

PART A SUBMISSION
Banyule City Council as Planning Authority

Amendment C119bany to the Banyule Planning Scheme

Date of Submission: 28 February 2022
Panel Hearing: 17 March 2022

CONTENTS

INTRODUCTION	3
Amendment C119bany.....	3
BACKGROUND TO AMENDMENT	6
History of Banyule’s Significant Tree Register and ESO4	6
Nomination & Assessment of Trees	6
Council Resolution.....	8
Amendment C117bany – Interim ESO4	8
Authorisation and Exhibition	8
SUBMISSIONS	10
Consideration of Submissions.....	10
STRATEGIC CONTEXT AND ASSESSMENT.....	11
Planning Policy Framework (PPF)	12
Local Planning Policy Framework (LPPF)	13
Ministerial Directions.....	14
Planning Practice Note 7: Vegetation Protection in Urban Areas (August 1999)	14
Schedule 4 to the Environmental Significance Overlay	15
Other Relevant Strategies and Plans	15
Other Amendments.....	17
KEY ISSUES RAISED IN SUBMISSIONS	17
CHANGES TO THE AMENDMENT.....	20
Changes Identified During Exhibition	20
Changes Proposed Post Council Meeting	21
Any Other Strategic Material	21

LIST OF ATTACHMENTS

1. Explanatory Report
2. Chronology of Events
3. Example - Significant Tree Inspection Assessment Sheet
4. Authorisation Letter
5. Example Letters (2) - Mapping Error Notification
6. Summary of Submissions & Response (attachment to Council Report)

INTRODUCTION

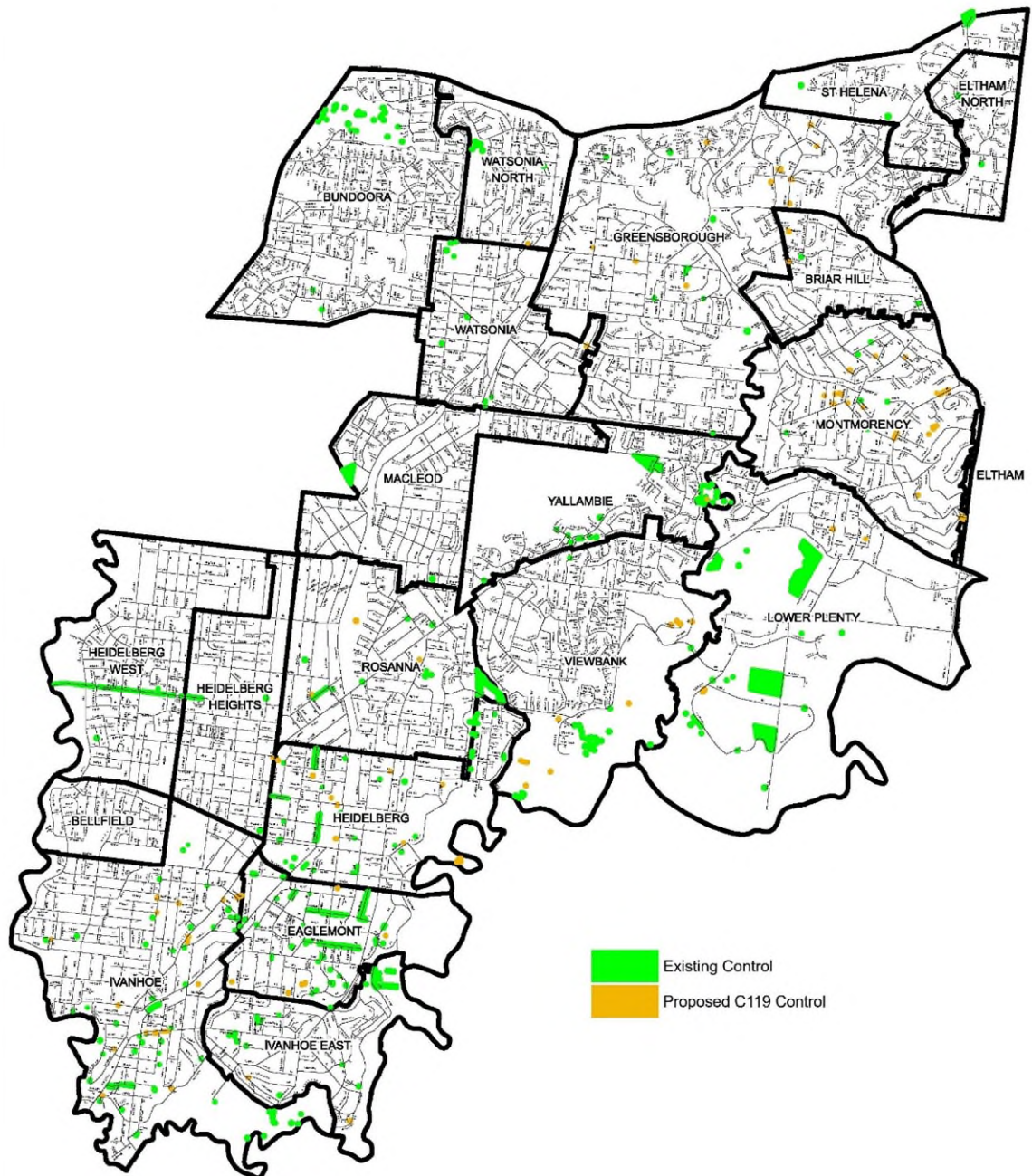
1. Banyule City Council (**Council**) is the Planning Authority for Amendment C119bany (**Amendment**) to the Banyule Planning Scheme (**Scheme**). Council has prepared and is the proponent of the Amendment.
2. This 'Part A' submission is made in accordance with the Panel's Directions dated 2 February 2022 (**Directions**).
3. This submission addresses the following matters in accordance with direction 6 of the Directions:
 - 3.1. a summary of the strategic context, including:
 - 3.1.1. relevant planning policies and controls
 - 3.1.2. other amendments that may be under preparation or recently approved that may impact on the Amendment
 - 3.2. a summary of the conditions of authorisation, and how those conditions have been met
 - 3.3. a summary of the main issues raised in submissions
 - 3.4. any changes Council proposes to make to the Amendment in response to submissions
 - 3.5. any other strategic material that Council intends to rely upon in support of the Amendment that has not yet been provided, or that might assist the Panel in its consideration of the Amendment
4. Council's 'Part B' submission, to be circulated on Thursday 10 March 2022, will address the following:
 - 4.1. Council's response to the issues raised in submissions
 - 4.2. a summary of case studies of the application of ESO4 to date
 - 4.3. any further changes Council proposes to make to the Amendment in response to expert evidence or submissions
 - 4.4. Council's final position on the Amendment, including its latest preferred version of ESO4 (with modifications to the exhibited ESO4 shown in track changes)

Amendment C119bany

5. The Amendment applies to 97 trees/groups of trees. A full list of affected properties is provided in the mapping reference table of the explanatory report at **Attachment 1**.
6. The Amendment proposes to apply Schedule 4 to the Environmental Significance Overlay (**ESO4**) on a permanent basis to trees or tree groups that have been assessed as significant, removes the ESO4 from two properties and updates ESO4 to meet current form and content requirements.

7. Interim ESO4 controls, until 31 May 2022, were applied via Amendment C117bany.
8. Specifically, the Amendment will:
 - 8.1. Amend the ESO4 to:
 - apply permanent controls to 84 trees or tree groups affected by the interim provisions in the Schedule applied via Amendment C117bany;
 - apply permanent controls to an additional 11 trees or tree groups not currently affected by the interim controls;
 - remove two trees that have been legally removed;
 - make formatting and minor text changes to ensure consistency with the Ministerial Direction on Form and Content of Planning Schemes;
 - update background documents.
 - 8.2. Amend Schedule to Clause 72.08 Background Documents.
 - 8.3. Amend ESO4 Planning Scheme Maps to reflect the changes.
9. Of the 95 trees proposed to be added to the ESO4, 69 are on private land and 26 on public land.
10. A map of the existing and proposed ESO4 controls at the time of exhibition is provided below.

ESO4 - Significant Trees & Areas of Vegetation



11. Council pursues the Amendment as exhibited, save for the post exhibition changes approved by Council at its ordinary meeting on 6 December 2021 and one further minor address change in response to a recent property subdivision. Further information on changes is provided at paragraphs #77-83.

BACKGROUND TO AMENDMENT

12. A chronology of events forms **Attachment 2** to Council's submission.

History of Banyule's Significant Tree Register and ESO4

13. The identification of significant individual trees and groups of trees in Banyule was first presented in 1982 by the Warringal Conservation Society in their publication *Register of Significant Trees in Heidelberg*.
14. In the 1998 Banyule City Council engaged the University of Melbourne's Burnley College to prepare a Significant Tree and Vegetation Study. This study culminated in a list of selected 'trees' (a term hereby inclusive of 'groups of trees' and 'areas of vegetation') that formed the basis of ESO4 in the Banyule Planning Scheme. The schedule specifically identifies, and affords statutory protection, to individual trees and vegetation.
15. Amendment L21 to the previous old format Banyule Planning Scheme gave interim protection until 30 July 1999 for approximately 100 listed trees and vegetation that were identified as significant in the early stages of the study. The significant tree protection provisions introduced by Amendment L21 were subsequently translated into ESO4 in the new format Banyule Planning Scheme approved on 15 July 1999.
16. To implement the *Significant Tree and Vegetation Study (2000)* Planning Scheme Amendment C5, gazetted in 2001, applied the ESO4 to approximately 530 sites on a permanent basis and removed the ESO4 from approximately 12 sites. The amendment also varied the ESO4 by including details of affected properties and modified the permit requirement.
17. Council undertook a major review of its Significant Tree and Vegetation Register in 2009. The review identified the need for corrections to the maps and ESO4 for existing trees, various redundant controls and for new trees and vegetation worthy of protection for inclusion in the overlay. Planning Scheme Amendment C67 in 2010 implemented the findings of the review on an interim basis and Amendment C70 in 2011 on a permanent basis.
18. From 2013 to 2020 Council has received nominations to its Significant Tree and Vegetation Register. Amendment C119 proposes to include those trees identified and assessed as significant on the ESO4 in the Planning Scheme.

Nomination & Assessment of Trees

19. Council receives nominations from the community for significant trees on public or private land. Nominations are also made by Council staff who regularly engage in work that brings them into contact with trees in the community such as environment officers, arborists and parks staff. Information on significant trees and how to nominate a tree are included on Council's [website](#).

20. Nominations are generally assessed twice a year by a qualified arborist to determine if they meet the significance criteria.

21. To be considered significant, a tree must meet one or more of the following criteria:

REASON FOR SIGNIFICANCE	CRITERIA
<i>Landscape</i>	A tree or group of trees with outstanding aesthetic value or which frame or screen views, or act as a landmark.
<i>Size</i>	Any tree of outstanding size in height, girth or canopy spread.
<i>Age</i>	Any tree of an age that makes it old or venerable for its species variant.
<i>Botanical</i>	A tree which is rarely found in the wild or in cultivation.
<i>Horticultural</i>	Any tree which is of outstanding horticultural or genetic value, and which could be an important stock for future propagation.
<i>Historic</i>	Any tree with a specific historic or commemorative association.
<i>Form</i>	Any tree with an outstanding, unusual, abnormal or curious growth form.
<i>Remnant</i>	Trees which survive from the pre-European era.
<i>Habitat</i>	A tree or group of trees with outstanding value as habitat or niche for native flora and fauna.
<i>Aboriginal</i>	A tree which has associations with aboriginal culture or heritage.

22. The significance criteria was established in the *City of Banyule Significant Tree and Vegetation Study*, Centre for Urban Horticulture, University of Melbourne, March 2000¹. The criteria were developed specifically for Banyule and are based on the ICOMOS Burra Charter² criteria, Heritage Victoria's Criteria for Assessment of Cultural Heritage Significance and the National Trust of Australia (Vic) criteria for identification and classification of significant trees in Victoria.

23. In 2020, in preparation for the amendment Council engaged Arboricultural and Landscape Consultant, Nick Withers to review the trees identified and assessed as significant since 2013. This work included:

23.1. Confirmation trees were still present via aerial photography and/or on-site observations

23.2. Establish/confirm the location of trees to ensure the correct location was mapped in Council's GIS

23.3. Review of assessment reports including statements of significance and tree data

24. An example of the current Significant Tree Inspection Assessment Sheet is provided at **Attachment 3**.

25. The majority of tree assessments have been done on site however in some instances on site access has not been requested and assessments have been undertaken from nature strip/public realm.

¹ Available on Council's website under [Natural environment archive](#) (clause 21.05)

² The Burra Charter published by the Australian ICOMOS (International Council on Monuments and Sites) defines the basic principles and procedures to be followed in the conservation of Australian heritage places.

Council Resolution

26. At its ordinary meeting on 6 July 2020, Council resolved:

That Council request the Minister for Planning to:

1. *Prepare Amendment C117 under Section 20(4) of the Planning and Environment Act 1987 for the interim protection of trees and vegetation identified in Council's Significant Tree and Vegetation Register.*
2. *Authorise Council to prepare and exhibit amendment C119 under Section 19(1)(b) of the Planning and Environment Act 1987 to apply the provisions of the ESO4 on a permanent basis and remove the interim status, introduced through C117, from the affected properties.*

Amendment C117bany – Interim ESO4

27. Interim controls via Amendment C117 were requested on 17 December 2020 and approved on 18 June 2021. The interim controls expire on 31 May 2022.

28. A total of 95 trees were included in the request for interim controls. At the discretion of DELWP, interim controls were only applied to 84 trees that affected private land. This includes trees on public land that are located near adjoining private property.

Authorisation and Exhibition

29. Authorisation to prepare Amendment C119 was requested on 17 December 2020 and received on 18 June 2021. The authorisation letter is provided at **Attachment 4**.

30. Authorisation was subject to conditions related to:

- 30.1. Preparation of a Banyule City Council Significant Tree and Vegetation Register 2020 to be included as a background document. This document has been included in the amendment with the title Banyule Significant Tree and Vegetation Assessments 2020.
- 30.2. Minor revisions and changes to the ESO4 schedule, maps, explanatory report and instruction sheet. These changes were all made in accordance with the conditions of authorisation with the exception of the revision to map 8ESO. Further review and discussion with DELWP confirmed that tree #789 in the Were Street road reserve, Montmorency was correctly mapped in 8ESO.

31. The authorisation letter also noted:

I note that Banyule City Council Significant Trees and Vegetation Register, which is listed as a background document in the Banyule Planning Scheme, is not a publicly available document. Although not the subject of this amendment, I encourage your council to investigate how to rectify this to ensure consistency and transparency around the treatment of significant trees in the Banyule Planning Scheme.

32. Council is addressing this point with the State Government outside of Amendment C119.

33. The Amendment was formally exhibited under section 19 of the *Planning and Environment Act 1987* for a period of nine weeks between 3 August 2021 and 8 October 2021. Exhibition was originally scheduled to finish on 9 September 2021 and was extended to 8 October 2021 to accommodate extra notification during the exhibition period. The reasons for the additional notification are set out further below.
34. Notice of the Amendment was:
- 34.1. made available, including all exhibited documents, on Council's and the Department of Environment, Land, Water and Planning's websites
 - 34.2. sent to all affected property owners and occupiers, approximately 264 letters
 - 34.3. sent to prescribed Ministers and public authorities
 - 34.4. published in the Herald Sun and Victorian Government Gazette on 5 August 2021
 - 34.5. sent to relevant interested parties and stakeholders
35. During exhibition of C119 a number of mapping errors were revealed through enquiries and by Council officers. In response, Council undertook a complete mapping review of all trees included in the Amendment and identified 11 mapping errors for trees #428, #433, #441, #442, #453, #457, #671, #687, #713, #754 & #799.
36. The errors identified included:
- Tree plotted incorrectly on site e.g. front yard instead of in rear.
 - Tree plotted incorrectly on adjoining property e.g. 1A Woodland Grove instead of 1 Woodland Grove.
 - Administrative error e.g. tree mapped at 268 Grimshaw Street instead of 286 Grimshaw Street.
37. The reason for most errors was largely due to historic manual translation errors between systems of GIS-based and non-GIS based information³.
38. Properties affected by identified mapping errors were notified, by letter, as soon as possible with the last notification being on the 7 September 2021. A total of 22 properties were affected by the 11 mapping errors and the owners and occupiers notified.
39. To accommodate this extra notification the exhibition period was extended to 8 October 2021 to ensure all owners/occupiers had at least one month in which to make a submission.
40. Council highlight that all affected property owners and occupiers were provided with clear details of any error and how they were affected. Two examples of Council notification letters are included at **Attachment 5**.
41. It is relevant to highlight that the exhibited amendment documentation itself, including planning scheme maps, wasn't amended as part of the extended exhibition and notice process and are

³ It is noted that new GIS geocoding processes have replaced older manual recording processes, which now results in all trees being accurately recorded.

identified as post-exhibition changes by Council. Three (3) individual tree assessments were informally adjusted as part of the additional notice process to ensure the affected owners and occupiers were able to accurately identify the location of the tree in question. No submissions were received from those provided additional notice by letter.

42. Council considers that exhibition of the amendment, including the extra steps it has taken to notify all affected owners and occupiers identified by the mapping errors, is appropriate for the purposes of Section 19 of the *Planning and Environment Act 1987* (as amended).

SUBMISSIONS

43. In response to exhibition, Council received a total of 14 submissions. A further late submission was received from the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, taking the total number of submissions to 15.

44. Submissions were received from:

- 44.1. Local residents/individuals (x9)
- 44.2. Warringal Conservation Society
- 44.3. National Trust
- 44.4. DELWP planning approvals
- 44.5. First Peoples State Relations
- 44.6. Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation
- 44.7. Housing Industry Association

45. Of the 15 submissions received:

- 45.1. 7 were in support
- 45.2. 6 were opposed
 - 4 were in relation to specific trees (No's 423, 696, 721)
 - 2 with general comments on the ESO4
- 45.3. 2 requested changes or sought further information

Consideration of Submissions

46. At its ordinary meeting on 6 December 2021, Council resolved:

That Council:

1. *Note the submissions to Amendment C119bany to the Banyule Planning Scheme in accordance with Section 22 of the Planning and Environment Act, 1987 (Attachment 1)*
 2. *Approve the post exhibition changes outlined in Attachment 2 and proceed with Amendment C119bany based on these revisions.*
 3. *Request that the Minister for Planning appoint a Planning Panel to consider unresolved submissions to Amendment C119bany in accordance with Section 23 of the Planning and Environment Act 1987.*
 4. *Accept any late submission received from the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation regarding Amendment C119bany and refer the submission to the Planning Panel as necessary.*
 5. *Includes consideration of submissions that suggest changes to the Environmental Significance Overlay Schedule 4 (ESO4) permit requirement as part of Council's broader Vegetation Protection Controls Review.*
47. A detailed summary of, and response to, the submissions received in response to exhibition forms part of the report to Council on 6 December 2021 and is provided at **Attachment 6**. Key issues in submissions are discussed at paragraph #74-76.

STRATEGIC CONTEXT AND ASSESSMENT

48. This section provides an overview of the strategic basis of the Amendment. This includes the relevant State policies, expressed through the Planning Policy Framework (PPF) and local planning policies, Ministerial Directions, Planning Practice Notes, Planning Scheme Provisions and relevant strategic documents.
49. Council submits that the strategic basis for Amendment C119 and its approach to identifying and protecting significant trees in the Banyule Planning Scheme, including planning controls, has a sound basis, first established by Amendment C5 in 2001 and reinforced through Amendment C70 (Part1 and Part 2) in 2011.
50. Consistently, the same significant tree criteria and assessment approach used in Amendment C5 continues to be used in support of the trees identified for inclusion in ESO4 by Amendment C119.
51. The Planning Panel that heard submissions and made findings in respect of Amendment C5 supported the objective of protecting and enhancing significant trees and noted the reasons why the ESO4 was the appropriate planning tool for this purpose. The C5 Panel included the following amongst its conclusions:

7.0 Conclusions

The Panel supports the overlay objective of protecting and enhancing significant trees and areas of vegetation in the City of Banyule. The Panel is also satisfied that there is a sound strategic base in the existing planning scheme provisions to justify introduction of the vegetation protection controls. The Panel further notes the high level of community support that the proposed tree protection controls have received.

In addition, the Panel notes that an ESO rather than a VPO is the appropriate overlay, in view of the decision to include control over development within the critical root zone of significant trees.

Figure 1 - Extract from page 15 of the C5 Planning Panel Report 'Amendment C5, Banyule Planning Scheme Report of the Panel appointed by the Minister for Planning', 18 June 2001.

52. C119 represents, effectively, the third part of Council's ongoing program for identifying and protecting significant trees under this established ESO4 mechanism. The following section demonstrates how the current strategic policy context continues to support Banyule's significant tree program.

Planning Policy Framework (PPF)

53. It is submitted that the strategic justification for the Amendment is firmly grounded in the PPF.

54. Council submits the Amendment supports the following policies in the PPF:

54.1. Clause 12 *Environmental and Landscape Values*, in particular clause 12.05-2S *Landscapes*, which seeks 'to protect and enhance significant landscape and open spaces that contribute to the character, identity, and sustainable environments'. The Amendment supports this objective by ensuring significant trees are protected and ensuring development does not detract from the natural qualities of significant landscape areas.

54.2. Clause 15 *Built Environment and Heritage*, in particular the following clauses:

54.2.1. 15.01-5S *Neighbourhood Character*, which seeks to 'recognise, support and protect neighbourhood character, cultural identity, and sense of place'. The Amendment supports this objective by ensuring development responds to the valued features and characteristics of the local environment by emphasising the underlying natural landscape character and significant vegetation.

54.2.2. 15.03-1S *Heritage Conservation*, which includes a strategy to 'identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme' and 15.03-2S *Aboriginal Cultural Heritage*, which seeks 'to ensure the protection and conservation of places of Aboriginal cultural heritage significance'.

54.2.3. The Amendment supports these policies by protecting the identified trees under the ESO4 and therefore fulfilling the State objective of identifying, conserving and protecting places of natural or cultural value.

55. The Amendment also supports a number of 'Directions' described in **Plan Melbourne**. Plan Melbourne is the long-term plan for Melbourne's future growth in population and employment to the year 2050. The Amendment is consistent with this current Metropolitan Strategy, in particular the following provisions:

55.1. **Direction 4.3 Achieve and promote design excellence**, in protecting significant vegetation, the City's cultural and natural heritage is celebrated. This improves the quality of the built environment, liveability and attractiveness to urban areas.

55.2. **Direction 6.4 Make Melbourne cooler and greener**, by protecting significant vegetation throughout the municipality, which in turn enhances the municipal's urban forest. It will assist in addressing air quality, carbon storage and mitigation of the urban heat island effect.

It continues by saying that:

*To mitigate the impacts of increased average temperatures, Melbourne needs to **maintain and enhance its urban forest of trees and vegetation on properties, lining transport corridors, on public lands, and on roofs, facades and walls.***

(Banyule Council **emphasis**)

55.3. **Direction 6.5 Protect and restore natural habitats**, by protecting vegetation that makes a significant contribution to local habitat. It assists with creating a network of green spaces that support biodiversity conservation and opportunities to connect with nature.

56. In support of Direction 6.4, Plan Melbourne's Five-Year Implementation Plan, Action 91 sets out a program to expand and enhance Melbourne's urban forest. Banyule Council, has long recognised the value of protecting trees and vegetation for a variety of reasons, to which its significant tree program is considered a valuable mechanism that is supported by Plan Melbourne.

57. Council also recognise that the State Government's Cooling and Greening program may consider new planning provisions for metropolitan Melbourne's existing tree canopy to reduce the loss of valuable trees. If that is the case, Council acknowledge that it may need to review the Significant Tree program and the role of the ESO4 to both existing protected trees and for any future nominated trees as part of its program to avoid any unnecessary duplication within the planning system.

Local Planning Policy Framework (LPPF)

58. The Amendment also supports the Local Planning Policy Framework, in particular:

58.1. Clause 21.05 *Natural Environment*, which seeks 'To protect, conserve and enhance areas of floral, faunal and habitat significance'. The Amendment supports this objective by protecting remnant vegetation and natural habitat.

58.2. Clause 21.03 *Cultural Heritage*, which seeks 'To protect, conserve and enhance places and precincts that contribute to Banyule's cultural heritage'. The Amendment supports this objective by applying the ESO4 for significant trees.

- 58.3. Clause 21.06 *Built Environment*, which identifies ‘Significant trees, substantial trees and other vegetation make a contribution to the desired future character of residential neighbourhoods, identity of Activity Centres and Neighbourhood Centres, landscape character, streetscapes, habitat links and biodiversity’, and seeks to ‘Encourage the retention and planting of significant trees, substantial trees and other vegetation to protect and improve the landscape character, streetscapes, habitat links and biodiversity of the area’.
- 58.4. Clause 22.02 *Residential Neighbourhood Character Policy*, which consistently identifies vegetation as an important contributor to the Key Characteristics of each of the five character areas. The Amendment supports this policy by protecting existing canopy trees and other significant vegetation that contribute to the valued landscapes and vegetated character of Banyule.

Ministerial Directions

59. The Amendment is consistent with the following relevant Ministerial Directions under sections 7 and 12 of the *Planning and Environment Act 1987*.

- 59.1. **Ministerial Direction on the Form and Content of Planning Schemes.** The proposed ordinance changes have been prepared to meet the relevant requirements of the Ministerial Direction.
- 59.2. **Ministerial Direction 9 - Metropolitan Strategy.** The amendment is consistent with the outcomes of Plan Melbourne 2017-2050: Metropolitan Planning Strategy as discussed at paragraph #55.
- 59.3. **Ministerial Direction 11 – Strategic Assessment of Amendments.** The Explanatory Report prepared for this amendment complies with this Direction and addresses relevant strategic planning considerations.
- 59.4. **Ministerial Direction 15 – The Planning Scheme Amendment Process.** The amendment has been processed in accordance with the relevant time frames and requirements, including the granting of exemptions from the Minister where required.

Planning Practice Note 7: Vegetation Protection in Urban Areas (August 1999)

60. Planning Practice Note 7 (PPN7) ‘provides guidance on how to assess the significance of vegetation in urban areas and how to protect significant vegetation through the planning scheme’.

61. The Amendment and accompanying tree assessments meet the requirements of PPN7, specifically:

- 61.1. Tree assessments have been undertaken using an established, reliable and consistent criteria to evaluate vegetation. As outlined in paragraphs #49-52, Amendment C5 established the criteria that has been consistently applied to Council’s significant tree program since 2001⁴.

⁴ Noting that the Planning Practice Note 7 was released prior to the gazettal of Amendment C5 to the Banyule Planning Scheme and continues to apply today. This has provided consistency in approach.

- 61.2. Significance has been determined based on a combination of subjective assessment (in the form of nominations from the community) and objective assessment (assessment by a qualified arborist against an established criteria)
- 61.3. Comparative analysis has been undertaken against similar ESO4 listings
- 61.4. A statement of significance has been prepared for each tree
- 61.5. A level of significance has been applied, i.e. local or state

Schedule 4 to the Environmental Significance Overlay

- 62. The Amendment proposes to apply the ESO4 on a permanent basis to trees or tree groups that have been assessed as significant and removes the ESO4 from two properties.
- 63. The purposes of the Environmental Significance Overlay are to:
 - implement the Municipal Planning Strategy and the Planning Policy Framework
 - identify areas where the development of land may be affected by environmental constraints
 - ensure that development is compatible with identified environmental values
- 64. The 'Environmental objective to be achieved' of ESO4 is:
 - To protect and enhance trees and areas of vegetation that are significant.
- 65. As noted in paragraph #51, the Planning Panel that considered Amendment C5 found the ESO4 to be the appropriate overlay for the purposes of significant trees owing to the level of protection it affords within the root zone of a tree.

Other Relevant Strategies and Plans

- 66. [Biodiversity 2037](#)⁵ is the State Government of Victoria's biodiversity plan for the State. Of particular relevance to Amendment C119 is Chapter 5 (*Linking our society and economy to the environment*). Section 5.2 is titled '*Creating more liveable and climate-adapted local communities*', which is translated into *Priority 7 – Help to create more liveable and climate-adapted communities*. It recognises that '*local governments are now leading the way in urban greening*⁶' and includes the following:

In urban areas, networks of natural and designed green spaces, or 'green infrastructure' (such as parks, gardens, street trees, backyards, green roofs, green walls and rain gardens) improve liveability and reduce costs that would otherwise be incurred if we sought to provide the same benefits through other means.

- 66.1. Banyule's significant tree program has a number of significant benefits that help to support the greening of the metropolitan landscape and contribute toward the liveability of the municipality.

⁵ *Biodiversity 2037*, The State of Victoria Department of Environment, Land, Water and Planning 2017

⁶ See paragraph 7, page 32 of *Biodiversity 2037*.

67. The [Banyule Community Vision 2041](#)⁷ describes the community's aspirations for the future of Banyule over the next 20 years and expresses what is important to the community. The amendment helps to achieve the Community Vision, in particular the following aspirations:

Our trees and tree canopy are well maintained and enhance liveability and beautify our streets⁸

We are a green city with ample open natural space, trees and wildlife at our doorsteps⁹

We protect our local character and heritage, ensuring development is sustainable and in balance with our preserved grasslands, forests, wetlands, waterways and wildlife¹⁰.

68. The Banyule [Council Plan 2021-2025](#) is key document to delivering on the Banyule Community Vision 2041. In support of the amendment it includes the strategy to¹¹:

3.6 Preserve and enhance Banyule's valued heritage, local character, and its significant trees

And the subsequent action:

3.6.3 Finalise a planning scheme amendment for significant trees

69. The Banyule [Biodiversity Plan 2019-2022](#) responds to the broader Council key direction to 'protect and enhance our natural environment'. The Amendment is supported by the following actions¹²:

Undertake planning scheme amendment to update the Significant tree Register (BP-U1)

Update the Significant Tree Register by seeking new nominations to ensure trees are being adequately recognised and protected (BP-U2)

70. The [Banyule Urban Forest Strategic Plan](#) (UFSP) prepared in 2015 provides the foundation for Council to effectively plan, manage and maintain its urban forest. While not included as a background document in the Banyule Planning Scheme the UFSP is in line with broader State Government directions for cooling and greening including increased tree canopy cover.

71. Banyule Council is currently developing an [Urban Forest Strategy](#) to continue on from, and update, the 2015 UFSP. The new strategy recognises the continuing need to protect and enhance Banyule's natural environment. This is in line with Action 91 of [Plan Melbourne Implementation Plan](#) for a *Whole-of-government approach to cooling and greening Melbourne*. Action 91 sets out a broad work program to expand and enhance Melbourne's urban forest.

⁷ The preparation of a Community Vision is a requirement under section 88 of the Local Government Act 2020

⁸ Page 17 of [Banyule Community Vision 2041](#)

⁹ Page 19 of [Banyule Community Vision 2041](#)

¹⁰ Page 19 of [Banyule Community Vision 2041](#)

¹¹ Page 65 Banyule [Council Plan 2021-2025](#)

¹² Page 21 Banyule [Biodiversity Plan 2019-2022](#)

Other Amendments

72. There are no other amendments in preparation or recently approved that need to be considered by Amendment C119.

KEY ISSUES RAISED IN SUBMISSIONS

73. A detailed summary of, and response to, the submissions received in response to exhibition forms part of the report to Council on 6 December 2021 and is provided at **Attachment 5**.

74. The key issues raised in **supporting** submissions are summarised as:

- 74.1. Trees are important to combat rising temperatures, provide health benefits to the community and create healthier ecosystems
- 74.2. It is important to retain trees in the face of development pressures and loss of tree coverage
- 74.3. Significant trees add to character and landscape quality of Banyule
- 74.4. It is important to preserve and protect trees for future generations
- 74.5. Support the inclusion of tree #703 and other remnant trees in the Amendment

75. The key issues in submissions that **raised concerns, requested changes or sought further clarification** are summarised as:

- 75.1. Concerns with **tree #423**, a Golden Elm at 2 Somerset Drive, Viewbank, including:

- 75.1.1. The tree is causing damage to property foundations and plumbing
- 75.1.2. The tree is too large for a suburban backyard
- 75.1.3. The tree isn't native and already protected under SLO
- 75.1.4. The tree isn't worthy of protection

- 75.2. Concerns with **tree #696**, Common or English Oak at 97 Hawdon Street, Heidelberg, including:

- 75.2.1. Conflicts with planning objective for higher density on the site
- 75.2.2. ESO4 makes it onerous to maintain nearby buildings
- 75.2.3. The tree is causing damage to water and sewerage pipes
- 75.2.4. The tree is mostly obscured from the front of the property
- 75.2.5. The tree is commonly found throughout Heidelberg's streets and parks

- 75.3. Concerns with **tree #721** a Bunya Bunya Pine at 16 Brooke Street, Eaglemont, including:

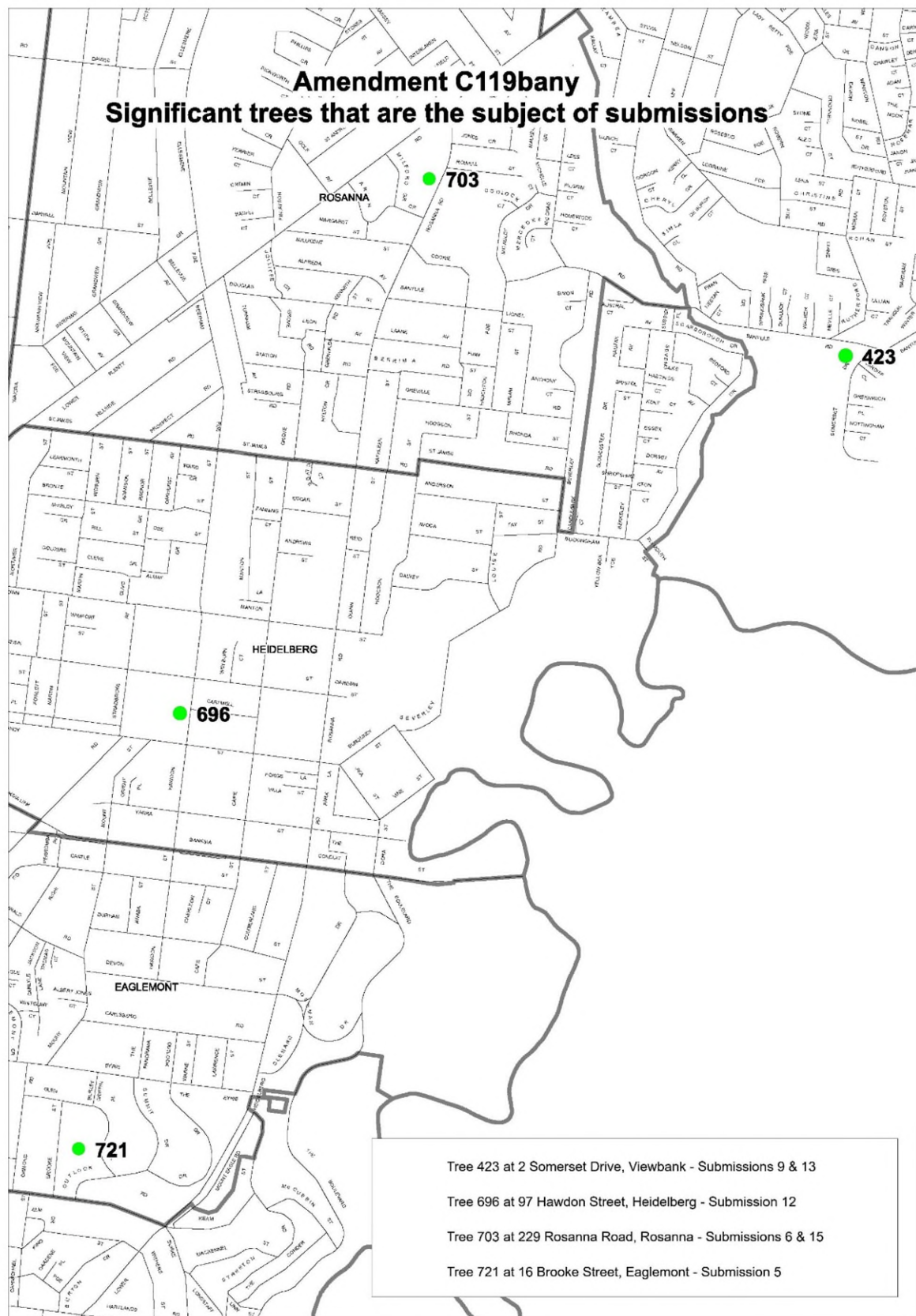
- 75.3.1. Concerned the tree is dangerous, it drops large seeds & branches
- 75.3.2. Concern the top half of the tree has begun to lean

- 75.4. General objections to the ESO4 policy in principle including permit requirements, terminology and necessity. These include:

- 75.4.1. Considers the permit required within 5m of drip-line appears to be an arbitrary and excessive requirement without clear justification.
 - 75.4.2. Noting the impacts on significant trees from construction works can be assessed in accordance with Australian Standard AS4970: 2009 – Protection of Trees on Development Sites.
 - 75.4.3. The ESO4 should be made redundant in favour of a State level policy and/or Planning Provision.
 - 75.4.4. Concern many properties are also affected by VPO with has different application requirements, this could be confusing and difficult for applicants.
 - 75.4.5. ‘Tree surgeon’ and ‘botanist’ are not terms commonly referred to in Victorian Planning Schemes.
 - 75.4.6. Tree and vegetation policies should not undermine plan for the growth of Metropolitan Melbourne to facilitate a growing population.
 - 75.4.7. There should be exemptions for dead or dying trees.
 - 75.4.8. General exemptions at Clause 62.02-2 should be referred to.
- 75.5. Recommendation the ESO4 be revised to reflect Australian Standard AS4970 –2009 Protection of Trees on Development Sites, for Tree Protection Zone measurements.
- 75.6. Concerned with changes to formatting and removing reference to background documents in the ESO4.
- 75.7. Queries consultation process for **tree #703** a Yellow Box at 229 Rosanna Road, Rosanna that is considered significant for its associations with Aboriginal cultural or heritage and as a remnant tree.
76. A map showing specific sites referred to in submissions is provided below. This is provided in response to direction 22 of the Panel Directions and has been included in this Part A submission.

Amendment C119bany

Significant trees that are the subject of submissions



CHANGES TO THE AMENDMENT

Changes Identified During Exhibition

77. Council pursues the amendment subject to changes identified by Council. The majority of changes were identified during exhibition and have been approved by Council at its Ordinary Council Meeting on 6 December 2021. A further minor address changes has been identified post the Council meeting.
78. During exhibition, it was identified that there were a number of mapping/ geo-coding errors related to the location of trees.
79. Council subsequently engaged a consultant arborist to undertake a full mapping review of all 95 trees included in the amendment. This identified a total of eleven (11) mapping errors for trees #428, #433, #441, #442, #453, #457, #671, #687, #713, #754 & #799. Properties affected by these errors were notified and the exhibition period was extended as discussed at paragraph #38-42.
80. A further five small adjustments were proposed in relation to revised mapping, updates to addresses and updates to tree assessment data. These were identified in response to resident queries, site visits and Council review.
81. The proposed changes are outlined in the table below and were approved by Council at its Ordinary Council Meeting on 6 December 2021.

Table 1: Proposed post exhibition changes

Tree #	Tree Address	Proposed Change	Reason
421	40 Warwick Road Greensborough	Remove 42 Warwick Road as an affected property	Revised mapping
428	3 Glen Drive Egglemont	Add 5 Glen Drive as affected property	Mapping error
433	3 Glen Drive Egglemont	Remove 3A & 5 Glen Drive as affected properties	Mapping error
441	21 Willis Street Greensborough	Add 62 Cairns Street as affected property	Mapping error
442	6 Carnon Street Greensborough	Add 5 Bruce Street as affected property	Mapping error
453	Seymour Road road reserve (3 Radio Drive)	<ul style="list-style-type: none"> Update address to 3 Radio Drive Remove 27 Seymour Road & 3 Radio Drive as affected properties 	Mapping error
457	3 Glen Drive Egglemont	Add 16 Brooke Street as affected property	Mapping error
671	268 Grimshaw Street, Watsonia North (286 Grimshaw Street)	<ul style="list-style-type: none"> Update address to 286 Grimshaw Add 288 & 1/288 Grimshaw Street as affected properties Remove 2/268 Grimshaw Street as affected property 	Mapping error

687	212 Waterdale Road, Ivanhoe	Add 8/212 Waterdale Road as affected property	Mapping error
701	23 Wattle Avenue Montmorency	Update tree assessment data: <ul style="list-style-type: none"> • Age - 150 to 250 • Circumference - 4.45 to 4.46 • Condition - Fair to Good • Health - Fair to Good 	Update identified during site visit
710	63 Buena Vista Drive, Montmorency	Update photo	Incorrect photo
713	1A Woodland Grove Montmorency (1 Woodland Grove)	<ul style="list-style-type: none"> • Update address to 1 Woodland Grove • Add 1A & 3 Woodland Grove as affected properties • Remove 1 Woodland Grove & 30 Calrossie Avenue as affected properties • Update photo 	Mapping error Incorrect photo
754	1/12 Finlayson Street Rosanna (12 Finlayson Street)	<ul style="list-style-type: none"> • Update address to 12 Finlayson Street • Add 3/12, 4/12 & 5/12 Finlayson Street as affected properties • Remove 8 Finlayson Street as affected properties 	Mapping error
773	36 Were Street Montmorency	Update affected property address from 32 Were Street to 32-34 Were Street	Minor address correction
799	5 Brooke Street Eaglemont	Add 50 Maltravers Road as affected property	Mapping error
803	Were Street road reserve, Montmorency	Update affected property address from 32 Were Street to 32-34 Were Street	Minor address correction

Changes Proposed Post Council Meeting

82. The following change has recently been identified and is proposed to be included:

Tree #	Tree Address	Proposed Change	Reason
421	40 Warwick Road Greensborough	Add 3/38 and 4/38 Warwick Road Greensborough as affected properties (38 Warwick Road was notified as part of exhibition; the property owner is the same as for 3/38 and 4/38 Warwick Road)	Recent subdivision of 38 Warwick Road

83. Council flags a further possible change to the Amendment in relation to tree #799, a stand of 10 Bhutan Cypress trees at 5 Brooke Street, Eaglemont. Three trees have fallen due to a high wind event on 19 December 2021. The removal of the remaining seven trees are currently subject to a planning application (P1645/2021). The impact on the Amendment may require further consideration when the planning permit is decided.

Any Other Strategic Material

84. There is no other strategic material that Council intends to rely upon in support of the Amendment that has not yet been provided, or that might assist the Panel in its consideration of the Amendment.
85. This concludes Council's Part A submission.

Attachment 1: Explanatory Report

BANYULE PLANNING SCHEME

AMENDMENT C119bany

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Banyule City Council, which is the planning authority for this amendment.

The amendment has been made at the request of Banyule City Council.

Land affected by the amendment

The amendment applies to 97 trees/groups of trees. A full list of affected properties is provided in the mapping reference table at Attachment 1 to this explanatory report.

What the amendment does

The amendment proposes to apply the Schedule 4 to the Environmental Significance Overlay (ESO4) on a permanent basis to trees or tree groups that have been assessed as significant, removes the ESO4 from two properties and updates ESO4 to meet current form and content requirements.

Interim ESO4 controls, until 31 May 2022, were applied via Amendment C117bany.

Specifically, the amendment will:

- Amend the ESO4 to:
 - apply permanent controls to 84 trees or tree groups affected by the interim provisions in the Schedule applied via Amendment C117bany;
 - apply permanent controls to an additional 11 trees or tree groups not currently affected by the interim controls;
 - remove two trees that have been legally removed;
 - make formatting and minor text changes to ensure consistency with the Ministerial Direction on Form and Content of Planning Schemes;
 - update background documents.
- Amend Schedule to Clause 72.08 Background Documents.
- Amend ESO4 Planning Scheme Maps to reflect the changes.

Strategic assessment of the amendment

Why is the amendment required?

The amendment is required to protect 95 trees or tree groups in Banyule that have been assessed as being significant and are proposed to be added to Banyule's Significant Tree and Vegetation Register.

There are many individual trees or groups of trees within Banyule which have special significance. They include a variety of native and exotic trees which are of landscape, habitat, horticultural or genetic value, are rare or of localised distribution, are outstanding examples of their species or are of cultural or historical significance.

The criteria used to identify significant trees is set out below:

REASON FOR SIGNIFICANCE	CRITERIA
<i>Landscape</i>	A tree or group of trees with outstanding aesthetic value or which frame or screen views, or act as a landmark.
<i>Size</i>	Any tree of outstanding size in height, girth or canopy spread.
<i>Age</i>	Any tree of an age that makes it old or venerable for its species variant.
<i>Botanical</i>	A tree which is rarely found in the wild or in cultivation.
<i>Horticultural</i>	Any tree which is of outstanding horticultural or genetic value, and which could be an important stock for future propagation.
<i>Historic</i>	Any tree with a specific historic or commemorative association.
<i>Form</i>	Any tree with an outstanding, unusual, abnormal or curious growth form.
<i>Remnant</i>	Trees which survive from the pre-European era.
<i>Habitat</i>	A tree or group of trees with outstanding value as habitat or niche for native flora and fauna.
<i>Aboriginal</i>	A tree which has associations with aboriginal culture or heritage.

The proposed amendment removes the interim status of the ESO4 that was applied via Amendment C117bany to 84 trees and applies the control on a permanent basis. The amendment also proposes to apply the control to an additional 11 trees that were not included in Amendment C117bany. Trees and affected properties are included in Table 1 of the Mapping Reference Table at Attachment 1.

The amendment removes the ESO4 from properties affected by two trees that have been legally removed making the overlay on these properties redundant. Trees and affected properties are included in Table 2 of the Mapping Reference Table at Attachment 1.

The amendment adds a new background document '*Banyule Significant Tree and Vegetation Assessments 2020*' to the Planning Scheme and removes two background documents that are not available as an electronic document (*Banyule City Council Significant Trees Register* and the *National Trust of Australia's Register of Significant Trees of Victoria*) from the Planning Scheme in line the requirements of VC148.

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

The following objectives of planning in Victoria, as defined in section 4(1) of the *Planning and Environment Act 1987* (the Act), are most relevant to this amendment:

- (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- (d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;
- (g) to balance the present and future interests of all Victorians.

The amendment implements these objectives by:

- Protecting trees or tree groups within the municipality which have cultural, historical, landscape, and horticultural value; and
- Maintaining vegetation which contribute to the ecology of the region, including providing a habitat for native flora and fauna.

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

The amendment will provide environmental benefits to the community by protecting significant vegetation within the municipality. The application of the amendment will contribute to improved local habitat, preservation of remnant 'pre-settlement' vegetation, and improved landscape character. Protecting trees increases the longevity of tree life and canopy coverage, having positive effects on air quality, carbon storage and stormwater management and assists in urban cooling.

The amendment will have a positive social effect through the preservation of significant trees which contribute to the quality of life of residents.

The amendment will provide economic benefits as the protection of significant trees contributes to the character and amenity of the municipality. The prevalence of significant trees within the Banyule is a valuable asset and is enjoyed by residents and visitors alike.

Does the amendment address relevant bushfire risk?

It is not considered that this amendment will affect bushfire risk as the subject trees are located within an already urbanised area.

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

The amendment has been prepared in accordance with section 7(5) of the *Planning and Environment Act 1987* relating to the Form and Content of Planning Schemes and Ministerial Direction No. 11 – Strategic Assessment of Amendments. The requirements of the Ministerial Direction have been followed in the course of preparing this amendment and are embodied within this report.

The amendment also complies with the requirement of Ministerial Direction No. 9 Metropolitan Strategy. Specifically, the amendment supports the following directions of Plan Melbourne 2017-2050:

- Direction 4.3 Achieve and promote design excellence.

In protecting significant vegetation, the City's cultural and natural heritage is celebrated. This improves the quality of the built environment, liveability and attractiveness to urban areas.

- Direction 6.4 Make Melbourne cooler and greener

The proposed amendment seeks to protect significant vegetation throughout the municipality, which in turn enhances the municipal's urban forest. It will assist in addressing air quality, carbon storage and mitigation of the urban heat island effect.

- Direction 6.5 Protect and restore natural habitats

The proposed amendment protects vegetation that makes a significant contribution to local habitat. It assists with creating a network of green spaces that support biodiversity conservation and opportunities to connect with nature.

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

The amendment strongly supports and assists in the implementation of the Planning Policy Framework, including Clause 12 (Environmental and Landscape Values) and Clause 15 (Built Environment and Heritage). In particular:

Clause 12.05-2S Landscapes, which seeks to protect and *enhance significant landscape and open spaces that contribute to the character, identity, and sustainable environments.*

Strategies relevant to this amendment includes:

- Ensure development does not detract from the natural qualities of significant landscape areas.
- Ensure important natural features are protected and enhanced.

Clause 15.01-5S Neighbourhood Character, which seeks to *recognise, support and protect neighbourhood character, cultural identity, and sense of place*.

Strategy relevant to this amendment include:

- Ensuring development responds to its context and reinforces a sense of place and valued features and characteristics of the local environment and place by emphasising the underlying natural landscape character and significant vegetation.

By protecting the identified trees under the ESO4, the council will be fulfilling the State objective of identifying, conserving and protecting places of natural or cultural value.

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

The amendment is consistent with the Local Planning Policy Framework, and the Municipal Strategic Statement. In particular:

Clause 21.05 *Natural Environment*, which seeks to provide for the “*Protection and enhancement of areas of floral, faunal or habitat significance*”.

Clause 21.03 *Cultural Heritage*, which seeks to “*protect significant trees*”.

Clause 21.06 *Built Environment*, which identifies “*Significant trees, substantial trees and other vegetation make a contribution to the desired future character of residential neighbourhoods, identity of Activity Centres and Neighbourhood Centres, landscape character, streetscapes, habitat links and biodiversity*”, and seeks to “*Encourage the retention and planting of significant trees, substantial trees and other vegetation to protect and improve the landscape character, streetscapes, habitat links and biodiversity of the area*”.

Clause 22.02 *Residential Neighbourhood Character Policy*, which consistently identifies vegetation as a contributor to the Key Characteristics of each of the five character areas.

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

The amendment makes proper use of the Victorian Planning Provisions (VPPs) by updating the existing application of the Environmental Significance Overlay so that it applies to properties requiring relevant protection and redundant controls are removed.

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

Relevant agencies will be given notice of as part of the formal exhibition process.

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

It is not considered that the amendment is assessable against the requirements of the Transport and Integration Act 2010.

Resource and administrative costs

The amendment will not impose any significant resource or administrative costs on the responsible authority.

Where you may inspect this amendment

The amendment can be inspected free of charge at Banyule Council’s engagement website at shaping.banyule.vic.gov.au/C119

And

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

Banyule City Council Service Centres

Greensborough Service Centre
(above Watermarc)
3rd Floor, 1 Flintoff Street
GREENSBOROUGH

Ivanhoe Service Centre
275 Upper Heidelberg Road
IVANHOE

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

Submissions

Any person who may be affected by the amendment may make a submission to the planning authority. Submissions about the amendment must be received by Thursday 9 September 2021.

A submission may be lodged online at shaping.banyule.vic.gov.au/C119 or sent to Strategic Planning, Banyule City Council, PO Box 94, Greensborough, Victoria, 3088.

Panel hearing dates

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

- **directions hearing:** week beginning 29 November 2021
- **panel hearing:** week beginning 31 January 2022

Attachment 1 – Mapping Reference Table

Table 1: Significant trees to be added to ESO4 on a permanent basis

Species of vegetation	Address of vegetation	Other affected properties	Code	PS Map
Yellow Box <i>Eucalyptus melliodora</i>	40 Warwick Road, Greensborough	38 & 42 Warwick Road, Greensborough	421	7ESO
Golden Elm <i>Ulmus glabra</i> 'Lutescens'	2 Somerset Drive, Viewbank	264 & 266 Banyule Road, Viewbank	423	11ESO
Bhutan Cypress <i>Cupressus torulosa</i>	87 The Boulevard, Ivanhoe	91 The Boulevard, Ivanhoe	424	19ESO
Yellow Gum <i>Eucalyptus leucoxylon</i> ssp. <i>connata</i>	1 Baranbali Grove, Greensborough	Nil	425	3ESO
Bunya-Bunya Pine <i>Araucaria bidwillii</i>	3 Glen Drive, Eaglemont	3A Glen Drive, Eaglemont	428	20ESO
Yellow Box <i>Eucalyptus melliodora</i>	15 Tarwarri Court, Greensborough	17 Tarwarri Court, Greensborough	429	3ESO
Algerian Oak <i>Quercus canariensis</i>	76 St Elmo Road, Ivanhoe	78 St Elmo Road, Ivanhoe	430	14ESO
River Red Gum <i>Eucalyptus camaldulensis</i>	3 Radio Drive, Viewbank	Nil	431	12ESO
Pencil Pine, Italian Pine <i>Cupressus sempervirens</i> (2)	195 The Boulevard, Ivanhoe East	Nil	432	20ESO
Chinese Weeping Cypress <i>Cupressus funebris</i>	3 Glen Drive, Eaglemont	3A & 5 Glen Drive, Eaglemont	433	15ESO 20ESO
Giant Redwood <i>Sequoiadendron giganteum</i>	16 Edgar Street, Heidelberg	1/16 & 2/16 Edgar Street, Heidelberg	434	15ESO
Yellow Gum <i>Eucalyptus leucoxylon</i> ssp. <i>connata</i>	5 Hope Street, Greensborough	7 Hope Street, Greensborough	439	3ESO
Yellow Gum <i>Eucalyptus leucoxylon</i> ssp. <i>connata</i>	Albion Crescent road reserve, Greensborough	26 & 28 Mine Street, Greensborough	440	3ESO
Yellow Gum <i>Eucalyptus leucoxylon</i> ssp. <i>connata</i>	21 Willis Street, Greensborough	25 Willis Street, Greensborough	441	3ESO
Yellow Gum <i>Eucalyptus leucoxylon</i> ssp. <i>connata</i>	6 Carnon Street, Greensborough	8 Carnon Street, Greensborough	442	3ESO
Yellow Gum <i>Eucalyptus leucoxylon</i> ssp. <i>connata</i>	Carnon Street road reserve, Greensborough	6 Carnon Street, Greensborough	443	3ESO
Yellow Gum <i>Eucalyptus leucoxylon</i> ssp. <i>connata</i>	6 Carnon Street, Greensborough	1 & 5 Bruce Street, Greensborough	444	3ESO
River Red Gum <i>Eucalyptus camaldulensis</i>	13 Gruyere Crescent, Ivanhoe East	14 Gruyere Crescent, Ivanhoe East	445	20ESO
Persian Oak <i>Quercus macranthera</i>	53 Banksia Street, Eaglemont	44 & 46 Hawdon Street, Eaglemont	446	15ESO

Golden Elm <i>Ulmus glabra</i> 'Lutescens'	206 Lower Plenty Road, Rosanna	25 & 27 Arden Crescent, Rosanna	449	10ESO
Flat-topped Yate <i>Eucalyptus occidentalis</i>	302 Upper Heidelberg Road, Ivanhoe	Nil	450	14ESO
Burr Oak <i>Quercus macrocarpa</i>	1 The Boulevard, Ivanhoe	Nil	451	19ESO
Atlas Cedar <i>Cedrus atlantica</i>	30 Lower Heidelberg Road, Ivanhoe	28 & 32 Lower Heidelberg Road, Ivanhoe	452	19ESO
River Red Gum <i>Eucalyptus camaldulensis</i>	Seymour Road road reserve, Viewbank	27 Seymour Road & 3 Radio Drive, Viewbank	453	12ESO
River Red Gum <i>Eucalyptus camaldulensis</i>	2 Radio Drive, Viewbank	Nil	454	12ESO
River Red Gum <i>Eucalyptus camaldulensis</i>	2 Radio Drive, Viewbank	3 Radio Drive, Viewbank	455	12ESO
Bhutan Cypress <i>Cupressus torulosa</i> (2)	195 The Boulevard, Ivanhoe East	Nil	456	20ESO
Maritime Pine <i>Pinus pinaster</i>	3 Glen Drive, Eaglemont	3A Glen Drive, Eaglemont	457	20ESO
Spotted Gum <i>Corymbia maculata</i>	3 Studley Road, Ivanhoe	1 Studley Road, Ivanhoe	458	14ESO
Common Fig <i>Ficus carica</i>	2 Moola Close, Yallambie	Nil	459	12ESO
Smooth Arizona Cypress <i>Hesperocyparis arizonica</i> var. <i>glabra</i> 'Hodginsii'	32 Invermay Grove, Rosanna	Nil	460	10ESO
Dutch Elm <i>Ulmus x hollandica</i>	114 Brown Street, Heidelberg	4/10 & 10 Almay Grove, Heidelberg	461	15ESO
Golden Elm <i>Ulmus glabra</i> 'Lutescens'	174 Mountain View Road, Briar Hill	Nil	462	7ESO
Bottle Tree <i>Brachychiton Rupestris</i>	1/7 William Street, Greensborough	1/9 William Street, Greensborough	463	6ESO
River Red Gum <i>Eucalyptus camaldulensis</i>	32 Glenard Drive, Eaglemont	30, 34 & 52A Glenard Drive, Eaglemont	464	15ESO 16ESO
Yellow Box <i>Eucalyptus melliodora</i>	131-135 Grimshaw Street, Greensborough	137 Grimshaw Street, Greensborough	465	7ESO
Southern Mahogany <i>Eucalyptus botryoides</i>	10 Silverdale Road, Eaglemont	4/12-14 Silverdale Road & 4 & 6 Ashby Grove, Eaglemont	467	15ESO 19ESO
Sesile Oak <i>Quercus petraea</i> (3)	2 Beverley Road, Heidelberg	Nil	667	16ESO
English Elm <i>Ulmus procera</i>	268 Grimshaw Street, Watsonia North	2/268 Grimshaw Street, Watsonia North	671	6ESO
Narrow-leaved black peppermint <i>Eucalyptus nicholii</i>	Nepean Street road reserve, Watsonia	Nil	685	6ESO
Tuart <i>Eucalyptus gomphocephala</i>	212 Waterdale Road, Ivanhoe	210 & 9/212 Waterdale Road, Ivanhoe	687	14ESO
Long-Leafed Box <i>Eucalyptus goniocalyx</i>	212 Waterdale Road, Ivanhoe	7/212, 8/212 & 9/212 Waterdale Road, Ivanhoe	689	14ESO

Canary Island Date Palm <i>Phoenix canariensis</i>	128 Ford Street, Ivanhoe	Nil	690	14ESO
Weeping Elm <i>Ulmus glabra</i> 'Camperdownii'	589 Upper Heidelberg Road, Heidelberg Heights	Nil	691	15ESO
Red Box <i>Eucalyptus polyanthemos</i>	6 St Faiths Road, Montmorency	4 St Faiths Road, Montmorency	693	8ESO
Hickory Wattle, Lightwood <i>Acacia implexa</i>	590 Upper Heidelberg Road, Heidelberg	588 Upper Heidelberg Road, Heidelberg	694	15ESO
Common or English Oak <i>Quercus robur</i>	97 Hawdon Street, Heidelberg	95 & 101 Hawdon Street, Heidelberg	696	15ESO
Common or English Oak <i>Quercus robur</i>	137 Hawdon Street, Heidelberg	1/105 Brown Street, Heidelberg	697	15ESO
Coral Tree <i>Erythrina lysistemon</i>	201 Waterdale Road, Ivanhoe	199 & 203 Waterdale Road, Ivanhoe	698	14ESO
Dutch Elm <i>Ulmus x hollandica</i> (2)	1 Beverley Road, Heidelberg	Nil	699	15ESO 16ESO
Kurrajong <i>Brachychiton populneus</i>	23 Philip Street, Lower Plenty	27-29 Philip Street & 24A Panorama Avenue, Lower Plenty	700	13ESO
Yellow Gum <i>Eucalyptus leucoxylon</i>	23 Wattle Avenue, Montmorency	25 Wattle Avenue, Montmorency	701	8ESO
Weeping Elm <i>Ulmus glabra</i> 'Camperdownii'	354 Upper Heidelberg Road, Ivanhoe	358 Upper Heidelberg Road, Ivanhoe	702	15ESO
Yellow Box <i>Eucalyptus melliodora</i>	229 Rosanna Road, Rosanna	6/235, 7/235 & 8/235 Rosanna Road, Rosanna	703	11ESO
Brittle Gum <i>Eucalyptus mannifera</i>	11 Rill Street, Heidelberg	8/7, 9/7 & 10/7 Rill Street, Heidelberg	708	15ESO
Long-Leafed Box <i>Eucalyptus goniocalyx</i>	63 Buena Vista Drive, Montmorency	61 & 65 Buena Vista Drive, Montmorency	710	13ESO
Flame Tree <i>Brachychiton acerifolius</i>	28 Louise Street, Heidelberg	26 Louise Street & 4 Fay Street, Heidelberg	711	16ESO
Yellow Box <i>Eucalyptus melliodora</i>	1A Woodland Grove, Montmorency	1 Woodland Grove & 30 Calrossie Avenue, Montmorency	713	8ESO
River Red Gum <i>Eucalyptus camaldulensis</i>	45 Cleveland Avenue, Lower Plenty	Nil	714	12ESO
River Red Gum <i>Eucalyptus camaldulensis</i>	45 Cleveland Avenue, Lower Plenty	Nil	715	12ESO
Bunya-Bunya Pine <i>Araucaria bidwillii</i>	16 Brooke Street, Eaglemont	18 Brooke Street, Eaglemont	721	15ESO 20ESO
Bhutan Cypress <i>Cupressus torulosa</i> (13)	41 The Ridgeway, Ivanhoe	Nil	727	19ESO
Common or English Oak <i>Quercus robur</i>	10 Salisbury Avenue, Ivanhoe	6 Buchanan Street, Ivanhoe	731	19ESO
Yellow Gum <i>Eucalyptus leucoxylon</i> ssp. <i>connata</i>	4 Greenhill Road, Greensborough	2 Greenhill Road, Greensborough	753	3ESO
Cork Oak <i>Quercus suber</i>	1/12 Finlayson Street, Rosanna	8 Finlayson Street, Rosanna	754	10ESO

Yellow Box <i>Eucalyptus melliodora</i>	31 Byron Avenue, Lower Plenty	Nil	755	13ESO
Yellow Box <i>Eucalyptus melliodora</i> (7)	Ratray Road road reserve & Right of Way RW355, Montmorency	1/191, 191, 1/193, 193, 195, 195A, 197, 199, 201 & 201A Ratray Road, Montmorency	766	8ESO
Candle Bark Gum <i>Eucalyptus rubida</i> (8)	25 Belmont Crescent, Montmorency	Nil	770	8ESO
Yellow Box <i>Eucalyptus melliodora</i>	25 Belmont Crescent, Montmorency	Nil	771	8ESO
Yellow Box <i>Eucalyptus melliodora</i>	36 Were Street, Montmorency	32 & 38 Were Street, Montmorency	773	8ESO
Long-Leafed Box <i>Eucalyptus gonicalyx</i>	Were Street road reserve, Montmorency	4 Were Street, Montmorency	775	8ESO
Yellow Box <i>Eucalyptus melliodora</i>	2B Wellington Street, Montmorency	65 & 67 Ratray Road, Montmorency	776	8ESO
Manna Gum, White Gum, Ribbon Gum <i>Eucalyptus viminalis</i>	Kenilworth Parade road reserve, Ivanhoe	14 & 16 Kenilworth Parade, Ivanhoe	778	19ESO
River Red Gum <i>Eucalyptus camaldulensis</i>	Ratray Road road reserve, Montmorency	117 & 119 Ratray Road, Montmorency	782	8ESO
Yellow Box <i>Eucalyptus melliodora</i>	McFarlane Street road reserve, Montmorency	3 & 3A McFarlane Street, Montmorency	784	8ESO
Yellow Box <i>Eucalyptus melliodora</i>	13 Wilson Avenue, Montmorency	11 & 15 Wilson Avenue, Montmorency	786	8ESO
Long-Leafed Box <i>Eucalyptus gonicalyx</i> (6) Yellow Box <i>Eucalyptus melliodora</i> (8) Candle Bark Gum <i>Eucalyptus rubida</i> (2)	Sackville Street road reserve, Montmorency	122 Sackville Street, Montmorency & 177 Bolton Street, Eltham	788	13ESO
Red Iron Bark <i>Eucalyptus sideroxylon</i>	Were Street road reserve, Montmorency	5, 7 & 1-9 Were Street, Montmorency	789	8ESO
Bhutan Cypress <i>Cupressus torulosa</i>	5 Brooke Street, Eaglemont	7 Brooke Street, 7 & 9 Ormond Road & 48 Maltravers Road, Eaglemont	799	20ESO
River Red Gum <i>Eucalyptus camaldulensis</i>	153 Lower Plenty Road, Rosanna	Nil	800	10ESO
Red Iron Bark <i>Eucalyptus sideroxylon</i>	Were Street road reserve, Montmorency	30, 32 & 36 Were Street, Montmorency	803	8ESO
Lemon Scented Gum <i>Corymbia citriodora</i> (2)	11-15 Lochabar Court, Ivanhoe	9 & 17 Lochabar Court, Ivanhoe	807	15ESO
Studley Park Gum <i>Eucalyptus x studleyensis</i>	208 Mountain View Road, Briar Hill	210 Mountain View Road, 8 & 9 Aminya Place, Briar Hill	812	7ESO
Tuart <i>Eucalyptus gomphocephala</i>	11-15 Lochabar Court, Ivanhoe	376-378 Upper Heidelberg Road, & 17 Lochabar Court, Ivanhoe	830	15ESO
River Red Gum <i>Eucalyptus camaldulensis</i>	290-332 Banyule Road, Viewbank	Nil	832	11ESO 12ESO 16ESO 17ESO

River Red Gum <i>Eucalyptus camaldulensis</i>	Ratray Road road reserve, Montmorency	Nil	841	8ESO
Yellow Box <i>Eucalyptus melliodora</i>	7 Wellington Street, Montmorency	3 Wellington Street, Montmorency	842	8ESO
Peppercorn <i>Schinus molle</i>	11-15 Lochabar Court, Ivanhoe	376-378 Upper Heidelberg Road & 17 Lochabar Court, Ivanhoe	843	15ESO
Lemon Scented Gum <i>Corymbia citriodora</i>	22 Lower Heidelberg Road, Ivanhoe	24 Lower Heidelberg Road, Ivanhoe	844	19ESO
English Oak <i>Quercus robur</i>	2 Beverley Road, Heidelberg	Nil	847	16ESO
River Red Gum <i>Eucalyptus camaldulensis</i>	Ratray Road road reserve, Montmorency	119 & 121 Ratray Road, Montmorency	854	8ESO
Scarlet Oak <i>Quercus coccinea</i>	83 Locksley Road, Ivanhoe	81 Locksley Road, Ivanhoe	855	19ESO
River Red Gum <i>Eucalyptus camaldulensis</i>	136 Banyule Road, Viewbank	Nil	859	11ESO 16ESO
Studley Park Gum <i>Eucalyptus x studleyensis</i>	136 Banyule Road, Viewbank	Nil	860	11ESO 16ESO
River Red Gum <i>Eucalyptus camaldulensis</i> (5)	136 Banyule Road, Viewbank	Nil	861	11ESO 16ESO

Table 2: Significant trees to be removed from ESO4

Species of vegetation	Address of vegetation	Other affected properties	Code	PS Map
Yellow Box <i>Eucalyptus melliodora</i>	45 Station Road, Montmorency	Nil	324	8ESO
River red Gum <i>Eucalyptus camaldulensis</i> '	286 Nell Street West, Watsonia	2/288 Nell Street West, Watsonia	352	6ESO

Attachment 2: Chronology of Events

Date	Event/Description
2013 - 2020	Nominations for significant trees received by Council and assessed by a qualified arborist
May/June 2020	Review of trees proposed for to be included on the ESO4
6 July 2020	<p>At its ordinary meeting Council resolved to request the Minister for Planning to:</p> <ul style="list-style-type: none"> • Prepare Amendment C117 under Section 20(4) of the <i>Planning and Environment Act 1987</i> for the interim protection of trees and vegetation identified in Council's Significant Tree and Vegetation Register. • Authorise Council to prepare and exhibit amendment C119 to apply the ESO4 on a permanent basis to identified Significant Trees and Vegetation
July – December 2020	Additional verification of data and mapping undertaken
17 December 2020	<ul style="list-style-type: none"> • Council requested the Minister for Planning to prepare Amendment C117 to provide interim protection of significant trees • Council sought authorisation from the Minister for Planning to prepare and exhibit Amendment C119
18 June 2021	<ul style="list-style-type: none"> • Authorisation for C119bany received from DELWP under delegation from the Minister for Planning. • Amendment C117bany was gazetted, interim controls expire on 31 May 2022
3 August 2021	Public exhibition of Amendment C119 commenced
7 September 2021	Public exhibition period extended from 9 September 2021 to 8 October 2021
8 October 2021	Public exhibition period closed – 14 submissions received
26 October 2021	Council sought exemption from Ministerial Direction No 15, section 4(3) to request the appointment of a Panel within 40 business days of the closing date for submissions.
4 November 2021	Exemption to Ministerial Direction No 15, section 4(3) was granted.
1 December 2021	Late submission received – total of 15 submissions
6 December 2021	At its ordinary meeting Council considered submissions and resolved to refer submissions to a Planning Panel, to accept any late submission from the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation and to approve post exhibition changes.
14 December 2021	Council formally requested a Planning Panel be appointed
31 January 2022	Directions hearing for the Amendment held via video conference

Attachment 3: Example - Significant Tree Inspection Assessment Sheet

SIGNIFICANT TREE INSPECTION ASSESSMENT SHEET - BANYULE CITY COUNCIL

SITE:	3A McFarlane Street MONTMORENCY
Nomination Database Number:	576
Nominee Status:	Third Party
Tree Location:	Nature strip
Date of Inspection:	20 June 2018
Date of Report:	21 June 2018 (rev. 16/1.2019)
Consulting Arborist:	Nick Withers
Lat/Long:	-37.717700, 145.124384

Arboricultural Data

Tree ID	SPECIES	Provenance	Age (years)	Height X Spread (m)	Trunk circ.	Trunk diam.	Health	Structure	Form	Overall Condition	Comments	Similar ESO4 Listings
576	<i>Eucalyptus melliodora</i> (yellow box)	Indigenous	100+	20 x 18	405cm	129cm	Good	Good	Good	Good	Multi-stemmed from ~1 metre	127 Fernside Avenue, Code 126

Additional Comments: Very high streetscape contribution but moderate landscape contribution only. However, the size and age of the tree suitably satisfy the significance criteria.

Significance Attributes

Landscape	Size	Age	Botanical	Horticulture	Historic	Form	Remnant	Habitat	Cultural
-	Yes	Yes	-	-	-	-	-	-	-

Significance Recommendation

Significance	Significance Level	Affected Properties:	3 McFarlane Street MONTMORENCY 3A McFarlane Street MONTMORENCY
Yes	Local	Development Planning Arborist:	<div>ASSESSMENT SIGNOFF</div> <div>Date:</div>

Photographs and Plan overleaf



Photograph/s (June 2018, west elevation)



Aerial/Plan (north at top)



Attachment 4: Authorisation Letter



Department of Environment, Land, Water and Planning

8 Nicholson Street
East Melbourne, Victoria 3002
PO Box 500
East Melbourne, Victoria 8002

Ms Allison Beckwith
Chief Executive Officer
Banyule City Council
Email address: nicola.rooks@banyule.vic.gov.au

Dear Ms Beckwith

PROPOSED BANYULE PLANNING SCHEME AMENDMENT C119BANY

I refer to your council's application for authorisation to prepare an amendment to the Banyule Planning Scheme. The amendment proposes to apply Schedule 4 to the Environmental Significance Overlay (ESO4) to new additions to the Banyule City Council Significant Trees and Vegetation Register and remove the ESO4 from two properties where trees have been legally removed.

Under delegation from the Minister for Planning, in accordance with section 8A of the *Planning and Environment Act 1987* (the Act) I authorise your council as planning authority to prepare the amendment subject to the following conditions:

- Prepare a Banyule City Council Significant Trees and Vegetation Register 2020 with the following revisions :
 - A cover page.
 - Revised address of vegetation from 23-25 Philip Street to 23 Philip Street Lower Plenty to ensure consistency with Clause 42.01s4 (Code 700).
 - Revised address of vegetation from 356 Upper Heidelberg Road to 354 Upper Heidelberg Road Ivanhoe to ensure consistency with Clause 42.01s4 (Code 702).
- Revise amendment documentation to amend the Schedule to Clause 72.08 Background Documents to introduce the Banyule City Council Significant Tree and Vegetation Register 2020 as a background document.
- Minor revision to 8ESO map to include 1, 3 and 9 Were Street Montmorency to ensure consistency with Clause 42.01s4 (Code 789).
- Minor changes to Clause 42.01s4:
 - Revise address of vegetation from 11-13 Lochabar Court to 11-15 Lochabar Court Ivanhoe (Codes 807, 830 and 843), to ensure consistency with Banyule City Council Significant Trees and Vegetation Register 2020.
 - Delete Section 7.0 Reference Documents and all its contents, which are already listed in the Schedule to Clause 72.08 Background Documents.
- Ensure explanatory report and instruction sheet are accurate and have been revised to reflect any changes made to the amendment to meet conditions of authorisation.

I note that Banyule City Council Significant Trees and Vegetation Register, which is listed as a background document in the Banyule Planning Scheme, is not a publicly available document. Although not the subject of this amendment, I encourage your council to investigate how to rectify this to ensure consistency and transparency around the treatment of significant trees in the Banyule Planning Scheme.

The amendment must be submitted to the Minister for approval.

The authorisation to prepare the amendment is not an indication of whether or not the amendment will ultimately be supported.

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002



OFFICIAL-Sensitive

Please note that [Ministerial Direction No. 15](#) sets times for completing steps in the planning scheme amendment process. This includes council:

- giving notice of the amendment within 40 business days of receiving authorisation; and before notice of the amendment is given, setting Directions Hearing and Panel Hearing dates with the agreement of Planning Panels Victoria. These dates should be included in the Explanatory Report ([Practice Note 77: Pre-setting panel hearing dates](#) provides information about this step).

The Direction also sets out times for subsequent steps of the process following exhibition of the amendment.

The Minister may grant an exemption from requirements of this Direction. Each exemption request will be considered on its merits. Circumstances in which an exemption may be appropriate are outlined in [Advisory Note 48: Ministerial Direction No.15 – the planning scheme amendment process](#).

In accordance with sections 17(3) and (4) of the Act, the amendment must be submitted to the Minister **at least 10 business days** before council first gives notice of the amendment.

Please submit the amendment electronically using the Amendment Tracking System (ATS).

If you have any further queries in relation to this matter, please contact Catherine Bruckard, Planner, Department of Environment, Land, Water and Planning, on 85080019 or email catherine.bruckard@delwp.vic.gov.au.

Yours sincerely,



Melena McKaskill
Manager
State Planning Services

18 June 2021

Attachment 5: Example Letters (2) - Mapping Error Notification



PO Box 94, Greensborough VIC 3088
T (03) 9490 4222
enquiries@banyule.vic.gov.au
ABN 16 456 814 549

7 September 2021

[REDACTED]
5 Glen Drive
EAGLEMONT VIC 3084

Dear [REDACTED]

Letter regarding Banyule Planning Scheme Amendments C119 & C117 - Protection of Significant Trees

I recently sent you a letter regarding temporary and permanent planning controls proposed to protect significant trees within Banyule. The planning control is known as Schedule 4 to the Environmental Significance Overlay (ESO4).

You received the letter in regard to tree #433 at 3 Glen Park Drive, Eaglemont. It has since been identified that it is tree #428, also located at 3 Glen Park Drive, Eaglemont that affects your property rather than tree #433. This will be corrected before the Amendment (C119) seeking permanent controls is adopted or approved. A copy of the assessment for tree #428 is enclosed.

I apologise for any confusion or inconvenience this may have caused you.

Submissions to Amendment C119 have been extended and will now be accepted up to **8 October 2021**.

If you have any questions, please don't hesitate to give me a call on 9457 9835. I am available Monday to Thursday.

Yours sincerely

A handwritten signature in black ink that reads "N. Rooks".

NICOLA ROOKS
Strategic Planner

Encl. Tree Assessment #428

7 September 2021

████████████████████
1A Woodland Grove
MONTMORENCY VIC 3094

Dear ██████████

Letter regarding Banyule Planning Scheme Amendments C119 & C117 - Protection of Significant Trees

I recently sent you a letter regarding temporary and permanent planning controls proposed to protect significant trees within Banyule. The planning control is known as Schedule 4 to the Environmental Significance Overlay (ESO4).

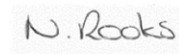
You received the letter in regard to tree #713. It has since been noted there was an error in mapping the location of tree #713 which is on 1 Woodland Grove, Montmorency rather than 1A Woodland Grove, Montmorency as previously identified. This will be corrected before the Amendment (C119) seeking permanent controls is adopted or approved.

Submissions to Amendment C119 have been extended and will now be accepted up to **8 October 2021**.

I apologise for any confusion or inconvenience this may have caused you.

If you have any questions, please don't hesitate to give me a call on 9457 9835. I am available Monday to Thursday.

Yours sincerely



NICOLA ROOKS
Strategic Planner

Attachment 6: Summary of Submissions & Response (attachment to Council Report)

Summary of Submissions to Planning Scheme Amendment C119 – Adding Significant Trees to the ESO4

Submitter No.	Position	Summary of Submission	Initial Officer Response
1.	Support	<ul style="list-style-type: none"> Supports the permanent protection of the significant trees. The character, heat resilience and ecosystem values of Banyule are enhanced through the protection of large, mature trees, as well as trees of historical, formal and/or local significance. 	Support noted
2.	Support	<ul style="list-style-type: none"> Supports greater protection around these significant trees and working to enhance our natural environment in the area more broadly. 	Support noted
3.	Support	<ul style="list-style-type: none"> Supports the amendment as strong protection of significant trees to be important. Banyule continues to lose tree coverage and this needs to be reversed to combat the rising temperatures due to global warming. More trees are needed along our roads and in our gardens and parks. Pleased that their large Illawara Flame tree is on the Significant Trees list. 	Support noted
4. Housing Industry Association	Oppose (general)	<p>Objects to the ESO4 policy in principle. Concerns include:</p> <ul style="list-style-type: none"> Permit required within 5m of drip-line appears to be an arbitrary and excessive requirement without clear justification. 	<p>General comments</p> <p>The majority of concerns raised in this submission are not able to be addressed as part of this amendment. C119 proposes to add additional trees to the ESO4. It does not propose any changes to the objectives, permit triggers, decision guidelines or application requirements in the</p>

		<ul style="list-style-type: none"> • Impacts on significant trees from construction works, can be assessed in accordance with Australian Standard AS4970: 2009 – Protection of Trees on Development Sites. • ESO4 should be made redundant in favour of a State level policy and/or Planning Provision for “significant” trees with one clear set of principles for all sites providing certainty for industry. • Concern many properties also affected by VPO with has different application requirements, this could be confusing and difficult for applicants. • ‘Tree surgeon’ and ‘botanist’ are not terms commonly referred to in Victorian Planning Schemes. • Tree and vegetation policies should not undermine plan for the growth of Metropolitan Melbourne to facilitate a growing population. • Should be exemptions for dead or dying trees. • General exemptions at Clause 62.02-2 should be referred to. 	<p>schedule. If such changes were considered they would need to be publicly exhibited and all properties affected by the ESO4 notified.</p> <p>Council has begun work on a Vegetation Protection Controls Review and this will continue into 2021/22 (refer 3.6.4 of Council Plan 2021-2025). Issues raised in this submission can be appropriately considered as part of this broader review and any subsequent planning scheme amendments. The State Government is also considering tree protections as part of its Cooling and Greening program and Council will need to be mindful of any impacts this might have on future planning controls.</p> <p>Specific comments</p> <ul style="list-style-type: none"> • A permit is not required to construct a building or carry out works outside the critical root zone, which is 5 metres beyond the drip-line of any significant tree. This measurement was recommended and justified in the original <i>Significant Tree and Vegetation Study in 2000</i>. It determines when development that could impact the <u>significance</u> of trees and vegetation requires subsequent/or additional assessment, not merely direct development impacts to the health and condition of individual trees and areas vegetation. • AS4970-2009 Tree Protection Zone calculations do not always account for the greatest canopy spread, and canopy impacts can affect significance considerations. • Agree there may be merit in a State level policy or planning provision and if/when one is introduced Council would review the State provisions and consider adjustments to local policy/provisions as necessary. • There are no application requirements under section 4.0 <i>Application requirements</i> of the ESO4. <i>Section 3.0</i>
--	--	--	---

			<p><i>Permit requirement provides that Council may require the applicant to provide a report from a qualified tree surgeon or botanist on the reason and need for the proposed work, options for alternative treatment and any remedial or restorative action proposed (s3. ESO4).</i> Application requirements for VPO's and ESO's will be considered as part of the broader Vegetation Protection Controls review.</p> <ul style="list-style-type: none"> • Terminology in the ESO4 that is not subject to this amendment will be considered as part of the broader Vegetation Protection Controls review. • While there is an acknowledged need to facilitate a growing population for Melbourne, this needs to be balanced with measures to protect our existing trees. Making Melbourne cooler and greener is a direction of Plan Melbourne to produce a sustainable and resilient city. • Dead or dying trees can be important for providing habitat. Habitat is one of the 10 criteria to assess significance trees. It is noted that an exemption is given under the head provision at Clause 42.01-3 for emergency works, including <i>where it presents an immediate risk of personal injury or damage to property. Only that part of the vegetation that presents the immediate risk may be removed, destroyed or lopped under this exemption.</i> • Clause 62.02 does not apply where a permit is specifically required to remove, destroy or lop trees or to remove vegetation. Furthermore, duplication by cross referencing any other applicable clause of the Planning Scheme is not necessary and is no longer supported by DELWP.
--	--	--	---

5.	Oppose (tree specific)	<p>Concerned with tree #721</p> <ul style="list-style-type: none"> • Have spoken to Council numerous times over 10 years regarding the danger of this tree on private property • Each year the tree drops seeds weighing up to 8kg from the height of 25metres into own and neighbour's backyard. • The branches often break off, they are sharp and heavy and fall from a height like a spear. • Tree has made it dangerous for the children to play in their own backyard for many months of the year • Concerned the top half of the tree has begun to lean • Appreciate trees of this age and size are of significance but in a suburban backyard it is dangerous. 	<p>Tree #721 (Bunya-Bunya Pine) is considered significant for size and historic association with Mount Eagle estate. It is 25m tall with an estimated age of 150 years.</p> <p>It is noted a planning application (P701/2021) to remove the tree in 2021 was not supported as upon inspection it was considered to be in good overall condition providing significant streetscape and environmental value and considered worthy of retention. Council was supportive of pruning the tree.</p> <p>Council's arborist has provided the following comments:</p> <ul style="list-style-type: none"> • The large seeds can be managed through tree maintenance which does not require planning approval under the ESO4. • Any proposal to remove a tree can still be assessed, and approved if justified, at the planning permit stage taking into account any planning reports requested and individual circumstances. • It is noted an exemption is given under the head provision at Clause 42.01-3 for emergency works, including <i>where it presents an immediate risk of personal injury or damage to property. Only that part of the vegetation that presents the immediate risk may be removed, destroyed or lopped under this exemption.</i>
----	---------------------------	--	--

6. First Peoples State Relations	Further information requested	<ul style="list-style-type: none"> • Submission in reference to tree #703 which is identified as being of Aboriginal cultural heritage significance. • The submission queries the consultation and assessment process for trees of Aboriginal cultural heritage significance and recommends consultation with the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation (WWCHAC) occurs prior to adoption of the amendment. 	<p>Tree #703 (Yellow Box) is considered significant for its associations with Aboriginal culture or heritage and as a remnant tree. It is 8m tall with an estimated age of 150 years.</p> <ul style="list-style-type: none"> • Consultation with the WWCHAC is currently occurring in regard to tree #703 and more broadly regarding protection of Aboriginal heritage. • Council is conscious of the resource constraints of the WWCHAC and that potentially it may take more time for the consultation to progress. If an assessment of tree #703 is not able to be achieved before Council considers the amendment for adoption it is proposed to remove the Aboriginal cultural heritage significance criteria from the tree's assessment. The tree remains significant as a remnant tree. • If the tree is subsequently confirmed to be of Aboriginal cultural heritage significance, Council will submit it for inclusion on the Victorian Aboriginal Heritage Register and reconsider the trees protection in the Planning Scheme via a future amendment subject to advice from the WWCHAC. • More broadly and to better inform future processes, Council will continue to work with FPSR, DELWP and the WWCHAC to identify the best mechanism for protecting Aboriginal cultural heritage in relation to trees given there are multiple mechanisms within and external to the planning system. Sensitivity to the wishes of the WWCHAC while also avoiding duplication of controls will be key considerations.
--	-------------------------------------	---	--

7. National Trust	Support	<ul style="list-style-type: none"> • Supports the protection of significant trees on public and private land, this is particularly important given the urban development pressures in Banyule. • Support policies that protect the longevity of the urban forest including the provision of additional canopy cover to mitigate the heat island effect and provide health benefits to the community; the creation of healthier ecosystems with a greater diversity of species; the recognition that trees contribute economically and socially as well as environmentally to cities and suburbs. • Commends Council for its commitment to protecting and enhancing the landscape quality of the municipality, ensuring that these significant natural assets are preserved and protected for current and future generations 	Support noted
8. DELWP planning approvals	Changes recommended	<ul style="list-style-type: none"> • Recommends ESO4 be revised to reflect Australian Standard AS 4970 – 2009 Protection of trees on development sites, which specify Tree Protection Zones as a distance of 12 x Diameter at Breast Height (DBH) 	<p>As for response at #4</p> <p>C119 proposes to add additional trees to the ESO4. It does not propose any changes to the objectives, permit triggers, decision guidelines or application requirements in the schedule. If such changes were considered they would need to be publicly exhibited and all properties on the ESO4 notified. The recommendation in this submission is not able to be addressed as part of this amendment.</p> <p>Council has begun work on a Vegetation Protection Controls Review and this will continue into 2021/22 (refer 3.6.4 of Council Plan 2021-2025). The suggestion raised in this submission can be appropriately considered as part of this broader review and any subsequent planning scheme amendments.</p>

9.	Oppose (tree specific)	<p>The Amendment is not supported with regard to tree #423 for the following reasons:</p> <ul style="list-style-type: none"> • It is not native and is already protected under the Significant Landscape Overlay (SLO). • It poses a safety risk and has previously caused damage to the foundations of our property. • It is too large for the block it is located on and unsuitable to be in close proximity to building foundations. Inclusion on the register will make it more difficult for impacted property owners to take necessary action to protect their properties from damage caused by the tree. • It has become invasive due to lack of appropriate maintenance and now restricts the use of a large area of our property. • Size alone is not a valid basis on which to include the tree without giving due consideration to the destructive impact it is having on adjoining property and houses specifically because of its size. 	<p>Tree #423 (Golden Elm) is considered significant for its size and aesthetic contribution to the immediate and local landscape. It is 15m tall with an estimated age of 70 years.</p> <p>Council's arborist has provided the following comments:</p> <ul style="list-style-type: none"> • The objectives and permit requirements of the ESO4 and SLO are different. In particular the building and works trigger in the SLO considers the impact on the landscape rather than protection of the tree and how close the works are in proximity to the tree. • Any proposal to remove a tree can still be assessed, and approved if justified, at the planning permit stage taking into account any planning reports requested and the individual circumstances. For permit applications based on property damage, a structural engineer report may be required. • Trees are rarely the initial cause of damage to plumbing/drainage but will take advantage of old, deteriorating or poorly installed pipes. Proper repair and replacement can often eliminate the problem. • The tree is considered significant because of its dimensions and landscape contribution. • Large trees provide the greatest environmental benefits. • Exotic species can provide many similar, equal or even greater environmental values as indigenous or native specimens.
10. Warringal Conservation Society	Support	<ul style="list-style-type: none"> • The Warringal Conservation Society (WCS) support the amendment. • WCS created the first Significant Tree Register for the City of Heidelberg in 1982 and is pleased the register was adopted by Banyule and has continued to grow. 	<p>Support noted</p> <p>Council's Environmental Planning team is working to make to the Significant Tree Register publicly accessible in the future.</p>

		<ul style="list-style-type: none"> We should cherish and protect our trees and ensure that Banyule's tree canopy is enhanced and not allowed to recede. Acknowledge that the Register is not a static document: it is a "living" document, with sadly, some trees lost over time, but more importantly, with more trees being added every year. The continual update of the register is to be encouraged and it is hoped that the register will be accessible to the public in the near future. 	
11.	Support	Supports any moves by Council to protect important trees as we are losing so much vegetation every year. The amount of tree loss witnessed since moving here in 2010 is concerning.	Support noted
12.	Oppose (tree specific)	<p>Amendment is not supported with regard to tree #696 for the following reasons:</p> <ul style="list-style-type: none"> Conflicts with planning objective for higher density development as site is well located in the Heidelberg Activity Centre. Priority should be for greater housing opportunities rather than protecting a single tree. Future building works to existing buildings which are old and unattractive will become a major obstacle. The ESO4 would make it onerous for the Owners Corporation to undertake standard maintenance as the tree already impacts so close to the existing buildings. The tree has already caused substantial damage to existing water and sewerage pipes Excessive plumbing bills have been incurred to detect root invasions to the underground pipes and undertake the necessary plumbing works. Its impact on the immediate landscape is negligible as it is mostly obscured from the front of the property 	<p>Tree #696 (Common or English Oak) is considered significant for size, age and impact on immediate landscape. It is 20m tall with an estimated age of 110 years.</p> <p>It is noted a planning application (P1026/2018) to remove the tree was made in 2018 and an inspection undertaken. Tree removal was not supported as the application did not provide conclusive information that the tree is the main contributing factor to the building issues (cracks) or that the issues would be alleviated by the tree's removal.</p> <p>Council's arborist has provided the following comments:</p> <ul style="list-style-type: none"> The existing issues with the tree will not change with the ESO4 listing. Any proposal to remove a tree can still be assessed, and approved if justified, at the planning permit stage taking into account any planning reports requested,

		<ul style="list-style-type: none"> The tree is a common oak and can be found commonly throughout Heidelberg's streets and parks 	<p>individual circumstances and assessment of all the planning objectives (including higher density).</p> <ul style="list-style-type: none"> The need for a planning permit will only be triggered for new works, maintenance of existing infrastructure should not require planning approval unless pruning/lopping is proposed which is currently required under the VPO5. The tree is prominent within the streetscape despite it being positioned behind the building
13.	Oppose (tree specific)	<p>Amendment is not supported with regard to tree #423 for the following reasons:</p> <ul style="list-style-type: none"> The tree is large, poorly maintained and is causing damage to property The tree has a significant root system that is damaging sewerage pipes The tree is not native and don't believe its size or landscape is worthy of protection Appreciate the value that trees contribute to the diversity and health of our landscape and environment, but their presence should be balanced between their value and the rights of those on adjoining properties. 	<p>Tree #423 (Golden Elm) also subject of submission #9.</p> <p>Refer to submission #9 for comments</p>
14.	Oppose (general)	<p>Objects to various changes proposed in the ESO4, in particular:</p> <ul style="list-style-type: none"> Moving the table of vegetation to section 3 is not user friendly Removing the references to the Banyule Significant Tree Register and the National Trust Significant Tree Register Suggests trees that are also on the National Trust Register be marked as such in the ESO4 Suggests changes to permit requirements for the pruning of vegetation 	<ul style="list-style-type: none"> The formatting changes made to the ESO4 schedule are required to ensure the schedule conforms to the Ministerial Direction on Form and Content of Planning Schemes which sets out a template that must be followed. While the changes look broad and difficult to follow in the track change version, the actual wording for these sections has not changed, it has only been relocated. References to the Significant Tree Register and the National Trust Significant Tree Register were removed from the schedule in line with DELWP directions. It is

			<p>now a requirement that all background documents in the Planning Scheme must be publicly available as an electronic document. Both of these Registers are databases that cannot be uploaded as a document. The removal of references to these documents does not have any impact on the functioning of the ESO4.</p> <ul style="list-style-type: none">• The National Trust Register changes overtime with the addition and removal of trees. This is a consideration of the point above and may prevent this suggestion from being implemented. Further review as part of the Vegetation Protection Controls Review is recommended (discussed at #4).• Changes to the permit requirement is outside the scope of this amendment. Refer to comments at #4 for more detail.
--	--	--	---