

**Macedon Ranges Planning Scheme Amendment C143macr
Bunjil Creek bridge Heritage Overlay**

Panel Report

Planning and Environment Act 1987

12 April 2022

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.
[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the Planning Scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Macedon Ranges Planning Scheme Amendment C143

12 April 2022



Michael Ballock, Chair

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Glossary and abbreviations

Assessment Report	<i>Local-Level Heritage Assessment: Bunjil Creek bridge & Channel, Gisborne 2020, GJM Heritage</i>
Council	Macedon Ranges Shire Council
DELWP	Department of Environment, Land, Water and Planning
Due Diligence Report	<i>Historical Archaeological Due Diligence Bunjil Creek bridge – Melbourne Road and Kilmore Road, Gisborne, Unearthed Heritage</i>
MRRA	Macedon Ranges Residents' Association
PPN01	Planning Practice Note 1 – Applying the Heritage Overlay (August 2018)
TfV	Transport for Victoria
Trees Report	<i>Heritage Assessment: Trees at intersection of Bunjil Creek, Kilmore Road and Melbourne Road, Gisborne 2020, Plan Heritage</i>

Overview

Amendment summary

The Amendment	Macedon Ranges Planning Scheme Amendment C143macr
Common name	Bunjil Creek bridge Heritage Overlay
Brief description	The Amendment proposes to apply a Heritage Overlay to the Bunjil Creek bridge and bluestone channel and extend an existing Heritage Overlay 'Memorial Precinct (Howey Reserve)', to include two oaks and an elm in the vicinity of the Hamilton Street, Kilmore Road and Melbourne Road intersection, Gisborne.
Subject land	The Bunjil Creek bridge, bluestone channel and Howey Reserve
The Proponent	Macedon Ranges Shire Council
Planning Authority	Macedon Ranges Shire Council
Authorisation	By letter dated 4 June 2021
Exhibition	30 September to 12 November 2021
Submissions	Number of Submissions: 9 Opposed: 1 <ul style="list-style-type: none"> - Adam Deveson - Daniel Basetti - Janice Crebbin - Department of Transport - Department of Environment, Land, Water and Planning - Helen Radnedge - Gisborne & Mount Macedon Districts Historical Society Incorporated - Graeme Harding - Macedon Ranges Residents' Association

Panel process

The Panel	Michael Ballock (Chair)
Directions Hearing	Not required
Panel Hearing	On the papers
Site inspection	Unaccompanied 23 February 2022
Parties	<ul style="list-style-type: none"> - Macedon Ranges Shire Council - Transport for Victoria - Graeme Harding
Citation	Macedon Ranges PSA C143macr [2022] PPV
Date of this report	12 April 2022

Executive summary

Macedon Ranges Planning Scheme Amendment C143macr (the Amendment) seeks to apply a Heritage Overlay to the Bunjil Creek bridge and bluestone channel and extend an existing Heritage Overlay HO289 'Memorial Precinct (Howey Reserve)', to include two oak trees and an elm tree in the vicinity of the Hamilton Street, Kilmore Road and Melbourne Road intersection, Gisborne.

Key issues raised in submissions included:

- support for the application of the Heritage Overlay to both places
- the absence of a study identifying the places as having heritage significance
- the need to improve the intersection safety, capacity and traffic flow.

Although concern for the protection for the bridge, channel and trees appears to have been initiated by the proposed upgrade works to the intersection of the Kilmore Road and Melbourne Road intersection, the Panel found that there is appropriate strategic justification for the Amendment. The Panel found that the Bunjil Creek bridge and channel meet the threshold for the application of the Heritage Overlay. The Panel also found that the extension of HO289 to include the two oaks and one elm tree met the threshold. The Amendment is supported by the provisions of the Planning Scheme dealing with the protection of heritage places, and is supported by the Macedon Ranges Statement of Planning Policy. The Amendment is consistent with Planning Practice Note 1 – Applying the Heritage Overlay, August 2018 (PPN01).

The Panel concludes:

- It is appropriate and justified to apply the Heritage Overlay (HO351) to the Bunjil Creek bridge and channel.
- It is appropriate and justified to extend HO289 to include the trees identified as 47, 48 and 49.

Recommendation

Amendment C143macr to the Macedon Ranges Planning Scheme be adopted as exhibited.

1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of the Amendment is to apply a Heritage Overlay to the Bunjil Creek bridge and bluestone channel and extend an existing Heritage Overlay HO289 'Memorial Precinct (Howey Reserve)' to include two oaks and an elm, in the vicinity of the Hamilton Street, Kilmore Road and Melbourne Road intersection, Gisborne.

Specifically, the Amendment proposes to:

- amend the mapping and schedules to insert the heritage places within the Heritage Overlay
- amend the Schedule to Clause 72.08 (Background Documents) to list the following as Background Documents:
 - Macedon Ranges Bunjil Creek bridge and channel Gisborne Local-level Heritage Assessment, April 2020
 - Macedon Ranges Trees at intersection of Bunjil Creek, Kilmore Road and Melbourne Road Gisborne Heritage Assessment, May 2020.
- amend the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme) to:
 - include the 'Bunjil Creek bridge and channel, Hamilton Street, Gisborne' statement of significance
 - replace the 'Memorial Precinct (Howey Reserve)' statement of significance with the revised version.

(ii) The subject land

The Amendment applies to land shown in Figure 1 and Figure 2 at the intersection of Melbourne Road and Kilmore Road, Gisborne described as:

- Crown Land – Hamilton Street, Gisborne (Transport Zone Schedule 2, Development Contributions Plan Overlay)
- Crown Land – Kilmore Road, Gisborne (Transport Zone Schedule 3, Development Contributions Plan Overlay)
- Crown Land – Melbourne Road, Gisborne (Transport Zone Schedule 2, Development Contributions Plan Overlay)
- Res1/PS328023 – Hamilton Street, Gisborne (General Residential Zone, Design and Development Overlay, Development Contributions Plan Overlay)
- Allot 4, Sec 6(Pt) T/Gisborne Melbourne Road, Gisborne (General Residential Zone, Design and Development Overlay Schedule 17, Development Contributions Plan Overlay)
- 1\ PT113249 - 8 Melbourne Road, Gisborne (General Residential Zone, Commercial 1, Design and Development Overlay Schedule 17 and Development Contributions Plan Overlay Schedule 2).

Figure 1: Melbourne Road and Kilmore Road intersection (Source: Council submission)



Figure 2: Location of the proposed Heritage Overlay (Source Council submission)



1.2 Background

This historic entryway to Gisborne was identified as having local significance to the community during public consultation undertaken in 2019 for proposed works on the 'Kilmore Road Intersection Upgrade' project. The Kilmore Road Intersection Upgrade project proposes to impact the bluestone bridge and channel and remove several mature trees in the road reserve. At the May and June 2020 Ordinary Council Meetings, Macedon Ranges Council resolved to seek authorisation of the Amendment to permanently protect these heritage places and trees and adopted the two relevant heritage assessments that recommend the application of the Heritage Overlay controls in the Macedon Ranges Planning Scheme.

The *Macedon Ranges Bunjil Creek bridge and channel Gisborne Local-level Heritage Assessment* (April 2020) identified that the Bunjil Creek bridge and channel has local historical, representative and aesthetic significance to the Shire of Macedon Ranges.

The *Macedon Ranges Trees at intersection of Bunjil Creek, Kilmore Road and Melbourne Road Gisborne Heritage Assessment* (May 2020) identified that a number of trees had local historic significance to the Shire of Macedon Ranges, including three trees that are part of the Memorial Precinct (Howey Reserve) planting, identified in the previous heritage assessment implemented through Amendment C118macr.

Council sought to apply two interim Heritage Overlays to the Bunjil Creek bridge and bluestone channel (Amendment C142macr) in May 2020 and to mature English elms (*U. procera*) at the Hamilton Street, Melbourne Road and Kilmore Road intersection (Amendment C144macr) in June

2020. The Minister for Planning advised that the interim Heritage Overlays were not considered necessary, given the agreement that had been reached between Macedon Ranges Shire Council and Regional Roads Victoria regarding the preferred layout of the intersection and the request was declined in May 2021.

1.3 Procedural issues

In its request to appoint a Panel, Council expressed its preference for the Hearing to be conducted on the papers (Document 1). The Panel considered this request and sought the views of the parties that had made submissions to the Amendment (Document 3).

Transport for Victoria (TfV) (Document 2), the Macedon Ranges Residents' Association (MRRRA) (Document 4) and Graeme Harding (Document 5) supported the process. The remaining submitters did not express a view.

By letter dated 9 February 2022 the Panel issued Directions (Document 6) that the Hearing would proceed on the papers with the following dates:

- 28 February 2022 – Council to provide its submission and any expert report upon which it intended to rely to all parties
- 7 March 2022 – All other parties to circulate their submission and any expert reports
- 7 March 2022 – the Panel would circulate any questions it had
- 14 March 2022 – Council to provide its reply to any matters raised in submissions.

1.4 Summary of issues raised in submissions

(i) Planning Authority

The key issues for Council were:

- the heritage significance of the bridge, channel and trees.

(ii) Relevant agency

The key issues for TfV were:

- the bridge and channel have not previously been identified as being of heritage significance
- alterations and modifications to the bridge make heritage protection under the Planning Scheme are unwarranted.

This submission remains outstanding.

(iii) Individual submitters or groups of submitters

The key issues by submitters supporting the Amendment were:

- protection of the heritage entrance to Gisborne
- the protection of mature trees
- the loss of heritage assets which contribute to tourism in the area
- the bridge can meet the 1 in 100 year flood requirement.

These submissions support the Amendment as exhibited.

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision-making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits and submissions, evidence and other material presented to it during the Hearing. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Individual heritage places.

2 Planning context

2.1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below.

Victorian planning objectives

The Amendment will implement section 4(1) of the *Planning and Environment Act 1987* (the Act) 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
- balance the present and future interests of all Victorians.

Planning Policy Framework

The Amendment supports:

- **Clause 11.01-1S (Settlement)**
 - The Amendment promotes the sustainable growth and development of Victoria through the consideration of eight regional growth plans and the Metropolitan Planning Strategy.
 - The *Loddon Mallee South Regional Growth Plan (2014)* recognises that ‘heritage assets generate social benefits, such as a sense of identity, direct user benefits through tourism and the benefits stemming from the intrinsic value of preserving these assets for future generations to appreciate and enjoy.’
- **Clause 13.02-1S (Bushfire Planning)**
 - The application of a Heritage Overlay does not adversely impact the ability of these heritage places and trees to be kept or made compliant with bushfire protection requirements, or the ability of government authorities and owners to undertake bushfire prevention and preparedness steps.
 - The Amendment is not expected to increase the risk of bushfire to lives, property or community infrastructure and no local policy for bushfire risk management is required to support the Amendment.
 - The Country Fire Authority was notified as part of the Amendment.
- **Clause 15.01-5S (Neighbourhood character)** which seeks to recognise, support and protect neighbourhood character, cultural identity and sense of place.
- **Clause 15.03-1S (Heritage conservation)** which seeks to ensure the conservation of places of heritage significance. Relevant strategies are:
 - Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the Planning Scheme.
 - Provide for the protection of natural heritage sites and man-made resources and the maintenance of ecological processes and biological diversity.
 - Provide for the conservation and enhancement of those places which are of, aesthetic, archaeological, architectural, cultural, scientific or social significance.
 - Encourage appropriate development that respects places with identified heritage values.

- Retain those elements that contribute to the importance of the heritage place. Encourage the conservation and restoration of contributory elements.
- Ensure an appropriate setting and context for heritage places is maintained or enhanced.
- **Clause 21 (the Municipal Strategic Statement)**
 - **Clause 21.02 (Key Issues and Influences)** recognises that significant heritage assets and buildings exist within the Shire and these contribute to the individual settlements distinctive identities.
 - **Clause 21.08-1 (Built environment and heritage)** as its first objective seeks to protect and enhance important heritage features and values for residents, visitors and future generations.

2.2 Other relevant planning strategies and policies

(i) Macedon Ranges Statement of Planning Policy

The Amendment is consistent with the Macedon Ranges Statement of Planning Policy, in particular, Objective 5 which is ‘to recognise, conserve and enhance the declared area’s significant post-contact cultural heritage values.’

2.3 Planning scheme provisions

The Heritage Overlay purposes are:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.
- To 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.

The Heritage Overlay requires a planning permit to demolish, subdivide, build or carry out works. The Heritage Overlay enables its Schedule to specify additional controls for specific trees, painting previously unpainted surfaces, internal alterations and an incorporated plan (which may exempt buildings and works and other changes from requiring a planning permit). The Schedule may also identify if a place can be considered for uses that are otherwise prohibited, subject to a planning permit.

2.4 Ministerial Directions and Practice Notes

Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of:

- Ministerial Direction 11 (Strategic Assessment of Amendments)
- Ministerial Direction (The Form and Content of Planning Schemes pursuant to section 7(5) of The Act) – referred to as Ministerial Directions 7(5) in this Report.

That discussion is not repeated here.

Planning Practice Note 1 – Applying the Heritage Overlay (August 2018)

Planning Practice Note 1 (PPN01) provides guidance about using the Heritage Overlay. It states that the Heritage Overlay should be applied to, among other places:

Places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.

PPN01 specifies that documentation for each heritage place needs to include a statement of significance that clearly establishes the importance of the place and addresses the heritage criteria. It recognises the following model criteria (the HERCON criteria) that have been adopted for assessing the value of a heritage place:

- Criterion A:** Importance to the course or pattern of our cultural or natural history (historical significance).
- Criterion B:** Possession of uncommon rare or endangered aspects of our cultural or natural history (rarity).
- Criterion C:** Potential to yield information that will contribute to an understanding of our cultural or natural history (research potential).
- Criterion D:** Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).
- Criterion E:** Importance in exhibiting particular aesthetic characteristics (aesthetic significance).
- Criterion F:** Importance in demonstrating a high degree of creative or technical achievement at a particular period (technical significance).
- 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 (social significance).
- Criterion H:** Special association with the life or works of a person, or group of persons, of importance in our history (associative significance).

2.5 Conclusion and recommendation

For the reasons set out in the following chapters, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified, and the Amendment should proceed.

The Panel recommends:

- 1. Amendment C143macr to the Macedon Ranges Planning Scheme be adopted as exhibited.**

3 Individual heritage places

3.1 Bunjil Creek bridge and Channel (HO351)

Exhibited Statement of significance



What is significant?

The Bunjil Creek bridge and channel, Hamilton Street, Gisborne, constructed in 1874.

Elements that contribute to the significance of the place include (but are not limited to):

- the bridge and channel's form, materials and detailing from the 1874 phase of construction
- the bridge and channel's high level of integrity to its original design.

Later alterations and additions, including the concrete bridge deck and modifications made to the substructure, are not significant.

How is it significant?

The Bunjil Creek bridge and channel is of local historical, representative and aesthetic significance to the Shire of Macedon Ranges.

Why is it significant?

Bunjil Creek bridge and channel is illustrative of essential nineteenth century drainage infrastructure in a rural township. Situated on the route to the Victorian goldfields, a crossing was first established at this location in the 1850s, and the present bridge and associated channel provided a safer and more

permanent crossing in 1874. The bridge and channel have served as an essential part of the local drainage network from the 1870s (Criterion A).

Bunjil Creek bridge and channel is a fine and representative example of late nineteenth century infrastructure in a rural township. It displays typical features of a road bridge and channel from this period in Gisborne and across Victoria more broadly, including coursed bluestone side abutments and central pier, and coursed bluestone retaining walls and pitching to the creek bed for a distance upstream (south) of the bridge. Despite alterations made to the bridge superstructure, the Bunjil Creek bridge and channel clearly demonstrate the principal characteristics of late nineteenth century rural drainage infrastructure (Criterion D).

The bluestone substructure of the Bunjil Creek bridge and the extensive bluestone retaining walls and pitched creek bed of the associated channel present a picturesque setting in close proximity to the centre of the Gisborne township (Criterion E).

(i) The issue

The issue is whether it is appropriate and justified to apply the Heritage Overlay (HO351) to the Bunjil Creek bridge and channel.

(ii) Relevant policies, strategies and studies

The Amendment proposes to include the *Local-Level Heritage Assessment: Bunjil Creek bridge & Channel, Gisborne 2020* (Assessment Report) undertaken by GJM Heritage as a background document. The Assessment Report was prepared for Council and provides the following description of the Bunjil Creek bridge and channel:

The Bunjil Creek bridge is a concrete and bluestone road bridge situated on Hamilton Road, Gisborne. It spans approximately 7.8 metres over the Bunjil Creek, is approximately 10.1 metres in length and accommodates one lane of traffic in each direction with footpaths either side.

The bridge substructure is constructed of coursed bluestone side abutments and central pier. The superstructure comprises a reinforced concrete slab deck and supporting concrete headstock. The footpaths on either side are supported on short precast concrete columns which extend above the bluestone abutments and central pier.

A channel associated with the bridge structure has bluestone retaining walls which line both sides of the creek upstream (south) of the bridge and bluestone pitching along the creek bed, extending from underneath the bridge for a distance to the south.

The Assessment Report states that the bridge and channel are *“highly intact and retain much of the original fabric, form and detail.”* The report acknowledges:

The superstructure of the bridge has been extensively modified and replaced with a reinforced concrete deck in 1938. Parts of the bluestone substructure have been modified to enable the insertion of later supporting structure. Later stormwater drains, inserted in the bluestone substructure, enter the creek channel in the vicinity of the bridge.

While the bridge and channel have undergone modification, particularly the superstructure, the ability to understand and appreciate the place as an example of a nineteenth century bridge and channel remains clear. The place is of high integrity.

The Assessment Report made the following assessment against the HERCON criteria:

Criterion A: Importance to the course or pattern of our cultural or natural history:

- Bunjil Creek bridge and channel is illustrative of essential nineteenth century drainage infrastructure in a rural township. Situated on the route to the Victorian goldfields, a crossing was first established at this location in the 1850s, and the present bridge and associated channel provided a safer and more permanent

crossing in 1874. The bridge and channel have served as an essential part of the local drainage network from the 1870s.

Criterion D: Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness):

- Bunjil Creek bridge and channel is a fine and representative example of late nineteenth century infrastructure in a rural township. It displays typical features of a road bridge and channel from this period in Gisborne and across Victoria more broadly, including coursed bluestone side abutments and central pier, and coursed bluestone retaining walls and pitching to the creek bed for a distance upstream (south) of the bridge. Despite alterations made to the bridge superstructure, the Bunjil Creek bridge and channel clearly demonstrate the principal characteristics of late nineteenth century rural drainage infrastructure.

Criterion E: Importance in exhibiting particular aesthetic characteristics (aesthetic significance):

- The bluestone substructure of the Bunjil Creek bridge and the extensive bluestone retaining walls and pitched creek bed of the associated channel presents a picturesque setting in close proximity to the centre of the Gisborne township.

The Assessment Report recommended inclusion of the place in the Heritage Overlay.

The Historical Archaeological Due Diligence Bunjil Creek bridge – Melbourne Road and Kilmore Road, Gisborne (Due Diligence Report) prepared by Unearthed Heritage for TfV explained that:

... the proposed development involves the demolition of the existing bridge at the intersection of Melbourne Road and Hamilton Street (hereafter referred to as the Bunjil Creek bridge). This due diligence report has been undertaken to examine the potential impact to the heritage values of the study area.

The Due Diligence Report states that the bridge and channel have not been identified in any heritage study including two regional heritage studies incorporating Gisborne. It concluded:

As the proposed intersection upgrade necessitates the demolition of the existing Bunjil Creek bridge, there will be a high impact to the heritage values, with the current design for effectively requiring the removal of the bridge. The masonry creek retaining walls will be largely retained as part of the proposed intersection upgrade, and as such there is minimal predicted heritage impact to these structures. Alternative design options that would allow the Bunjil Creek bridge to be retained and adapted into the proposed intersection upgrade have been considered by Regional Roads Victoria. However, it has been determined that the retention of the bridge will restrict the required improvements to safety, capacity and traffic flow and is thus not a feasible option.

The Due Diligence Report recommended:

The 1874 components of the Bunjil Creek bridge and adjacent creek channelling are assessed to have local heritage significance for historical, aesthetic and social reasons and it is thus recommended that measures to mitigate the loss of heritage value that would occur with the demolition of the bridge be undertaken. Such mitigation measures could include:

- Detailed photographic recording of the existing Bunjil Creek bridge and adjacent retaining walls and creek bed lining prior to works commencing; with copies provided to the Macedon Ranges Shire Council and the Gisborne and Mount Macedon Districts Historical Society Inc. for inclusion in their local historical reference collections;
- Careful deconstruction of the bluestone masonry bridge abutments and pier in order to allow the bluestone fabric to be retained and reused. Some of the bluestone blocks could be incorporated into the design of the replacement bridge – for instance, in bridge kerbing and end posts, or as superficial/non-structural cladding to the new bridge abutments;

- Installation of a commemorative plaque on the replacement bridge, and / or interpretative signage nearby, detailing and celebrating the history and construction of the 1874 bridge;
- Naming of the replacement bridge with reference to historical associations of the 1874 bridge – for instance, commemorating the local contractors Messrs. Robert Bodkin and Robert Sutherland who constructed the 1874 bridge.

Due care should be taken during all demolition and construction works to ensure that the 1874 masonry retaining walls lining the creek outside the bridge footprint, are not damaged during the proposed intersection upgrade, and where these must be removed during construction, they should be reinstated following completion of bridge and road upgrades. If possible, bluestone should be re-laid as the lining of the creek underneath the bridge. No-go zones clearly demarcating a limit of works to protect the retaining walls should be established prior to the commencement of works.

(iii) Submissions

TfV reiterated its submission to the Amendment which was that its own due diligence, which included an independent heritage assessment, did not identify any items of heritage significance. In addition, recent reviews of the Heritage Overlay had not identified the bridge and trees as appropriate for any specific projection. In support of its submission TfV provided the Panel with a copy of the Due Diligence Report (Document 8).

Council submitted that the proposed upgrade of the Kilmore Road intersection was *“the prompt for Amendment C143macr.”* It outlined its discussions with TfV and the Department of Environment, Land, Water and Planning (DELWP) including an ‘in principle’ agreement with TfV with respect to the Bunjil Creek bridge and channel. Council advised that it proposed interim controls for the bridge, channel and trees in Howey Reserve. Amendments C142macr and C144macr, which sought those interim controls had been refused.

Council informed the Panel that Amendment C152macr was also a request for interim controls for the Bunjil Creek bridge and channel. It included in its closing submission (Document 13) a copy of a letter dated 4 March 2022 from the DELWP that advised the request for interim controls in Amendment C152macr had been refused.

Council submitted that the Due Diligence Report prepared for TfV did not support the submission that the site contained no items of heritage significance. It added that the Due Diligence Report stated:

The collection of components originally constructed in 1874 possess local cultural heritage significance for historic, aesthetic and social reasons.

Council stated that the absence of the Heritage Overlay did not diminish the heritage value of a recently identified place *“assessed to be of value and at immediate risk.”* It informed the Panel that the legacy heritage study, the *Macedon Ranges Cultural Heritage and Landscape Assessment, 1994* had not been fully implemented, however, the *Macedon Ranges Heritage Strategy 2014-2018*, adopted by Council in 2014, recommended reviewing previous studies to identify outstanding actions and gaps. The resulting *Gisborne and Kyneton Heritage Study, 2017* which was implemented by Amendment C118macr, identified 33 places of heritage significance and did not include the bridge, channel or trees which are the subject of the Amendment.

Council submitted that heritage gap reviews are an ongoing program as recommended in the Heritage Strategy. It added, the application of the Heritage Overlay is consistent with the Macedon Ranges Statement of Planning Policy and in particular:

Objective 5 - To recognise, conserve and enhance the declared area's significant post-contact cultural heritage values; and

Standard 2 - Acknowledge, promote and interpret significant post-contact cultural heritage values in the planning, design, development and management of land uses, including infrastructure.

Council added that responsible public entities must have regard to the Statement of Planning Policy when making decisions in the declared area.

Submissions from the MRRRA, Adam Deveson, Daniel Basetti, Janice Crebbin and Helen Radnedge supported the application of the Heritage Overlay. The Gisborne and Mount Macedon Districts Historical Society submitted that the bridge has heritage significance for Gisborne. It questioned TfV's concern that the current structure could not accommodate a major flood event and added that it was possible, while retaining the fabric of the bridge to provide for the 1 in 100 year flood.

Graeme Harding submitted that the Amendment was consistent with the State Government's policy for the Macedon Ranges Council and that the heritage values of the main entrance to Gisborne should be protected.

(iv) Discussion

The guiding principles for applying the Heritage Overlay are outlined in PPN01. To meet the threshold of local significance, a place needs to meet one of the eight HERCON criteria. In the report undertaken for Council, the Bunjil Creek bridge and channel are assessed as meeting Criteria A, D and E. The Due Diligence Report, to some extent, supports this assessment by stating that the bridge and channel have "*local heritage significance for historical, aesthetic and social reasons*". The Panel accepts this assessment.

The Panel accepts the submission of Council that a place should not be regarded as having insufficient heritage value simply because it has not previously been identified as suitable for application of the Heritage Overlay. In the Panel's view, the identification of heritage places involves considerable work and research and not all places can be considered at the same time. Consequently, it is not unexpected that places suitable for heritage protection are yet to be included in the Heritage Overlay.

The Panel notes that in the assessment of the impact to cultural heritage, the Due Diligence Report concludes that the retention of the bridge is inconsistent with improvements to intersection safety, capacity and traffic flow and in particular accommodating large vehicles, pedestrians and drainage. The Panel accepts that this may be the case.

However, in the Panel's experience submissions opposing the application of the Heritage Overlay frequently refer to the impact on the development potential of a property or the condition of a structure. Panels have consistently acknowledged that this is not a matter that is appropriate in the consideration of the application of the Heritage Overlay. Rather, it is a matter that is best dealt with at the planning permit application stage. When considering whether the Overlay should be applied, what is significant is the assessment of the place against the HERCON criteria.

The matter before the Panel is whether it is appropriate to apply the Heritage Overlay to the place. In this respect the Panel is satisfied that the Bunjil Creek bridge and channel satisfy Criteria A, D and E as detailed in the Assessment Report and meet the threshold for the application of the Heritage Overlay.

(v) Conclusion

The Panel concludes:

- it is appropriate and justified to apply the Heritage Overlay (HO351) to the Bunjil Creek bridge and channel.

3.2 Memorial Precinct (Howey Reserve) (HO289)

Exhibited Statement of significance



What is significant?

The Memorial Precinct is significant to the extent of Howey Reserve on Hamilton Street and Melbourne Road, which is bounded by Aitken Street in the west and Bunjil Creek in the east, Gisborne.

The features that are significant are:

- two avenues of oaks and an elm tree planted along Hamilton Street and Melbourne Road, that extend east to Bunjil Creek
- three individual memorials
- the memorial wall, gates and ticket booth; and
- the bluestone paving and plaques.

The furniture, modern kerbs and gutters or the roads adjacent are not considered significant.

How is it significant?

The Memorial Precinct is significant locally aesthetically, architecturally and historically to the Shire of Macedon Ranges.

Why is it significant?

The Memorial Precinct is significant aesthetically as a gateway feature upon entering Gisborne. Its formal rows of trees, visually open character and spaced memorial sculptures are distinctly different from their environs. The precinct creates a 'green' feature which establishes a creative, not commercial, character at the entry to Gisborne. (Criterion E)

The Memorial Precinct is significant architecturally for its variety of memorial styles from the rough stonework of the Howey Memorial to the polished Art Deco features of the McGregor Memorial Drinking Fountain, all in keeping with the trend of the time of their installation. (Criterion E)

The Memorial Precinct is significant historically for its commemoration function, celebrating and honouring the achievements of its individual and collective citizens in a very public manner. This is an indication of the developing maturity of Gisborne to recognise achievement and celebrate the past. (Criterion A, G, H)

(i) The issue

The issue is whether it is appropriate and justified to extend HO289 to include the trees identified by numbers 47, 48 and 49.

(ii) Relevant policies, strategies and studies

The *Heritage Assessment: Trees at intersection of Bunjil Creek, Kilmore Road and Melbourne Road, Gisborne 2020* (the Trees Report) was undertaken by Plan Heritage to assess the heritage values of street trees located around the intersection of Melbourne Road, Kilmore Road and Hamilton Street in Gisborne. The Trees Report was prepared for Council and was exhibited with the Amendment as a background document. The trees included in the Amendment are identified as trees 47, 48 and 49 in the *Preliminary Tree Assessment* by Ryder Arboriculture and Environment prepared for Regional Roads Victoria, August 2019. The Trees Report uses the same numbering system.

The Trees Report includes the following description of Howey Reserve:

The group of trees clustered around the intersection of Kilmore Road, Melbourne Road and Hamilton Road, at the crossing of Bunjil Creek are mature specimens of *Ulmus procera* English Elm and *Quercus robur* English Oak dating from two distinct periods c.1860 and c.1880. Each tree is referred to in this description using the Tree Identification number provided in the report 'Preliminary Tree Assessment' prepared for Regional Roads Victoria by Ryder Arboriculture and Environment Preliminary Tree Assessment, August 2019. The tree numbers are also shown in the aerial image below which demonstrates the location and approximate canopy spread of each tree.

Figure 3: Location of trees in Howey Reserve



Source: Council Part A submission (Document 7)

The Trees Report provides the following description of the trees proposed to be included in HO289:

Trees 48 and 49 (both English Oaks) are clearly part of the avenue planting of English Oaks which are included in HO289 (Memorial Precinct [Howey Reserve]). The size, age and alignment of the trees clearly places them as contemporary with the northern row of the Avenue between Aitken Street and Bunjil Creek.

Tree 47 (an English Elm) is something of an anomaly, as it is planted in line with the southern row of oaks. The citation for HO289 notes that the Memorial Precinct is

- 'most readily identified by its two avenues [sic] of oaks;' and
- that the '... double avenue [sic] of trees in the Reserve reflect the notable endeavour of the Shire to enhance the character and entry to Gisborne with introduced vegetation.'

The statement of significance for the place notes (in the Why is it significant?) that '...its formal rows of trees, visually open character ... are distinctly different from their environs. The Precinct creates a 'green' feature which establishes a creative, not commercial character at the entry to Gisborne.'

As the three trees (47, 48, 49) are part of the avenue planting (although one is not an oak), and can be considered to further contribute and enhance the identified significance of the place (aesthetic and historic values), it is recommended that the curtilage of HO289 is extended to include the full extent of the canopy of the three trees.

Figure 4: Location of the proposed extension of HO289 (blue shading)



Source: *Heritage Assessment: Trees at intersection of Bunjil Creek, Kilmore Road and Melbourne Road, Gisborne 2020*

(iii) Submissions

Council submitted that the three trees proposed for inclusion in HO289 were “*deemed at less risk from the intersection works.*” It added that TfV had not raised any argument to refute the significance of the trees. However, Council has commissioned the Trees Report which identified the trees as significant.

The MRRRA supported the inclusion of trees 47, 48 and 49 in HO289 and questioned the omission of trees 29 and 38. Janice Crebbin submitted that she did not support the removal of the trees.

TfV submitted that the trees had not been identified for any specific protection in the Macedon Ranges Planning Scheme.

(iv) Discussion

In the Panel’s view trees 47, 48 and 49 form a logical extension of the avenue planting and the Memorial Precinct as outlined in the Trees Report. Inclusion of the trees in the Heritage Overlay is consistent with the assessment in the statement of significance for HO289 and the Panel accepts the submission of Council that the trees meet the threshold for inclusion in the Heritage Overlay.

(v) Conclusion

The Panel concludes:

- it is appropriate and justified to extend HO289 to include the trees identified as 47, 48 and 49.

Appendix A Document list

No.	Date	Description	Provided by
1	22/12/2021	Letter from Council referring submissions to a Panel and requesting a Hearing on the papers	Council
2	31/01/2022	Email supporting Hearing on the papers	DoT
3	02/02/2022	Email to all submitters seeking comment on a Hearing on the papers	PPV
4	04/02/2022	Email response supporting a Hearing on the papers	MARRA
5	07/02/2022	Email response supporting a Hearing on the papers	Graeme Harding
6	9/02/2022	On the Papers Directions letter	PPV
7	01/03/2022	Submission on behalf of the Macedon Ranges Shire Council	Council
8	07/03/2022	Submission on behalf of the Head, Transport for Victoria Attachments: - Historical archaeological Due Diligence Report for the Bunjil Creek bridge - Melbourne Road and Kilmore Road, Gisborne - Zoning Map - Letter dated 19 October 2021 re TfV objection to the Amendment	TfV
9	07/03/2022	Submission by Graeme Harding	Graeme Harding
10	08/03/2022	Panel questions for Council and TfV	PPV
11	08/03/2022	Email to TfV with the Panel's question	PPV
12	08/03/2022	Response from TfV to the Panel's question	TfV
13	15/03/2022	Response from Council to the Panel's question Attachments: - Macedon Ranges Heritage Strategy 2014-2018 - Letter from DELWP to Council re Amendment C153macr (interim controls) - Photograph Bunjil Creek Works 8 March 2022 - Photograph Bunjil Creek Works 9 March 2022	Council