

Canary oak, pinoak, English oak, and other mature exotics at Killevey (or Killeavey)

NAME: Canary oak, pinoak, English oak, and other mature exotics
at Killevey (or Killeavey)

TYPE: TREE

SITE NUMBER: 207

ADDRESS end REYNOLDS ROAD ELTHAM

MELWAY MAP: 22 E10 **DATE:** 1870s-



PLANNING SCHEME OVERLAY RECOMMENDATIONS:

Planning scheme protection Recommended

External paint controls

Tree control

Outbuilding control

Internal alteration control

HERITAGE VALUE Regional

ELTHAM STUDY CRITERIA:

THEME(S)

ELTHAM STUDY THEMES:

PRIVATE PLANTING

HISTORICAL ASSOCIATIONS:

Joseph Anderson Panton, William H Irvine

REVISED ELTHAM STUDY EXTENT OF DESIGNATION:

TREES AND TITLE LAND TO a RADIUS OF nominally 5 METRES, the root ball or the canopy drip line of EACH tree whichever is the greatest.

ELTHAM STUDY HISTORY:

The property was purchased in 1906 by Sir William Irvine and his wife and the tree was planted by Lady Irvine sometime shortly after. Sir William is historically significant as a

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former Premier (1902-1904) and Attorney General (1899-1900) of Victoria.

REVISED HISTORY:

This site is part of CA4/6 in Nillumbik parish and eventually became lot 8 of LP4998. The original grant (336 acres) was issued to J Carfrae and others in 1865 but owned by Joseph Anderson Panton from 1867. By then Panton had been appointed police magistrate of the Wood Point, Heidelberg & Yarra Districts { Motschall: 7}. The area once known as Kingstown was named after Panton (Panton Hills), reputedly to avoid confusion with other similarly known towns, but Panton also helped map the area and is thought to have chosen the name himself { ADB}. Panton had a very distinguished career in the civil service.

After taking out and repaying a mortgage in 1867-9 Panton remained there until early in the 20th century. In 1905, Panton's property was described as a house and 429 acres (including CAs 8/7, 4/6), with an annual valuation of £65 {RB}. His other holding was within a bend of the Yarra River (33 acres) and had been granted to him in 1881 (Glynns Rd). The oaks possibly belong to his period of tenure.

From 1907-8, Gordon S Lyons of the Bank of Victoria was rated for the property which had been reduced in area to 336 acres, including a house and CA4/6 (see 272 Reynolds Rd). The Lyons subdivision of CA4/6 yielded nine blocks. Laughing Waters Road divided the hillside blocks from the riverside blocks. The subdivision was declared by surveyor Claude Purchas in May 1908, lodged by the solicitors Malleson & Co, and gained the Shire's consent in the following August { VTO}.

The Hon. William H Irvine, barrister, purchased lots 7 & 8 in 1908, with an annual valuation of £60 for 80 acres. By the next year there was a house on the block but no increase in annual valuation. There had been a previous house on the property from the Panton tenure but it is possible this was the one at 272 Reynolds Rd. Irvine purchased another lot (block 9, 47 acres) by 1913, taking him through to the line of Reynolds Road on the west. His annual valuation rose to £85 but in the next year the sum was £125, suggesting major improvements. He had another 25 acres by 1917, being block 10. The peak value was £164 in 1924. His address was care of St Georges Rd, Toorak from c1924 onwards.

Panton

- born Scotland 1831, studied geology among other things;
- arrived Australia 1851;
- appointed Commissioner of Crown Lands and Assistant Commissioner of the Goldfields at Bendigo 1852;
- explored the Kimberley and Ord River in the 1850s-60s;
- owned vineyards at Epsom and Huntly from which prize-winning wines were produced;
- appointed police magistrate of the Wood Point, Heidelberg & Yarra Districts 1862;
- elected president of the Victorian Arts Society 1888;
- one of his paintings was presented to Panton Hill when the mechanics institute opened there in 1901 { Motschall: 7}.

ADB extract PANTON, JOSEPH ANDERSON (1831-1913), public servant, was born on 2 June 1831 at Knockiemil, Aberdeenshire, Scotland, son of John Panton of the Hudson's Bay service and his wife Alexina McKay, née Anderson. He was educated at the Scottish Naval and Military Academy, where he developed a keen interest in drawing, and at the University of Edinburgh, leaving without a degree. At the suggestion of his uncle, Colonel Joseph Anderson [q.v.], Panton migrated to Sydney in the Thomas Arbuthnot, arriving in March 1851, and went to the Port Phillip District. After farming briefly at Mangalore, he tried for gold without success at Mount Alexander and then

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applied to La Trobe for appointment as an officer in the gold escort. As he later told the story, 'The Lieutenant-Governor looked me up and down, and then remarked jocularly "This fellow seems too big for a trooper. Too heavy. It would be too severe on the horses. I think he would make a Commissioner".'

Panton was appointed assistant commissioner at Kangaroo Gully, near Bendigo, under J. E. N. Bull [q.v.] in 1852, senior assistant commissioner at Bendigo in 1853 and senior commissioner in 1854. He investigated the resentment against Chinese diggers and his recommendation for a Chinese protectorate was adopted by Governor Hotham in 1855. With Lachlan McLachlan [q.v.] he had handled the diggers' protest movement at Bendigo in 1853 with tact and conciliation. His administration was commended by the commission which inquired into affairs at the diggings after Eureka, though William Howitt [q.v.] described him as 'most inert'.

Panton left Bendigo in 1858 on leave without pay, but with high repute as warden, magistrate and protector of the Chinese, and for going far beyond his routine duties. He helped to organize the Melbourne Exhibition in 1854 with a preliminary exhibition at Bendigo, and was a commissioner for the Melbourne International Exhibition in 1880.

From Bendigo in 1858 Panton went to Scotland and then to Paris to study art with his friend Hubert de Castella [q.v.]. On his return he was appointed warden and magistrate at Heidelberg, where he found time to map the Yarra Valley, leaving his name at Panton Hill. Panton's Gap where the road to Ben Cairn and Donna Buang branches from the Don Road near Healesville derives its name from a small house he had there. He also named Donna Buang which he first called Mount Acland but renamed it after learning the Aboriginal name. From Heidelberg he was transferred to Geelong and moved to Melbourne as senior magistrate in 1874-1907. He regularly attended musical recitals and was very active in the Victorian Artists Association and the Victorian Academy of Art which developed into the Victorian Artists Society. A fellow of the Royal Geographical Society in London he was also vice-president of the Royal Geographical Society of Australasia, Victorian Branch.

At Bendigo Panton owned vineyards at Epsom and Huntly from which prize-winning wines were produced. He was a strong advocate of the development of a local wine industry as alluvial mining faded. At Epsom he had the land deeply trenched and filled with bones and bullocks' heads. Attracted by the outback, he took up leases in the outer districts of New South Wales and Western Australia. Friendship with the explorer, Ernest Giles [q.v.], possibly strengthened his interest. Panton later moved to a lease in the Northern Territory and took up land in the Kimberley District. He also foretold the discovery of gold in Western Australia. An enthusiastic yachtsman, he often spent his holidays sailing. 'Handsome and standing] a good deal over six feet', he was a good conversationalist. On 5 December 1860 he had married Eleanor Margaret, daughter of Colonel John Fulton of the Bengal Native Infantry. In 1895 he declined the honour of knighthood but was appointed C.M.G. Predeceased by his wife, he died at St Kilda on 25 October 1913; although brought up in the Church of Scotland he was buried with Anglican rites. He was survived by two daughters, one of whom, Amy, was a well-known portrait painter.

Irvine (extract from ADB)

IRVINE, Sir WILLIAM HILL (1858-1943), premier and chief justice, was born on 6 July 1858 at Dromalane, Newry, Down, Ireland, sixth of seven children of Hill Irvine, farmer and linen manufacturer, and his wife Margaret, née Mitchel. William, a nephew of John Mitchel [q.v.2] the Irish patriot, was educated at the Royal School, Armagh, and at Trinity Collège, Dublin (B.A., 1879), sharing college rooms with a cousin and leading 'a cheerful and rather riotous student life'. He won prizes in modern history and Italian and

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did well in mathematics. On graduation, achieved despite financial difficulties when Hill Irvine, overwhelmed by the failure of his linen mill, suffered a heart attack and died, William entered the King's Inns. But when his mother determined upon a new start overseas, he abandoned legal studies and persuaded her to go to Australia. Some of the family sailed for Melbourne in 1879 and set up house at Richmond.

Irvine undertook further degree courses at the University of Melbourne (M.A., 1882; LL.B., 1884; LL.M., 1886). He meanwhile derived a little income as a private tutor and, for a time, as a master at Geelong College but he disliked teaching. After reading with (Sir) Henry Hodges [q.v.] he was admitted to the Victorian Bar on 8 July 1884. On 17 September 1891 at St Andrew's Presbyterian Church, Ballarat, he married Agnes Somerville, eldest daughter of T. D. Wanliss, member of the Legislative Council, and sister of D. S. Wanliss [q.v.] with whom Irvine shared a room in Selborne Chambers, Melbourne. There were three children of the marriage, but the first eight years were childless and spent with scrupulous regard for economy while Irvine struggled at the Bar. Yet they were able to entertain modestly, and found pleasure in music, gardening and the keeping of dogs. Irvine had, for a few years, a virtual obsession about goldmines and applied whatever cash he could spare in taking mining leases. They came to nothing. Irvine occupied idle moments in chambers writing a practice book on the powers of justices of the peace, published in 1888, and he worked up a reputation for his conduct of cases in the Gippsland County Courts. He also wrote with (Sir) Frank Gavan Duffy [q.v.8] Law relating to the property of women (1886). He sometimes examined for the law school at the university. But his work and income were erratic. 'Solicitors', he wrote, 'are very shy just at present, and I occasionally have a fit of a distinctly azure hue'. When a brief came he surmounted a disposition to indolence and applied himself to the task without reserve, severely draining mental and physical energy and requiring compensation in vigorous outlets like sculling, fitness exercises and bushwalking. He suffered from acute anxiety, sometimes of almost neurotic degree, possibly derived from the troubled years after his father's death. In 1894 when his practice was solid but unspectacular, he stood for the rural Legislative Assembly seat of Lowan, representing the Free-trade Democratic Association; he advocated a land tax and claimed independence from both the Patterson and Turner [qq.v.] parties. Although virtually unknown in the electorate and opposed by the ministerialist Richard Baker, who also supported tariff reform, Irvine achieved a surprise victory which, ironically, may have been helped by the anti-Patterson public service vote which he personally distrusted.

Irvine found politics congenial. Through the offices of William Shiels [q.v.] he served in the 1899-1900 McLean [q.v.] ministry as attorney-general. He showed himself a man of absolute probity, clear vision and firm resolution and when McLean moved into Federal politics in 1901 Irvine, having lost his bid for the Federal seat of Wimmera, became leader of the Opposition. A Peacock [q.v.]-Irvine coalition was mooted, but in June 1902 Irvine carried a vote of no confidence in the Peacock ministry. Commissioned to form a government, he was remarked for his temerity in choosing a cabinet without consulting David Syme [q.v.6]. The defeat of the members' reimbursement and public officers' salaries retrenchment bill secured him a double dissolution in September and he went to the polls on 1 October. Prudently he had allied himself with the Kyabram movement and its Citizens' Reform League which fought drought and economic recession with demands for reduced government spending. On a platform of parliamentary reform and retrenchment within the public service as the prerequisites for State economic development he won a resounding victory.

Irvine's ministry, unchanged after the election, was essentially a country one: He had appointed Shiels treasurer and kept the post of attorney-general for himself; from February 1903 he was also solicitor-general, and treasurer from July. Irvine carried retrenchment and initiated major irrigation programmes. His reform proposals, providing

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for reduction of the legislature by approximately one-third and reducing the powers and widening the franchise of the Legislative Council, were trimmed. But the premier demonstrated his implacable will by making acceptance of another provision, separate parliamentary representation for railway workers and public servants, a condition of his continuation in office.

In May 1903 the railway engine drivers struck in a protest against working conditions and the humiliations of the retrenchment policy. Irvine's reaction to a crisis which he had probably not deliberately provoked but which he had done nothing to avoid was swift and crushing. A strike suppression bill was introduced, accrued financial and other benefits of strikers were declared forfeit, the ringleaders were dismissed and strike-breakers engaged. The strike was over within a week. Middle-class interests applauded Irvine's stand, but labour organizations were bitter in condemnation. 'Your turn will come, my smooth beauty', yelled Dr Maloney [q.v.] across the chamber: politically, Irvine had become a 'marked man'. The strain of Irvine's dual position as premier and treasurer began to show by November when he announced his early intention of retiring as head of government; already in September he had relinquished the posts of attorney-general and solicitor-general. His reduced income and sustained criticism from the Age over his October budget were rumoured as explanations, but deteriorating health was probably the most compelling factor. Under pressure from colleagues and with promises of relief from routine administration he rescinded his decision; but, suddenly, in February 1904, under 'imperative orders' from physicians, he resigned as premier.

In the premiership years his reputation as 'Iceberg' Irvine evolved. For one who wished so much to succeed in politics he was not helped by his appearance of cold aloofness and his reserve when among strangers. He cultivated a 'thoughtful demeanour and a monosyllabic, incisive method of speech' that was primly logical. Even his choice of thin-rimmed spectacles compounded an impression of austerity and detachment. He did nothing to court popularity but convinced himself that 'the people trust me'. Following his resignation a testimonial fund of £2000 was raised by supporters and presented to his wife.

The Irvines travelled overseas for seven months, and he was awarded an honorary LL.D. at Trinity College, Dublin. In a speech to citizens of his birthplace he ostentatiously avoided reference to Home Rule. 'He would always be proud to be a Newry man', he said, but 'his fortunes and his work were cast in Australia, and to a large extent he belonged to Australia'. On his return to Melbourne he gave increasing time to his family and his home Killeavey at Eltham. In 1906 he revealed his priorities by declining a seat on the Supreme Court bench but taking silk on 23 October and moving on to Federal politics as member for Flinders from December. He spoke out for strengthened Commonwealth powers, particularly in the fields of taxation, immigration and defence. At the same time his Bar career flourished and he was senior counsel in many major cases before the High Court of Australia and the Victorian Supreme Court. In the national parliament his continuing sense of independence won him some admirers but few friends. He began nominally as a member of the 'Corner-group' and clashed often with Alfred Deakin [q.v.8] and W. M. Hughes [q.v.] who called Irvine a 'mere phrasemaker' and taunted that 'Democracy asks him for reform, and he gives it a speech'. He was left out of the Fusion ministry in 1909: although (Sir) Joseph Cook [q.v.8] desired his inclusion he was anathema to Sir John Forrest [q.v.8]; moreover Hume Cook [q.v.8] reminded Deakin of the railway strike and advised, 'This man MUST BE EXCLUDED at all costs'. Irvine contested the leadership of the party on Deakin's resignation in 1913, but had to withdraw after the first ballot, thus losing hopes he had begun to cherish of becoming prime minister. From June 1913 to September 1914 he was attorney-general in the Cook ministry. But as the government was enfeebled in its legislative programme by Senate obstruction his term in office was frustrating. He survived a censure motion in September 1913 by only one vote, after allegations that he had allowed himself to be placed in a position of conflict by accepting while a minister of the Crown a general

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retainer from the Marconi Co., then engaged in litigation against the Commonwealth. He was knighted in 1913 and raised to K.C.M.G. the following year. When the Cook ministry fell in September 1914 Irvine's political career was all but over. Although he was described by Governor-General Sir Ronald Munro Ferguson [q.v.] three years later as the most statesmanlike man in parliament ('there is no public man who so often hits the right nail on the head'), he refused to join any ministry which was unprepared to legislate for conscription, an issue he pursued throughout the war years with typical single-mindedness. In July 1915 Irvine had called for compulsory registration of all men and next year he took a leading part in the referendum campaign. After the referendum was lost he helped to prepare the platform for a 'Win-the-War party' while hinting to Munro Ferguson of the efficacy of Imperial decree. Hughes seriously considered sending him as Australian representative to the Imperial Conference early in 1917. That year Irvine was prominent among his Nationalist colleagues in his refusal to accept Hughes's pledge not to introduce conscription without a special warrant from the people, and in October and November led the second conscription movement, decrying the need for referenda shackled to the 'sentiment' of women. He was still pushing for a conscription bill in March 1918 when on the death of Sir John Madden [q.v.] he accepted the chief justiceship of Victoria. Irvine was sworn in on 9 April, some commentators likening his appointment to a consolation prize for his thwarted political aspirations. Preoccupation with politics had reduced his legal powers and, though he had many good judicial qualities, he was not a jurist and his judgments have little enduring legal merit. While clear and expeditious in his decisions, he was a slavish user of precedent and never commented on the state of the law. However in 1923 he set an important administrative precedent when he refused to nominate a Supreme Court judge to conduct a royal commission on a matter which had political implications.

Sir Robert Menzies considered him a 'first-class trial judge, dignified, upright, cold in manner ... but perceptive, and devoted to justice'. Sir Arthur Dean recalled that Irvine 'presided over his court with great dignity and decorum, but with some degree of detachment from the case before him, particularly in the dangerous hours after lunch. He was not a profound lawyer, but usually an industrious one ... He had a quiet and restrained sense of humour, a firm sense of justice, a high standard of duty and propriety, and great personal charm'. He did not transfer his 'Iceberg' reputation to his relations with the legal profession. But he confided that he felt lonely and isolated on the bench as he loved to be in affairs. He allowed himself to remain too long in office and had in his late seventies to be prompted by a colleague to resign; his inattention in the afternoons and his increasing forgetfulness had become excessively embarrassing. His resignation took effect on 30 September 1935.

From 1919 he administered the State as lieutenant-governor several times and was acting governor for nearly three years from June 1931. He and his wife moved with the presence and punctiliousness appropriate to ceremonial office and the community warmed to their enjoyment of touring and meeting people. His resonant and rich speaking voice helped to melt some of the chill of his formal bearing. He was raised to G.C.M.G. in 1934. His membership of the Royal Automobile Club of Victoria from 1909 and his position as patron from 1918 reflected his great enjoyment of motoring and of things mechanical; they, with mathematics, were his abiding forms of recreation.

His declining years were spent at Killeavey and then at Toorak where after suffering a progressively disabling disease that restricted movement and speech he died on 20 August 1943. Survived by his wife, two daughters and a son, he was accorded a state funeral. A portrait by Buckmaster won the Archibald [q.v.3] prize in 1933.

ELTHAM STUDY DESCRIPTOR:

This tree is located on a slope below the main part of the garden and east of the house. The tree has a spreading rounded crown and is 18-20 metres tall. It is one of the main

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features of this garden, acting as an important structural feature through its sheer presence.

REVISED OR EXTENDED DESCRIPTION:

What has been described as a c1930 house at this place has been demolished recently and the site has been levelled off but the house footings and garden terracing survive with sandstone rockery retaining walls and steps around the east side. On the north and west side are stock yard remnants, a concrete tank and open pasture with gums. There is also an old hedge (AMG 339118E 5821922N) set around an early split post and rail fence. Further to the west, beyond the electricity transmission lines, is a cleared area and a track leading down to a wide landing area, lower down, at the edge of the Yarra River.

On the lower garden terrace and at the end of the drive which is planted with a semi-mature ash avenue ('*Fraxinus oxycarpa*'), are three large oaks spaced about 20m apart:

English oak (17-18m tall),

pinoak (18m tall) at and

Canary Island oak (16-17m tall) at AMG 339180E, 5821947N.

Each of these trees has a 10m radius canopy spread which gives them a classic form. The pinoak is one of the largest in the State, having a trunk diameter of around 1.5m, this diameter being shared by the Canary Island oak. Other minor trees include mulberry and an apple, with two probable 1930s Monterey cypress at the gate (AMG 339166E 5821984N).

'*Quercus canariensis*'

Originating from North Africa and the Iberian Peninsula, this deciduous or semi-evergreen species keeps its 4 in (10 cm) long, coarsely toothed leaves until well into winter by which time they are a yellowish brown. It grows quickly to 40 ft (12 m) and its long acorns taper to a fine point. To a gardener, this is effectively a larger-leafed version of the English oak that can withstand drier conditions, though it is not suitable for really arid regions. In the wild it grows naturally in river valleys { Botanica}.

'*Q palustris*'

Coming from the eastern and central USA, this species tolerates dry, sandy soil though it is at its best in deep alluvial soils with plenty of water in summer. Moderately fast growing, it matures to a height of 80 ft (24 m). Its smooth, grey trunk supports horizontal branches towards the top of the tree, while the lower branches droop gracefully. Its lustrous green leaves are 4 in (10 cm) long with deep, pointed lobes that become crimson red in fall (autumn). They persist on the tree well into winter. *Quercus palustris* has a shallow root system { Botanica}.

Condition: Trees generally good (partially disturbed, well preserved)

Integrity Garden partially intact/intrusions

ELTHAM STUDY STATEMENT OF SIGNIFICANCE:

This tree is a very good example of this species, which is relatively uncommon in the Shire. It is also significant on account of its large size, good condition and presence as a key element at this place.

REVISED STATEMENT OF SIGNIFICANCE (with AHC criteria)

CANARY ISLAND OAK, Pinoak, and English oak, at KILLEVEY (or Killeavey) and other contributory trees are significant to Victoria:

- as superior examples of their type, for their evident great age and their large size which surpasses all other examples in the Shire and places them among the largest in

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the State (Criterion B2, D2) ;

- as rare indicators of 19th century garden planting regimes in the Shire (Criterion A4, B2);

- for their long association with both Panton and Irvine, both acknowledged in national biographical works such as the 'Australian Dictionary of Biography' (Criterion H1) ;

- for their rarity within the Shire context among other tree groups (Criterion B2).

ELTHAM STUDY REFERENCES:

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QUERIES RESOLVED:

History, sources?