Planning and Environment Act 1987

# nillumbik PLANNING SCHEME

# AMENDMENT C149NILL

# EXPLANATORY REPORT

## Who is the planning authority?

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

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

## Land affected by the amendment

The amendment affects land within the following suburbs:

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

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

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

## What the amendment does

The amendment proposes to implement the recommendations of *Nillumbik Shire Heritage Review Stages A & B* (the Reviews) and apply the Heritage Overlay to 63 individual places, one new serial listing and one new precinct on a permanent basis. It also includes several corrections to clean up the extent of overlays and removes redundant overlays.

Specifically, the amendment:

* Amends the Schedule to Clause 43.01 (Heritage Overlay) to apply the Heritage Overlay to 63 individual heritage places, one (1) new serial listing and one (1) new precinct.
* Amends the Schedule to Clause 43.01 (Heritage Overlay) to delete HO144, HO182, HO213, HO248 and HO250 from properties that have been demolished, or from properties within a new Heritage Overlay.
* Amends Planning Scheme maps 11HO and 14HO to correct mapping anomalies and adjust the curtilage for HO49, HO50 and HO112.
* Amends Planning Scheme maps 2HO, 3HO, 6HO, 7HO, 8HO, 9HO, 10HO, 11HO, 12HO, 13HO, 14HO, 15HO, and 17HO to apply the Heritage Overlay to identified places.
* Inserts Planning Scheme Map No. 5HO to apply HO332 to 87 Latrobe Road, Yarrambat.
* Amends the Schedule to Clause 72.03 (What does this Planning Scheme consist of?) to insert Map No.5HO.
* Amends the Schedule to Clause 72.04 (Incorporated Documents) to insert 66 new Statements of Significance for the heritage places introduced by this amendment.
* Amends the Schedule to Clause 72.08 (Background Documents) to include the following documents as background documents:
	+ *Nillumbik Shire Heritage Study – Stage A (Context, 2021)*
	+ *Nillumbik Shire Heritage Study – Stage B (Trethowan, 2022)*
	+ *Nillumbik Gap Study Stage B – Thematic Environmental History Post-war Update (Trethowan, 2022)*
	+ *Nillumbik Shire Thematic Environmental History, Revision 2016 (Nillumbik Shire Council, 2016)*

## Strategic assessment of the amendment

## Why is the amendment required?

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

The significance of the 63 individual heritage places, 1 serial listing and 1 heritage precinct was assessed against the standard criteria contained in Planning Practice Note 01: Applying the Heritage Overlay and were considered to meet the requirements and threshold for local protection through the Heritage Overlay. As required by the practice note, Statements of Significance for each proposed heritage place will be included in the Nillumbik Planning Scheme as an incorporated document.

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

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

* HO144 – 28 Osborne Road, North Warrandyte: the Heritage Place has been demolished / removed.
* HO182 – 125 Cherry Tree Road, Hurstbridge: the property is proposed to be listed under serial listing HO285.
* HO213 – 17 Howell Road, Plenty: the Heritage Place has been demolished / removed.
* HO248 – 109-115B Yan Yean Road, Plenty: the proposed HO335 includes the property currently covered by HO248.

HO250 – 171 Yan Yean Road, Plenty: the Department of Transport (DoT) has moved the significant elements of the heritage place, being the Church, to 2-6 Memorial Drive, Plenty and the significant elements of HO250 will be included in the proposed HO335.

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

* HO49 – 385 Eltham-Yarra Glen Road, Kangaroo Ground: The curtilage is proposed to extend to the property title boundary. The new extent covers the rest of the Kangaroo Ground Reserve and the Kangaroo Ground Tower Car Park.
* HO50 – 425 Eltham-Yarra Glen Road, Kangaroo Ground: The heritage citation for this address clearly outlines the elements of the significant place that should be protected which does not align with the current HO50 curtilage.

HO112 – 35 Laughing Waters Road, Eltham: The curtilage currently doesn’t cover the heritage significant tree, as listed on the National Trust tree register. The National Trust has provided in principle support to amend HO112 as in accordance with the Arborist report dated 02/06/22 by Homewood Consulting.

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

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

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

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

* Section 4(1) (a) - to provide for the fair, orderly, economic and sustainable use and development of land.
* Section 4(1) (d) - to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.
* Section 4(1) (e) - to protect public utilities and other assets and enable the orderly provision and co‑ordination of public utilities and other facilities for the benefit of the community;
* Section 4(1) (g) - to balance the present and future interests of all Victorians.

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

## *Environmental Effects*

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

## *Social and Economic Effects*

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

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

## Does the amendment address relevant bushfire risk?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Resource and administrative costs

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

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

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

## Where you may inspect this amendment

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

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

Nillumbik Shire Council Offices

Civic Drive

Greensborough 3088

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

## Submissions

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

A submission must be sent to:

Leigh Northwood

Manager Strategic Planning and Environment

Nillumbik Shire Council

Civic Drive (PO Box 476)

Greensborough 3088

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

## Panel hearing dates

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

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

# ATTACHMENT 1 - Mapping reference table

| **HO No.s** | **Location** | **Land /Area Affected** | **Mapping Reference** |
| --- | --- | --- | --- |
| 307 | Arthurs Creek | 893 Arthurs Creek Road  | Nillumbik C149nill 002hoMaps02\_03 Exhibition |
| 308 | Arthurs Creek | 900 Arthurs Creek Road  | Nillumbik C149nill 002hoMaps02\_03 Exhibition |
| 309 | Arthurs Creek | 906 Arthurs Creek Road  | Nillumbik C149nill 002hoMaps02\_03 Exhibition |
| 310 | Arthurs Creek | 25 Brennans Road  | Nillumbik C149nill 002hoMaps02\_03 Exhibition |
| 311 | Arthurs Creek | 1165 Arthurs Creek Road | Nillumbik C149nill 001hoMap02 Exhibition |
| 312 | Arthurs Creek | 110 Deep Creek Road  | Nillumbik C149nill 002hoMaps02\_03 Exhibition |
| 336 | Arthurs Creek | 870 Arthurs Creek Road  | Nillumbik C149nill 002hoMaps02\_03 Exhibition |
| 273 | Christmas Hills | cnr Eltham - Yarra Glen Road & Ridge Road  | Nillumbik C149nill 013hoMap12 Exhibition |
| 313 | Christmas Hills | 75 Wendy Way  | Nillumbik C149nill 037hoMap17 Exhibition |
| 294 | Diamond Creek | 49-55 Main Street  | Nillumbik C149nill 018hoMap09 Exhibition |
| 314 | Diamond Creek | 12 Broad Gully Road  | Nillumbik C149nill 018hoMap09 Exhibition |
| 315 | Diamond Creek | 34 Clyde Street  | Nillumbik C149nill 018hoMap09 Exhibition |
| 316 | Diamond Creek | 38 Collins Street  | Nillumbik C149nill 018hoMap09 Exhibition |
| 317 | Diamond Creek | 42 Collins Street  | Nillumbik C149nill 018hoMap09 Exhibition |
| 318 | Diamond Creek | 349 Diamond Creek Road  | Nillumbik C149nill 017hoMap09 Exhibition |
| 319 | Diamond Creek | 2 Hillmartin Road  | Nillumbik C149nill 017hoMap09 Exhibition |
| 320 | Diamond Creek | 28 Main Hurstbridge Road  | Nillumbik C149nill 019hoMap09 Exhibition |
| 321 | Diamond Creek | 162 Murray Road  | Nillumbik C149nill 007hoMap09 Exhibition |
| 322 | Diamond Creek | 25 Nicole Crescent  | Nillumbik C149nill 020hoMap09 Exhibition |
| 323 | Diamond Creek | 32 Perversi Avenue  | Nillumbik C149nill 021hoMap10 Exhibition |
| 324 | Diamond Creek | 75-99 Phipps Crescent  | Nillumbik C149nill 021hoMap10 Exhibition |
| 325 | Diamond Creek | 405 Ryans Road  | Nillumbik C149nill 020hoMap09 Exhibition |
| 337 | Diamond Creek | 477 Broad Gully Road  | Nillumbik C149nill 008hoMap07 Exhibition |
| 327 | Doreen | 920 Yan Yean Road  | Nillumbik C149nill 004hoMap02 Exhibition |
| 274 | Eltham | 2 Batman Road  | Nillumbik C149nill 027hoMaps13\_14 Exhibition |
| 275 | Eltham | 10 Diosma Road  | Nillumbik C149nill 030hoMap14 Exhibition |
| 276 | Eltham | 570-576 Main Road  | Nillumbik C149nill 029hoMap13 Exhibition |
| 277 | Eltham | 856 Main Road  | Nillumbik C149nill 028hoMap13 Exhibition |
| 278 | Eltham | 1/44 Park West Road  | Nillumbik C149nill 027hoMaps13\_14 Exhibition |
| 278 | Eltham | 42 Park West Road  | Nillumbik C149nill 027hoMaps13\_14 Exhibition |
| 279 | Eltham | 61 York Street  | Nillumbik C149nill 028hoMap13 Exhibition |
| 279 | Eltham | 61A York Street  | Nillumbik C149nill 028hoMap13 Exhibition |
| 293 | Eltham | 903-907 Main Road  | Nillumbik C149nill 028hoMap13 Exhibition |
| 297 | Eltham | 19 Fordhams Road  | Nillumbik C149nill 029hoMap13 Exhibition |
| 302 | Eltham | 130 Laughing Waters Road  | Nillumbik C149nill 033hoMap14 Exhibition |
| 303 | Eltham | 220 Laughing Waters Road  | Nillumbik C149nill 033hoMap14 Exhibition |
| 305 | Eltham | 7 Banoon Road  | Nillumbik C149nill 029hoMap13 Exhibition |
| 306 | Eltham | 17 Haldane Road  | Nillumbik C149nill 029hoMap13 Exhibition |
| 112 | Eltham | Eucalyptus melliodora (Yellow box) - 35 Laughing Waters Road, road reserve  | Nillumbik C149nill 031d-hoMap14 Exhibition |
| 112 | Eltham | Eucalyptus melliodora (Yellow box) - 35 Laughing Waters Road, road reserve  | Nillumbik C149nill 032hoMap14 Exhibition |
| 284 | Eltham  | 14-16 Warringah Crescent  | Nillumbik C149nill 026hoMap13 Exhibition |
| 280 | Eltham North | 23 Glen Park Road  | Nillumbik C149nill 025hoMaps09\_13 Exhibition |
| 281 | Eltham North | 24 Glen Park Road  | Nillumbik C149nill 025hoMaps09\_13 Exhibition |
| 282 | Eltham North | 144 Progress Road  | Nillumbik C149nill 025hoMaps09\_13 Exhibition |
| 283 | Eltham North | 200 Ryans Road  | Nillumbik C149nill 025hoMaps09\_13 Exhibition |
| 286 | Hurstbridge | 180 Cherry Tree Road  | Nillumbik C149nill 011hoMap11 Exhibition |
| 285 | Hurstbridge | 125 Cherry Tree Road  | Nillumbik C149nill 011hoMap11 Exhibition |
| 285 | Hurstbridge | 173 Cherry Tree Road  | Nillumbik C149nill 011hoMap11 Exhibition |
| 285 | Hurstbridge | 191 Cherry Tree Road  | Nillumbik C149nill 011hoMap11 Exhibition |
| 182 | Hurstbridge | Smith Orchard House - 125 Cherry Tree Road  | Nillumbik C149nill 010d-hoMap11 Exhibition |
| 287 | Kangaroo Ground | 160 Henley Road  | Nillumbik C149nill 024hoMaps11\_15 Exhibition |
| 50 | Kangaroo Ground | Garden Hill – timber dwelling & in ground water tanks - 425 Eltham – Yarra Glen Road  | Nillumbik C149nill 022d-hoMap11 Exhibition |
| 50 | Kangaroo Ground | Garden Hill – timber dwelling & in ground water tanks - 425 Eltham – Yarra Glen Road  | Nillumbik C149nill 023hoMap11 Exhibition |
| 49 | Kangaroo Ground  | War Memorial Tower, sandstone building and park - 385 Eltham – Yarra Glen Road  | Nillumbik C149nill 022d-hoMap11 Exhibition |
| 49 | Kangaroo Ground  | War Memorial Tower, sandstone building and park - 385 Eltham – Yarra Glen Road  | Nillumbik C149nill 023hoMap11 Exhibition |
| 292 | North Warrandyte | 3 Dingley Dell Road  | Nillumbik C149nill 035hoMap15 Exhibition |
| 298 | North Warrandyte | 35-37 Warrandyte - Kangaroo Ground Road | Nillumbik C149nill 035hoMap15 Exhibition |
| 299 | North Warrandyte | cnr Research - Warrandyte & Kangaroo Ground - Warrandyte Roads  | Nillumbik C149nill 039hoMap15 Exhibition |
| 300 | North Warrandyte | 33 Koornong Crescent  | Nillumbik C149nill 034hoMap15 Exhibition |
| 301 | North Warrandyte | 30 Koornong Crescent  | Nillumbik C149nill 034hoMap15 Exhibition |
| 304 | North Warrandyte | 17 Koornong Crescent  | Nillumbik C149nill 034hoMap15 Exhibition |
| 334 | North Warrandyte | 15 Castle Road  | Nillumbik C149nill 035hoMap15 Exhibition |
| 144 | North Warrandyte | Dwelling - 28 Osborne Road  | Nillumbik C149nill 036d-hoMap15 Exhibition |
| 328 | Panton Hill | 586 Kangaroo Ground Street  | Nillumbik C149nill 012hoMap11 Exhibition |
| 328 | Panton Hill | 588 Kangaroo Ground Street  | Nillumbik C149nill 012hoMap11 Exhibition |
| 288 | Panton Hill | 633 Kangaroo Ground - St Andrews Road  | Nillumbik C149nill 012hoMap11 Exhibition |
| 326 | Plenty | 1070 Yan Yean Road  | Nillumbik C149nill 004hoMap02 Exhibition |
| 329 | Plenty | 145 River Avenue  | Nillumbik C149nill 014hoMaps08\_09 Exhibition |
| 330 | Plenty | 183 Yan Yean Road  | Nillumbik C149nill 014hoMaps08\_09 Exhibition |
| 335 | Plenty | 2-6 Memorial Drive  | Nillumbik C149nill 016hoMap09 Exhibition |
| 213 | Plenty | Plenty State School - 17 Howell Road No.’s 1,2,4,6,8,9,10,11,12,13,14,16 Fineran Court | Nillumbik C149nill 015d-hoMap09 Exhibition |
| 248 | Plenty | Plenty Hall - 109-115B Yan Yean Road  | Nillumbik C149nill 015d-hoMap09 Exhibition |
| 250 | Plenty | Church - 171 Yan Yean Road  | Nillumbik C149nill 015d-hoMap09 Exhibition |
| 289 | Research | 57 Thomson Crescent  | Nillumbik C149nill 030hoMap14 Exhibition |
| 290 | St Andrews | 1 Proctor Street | Nillumbik C149nill 003hoMap03 Exhibition |
| 291 | St Andrews | 10 Caledonia Street  | Nillumbik C149nill 003hoMap03 Exhibition |
| 296 | Wattle Glen | 631 Heidelberg-Kinglake Road  | Nillumbik C149nill 009hoMap10 Exhibition |
| 295 | Yarrambat | 466 Ironbark Road  | Nillumbik C149nill 005hoMaps05\_06 Exhibition |
| 331 | Yarrambat | 52 Kurrak Road  | Nillumbik C149nill 006hoMap06 Exhibition |
| 332 | Yarrambat | 87 Latrobe Road  | Nillumbik C149nill 005hoMaps05\_06 Exhibition |
| 333 | Yarrambat | 651 Yan Yean Road  | Nillumbik C149nill 005hoMaps05\_06 Exhibition |