's submission supports the integration of environmental protection reforms into land use planning and acknowledges the value of the proposed changes to the Victorian Planning Provisions (VPP). Council highlights the need for clear mechanisms to address contamination risks, improved data accessibility, and fair cost-sharing arrangements for reviews. While the proposed tools enhance decision-making, concerns remain about the cost burden on councils and the need for robust review processes.</p>	<ul style="list-style-type: none"> • Support for reforms enabling proactive mitigation of risks to human health and the environment. • Endorsement of new assessment tools such as the Preliminary Risk Assessment to improve decision-making on contamination risks. • Concerns about cost burdens on councils for peer reviews of contested assessments. • Advocacy for a comprehensive State-wide contamination database to improve transparency and reduce reliance on councils for site identification. • Request for clarification on the removal of the Certificate of Environmental Audit and its impact on planning processes.

Green Wedge and Agricultural Land Discussion Paper (February 2021)

Council's submission on the Green Wedge and Agricultural Land Discussion Paper emphasises the importance of balancing agricultural, environmental, and community considerations within Green Wedge and agricultural lands. While supporting strengthened policy and legislative frameworks, Council highlights the need for tailored, region-specific approaches that reflect local biodiversity and conservation priorities. The submission raises concerns about overemphasising agriculture at the expense of environmental values; it stresses transparency, community engagement, and practical implementation. Council also advocates for integrating conservation, smaller-scale agriculture, and community needs into policy reforms.

- Support for strengthened legislative and policy frameworks, provided they accommodate unique regional characteristics and emphasise biodiversity alongside agriculture.
- Advocacy for conservation and biodiversity as key priorities, particularly in areas where environmental values outweigh agricultural productivity.
- Concerns about the "one-size-fits-all" approach in reforms, reiterating the need for locally tailored solutions and decision-making frameworks.
- Concern about the consultation process, lack of transparency and adequate community engagement.
- Endorsement of improved design guidelines for Green Wedge areas, with caution against standardisation that may overlook local contexts.
- Support for balancing agricultural innovation with sustainable practices to protect natural systems.
- Calls for better integration of smaller-scale and local agriculture into the reforms, recognising its role in community well-being and resilience.
- Recognition of community infrastructure, such as schools and halls, as critical to rural townships, with concerns about reforms that limit their accessibility.

10 Year Social and Affordable Housing (March 2021)

Council's submission to Victoria's 10 year Social and Affordable Housing Strategy emphasises the importance social and affordable housing availability for the community's diverse needs. While supporting the state's vision, it stresses the need for locally tailored approaches that respect the environmental constraints and unique characteristics of Nillumbik. Council advocates for shared responsibility across government levels, innovative partnerships, and integrated planning to meet housing demand while preserving community identity and environmental values.

- Strong support for the state's vision of providing safe, affordable, and appropriate housing for all Victorians.
- Emphasis on balancing housing needs with Nillumbik's environmental and planning constraints, including Green Wedge protections.
- Advocacy for tailored, locally informed approaches rather than "one-size-fits-all" strategies.
- Recognition of the importance of shared accountability among federal, state, and local governments, alongside private and non-profit sectors.
- Focus on integrating housing with access to services, transport, and community infrastructure, particularly for vulnerable groups.
- Prioritisation of innovative and sustainable housing solutions to address challenges like ageing populations, climate change, and limited land availability.

- Support for partnerships with social housing providers and community organisations to enhance housing inclusivity and accessibility.
- Advocacy for equitable and flexible planning mechanisms to support affordable housing without overburdening local councils.

Melbourne’s Future Planning Framework (October 2021)

Council’s submission on the draft Northern Land Use Framework Plan (LUFP), part of Melbourne’s Future Planning Framework, highlights several key issues critical to shaping regional growth and sustainability.

- Recognition of the regional significance of green wedges, particularly for biodiversity.
- Support for inter-regional planning to address shared growth challenges.
- Illegal soil dumping identified as a significant regional growth issue.
- Acknowledgement of Nillumbik’s biodiversity values, including the Warrandyte to Kinglake habitat corridor and key waterways such as Watsons Creek.
- Concerns about the currency of data underpinning strategies, particularly regarding waste and landfill.
- The need to consider regionally significant renewable energy infrastructure.
- Greater focus on food security and supply chains, especially in relation to green wedges.
- Improved accessibility for ageing populations and people with disabilities, which is underrepresented in the draft LUFP.
- The importance of maintaining and reinforcing the Urban Growth Boundary.
- Clearer articulation of regional objectives and actions to manage growth and its environmental impacts.

Parliamentary Inquiry – Protections within the Victorian Planning Framework (December 2021)

Nillumbik Shire Council’s submission on this Parliamentary enquiry emphasises the importance of strategic and transparent planning processes that consider the unique environmental and community needs of the area. The submission advocates for a more comprehensive approach in addressing affordable housing, environmental

- Council calls for better strategic planning and transparent consultation processes by the State government to enhance local government response to submissions. Planning reforms should consider the unique characteristics and needs of local areas like Nillumbik, especially concerning building heights and green wedges.

sustainability, and heritage protection while maintaining local character and biodiversity.

- Advocates for reforms to protect and manage green wedge land, underscoring its significance in terms of biodiversity, climate response, and food security.
- Concerns about the State's heritage protection inquiries, suggesting that they are untimely and overlook substantial local submissions already made.
- Requests that the inquiry consider consultations and submissions made by the council over the years as part of their review.
- Expresses concern over the erosion of communication in planning processes, which has led to mistrust and dissatisfaction among residents.

DELWP Planning Reforms - Improving the Operations of Rescode (February 2022) - Council officers note that the proposed changes are extensive and may have broader implications, particularly for the application and acceptance of provisions within the Nillumbik Planning Scheme by DELWP as the 'appropriate planning implementation tool' for specific matters.

- Potential impacts on the implementation of Council's future Neighbourhood Character Strategy.
- Reduced Council discretion in making planning decisions for residential development.
- Limitations on residential planning decisions being largely confined to the Performance Assessment Module (PAM) in most cases.
- Subjectivity in determining whether proposals meet the Performance Criteria, leading to potential disagreements between parties (e.g., Council, applicants, and VCAT).
- Concerns about the development outcomes resulting from these reforms and the detrimental effects they may have on Nillumbik Shire's established and preferred neighbourhood character.
- Potential unintended impacts on the flexibility and effective use of existing planning controls and tools to reinforce neighbourhood character values.
- The need for clarification regarding the timing and implementation of the proposed reforms.
- A lack of detail on how the proposed reforms will interact with other planning controls and their future implementation.
- Uncertainty about the extent of time savings these reforms will achieve in the planning permit process.

Parliamentary Enquiry - Victorian Food Supply (February 2022)

Nillumbik Shire Council's submission to the Parliamentary Enquiry on the Victorian Food Supply discusses the importance of preserving its Green Wedge for agricultural, environmental, and biodiversity purposes, aligning with the State Planning Policy to protect non-urban areas from urban sprawl. Council advocates for maintaining sustainable agriculture, supporting local food security, and mitigating climate change through strategic land management and proactively building local resilience.

- Nillumbik Shire's Green Wedge covers 91% of its area and is critical for agriculture, biodiversity, and water supply.
- Council's adopted Municipal Planning Strategy supports maintaining a clear urban-rural divide and protecting agricultural land.
- Urban sprawl and pressure from development affect agricultural productivity and environmental values.
- Council supports increased government support for agriculture, especially for those in peri-urban areas.
- Climate change impacts agriculture and natural systems, necessitating urgent action.
- The Green Wedge provides opportunities for carbon sequestration and resilient food systems.
- Nillumbik's proximity to Melbourne makes it strategically important for local food supply and sustainability.

Draft Plan for Victoria and Housing Targets Submission (August 2024)

Council's submission on the Plan for Victoria Big Ideas and the draft Housing Targets discussed the importance of increasing affordable housing supply across the State but doing so in areas that are well located with services and amenities to support population growth.

- Articulating the importance of the Green Wedge in the Big Ideas
- Balancing climate change and cooling and greening (tree canopy retention with neighbourhood character)
- Importance of macro-economic levers to increase housing affordability, not just planning
- Cost to Councils to update strategic documents based on emerging policy
- Planning for infrastructure and delivery to accommodate growth
- Lack of market depth in the short-medium term in Nillumbik to deliver medium to high density apartments

Appendix 7 - Other Council Plans and Strategies of importance

Council Plan / Strategy	Adoption Date	Brief Description
Community Vision - Nillumbik 2040	21, October, 2021	The Community Vision – Nillumbik 2040 is a strategic document that outlines the core values and priorities of the community and the Shire. It serves as a guiding framework for the development and implementation of the Nillumbik planning scheme, aligning it with the aspirations of the community. The document highlights the importance of land use planning that focuses on preserving the natural environment and promoting sustainability, ensuring that future developments adhere to these core values.
Council Plan 2021-2025	21, October, 2021	The Council Plan is pivotal in establishing the strategic direction for the Council over its four-year term. It directs the organisation's efforts to meet the priorities of both the Council and the community, managing and providing services throughout this period for the Nillumbik community. The Planning Scheme Review is tasked with evaluating the Planning Scheme against the Community Vision and Council Plan to ensure they are well-aligned.
Health and Wellbeing Plan 2021-2025	21, October, 2021	The Nillumbik Health and Wellbeing Plan 2021-2025 outlines our commitment to address health and wellbeing priorities and reduce inequalities over the next four years. It reflects the priorities of our community, and our health and wellbeing partners - who we will work with to deliver this plan.
Youth Strategy 2022-2026	14, December, 2021	Nillumbik Shire Council's Youth Strategy 2022-2026 provides an integrated approach to ensuring that we continue to value and incorporate young people into Council by providing meaningful opportunities for young people, valuing their contributions and empowering them to help shape our community.
Climate Action Plan 2022-2032	26, April, 2022	Nillumbik Shire Council's Climate Action Plan 2022-2032 is guiding our response to the challenges posed by climate change and outlines a twofold approach, involving mitigation and adaptation. The Plan sets targets of achieving net-zero emissions in Council operations by 2030 and net-zero community emissions by 2035.
Recreation & Leisure Strategy 2022-2030	28, June, 2022	Recreation and Leisure Strategy 2022-2030 seeks to support community participation in sport and active recreation, with a focus on well-planned facilities and environments. It also aims to remove barriers for underrepresented groups to take part in sport and recreation, including women and girls, people with disability, and the LGBTQIA+ community.

Arts and Culture Strategy 2022-2026	27, September, 2022	The Arts and Culture Strategy 2022-2026 is a comprehensive framework developed by the Council to guide the growth, development, and support of arts and culture within the Shire over a four-year period.
General Local Law 1	22, December, 2022	The Local Law aims to safeguard public health, safety, and amenity across the Shire, ensuring quality of life and the enjoyment of public spaces. Key areas regulated include behaviour on Council land, animal management and noise, public alcohol consumption, protection of amenity trees, and restrictions on animals within the Bend of Islands.
Biodiversity Strategy 2024 - 2034	30, July, 2024	Nillumbik Shire Council's Biodiversity Strategy 2024-2034 demonstrates Council's commitment to protecting and enhancing the Shire's biodiversity and environment for the future. It provides a framework to guide Council action over a 10-year period, in urban and rural contexts and across public and private land.
Urban Tree Canopy Strategy 2024-2040	27, August, 2024	The Urban Tree Canopy Strategy 2024-2040 outlines a 15-year plan to expand Nillumbik's urban tree canopy on both Council and private land. Key targets include achieving an overall urban canopy cover of 40% and ensuring a minimum 25% canopy cover in every suburb and township, particularly addressing areas with higher urban heat island effects.
Integrated Transport Strategy 2024 - 2029	27, August, 2024	Nillumbik Shire Council adopted the Integrated Transport Strategy in 2024. This strategy aims to enhance transport planning and promote sustainable and active travel across the area.

Appendix 8 - Priority actions identified in Nillumbik Shire Council Plan 2021-2025

Priority Action	Status	Brief Description
Undertake a heritage review of the 'Stage 2' potential heritage sites of significance	Complete	Heritage Review Stage B was completed by Trethowan Architecture and Heritage Consultants in April 2022. Planning Scheme Amendment C149nill proposes to implement the findings of both Stage A and B Heritage Reviews and is currently underway.
Develop a Municipal Planning Strategy and include into the planning scheme	Underway	The Municipal Planning Strategy (MPS) was adopted by Nillumbik Shire Council in June 2023 following three rounds of community engagement and will be integrated into the Nillumbik Planning Scheme through a future amendment.
Investigate measures to establish and enhance the urban tree canopy	Complete	The urban Tree Canopy Strategy adopted in 2024? The Urban Tree Canopy Strategy 2024-2040 adopted by Council in 2024. There is a need to investigate measures to establish and enhance the urban tree canopy by implementing the Urban Tree Canopy Strategy into Planning Scheme.
Develop a new Open Space Strategy for the Shire, to help inform future open space directions	Proposed	The existing Open Space Strategy (2005) is outdated and no longer reflects the current needs and priorities of the community. With significant changes in population density, urban development patterns, and environmental challenges, there is a pressing need for a new Open Space Strategy that aligns with contemporary planning principles and community expectations.
Develop a Neighbourhood Character Strategy	Complete	The Nillumbik Neighbourhood Character Strategy (NCS) was adopted by the Council in 2023. The implementation of the NCS is on hold, awaiting the adoption of the Draft Housing Strategy (HS), which is currently underway. According to Planning Practice Note 90, the NCS and HS must be integrated to effectively implement them into the planning scheme. For the outcomes of the NCS to have effect it must be implemented into the planning scheme.
Develop the Wattle Glen Public Realm Framework	Complete	The Wattle Glen Public Realm Framework was adopted by Council at the 27 August 2024. The Department of Transport and Planning (DTP) have formally confirmed their shared responsibility and agency to continue to partner with Council in the implementation of the framework. The framework

		does not provide detailed solutions for the key initiatives it outlines; these would be developed in partnership with DTP and in consultation with the community as future project funding allows.
Develop a Housing Strategy for the Shire	Underway	The Draft Nillumbik Housing Strategy has completed its first round of engagement. It is currently awaiting state reforms, including the Plan for Victoria and housing targets, which will have a significant impact on our HS. There will be a second round of engagement to exhibit the updated Draft HS and collect feedback. Once the Draft HS is adopted by the Council, it will be implemented into the planning scheme alongside the NCS.
Develop a plan for Research to improve amenity and functionality	Proposed	Yet to commence.
Implement the Major Activity Centre Structure Plans for Diamond Creek and Eltham into the planning scheme	Underway	Planning Scheme amendments C143nill and C144nill seek to implement the Eltham and Diamond Creek Major Activity Centre Structure Plans (respectively) into the Planning Scheme. The amendments have been exhibited, and a Planning Panel is scheduled for June 2025 to resolve submissions.
Investigate options to implement Environmentally Sustainable Development (ESD) principles into the planning scheme	Proposed	Pending State Government direction the ESD roadmap. However, to be aligned with and incorporated into the Housing Strategy.
Council Plan 2025-2029	Underway	Council Plan guides all our work, decision-making, and strategic direction for the next four years. Recommendations and actions identified by PSR 2025 will form the actions in the Council Plan 2025-2029.

Appendix 9 -What we have heard

Themes	Key points
Green Wedge	<ul style="list-style-type: none"> • The community highly values the protection of Nillumbik’s Green Wedge areas as a “Conservation Shire”, which are seen as essential to maintaining the Shire’s unique character and natural environment. • Residents want to ensure that areas in the Green Wedge are safeguarded from overdevelopment and urban sprawl. • Support for maintaining non-urban breaks and rural character in Nillumbik’s planning. • Advocacy for balancing rural living, agriculture, and conservation in Nillumbik’s Green Wedge.
Climate Change and Environmentally Sustainable Development	<ul style="list-style-type: none"> • Emphasis on preserving trees and biodiversity as central to Nillumbik’s identity and climate resilience. • The community highly values proactive measures to address climate change, with a strong emphasis on implementing resilient infrastructures and sustainable practices throughout Nillumbik. • Community feedback suggests initiatives such as solar panel installations, community energy projects, and incentives for low-carbon transportation options. • Feedback calls for all new development to incorporate sustainability from the planning phase, with stringent requirements for energy efficiency, sustainable material use, and design that considers long-term environmental impacts. • There is a clear demand for robust regulatory frameworks that enforce climate action goals, ensuring that all sectors adhere to established environmental standards. • There is a strong advocacy for policies that require new developments to include sustainable water management systems and enhanced natural vegetation. • Residents want to see more emphasis on sustainable building practices, including the use of natural materials, passive design elements, and the retention of vegetation to improve thermal performance. • Calls to highlight resilience and sustainability as core goals in addressing environmental hazards. • Demand for better planning and clearer strategies to navigate housing developments in bushfire-prone regions.

<p>Housing Supply</p>	<ul style="list-style-type: none"> • The community supports responsible urban housing development that aligns with Nillumbik’s character and environmental values. • There is a strong sentiment against overdevelopment, with many community members expressing concerns about the impact of high-density housing, subdivisions, and large-scale developments on the character of the area. • Residents want to ensure that new developments are low-rise, respectful of the existing landscape, and do not dominate the streetscape. • While there is a strong desire to protect the character of the area, some respondents also highlighted the need for diverse housing options to accommodate different life stages and income levels. • Concerns about medium-density housing potentially impacting aesthetics, heritage, and tree canopy. • Calls for balancing sustainable housing designs with maintaining the area’s rural identity. • High demand for smaller homes and downsizing options, particularly for older residents wanting to age in place. • Support for accessible housing designs that meet the needs of semi-independent living and older demographics. • Mixed views on medium-density housing near activity centres: some see it as a way to protect the Green Wedge, while others worry about its impact on traffic, infrastructure, and character. • Requests for stricter controls and better design standards for medium-density developments. • Significant concerns about insufficient infrastructure (roads, transport, and facilities) to support increased population and housing density. • Feedback indicates a need for careful consideration of new development, neighbourhood character, and the natural environment, reflecting a desire to balance these elements without compromising cultural and historical values.
<p>Neighbourhood Character</p>	<ul style="list-style-type: none"> • The community highly values the unique character of their neighbourhoods, which includes elements such as vegetation, built form, street layout, building heights, streetscapes, setbacks, front fencing, footpaths, topography, and views. • There is a strong desire to protect and maintain the distinct look and feel of each area, ensuring that new developments respect and enhance the existing character. • Many respondents called for stronger, more specific language in the Neighbourhood Character Strategy to ensure that the guidelines are enforceable and can withstand challenges at VCAT (Victorian Civil and Administrative Tribunal).

	<ul style="list-style-type: none"> • There is a desire for clearer rules around building heights, setbacks, and vegetation retention to prevent inappropriate developments.
Vegetation and Biodiversity	<ul style="list-style-type: none"> • The community places a high value on preserving and enhancing trees, vegetation, and the green character of Nillumbik. There is significant concern about the loss of tree canopy and greenery due to development. • Community members strongly support measures to ensure trees and vegetation are protected in new developments and built-up areas, emphasising the need for clear targets and robust indicators relating to tree conservation. • Mixed views were expressed regarding tree and vegetation protection versus fire prevention strategies. The community recognises the need to balance fire safety measures with environmental conservation on both Council and private lands. • Residents across the Shire value the preservation of vegetation, canopy, and understory, expressing a desire for Council actions that balance environmental sustainability with minimal degradation and tree loss. • Participants expressed a strong preference for prioritising indigenous species in biodiversity efforts, suggesting that the strategy should emphasise native flora and fauna to maintain the local ecological balance. • Concerns were raised about managing the balance between development and biodiversity, particularly how urban expansion and land use changes could impact the local environment. • Emphasis on preserving trees and biodiversity as central to Nillumbik’s identity and climate resilience.
Heritage	<ul style="list-style-type: none"> • The community values the preservation of Nillumbik’s cultural and historical heritage, including Indigenous and non-Indigenous sites. • Residents want to see more efforts to celebrate and protect local history. • The community values the cultural and historical heritage of Nillumbik, including the legacy of mud-brick homes, the arts community, and the unique architectural history of the area.
Transport	<ul style="list-style-type: none"> • Better public transport options are a top priority, particularly for connecting rural areas and reducing reliance on cars.

	<ul style="list-style-type: none"> • Residents also want improved community transport services for older adults and people with disabilities. • Suggestions to include better integration of transport systems and their capacity in the planning framework. • Advocacy for maintaining trails and open spaces for community benefit. • There was a strong call for improvements in infrastructure supporting walking, cycling, and micro-mobility, with a particular emphasis on safety measures such as secure crossings and dedicated paths. • Residents want better lighting, footpath maintenance, and measures to reduce traffic congestion and improve road safety. • Issues related to parking emerged as a significant concern, with some participants noting a lack of adequate parking impacting residents and local businesses, while others called for better management of existing parking resources.
Open Space	<ul style="list-style-type: none"> • Residents also value access to facilities and programs that promote physical health, such as parks, playgrounds, and recreational activities. • Residents want more and better-maintained parks, playgrounds, and recreational facilities for all age groups. • There is a need for better infrastructure, such as footpaths, drainage, and public transport, to support the growing population while maintaining the character of the area.

Appendix 10 - Summary of VCAT cases

VCAT case	Permit Triggers	Summary	Decision
<p><i>A.P.G.P. Holdings Pty Ltd v Nillumbik SC [2019] VCAT 1097 (24 July 2019)</i></p>	<p>Clause 32.04-6- Construction of two or more dwellings on a lot in the GRZ1</p> <p>Clause 42.03-2 – Buildings or works over 7.5 metres in height within 5 metres of a substantial tree within the SLO3</p> <p>Clause 52.29 – Alter access to a road in the RDZ1</p>	<p>A.P.G.P. Holdings Pty Ltd's proposal to build eight two-storey dwellings at 1113-1115 Main Road, Eltham, was initially met with refusal from the Nillumbik Shire Council. The council cited concerns over neighbourhood character, inadequate landscaping, and design issues. Following this, the applicant submitted revised plans that included more visitor parking, leading the council to drop its parking objections but raising new design concerns.</p> <p>The Eltham Community Action Group supported the initial refusal, emphasising the limited landscaping and potential impacts on local amenity. Other community objections noted issues with potential traffic, noise, and parking overflow.</p> <p>The Tribunal set aside the Council's decision and granted a planning permit, subject to conditions. These conditions include reducing the number of retaining walls in the front setback to allow for better canopy tree planting, ensuring adequate landscaping, and addressing design details to improve functionality and amenity. The Tribunal emphasised the importance of enforcing landscaping requirements to maintain the area's character.</p>	<p>set aside</p>
<p><i>Hunter v Nillumbik SC [2019] VCAT 1296 (27 August 2019)</i></p>	<p>Clause 42.03-2 – to construct a building construct or carry out works</p>	<p>This proceeding involves a review request by applicants against the Nillumbik Shire Council's decision to issue a permit for a dwelling at 29 View Hill Crescent, Eltham. The applicants, local property owners, claim the proposed double-storey, V-shaped dwelling violates the Semi-Bush Precinct Significant Landscape Overlay Schedule 2 (SLO2), which aims to preserve the area's semi-bush character. They highlight issues with the dwelling's visual impact, inadequate setbacks, and other amenity impacts, alleging non-compliance with SLO2's local planning provisions. However, specific concerns like clause 54's setback and amenity requirements are generally addressed during the building permit process and are not directly relevant at this stage. Despite these concerns, the council endorses the proposal, noting that the dwelling's design and substantial setbacks will allow it to integrate into the existing landscape, thus fulfilling SLO2's objectives. Therefore, the decision to grant the</p>	<p>affirmed</p>

		permit is maintained, with conditions to ensure minimal environmental impact and adherence to local character standards.	
<i>Englemore Pty Ltd v Nillumbik SC [2019] VCAT 1136 (2 August 2019)</i>	Clause 32.09 – To construct two or more dwellings on a lot in a NRZ1 Clause 42.03 – To remove vegetation and excavation over 500mm within 5 metres of a substantial native tree	Englemore Pty Ltd’s proposal to construct four dwellings along with fencing, earthworks, and vegetation removal at 28 Ryans Road, Eltham, was denied by Nillumbik Shire Council. The refusal hinged on the development’s misalignment with the semi-bush neighbourhood character as per the Significant Landscape Overlay Schedule 2 (SLO2) and its failure to meet various objectives of Clause 55, including those related to street integration and open space. The applicant maintained that the development matched the nearby housing and addressed the site’s needs, offering necessary housing near public transport and services. Concerns were also raised by a neighbouring property owner about visitor parking, streetscape character, and overdevelopment. Despite amended plans aimed at addressing these issues, the council continued its opposition, leading to a tribunal review. The tribunal upheld the council’s decision, agreeing that the proposal did not adequately respect the local neighbourhood character or comply with Clause 55 standards.	affirmed
<i>Malotsis v Nillumbik SC [2019] VCAT 1301 (30 August 2019)</i>	Clause 32.08-3 to subdivide the land. Clause 32.08-6 to construct more than one dwelling on the lot.	In 2013, a permit was issued for subdividing land at 21 Stone Street, Diamond Creek, resulting in the lots now known as Nos. 1, 3, 5, and 7 Lambert Street. Further applications to build two dwellings on each lot and subdivide them further were denied by Nillumbik Shire Council, with the tribunal supporting these refusals. The current case involves the council’s refusal to permit the construction of two dwellings and the subdivision of No. 1 Lambert Street. The applicant sought a tribunal review to gain approval for the proposal. The council opposed the development, arguing the site was unsuitable for medium-density housing due to its semi-rural setting and the development’s intensity, pointing out issues like inadequate separation between dwellings, limited landscaping possibilities, and a failure to harmonise with the area’s character. In contrast, the applicant contended that the proposal aligned with the general residential zoning and local policies, which support urban consolidation and efficient infrastructure use. The tribunal decided to grant the permit, contingent on detailed landscaping plans and the proposal’s adherence to local policies, despite the council’s concerns about the site’s suitability for medium-density development.	set aside

<p><i>Smale v Nillumbik SC [2019] VCAT 1318 (2 September 2019)</i></p>	<p>Clauses 32.03, 43.01 and 44.06 to subdivide the land. Clause 43.02 to remove and lop vegetation. Clause 52.17 to remove and lop native vegetation.</p>	<p>Tony Smale proposed subdividing land at 60 Lavender Park Road, Eltham, which includes a heritage residence and studio. The Nillumbik Shire Council refused the permit due to concerns about the subdivision's impact on heritage, vegetation, and local character. Smale submitted a revised plan supported by expert evidence advocating for the development. However, the Tribunal concluded that the proposal did not adequately address issues related to heritage preservation, potential impacts on trees, and bushfire management. Ultimately, the Tribunal upheld the Council's decision, and no permit was granted.</p>	<p>affirmed</p>
<p><i>Calzone v Nillumbik SC [2019] VCAT 1322 (30 August 2019)</i></p>	<p>Clause 32.08-6 to construct two or more dwellings on a lot in the GRZ1 Clause 42.03-2 for buildings and works and tree removal in the SLO3</p>	<p>The applicant proposes to construct three double-storey dwellings on a corner lot at Main Road and Bayfield Drive, Eltham. The site is suitable for medium-density housing, but the Council has raised concerns that the design is too dominant in the streetscape, lacks adequate landscaping, and does not sufficiently reflect the preferred character of the Bush Garden Precinct. Amended plans presented at the hearing included improved material consistency and layout adjustments to address these concerns.</p> <p>The Tribunal deemed the Main Road setback insufficient, requiring it to be increased to 5m for the dwelling and 6m for the garage. It also called for enhanced landscaping opportunities and a relocated entryway. The design and setbacks of the upper floors were found acceptable, with private open spaces meeting the standard requirements, although the width of Dwelling 1's yard needed adjustment. Traffic and parking arrangements were largely satisfactory, with minor driveway refinements recommended.</p> <p>With these amendments and conditions addressing landscaping, setbacks, and design refinements, the Tribunal approved the development, finding it consistent with planning policy and neighbourhood character objectives.</p>	<p>set aside</p>
<p><i>Scheiber & Co Pty Ltd v Nillumbik SC [2019] VCAT 1428 (16 September 2019)</i></p>	<p>Clause 32.08-6 – To construct two or more dwellings on a lot.</p>	<p>In January 2019, the applicant requested a Tribunal review after Nillumbik Shire Council failed to decide on their permit application within the statutory timeframe. Despite Council opposition and objections from five local residents regarding neighbourhood character, the Tribunal found compliance with Clause 52.06 for car parking. Key Clause 55 objectives, such as building height, site coverage, permeability, and private open space, were also met.</p>	<p>set aside</p>

		The Tribunal acknowledged Council concerns about setbacks, landscaping, and visual dominance but deemed the design suitable for the site's context, which included potential for canopy tree planting and a lack of existing vegetation. Due to the Council's unjustified delay in decision-making, the Tribunal ruled in favour of fee reimbursement for the applicant, overturned the Council's refusal, and granted a permit with conditions to improve landscaping, setbacks, and design.	
<i>Lordan v Nillumbik SC [2019] VCAT 1758 (26 November 2019)</i>	Cl. 32.09-3 (subdivision of land in NRZ1))	The Tribunal reviewed Nillumbik Shire Council's refusal to grant a permit for a three-lot subdivision at 91 John Street, Eltham, with a focus on neighbourhood character, vegetation, and vehicle access. The Tribunal supported the Council's decision, determining that the proposal did not sufficiently respect the neighbourhood's bushland character and would result in built forms dominating the lots. While concerns about vehicle access and pedestrian safety were acknowledged, they were not the decisive factors in the ruling.	affirmed
<i>Lordan v Nillumbik SC [2019] VCAT 1757 (26 November 2019)</i>	Cl. 42.03-2 (the carrying out of works within 5.0 metres of the base of a substantial tree in SLO3)	The Tribunal reviewed a proposal for constructing a driveway and crossover at 91 John Street, Eltham, which Nillumbik Shire Council had rejected due to its potential impact on a significant tree (Tree 4A). The Tribunal found that the applicant did not adequately address the encroachment into the tree's protection zone. Despite the applicant's claims of minimal impact, the expert arborist evidence provided was deemed insufficient. Consequently, the Tribunal upheld the Council's decision, citing potential harm to the tree and insufficient evidence regarding the proposal's feasibility within the required guidelines.	affirmed
<i>Copper Lake Pty Ltd v Nillumbik SC [2019] VCAT 2056 (24 December 2019)</i>	Clause 35.06-5 –construction of a building and works in the RCZ3.	The Tribunal examined a proposal for a substantial shed and access track on a Kangaroo Ground property, used for alpaca grazing and a blue gum plantation. Spanning 11.85 hectares, the site was planned to feature a 648 square metre shed made from colorbond in 'pale eucalypt', positioned well within the property's boundaries. The application, lodged in April 2017, intended to support its agricultural use. However, the responsible authority disputed the established use of alpaca grazing and raised concerns about the shed's large size and visual impact according to Clause 59.13 of the Nillumbik Planning Scheme. Despite claims of long-term agricultural use by the applicant, the Tribunal upheld the refusal, noting the	affirmed

		shed's excessive scale and intrusive appearance, which were found incompatible with the rural environment and planning standards.	
<i>Fitzmaurice v Nillumbik SC [2019] VCAT 1015 (20 December 2019)</i>	<p>Clause 36.02-1: a permit is required to use land for an Emergency Services Facility.</p> <p>Clause 36.02-2: A permit is required to construct a building or construct or carry out works.</p> <p>Clause 43.01-1: a permit is required to demolish or remove a building, construct a building or construct or carry out works.</p> <p>Clause 52.17: a permit is required to remove, destroy or lop native vegetation.</p>	This application involves a group of objectors contesting the approval of a CFA (Country Fire Authority) station on public parkland at 109-115A Yan Yean Road, Plenty. The objections centre on heritage impact, loss of public space, vegetation removal, and road safety concerns. Although the objectors support the CFA, they argue that the chosen site is unsuitable. The Tribunal concluded that the community benefits provided by the new CFA station outweigh the potential negative impacts, thereby supporting the development in line with the Planning Scheme's principle of balance.	affirmed
<i>Vangona Nominees Pty Ltd v Nillumbik SC and Others [2020] VCAT 76 (20 January 2020)</i>	Clause 32.08-6-construction of two or more dwellings	This case involves a proposal by Vangona Nominees Pty Ltd to build nine double-storey dwellings at 36-38 Old Aqueduct Road, Diamond Creek. The Nillumbik Shire Council rejected the proposal, citing concerns with neighbourhood character and compliance with ResCode, highlighting issues such as excessive built form, insufficient landscaping, and inadequate response to the area's open space. The applicant contended that the design adequately addressed the site constraints. After considering all submissions, the Tribunal upheld the Council's decision, concluding that the development did not align with the Nillumbik Planning Scheme.	affirmed
<i>Lordan v Nillumbik SC [2020] VCAT 215 (25 February 2020)</i>	<p>Clause 32.09-6 – Construct a second dwelling on a lot</p> <p>Clause 42.03-2 – Construct a building and construct and carry out works within five metres of a substantial tree (Trees 7, 12, 16, 24, 34, 43, 44, 48, 49 and 54)</p> <p>Clause 42.03-2 – Removal of a</p>	Sue and Anthony Hill applied to build a second dwelling at 83 John Street, Eltham, which was contested by their neighbour, John Lordan. Mr. Lordan raised concerns regarding privacy, visual impact, tree removal, and drainage. He suggested modifications such as lowering the dwelling, constructing a robust fence, and ensuring adequate drainage. After reviewing all submissions and inspecting the site, the Tribunal decided to grant the permit. It found that the modifications to the dwelling sufficiently addressed privacy issues, the tree removal was justified, and the drainage provisions were adequate to protect neighbouring properties.	varied

	substantial tree (Trees 1, 3, 13, 14, 18, 22, 35, 38, 45, 50 and 52)		
<i>Sparks v Nillumbik SC [2020] VCAT 305 (10 March 2020)</i>	<p>Clause 32.04-2: Permit required for a 'food and drink premises (restaurant) with a gross leasable floor area exceeding 150sqm.</p> <p>Clause 32.04-9: A permit is required to construct a building or construct or carry out works for a use in Section 2 of the Land Use Table at Clause 32.04-2.</p> <p>Clause 42.03-2, s3.0 of Schedule 7: A permit is required to construct a building within 5.0m from a 'substantial tree'[2].</p> <p>Clause 43.01-1: A permit is required to construct a building, externally alter a building, construct a fence and to display a sign.</p> <p>Clauses 43.02-2 and 43.02-4: A permit is required to construct a building including external alterations, construct a fence and to display a sign (Category 4 of clause 52.05 applies).[3]</p> <p>Clause 52.27: A permit is required to use land to sell or consume liquor.</p> <p>Clause 52.29: A permit is required to alter access to land adjacent to a Road Zone Category 1.</p>	This case involves Mr. Gregory Sparks, who sought a review of the Nillumbik Shire Council's decision to grant a permit for a restaurant development at 736 Main Road, Eltham. Mr. Sparks expressed concerns about noise, traffic, and violations of a previous permit. Although the council recognised these prior breaches and proposed conditions to address them, the Tribunal identified unresolved issues, particularly regarding noise and amenity impacts, as critical. Due to insufficient evidence and ongoing uncertainties, the Tribunal overturned the council's decision and denied the permit.	set aside
<i>16 Taylor Pty Ltd v Nillumbik SC [2020]</i>	Clause 37.08-5 – to construct a building or construct or carry out	This case involves an appeal regarding the council's delay in deciding on a planning permit application for a development at a site subject to both the Activity Centre	affirmed

<p><i>VCAT 673 (22 June 2020)</i></p>	<p>works. Clause 42.03-2 – to construct a building or construct or carry out works within 5 metres from the base of any substantial tree and to remove, destroy or lop vegetation.</p>	<p>Zone (ACZ1) and Significant Landscape Overlay (SLO1). The council had issues with the project's front setbacks, scale, and design, impacting trees and the overall landscape, asserting the development did not comply with local planning standards. Despite the applicant's amendments and arguments, the Tribunal found the proposed development inappropriate due to concerns about its visual impact, inadequate landscaping, and potential effects on nearby trees. The decision focused on the balance between maintaining the character and landscape of the area while accommodating development. Consequently, the Tribunal affirmed the council's decision to refuse the permit, highlighting the need for any new proposals to better address these concerns.</p>	
<p><i>Sleeman v Nillumbik SC [2020] VCAT 708 (26 June 2020)</i></p>	<p>Clause 32.09-3 To subdivide land in NRZ1 Clause 42.03-2 To remove, destroy or lop native vegetation in SLO2</p>	<p>Ms. Sleeman and her neighbours are contesting the Nillumbik Shire Council's approval of a two-lot subdivision and the removal of Tree 14 at 207 Ryans Road, Eltham North. The area is characterised by steep, vegetated terrain and diverse architecture, governed by the Neighbourhood Residential Zone and Significant Landscape Overlay, which mandate minimal environmental disruption. Despite the site's challenging topography, the council justified the subdivision by its proximity to local services. However, neighbours opposed this, particularly the impact on local character and vegetation due to tree removal. Reviewing the concerns, the subdivision and Tree 14's removal unacceptable, as they compromise the area's character and environmental integrity. Consequently, I have reversed the council's decision and refused the permit, upholding the site's environmental and residential context requirements.</p>	<p>set aside</p>
<p><i>Connor v Nillumbik SC [2020] VCAT 852 (10 August 2020)</i></p>	<p>Clause 42.03-2: Construct a building or construct or carry out works over 7.5m in height above the natural surface of the ground directly below it.</p>	<p>This proceeding reviews the Nillumbik Shire Council's decision to issue a permit for major alterations at 90 Brougham Street, Eltham, which triggers SLO3 regulations due to the structure's height exceeding 7.5 meters and its closeness to a significant tree. Neighbour Mr. Connor contested the permit, claiming the modifications conflict with the local landscape character. Upon reviewing the proposed design, landscaping, and materials, the Tribunal concluded that the alterations adhere to the character and stipulations of SLO3, thus approving the permit with minor modifications.</p>	<p>varied</p>
<p><i>Campbell v Nillumbik SC [2020]</i></p>	<p>Clause 32.09 to subdivide the land. Clause 32.09-3 details the requirements of clause 56 that</p>	<p>Mr. Campbell is appealing against the Nillumbik Shire Council's decision to deny a permit for subdividing land, removing vegetation, and conducting related works. He contends that the proposal aligns with relevant planning rules, and that the</p>	<p>affirmed</p>

<p>VCAT 933 (28 August 2020)</p>	<p>must be met. Clause 42.03 to construct a building and carry out works (earthworks, driveway and retaining walls) and removal of native vegetation. Schedule 2 contains (among others) a statement of nature and key elements of landscape, landscape character objectives and decision guidelines.</p>	<p>building envelope, setbacks, and landscaping suitably reflect the local character. Conversely, the Council objected to the proposal, citing issues with the placement of the building envelope, vegetation removal, and the overall impact on the local character. Both parties agree on the planning provisions and policies but disagree on their impact on the environment. The Tribunal recognises the site's potential for more intensive development due to its zoning, size, and proximity to services. Nevertheless, the proposal does not adequately address crucial planning concerns, particularly its integration with the public realm and its effects on an adjacent tree. These concerns are significant and not rectifiable through permit conditions. Therefore, the Tribunal upholds the Council's decision to refuse the permit, and no permit will be issued.</p>	
<p><i>Miles v Nillumbik SC [2020] VCAT 904 (27 August 2020)</i></p>	<p>Clause 33.03-1 – use of the subject land for a convenience restaurant. Clause 33.03-4 – construction or carrying out of works. Clause 52.27 – an increase to the number of patrons allowed under a licence and an increase in the area within which liquor is allowed to be consumed or supplied.</p>	<p>Joann Miles and others are challenging the Nillumbik Shire Council's decision to approve amendments to the planning permit for Second Home Kitchen Pty Ltd at 21 Brougham Street, Eltham. The proposed amendment includes extending the permit to encompass 25 Brougham Street for additional parking and increasing the restaurant's seating capacity from 59 to 83 patrons. The appellants are concerned about the amendment and the initial permit issuance, questioning their compliance with the planning scheme and potential community impact. The Tribunal reviewed the amendment's alignment with the Nillumbik Planning Scheme and the likely effects on local amenities due to increased patronage and construction activities. After evaluating the evidence and planning rules, the Tribunal agreed to issue an amended permit with specific conditions designed to reduce amenity impacts and ensure adherence to planning guidelines. Additionally, the Tribunal concluded that a cultural heritage management plan was unnecessary, considering the site had already undergone significant disturbances.</p>	<p>varied</p>
<p><i>Madden v Nillumbik SC [2020] VCAT 968 (7 September 2020)</i></p>	<p>Clause 32.08-6: Construct two or more dwellings on a lot in a GRZ Clause 52.17: Remove, destroy or lop native vegetation</p>	<p>In this case, local residents challenged the Nillumbik Shire Council's decision to permit the construction of six new dwellings behind an existing property at 17-19 Piper Crescent, Eltham, citing concerns about overdevelopment, neighbourhood character, safety, and emergency access. The applicant also contested specific conditions of the permit. Ultimately, the Tribunal determined that the development was an appropriate planning outcome that met strategic and regulatory standards, ensuring sufficient retention of native vegetation,</p>	<p>varied</p>

		manageable off-site impacts, and safe vehicle access. Consequently, the permit was granted with conditions.	
<i>Michael Gavan & Ors v Nillumbik Shire Council [2020] VCAT 1169 (16 October 2020)</i>	Clause 32.09-6 construct two or more dwellings on a lot Clause 42.03-2- construction of buildings and works and removal of vegetation	This proceeding reviews the Nillumbik Shire Council's decision to approve a permit for constructing two additional dwellings and removing a tree at 102 Glen Park Road, Eltham North. The reviewers, Michael Gavan and Mr. Scott, expressed concerns regarding neighbourhood character, building bulk, tree loss, and traffic impacts. The permit applicants maintained that their design was appropriate and responsive to the site. After evaluating the proposal, the Tribunal concluded that the development adheres to planning policies, respects the local area's character, and meets parking requirements. Consequently, the Council's decision was varied, and the permit was granted.	varied
<i>Hart v Nillumbik SC [2021] VCAT 154 (16 March 2021)</i>	Cl. 32.08-6 (to construct a dwelling if there is at least one dwelling existing on the lot in GRZ1) Cl. 42.03-2 (to construct a building or carry out works if the height of any part of the building is more than 7.5 metres above the natural surface of the ground directly below; to remove, destroy or lop any substantial tree; and to construct a building or carry out works within 5.0 metres of the base of any substantial tree on land in SLO3)	This proceeding reviews an application following Nillumbik Shire Council's refusal to grant a permit for building a second dwelling, subdividing the land, and vegetation removal. During the hearing, the applicant withdrew the subdivision request. The Tribunal's main concern was whether the proposed development would respect or enhance the neighbourhood character. After reviewing the evidence and relevant planning rules, the Tribunal upheld the Council's decision to deny the permit, determining that the development did not satisfy the necessary planning and character criteria.	affirmed
<i>Rowe v Nillumbik SC [2021] VCAT 148 (19 February 2021)</i>	C.35.06-1 Table of Uses (a permit is required to use the land for a Restaurant). C.52.06-3 (a permit is required to reduce the number of car parking spaces).	This proceeding reviews a request by John and Laraine Rowe regarding the Nillumbik Shire Council's decision to amend a planning permit for a winery and restaurant at 195 Clintons Road, Smiths Gully. The objectors have voiced concerns about increased traffic, noise, biosecurity, waste management, and fire risk. The permit applicants contend that the proposed changes will foster business growth and bolster local tourism. The Council has deemed the amendments acceptable,	varied

	C.52.27 (a permit is required to use land to sell or consume liquor).	imposing conditions to regulate noise, and operational hours, and ensure that the development adheres to environmental and agricultural values.	
<i>Georgakopoulos v Nillumbik SC [2021] VCAT 381 (26 April 2021)</i>	Clause 32.09-3 to subdivide land within the Neighbourhood Residential Zone	The applicant, Fotini Georgakopoulos, is seeking a review of the Nillumbik Shire Council's refusal to grant a planning permit for a two-lot subdivision at 8 Bird Street, Eltham. The Council's refusal centred on concerns about the subdivision's impact on neighbourhood character, potential future development on Lot 2, and the effects on trees. However, the Tribunal overturned the Council's decision, finding the proposal for the two-lot subdivision to be acceptable. The Tribunal directed that a permit be issued, subject to conditions, as it conforms to relevant planning policies and addresses the concerns raised.	set aside
<i>S Georgy Pty Ltd v Nillumbik SC [2021] VCAT 289 (30 March 2021)</i>	Clause 37.08-4 (construct a building or construct or carry out works in ACZ1. In Precinct 2 a development must meet the requirements of Clause 55).	The case of S Georgy Pty Ltd v Nillumbik SC involves the construction of nine, three storey townhouse style dwellings, attached in a row along the Bible Street frontage. The site is on the eastern edge of the Eltham Activity Centre and within Precinct 2A in the Activity Centre Zone Schedule 1 (ACZ1-2A). In this case, the Council was concerned about the proposal not being consistent with neighbourhood character. Although the Council highlights that neighbourhood character is highly regarded by the community and the Planning Scheme, while the Tribunal acknowledges that the concept of providing townhouse style dwellings look different to the more usual apartment style buildings that have been approved to date. However, the Tribunal supported the concept of a more intensive built form on the site. The Tribunal points out that this type of built form might not have been present in Eltham before, but it provides a diversity of housing choice, which is an outcome sought in planning policy. In conclusion, the Tribunal considered that the proposal was an acceptable outcome and that when assessed against all relevant policies it did, on balance, achieve a net community benefit. Conditions discussed during the hearing will be applied to ensure the development harmonises with environmental and aesthetic standards.	set aside
<i>Petersson v Nillumbik SC [2021] VCAT 696 (29 June 2021)</i>	Clause 35.06-2 - to use the land for a dwelling Clause 35.06-5 - to construct a building or construct or carry out works Clause 42.01-2 - to construct a	In this VCAT proceeding, Magnus Petersson sought review of Nillumbik Shire Council's refusal to grant a permit for constructing a two-storey dwelling and pool, requiring tree removal for bushfire safety at 50 Watery Gully Road, Kangaroo Ground. The Council rejected the proposal, citing non-compliance with the Green Wedge policy and RCZ3 conservation values, which restrict new small-lot dwellings in rural areas. Despite concerns about neighborhood character and agricultural	set aside

	<p>building or construct or carry out works</p> <p>Clause 42.01-2 - to remove native vegetation</p> <p>Clause 44.06-2 – to construct a building or construct or carry out works associated with accommodation</p> <p>Clause 52.17-1 – to remove, destroy or lop native vegetation</p>	<p>impact, VCAT approved the permit, finding the development met planning policies and did not adversely affect the surrounding rural land. VCAT highlighted that the development supports conservation through substantial native vegetation retention and minimal visual impact, addressing the policy framework and delivering a net community benefit.</p>	
<p><i>Architectural Home Design v Nillumbik SC [2021] VCAT 748 (13 July 2021)</i></p>	<p>Clause 32.08-6: Construct two or more dwellings on a lot.</p> <p>Clause 42.03-2: Construct a building or construct or carry out works over 7.5m in height above the natural surface of the ground directly below it.</p>	<p>The Tribunal reviewed an appeal by Architectural Home Design against the Nillumbik Shire Council’s refusal to grant a permit for two double-storey dwellings on 51-53 Beard Street, Eltham. The Council cited non-compliance with neighbourhood character and landscaping objectives, over-dominance of built form and garages, and piecemeal development. Despite the applicant’s argument that the proposal matched the area’s character, the Tribunal found the design failed to address important policy objectives for maintaining garden settings, streetscape openness, and orderly planning. The Tribunal upheld the Council’s decision, emphasising the need for a comprehensive design approach.</p>	<p>affirmed</p>
<p><i>Stickland & Green v Nillumbik SC [2021] VCAT 695 (29 June 2021)</i></p>	<p>Clause 35.06 (subdivision and construction of a dwelling in RCZ3).</p> <p>Clause 42-01-2 (construct a building or construct or carry out works in ESO1).</p> <p>Clause 44.06-1 (Subdivide land and construct a building or construct or carry out works associated with accommodation in BMO).</p>	<p>This review marks the third application for subdivision and development at 170, 190, and 200 Watery Gully Road. Previous submissions were rejected due to policy concerns about green wedge land and zoning restrictions under RCZ3. Although transferring No. 190 to No. 200 provides advantages to Mr. Green, the fundamental issue of adding an extra dwelling on No. 170 continues to contravene planning policies. With no substantial modifications to address the reasons for prior rejections, the application does not deliver the necessary net community benefit, resulting in the refusal of the permit application.</p>	<p>affirmed</p>
<p><i>Skiba v Nillumbik SC [2021] VCAT 733 (8 July 2021)</i></p>	<p>Clause 35.06-1 – Use land for a primary and secondary school.</p> <p>Clause 35.06-5 – Construct or carry out buildings or works.</p>	<p>In this case, Mr. Skiba contested the Nillumbik Shire Council’s decision to grant a development permit, raising concerns about native vegetation removal, stormwater management, traffic impacts, and visual aspects of the proposed buildings. The Tribunal reviewed these issues thoroughly. It found that the tree</p>	<p>varied</p>

	<p>Clause 42.01-2 – Construct a building or construct or carry out works; and remove vegetation that is not identified as a ‘pest plant’.</p> <p>Clause 44.06-2 - Construct a building or construct or carry out works.</p> <p>Clause 52.17-1 – Native vegetation removal.</p>	<p>removal was minimal and would be offset appropriately, stormwater runoff could be managed effectively on-site, and the traffic and parking arrangements were adequate for the increased demand. Moreover, the design and siting of the buildings were carefully considered to minimise visual impact and fit harmoniously within the rural setting. Consequently, the Tribunal was satisfied that the proposal met the Nillumbik Planning Scheme’s requirements and decided to grant the permit with specific conditions to address the detailed concerns raised, ensuring a balanced development that respects both community and environmental values.</p>	
<p><i>Gilbert v Nillumbik SC [2021] VCAT 768 (14 July 2021)</i></p>	<p>Clause 37.08-5 – Construct a building or construct or carry out works in the ACZ1.</p> <p>Clause 42.03-2 – Construct a building or construct or carry out works within 5 metres from the base of any substantial tree.</p>	<p>Steven Gilbert sought a review of the Nillumbik Shire Council’s failure to determine a permit application for six 3-storey dwellings in the Eltham Major Activity Centre (Eltham MAC). The Council opposed the proposal, citing concerns about its height, bulk, lack of landscaping, and potential overdevelopment. The Tribunal found the proposal unacceptable due to its overly bulky appearance and failure to align with the desired built form and character outcomes for the area, as defined by the planning controls.</p>	<p>affirmed</p>
<p><i>Nikolovski v Nillumbik SC [2021] VCAT 1054 (10 September 2021)</i></p>	<p>clause 2.1 of the agreement - amendment</p>	<p>This proceeding concerns an application by Robert and Ljubica Nikolovski to amend an agreement under Section 173 of the Planning and Environment Act 1987 for a subdivision that restricts the construction of more than one dwelling per lot. The applicants sought to allow two dwellings on their land (Lot 18). The Council refused the application, and the Tribunal upheld this decision. Key reasons include the amendment's potential to undermine the agreement's purpose of preserving the single-dwelling character and causing potential disadvantages to other lot owners in the subdivision.</p>	<p>affirmed</p>
<p><i>SSH Constructions Pty Ltd v Nillumbik SC [2021] VCAT 1179 (13 October 2021)</i></p>	<p>Clause 32.03 for buildings and works associated with a section 2 use.</p> <p>Clause 42.01 to construct a building or construct or carry out works.</p> <p>Clause 43.02 for buildings and works.</p>	<p>The St Macarius Coptic Orthodox Church sought to amend its planning permit after installing lighting that exceeded the initially approved one-meter bollard lighting, including three-meter-high pole lights and LED lighting on a church cross. After enforcement action by the Nillumbik Shire Council, the church applied for approval of the changes. The Council denied the request on four grounds, but the Tribunal has reviewed the case and set aside the Council's decision, granting an amended</p>	<p>set aside</p>

	Clause 44.06 for buildings and works associated with a place of assembly.	permit with conditions for some of the lighting associated with the church and car park.	
<i>Sarantis v Nillumbik SC [2021] VCAT 1168 (7 October 2021)</i>	Clause 32.09-6: To construct two or more dwellings on a lot. Clause 42.03-2: To construct a building or construct or carry out works that exceed 7.5m in height above natural surface of the ground directly below it. To remove vegetation and construct buildings and works within 5.0m of a 'substantial tree'.	Arthur Sarantis appealed due to the Nillumbik Shire Council's failure to issue a permit for two double-storey dwellings at 40 Frank Street, Eltham. The council opposed the project, noting its significant distance from Eltham Activity Centre and challenging terrain, suggesting limited strategic justification for the development. It also critiqued the design for poorly responding to the adjacent public reserve and clashing with local neighbourhood and landscape character policies. Despite the applicant arguing that the design adhered to various Clause 55 standards and included ample new planting, the council's refusal was maintained, with support from previous VCAT decisions. The Tribunal evaluated whether the proposed built form suited the neighbourhood's character, ultimately upholding the council's decision to deny the permit due to the design's incompatibility with the area's landscape and character.	affirmed
<i>Mugavin v Nillumbik SC [2021] VCAT 1308 (4 November 2021)</i>	Clause 35.06-1 – to use land for horticulture. Clause 35.06-5 – to construct a building or construct or carry out works. Clause 35.06-5 – to construct a building which is within 100 metres from a waterway. Clause 42.01-2 – to construct a building or construct or carry out works.	The proceeding examines Nillumbik Shire Council's approval of a permit for a horticultural venture involving the erection of six greenhouses and related infrastructure. Objectors challenged the project based on its potential visual intrusion on rural scenery, increased traffic, and environmental repercussions. The Tribunal reviewed contributions from all involved parties, including specialist testimonies, and opted to adjust and approve the permit under specific stipulations. The greenhouses are intended for a vegetable cultivation enterprise that utilises controlled environmental settings to reduce pesticide and herbicide usage.	varied
<i>Bursten v Nillumbik SC [2021] VCAT 1475 (9 December 2021)</i>	Clause 32.08-6 – construction of two or more dwellings on a lot	This case concerns a redevelopment proposal for Valley Court, involving the construction of five townhouses. Nillumbik Shire Council approved the plan, deeming it compliant with planning policies and suitable for medium-density housing. However, Ms. Bursten and other objectors contested the approval, citing concerns over its effects on neighbourhood character, infrastructure, and overall amenity. Key issues addressed included the project's conformity with strategic	varied

		policies, neighbourhood character, design, and amenity impacts. Ultimately, the Tribunal adjudicated the proposal as acceptable and issued the permit.	
<i>Alfred v Nillumbik SC [2022] VCAT 107 (28 January 2022)</i>	Clause 35.06-5 to construct a building or works associated with a Section 2 Use on land within the Rural Conservation Zone Clause 35.06-5 to construct a building within 20 metres of a road or within 100 metres of a dwelling not in the same ownership, on land within the Rural Conservation Zone Clause 44.06-2 to construct a building or construct or carry out works associated with an accommodation use	This case involves a review of Nillumbik Shire Council's refusal to grant a permit for constructing six dwellings at 8 Inglis Street, Diamond Creek. The Council's refusal was based on concerns about the development's height, scale, inadequate landscaping opportunities, and substandard design quality. Additionally, the proposal conflicted with the Activity Centre Zone and ResCode provisions of the Nillumbik Planning Scheme, particularly in terms of neighbourhood character, amenity, and overdevelopment. The Tribunal supported the Council's decision, deeming the proposal unacceptable.	varied
<i>Ramage v Nillumbik SC [2022] VCAT 314 (23 March 2022)</i>	Clause 37.08-5: A permit is required to construct a building or construct or carry out works. Clause 42.03-2 and Clause 3.0 of Schedule 6: a permit is required to construct a building or carry out works within five (5) metres from the base of any substantial tree. Clause 42.03-2 and Clause 3.0 of Schedule 6: a permit is required to remove, destroy or lop any vegetation.	This case concerns a review of Nillumbik Shire Council's refusal to grant a permit for the construction of six dwellings at 8 Inglis Street, Diamond Creek. The refusal was based on concerns regarding the development's height, scale, poor landscaping opportunities, and design quality. It was also found to be inconsistent with the Activity Centre Zone and ResCode provisions of the Nillumbik Planning Scheme, with specific issues related to neighbourhood character, amenity, and overdevelopment. The Tribunal affirmed the Council's decision, finding the proposal unacceptable.	affirmed
<i>Bauer v Nillumbik SC [2022] VCAT 227 (2 March 2022)</i>	Clause 35.06-1 – use land for an art and craft centre (Section 2 use). Clause 35.06-5 – construct or carry out buildings or works associated with a use in Section 2. Clause 42.01-2 – construct or carry	This proceeding reviews the decision by Nillumbik Shire Council to amend an existing permit for a property at 1 Nyora Road, Eltham, used as an art and craft centre. The amendment follows complaints about noise and non-compliance with the permitted use, with allegations of the site being used for education and motor repairs, which are not permitted under the Rural Conservation Zone. The application seeks to officially include additional structures built on the property and	varied

	out buildings or works; excavation within 5 metres of a native tree; and the installation of paving to the west side of the centre.	adjust the permitted use to clarify operational hours and reduce car parking spaces. The proposal also addresses noise concerns and plans for more adequate site screening and storage. The Tribunal has decided to amend the permit, adjusting conditions to better reflect the current use and mitigate the impact on the local community and environment.	
<i>Stray v Nillumbik SC [2022] VCAT 346 (28 March 2022)</i>	Clause 35.06-1 - Section 2 in the Table of Uses (a permit is required to use the land for agriculture and a restaurant in the RCZ3). Clause 35.06-5 (a permit is required to construct or carry out works for a building or works associated with use in Section 2 of Clause 35.06-1). Clause 44.06 (a permit is required for a Restaurant in the BMO). Clause 52.05-14 (a permit is required for a business identification sign with a total display area not exceeding 3 square metres). Clause 52.27 (a planning permit is required for an on-premises liquor licence).	This proceeding concerns Mr. Dimitrios Missailidis' application to convert a shed into a licensed restaurant and start agricultural activities, including planting an olive grove and lemon trees on 4 hectares of land at 103 Bannons Lane, Yarrambat. The restaurant aims to cater to a maximum of 150 patrons and would operate from Wednesday to Sunday, with extended hours during Good Friday and ANZAC Day. Despite initial approval from Nillumbik Shire Council with specific conditions focusing on establishing agricultural activities before the restaurant begins operations, objections were raised regarding the appropriateness of the restaurant's size for the rural setting, its compliance with Green Wedge policy, and its reliance on the agricultural activity. Key issues also included insufficient information to make an informed decision and potential impacts on local amenity. The council supported the proposal, suggesting that it met agricultural conjunction requirements and would not significantly impact native vegetation. However, after considering all aspects and submissions, the Tribunal decided to refuse the permit, citing a lack of detailed and credible connection between the proposed agricultural activities and the restaurant operations, along with concerns about the proposal's potential impact on the rural residential character of the area.	set aside
<i>Curry v Nillumbik SC [2022] VCAT 420 (14 April 2022)</i>	Clause 35.06-5 (a permit is required for buildings and works associated with a use in Section 2 of the Table of Uses at Clause 35.06-1). Clause 42.01-2 (a permit is required to construct a building or construct or carry out works). Clause 44.06-2 (a permit is required to construct a building or carry out	This proceeding concerns the Tribunal's review of the Nillumbik Shire Council's refusal to grant a planning permit for constructing an outbuilding, extending a driveway, and installing associated water tanks at 370 Kangaroo Ground-Wattle Glen Road. The Council's refusal was based on the proposal's inconsistency with the Rural Conservation Zone objectives, particularly regarding scale and suitability under decision guidelines. The Tribunal's analysis focused on whether the building's scale was appropriate within the zone's aim to preserve the scenic, non-urban landscape. Despite the proposed outbuilding's visibility, given its separation from significant viewpoints and existing screening vegetation, the Tribunal concluded	set aside

	works associated with the use of land for accommodation).	the development's impact would be adequately mitigated, leading to the decision to grant the permit.	
<i>Len Constructions Pty Ltd v Nillumbik SC [2022] VCAT 408 (14 April 2022)</i>	Clause 32.09-3 (subdivision of land in NRZ1) Clause 42.03 works within 5m of Significant trees (Tree #1 and #2) in SLO3	In this case, the applicant proposes to divide the land into two lots, where Lot 1 will encompass the existing dwelling and Lot 2 will be left undeveloped. The plan involves a shared access through a carriageway easement and includes works close to two trees. The Council has expressed objections to the subdivision, citing concerns about the area's character and the proposed access arrangements. Nonetheless, the Tribunal approved the proposal, subject to conditions that mandate specific landscaping, the establishment of a building exclusion zone, and the construction of a driveway. These conditions are designed to permit modest residential development while securing a net community benefit.	set aside
<i>Hou v Nillumbik SC [2022] VCAT 508 (12 May 2022)</i>	Clause 32.08-6 – to construct two or more dwellings on a lot. Clause 42.03-2 – to construct a building or construct or carry out works and to remove, destroy or lop native vegetation.	This case involves a proposal for the construction of three part-triple storey dwellings at 11 Porter Street, Eltham, which was refused by the Nillumbik Shire Council. The main issues include concerns about the proposal's impact on the neighbourhood and landscape character, excessive building bulk, insufficient space for canopy tree planting, and visual dominance. The Tribunal concluded that the proposal did not respect the area's character or provide sufficient landscaping, resulting in an unacceptable planning outcome. As a result, the decision to refuse the permit was affirmed.	affirmed
<i>Malotsis v Nillumbik SC [2022] VCAT 617 (30 May 2022)</i>	Clause 32.08-6 - construction of two or more dwellings on a lot in the GRZ1. Clause 42.03-2 - construction of a building and works in the SLO3.	This case concerns an application to review Nillumbik Shire Council's failure to determine a permit for the construction of three double-storey dwellings at 2/12 Sheffield Street, Eltham. The Council raised concerns about the proposal's impact on neighbourhood character, landscaping, and design, specifically regarding the steep driveway slope, insufficient landscaping, and overlooking. Several objections were also filed by nearby residents. After reviewing submissions and amended plans, the Tribunal affirmed the Council's decision, refusing the permit.	affirmed
<i>Fitzpatrick v Nillumbik SC (Corrected) [2022]</i>	Clause 35.06- 1 and 35.06-5 – use and development of land for a dwelling and associated buildings and works	This proceeding concerns the review of Nillumbik Shire Council's refusal to grant a permit for a dwelling on Lot 6 of a 10-lot subdivision. The Council objected to the proposed dwelling and shed's location on a ridgeline, arguing it failed to comply with planning guidelines regarding vistas, proximity to roads, and visual	set aside

<i>VCAT 567 (20 May 2022)</i>	Clause 44.06-2 – buildings and works associated with a dwelling	prominence. Despite these concerns, the Tribunal found the proposal acceptable in the context of its environment and policies and approved an alternative building envelope under the section 173 agreement.	
<i>16 Taylor Pty Ltd v Nillumbik SC [2022] VCAT 510 (10 May 2022)</i>	Clause 37.08-5 – construct a building construct or carry out works Clause 42.03-2 - construct a building construct or carry out works Clause 42.03-2 – removal of substantial trees; building and works within 5 metres of a substantial tree	In April 2021, Nillumbik Shire Council refused a planning application for constructing an outbuilding, associated water tanks, and an extended driveway at 370 Kangaroo Ground-Wattle Glen Road. The applicant appealed against the Council's decision. The Council argued that the proposal was inconsistent with the Rural Conservation Zone's aims and failed to meet several decision guidelines under the Nillumbik Planning Scheme, emphasizing concerns about scale and usage. However, after review, it was found that the proposal, while visible, would not dominantly impact the landscape due to its siting and the generous setbacks provided. Considering the landscape and the existing site usage, the proposed extension, although prominent, would blend sufficiently without imposing on the rural character. Consequently, the decision was made to overturn the Council's decision and grant the permit.	set aside
<i>Macauley Environmental Developments Pty Ltd v Nillumbik SC [2022] VCAT 624 (7 June 2022)</i>	Clause 32.08-6 – to construct two or more dwellings on a lot. Clause 42.03-2 – to remove, destroy or lop any substantial tree.	This case involves an application by Macauley Environmental Developments Pty Ltd to construct three dwellings and remove vegetation at 7 Macauley Court, Eltham. The Nillumbik Shire Council refused the application, citing issues such as poor design response to the sloping site, adverse impacts on vegetation, insufficient space for landscaping, and over-reliance on the public nature strip for amenity. After reviewing the case, the Tribunal affirmed the Council's decision, concluding that the proposal overly relies on public spaces and fails to meet the planning scheme's requirements for streetscape and landscaping. No permit was granted.	affirmed
<i>Pobjoy v Nillumbik SC [2022] VCAT 823 (15 July 2022)</i>	Rural Conservation Zone (RCZ) Clause 35.06-1 (a permit is required for the use of land for a dwelling in the (RCZ). Clause 35.06-5 (a permit is required to construct a building or works associated with a use in Section 2 of Clause 35.06-1).	In December 2020, Council refused a planning permit for Daniel Pobjoy's proposed dwelling, garage, and associated vegetation removal at 35 Flat Rock Road, Kangaroo Ground. The refusal was based on policies prioritising agriculture and habitat conservation, which suggested that the residential use would fragment potential agricultural land and diminish habitat value. However, the Country Fire Authority approved the proposal, subject to bushfire management measures. Pobjoy argued that the land, being historically non-viable for agriculture, would benefit environmentally from the development through a comprehensive land	set aside

	<p>Bushfire Management Overlay (BMO) Clause 44.06-2 (a permit is required to construct a building or construct or carry out works associated with Accommodation).</p> <p>Environmental Significance Overlay (ESO) Clause 42.01-2 (a permit is required to construct and building or construct or carry out works and to remove, destroy or lop any vegetation, including dead vegetation).</p> <p>The land is located on a bend of Flat Rock Road, approximately 2 kilometres north of Kangaroo Ground. The shape of the land approximates a triangle, with a boundary to Flat Rock Road of 226.52 metres (comprising 201.37 metres along the northeast aspect and 25.15 metres along the eastern aspect). The western boundary is 146.85 metres and the southern boundary is 156.97 metres. The total area is 1.21 hectares. The land has a northeast to southwest downward slope with an elevation drop of approximately 18 metres over a distance of 140 metres.</p> <p>The land is mostly cleared however,</p>	<p>management plan aimed at enhancing the site's ecological value. After reviewing the submissions and inspecting the land, the Tribunal decided to set aside the Council's decision and grant the permit, concluding that the proposal, with its land management commitments, constitutes an acceptable response to planning policies and will contribute positively to sustainable land management and biodiversity conservation.</p>	
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	<p>there are scattered mature trees present that are indigenous to the area (predominantly <i>Eucalyptus tricarpa</i> - Red Ironbark). These trees are mostly located in the southern part of the land. Native trees (mostly Red Ironbark) also form a continuous belt within the Flat Rock Road reserve adjacent to the land.</p>		
<p><i>Cottrell v Nillumbik SC [2022] VCAT 915 (11 August 2022)</i></p>	<p>Clause 42.03-2 – Construct a fence. Clause 43.01-1 – Construct a building or construct or carry out works including a fence if the fence is visible from a street.</p>	<p>This proceeding involved a review of Nillumbik Shire Council's refusal to grant retrospective approval for a 1.34-meter-high, 100-meter-long timber picket fence at 19 Luck Street, Eltham. The Council had rejected the application due to non-compliance with the Significant Landscape Overlay (SLO2), emphasising the importance of open streetscapes and connectivity between gardens and roadside vegetation. The Tribunal supported the Council's decision, noting the fence's inconsistency with the area's bushland character and its lack of permeability, which created a visual barrier. Although the applicant's concerns for personal safety were recognised, the Tribunal concluded that the fence failed to align with the objectives of the Planning Scheme, and thus upheld the Council's decision to deny the permit.</p>	<p>affirmed</p>
<p><i>Malotsis v Nillumbik SC [2022] VCAT 901 (9 August 2022)</i></p>	<p>Clause 32.08-6 to construct a dwelling if there is at least one dwelling existing on the lot Clause 42.03-2 to construct a building or construct or carry out works that is within 5 metres of a substantial tree</p>	<p>Benjamin and Catherine Leigh applied for a planning permit to construct a second double-storey dwelling behind the existing one at 10 Sheffield Street, Eltham, including associated carport, garage, and tree removal. The Nillumbik Shire Council issued a Notice of Decision to Grant a Permit, which was appealed by objectors citing concerns about neighbourhood character, vegetation loss, visual bulk, and vehicle access issues. The Tribunal reviewed the proposal's compliance with planning policies, including the General Residential Zone (GRZ1) and Significant Landscape Overlay (SLO3). The Tribunal found the development acceptable, balancing the slope of the site, vegetation retention, and neighbourhood character. Conditions were added to ensure tree protection, enhanced landscaping, and compliance with driveway gradient standards. The Tribunal directed the permit be granted, subject to</p>	<p>varied</p>

		specified conditions, affirming the proposal as a net community benefit consistent with the Planning Scheme.	
<i>Phipps Investment Holdings Pty Ltd v Nillumbik SC [2022] VCAT 999 (30 August 2022)</i>	CR Clause 32.08-6 – to construct two or more dwellings on a lot. Clause 44.06-2 – to construct a building or construct or carry out works associated with Accommodation. Clause 52.17 – to remove, lop or destroy native vegetation.	<p>The proceeding of Phipps CR Investment Holdings Pty Ltd v Nillumbik SC addresses review of a council's decision to refuse a permit for constructing 13 double-storey dwellings, later amended to eight single-storey dwellings, on a designated site. Initially facing 58 objections, five of which led to this review, the council's refusal was based on concerns about neighbourhood character, building bulk, setbacks, landscaping, and overdevelopment, along with Clause 55 standards. Even with the amended plans, the objectors and council maintained their original concerns, adding issues regarding traffic and parking. The Tribunal granted the permit subject to conditions, finding the revised proposal acceptable. The decision considered the site's General Residential Zone (GRZ1), which supports increased housing density, balanced against the area's Garden Court precinct character emphasising vegetation and setbacks. Conditions included adjustments to setbacks, waste collection, tree retention, and landscaping. The Tribunal also addressed the Bushfire Management Overlay (BMO) and included conditions ensuring adherence with bushfire safety standards.</p> <p>The Tribunal believes that the "Nillumbik Planning Scheme, like all planning schemes in Victoria, seeks outcomes that are acceptable, not perfect or ideal. This is what clause 65 seeks:</p> <p>The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.</p> <p>This position is also supported by the Supreme Court:</p> <p>The statement that the present outcome "might not be ideal" does not demonstrate an error in law. The planning scheme does not require an ideal outcome as a pre-requisite to a permit. If it did, very few, if any, permits for development would ever be granted and there would be difficult differences of opinion as to whether the outcomes were in fact ideal. The Tribunal is entitled to grant a permit where it is satisfied that the permit will result in a reasonably acceptable outcome having regard to the matters relevant to its decision under the planning scheme."</p>	set aside

<p><i>Dickson v Nillumbik SC [2022] VCAT 1084 (19 September 2022)</i></p>	<p>Clause 32.09-6 To construct two or more dwellings on a lot in the NRZ1. Clause 42.03-2 Buildings and works greater than 7.5m in overall height and within 5m of Significant Trees in the SLO3 Clause 42.03-2 Removal of vegetation in SLO3</p>	<p>This proceeding evaluated Nillumbik Shire Council's decision regarding a development proposal for two dwellings within a Neighbourhood Residential Zone and under the Significant Landscape Overlay (SLO3). The application, which involved removing vegetation and working close to significant trees, sparked issues about neighbourhood character, vegetation protection, and the impact on local amenity. The Tribunal approved the proposal with specific modifications to lessen the visual bulk and enhance tree protection and landscaping. This included increasing the setbacks, adjusting building designs to better preserve existing vegetation, and enhancing landscaping plans to better integrate with the area's bush garden character. A permit was issued with detailed conditions focused on maintaining tree preservation, ensuring landscape integration, and adhering to neighbourhood character standards, aiming to balance development with environmental conservation.</p>	<p>set aside</p>
<p><i>32 Collard Estates Pty Ltd v Nillumbik SC [2022] VCAT 1045 (9 September 2022)</i></p>	<p>Clause 32.08-3 – Subdivide land. Clause 42.01-2 – Construct a building or construct or carry out works; subdivide land; and remove vegetation. Clause 44.06-2 – Subdivide land; construct a building or construct or carry out works associated with accommodation. Clause 52.17-1 – Native vegetation removal.</p>	<p>The Tribunal overturned Nillumbik Shire Council's decision to refuse a 56-lot subdivision at Collard Drive, Diamond Creek, finding it aligned with strategic and planning policies. Originally proposed as a 67-lot development, the revised plan accommodates housing growth while considering environmental factors, preserving significant trees and incorporating public open spaces. The subdivision design features smaller lots along Collard Drive with larger lots positioned to the south, reflecting the site's constraints and semi-bush character objectives. Adjustments to the road layout and comprehensive bushfire management strategies have received backing from experts and key agencies, including the Department of Environment, Land, Water and Planning (DELWP) and the Country Fire Authority (CFA). The Tribunal concluded that the subdivision delivers a net community benefit, provided that specific conditions related to vegetation management, construction impacts, and bushfire mitigation are met.</p>	<p>set aside</p>
<p><i>White v Nillumbik SC [2022] VCAT 1221 (21 October 2022)</i></p>	<p>Clause 37.01 (construct a building or construct or carry out works and vegetation removal in SUZ2). Clause 42.01 (construct a building or construct or carry out works including fencing and vegetation removal in ESO1).</p>	<p>The Tribunal upheld the Council's refusal of a permit for a single-storey outbuilding (94.5m²) and four gates at a Bend of Islands property. The proposal required the removal of eight indigenous trees and expanded clearing beyond the designated development area, conflicting with the Special Use Zone Schedule 2 (SUZ2) and Environmental Significance Overlay 1 (ESO1). The outbuilding was deemed visually intrusive, adding to site clutter, while the gates detracted from the bushland character. Despite the applicant's justification for fire equipment storage and</p>	<p>affirmed</p>

	<p>Clause 52.17 (remove, destroy or lop vegetation on land with an area greater than 0.4 hectares).</p>	<p>security, the Tribunal found the proposal failed to align with planning controls prioritising environmental and landscape preservation.</p>	
<p><i>Rizk v Nillumbik Shire Council [2022] VCAT 1236 (31 October 2022)</i></p>	<p>Clause 32.04-9: A permit is required for buildings and works associated with a Section 2 Use (Food and Drink premises). The Food and Drink premises exceeds the permitted leasable floor area of 150sqm in the Land Use Table.</p> <p>Clause 43.01-1: A permit is required for:</p> <p>Buildings and works. Partial demolition of existing buildings.</p> <p>A solar energy system attached to a building that primarily services the land on which it is situated if the services are visible from a street.</p> <p>A fence if the fence is visible from a street.</p> <p>Externally alter a building; and Construct or display a sign.</p> <p>Clause 43.02-2: A permit is required to construct a building including external alterations, construct a fence and display a sign.</p> <p>Clause 42.03-2: A permit is required to construct a building within 5.0m from a substantial tree.[1]</p> <p>Clause 52.05: To construct and display a sign (Category 4 – DDO1)</p>	<p>The Tribunal examined conditions attached to a permit for modifications at 736 Main Road, Eltham, involving solar panels, a servery window, and an acoustic fence. The applicant requested amendments to these conditions, which included the removal of some solar panels, restrictions on the use of the servery window, and specifications for the acoustic fence treatment. The Tribunal agreed to partially amend the conditions, allowing a reduction in the number of solar panels and removing the requirement for glare treatment on the window. However, it maintained restrictions on the use of the window as a servery and upheld the necessity for acoustic fencing to mitigate increased noise from the car park. In its decision, the Tribunal stressed the importance of balancing heritage conservation, safety, and residential amenity, while also supporting energy efficiency initiatives.</p>	<p>varied</p>

<p><i>1208MRE Pty Ltd v Nillumbik SC (Corrected) [2022] VCAT 1419 (13 December 2022)</i></p>	<p>Construction of two or more dwellings in GRZ1. Construction of buildings and works over 7.5 metres in height or within 5.0 metres of the base of a substantial tree in SLO3.</p>	<p>The Tribunal reviewed a proposal for 11 apartments at 1208 Main Road, Eltham, following Nillumbik Shire Council's refusal of the planning permit. The applicant had reduced the number of units from 15 to 11 in an attempt to address initial concerns. However, the revised proposal was still found to be incompatible with the site's "bush suburban" character. The design's clustered buildings, inadequate setbacks, and poor integration with the surrounding landscape did not align with the character preservation goals. Additionally, unresolved issues with car parking, internal amenity, and access via a narrow service road, which posed traffic and pedestrian safety concerns, contributed to the decision. Despite the site's zoning for medium-density housing, the Tribunal concluded that the proposal failed to effectively balance housing diversity with local character preservation. Consequently, the Tribunal upheld the council's refusal, and no permit was granted.</p>	<p>affirmed</p>
<p><i>Diamond Valley Developments Pty Ltd v Nillumbik SC [2022] VCAT 1435 (16 January 2023)</i></p>	<p>Clause 32.08-6, a permit is required to construct two or more dwellings on a lot. Clause 43.03-2, a permit is required to construct a building or carry out works. A permit is required to remove vegetation.</p>	<p>Diamond Valley Developments Pty Ltd appealed against Nillumbik Shire Council's decision to refuse a permit for the construction of four two-storey dwellings and vegetation removal at 63 Batman Road, Eltham. The Tribunal reviewed the revised plans, which included adjusted setbacks, the elimination of a visitor car space, and altered driveway configurations. Both the Council and local objectors had opposed the development, raising issues regarding overdevelopment, the visual bulk of the buildings, poor vegetation retention, insufficient setbacks, and impacts on local amenity. In its assessment, the Tribunal determined that the site was appropriately located for medium-density development, considering its close proximity to local services and the activity centre. Although the development would lead to the removal of some vegetation, it preserved significant high-value trees and included provisions for new canopy plantings, which would contribute to the area's "bush garden" character over time. The concerns related to the buildings' bulk and setbacks were addressed through thoughtful landscaping and design adjustments, including reverse living arrangements that took advantage of the site's topography. The Tribunal granted the permit, concluding that the development successfully balanced housing diversity, vegetation retention, and neighbourhood character, aligning well with established planning policies.</p>	<p>set aside</p>
<p><i>Georgakopoulos v Nillumbik SC [2023]</i></p>	<p>Clause 32.09-6 (NRZ1) – construct two or more dwellings on a lot;</p>	<p>Fontini Georgakopoulos appealed against Nillumbik Shire Council's decision to refuse permission to subdivide the property at 8A Bird Street, Eltham into four lots</p>	<p>set aside</p>

<p><i>VCAT 172 (21 February 2023)</i></p>	<p>Clause 32.09-3 (NRZ1) – to subdivide the land; and Clause 42.03-2 (SLO2) – to construct a building or to carry out works.</p>	<p>and to construct four dwellings. The land falls under the Neighbourhood Residential Zone 1 (NRZ1) and Significant Landscape Overlay 2 (SLO2), which demand that any development maintains the semi-bush character of the area. The Council had rejected the initial proposal, pointing to issues of overdevelopment, excessive bulk, inadequate tree planting, and concerns over amenity.</p> <p>Upon review, the Tribunal found that the proposal supported the provision of medium-density housing close to local services and could integrate well with the neighbourhood character, provided that suitable landscaping was implemented. The Tribunal mandated modifications to the landscaping plans, specifically requiring the replacement of Golden Wattles with native canopy trees and the involvement of a professional for oversight of the planting process.</p> <p>The Tribunal granted the planning permit with these conditions and additionally ruled that the Council should reimburse Fontini Georgakopoulos for the costs incurred during the appeal process.</p>	
<p><i>Eskander & Shehata Property Group Pty Ltd v Nillumbik SC [2023] VCAT 111 (3 February 2023)</i></p>	<p>Clause 32.08-6 - construction of two or more dwellings on a lot in the GRZ1.</p>	<p>An application proposing the construction of seven mixed-height dwellings around preserved trees in Diamond Creek was denied by the council, citing reasons such as overdevelopment, non-compliance with local planning clauses, and adverse impacts on neighbourhood character and infrastructure. The decision was challenged by the applicant at the Tribunal, who argued that the project made efficient use of the site's unique features and addressed concerns highlighted by experts. Despite these arguments, the Tribunal concurred with the council, especially pointing out issues with the site layout, the potential effects on local trees, and the lack of sufficient amenity for both existing residents and future occupants. The Tribunal ultimately upheld the council's decision and did not grant a permit.</p>	<p>affirmed</p>
<p><i>SBL Developments Pty Ltd v Nillumbik SC [2022] VCAT 1266 (3 November 2022)</i></p>	<p>Use and development of a child care centre in TZ Buildings and works in BMO1 Buildings and works in DDO5 Buildings and works including removal of vegetation in SLO2 Alteration of access to a road in TRZ2</p>	<p>This proceeding reviews SBL Developments Pty Ltd's application to construct a 65-place childcare centre at 782 Heidelberg-Kinglake Road, Hurstbridge, which Nillumbik Shire Council refused. The application's suitability is debated mainly on two fronts: first, whether the design maintains the rural and natural essence of the Hurstbridge township as mandated by the Nillumbik Planning Scheme, and second, whether the access arrangements ensure safety and appropriateness.</p> <p>The applicant contends that the design effectively integrates urban design principles with bushfire protection policies and addresses the community's need</p>	<p>affirmed</p>

		for childcare services. However, the Tribunal concluded that the proposed structure is excessively imposing and does not align with the township's characteristic low-scale, village-like appearance. Concerns were also noted regarding the building's poor integration with the natural surroundings, the predominance of hard landscaped areas, and an inadequate streetscape presentation. Despite acknowledging the advantages such as improved pedestrian pathways and the provision of childcare, the design was considered inadequate. Consequently, the Tribunal upheld the council's decision to refuse the permit.	
<i>Quarter Prospect Pty Ltd v Nillumbik SC [2023] VCAT 65 (31 January 2023)</i>	Cl. 37.08-5 (the construction of a building and the construction and carrying out of works on land in ACZ1) Cl. 42.03-2 (the construction of a building or the construction and carrying out of works within 5.0 metres of a substantial tree on land in SLO1; and the removal of a substantial tree on land in SLO1)	This proceeding involves a review by the Tribunal of Nillumbik Shire Council's decision to deny a permit for constructing four two-storey dwellings and removing trees on designated land. The council's refusal cited concerns about the development's built form, landscaping, setbacks, design detail, and overall density. The pivotal issue examined is whether the proposed development delivers an acceptable built form and landscape outcome, considering the site's physical and strategic context. After reviewing the submissions and evidence, assessing relevant policies of the Planning Scheme, and conducting a site inspection, the Tribunal decided to set aside the council's decision.	set aside
<i>Akdeniz v Nillumbik SC [2023] VCAT 205 (6 March 2023)</i>	Clause 32.09-6 - to construct a dwelling if there is at least one dwelling existing on the lot. Clause 32.09-3 - to subdivide land. Clause 42.03-2 - to construct a dwelling within 5 metres of a tree, remove two native trees, construct a brush fence, undertake excavation greater than 500mm in depth and construct retaining walls within 5 metres of a tree.	Mr. Akdeniz applied to Nillumbik Shire Council for permission to build a second house, conduct earthworks, remove native vegetation, build a fence, and subdivide his property into two lots. The Council refused, leading Mr. Akdeniz to seek a review. He argues the development is low-impact, fits local medium-density policies, and respects the landscape. The Council contends the design doesn't fit the area's character or topography, involves excessive earthworks, and won't support significant vegetation. Key issues include the suitability of adding a dwelling and lot, the proposal's design and character, and its compliance with environmental overlays. Ultimately, the Tribunal sided with the Council, agreeing that the proposal did not meet the necessary character, landscape, and environmental guidelines, resulting in the decision to deny the permit.	affirmed
<i>Aloi v Nillumbik SC [2023] VCAT 357 (3 April 2023)</i>	Clause 32.08-6: To construct a dwelling if there is at least one dwelling existing on the lot in the	Adrian Aloi applied for a permit to construct a second dwelling in Eltham, which was initially refused by the Nillumbik Shire Council due to concerns about neighbourhood and landscape character, as well as overdevelopment. Despite	set aside

	<p>GRZ1. Clause 42.03-2: to construct a building and construct and carry out works in the SLO2; and to construct a fence (specified in the schedule to the overlay) in the SLO2.</p>	<p>amendments to the plans, which included adjusted setbacks and a reduced height to better blend with local aesthetics, the Council maintained its opposition. However, the Tribunal overturned the Council's decision, recognising strategic support for the development based on its proximity to services and transport, although it is not adjacent to the Eltham Activity Centre. The Tribunal's approval was contingent on the proposal's ability to integrate with the existing neighbourhood character and appropriately respond to the landscape. To ensure compatibility with local standards and policies, specific conditions were attached to the permit.</p>	
<p><i>Scott v Nillumbik SC [2023] VCAT 497 (19 May 2023)</i></p>	<p>Clause 35.06-1 (RCZ) a permit is required to: - use the land for the purposes of a dwelling (section 2 use). Clause 35.06-5 (RCZ) a permit is required to: - construct a building associated with a section 2 use; and - construct a building which is within 100 metres from a waterway. Clause 42.01-2 (ESO) a permit is required to: - construct a building or construct or carry out works. Clause 44.06-2 (BMO) a permit is required to: - construct a building or construct or carry out works associated with use for accommodation.</p>	<p>This proceeding, Application P966/2022, reviews Geoffrey Scott's challenge against the Nillumbik Shire Council's refusal to grant a permit for a dwelling at 1025 Cottles Bridge-Strathewen Road, Strathewen. The Council's refusal was based on several factors, including non-alignment with the Municipal Planning Strategy, which focuses on preserving the environmental integrity of the Green Wedge and discouraging residential development that impacts rural landscapes and agriculture. Additionally, the development was deemed inconsistent with the sustainable land management and conservation values required by the Rural Conservation Zone. The applicants contended that the dwelling would minimally impact the environment and enhance their ability to manage the land's ecological values. VCAT set aside the Council's decision, granting the permit subject to conditions, finding the proposal acceptable within the relevant planning frameworks.</p>	<p>set aside</p>
<p><i>Celik v Nillumbik SC [2023] VCAT 857 (21 July 2023)</i></p>	<p>Clause 32.08-6 construct two or more dwellings on a lot</p>	<p>This proceeding addresses Nillumbik Shire Council's refusal to issue a planning permit for three dwellings at 17 Dartagook Street, Diamond Creek Valley, situated under a Bushfire Management Overlay. The refusal was based on the proposal's</p>	<p>affirmed</p>

	Clause 44.06-2- construction of buildings and works	<p>inadequate integration with the local character, specifically concerning its bulk, massing, and insufficient landscaping. Additional concerns included the site's remoteness from Diamond Creek Activity Centre and limited public transport access.</p> <p>The applicants contended that the design was considerate of the site's constraints and aligned with objectives of the General Residential Zone and Bushfire Management Overlay. However, the Tribunal supported the Council's decision, emphasising that the proposal failed to comply with the Planning Policy Framework, local policies, and Clause 55 ResCode standards, particularly in relation to privacy and potential overlooking impacts on adjacent properties.</p>	
<i>Rowe v Nillumbik SC [2023] VCAT 1013 (30 August 2023)</i>	<p>Clause 35.06-5 to construct or carry out buildings and works associated with a dwelling where the additions are greater than 100 square metres.</p> <p>Clause 44.06-2 to construct a building or construct or carry out works associated with a dwelling where the additions are greater than 50% of the existing floor area</p> <p>Clause 52.17-1 to remove, destroy or lop native vegetation</p>	<p>This proceeding concerns an application to review a condition on Planning Permit No. 142/2022/05P, issued for alterations to a dwelling and native vegetation removal at 51 Valley Road, Wattle Glen. The condition, 1(a), required evidence of a secured offset for vegetation removal before development commenced. The applicant argued the condition duplicated existing requirements in Conditions 5 and 6, which already mandated offsets under the planning scheme.</p> <p>The Tribunal agreed with the applicant, finding Condition 1(a) unnecessary as Conditions 5 and 6 adequately addressed offset obligations. Retaining Condition 1(a) could delay unrelated works, such as building renovations. While the Council viewed the condition as a safeguard to ensure compliance, the Tribunal determined it was redundant and deleted it from the permit. The permit was varied to reflect this decision.</p>	varied
<i>Bernadini v Nillumbik SC [2023] VCAT 922 (9 August 2023)</i>	<p>Clause 32.09-6 - to construct a dwelling if there is at least one dwelling existing on the lot.</p> <p>Clause 32.09-3 - to subdivide land.</p> <p>Clause 42.03-2 - to construct building or carry out works including within 5.0 metres of a substantial tree, undertake</p>	<p>This proceeding concerns an application to review Nillumbik Shire Council's refusal to grant a permit for constructing a second dwelling, associated works, native vegetation removal, and a two-lot subdivision at 17 Dartagook Street, Diamond Creek. The proposed dwelling featured a two-storey contemporary design with significant excavation and landscaping alterations.</p> <p>The Council refused the application due to conflicts with planning policies, including neighbourhood character, landscape objectives, and excessive excavation impacting native vegetation. The Tribunal upheld the Council's decision, finding the</p>	affirmed

	excavation greater than 500mm in depth and remove native trees.	proposal inconsistent with the area's preferred character and failing to address significant landscape and environmental objectives. Key issues included the dwelling's bulk, its impact on trees with high arboricultural value, and inadequate measures to preserve native vegetation and topography. The Tribunal concluded the proposal failed to meet the Planning Scheme requirements and declined to grant a permit.	
<i>Bassett-Smith v Nillumbik SC [2023] VCAT 1250 (15 November 2023)</i>	Clause 32.08-6: Construct a second dwelling on a lot. Cause 42.03-2: Construct a building or construct and carry out works.	<p>This proceeding concerns a review of the Nillumbik Shire Council's refusal to grant a permit for constructing a second dwelling, carport, and associated works at 17 Helene Street, Eltham. The proposal also includes landscaping and partial demolition of existing structures.</p> <p>The Council refused the application, citing conflicts with neighbourhood character objectives under Clause 15.01-5L and the Significant Landscape Overlay (Schedule 3). Key concerns included the dwelling's bulk, scale, siting near boundaries, lack of meaningful landscaping, and visual impacts on neighbouring properties. Additionally, the Council argued the proposal failed to meet key standards of Clause 55 (ResCode), including neighbourhood character, landscaping, and overlooking provisions.</p> <p>The Tribunal upheld the Council's decision, finding the proposal inconsistent with neighbourhood and landscape character policies. The lack of space for meaningful canopy tree planting and excessive visual bulk in the rear yard setting were significant issues. The Tribunal concluded the design represented overdevelopment and affirmed the Council's decision to refuse the permit.</p>	affirmed
<i>Murray v Nillumbik SC (Corrected) [2023] VCAT 1299 (11 January 2024)</i>	Clause 42.03-2 – To construct a fence in a SLO2	This proceeding concerns a review of Nillumbik Shire Council's decision to impose a condition on a planning permit for a retrospective front fence at 8 Bird Street, Eltham. The fence, made of Colorbond slats with 5mm spacing, ranges from 1.5m to 1.8m in height. Council required adjustments to the slat spacing to achieve 25% transparency, citing the Significant Landscape Overlay (SLO2) and Semi-Bush 3 (SB3) precinct objectives, which favour open, bushland-style streetscapes with minimal or transparent fencing.	varied

		<p>The applicant argued the fence was necessary to improve privacy and reduce glare from headlights due to its proximity to neighbouring driveways. The Tribunal found the existing fence, with its muted design and limited length, did not significantly detract from the area's semi-bush character. It also noted Bird Street already features numerous front fences. The Tribunal concluded the condition was unnecessary and directed its removal, allowing the existing fence to remain unchanged.</p>	
<p><i>Murphy v Nillumbik SC [2023] VCAT 1337 (1 December 2023)</i></p>	<p>Subdivision of land in both RCZ3 and BMO. Alteration of access to a road in TRZ2.</p>	<p>This proceeding involves Rowan Murphy's application for a planning permit to rearrange the title boundaries of three lots at 1622 – 1630 Main Road, Research, creating a common area for access. Despite meeting requirements under the Bushfire Management Overlay (BMO), Nillumbik Shire Council refused the permit based on the Rural Conservation Zone (RCZ) provisions. The council argues that the re-subdivision would improperly increase the number of dwellings permissible on the land, leading to potential negative impacts on native vegetation and complications regarding the provision of reticulated services. The key issues to be addressed include whether the re-subdivision increases permissible dwellings, if the new lot configuration adheres to RCZ provisions, and any other land management or risk concerns that might justify permit refusal. After reviewing the evidence and submissions, the decision was to grant the permit with conditions, as the re-subdivision was found to be acceptable under the planning scheme.</p>	<p>set aside</p>
<p><i>Eltham Prospect Pty Ltd v Nillumbik SC [2024] VCAT 82 (31 January 2024)</i></p>	<p>Clause 32.08-7 To construct two or more dwellings on a lot in the GRZ1. Clause 42.03-2 To carry out works within five metres of the base of a substantial tree. Clause 52.06-3 Reduction in requirement for one visitor car space.</p>	<p>This proceeding concerns a planning review for a development at 51-53 Beard Street, Eltham. The proposal involves replacing an existing dwelling with five single-storey homes, following a previous refusal for a different project. Nillumbik Shire Council initially refused the permit, citing issues with design and integration into the landscape. However, after considering amended plans and the site's proximity to amenities, the Tribunal overturned the council's decision and granted the permit.</p> <p>Key considerations included the development's alignment with the bush garden character of the neighbourhood, the adequacy of proposed landscaping, and the management of amenity impacts and traffic concerns. To ensure integration with the existing environment, the Tribunal imposed additional landscaping conditions,</p>	<p>set aside</p>

		reinforcing the importance of local planning policies that balance medium-density housing needs with the preservation of the area's natural aesthetic.	
<i>G3 Projects Pty Ltd v Nillumbik SC [2024] VCAT 138 (23 February 2024)</i>	<p>Clause 37.08: Use of dwellings at ground level and development of buildings and works in ACZ1.</p> <p>Clause 42.03: Construct buildings and works within five metres of a tree protected under SLO1.</p> <p>Clause 52.06 in conjunction with clause 45.09 – reduction in car parking, with reference to the PO1.</p>	<p>The case involves a proposal to develop two mixed-use buildings, four to five storeys high, at 22 Arthur Street and 25 Dudley Street in Eltham, Victoria. The development plan includes removing some vegetation and reducing car parking requirements, following a 2019 Tribunal decision that rejected a previous proposal for a taller development on the same site due to poor integration with the landscape and community. The Nillumbik Shire Council initially refused the permit, prompting a review by VCAT.</p> <p>Despite concerns related to built form, height, landscaping, car parking, vegetation protection, and local character, VCAT deemed the outcome acceptable and overturned the council's decision, issuing a planning permit with conditions to ensure compliance with local planning policies and mitigate impacts. The proposal includes one car space per building that complies with the Disability Discrimination Act 1992. The Tribunal was satisfied that the proposed car space, although not directly next to the lift core, was sufficiently conveniently located. The Tribunal also noted that there was no requirement in the planning scheme for a DDA-compliant space or how it should be allocated, yet the overall design met DDA requirements. The Tribunal accepted that the landscape space provided was adequate for a commercial context and did not require relocation of the DDA spaces as suggested by council engineering comments.</p>	set aside
<i>Diamond Valley Developments Pty Ltd v Nillumbik SC [2024] VCAT 244 (20 March 2024)</i>	<p>Clause 32.08-6[1] – Construction of two or more dwellings on a lot within the GRZ1</p> <p>Clause 43.03-2 – Construction of buildings and works, including removal of vegetation in the SLO3</p>	<p>The proceeding involves a review of Nillumbik City Council's decision to refuse consent to revisions associated with a planning permit for development at 63 Batman Road, Eltham. The proposed revisions include changes to the privacy screens and balcony screens across several dwellings. The council determined that secondary consent was not appropriate for these changes, citing that they have significant implications in relation to the planning controls and do not meet the Overlooking Standard.</p> <p>The Tribunal's decision considered the criteria set forth in the Westpoint case for allowing secondary consent, concluding that the proposed changes do not</p>	set aside

		<p>transform the overall proposal or introduce requirements for primary consent, and are not of consequence to the planning control's purpose. Additionally, it determined that the changes do not contradict any specific requirements of the permit.</p> <p>The key issue was whether the proposed changes could be managed under the secondary consent mechanism and if they were appropriate. The Tribunal also evaluated if the changes were of "material consequence" regarding the planning controls and if they complied with the Overlooking Standard. After reviewing the submissions and evidence presented, including sightline diagrams and the application of the Overlooking Standard, the Tribunal decided to set aside the council's decision and allow the secondary consent plans to be endorsed, deeming the proposed changes acceptable.</p>	
<p><i>Brougham Street Cohousing Pty Ltd v Nillumbik SC [2024] VCAT 360 (22 April 2024)</i></p>	<p>Clause 32.04-7 to construct two or more dwellings on a lot on land within the Mixed Use Zone Clause 42.01-2 to construct a building, construct or carry out works, and construct a fence on land to which the Environmental Significance Overlay applies Clause 42.03-2 to construct a building, construct or carry out works, construct a fence, and removal of vegetation on land to which the Significant Landscape Overlay applies Clause 43.01-2 to partly demolish a building, and to construct a building and construct or carry out works on land to which the Heritage Overlay applies Clause 43.02-2 to construct a</p>	<p>This proceeding concerns a review of Nillumbik Shire Council's decision to refuse a permit for 21 dwellings at 62A Brougham Street, Eltham, proposed by Brougham Street Cohousing Pty Ltd. The project is a citizen-led initiative aiming to provide affordable, sustainable housing with communal facilities. The council cited design, landscaping, and flood risk concerns, but the Tribunal found the proposal aligned with local policies promoting medium-density housing in the Mixed Use Zone.</p> <p>The Tribunal deemed the design compatible with the Eltham Gateway's character, maintaining vegetation dominance and minimising visual impact. It upheld the project's response to flooding constraints, ecological considerations, and bushfire risk while ensuring no unreasonable off-site amenity impacts. Acknowledging innovative architecture and community focus, the Tribunal set aside the council's decision, granting a permit subject to conditions to enhance integration with the area's heritage and landscape.</p>	<p>set aside</p>

	building and construct or carry out works on land to which the Design and Development Overlay applies Clause 44.04-2 to construct a building and construct or carry out works (including a fence and decks) on land to which the Land Subject to Inundation Overlay applies		
<i>Parkinson v Nillumbik SC [2024] VCAT 402 (2 May 2024)</i>	Clause 32.09-6 construct two or more dwellings on a lot Clause 42.03-2- construction of buildings and works and removal of vegetation	<p>This proceeding concerns a planning permit application for two dwellings at 117 Franklin Street, Eltham. Nillumbik Shire Council refused the permit on 29 March 2023, citing concerns over the proposal's alignment with the character of the area, landscaping opportunities, and vegetation impacts. The Council argued the design conflicted with the purposes of the Neighbourhood Residential Zone 1 (NRZ1), the Significant Landscape Overlay 3 (SLO3), and several ResCode standards.</p> <p>The applicant, Mr. Song, appealed the decision, asserting the design was site-responsive, aligned with the Planning Policy Framework, and complied with ResCode. Expert evidence supported claims that vegetation removal and landscaping were appropriate, and the proposal reflected the area's built-form and landscape character.</p> <p>The Tribunal identified the key issues as the proposal's consistency with state and local policies, zoning and overlay purposes, and Clause 55 standards. Concluding the proposal achieved a balance between increased density and preserving the area's character, the Tribunal overturned the Council's decision. The permit was granted with conditions addressing vegetation retention, landscaping, and compliance with local guidelines.</p>	set aside
<i>Foster v Nillumbik SC [2024] VCAT 462 (17 May 2024)</i>	Clause 32.08-5 (construct two or more dwellings on a lot in GRZ1).	This proceeding concerns a refused application to construct three attached double-storey dwellings on a sloped site in Nillumbik Shire. The council and neighbours opposed the development, citing its negative impact on neighbourhood character, significant tree removal, and concerns over privacy, traffic, and parking. The applicant argued the proposal adhered to local policies, addressed housing needs, and appropriately considered the site's constraints.	affirmed

		Key issues included alignment with planning strategies, environmental impact from vegetation removal, and the adequacy of car parking and access. The Tribunal assessed whether the development met planning objectives, integrated with the landscape, and preserved the area's character. The Tribunal upheld the council's refusal, finding the proposal failed to deliver net community benefit, did not align with broader policy outcomes, and denied the permit.	
<i>Brisbane Silver Pty Ltd v Nillumbik SC (Corrected) [2024] VCAT 376 (4 June 2024)</i>	<p>Clause 33.03-1 – use the land for the purposes of industry</p> <p>Clause 33.03-1 – use the land for the purposes of offices</p> <p>Clause 33.03-1 – use the land for the purposes of food and drink premises (café)</p> <p>Clause 33.03- 1 - use the land for the purposes of warehouse (self-storage units)</p> <p>Clause 33.03-4 – to construct a building, to construct or carry out works</p> <p>Clause 52.06- reduction in the car parking requirement for warehouse (self-storage units).</p> <p>Clause 52.05 – to display business identification signage greater than 8m2 in area</p>	This proceeding concerns an application by Brisbane Silver Pty Ltd, Slaco Investments Pty Ltd, and others to develop the Mesh Industry Park within the Bridge Street Business Area. The proposal includes a café, self-storage units, offices, and industrial units across three zones with vehicle access and limited pedestrian connectivity. Nillumbik Shire Council refused the permit, citing conflicts with local planning objectives, particularly regarding visual amenity, functionality, accessibility, traffic impact, and pedestrian safety. Despite amended plans, the council and a local community group opposed the development, raising concerns about its scale, design, and traffic implications. The Tribunal set aside the council's decision, granting a permit with conditions to address these concerns and ensure an acceptable built form outcome.	set aside

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Appendix 11 – Errors and Anomalies

HO80 - Mapping	Not covering the hawthorn Hedges
HO61	Thread Palms have been removed by Council
HO17 - Mapping	Extent of mapping not aligning with Statement of Significance. Also reference to a 25m radius around heritage buildings not matching mapping.
HO7	Subdivision has resulted in land that may not require the HO
62A Brougham St, Eltham	Partial DDO1 missing
SLO Permit Trigger	Particular weed species triggering the need for a planning permit.
28 Station St, Diamond Creek	Zoned TRZ1 when it would be more appropriately zoned ACZ2
West of Coventry Oval, Diamond Creek	ACZ2 land appears to have the incorrect Neighbourhood Character classification under Clause 15.01-5L.
DCP04	Section 2.0 table - R006 has the incorrect percentage
130 Allendale Rd, Eltham North	Land has been incorrectly rezoned to Public Park and Recreation Zone (PPRZ) when it is privately owned and already used for residential land uses, including accommodation.