

NILLUMBIK PLANNING SCHEME

AMENDMENT C140

EXPLANATORY REPORT

Who is the planning authority?

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

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

Land affected by the amendment

The amendment applies to 1080 Heidelberg-Kinglake Road, Hurstbridge.

What the amendment does

The Amendment proposes to:

- Amend Schedule to Clause 43.01(Heritage Overlay) to include 1080 Heidelberg-Kinglake Road, Hurstbridge.
- Amends the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme) to include the Statement of Significance for 1080 Heidelberg-Kinglake Road, Hurstbridge.
- Amend Planning Scheme Map No. 11HO to apply the Heritage Overlay to 1080 Heidelberg-Kinglake Road, Hurstbridge.
- Amend the Schedule to Clause 72.08 (Background Documents) to include the citation for 1080 Heidelberg-Kinglake Road, Hurstbridge.

The amendment replaces an interim Heritage Overlay (HO269) applied through C139Nill over the site known as 'Fermanagh' at 1080 Heidelberg-Kinglake Road, Hurstbridge. A citation recommending the protection of the dwelling and garden was prepared as part of the Nillumbik Heritage Review Stage A. This citation was adopted by Council on 29 June 2021.

The amendment amends Planning Scheme Map No 11HO to apply a new heritage overlay to cover the site to the property lines and replaces Clause 43.01 Schedule 1 to show the new heritage overlay (HO269).

Strategic assessment of the amendment

Why is the amendment required?

A planning permit application has been received for 1080 Heidelberg-Kinglake Road, Hurstbridge known as 'Fermanagh' which upon review has alerted Council officers to proposed additions to the dwelling that make substantial changes to the façade of the existing dwelling.

The citation for the site identifies the property is of local historic, aesthetic and associative significance to the Shire of Nillumbik. Fermanagh is noted of historical significance for its ability to demonstrate the manner in which land in the Nillumbik area was subdivided and used for small agricultural pursuits. It illustrates the early period of development of the Hurstbridge Township, which accelerated due to the opening of the railway line in 1912. 'Fermanagh' provides tangible evidence of its association with orcharding in Hurstbridge, which was the main agricultural industry in the Diamond Valley region from

the 1880s to the 1930s, and with locally notable orchardists the Burke family. The Burke family lived at 'Fermanagh' for over 100 years, and ran an orchard on the property for at least 25 years. Patrick Burke had settled in the area in the 1860s and with his sons established a nursery, market garden and cool store. The Burke family employed many locals in their orchard at 'Fermanagh' and are known as prominent figures in Hurstbridge's agricultural history. This context meets Criteria A and H for assessment.

Fermanagh and garden is also aesthetically significant as a particularly well-executed and architect-designed Federation villa that retains an early garden. It is distinguished from other houses of the same era in Hurstbridge with its intact Queen Anne details including Marseille terracotta and roughcast render detailing, decorative timber fretwork and posts to the verandah, combined with the massing and verandah form of an Australian homestead. The property's aesthetic significance is further enhanced by the remaining garden elements including Golden Cypress trees (*Hesperocyparis macrocarpa* 'Horizontalis Aurea') arranged in an ovoid pattern and two Chinese Windmill Palms (*Trachycarpus fortunei*) arranged symmetrically in relation to the house meeting Criterion E of heritage assessment.

Given this significance, the citation adopted as part of Councils Heritage Review Stage A recommends that the site is included in the Schedule to the Heritage Overlay in the Nillumbik Planning Scheme with mapping applied to the property boundaries and tree controls to the Golden Cypress Trees and Chinese Windmill Palms.

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

The amendment implements the objectives of planning in Victoria as set out in Section 4 (1) and 12 (1) of the *Planning and Environment Act 1987* (the Act). The following objectives in Section 4 (1) are particularly relevant to the amendment:

- 4(1d) - to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value
- 4(1g) - to balance the present and future interests of all Victorians

The following objectives in Section 12 (1) are relevant to the amendment:

- 12(1) A planning authority must—
 - (a) implement the objectives of planning in Victoria

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

Pursuant to section 12(2)(b) and (c) of the Act, the likely social and economic effects have been assessed as follows:

Environmental effects

The introduction of a heritage overlay is unlikely to result in any significant environmental effects.

The amendment will conserve and enhance a place identified as being of aesthetic and historic significance.

The amendment will also make a significant positive contribution to the built environment conserving a heritage place.

Social effects

The amendment is expected to have positive social impacts by providing protection for a place identified as being of aesthetic and historic significance.

Economic effects

The amendment is not expected to have any adverse or significant economic repercussions for the community. Some additional costs are likely to be imposed on the owners or developers of affected residential properties, since the amendment will necessitate a planning permit for most buildings and

works. It is considered that economic effects will be offset by the contribution that the heritage place offers to the broader community.

Does the amendment address relevant bushfire risk?

The Amendment will not increase the risk of life, property, community infrastructure and the natural environment from bushfire.

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

The Amendment is consistent with the following Ministerial Directions:

- *Ministerial Direction on the Form and Content of Planning Schemes* under section 7(5) of the Planning and Environment Act 1987
- *Ministerial Direction No. 9 – Metropolitan Strategy (Plan Melbourne)* in terms of the identification and protection of places of heritage significance. The relevant components of Plan Melbourne are:
 - Direction 4.7 – Respect our heritage as we build for our future

This direction seeks to ensure that heritage is valued when managing growth and change. It acknowledges that Melbourne is recognised for its well-preserved heritage buildings and that there is a need to manage future growth and change so Melbourne's distinctive characteristics and heritage are maintained.
 - Initiative 4.7.1- Value heritage when managing growth and change

This initiative aims to protect the city's heritage and improve heritage management processes within the Victoria planning system.
- The Amendment is consistent with the directions and initiatives in the Metropolitan Strategy, in that it identifies and provides protection of a property of local heritage significance and conserves a part of Nillumbik Shire Council's heritage. The amendment also addresses the requirements of *Ministerial Direction No. 11 – Strategic Assessments of Amendments*.

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

The Amendment supports or implements the following clauses of the Planning Policy Framework:

Clause 15 Built Environment and Heritage

- Planning should ensure all land use and development appropriately responds to its surrounding landscape and character, valued built for form and cultural context.

Clause 15.03-1S Heritage conservation

- Objective: To ensure the conservation of places of heritage significance.
- Strategies:
 - Retain those elements that contribute to the importance of the heritage place.
 - Provide for the protection of natural heritage sites and man-made resources.
 - Support adaptive reuse of heritage buildings where their use has become redundant

How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The Local Planning Policy Framework and Municipal Strategic Statement have now moved into the Planning Policy Framework and Municipal Planning Strategy in the Nillumbik Planning Scheme. Please see above for response to the Planning Policy Framework.

The Amendment is consistent with the Municipal Planning Strategy and implements the following:

Clause 02.03-5 Built Environment under Heritage

- Protect and enhance places of heritage significance, including sites of Aboriginal heritage significance.

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

The application of the Heritage Overlay is the most appropriate mechanism for recognising and protecting the cultural heritage significance of the identified place. The assessment undertaken identifies that the property meets the threshold for local significance as a place that is important to the Nillumbik community or locality.

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

The views of relevant agencies will be sought during the public exhibition process of Amendment C140.

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

The Transport Integration Act 2010 requires that a planning authority have regard to transport system objectives and decision-making principles where a planning scheme amendment is likely to have a 'significant impact on the transport system'. There are no statements of policy principles relevant to the amendment.

Resource and administrative costs

The amendment will have minimal impact on the resource and administrative costs of the responsible authority.

Where you may inspect this amendment

The amendment can be inspected free of charge at the Nillumbik Council website at www.participate.vic.gov.au/amendment-c140

And/or

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

Nillumbik Shire Council Offices
Civic Drive
Greensborough 3088

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

Submissions

Any person who may be affected by the amendment make a submission to the planning authority. Submissions about the amendment must be received by **14 January 2022**

A submission must be sent to: Nillumbik Shire Council
Civic Drive (PO Box 476)
Greensborough 3088

Panel hearing dates

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

- directions hearing: Week starting 11 April 2022
- panel hearing: Week starting 9 May 2022

ATTACHMENT 1 - Mapping reference table

Location	Land /Area Affected	Mapping Reference
Hurstbridge	1010 Heidelberg-Kinglake Road	Nillumbik C140nill 001hoMap11 Exhibition