

NILLUMBIK PLANNING SCHEME

AMENDMENT C140nill

EXPLANATORY REPORT

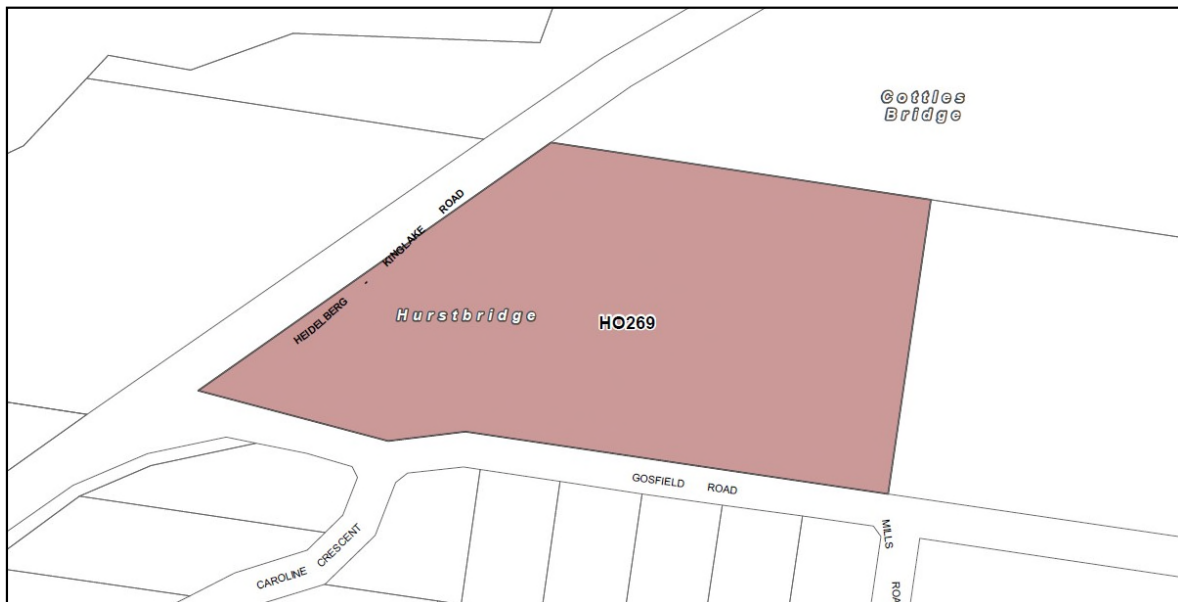
Who is the planning authority?

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 replaces interim heritage controls applied through C139nill and extended via C145nill over the site known as 'Fermanagh' at 1080 Heidelberg-Kinglake Road, Hurstbridge with a permanent Heritage Overlay (HO269). A heritage 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 the Schedule to Clause 43.01 to show the new Heritage Overlay (HO269). Of significance, the amendment will activate tree controls in the Schedule for this site. The citation has been included as a background document within the Schedule to Clause 72.08 of the Nillumbik Planning Scheme while the associated Statement of Significance is included as an incorporated document in the Schedule to Clause 72.04 of the Nillumbik Planning Scheme.

Specifically, the amendment:

- Amends the 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.
- Amends the Schedule to Clause 72.08 (Background Documents) to include the citation for 1080

- Heidelberg-Kinglake Road, Hurstbridge.
- Amends Planning Scheme Map No. 11HO to apply the Heritage Overlay to 1080 Heidelberg-Kinglake Road, Hurstbridge.

Strategic assessment of the amendment

Why is the amendment required?

The amendment is required to ensure sites of local heritage significance, identified in Council's heritage studies, are protected under the Heritage Overlay. The amendment will assist Council in achieving its strategic objectives in recognising and protecting heritage sites and ensure development appropriately respects and strengthens places with identified heritage values.

The adopted citation for the property at 1080 Heidelberg-Kinglake Road, Hurstbridge, known as 'Fermanagh', from the Nillumbik Heritage Review – Stage A identifies the property is of local historic, aesthetic and associative significance to the Shire of Nillumbik. The Statement of Significance identifies that '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 are 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.

A planning permit application (604/2021/05P) was received under Section 47 of the *Planning and Environment Act 1987* for the property which proposes '*Buildings and works to construct a shed (outbuilding) and additions to the dwelling*'. Upon review of the application, Council officers were alerted to proposed additions to the dwelling that made substantial changes to the façade of the existing dwelling. These changes are considered to have significant impacts on the heritage significance of the property; in particular, the proposal would have significant impacts to the dwelling structure. Given the property's local heritage significance as identified within Council's adopted Heritage Review – Stage A, interim heritage controls were applied over the site through Amendment C139nill and extended via Amendment C145nill to ensure the proposed works under the planning permit application would not detrimentally impact upon the significant heritage features identified for the dwelling and surrounds. This amendment makes these heritage controls permanent over the site as per the recommendations within the adopted citation. The site has been included within the Schedule to the Heritage Overlay of the Nillumbik Planning Scheme, with associated mapping applied to the property boundaries and tree controls within the Schedule being activated to the Golden Cypress Trees and Chines 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) 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.

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

The economic, social, and environmental effects have been assessed as follows:

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 be obtained for most development (i.e. buildings and works). It is considered that economic effects will be offset by the contribution that the heritage place offers to the broader community, particularly through the retention of the rural historical qualities that makes this area distinctive for locals and visitors.

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. The amendment will recognise the building and landscape that make the area a distinctive neighbourhood for its local population and visitors to the area. The inclusion of heritage places in the Heritage Overlay will ensure that the heritage value of the site is considered as part of any future planning permit application process and enable the protection of this part of the municipality's history for present and future generations.

Environmental effects

The application of a Heritage Overlay is unlikely to result in any significant environmental effects to the subject site itself and its surrounds. The amendment will conserve and enhance a place identified as being of aesthetic and historic significance. The amendment will encourage reuse, restoration and adaptation of the heritage place. Retention of the heritage aspects of this place will reduce building waste associated with any potential demolition and construction of new buildings and it will also conserve embodied energy in the existing building. The amendment will not have any direct implication on climate change given it pertains to the protection of existing (historical) built form. The amendment will also make a significant positive contribution to the built environment conserving a heritage place.

Does the amendment address relevant bushfire risk?

The amendment is not expected to not increase the risk of life, property, community infrastructure and the natural environment from bushfire; nor is bushfire risk management required to support the amendment.

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 1 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)'*, which requires that the amendment support the provisions of Plan Melbourne 2017-2050. The relevant components of Plan Melbourne are:
 - Outcome 4 - Melbourne is a distinctive and liveable city with quality design and amenity.
 - Direction 4.4 - Respect Melbourne's heritage as we build for the future.
 - Policy 4.4.1 - Recognise the value of heritage when managing growth and change.
 - Policy 4.4.4 - Protect Melbourne's heritage through telling its stories.

The amendment is consistent with these directions and policies in the Metropolitan Strategy, in that it

identifies and provides protection of a place of local heritage significance and conserves a part of Nillumbik Shire Council's heritage. Further to this, the amendment recognises the need for careful management of the ongoing processes of change to the urban environment and that decisions must be based on an appreciation of Melbourne's past as well as an understanding of its future needs.

- The amendment also addresses the requirements of '*Ministerial Direction No. 11 – Strategic Assessments of Amendments*' which requires a strategic assessment of the amendment to be undertaken within this Explanatory Report.

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

The amendment seeks to achieve the objectives of relevant State Policy of the Nillumbik Planning Scheme in recognising and protecting places of local heritage significance. 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.
- Planning should protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value.

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.
 - Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance.
 - Support adaptive reuse of heritage buildings where their use has become redundant.
 - Encourage the conservation and restoration of contributory elements of a heritage place.
 - Ensure an appropriate setting and context for heritage places is maintained or enhanced.

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

The Nillumbik Planning Scheme does not contain a Local Planning Policy Framework or Municipal Strategic Statement.

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

The amendment is consistent with the Nillumbik Municipal Planning Strategy and implements the following strategic directions:

Clause 02.03-5 Built Environment under Heritage

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

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

The amendment seeks to ensure that the Victorian Planning Provisions are correctly applied through the application of Heritage Overlay to reflect the current and future intended use of the land. 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 have been sought during the public exhibition process of Amendment C140nill.

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'. The amendment is not expected to have any significant impact on the transport system.

Resource and administrative costs

The amendment will have minimal impact on the resource and administrative costs of the responsible authority. The inclusion of additional heritage place may contribute to a minor increase in the number of planning permit applications received for the property. However, this amendment only applies the Heritage Overlay to a single site, and any increase in planning permit applications for the property can easily be accommodated within existing Council resources. There may also be costs imposed on Council associated with re-engaging the services of the heritage consultants (formally Context now GML Heritage) who prepared the heritage citation for this property in instances where expert advice is needed to clarify specific heritage matters associated with the property or to be an expert witness for any heritage related planning permit applications associated with this property that may be appealed to the Victorian Civil Administrative Tribunal (VCAT).

Where you may inspect this amendment

The amendment can be inspected free of charge at the Nillumbik Shire Council website: <http://participate.nillumbik.vic.gov.au/> and/or during standard office hours at the offices of Nillumbik Shire Council, 34 Civic Drive, Greensborough.

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 or by contacting 1800 789 386 to arrange a time to view the amendment documentation.