

Identifying and conserving  
Nillumbik's cultural heritage



# Heritage

## STRATEGY

Adopted by Council on 6 September 2011

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### **Aboriginal Land Statement**

Nillumbik Shire Council acknowledges the Wurundjeri as the traditional custodians of the land now known as the Shire of Nillumbik and values the significance of the Wurundjeri peoples' history as essential to the unique character of the Shire.

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Montsalvat, Eltham

# Executive summary



Cultural heritage is made up of many components including the way communities live, their history, traditions and values.

The cultural heritage of the Shire of Nillumbik defines its character and identity, helping to tell the story of the area, its landscape and people through evidence left by generations of people, both Aboriginal and European.

**“Place of cultural significance enrich people’s lives...telling us about who we are and the past that has formed us...They are irreplaceable and precious.”**

*(The Burra Charter: The Australian ICOMOS Charter for places of cultural significance).*

Council has an important role to play in the identification and protection of its communities’ heritage places. It is important to protect heritage places because: they help to strengthen personal and community identity; we want to pass them on to future generations; there are social, spiritual, ethical and legal obligations to do so.

In the past, cultural heritage places almost always referred to a historic building or structure; something tangible. Today, heritage includes intangible elements such as traditions and stories, places with spiritual meaning and reflects living cultures as well as those from the past.

Council’s role in ensuring the protection of heritage places in the Shire of Nillumbik is to identify and fulfil its legislative responsibilities; identify, assess and document important heritage places and to consider and act on, best practice in their conservation.

The Nillumbik Heritage Strategy sets out Council’s intention with regard to cultural heritage – Aboriginal and historic (post-European settlement). It does not include natural heritage unless it forms part of the values of a cultural heritage place. Natural Heritage is protected through the application of the Environmental Significance Overlay, Significant Landscape Overlay and strategies and programs of work planned and conducted by Council’s Environmental Planning unit.

The Nillumbik Heritage Strategy will: coordinate, prioritise and monitor the things that need to be done; provide continuity; demonstrate organisation and strategic thinking and accountability. The Strategy’s Action Plan will be reviewed annually as part of the Strategic Planning unit’s business plan.

During 2008-2009 officers began to work on identifying heritage issues and in addressing them. The Nillumbik Heritage Strategy continues that process in providing a prioritised direction for the work that needs doing.

A substantial amount of work has been completed in the last 12 to 18 months (2008-2010). This includes digitising heritage records and completing a Heritage Gap Study to provide a sound basis for prioritising heritage identification (non-Aboriginal). Initial work has also begun on scoping a mapping project to improve identification, protection, understanding and management of Aboriginal heritage.

Part 1 of this Heritage Strategy summarises the regulatory context for heritage protection in Victoria. Part 2 is the Vision and objectives. Part 3 is the Action Plan and Part 4, Appendices.

## STRATEGY IN SUMMARY

### Vision

The Shire of Nillumbik's cultural heritage will be conserved, enjoyed and appreciated by generations of residents and visitors.

### Aims

1. To identify, document and care for heritage places in the Shire of Nillumbik in ways which fulfil legal obligations and adopt best practice.
2. To involve communities and to promote awareness, knowledge and enjoyment of heritage places.

### Objectives and actions

Objectives and actions are divided into six themes, A to F, as follows. These are consistent with Heritage Victoria guidelines for local government heritage strategies. Actions for achieving the objectives are detailed in Part 3: Action Plan. Some require additional funding while others can be completed as part of Council's operational work budget.

## (A) KNOWING

### *Identify, assess, document heritage places*

#### Objectives

- To identify, assess and document significant heritage places in accordance with best practice and to actively seek protection of significant heritage places.
- To draw together the four Shire Aboriginal heritage studies to form a more comprehensive approach to the identification, mapping, protection and understanding of Aboriginal cultural heritage (tangible and intangible).
- To identify and protect historic heritage places which fill the gaps identified in the 2009 Gap Study.
- To document all new information and decisions taken about a heritage or potentially significant heritage, place.

#### Summary actions

- Implement Aboriginal heritage mapping project.
- Seek funding to implement recommendations of the *2009 Heritage Gap Study* as follows:
  - o review the potential heritage list
  - o assessment of clearly significant places
  - o inter-war heritage study c1919-1939
  - o suburban development heritage study 1950-1990
  - o bushfire thematic history and identification of associated places.
- Continue to check HERMES data.
- Review the thematic environmental history, rewrite and publish it.
- Investigate support for an oral history project working with local historical societies.



Ellis Cottage, Diamond Creek

## (B) SECURING

*Secure statutory protection for significant places, develop policy/guidelines to assist decision making*

### Objectives

- To meet legislative obligations.
- To protect significant places through the local planning scheme.

### Summary actions

- Review the Municipal Strategic Statement (MSS) to incorporate the Strategy in this document.
- Review Council's practices and policies regarding management of Aboriginal cultural heritage to ensure consistency with recent legislation regarding this matter, namely, the *Aboriginal Heritage Act 2006* and the *Aboriginal Heritage Regulations 2007* which give effect to the Act.
- Conduct heritage amendments.
- Put in place procedures for protection of heritage places not currently on the Heritage Overlay (but waiting for an amendment to add them).

## (C) MANAGING

*Demonstrate best practice in managing heritage places*

### Objectives

- To demonstrate best practice in the conservation and management of cultural heritage in Council's ownership/management.
- To improve the knowledge of Council staff about Council's heritage obligations and heritage work, including this Strategy.

### Summary actions

- Adopt best practice conservation principles.
- Clearly identify heritage places and significant trees owned and/or on land managed by Council and prepare management plans for each.
- Set up a heritage group comprising external representatives, Councillors, Council's Strategic Planning unit and Community and Leisure Services department for sharing knowledge and ideas.
- Identify training needs and organise training on e.g. best practice conservation principles and carrying out work at heritage places including internal processes to be followed.
- Create processes for key Council staff e.g. works and parks, which set out what needs to be done if unmapped Aboriginal heritage is discovered (part of the Aboriginal heritage mapping project).
- Improved access to free heritage advice and education for owners of heritage places.

## (D) COMMUNICATING

### *Raise awareness and build support for heritage*

#### **Objectives**

- To involve community members in the identification, conservation and management of cultural heritage.
- To improve accessibility to the Shire of Nillumbik's heritage information.
- To promote a greater awareness, understanding and appreciation of the Shire's cultural heritage (recognising that, for cultural reasons, access to some places may be restricted or inappropriate).
- To celebrate achievements.

#### **Summary actions**

- Create heritage content on the Nillumbik Shire Council website including this Heritage Strategy and regular updates on work to implement it.
- Make Heritage Overlay citations available through Council's website via a link to HERMES.
- Develop a promotional campaign.
- Develop and implement interpretation plans.
- Regular Council briefings on heritage matters.
- Hold a launch event for the Heritage Strategy and invite key stakeholders.

## (E) SUPPORTING

### *Provide support to heritage managers and owners*

#### **Objectives**

- To give practical support to those responsible for the care and management of Nillumbik's heritage places in recognition of the benefit they bring to the wider community.
- To encourage and facilitate best practice in conservation and management of heritage places in private ownership.
- To reduce the incidence of demolition by neglect.

#### **Summary actions**

- Seek funding to increase the scope and accessibility of the Shire's heritage advisory service.
- Investigate the feasibility of financial incentives for owners of heritage places.
- Seek funding to investigate and document heritage at risk of demolition by neglect and, as an insurance policy, document those places (as well as seeking ways to rectify the problem).

## (F) IMPLEMENTING

### *Delivering the Strategy*

#### **Objectives**

- Build Council's commitment and capacity to implement the Heritage Strategy.
- Develop and maintain strong working relationships with key heritage agencies.

#### **Summary actions**

- Hold an internal launch of the Heritage Strategy for staff.
- Establish a training program for key and interested staff and Councillors.
- Seek external funding for identified projects and to expand the heritage adviser's role.

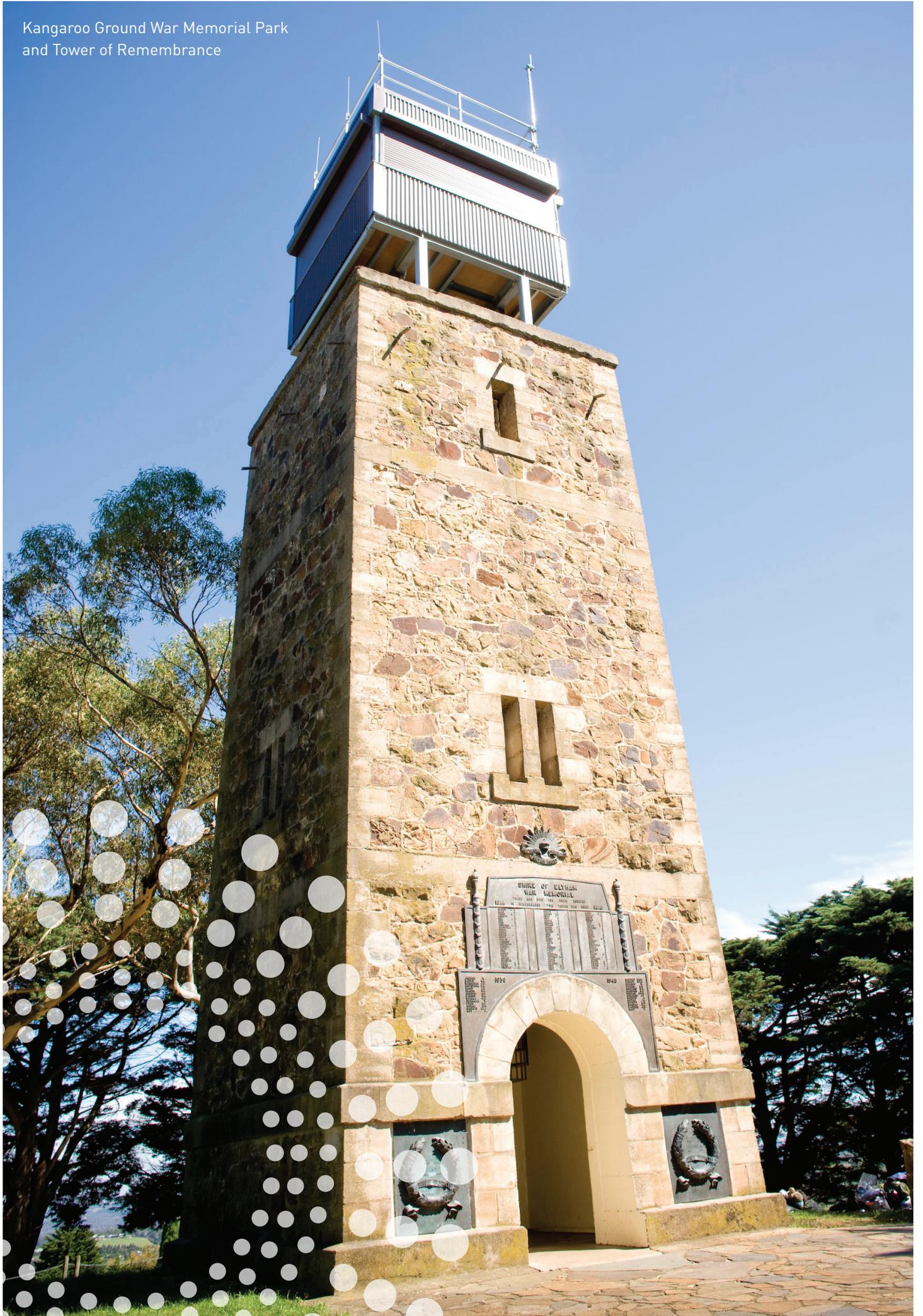


Andrew Ross Schoolhouse c1880



Eltham Police Residence

Kangaroo Ground War Memorial Park  
and Tower of Remembrance



# Part 1 Background



## 1.1 INTRODUCTION

This report is in three parts.

Part 1: Background - gives an overview of heritage and its protection through legislation and industry best practice standards. It also explains the process of how heritage is identified and assessed as being significant.

Part 2: Heritage Strategy - begins with an assessment of current practices, identifies emerging issues and celebrates achievements in addressing these. It then focuses on the Strategy for future heritage work.

Part 3: Action Plan - sets out how the Strategy's aims and objectives will be achieved.

"Places of cultural significance enrich people's lives, often providing a deep and inspirational sense of connection to community and landscape, to the past and to lived experiences.

They are historical records that are important as tangible expressions of Australian identity and experience. Places of cultural significance reflect the diversity of our communities, telling us about who we are and the past that has formed us and the Australian landscape. They are irreplaceable and precious."<sup>1</sup>

Council has an important role to play in the identification and protection of its communities' heritage places.

This Heritage Strategy is needed in order to coordinate, prioritise and monitor the things that need to be done; provide continuity because municipal planners, heritage advisers and Councillors move on to other jobs; demonstrate organisation and strategic thinking when bidding for grants and funding and to be accountable.

<sup>1</sup> *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*, Australia's best practice framework for the identification, assessment, documentation and management of cultural heritage places in ways which retain their significance.

## 1.2 CULTURAL HERITAGE

In the past, cultural heritage almost always referred to a historic building or structure; something tangible but, more recently, understanding has broadened to include intangible elements such as traditions and stories, places with spiritual meaning and reflects living cultures as well as those from the past.

In Australia, for management purposes, heritage tends to be divided into cultural – Aboriginal and non-Aboriginal, also referred to as European/post contact or historic heritage – and natural heritage. Places often have both natural and cultural heritage values. They may be related and are sometimes difficult to separate. Aboriginal people, and many others, do not see natural and cultural values as being separate and it is important to assess all the values of a given place without giving undue weight to one or another.

Heritage is protected through a regulatory framework at federal, state and local level (see 1.3).

This Heritage Strategy sets out Council's strategic intention with regard to cultural heritage – Aboriginal and historic (post-European settlement). It does not include natural heritage unless it forms part of the values of a cultural heritage place.

Natural heritage is protected through the application of the Environmental Significance Overlay, Significant Landscape Overlay and strategies and programs of work planned and conducted by Council's Environmental Planning unit.

This Heritage Strategy should be read in conjunction with the *Cultural Plan 2011-2017: Growing Our Arts and Culture*, which supports the Shire's thriving arts culture and its myriad of art forms from painting and sculpture to literature, music and dance. The Strategy supports practising artists to work and study either commercially or for fun, through a range of activities including programs such as Red Chair, grants and marketing. It also sets the framework for managing Council's art collection.



## Heritage places

**A heritage place is...** a specific area or site, perhaps a large area such as a whole region or landscape, or a small area such as a feature or building, which is valued by people for its natural and/or cultural heritage significance.

**Cultural heritage significance** means aesthetic, historic, scientific or social value or other special value for future generations of Australians as well as for the present community (definition from *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*, 1999, Australia ICOMOS [International Council on Monuments and Sites]).

**Aboriginal cultural heritage** exists throughout the lands and waters of Australia and all aspects of the landscape may be important to Aboriginal people as part of their heritage. The rights and interests of Aboriginal people in their heritage arise from their spirituality, customary law, original ownership, custodianship, developing Indigenous traditions and recent history. The effective protection and conservation of this heritage is important in maintaining the identity, health and wellbeing of Indigenous people.

**Natural heritage significance** means the importance of ecosystems, biological diversity and geodiversity for their existence value and/or for present or future generations of Australians in terms of their scientific, social, aesthetic and life support value (definition from the *Australian Natural Heritage Charter: Standards and principles for the conservation of places of natural heritage significance*, 1996).

Source: *Protecting Local Heritage Places: a guide for communities*, 2000, Australian Heritage Commission, p4 and *Ask First*, 2002, p7.

## 1.2.1 Nillumbik's cultural heritage

The area known as the Shire of Nillumbik is the traditional land of the Wurundjeri-willam clan of the Woiwurrung speaking people.

As with all other areas of Victoria and Australia, the landscape holds the imprint of thousands of generations of Aboriginal people before and after European settlement and these places are a fundamental part of Victoria's Aboriginal community life and cultural identity.

In Nillumbik, archaeological sites remain as evidence of Aboriginal presence within the Shire including scarred trees and artefact scatters.

The first European settlers arrived in the 1830s to take up pastoral leases. Activities since then include timber cutting, gold mining, orcharding and farming; wine growing and the development of the infrastructure and catchments for Melbourne's water supply, parts of which are in the Shire (Maroondah Aqueduct and Sugarloaf reservoir).

A particular feature of the Shire's cultural heritage is its attraction for artists and 'alternative' lifestyles.

Montsalvat artists' colony (on the Victorian Heritage Register) is, perhaps, the best known of the area's artistic tradition and Dunmoochin at Cottles Bridge, established in the 1950s. The "Eltham style" of mudbrick building, largely attributable to Alistair Knox, is another.

An Environmental Living Zone at the Bend of Islands, established in the 1970s by Neil Douglas, still operates with its residents conserving land as bush and minimising their impacts on it.

There are 258 heritage places in Nillumbik protected by the local planning scheme or the Victorian Heritage Register (seven places).

Others have been identified as of potential significance to the Shire but need further research and others are yet to be discovered.

A listing of Nillumbik's 267 heritage places protected by the Heritage Overlay can be viewed here:

<http://www.dse.vic.gov.au/planningschemes/nillumbik/home.html> .

## 1.3 HERITAGE PROTECTION IN VICTORIA

Heritage in Australia is protected through a regulatory framework at federal, state and local level. There are both statutory obligations and best practice industry standards for protecting and managing cultural heritage: legislation (1.3.1); state and local planning frameworks (1.3.2); state government policies (1.3.3); best practice industry standards (1.3.4).

Sections 1.3.1 to 1.3.4 summarise the regulatory context and its application in Victoria and section 1.3.5 explains how it applies to the Shire of Nillumbik.

### Agencies with responsibility for heritage

Aboriginal Affairs Victoria (AAV) is the state government agency for all matters concerned with the protection of Aboriginal cultural heritage. Heritage Victoria is the state government agency for historic heritage.

The federal government department with responsibility for Australia's heritage is the Department of Environment, Water, Heritage and the Arts (DEWHA).

### 1.3.1 Legislation

The following legislation applies to cultural heritage in Victoria.

#### ABORIGINAL HERITAGE

State legislation *Aboriginal Heritage Act 2006*  
*Aboriginal Heritage Regulations 2007*

Federal legislation *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*<sup>2</sup>  
*Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*  
*Protection of Moveable Cultural Heritage Act 1986*  
*Protection of Moveable Cultural Heritage Act Regulations 1987*

#### HISTORIC HERITAGE

State legislation *Heritage Act 1995*  
*Planning and Environment Act 1987*

Federal legislation *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*  
*Protection of Moveable Cultural Heritage Act 1986*  
*Protection of Moveable Cultural Heritage Act Regulations 1987*

For more information on the legislation see Appendix 1.

<sup>2</sup> At the time of writing the federal government is reviewing this Act.



## 1.3.2 Planning Framework

### State Planning Policy Framework

The State Planning Policy Framework (SPPF) sets out the State's policy directions for Victoria. Clause 15.11 concerns heritage and its purpose is:

### Local Planning Policy Framework

*"To assist the conservation of places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance or other special value important for scientific and research purposes, as a means of understanding our past, as well as maintaining and enhancing Victoria's image and making a contribution to the economic and cultural growth of the State."*

The SPPF obliges Council to: "... identify, conserve and protect places of natural or cultural value from inappropriate development ..." and to take account of relevant legislation, including the *Aboriginal Heritage Act 2006* and recommendations of the Victorian Heritage Council.

The Local Planning Policy Framework (LPPF) contains the strategic land use objectives for Nillumbik. The LPPF policy statements need to implement and be consistent with the SPPF.

There are three key elements which relate to heritage: the Municipal Strategic Statement, overlays and policies.

### Municipal Strategic Statement

The Municipal Strategic Statement (MSS) is the key strategic document for the Shire of Nillumbik.

It identifies long term directions about land use and development in the Shire; presents a vision for its community and other stakeholders; and provides the rationale for the zone and overlay requirements and particular provisions in the scheme.

Objective 4 of Clause 21.05-3 is: *"To protect places of natural and cultural heritage."*

### Local policies

The purpose of local policies is to set strategic policy objectives for specific topics or small areas. Each local policy needs to have regard to and implement the strategic objectives in the SPPF and MSS.

Clause 22.05 of the LPPF is the Aboriginal Cultural Heritage Policy. Its objectives are to:

- *"provide for the identification of sites of Aboriginal cultural significance and the appropriate level of management in consultation with the local Aboriginal community"*
- *"ensure new uses, developments and works do not impede on or detract from sites and features of Aboriginal cultural heritage and archaeological significance."*

Currently there is no policy for historic heritage. Advice from Heritage Victoria is that policies are useful for protecting precincts but not necessary for individual places.

### Heritage Overlay

The Heritage Overlay is a State standard Victorian Planning Provisions (VPP) tool used to identify and protect heritage places. It has two parts: the general provisions incorporating the purpose, scope, permit requirements and decision guidelines and the schedule. The provisions in Clause 43.1 Heritage Overlay cannot be altered by Council. While the Clause itself is standard across Victoria, the schedule can be amended by a local planning authority to list individual properties and add some limited additional requirements for permits.

The purpose of the Heritage Overlay is to:

- *"implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies"*
- *conserve and enhance heritage places of natural or cultural significance*
- *conserve and enhance those elements which contribute to the significance of heritage places*
- *ensure that development does not adversely affect the significance of heritage places*
- *conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place."*

### 1.3.3 State Government policies

In addition to legislative obligations, the following two Victorian Government strategies are of particular note in the management of heritage in Victoria.

#### Victorian heritage strategy

The Victorian Government's strategy for heritage in Victoria is: *Victoria's Heritage: strengthening our communities*. The strategy has six key policy directions:<sup>3</sup>

- recognising a rich and diverse heritage
- using our heritage for a sustainable future
- managing for growth
- telling Victoria's story
- building strong, inclusive networks and partnerships
- resourcing the community.

The State's heritage strategy informs the SPPF and also sets the direction for funding priorities and for the template: *Local Government Heritage Strategies* (Heritage Victoria 2010). Heritage Victoria is considering making heritage strategies a requirement for funding applications for heritage advice and other projects.

#### Melbourne 2030

In 2002, the Victorian Government introduced its 30 year planning framework *Melbourne 2030*, which provides strategic direction on the growth of metropolitan Melbourne. While *Melbourne 2030* and its addendum *Melbourne @5million* commit Melbourne to further growth and consolidation of existing urban areas, policy 5.4 is concerned specifically with protecting heritage places and values.<sup>4</sup> It recognises the importance of conserving places of Aboriginal and historic cultural heritage.

The themes of Council's Heritage Strategy support the policy directions of Victoria's Heritage Strategy and *Melbourne 2030*.

<sup>3</sup> The strategy is currently (2010) being reviewed but Heritage Victoria has confirmed that the six policy directions will remain the same.

<sup>4</sup> [http://www.dse.vic.gov.au/melbourne2030online/content/policies\\_initiatives/05d\\_policy54.html](http://www.dse.vic.gov.au/melbourne2030online/content/policies_initiatives/05d_policy54.html) (accessed 14 January 2010)

<sup>5</sup> While this Heritage Strategy does not deal specifically with natural heritage it is important to note the natural heritage charter as the three charters complement one another.

### 1.3.4 Industry standards

The following Australian charters are accepted as best practice in the identification and management of cultural heritage. While definitions vary between the charters, because they deal with specific aspects of heritage, all follow a common approach to conservation i.e. assess significance and know what it is you need to conserve and why, develop policy and then manage in accordance with the policy.

**This Strategy recommends that Nillumbik Shire Council uses these charters as a foundation for best practice.**

#### Aboriginal heritage

*Ask First, A guide to respecting Indigenous heritage places and values* (Australian Heritage Commission, 2002)

##### Summary

This is a practical guide for land developers, land users and managers, cultural heritage professionals and many others who may have an impact on Indigenous heritage. The title, *Ask First*, is the message of this book; that consultation and negotiation with Indigenous stakeholders is the best means of addressing Indigenous heritage issues.

It complements *The Burra Charter* and the *Australian Natural Heritage Charter*.

#### Historic heritage

*The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*, 1999, Australia ICOMOS (International Council on Monuments and Sites)

##### Summary

*The Burra Charter* provides guidance for the conservation and management of places of cultural significance (cultural heritage places). The Charter can be applied to all sorts of places including natural, Aboriginal and historic but, where there are natural and/or Aboriginal heritage values in a place the relevant specialist charters should be used in conjunction with *The Burra Charter*.

#### Natural Heritage<sup>5</sup>

*The Australian Natural Heritage Charter for the conservation of places of natural heritage significance* (Australian Heritage Commission, 2002)

##### Summary

The Charter is a distillation of best practice conservation principles in Australia and follows the same process as *The Burra Charter*. It aims to enable anyone with an interest in natural places to establish natural heritage values and manage them. It provides a framework for managing and restoring natural heritage places.

## 1.3.5 Heritage protection in the Shire of Nillumbik

All Aboriginal sites in Victoria are protected by the *Aboriginal Heritage Act 2006*. All known places of Aboriginal Cultural Significance are registered by Aboriginal Affairs Victoria.

In addition, the SPPF and Council's MSS commit Council to identifying, conserving and protecting places of Aboriginal heritage in the Shire.

The locations of known places are not publicised as an active measure to ensure their protection. The reason for this is, in the experience of Aboriginal Affairs Victoria, that if they are identified on a map they tend to be destroyed.

### **Obligations under the *Aboriginal Heritage Act 2006* and the *Aboriginal Heritage Regulations 2007***

The legislation provides protection for all Aboriginal places, objects and human remains regardless of their inclusion on the Victorian Aboriginal Heritage Register or whether they are located on public or private land.

The Act provides clear guidance to planners and developers about when and how Aboriginal cultural heritage needs to be considered and in some situations, work cannot proceed until compliance is met.

Large developments and other high impact activities in culturally sensitive landscapes can cause significant harm to Aboriginal cultural heritage. In these situations, the Act may require the preparation of a Cultural Heritage Management Plan (CHMP).<sup>6</sup>

The *Aboriginal Heritage Regulations 2007* give effect to the *Aboriginal Heritage Act 2006* and set out the circumstances in which a CHMP is required.

Under the Act, a responsible authority must check whether a CHMP is required prior to determination of a planning permit application (referred to as a statutory authorisation).

Council has to be aware of what triggers a permit under the Act and also make sure that it complies in its own activities on land it owns.

If a CHMP is required, Council cannot issue a permit until it receives a copy of the approved plan. Permits cannot be issued for activities which are inconsistent with the CHMP.

### **Determining levels of heritage significance**

Using specified criteria (see 1.4), historic heritage places are assessed as being of national, state or local significance and depending on their level of significance, are managed through a mix of legislation, policies, strategies and best practice guidelines on three government levels: federal, state and local.

The level of significance of a place determines which legislative framework governs its protection. This does not apply to Aboriginal heritage all of which is protected under the *Aboriginal Heritage Act 2006* (see previous section).

Sometimes, places are assessed as being of regional significance. This designation has no formal standing and places are managed in the same way as those designated locally significant. However, it does indicate that they have a higher level of importance to the municipality.

How this affects the Shire of Nillumbik is explained below.

#### **National heritage significance**

Places of national heritage significance, Aboriginal and historic, are managed through the National Heritage List and are protected under the *EPBC Act 1999*. The National Heritage List takes a holistic approach to heritage encompassing Aboriginal, historic and natural heritage values.

There are currently no places of cultural significance in the Shire of Nillumbik recorded on the National Heritage List. There are, therefore, no obligations under the *EPBC Act, 1999*.

#### **State heritage significance**

Historic places significant to Victoria are recorded on the Victorian Heritage Register (VHR) or if archaeological sites (non-Aboriginal), on the Victorian Heritage Inventory (VHI) and are protected by the *Heritage Act 1995*.

There are currently seven places in Nillumbik on the Victorian Heritage Register and 30 places on the Victorian Heritage Inventory. These are automatically included on the schedule to the Heritage Overlay in the Nillumbik Planning Scheme.

<sup>6</sup> A CHMP is a report recommending measures to be taken to protect Aboriginal heritage.

### Obligations under the *Heritage Act 1995*

Owners of places on the VHR must apply to Heritage Victoria for a permit before undertaking any work on the heritage place.

### Local heritage significance

One of the objectives of the *Planning and Environment Act 1987* obliges councils to look after local heritage:

“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”.<sup>7</sup>

This objective is given effect through the SPPF: Clause 15.11 and Clause 43.01 i.e. the Heritage Overlay is designed to protect places of local (historic) heritage significance.

The schedule to the Heritage Overlay allows Council to specify limited additional controls such as trees, external paint and internal controls.

The Department of Sustainability and Environment reviewed the Heritage Overlay provisions in 2006, reporting in March 2007. Only minor changes arising from the review have been made at the time of writing.<sup>8</sup>



<sup>7</sup> [http://www.austlii.edu.au/au/legis/vic/consol\\_act/paea1987254/s4.html](http://www.austlii.edu.au/au/legis/vic/consol_act/paea1987254/s4.html) (accessed 13 January 2010)

<sup>8</sup> <http://www.dse.vic.gov.au/DSE/nrenpl.nsf/LinkView/954D4DD9314DF831CA256D480003CED9E82B85B30B18B0A4CA2572FF00270933#Heritage> (accessed 13 January 2010)

## Summary of heritage management in the Shire of Nillumbik

In the Shire of Nillumbik, at the time of writing and with no places on the National Heritage List, cultural heritage is protected as follows:

All Aboriginal heritage, known or otherwise, is protected in Victoria by the *Aboriginal Heritage Act 2006*. Under the Act, Council must check whether a cultural heritage management plan (CHMP) is required prior to determination of a planning permit application. The *Aboriginal Heritage Regulations 2007* give effect to the *Aboriginal Heritage Act 2006* and set out the circumstances in which a CHMP is required to be prepared.

Historic heritage on the Victorian Heritage Register i.e. of State significance is protected under the *Heritage Act 2005*. There are currently six places on the VHR and a permit is required from Heritage Victoria to make any changes to these places.

Places of local significance are protected under the *Planning and Environment Act 1987* through the application of the Heritage Overlay. There are currently 267 places in the Shire of Nillumbik protected by the Heritage Overlay. A permit is required to alter these places. In issuing permits, Council is guided by the MSS, SPPF and Statements of Significance.

Council is also guided by the SPPF and its MSS to protect cultural heritage and, in doing so, should note relevant state government policies: *Melbourne 2030* and industry best practice, in particular: the *Australia ICOMOS Charter for places of cultural significance (The Burra Charter)* and *Ask First: a guide to respecting Indigenous heritage places and values*.

Council must appraise this situation regularly in order to be aware of its legal obligations.

# Caring for heritage: the Victorian regulatory framework as it applies to the Shire of Nillumbik

	ABORIGINAL	HISTORIC
Legislation	<i>Aboriginal Heritage Act 2006</i> <i>Aboriginal Heritage Regulations 2007</i>	<i>Heritage Act 1995</i> <i>Planning and Environment Act 1987</i>
Planning scheme	State Planning Policy Framework Local Planning Policy Framework including the MSS	State Planning Policy Framework Local Planning Policy Framework including the MSS
Policies	Local Planning Policy 22.05 Aboriginal cultural heritage <i>Melbourne 2030 Policy 5.4</i>	<i>Melbourne 2030 Policy 5.4</i>
Best practice industry standards	<i>Ask First: a guide to respecting Indigenous heritage places and values</i>	<i>Australia ICOMOS Charter for places of cultural significance (The Burra Charter)</i>

## 1.4 IDENTIFICATION AND ASSESSMENT

The cultural heritage significance of a place is best understood by following Australia’s best practice conservation philosophy, the *Australia ICOMOS Charter for Places of Cultural Significance*, known as the *The Burra Charter*.

*The Burra Charter* process involves three discrete steps which are completed in order i.e. significance must be thoroughly assessed before policy is developed.



### *A summary of The Burra Charter steps (Article 6)*

1. Understand significance (identify place and associations; gather and record information about the place sufficient to understand significance; assess significance; prepare a statement of significance).
2. Develop policy.
3. Manage in accordance with policy.

(A more detailed flowchart of the process is in Appendix 2)

The following three stages are components of step 1 in *The Burra Charter* process.

### 1.4.1 Identification of heritage

Most local heritage places are identified through a municipal heritage study. Heritage studies begin, generally, with a brief history of the physical development of a particular area.

This 'thematic history' identifies themes such as development of towns, farming and agriculture, education and so on. It identifies broad locations for potential heritage sites and provides a context for the comparative assessment of places of heritage significance.

The next stage, fieldwork, identifies places which illustrate the themes of the history. The history is also reviewed in the light of what is found during fieldwork.

During the initial stages of the heritage study, the community and local historical societies are encouraged to nominate sites and places of potential heritage significance. A nominated place then undergoes a heritage assessment in order to determine whether it is significant and warrants heritage protection at either a state or local level. Council currently has four heritage studies completed between 1992 and 2001.

### 1.4.2 Assessment of heritage significance

Heritage assessments are carried out by qualified and experienced professionals following the principles and process set out in *The Burra Charter* relating to the identification of values (Article 5): aesthetic, historic, scientific, social and spiritual and relating them to a set of criteria.

These criteria have varied in the past but, in August 2008, the Heritage Council Victoria adopted a new set of criteria to be used in assessing places for the Victorian Heritage Register.

For consistency and best practice, these (and any updates made by Heritage Victoria) will be used for all heritage assessments in Nillumbik (see Appendix 3).

### 1.4.3 Citations and Statements of Significance

Assessment reports usually include a history and description of the place, its condition and integrity and a Statement of Significance. The citation is the key piece of information describing the heritage place and its values and the area it covers. The Statement of Significance generally identifies 'what' is important, 'why' it is important, and 'how' it is significant (see Heritage Victoria guidelines for writing Statements of Significance in Appendix 4).

#### *Shire of Nillumbik cultural heritage studies*

The following heritage studies have been completed for areas covered by the Shire of Nillumbik.

##### **Historic heritage studies**

HLCD Pty Ltd, 2009, *Shire of Nillumbik Heritage Gap Study Framework – a framework for the assessment of places of potential significance in the Shire of Nillumbik*

Gould, Megan, 1992, *Shire of Whittlesea Heritage Study*

Bick, David, 1992, *Shire of Eltham Heritage Study*

Butler, Graeme and associates, 1996, *Nillumbik Shire Heritage Study Stage 1, Review, Heritage Survey and Environmental History*

Butler, Graeme and associates, 1997, *Nillumbik Shire Heritage Study Stage 2, Significant Places*

Butler, Graeme and associates, 2001, *Nillumbik Shire Heritage Study Stage 2 Shire of Eltham Heritage Study 1992, Revision*

Butler, Graeme and associates, 2006, *Heritage Assessments Shire of Nillumbik C13*

HLCD Pty Ltd, 2009, *Hurstbridge Township – Heritage Overlay Precinct – citation report*

##### **Aboriginal studies**

Ellender, I., 1989, *The Plenty Valley Corridor: The Archaeological Survey of Aboriginal Sites*

Ellender, I., 1994, *The Aboriginal Heritage of the Shire of Eltham*

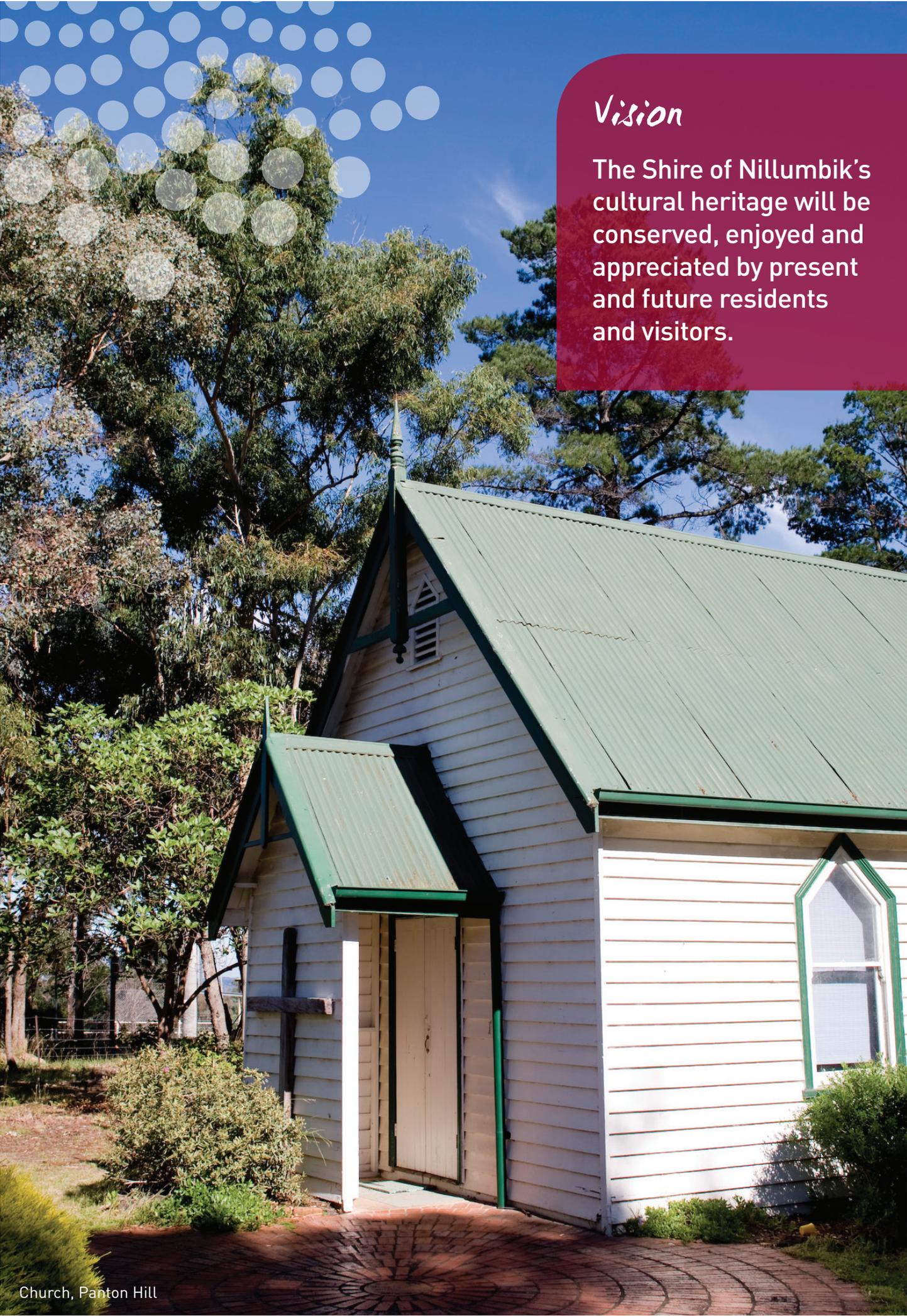
Du Cros and Associates, 1996, *Nillumbik Shire Council Aboriginal Heritage Study*

Tardis Enterprises, 2006, *Nillumbik Shire Heritage Review*



## *Vision*

The Shire of Nillumbik's cultural heritage will be conserved, enjoyed and appreciated by present and future residents and visitors.



Church, Pantom Hill

# Part 2 Heritage Strategy



## VISION, AIMS AND OBJECTIVES

### Aims

- To identify, document and care for heritage places in the Shire of Nillumbik in ways which fulfil legal obligations and adopt best practice.
- To involve communities and to promote awareness, knowledge and enjoyment of heritage places.

### Guiding principles

These principles will guide Council in its current and future commitment to the conservation of heritage in the Shire of Nillumbik. They are based on best practice principles of the *Australia ICOMOS Charter for Places of Cultural Significance (The Burra Charter)* which is the key reference document for all conservation management decisions.

1. Council's work to identify, assess, document and conserve cultural heritage in the Shire of Nillumbik will be guided by the best practice principles of the *Australia ICOMOS Charter for Places of Cultural Significance (The Burra Charter)*.
2. The aim of conservation is to retain the conservation significance of a place (*The Burra Charter* Article 2.2).
3. Conservation requires accurate recording about decisions and changes to the place.
4. Places of cultural significance should be safeguarded and not put at risk or left in a vulnerable state (*The Burra Charter* Article 2.4).
5. Conservation of a place should not distort the physical or other evidence it provides; it requires a cautious approach of changing as much as necessary and as little as possible (*The Burra Charter* Articles 3.1 and 3.2).
6. Conservation of a place should identify and take into consideration all aspects of cultural and natural significance without unwarranted emphasis on any one value at the expense of others (*The Burra Charter* Article 5.1).
7. Conservation, interpretation and management of a place should provide for the participation of people for whom the place has special associations and meanings or who have social, spiritual or other cultural responsibilities for the place (*The Burra Charter* Article 12).
8. If the place is of Aboriginal cultural significance, Council will be guided by Aboriginal Affairs Victoria and *Ask First: a guide to respecting Indigenous heritage places and values*. This recognises that Aboriginal people: are the primary source of information on the value of their heritage and how it is best conserved; must have an active role in the heritage planning process; must have input to primary decision making in relation to Aboriginal heritage and must control intellectual property and other information relating to their heritage.
9. If a place has natural significance, Council will be guided by the *Australian Natural Heritage Charter for the conservation of natural heritage significance* in the conservation and management of that place.

## Objectives and actions

Objectives and actions are divided into six themes as follows. These are consistent with Heritage Victoria guidelines for local government heritage strategies. Actions for achieving the objectives are detailed in Part 3: Action Plan. Some require additional funding while others can be completed as part of Council's operational work budget.

### (A) Knowing

*Identify, assess, document heritage places*

#### Objectives

- To identify, assess and document significant heritage places in accordance with best practice and to actively seek protection of significant heritage places.
- To draw together the four Nillumbik Aboriginal heritage studies to form a more comprehensive approach to the identification, mapping, protection and understanding of Aboriginal cultural heritage (tangible and intangible).
- To identify and protect historic heritage places which fill the gaps identified in the 2009 Gap Study.
- To document all new information and decisions taken about a heritage, or potentially significant heritage, place.

### (D) Communicating

*Raise awareness and build support for heritage*

#### Objectives

- To involve community members in the identification, conservation and management of cultural heritage.
- To improve accessibility to the Shire of Nillumbik's heritage information.
- To promote a greater awareness, understanding and appreciation of the Shire's cultural heritage (recognising that, for cultural reasons, access to some places may be restricted or inappropriate).
- To celebrate achievements.

### (B) Securing

*Secure statutory protection for significant places, develop policy/guidelines to assist decision making*

#### Objectives

- To meet legislative obligations.
- To protect significant places through the local planning scheme.

### (E) Supporting

*Provide support to heritage managers and owners*

#### Objectives

- To give practical support to those responsible for the care and management of Nillumbik's heritage places in recognition of the benefit they bring to the wider community.
- To encourage and facilitate best practice in conservation and management of heritage places in private ownership.
- To reduce the incidence of demolition by neglect.

### (C) Managing

*Demonstrate best practice in managing heritage places*

#### Objectives

- To demonstrate best practice in the conservation and management of cultural heritage in Council's ownership/management.
- To improve the knowledge of Council staff about Council's heritage obligations and heritage work, including this Strategy.

### (F) Implementing

*Delivering the Strategy*

#### Objectives

- Build Council's commitment and capacity to implement the Heritage Strategy.
- Develop and maintain strong working relationships with key heritage agencies.



Montsalvat, Eltham



# Part 3 Action Plan



## 1. NILLUMBIK HERITAGE STRATEGY: YEAR 1 ACTIONS IN SUMMARY

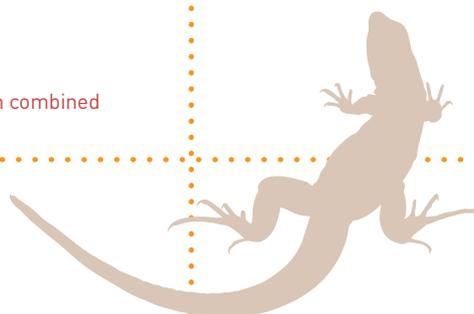
Council's Strategic Planning Unit will review the action plan every year as part of its business planning process.

THEME	ACTION	
<b>A: KNOWING</b>	<b>A2</b>	Seek funding to implement Gap Study recommendations. NB, this action is covered by Action A3.
	<b>A3</b>	Seek funding from Heritage Victoria to review the Thematic Environmental History, rewrite and publish it.
	<b>A5</b>	Continue to check HERMES data (ongoing).
<b>B: SECURING</b>	<b>B2</b>	Review the MSS and other policy objectives in the light of this Heritage Strategy.
	<b>B4</b>	Conduct heritage amendments: C58; C60; C72. Heritage amendment – various sites and corrections to the planning scheme including Eltham sites assessed as locally significant.
<b>C: MANAGING</b>	<b>C3</b>	Set up a heritage group comprising external representatives, Councillors, Strategic Planning and Community and Leisure Services.
<b>D: COMMUNICATING</b>	<b>D1</b>	Involve community members in identifying heritage places as part of the studies arising from the Gap Study (Action A.3) and in identifying heritage projects which are worthwhile as part of this Strategy.
	<b>D2</b>	Develop a heritage webpage. Content to include access to the HERMES data for Heritage Overlay places; this Heritage Strategy and regular updates on work to implement it.
	<b>D5</b>	Regular Council briefings on heritage matters and invite key stakeholders (ongoing).
	<b>D6</b>	Hold a launch event for the Heritage Strategy and invite key stakeholders.
<b>E: SUPPORTING</b>	<b>E1</b>	Seek funding to increase the scope and accessibility of the Shire's heritage advisory service.
<b>F: IMPLEMENTING</b>	<b>F1</b>	Internal launch of the Heritage Strategy.
	<b>F3</b>	Commit budget to the Heritage Strategy. Seek funding for identified projects and to expand the Heritage Adviser's role.
	<b>F4</b>	Attend heritage advisory workshops and training run by Heritage Victoria and other agencies; share knowledge with colleagues/other areas of Council.
	<b>F5</b>	Maintain links with heritage agencies and involve them, as appropriate, in heritage projects sharing best practice, advice and guidance. Maintain up-to-date heritage knowledge through professional development of key Council staff.

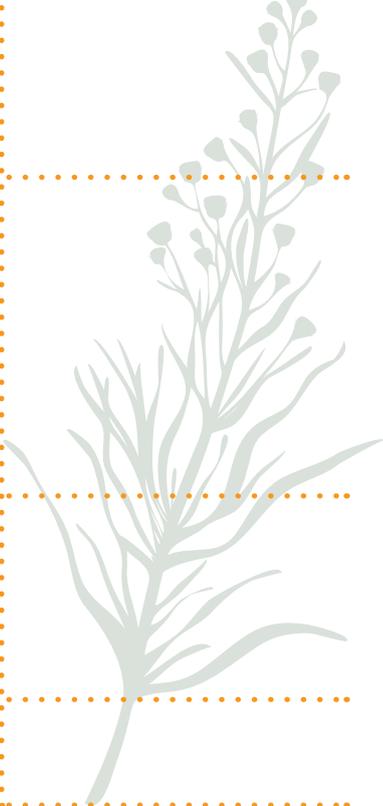
## 2. THREE YEAR ACTION PLAN

### A: *Knowing: Identify, assess, document heritage places*

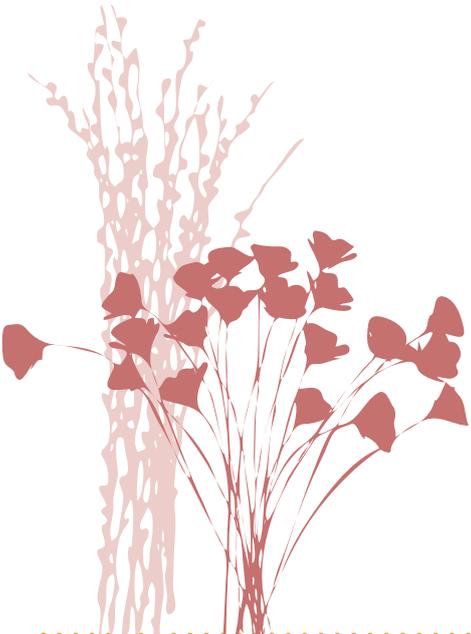
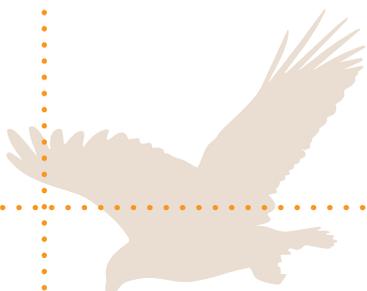
YEAR 1	YEAR 2	YEAR 3
SUBJECT TO BUDGET ALLOCATION/GRANT FUNDING		
<p><b>A2</b> Seek funding to implement Gap Study recommendations.</p> <p>Review the Potential Heritage List. NB, this action is covered by Action <b>A3</b>.</p> <p>Assessment of Clearly Significant Places. Inter-War Heritage Study c1919-1939.</p> <p>Suburban Development Heritage Study 1950-1990.</p> <p>Bushfire Thematic History and Identification of associated places. (Outline project briefs Appendix 5).</p> <p>Strategic Planning</p>	<p><b>A1</b> Implement Aboriginal heritage mapping project (outline project brief Appendix 5). Prepare predictive mapping of Aboriginal heritage.</p> <p>Strategic Planning with Aboriginal Affairs Victoria and Wurundjeri; consultant</p>	<p><b>A4</b> Working with historical societies and using information arising from the updated thematic history, consider thematic publications e.g. houses of Knox; gardens of Nillumbik etc. and write briefs.</p> <p>Strategic Planning with heritage adviser</p>
<p><b>A3</b> Seek funding from Heritage Victoria to review the Thematic Environmental History, rewrite and publish it. This action also covers Action <b>A2</b>.</p> <p>Strategic Planning</p>	<p><b>A6</b> Oral history project.</p> <p>Leisure and Community with combined historical group</p>	
<p><b>A5</b> Continue to check HERMES data (ongoing).</p> <p>Strategic Planning</p>		



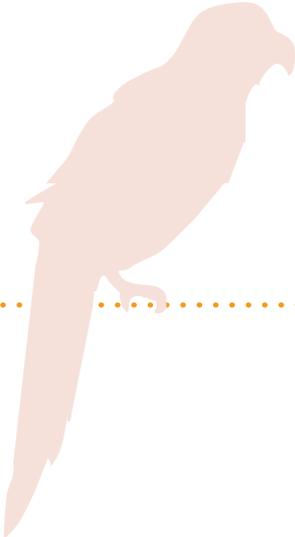
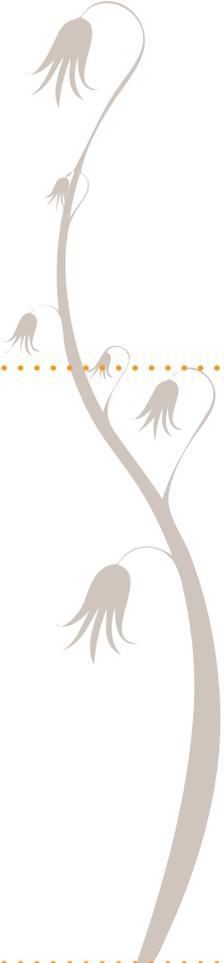
## B: Securing: Heritage places

YEAR 1	YEAR 2	YEAR 3
<b>SUBJECT TO BUDGET ALLOCATION/GRANT FUNDING</b>		
<p><b>B2</b> Review the MSS and other policy objectives in the light of the Nillumbik Heritage Strategy.</p> <p>Strategic Planning</p>	<p><b>B1</b> Meet legislative obligations and protect significant places through the local planning scheme, including a review of policies.</p> <p>Strategic Planning and Heritage Adviser</p>	
<p><b>B4</b> Conduct heritage amendments: C58; C60; C72. Heritage amendment – various sites and corrections to the planning scheme including Eltham sites assessed as locally significance.</p> <p>Strategic Planning</p>	<p><b>B3</b> Review Council’s practices and policies regarding management of Aboriginal cultural heritage.</p> <p>Strategic Planning with Aboriginal Affairs Victoria and Wurundjeri and reconciliation committee</p>	
	<p><b>B5</b> Establish a system which alerts statutory planners and building inspectors and Infrastructure (engineers) that a place has been assessed as significant but the heritage overlay has not yet been applied through an amendment.</p> <p>Strategic Planning</p>	
	<p><b>B6</b> Implement Aboriginal Heritage Mapping Project (see <b>A1</b>).</p> <p>Strategic Planning with Aboriginal Affairs Victoria and Wurundjeri and reconciliation committee</p>	
	<p><b>B7</b> Consider how to address heritage at risk of demolition (Action <b>E3</b>).</p>	

## C: Managing Heritage Places

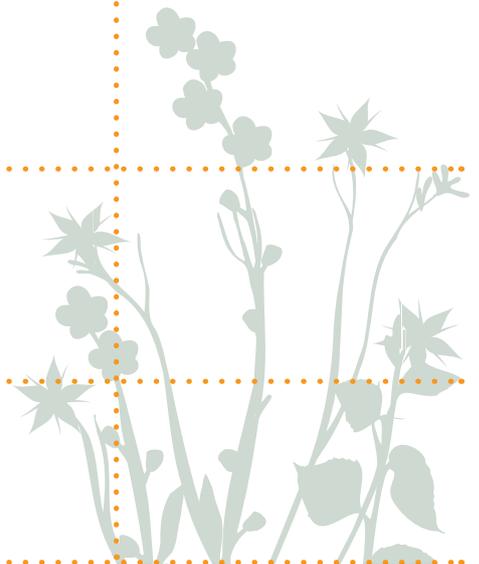
YEAR 1	YEAR 2	YEAR 3
<b>SUBJECT TO BUDGET ALLOCATION/GRANT FUNDING</b>		
<p><b>C3</b> Set up a heritage group comprising external representatives, Councillors and Council's Strategic Planning Unit and Community and Leisure Services department. Assist Council in understanding the value of heritage places and what needs to be done to protect them. Liaise regularly with the combined Nillumbik Heritage Group.</p> <p>Strategic Planning</p> 	<p><b>C1</b> Adopt best practice conservation principles as the basis for all conservation work on significant heritage places owned and managed by Council. In addition to legislative obligations.</p> <p>Council and staff</p> <p><b>C2</b> Identify heritage places and heritage significant trees (i.e. on Heritage Overlay and AAV register) owned and/or on land managed by Council. Prioritise (first plans where there is known Aboriginal heritage) and then prepare conservation management plans (CMP) and policies for each identified place/tree and implement recommendations including communicating these to all relevant Council staff.</p> <p>Prepare a cultural heritage management plan (CHMP) for Council owned and/or managed land with high sensitivity for Aboriginal heritage. Communicate to relevant staff.</p> <p>Infrastructure Services with Heritage Adviser and Strategic Planning to develop ongoing work program for this action</p>	 

## C: Managing Heritage Places (cont.)

YEAR 1	YEAR 2	YEAR 3
SUBJECT TO BUDGET ALLOCATION/GRANT FUNDING		
	<p><b>C4</b> Identify training needs for those responsible for managing and maintaining heritage places and organise training including Council practice and processes to be followed. See also <b>F2</b>.</p> <p>Strategic Planning and heritage Adviser with Organisational Risk and Development; potential partners Heritage Victoria and Aboriginal Affairs Victoria, Wurundjeri and reconciliation committee.</p> <p><b>C5</b> Prepare predictive mapping of Aboriginal heritage through implementation of the Aboriginal Heritage Mapping Project (Action A1).</p> <p><b>C6</b> Create processes for key Council staff e.g. works and parks, which set out what needs to be done if unmapped Aboriginal heritage is discovered (part of Action <b>A1</b>).</p> <p><b>C7</b> Investigate improving/broadening access to free heritage advice and education for owners of heritage places.</p> <p>Statutory Planning, Strategic Planning and Heritage Adviser</p>	

## D: Communicating: Raising awareness and building support

YEAR 1	YEAR 2	YEAR 3
SUBJECT TO BUDGET ALLOCATION/GRANT FUNDING		
<p><b>D1</b> Involve community members in identifying heritage places as part of the studies arising from the Gap Study and in identifying heritage projects which are worthwhile as part of this Strategy (Action <b>A3</b>).</p> <p>Strategic Planning</p>	<p><b>D3</b> Develop a promotional campaign.</p> <p>Strategic Planning with Communications</p>	<p><b>D4</b> Develop and implement an interpretation plan. This will include thematic interpretation trails/historic walks and publications/web content e.g. on Knox houses; interpretation of heritage linked to the Shire's recreation network and exploration of downloadable MP3 files on Council's website.</p> <p>Strategic Planning with Community and Leisure Services, combined historical group, Wurundjeri, reconciliation committee; peer review consultant.</p>
<p><b>D2</b> Develop a heritage webpage. Content to include access to the HERMES data for Heritage Overlay places; this Heritage Strategy and regular updates on work to implement it.</p> <p>Strategic Planning and Communications</p>		
<p><b>D5</b> Regular Council briefings on heritage matters and invite key stakeholders (ongoing).</p> <p>Strategic Planning with Communications and Community and Leisure</p>		
<p><b>D6</b> Hold a launch event for the Heritage Strategy and invite key stakeholders.</p> <p>Strategic Planning, Communications, Leisure and Community and YPRL</p>		



## E: Supporting heritage managers and owners

YEAR 1	YEAR 2	YEAR 3
SUBJECT TO BUDGET ALLOCATION/GRANT FUNDING		
<p><b>E1</b> Seek funding to increase the scope and accessibility of the Shire’s Heritage Advisory Service.</p> <p>Statutory Planning and Strategic Planning</p>	<p><b>E2</b> Investigate the feasibility of financial incentives for owners of heritage places.</p> <p>Strategic Planning and Heritage Adviser</p>	
	<p><b>E3</b> Seek funding to investigate and document heritage at risk of demolition by neglect and as an insurance policy, document those places (as well as seeking ways to rectify the problem).</p> <p>Strategic Planning, Heritage Adviser and Statutory Planning</p>	



“Places of cultural significance enrich people’s lives, often providing a deep and inspirational sense of connection to community and landscape, to the past and to lived experiences.

Arthurs Creek Mechanics Institute

## F: Implement the Heritage Strategy

YEAR 1	YEAR 2	YEAR 3
SUBJECT TO BUDGET ALLOCATION/GRANT FUNDING		
<p><b>F1</b> Internal launch of the Heritage Strategy.</p> <p>Strategic Planning, Heritage Adviser, Combined Historical Group</p>		
<p><b>F3</b> Commit budget to the Heritage Strategy. Seek funding for identified projects and to expand the heritage adviser's role.</p> <p>Council resolution 6 September 2011:</p> <p>'Consider resource allocations for implementation of the Action Plan including management and maintenance of Council owned/managed heritage places, through Council's annual budget process.'</p>	<p><b>F2</b> Establish a training program for staff and Councillors which covers heritage conservation, management and the benefits of heritage to the Shire. It will include the identification of internal and external training opportunities. See <b>C4</b>.</p> <p>Heritage Adviser, Strategic Planning, Leisure and Community with Heritage Victoria, Aboriginal Affairs Victoria, Wurundjeri</p>	
<p><b>F4</b> Attend heritage advisory workshops and training run by Heritage Victoria and other agencies; share knowledge with colleagues/ other areas of Council.</p> <p>ONGOING</p> <p>Strategic Planning, Statutory Planning, Heritage Adviser</p>		
<p><b>F5</b> Maintain links with heritage agencies and involve them, as appropriate, in heritage projects sharing best practice, advice and guidance.</p> <p>Maintain up-to-date heritage knowledge through professional development of key Council staff.</p> <p>ONGOING</p> <p>Strategic Planning</p>		

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Main Road, Eltham

Hurstbridge Train Station



# Part 4 Appendices



## APPENDIX 1: LEGISLATION

### Aboriginal

#### Victoria

##### *Aboriginal Heritage Act 2006*

##### *Aboriginal Heritage Regulations 2007*

#### Summary

The *Aboriginal Heritage Act 2006* (the Act) and *Aboriginal Heritage Regulations 2007* (the Regulations) provides for the protection and management of Victoria's Aboriginal heritage with streamlined processes linked to the Victorian planning system. The legislation provides protection for all Aboriginal places, objects and human remains regardless of their inclusion on the Victorian Aboriginal Heritage Register or whether they are located on public or private land. The Act also provides clear guidance to planners and developers about when and how Aboriginal cultural heritage needs to be considered and in some situations work cannot proceed until compliance is met.

Large developments and other high impact activities in culturally sensitive landscapes can cause significant harm to Aboriginal cultural heritage. In these situations, the Act may require the preparation of a cultural heritage management plan or the planner or developer may need to obtain a cultural heritage permit or enter into a cultural heritage agreement with the relevant Registered Aboriginal Party.

The Victorian Government introduced the *Aboriginal Heritage Act 2006*. This Act replaces Part II A of the *Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act 1984* and the *State Archaeological and Aboriginal Relics Preservation Act 1972*. The Act links the protection of Aboriginal cultural heritage more directly with planning and land development processes.

The *Aboriginal Heritage Act 2006* establishes:

- an Aboriginal Heritage Council of 11 Victorian Traditional Owners
- broader and more flexible Aboriginal community representation through Registered Aboriginal Parties

- improved procedures for Cultural Heritage Permits (different from planning permits) and Agreements
- a process for the development and timing of cultural heritage management plans
- a process for Cultural Heritage Audits, backed by Stop Orders
- dispute resolution through the Victorian Civil and Administrative Tribunal (VCAT).

The *Aboriginal Heritage Act 2006* requires that the discovery of Aboriginal cultural heritage places or objects on any public or private land in Victoria be reported to Aboriginal Affairs Victoria.

The *Aboriginal Heritage Act 2006* also requires Aboriginal places and objects to be recorded on the Victorian Aboriginal Heritage Register (VAHR). The Register holds the details of all known Aboriginal cultural heritage places and objects within Victoria, including their location and a detailed description.

The *Aboriginal Heritage Regulations 2007* give effect to the *Aboriginal Heritage Act 2006*. The Regulations came into operation on 28 May 2007 and should be read in conjunction with the Act. The Regulations set out the circumstances in which a cultural heritage management plan (CHMP) is required to be prepared and the standards for the preparation of a CHMP. The Regulations also prescribe standards and set fees.

Under the Act, a responsible authority must check whether a CHMP is required prior to determination of a planning permit application (referred to as a statutory authorisation).

A rezoning request does not trigger a requirement to prepare a CHMP.

If a CHMP is required, the responsible authority cannot issue a planning permit until it receives a copy of an approved plan [AHA s 52(1)].

A planning permit cannot be granted for an activity that is inconsistent with an approved plan [AHA s 52(3)].



Kangaroo Ground General Store

## Aboriginal

### National

#### ***Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)***

##### **Summary**

The *Environment Protection and Biodiversity Conservation Act 1999* establishes the National Heritage List, which includes natural, indigenous and historic places that are of outstanding heritage value to the nation. Under the EPBC Act, there are penalties for anyone who takes an action that has or will have a significant impact on the Indigenous heritage values of a place that is recognised in the National Heritage List.

The Act also establishes the Commonwealth Heritage List, which includes places on commonwealth lands and waters or under Australian Government control that have Indigenous heritage significance.

The EPBC Act enables the Australian Government to join with the states and territories in providing a national scheme of environment and heritage protection and biodiversity conservation. The EPBC Act focuses Australian Government interests on the protection of matters of national environmental significance, with the states and territories having responsibility for matters of state and local significance. There are currently no places on the National List in Nillumbik.

#### ***Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (currently being reviewed by the federal government)***

##### **Summary**

The *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* enables the Australian Government to respond to requests to protect important Indigenous areas and objects that are under threat, if it appears that state or territory laws have not provided effective protection. It is intended to be used as a last resort, after the relevant processes of the state or territory have been exhausted.

#### ***Protection of Moveable Cultural Heritage Act 1986 Protection of Moveable Cultural Heritage Act Regulations 1987***

##### **Summary**

The *Protection of Movable Cultural Heritage Act 1986* includes legislation that prevents objects of cultural heritage significance, such as those that are sacred to Indigenous people's heritage, from being exported from Australia. This helps to ensure these special objects, important to our indigenous heritage, are not lost to the nation.

## Historic

### Victoria

#### **Heritage Act 1995**

##### **Summary**

The *Heritage Act 1995* is administered by Heritage Victoria and is the Victorian Government's key piece of cultural heritage legislation.

The Act identifies and protects heritage places and objects that are of significance to the State of Victoria including; historic archaeological sites and artefacts; historic buildings, structures and precincts; gardens, trees and cemeteries; cultural landscapes; shipwrecks and relics; and significant objects.

The Act establishes the Victorian Heritage Register, the Heritage Inventory and the Heritage Council of Victoria.

The Act established a legislative framework for heritage protection in Victoria, replacing the *Historic Buildings Act 1981*, the *Historic Shipwrecks Act 1981* and part of the *Archaeological and Aboriginal Relics Preservation Act 1971*.

Nillumbik has seven sites on the Victorian Heritage Register.

#### **Planning and Environment Act 1987**

##### **Summary**

Places of recognised local significance are listed for protection in local planning schemes under the provisions of the *Planning and Environment Act 1987*. These places are usually identified through municipal heritage studies and are added to planning schemes through the application of Heritage Overlays via amendments to the schemes.

All municipalities in Victoria are covered by land use planning controls which are prepared and administered by state and local government authorities. The legislation governing such controls is the *Planning and Environment Act 1987* as amended in 2000.

Nillumbik has 267 places on the Heritage Overlay.

## National

#### **Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)**

##### **Summary**

The *Environment Protection and Biodiversity Conservation Act 1999* establishes the National Heritage List, which includes natural, Indigenous and historic places that are of outstanding heritage value to the nation. Under the EPBC Act, there are penalties for anyone who takes an action that has or will have a significant impact on the Indigenous heritage values of a place that is recognised in the National Heritage List.

The Act also establishes the Commonwealth Heritage List, which includes places on commonwealth lands and waters or under Australian Government control that have Indigenous heritage significance. There are no sites in Nillumbik.

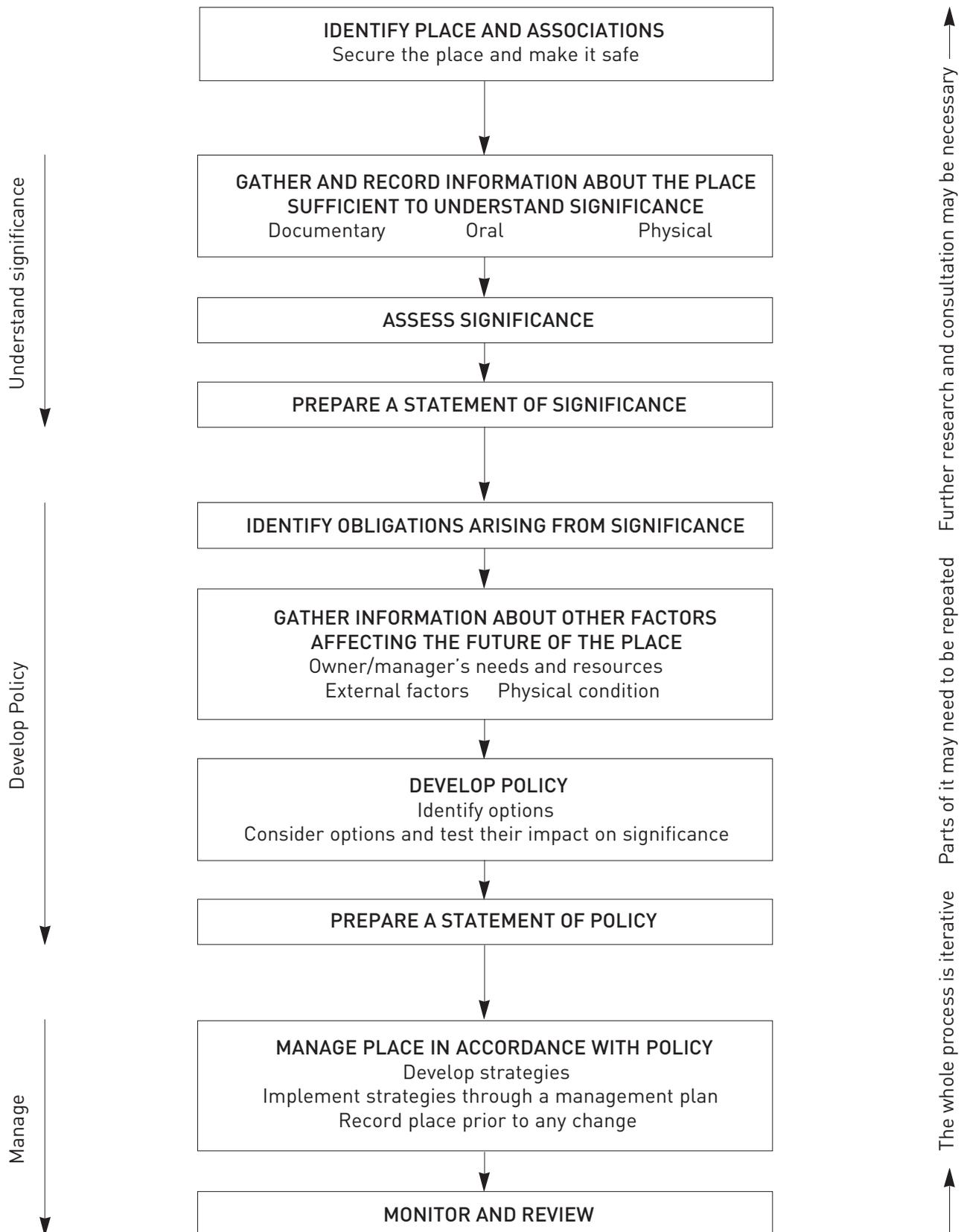
#### **Protection of Moveable Cultural Heritage Act 1986 Protection of Moveable Cultural Heritage Act Regulations 1987**

##### **Summary**

The *Protection of Moveable Cultural Heritage Act 1986* includes legislation that prevents objects of cultural heritage significance, such as those that are sacred to Indigenous people's heritage, from being exported from Australia. This helps to ensure these special objects, important to our Indigenous heritage, are not lost to the nation.



## APPENDIX 2: THE BURRA CHARTER PROCESS



## APPENDIX 3: HERITAGE COUNCIL CRITERIA

Reproduced from “information note” published by the Heritage Council of Victoria, August 2008

### *Heritage Council Criteria for the Assessment of Cultural Heritage Significance*

#### **Introduction**

The following assessment criteria were adopted by the Heritage Council of Victoria at its meeting on 7 August 2008 and replace the previous criteria adopted by the Heritage Council on 6 March 1997.

#### **Criteria**

**Criterion A:** Importance to the course, or pattern, of Victoria’s cultural history.

**Criterion B:** Possession of uncommon, rare or endangered aspects of Victoria’s cultural history.

**Criterion C:** Potential to yield information that will contribute to an understanding of Victoria’s cultural history.

**Criterion D:** Importance in demonstrating the principal characteristics of a class of cultural places or objects.

**Criterion E:** Importance in exhibiting particular aesthetic characteristics.

**Criterion F:** Importance in demonstrating a high degree of creative or technical achievement at a particular period.

**Criterion G:** Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions.

**Criterion H:** Special association with the life or works of a person, or group of persons, of importance in Victoria’s history.



## APPENDIX 4: GUIDELINES FOR WRITING A STATEMENT OF SIGNIFICANCE

From Heritage Victoria model consultants brief for heritage studies, July 2008

### *Statements of Significance template*

#### **What is significant?**

This paragraph should be dedicated to a description of the place including facts about size, layout, construction date, designers and builders, materials, integrity, condition and so on, as relevant. While this section should be brief, usually no more than one paragraph, there should be no doubt about the elements of the place that are under discussion. The paragraph should identify features or elements that are significant about the place (e.g. house, outbuildings, garden, plantings, ruins, archaeological sites, interiors etc.) as a guide to future decision makers.

#### **How is it significant?**

A sentence should be included to the effect that the place is of aesthetic, architectural, historic and/or scientific interest or other nominated special value. This reflects the terminology to be found in Section 4(1) of the *Planning and Environment Act 1987*. Other nominated special values could include social, spiritual and/or any other cultural or natural heritage value.

#### **Why is it significant?**

This should elaborate upon the heritage values (e.g. aesthetic, architectural, historic, scientific, social or spiritual interest or other special value) used in the assessment of significance and address the criteria.

## APPENDIX 5: HERITAGE STRATEGY

### 1. *Current approach and emerging issues*

During 2008-2009, officers began to work on identifying heritage issues and addressing them. This Heritage Strategy continues that process in providing a prioritised direction for the work that needs doing.

The following section highlights the issues and section 2 outlines achievements towards addressing them.

#### **Aboriginal heritage**

Council has four Aboriginal heritage studies completed between 1989 and 2006 (see 1.4.4). While these reports are individually informative and have each led to improved protection of Aboriginal heritage, they need to be drawn together to form a more comprehensive approach to the identification and mapping, protection, understanding, management and promotion of Aboriginal cultural heritage in the Shire.

There is also a need to review Council's practices and policies regarding management of Aboriginal cultural heritage to ensure optimum consistency with recent legislation: *Aboriginal Heritage Act 2006* and the *Aboriginal Heritage Regulations 2007* which give effect to the Act.

By undertaking further investigation and mapping, Council can provide more accurate advice to land owners and more certainty to developers.

#### **Historic heritage**

Issues around historic heritage focus on identification and assessment, documentation, awareness, support of owners and best practice in conservation and management.

#### **Identification and assessment issues**

It appears that some heritage study recommendations have not been followed up meaning that there are places or areas identified as being potentially significant which have not been assessed.

There is no clear strategic guidance to assist Council on its priorities for heritage protection and management. Linked to this are gaps in knowledge as the thematic environmental history completed in 1996 does not cover all eras of Nillumbik's development. This lack of strategic direction and gaps in contextual knowledge make it difficult to make informed decisions and prioritise when it comes to assessing (or not) places identified as of potential significance and has led to a number of recent assessments being commissioned on an ad hoc basis.

#### **Documentation issues**

The Shire's heritage information, including all citations and Statements of Significance, is stored in hard copy formats making it vulnerable to damage or loss. Having one set of paper copies also means it is not easily accessible to people outside Council. There is no use or awareness of Heritage Victoria's HERMES, the Heritage Management Electronic System, which is a centrally held database maintained by Heritage Victoria.

Statements of Significance are not in the current best practice format as recommended by Heritage Victoria (what is significant, why is it significant and how is it significant?) as they reflect the practices of the time in which the heritage studies were completed. This can make it more difficult to interpret the reasons for significance from the citation.

There is no record of why certain places identified by heritage studies as being significant have not been part of planning scheme amendments to place them under Heritage Overlays.

#### **Awareness**

It appears that little systematic work has been done to promote the Shire's heritage and the conservation management framework in which it operates. This is true internally as well as external to Council. Interpretation is often talked about but not acted on. It is an important communication and conservation tool and needs consideration and investment.

#### **Support**

Some people think of heritage overlays as irritating impositions. While it may not be possible to remove this perception, communicating the positive contribution heritage places make to a community and looking at ways to assist heritage property owners are opportunities to be addressed.

### **Best practice**

Council owns and manages a range of heritage places including buildings and significant trees. Its heritage management practices need to be assessed in order to demonstrate best practice as set out in this plan.

### **Funding**

To date, other than a small grant from Heritage Victoria for the heritage advisory service, there has been no ongoing budget commitment to heritage. The lack of a heritage strategy makes it more challenging to prioritise work and to apply for external funding.

## **2. Achievements**

A substantial amount of work was completed in 2008-2009 addressed the issues identified in 2.1 and to improve the strategic identification, recording and protection of the Shire's cultural heritage. This includes digitisation of heritage records and completion of a Heritage Gap Study which provides a sound basis for prioritising heritage identification (non Aboriginal).

### **Digitisation of heritage records**

Four heritage studies have been completed for the area known as the Shire of Nillumbik with the first in 1992. All are paper based, not easily accessible by the community and are vulnerable to loss.

In 2009, a successful Council grant application to Heritage Victoria enabled the capture of all Council heritage records on Heritage Victoria's database, HERMES. This centrally held database is maintained by Heritage Victoria. The benefits are that heritage records are digitised and are part of a state-wide system accessible to a wider range of people.

### **Review Statements of Significance for Heritage Overlay places**

Council has 267 places on the Heritage Overlay which are protected through the Planning Scheme. A number of the assessments of significance were completed almost 20 years ago and while the historical information and basis of significance are sound, these particular Statements of Significance needed to be revised in order to bring them into line with current best practice and to identify if any additional historical research is required. This work was completed in 2009 with some 160 Statements of Significance being reviewed and input to the HERMES database.

### **Heritage Gap Study**

In 2009, Council commissioned a Heritage Gap Study which makes recommendations for further strategic work. Current Heritage Overlay controls were reviewed to identify:

- what had been identified as potentially significant in previous heritage studies, including the local historical themes identified in the Shire's thematic environmental history that these places represent, e.g. early farming, township establishment and the artist/Eltham lifestyle
- the outcomes of heritage study recommendations.

HLCD concluded that while there are exceptions, current Heritage Overlay listings primarily represent two main eras: 1860-1915 illustrating early settlement, farming and township establishment and 1950-1970 illustrating the artist/Eltham style and lifestyle.

There are gaps in the thematic history and protection of sites relating to the following two eras:

- inter-war c1919-1939
- suburban development 1950-1990.

The inter-war years are not addressed comprehensively in the thematic history and there are few sites relating to this period on the Heritage Overlay. Although it may be the case that little occurred in the Shire during this period it does need to be researched. Furthermore, without a thematic history, it is difficult to assess sites which are identified as potentially significant to this period.

The emergence of the artist lifestyle and Eltham style 1950-1990 is well covered. However, the more 'typical' development occurring at the same time, particularly in relation to the establishment of suburbs, has not been addressed in the thematic history. As with the inter-war sites, without a contextual history, it is difficult to assess places identified as potentially significant to this period.

HLCD also notes that, in the light of Black Saturday 2009 and a review of existing heritage studies, the history and impact of bushfires is an important and recurring theme in the history and development of the Shire that has not been explored to date.

This thorough assessment of existing heritage studies and strategic analysis of potential gaps in the coverage of sites by the Heritage Overlay provides a strategic focus for future work using limited resources and for projects which require additional funding.



## Heritage assessments

### Hurstbridge Township

In June 2008, HLCD completed a preliminary heritage assessment of the Hurstbridge Township and concluded that specified areas – along Main Road – are of potential heritage significance to the Shire.

HLCD was then commissioned to complete a detailed heritage assessment of Hurstbridge Township. The report concludes that the Hurstbridge Township is of heritage significance and proposes a heritage overlay be applied to a specified precinct (*Hurstbridge Township Heritage Overlay Precinct citation report*, September 2008, HLCD). Application of the Heritage Overlay will be considered in the Strategic Planning unit's work plan 2011-2012.

### 925-927 Heidelberg-Kinglake Road, Hurstbridge

On 15 March 2008, the Glo-brite hardware in Hurstbridge was sold at auction. Prior to the auction in response to community concerns, Council officers engaged HLCD to assess the property which was determined to be of local heritage significance. Amendment C58 applied the Heritage Overlay (HO52) to this property.

### Places in Eltham

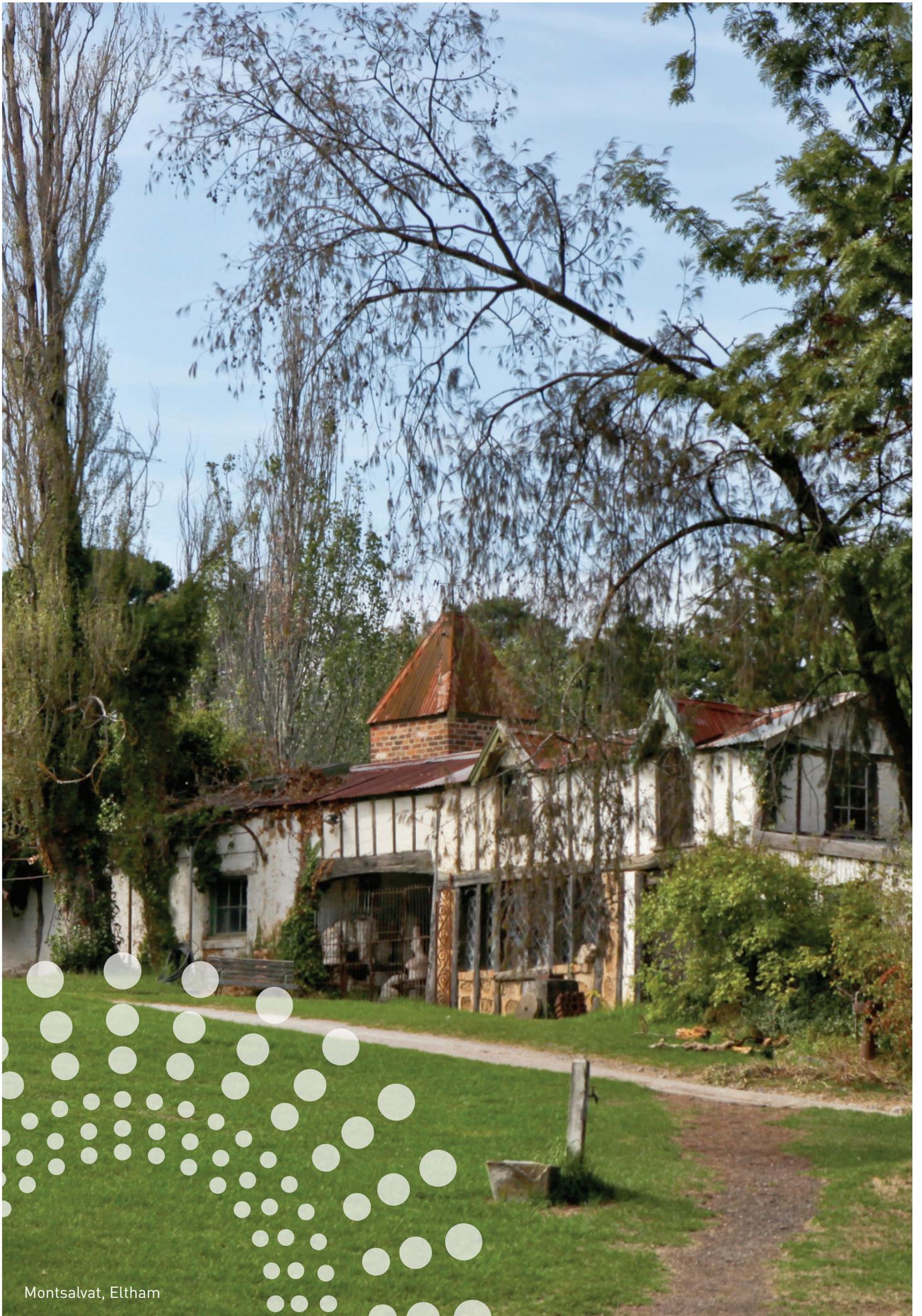
During 2009, a number of potentially significant places were noted at different times by officers and the community in and around Eltham. These were assessed individually as follows. Those assessed as of local significance, will be included in the next heritage amendment.

## Aboriginal heritage

Council officers met with Aboriginal Affairs Victoria (AAV) in 2009 to discuss improvements to identification and mapping, protection, understanding, management and promotion of Indigenous cultural heritage (tangible and intangible) in the Shire.

### Edendale

In 2007, Council completed a Masterplan for the future development of its community and environment centre Edendale and a conservation management plan for the homestead. Council received funding from Heritage Victoria in 2009 for the restoration of the historic homestead. Work was completed in 2010. The next priority is the interpretation of the homestead and Council has applied for a grant from Heritage Victoria in the 2010 funding round.



Montsalvat, Eltham



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