

Council Meeting

to be held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 23 February 2021 commencing at 7:00pm.

Agenda

Carl Cowie
Chief Executive Officer

Thursday 18 February 2021

Distribution: Public

Civic Drive, Greensborough
PO Box 476, Greensborough 3088
Telephone 9433 3111
Facsimile 9433 3777
Website www.nillumbik.vic.gov.au
Email nillumbik@nillumbik.vic.gov.au

Council Meeting seating plan

Cr Natalie Duffy
Edendale Ward

Cr Karen Egan
Bunjil Ward

Cr Richard Stockman
Blue Lake Ward

Katia Croce
Governance Lead

Blaga Naumoski
Executive Manager
Governance,
Communications and
Engagement

Cr Peter Perkins (Mayor)
Ellis Ward

Carl Cowie
Chief
Executive
Officer

Cr Ben Ramcharan
Sugarloaf Ward

Cr Frances Eyre (Deputy Mayor)
Swipers Gully Ward

Cr Geoff Paine
Wingrove Ward

Nillumbik Shire Council

Contents

1.	Welcome by the Mayor	1
2.	Acknowledgement of Country by the Mayor	1
3.	Good Governance Pledge	1
4.	Prayer	1
5.	Apologies	1
6.	Presentations	1
7.	Confirmation of minutes	1
8.	Disclosure of conflicts of interest	1
9.	Petitions	1
10.	Questions from the gallery	1
11.	Reports of Advisory Committees	2
AC.002/21	Advisory Committee Report - 23 February 2021	2
12.	Reports of Special Committees	3
13.	Officers' reports	5
CM.012/21	Local Government Performance Reporting Framework - Mid-Year 2020-2021 Performance Report	5
CM.013/21	Council Plan Quarterly Performance Report - 2020-2021 - Quarter 2	9
CM.014/21	Council Amended Submission - DELWP's Planning for Melbourne's Green Wedges & Agricultural Land Consultation Paper	13
CM.015/21	Community Engagement Policy	23
CM.016/21	Delegated Committee of Council	31
CM.017/21	Council's Advisory Committees	37
CM.018/21	C134nill Rezoning of 20A Henry Street and 20 Dudley Street, Eltham	41
CM.019/21	Exhibition of Amendment C129 to the Nillumbik Planning Scheme (Removal of the EAO from various parcels in Plenty)	45
CM.020/21	Planning Scheme Amendment C133	55
CM.021/21	Tender Report - Contract 1920-046 Collaborative Procurement for Landfill Services	61
CM.022/21	Local Roads and Community Infrastructure Program - Extension	71
CM.023/21	Tender Report - Contract 2021-8 Graffiti Removal and Management Services	77
CM.024/21	DELWP Proposed ESD Planning Policy Framework Changes - Council Submission	83
CM.025/21	De Fredericks Road Special Charge Scheme - Declaration	89
CM.026/21	Rockliffe Street Special Charge Scheme - Declaration	95

Council Meeting Agenda**23 February 2021**

CM.027/21	Informal Meetings of Councillors Records - 23 February 2021	101
14.	Notices of Motion	104
15.	Delegates' Reports	104
16.	Supplementary and urgent business	104
17.	Confidential reports	104
18.	Close of Meeting	104

Nillumbik Shire Council

**Agenda of the Meeting of Nillumbik Shire Council to be held
Tuesday 23 February 2021 commencing at 7.00pm**

1. Welcome by the Mayor

Members of the public are advised the meeting will be livestreamed and recorded and the livestream and video recording will be made publicly available on YouTube and Council's website.

2. Acknowledgement of Country by the Mayor

Nillumbik Shire Council acknowledges the Wurundjeri people who are the Traditional Custodians of this Land. We would also like to pay respect to the Elders both past and present and extend that respect to other Indigenous Australians present.

3. Good Governance Pledge

As Councillors, we are mindful of our civic responsibilities and obligations. We pledge to take them seriously, and to carry them out with diligence and integrity.

We know the decisions we take will affect the people and environment of Nillumbik, now and in the future. We undertake, therefore, to make sound and principled decisions of lasting value, in a spirit of fairness and for the good of all.

We also pledge to serve the needs and wellbeing of the community and the environment, in an open and honest manner and to the best of our abilities.

4. Prayer

A prayer will be read.

5. Apologies

Recommendation

That the apologies be noted.

6. Presentations

7. Confirmation of minutes

Confirmation of minutes of the Council Meeting held on Wednesday 27 January 2021.

Recommendation

That the minutes of the Council Meeting held on Wednesday 27 January 2021 be confirmed.

8. Disclosure of conflicts of interest

Councillors should note that any conflicts of interest should also be disclosed immediately before the relevant item.

9. Petitions

10. Questions from the gallery

11. Reports of Advisory Committees

AC.002/21 Advisory Committee Report - 23 February 2021

Distribution: Public

Manager: Blaga Naumoski, Executive Manager Governance, Communications and Engagement

Author: Janet Taylor, Governance Officer


Summary

Council has a range of Advisory Committees which provide a formal mechanism for Council to consult with key stakeholders, seek specialist advice and enable community participation. Although they do not make any formal decisions, they provide valuable advice to Council.

In accordance with Advisory Committee Terms of Reference, the minutes of meetings are presented to Council.

The Health and Wellbeing Advisory Committee meeting held on 9 September 2020. The minutes of the meeting are attached (**Attachment 1**).

Attachments

- 1  Health and Wellbeing Advisory Committee meeting Minutes held 9 September 2020

Recommendation

That the minutes of the Health and Wellbeing Advisory Committee meeting held 9 September 2020 (**Attachment 1**) be noted.

12. Reports of Special Committees

Nil

13. Officers' reports

CM.012/21 Local Government Performance Reporting Framework - Mid-Year 2020-2021 Performance Report

Distribution: Public

Manager: Jeremy Livingston, Executive Manager Business Transformation and Performance

**Author: James Hartigan, Business Performance Analyst
 Sue Richards, Business Performance Project Officer**

Summary

The purpose of this report is to present to Council the Local Government Performance Reporting Framework (LGPRF) mid-year service performance results for the 2020-2021 financial year.

The report measures Council's current performance against the expected range (based on LGPRF guidelines set by State Government) as well as comparing Council's current performance against the 2019-2020 end of financial year result.


This is the second time Council is completing a mid-year progress update on the LGPRF indicators, with the aim of the report to provide more frequent and current data to better monitor and more proactively address any issues or trends identified with Council's performance.

The report demonstrates that Council is performing well against the LGPRF framework, with all results within the expected range based on Local Government Victoria guidelines, and with a large number of indicators improving compared to previous reports.

Recommendation

That Council notes the Local Government Performance Reporting Framework (LGPRF) service performance results for the period from July to December 2020 (**Attachment 1**).

Attachments

1.  LGPRF Mid-Year 2020-2021 Performance Report

Discussion

Background

1. The Local Government Performance Reporting Framework (LGPRF) is a mandatory reporting system which was introduced by the State Government in 2014 to ensure all Victorian councils are measuring and reporting on their performance in a consistent way.
2. The LGPRF is comprised of service performance, financial performance and sustainability measures, along with a governance and management checklist.
3. Key objectives of the LGPRF include councils having information to support strategic decision making and continuous improvement, and communities having information about Council performance and productivity.

13. Officers' reports**CM.012/21 Local Government Performance Reporting Framework - Mid-Year 2020-2021 Performance Report**

4. Results for the LGPRF measures are reported in Council's Annual Report each year. These financial year results are publicly released on the Victorian Government's "Know Your Council" website in November of each year. This website provides information on the sector and enables users to benchmark the relative performance of all or similar councils.

Related Council decisions

6. Not applicable

Summary of results

7. **Attachment 1** demonstrates that Council is performing well against the LGPRF with all of the results within the expected range based on Local Government Victoria guidelines. A large number of indicators are also improving over time when compared to previous reports. Key results identified from the mid-year data include:
- Under Animal Management, the time taken to action animal management requests remained steady (1 day), and is lower than for other similar councils (2.12 days);
 - Aquatic Facilities cost of service increased, mainly attributed to facility closures due to COVID-19 restrictions;
 - The percentage of required Food Safety assessments (98.8%) decreased slightly due to COVID-19 related closures, preventing assessment of some premises. This was slightly below other similar councils;
 - Under Governance, Councillor attendance at council meetings was maintained at 100%, which is nearly 10% higher than for other similar councils;
 - Active Library member numbers within the municipality (17.8%) continued to be impacted by COVID-19 restrictions, however the number of active members remains significantly higher than similar councils (12.9%);
 - Participation in the Maternal and Child Health service continued to be steady, despite COVID-19 impacts;
 - Over 91% of sealed local roads are maintained within required condition standards, though this result was slightly lower than for other similar councils (96%);
 - With respect to Statutory Planning, the time taken to decide planning applications decreased (from 101 days to 91 days) due to a reduction in the backlog of older applications and the digitisation of the planning service, only marginally higher than similar councils (90.1 days); and
 - Under Waste Management, the kerbside missed bin rate decreased significantly following the outsourcing of the collection service at the start of 2020-2021 (from 13.3 to 8.2 bins missed per 10,000 households).

13. Officers' reports

CM.012/21 Local Government Performance Reporting Framework - Mid-Year 2020-2021 Performance Report

Council plans and policies

8. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Maintain good governance and effective leadership.

Sustainability implications

9. Not applicable

Community engagement

10. Annual results of Council's performance against the LGPRF measures are currently reported on the Victorian Government's "Know Your Council" website in November each year, as well as in Council's Annual Report.

Innovation and continuous improvement

12. The primary aim of the mid-year data collection is to provide more frequent and current data to better monitor and address any issues or trends. The report measures Council's current performance against the expected range (based on LGPRF guidelines set by State Government) as well as compares Council's current performance against the 2019-2020 end of financial year result.

Collaboration

14. Not applicable

Budget implications

15. This report is part of Council's reporting obligations against the State Government's Local Government Performance Reporting Framework (LGPRF). The resources for the monitoring and preparation of this report are accommodated within existing operational budgets.

Relevant law

16. Not applicable

Regional, state and national plans and policies

17. Not applicable

Conflicts of interest

18. None of the officers preparing this report has a conflict of interest.

13. Officers' reports**CM.013/21 Council Plan Quarterly Performance Report - 2020-2021 - Quarter 2**

Distribution: Public**Manager: Jeremy Livingston, Executive Manager Business Transformation and Performance****Author: James Hartigan, Business Performance Analyst
Sue Richards, Business Performance Project Officer****Summary**

The purpose of this report is to present the Council Plan Quarterly Performance Report for Council's consideration. The attached report provides the second update on delivery progress and performance of the 2020-2021 Annual Action Plan priority actions, which aligns to delivery of the final year of the Council Plan 2017-2021.

Of the 18 actions in the 2020-2021 Annual Action Plan, 15 actions are 'on track', two actions have 'minor issues' and one action has been completed. The overall position outlined in the report suggests that Council continues to make a solid effort at delivering on the priority actions of the Council Plan and significant outcomes for the community.

The entire year's performance against the delivery of the Council Plan will be published in the Annual Report 2020-2021, which will be presented to the community in September 2021.

Recommendation

That Council receives the Council Plan Quarterly Performance Report (**Attachment 1**) for the second quarter, being the period ending 31 December 2020.

Attachments

- 1  Council Plan Quarterly Performance Report - Quarter 2, 2020-2021

Discussion

1. The Council Plan 2017-2021 was developed following the general Council election in October 2016 and adopted by Council on 27 June 2017. The Council Plan 2017-2021 has five high-level strategic objectives of:
 - Engaged, connected communities – a place where communities and ideas thrive, underpinned by trust, confidence and continuous learning.
 - Active and creative people – active lifestyles and artistic expression are fostered through participation and innovation.
 - Safe and healthy environments – healthy and safe communities enjoy living in our iconic Green Wedge environment.
 - A prosperous economy – a strong local economy that supports business growth, jobs and community wealth.
 - Responsible leadership – collaborative and consultative leadership that builds trust and makes the best use of available resources to the benefit of all in the pursuit of excellence.

13. Officers' reports**CM.013/21 Council Plan Quarterly Performance Report - 2020-2021 - Quarter 2**

2. The Annual Action Plan 2020-2021 contains 18 actions contributing to delivery of the Council Plan within the corresponding financial year. This report provides Council with an update on the progress delivery of those 18 actions, and documents how Council is performing and delivering on the final year of the Council Plan for the Nillumbik community.

Commentary on the performance report

3. Of the 18 actions in the 2020-2021 Annual Action Plan, 15 are 'on track', 2 have 'minor issues' and 1 has been completed (**Attachment 1**).
4. Some highlights of activities and deliverables achieved during the second quarter (October to December 2020) include:
- A proposed integrated community engagement approach has been developed to support the planning and drafting of the Community Vision, along with other high order Council plans and strategies. Community engagement activities are scheduled to commence in late February 2021, in order to meet tight legislated timeframes for adopting a Community Vision (Action 1);
 - Design works were completed for a number of community infrastructure projects, including lighting upgrades, solar panels and park upgrades (Action 5);
 - Planning for the Art in the Time of COVID-19 exhibition (which opened in early February at Montsalvat), occurred during the quarter, with the event exhibiting the works of 40 local and national artists commissioned through Council's support program for arts and culture during the COVID-19 pandemic (Action 6);
 - With respect to the Green Wedge Management Plan, a monitoring and implementation plan with priority key actions has been prepared and working groups have been formed to establish a conversations program for 2021 (Action 9);
 - The 2020-2021 Fire Hazard Inspection and Enforcement Program commenced, with works including over 9,000 property inspections, 550 fire prevention notices issued, and development and implementation of a communications plan to educate and inform the community (Action 11);
 - Planning for Phase 1 of community engagement that will support the development of the 2021-2025 Municipal Public Health and Wellbeing Plan is well underway (Action 12);
 - Aligning with the Economic Development Strategy, a Christmas in Nillumbik campaign was delivered this quarter, which included a 'shop local' element (Action 14);
 - Council's Planning Services team continues to implement actions in its service plan, with customers now being able to lodge amendments to current planning applications online (Action 15);
 - Under Council's business transformation program, the Electronic Document and Records Management System (EDRMS) is in its final stage before rollout, with the system planned to go live by the end of February 2021 (Action 18).

13. Officers' reports

CM.013/21 Council Plan Quarterly Performance Report - 2020-2021 - Quarter 2

5. The overall position outlined in the report suggests that Council continues to make a solid effort at delivering on the priority actions of the Council Plan and significant outcomes for the community.

Related Council decisions

6. The Annual Action Plan 2020-2021 was developed and endorsed at the Council Meeting held on 24 June 2020.

Council plans and policies

7. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Maintain good governance and effective leadership.

Sustainability implications

8. Not applicable

Community engagement

9. The Council Plan 2017-2021 was developed following a program of workshops and briefings with Councillors following the general Council election in October 2016, as well as a period of consultation with the community in May and June 2017. The Council Plan 2017-2021 was adopted by Council on 27 June 2017. The Annual Action Plan 2020-2021, reflecting the final year of delivery of this four year plan, was developed and endorsed at the Council Meeting held on 24 June 2020.

Innovation and continuous improvement

10. Not applicable

Collaboration

11. Not applicable

Budget implications

12. This report is part of Council's monitoring of the Council Plan 2017-2021 and Budget. The resources for the monitoring and the preparation of this report are accommodated within existing operational budgets.

Relevant law

13. Not applicable

Regional, state and national plans and policies

14. Not applicable

Conflicts of interest

15. None of the officers preparing this report has a conflict of interest.

13. Officers' reports

CM.014/21 Council Amended Submission - DELWP's Planning for Melbourne's Green Wedges & Agricultural Land Consultation Paper

Distribution: Public

Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety

Author: Leigh Northwood, Strategic Planning Lead

Summary

The Department of Environment, Land, Water and Planning (DELWP) have produced a Consultation Paper (**Attachment 1**) which identifies proposed reforms to the Victorian Planning Provisions (planning scheme and supporting practice notes) for Green Wedges and peri-urban areas.

Due to COVID 19 stage 4 restrictions, the original anticipated public release of 12 August for the consultation paper was postponed. In September 2020 advice from DELWP was that subject to easing of stage 4 restrictions, public consultation was programmed to begin on **Tuesday 29 September** and closed on **Tuesday 22 December 2020**. Given the Caretakers period would occur over this same period, Council took the decision to resolve to adopt a submission to the Consultation paper at its 15 September 2020 Council Meeting. In accordance with the Council resolution officers forwarded the adopted submission to DELWP on 13 November 2020.



DELWP provided further formal advice on 17 November 2020 that consultation would begin commencing 26 November 2020 with submissions closing on 5 February 2021. More recent DELWP advice has allowed Council to make a late submission on or about **26 February 2021**.

Recommendation

That Council:

1. Adopts the amended submission to the Green Wedge Provisions Review Consultation Paper (**Attachment 2**), and direct Council officers to formally lodge the adopted submission with DELWP by 26 February 2021; and
2. Makes the adopted submission publicly available on Council's Participate Nillumbik website.

Attachments

1.  DELWP's Planning for Melbourne's Green Wedges & Agricultural Land Consultation Paper
2.  Final Amended Submission to DELWP's Planning for Melbourne's Green Wedges & Agricultural Land Consultation Paper

13. Officers' reports**CM.014/21 Council Amended Submission - DELWP's Planning for Melbourne's Green Wedges & Agricultural Land Consultation Paper**

DiscussionBasis for the proposed green wedge provision reforms

1. DELWP undertook a technical assessment of Green Wedge agricultural capability in 2018 with a subsequent stakeholder and community engagement process in 2019 in regard to the technical assessment (Plan Melbourne Action 17).
2. The Consultation Paper is the result of feedback to the technical assessment and the community feedback received to that process.
3. Nillumbik Shire was a participant to that process and also a submitter (400 submissions were received to that process). Nillumbik's submission to that consultation has been considered by officers in preparation of feedback to this consultation.
4. According to DELWP, over 90% of participants indicated that they understand why strategic agricultural land in the green wedge and peri-urban areas should be protected and the following key findings of that engagement process identified:
 - a) Planning controls are only one part of the solution. Much of the feedback received through the project discussed outcomes that a planning response cannot solely deliver. For example, ongoing support for farmers and for future farmers was consistently raised.
 - b) Land conditions are not static. Many participants expressed concern about basing the assessment on current land uses and conditions. Comments illustrated how land conditions can change over time and that the focus needs to be on how we can make land productive in the longer-term.
 - c) Is this project thinking long-term enough? There were many comments expressing the desire for all agricultural land to be considered strategic. This was often raised in relation to whether enough agricultural land was being protected to meet the needs of a growing population.
 - d) Water and land capability were the most talked about criteria. Comments shared in relation to the draft criteria were predominantly focused around the Water Access and Land Capability. Feedback on the Water Access criteria illustrated that water access is an essential element for assessing strategic agricultural land. Discussion focused around different water sources and how one water source may be valued over another. For example, not all water sources are equal in quality, cost and accessibility. Access and use of recycled water were the most discussed topics regarding alternative water sources.
 - e) Feedback on the Land Capability criteria indicated that participants felt it was too restrictive by focusing on soil-based agriculture. Participants were also concerned about the potential impacts on land not considered as having high-value soil.
 - f) Feedback on the Resilience and Adaptability criteria illustrated the high importance people place on considering climate change, particularly in relation to how the green wedge and peri-urban areas can play a part in mitigating the impacts of climate change.

13. Officers' reports**CM.014/21 Council Amended Submission - DELWP's Planning for Melbourne's Green Wedges & Agricultural Land Consultation Paper**

- g) Feedback on the Existing Land Use and Integration with Industry criteria highlighted the need to include provisions for supporting and encouraging complementary industries (such as food processing and tourism) on surrounding lands.
 - h) Greater guidance and clarification is required regarding what land uses may be allowed within strategic agricultural land, and under what circumstances. There were three key suggestions for additional criteria (or elements to include in existing criteria):
 - i) Economic viability
 - ii) Future technology and innovation
 - iii) Access to transport infrastructure and networks.
5. Analysis of feedback from the consultation identified six key desired outcomes which underpin the DELWP Consultation Paper and key planning reforms now being considered:
- a) Prioritise the ability to farm and preserve agricultural land in areas identified as having high agricultural value.
 - b) Integrate other government policies and initiatives with planning processes to support the continued use of strategic agricultural land for farming.
 - c) Regulate land uses surrounding strategic agricultural land to maintain farming operations and the quality of agricultural land.
 - d) Support the economic viability of farm businesses.
 - e) Protect the environment by recognising the environmental and natural value of this land and promote sustainable farming practices.
 - f) Clarify acceptable uses and development on strategic agricultural land including how to meet the requirement for 'ancillary' uses and land used 'in conjunction with' other uses.

Related Council decisions

6. At its meeting on 15 December 2020, Council resolved:

That Council:

- a. *Authorises the Mayor to write to the Department of Environment, Land, Water and Planning (DELWP) cc'd to the Minister for Planning, Interface Councils, Municipal Association of Victoria (MAV), the Victoria Local Governance Association (VLGA), and local MP's seeking an extension of the closing date for submissions on the Planning for Melbourne's Green Wedges and Agricultural Land options paper, noting given COVID, the relaxed restrictions and the holiday period, more time is required to enable appropriate and considered submissions to this vital State Planning process.*

13. Officers' reports

CM.014/21 Council Amended Submission - DELWP's Planning for Melbourne's Green Wedges & Agricultural Land Consultation Paper

- b. Requests officers brief Council on the adopted submission by the previous Council and requests officers to amend as directed by Council.*
- c. Requests officers to report back to the January Council meeting.*

7. Subject to the above resolution officers have prepared an amended submission as attached.

Options

Key Concerns – Proposed Reforms

8. The Consultation Paper is very involved as is the submission, however the following represents some of the key concerns raised by the proposed planning reforms.

A new approach to Green Wedge Management Plans

9. Reforms propose review and update of Planning Practice Note 31 'Preparing a Green Wedge Management Plan' to improve the structure, form and content of Green Wedge Management Plans and preparation of Design Guidelines.

10. This approach including requirements for detailed environmental, landscape and land use inventory mapping, and detailed design guidelines will increase clarity and structure in decision making – but only if it is successfully implemented into planning schemes.

11. Consideration needs to be given to a number of issues in regard to this proposed reform including:

- a. Associated costs to Councils – in preparing such a 'fine-grained strategy', costs will be considerable given the level of detail that is being proposed e.g. landscape typologies and land capacity.
- b. As acknowledged in the Consultation Paper – there is no 'one size fits all' in the Green Wedge – each is unique and has its own character, opportunities and pressures. Standardised 'design guidelines' are considered problematic for this reason. Individual and appropriate application of design guidelines as a 'tool' is considered best implemented from a 'suite' identified in an updated Practice Note, where Councils may choose applicable guidelines in association with their adopted Green Wedge Management Plans – and apply these to the schedule to the zone (as appropriate).
- c. The design guidelines again as a 'one size fits all' approach to all Green Wedges may not effectively reflect the nuance of each Green Wedge and although the objectives for each proposed 'design element' are considered positive, the design requirements may result in unintended outcomes without regard to the unique environs and pressures faced by each of the Green Wedges. Some of the design requirements appear to reflect the experience of Councils that adjoin or contain growth areas and the design 'elements' proposed appear to address issues they may face around for example large places of worship. This is not the experience of Nillumbik Shire, again nuances of each Green Wedge require consideration rather than 'blanket' design responses.

13. Officers' reports**CM.014/21 Council Amended Submission - DELWP's Planning for Melbourne's Green Wedges & Agricultural Land Consultation Paper**

The issue of earth and fill storage in the Green Wedge

12. It is noted in the Consultation Paper that - except for the City of Hume's GWZ and GWZA, no permit is required for proposals to move and deposit soil on a site as a primary land use, unless the proposal has specific environmental impacts (e.g. changing the rate of flow of water). In some areas, overlays can provide limited control, however the issue of filling is secondary to the key requirements of the overlays. Resolving the broader issue of soil and earth storage in the planning system will require a state-wide approach (in conjunction with the EPA Victoria).
13. Nillumbik Shire is being impacted increasingly by the practice of soil dumping in our significant Green Wedge areas. Without proper control and/or the ability to carefully consider this activity, the dumping may result in irreversible damage and/or time consuming and costly rectification exercises, which affect our green wedge values. As noted there are no planning regulations to require a permit or otherwise to control this activity.
14. The Consultation Paper should address the implementation of an additional Particular Provision to require a planning permit (similar to parameters identified in the Hume scheme i.e. 100 cubic metres).
15. In the absence of State response on this matter, Nillumbik Shire have had to take action in regard to illegal dumping of clean fill in our rural areas, and have recently sought authorisation from the Minister for Planning in August 2020 for C130 to seek interim controls under Section 20(4) of the *Environment and Planning Act 1987* (formally refused by the Minister 15 December 2020) and C131 to seek permanent controls to modify (on a permanent basis) the schedule to the Green Wedge Zone and the Rural Conservation Zone (Schedules 1 – 5) by inserting a permit trigger for *Earthworks which involve the receipt, importation, stockpiling or placement of more than 100 cubic metres of fill to all land*.
16. C130 (for interim controls) was refused by the Minister on 15 December 2020, and formal authorisation of C131 (for permanent controls) was received from the Minister on the same day. It should be noted this in no way indicates the Ministers approval of the amendment, but grants authorisation to undertake the amendment process only.

Missed Opportunities*Focus on agricultural value of the Green Wedge and not Conservation & Biodiversity*

17. It is noted the four key aspects addressed by the consultation paper do not include consideration of conservation and biodiversity, which is a key characteristic and function of many of Melbourne's Green Wedges – particularly Nillumbik Shire.
18. Not all Green Wedge areas contain 'viable soil-based agricultural land'. The areas currently identified by the RCZ have environmental qualities which are, in some cases, providing the buffers to critical environmental areas which should not be considered for agricultural use and instead should be afforded protection from further pressure to be modified. Noted that desired planning outcomes for green wedges and peri-urban areas (Plan Melbourne 2017-2050) includes acknowledgement of this element of Green Wedges.

13. Officers' reports

CM.014/21 Council Amended Submission - DELWP's Planning for Melbourne's Green Wedges & Agricultural Land Consultation Paper

Focus on broad scale agriculture and not on smaller-scale local agriculture

19. There is too much emphasis on identifying and protecting existing key agricultural areas and not enough on doing the same for smaller-scale local agricultural production.
20. The proposed reforms are considered to place importance only on lands that can produce the greatest volume of food for metropolitan Melbourne. Local agriculture is also of value to the functioning of the green wedge itself, which in the case of Nillumbik is a mosaic of farming, nature conservation, townships and rural living. This value should also be protected for its contribution, not only to the overall agricultural objective for green wedges, but also to metropolitan objectives for tourism, landscape and cultural heritage. In Nillumbik, although agriculture is generally undertaken at a smaller scale and is interspersed with other land uses, it is also worthy of the "right to farm" identified.
21. The proposed reforms do not sufficiently address the transition of productive agricultural land into lifestyle/hobby properties and inappropriate agricultural intensification. In Nillumbik, properties traditionally used for extensive grazing (mainly beef) are now unviable for commercial grazing as the land price exceeds reasonable earning potential per hectare. If profitable agriculture is pursued, the land use must be intensified regardless of the capacity of the land.

The limitations of the Planning Scheme as a 'tool'

22. Planning Schemes as a tool can only go so far to protect agricultural land. The Consultation Paper needs to acknowledge and identify further actions that are outside the scope of planning scheme controls that will require further action to compliment and help protect agricultural production and broader green wedge initiatives.
23. An example of this is bio-security planning. Although some of these issues can be dealt with for instance in Green Wedge Management Plans (GWMP), this could be part of the regional approach. Additional consideration needs to be given to help farm properties to achieve better bio-security outcomes. Diversity of crops, spacing of buildings for animal husbandry.

Council plans and policies

24. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Advocate effectively for Nillumbik's interests at a state and national level.

Sustainability implications

25. See key concerns raised above in regard to Consultation Paper particularly with regard to its:
 - a. Focus on agricultural value of the Green Wedge and not Conservation & Biodiversity;
 - b. Focus on broad scale agriculture and not on smaller-scale local agriculture; and
 - c. The limitations of the Planning Scheme as a 'tool'.

13. Officers' reports**CM.014/21 Council Amended Submission - DELWP's Planning for Melbourne's Green Wedges & Agricultural Land Consultation Paper**

Community engagementDELWP Consultation and Submission Deadline

26. DELWP released the Consultation Paper to Councils and other agencies confidentially for 'targeted' consultation. DELWP's intention was to undertake public consultation formally from 12 August 2020 for a period of 10 weeks with submissions closing 21 October 2020, however due to COVID 19 stage 4 restrictions, the anticipated public release of 14 August 2020 was postponed.
27. Given the stage 4 restrictions public consultation was programmed to begin on **mid-October** and close on **late December** – with submissions from all stakeholders due on this date.
28. DELWP also requested the Consultation Paper remain confidential until formal public consultation in regard to the paper was launched.
29. At the briefing on 1 September 2020, Council identified that they wanted to seek endorsement of the submission during this Council term and that the submission be brought to the 15 September 2020 Council Meeting for consideration of adoption.
30. Given changes to the submission deadline date Council identified with DELWP concerns that:
 - a) Seeking to adopt a Council submission to the Consultation Paper is problematic where review and views of the community cannot be suitably conveyed to Councillors for their consideration;
 - b) Keeping the Consultation Paper confidential as requested and thereby Council briefing and OCM on the matter confidential was not considered transparent and is not aligned to Councils objectives of 'responsible leadership' and puts Council in a difficult position in regard to its decision making in isolation of its community; and
 - c) Given COVID restrictions consideration should be given to allowing as much time as possible for review and submissions by the community.

Council Consultation

31. Given the new public consultation dates, and that this is not a Council project, the communication team have supported 'getting the word out' in regard to consultation paper through the following mechanisms:
 - a) Participate Nillumbik webpage to be live on the first day of public consultation (when Engage site becomes live) referring the community to DELWP's 'Engage website' and noting submission deadline (once known).
 - b) Media Release and social media updates.
 - c) Customer service de-brief so our officers can identify the Engage website for enquiries.

13. Officers' reports

CM.014/21 Council Amended Submission - DELWP's Planning for Melbourne's Green Wedges & Agricultural Land Consultation Paper

- d) Making the adopted submission available on the Participate Nillumbik website. It is noted that subject to Governance advice, given the matter was confidential the submission was only made publicly available at the completion of the formal Council 'Caretaker's Period' and the start of the formal community engagement period by DELWP on the matter.

Innovation and continuous improvement

- 32. The overall objective of the Consultation Paper is to introduce key reforms to planning for Melbourne's Green Wedges which advances continuous improvements to planning in Victoria.

Collaboration

Key Issues Raised – DELWP Workshop

- 33. A workshop was held by DELWP (all Councils) on 15 July 2020 with council officers. Key issues identified by Councils in attendance (Yarra Ranges, Manningham, Nillumbik, Whittlesea) included:
 - a) Focus of this work was on agriculture – not all Green Wedges have this as a significant function.
 - b) Proposed design guidelines for the Green Wedge and the need for consideration of re-building in the event of bushfire – impacts.
 - c) Discretionary uses – potential to be detrimental – example wineries that by extension become 'compounds' with many uses and buildings.
 - d) Rural industry and manufacturing sales not adequately addressed in the Consultation Paper. E.g. imported ingredients percentages – sale of goods not grown on the land.
 - e) Usefulness of Design Guidelines for dwellings in the Green Wedge, where Nillumbik Shire previously tried to do something similar with C81, which proposed (controversial) Significant Landscape Overlays in the rural areas. At the moment the planners rely on local policy at Clause 22.04, which has been quite successful for Nillumbik.
 - f) More definition around allowable buildings/building size/building design/building location in support of agriculture.
 - g) Use of Green Wedge Management Plans as a tool to manage Green Wedge matters such as siting/design guidelines for buildings pushing a large onus onto Council's in preparation of GWMP – a lot of investment in this document.
- 34. The draft submission was prepared with input from Councillors, internal departments including statutory planning, environment, strategic planning, infrastructure and a review against Council's adopted Green Wedge Management Plan (2019) has also been undertaken (refer to the draft submission for detail).

13. Officers' reports

CM.014/21 Council Amended Submission - DELWP's Planning for Melbourne's Green Wedges & Agricultural Land Consultation Paper

Budget implications

35. There are no immediate budget implications posed by the Consultation Paper, however a key area for reform identified in the Paper is to review the general form and structure that Green Wedge Management Plans should take, and improve their requirements for detailed environmental, landscape and land use inventory mapping, including identifying landscape typologies and detailed design guidelines. Discussion around suitability of this approach aside, there would be cost imposts to Council where preparation of this work would require technical inputs that would significantly increase the costs of preparing a Green Wedge Management Plan (noting these documents require regular updating over time).
36. Similarly some of the proposed reforms for example changes to land use definitions (e.g. primary produce sales) if supported and implemented ineffectively, could create a significant planning compliance issue for Council with associated costs in enforcement.

Relevant law

37. *Planning & Environment Act (1987)*.

Regional, state and national plans and policies

38. The work in the Consultation Paper builds on priorities (key actions) in *Plan Melbourne 2017–2050* (Plan Melbourne) specifically:
- a) Action 17 Support strategic planning for agriculture
 - b) Action 72 Review green wedge planning provisions
 - c) Action 73 Green Wedge Management Plans

Conflicts of interest

39. All officers involved in the preparation of this report have made a declaration that they do not have a conflict of interest in the subject matter of this report.

13. Officers' reports**CM.015/21 Community Engagement Policy**

Distribution: Public**Manager: Blaga Naumoski, Executive Manager Governance, Communications and Engagement****Author: Bianca Caruso, Marketing and Community Engagement Officer
Licardo Prince, Communications and Advocacy Lead****Summary**

As part of the *Local Government Act 2020* (the Act), it is now a statutory obligation for all Victorian councils to have a Community Engagement Policy in place on or before 1 March 2021.

The policy outlines Council's commitment to provide the community with genuine opportunities to contribute to and inform projects, strategies, services and decisions that affect them.

The intent of this policy is to provide clarity on how Council will fulfil its commitment to engaging with the community in line with the Act.

An initial phase of community engagement was undertaken from 26 October 2020 to 15 November 2020 for community feedback on how they would like to be engaged and to identify areas for improvement.

These findings helped to shape and inform the draft Community Engagement Policy, which was then released for a second phase of community consultation from 16 December 2020 to 26 January 2021.

The general consensus was that the broad principles and approach mapped out in the policy – including its adherence to the IAP2 core values and to deliberative engagement – was positive. The feedback showed a strong emphasis on ensuring that the principles contained in the policy were put into practice.

Minor amendments (primarily for style and grammar) have been made to the draft Community Engagement Policy (**Attachment 1**).

The purpose of this meeting is to endorse the Community Engagement Policy.

Recommendation

That Council adopts the Community Engagement Policy (**Attachment 1**), effective immediately.

Attachments

1.  Community Engagement Policy

13. Officers' reports**CM.015/21 Community Engagement Policy**

Discussion

1. Under the *Local Government Act 2020* (the Act), the Community Engagement Policy must be developed with community input and must include the following elements:
 - a) an overview of the types and forms of engagement Nillumbik will use;
 - b) outline how Nillumbik will 'close the loop' on engagement opportunities;
 - c) include representative and deliberative engagement practices;
 - d) include the engagement principles in section 56 of the Act; and
 - e) be capable of being applied to Council Laws, budget and policy development.
2. The Community Engagement Policy must be in place before engagement on significant Council strategic documents can occur. There is a greater emphasis on engagement being representative as well as deliberative in developing Council's long-term Community Vision, 4 year Council Plan, 10 year Financial Plan and 10 year Asset Management Plan.
3. Phase one of consultation involved asking the community to provide its views on Council's current engagement practices, areas for improvement and a question in regards to specific detail to be included in the policy. Engagement was undertaken from 26 October 2020 to 15 November 2020 (three weeks) through a survey on Council's Participate Nillumbik site.
4. The second phase of consultation asked for community feedback on the draft Community Engagement Policy.
5. Community members and local residents were asked to comment on the draft Community Engagement Policy from 16 December 2020 – 26 January 2021 (six weeks).
6. The community was informed of the engagement through social media posts on Facebook, Instagram and LinkedIn, local community newspapers (Warrandyte Diary, Whittlesea Town Crier and Hurstbridge Roundabout), Advisory Committees, various e-newsletters, Yarra Plenty Regional Library, and community groups sharing through their own social media channels, contact lists and word of mouth. COVID-19 restrictions precluded in-person engagement activities.
7. Feedback was obtained through Council's Participate Nillumbik site – <https://participate.nillumbik.vic.gov.au/community-engagement>, conversations with committee members, written submissions specifically from the Ageing Well newsletters as well as an option to attend virtual community conversations on Monday 21 December 2020, Thursday 14 January 2021 or Wednesday 3 February 2021 for feedback and discussion.
8. Comments on social media channels in response to Council posts on the draft Community Engagement Policy were also taken as submissions.
9. An extra virtual community feedback and information session was held on 3 February 2021 to afford a further opportunity for feedback from anyone who had been unable to do so during the formal submissions period.
10. The Draft Policy attracted 28 formal community submissions in total.

13. Officers' reports

CM.015/21 Community Engagement Policy

11. A summary of themes and recommendations to emerge from the consultation process are as follows:

What we heard (themes)

12. There is a general view that the Community Engagement Policy is a comprehensive document. The community are interested in seeing how it will be implemented and some expressed the view that it was a 'tick the box' exercise.
13. Community Engagement is at the center of what a council should be and that Council must represent its community. Council should be receptive and responsive to community input. The policy will only be effective if implemented in this way.
14. Closing the loop and being transparent is critical to consultation and for the community to understand how their feedback has been used. The more visible the engagement and community feedback the greater chance of increased participation and trust with Council.
15. The Community Engagement Policy should emphasise the importance of a two-way flow of information between Council and community.
16. It is important to cater to those not on digital platforms as well as young children, the vulnerable and the aged.
17. Community members who attended a community conversation and information session about the draft policy, felt positive about having the Councillors in the 'virtual' room contributing to the discussion.

Community Recommendations

18. Below are some of the recommendations received through the community engagement process:
- To assist with implementation – a suggestion was put forward to form a community panel comprising of individuals with specific areas of interest, to contribute as part of a focus group. They would, for example, represent broader interest groups such as sporting clubs or associations.
 - Councillors' role as community representatives is critical. Their key role is to remain aware of what is important to their constituents in order for what to engage on – and how- could be accurately reflected in Council activities.
 - Regular updates on Council website or Participate on how decisions are made.
 - Create a local sporting network which could be directly engaged for any relevant community consultation.
 - Have a monthly newsletter where each edition has a particular theme and share this to networks via an email using the subscriber list.
 - Advertise ALL submissions for community consultation on the front page of the website along with communication via all mediums (email, letter, phone, SMS advertising and social media). The accessibility of these documents must be paramount.

13. Officers' reports

CM.015/21 Community Engagement Policy

- Now that COVID-19 restrictions are easing, opportunities for informal engagement such as BBQs in parks where people can connect and discuss issues in person would be desirable.

Related Council decisions

19. On 15 December 2020, the Council endorsed the commencement of community consultation on the draft policy as follows:

That Council:

1. *Endorses the Draft Community Engagement Policy for further community consultation, to occur from 16 December 2020 through to 26 January 2021.*
2. *Notes that any amendments will be made to the policy, where appropriate, when the community consultation has concluded and prior to the Future Nillumbik Committee meeting on 9 February 2021.*
3. *Notes that community members are able to make submissions and speak at the Future Nillumbik Committee meeting on 9 February 2021.*
4. *Notes that the final Community Engagement Policy will be designed and presented for adoption at the Council Meeting on 23 February 2021.*

20. On the 9 February 2021, the Future Nillumbik Committee made the following resolution:

That the Committee (acting under delegation from Council):

1. *Receives and notes the Community Engagement Findings Report including all submissions (Attachment 1) on the draft Community Engagement Policy.*
2. *Requests that officers consider the matters contained in the written and verbal submissions during finalisation of the Community Engagement Policy.*
3. *Provides any additional input to the Community Engagement Policy before the Policy is due to be endorsed at the next Council Meeting on 23 February 2021.*
4. *Requests that officers thank submitters and provide a written response to their submissions.*
5. *Notes that the final Community Engagement Policy will be designed and presented to Council for adoption at the Council Meeting on 23 February 2021.*

Options

21. The Community Engagement Policy must be developed in consultation with the municipal community and adopted by 1 March 2021.
22. The draft Community Engagement Policy has been developed to meet the requirements under the Act and best practice engagement standards. These will underpin our approach to the extensive community engagement program Council will undertake this year and beyond.

13. Officers' reports

CM.015/21 Community Engagement Policy

Council plans and policies

23. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Improve community trust through better communications and genuine engagement.

Sustainability implications

24. The draft Community Engagement Policy was developed to ensure that community engagement practices reflect available resources and are tailored to meet Nillumbik's unique social, economic and environmental needs.

Community engagement

25. Community engagement on the policy occurred during the COVID-19 pandemic and therefore primarily via online platforms. The engagement took place at the 'Consult' and 'Collaborate' levels of the IAP2 spectrum.
26. A two phase engagement process was developed to help inform the draft policy.

Phase 1: Community Survey October - November 2020 (Completed)

27. Community members and local residents were questioned on aspects of community engagement. The community was asked to share its thoughts on Council's current engagement practices, areas for improvement and a question in regards to specific detail to be included in the policy.
28. Engagement was undertaken from 26 October 2020 to 15 November 2020 (3 weeks) via a survey on Council's Participate Nillumbik site <https://participate.nillumbik.vic.gov.au/community-engagement>. Conversations were held with community groups and individuals, as well as with advisory committees. In addition, the option to contact the engagement officer directly by phone or email was also made available.
29. The draft Community Engagement Policy was developed using the feedback provided by the 191 community members who responded to the opportunity to have their say on how they would like Nillumbik Shire Council to engage with them.
30. It was also informed through direct feedback from Council Advisory committees, as well as from an internal working group comprising Council officers drawn from a broad range of operational areas.

Phase 2: Engagement and Workshops (Completed)

31. The community was able to provide feedback on the draft Community Engagement Policy for six weeks, from 16 December 2020 to 26 January 2021. While the timing is less than ideal, it is dictated by the legislative requirement that the policy must be endorsed by 1 March 2021.
32. The community have been be afforded every opportunity to engage on the draft Community Engagement Policy, with officers actively promoting the opportunity to provide feedback through all Council communications channels.
33. Opportunities to engage were actively supported through a detailed communications and engagement plan.

13. Officers' reports

CM.015/21 Community Engagement Policy

34. Consultation activities included:

- a dedicated page through our online 'Participate' portal, inviting community members to a conversation. This page was prominently promoted and linked from the homepage of Council's website;
- a series of information sessions and workshops;
- a Community Network information and feedback session and a "Community Conversations" consultation forum on 21 December 2020, 14 January 2021 and 3 February 2021 respectively, were conducted. Twenty registrations via Eventbrite were received for the 14 January 2021 session and eight participants attended. An evening session was also held on Wednesday 3 February 2021 with four participants in attendance;
- mention in Summer edition of Nillumbik News;
- media release and news story on Council website;
- distribution of flyers;
- e-newsletters, including a link to the survey to all subscribers;
- a scheduled series of posts – including paid posts - on Council social media channels (Facebook, LinkedIn, Instagram);
- a targeted social media strategy aimed at those generally harder to engage (e.g. youth);
- advertising and editorial in community newspapers;
- directly contacting key stakeholder groups;
- an article in the Ageing Well newsletter which included a postage paid envelope for individuals to submit feedback;
- promotional signage with QR codes to be positioned in areas with high foot traffic;
- draft policy promoted and hard copies placed at Council facilities - including Libraries, sport and leisure facilities and community centres; and
- hard copies of the draft policy available to anyone upon request.

35. The public were also afforded the opportunity to speak at the Future Nillumbik Committee Meeting on Tuesday 9 February 2021. There were 5 submitters all in support of the policy.

Innovation and continuous improvement

36. The evaluation activities will allow Council to meet its commitment to best practice community engagement by responding to evolving needs and expectations.

37. By evaluating and reviewing our engagement it allows us to be both transparent and accountable. Feedback from our community provides clear data and evidence, it is also an important tool used by our Council to help inform their decision making in matters before the Council.

Collaboration

13. Officers' reports

CM.015/21 Community Engagement Policy

- 38. The community survey questionnaire and draft policy were developed with input from an internal Working Group, comprising officers representing a range of departments across Council.
- 39. Discussions regarding the community engagement policy were also held with a number of other councils, including Melbourne City Council. This collaboration provided an insight into common ways of working and also how each council approached some things differently.
- 40. In preparation for the implementation of the Act, officers attended a number of webinars on deliberative engagement including co-design workshops and Local Government network meetings through Local Government Victoria.

Budget implications

- 41. The application of the Community Engagement Policy will influence expenditure on future project deliverables that will be subject to community engagement activities. Some actions identified within the policy are core activities and are funded through existing operating budgets and others will be subject of future budget proposals.

Relevant law

- 42. Under section 55 of *Local Government Act 2020* (the Act), the Community Engagement Policy must be developed with input from the community and include the engagement principles in section 56 of the Act.
- 43. Failure to respond to the requirements of the new Act, both in terms of timeliness and content, would result in non-compliance with Council's most significant and important item of legislation. It may result in subsequent delays to the engagement processes required for the development of the Council Plan and Community Vision. Both these significant strategic documents require an endorsed Community Engagement Policy to be in place in order to progress to adoption by Council.

Regional, state and national plans and policies

- 44. No regional, state and national plans and policies are directly applicable to this briefing.

Conflicts of interest

- 45. All Officers who have been involved in the preparation of this report declare they do not have a conflict of interest in the subject matter of this report.

13. Officers' reports

CM.016/21 Delegated Committee of Council

Distribution: Public**Manager: Blaga Naumoski, Executive Manager Governance, Communications and Engagement****Author: Katia Croce, Governance Lead
Emma Christensen, Senior Governance Officer****Summary**

At the Extraordinary Meeting of Council held Tuesday 24 November 2020, Council resolved to defer the appointment of Councillors to portfolios in the Future Nillumbik Committee (FNC), appoint an interim chairperson to the FNC and request officers report back to Council on the options for Council's delegated committee structure.

This report seeks Council resolution to abolish the FNC and, in accordance with section 63 of the *Local Government Act 2020 (the Act)* establish a new delegated committee.




Recommendation

That Council:

1. Resolves to abolish the Future Nillumbik Committee as a delegated committee effective 10 March 2021;
2. Revokes the Instrument of Delegation to the Future Nillumbik Committee adopted 25 August 2020 effective 10 March 2021;
3. Establishes the delegated committee, Planning and Consultative Committee effective 11 March 2021;
4. Appoints all seven Councillors to the Planning and Consultative Committee;
5. Approves the Instrument of Delegation for the Planning and Consultative Committee (**Attachment 1**);
6. Approves the Terms of Reference for the Planning and Consultative Committee (**Attachment 2**);
7. Adopts and advertises the Planning and Consultative Committee meeting schedule for 2021 (**Attachment 3**);
8. Appoints Councillor _____ to act as chair for Planning Matters before the Planning and Consultative Committee until 24 November 2021;
9. Appoints Councillor _____ to act as chair for Consultative Matters before the Planning and Consultative Committee until 24 November 2021; and
10. Authorises the Common Seal of Nillumbik Council to be affixed to the Instrument of Delegation to the Planning and Consultative Committee (**Attachment 1**).

13. Officers' reports**CM.016/21 Delegated Committee of Council**

Attachments

- 1  Instrument of Delegation to Planning and Consultative Committee
- 2  Terms of Reference - Planning and Consultative Committee
- 3  Planning and Consultative Committee 2021 meeting schedule

Discussion

1. A delegated committee established under section 63 of the Act may exercise the powers, duties or functions of Council. Therefore, these committees are subject to the same governance rules as Council (section 60 of the Act). A resolution of a delegated committee holds the same weight as a resolution of council (provided it falls within the committee's delegated powers).
2. Delegated committees can be used also by councils to enable members of the public to make oral presentations, which is an opportunity that is not generally provided at a full Council meeting.
3. Council also has the power under section 188(1)(a) of the *Planning and Environment Act 1987*, to delegate its powers duties and functions to a delegated committee.
4. At the Extraordinary Meeting of Council held on Tuesday 24 November 2020, Council resolved to:
 1. Defer the appointment of Councillors to a portfolio in the Future Nillumbik Committee for the 2020/2021 Council year to allow time for the Mayor and Councillors to review Council's Committee structures and appointments.
 2. Appoint Cr Ramcharan as the interim Chairperson to the Future Nillumbik Committee Meetings until Council resolves otherwise; and
 3. Requested officers to report back to Council on the options for Council's Delegated Committee(s) structures at the 23 February 2021 Council meeting.

This report satisfies point 3 of the resolution.

Related Council decisions

5. The Future Nillumbik Committee (FNC) was established as a special committee in accordance with the *Local Government Act 1989* and replaced two previous special committees being the Policy and Services Committee and the Planning Committee. The first meeting of the FNC was held in February 2017.
6. The FNC was reconstituted as a delegated committee under section 63 of the Act on 25 August 2020. This re-constitution of the FNC as a delegated committee was necessary because special committees were superseded with the introduction of the Act.

13. Officers' reports

CM.016/21 Delegated Committee of Council

Options

Membership

7. Section 63(1) of the Act specifies that a delegated committee established by Council must include at least two Councillors. It is proposed the membership of the Planning and Consultative Committee would comprise Nillumbik Shire Council's seven elected Councillors.

Terms of Reference

8. The Terms of Reference (**Attachment 2**) have been prepared in accordance with the requirements of the Act, and Council's Governance Rule - Meeting Procedure.

Delegation

9. The Act allows for the delegation of some powers to a delegated committee. The Planning and Consultative Committee will operate under delegation of Council as is included in (**Attachment 1**).
10. Section 11(2) of the *Local Government Act 2020* lists those powers, duties or functions that cannot be delegated by Council to a delegated committee.
11. The only other exclusions from the Committee's delegated powers are those matters which are unable to be delegated under the *Planning and Environment Act 1987* or any other Act.
12. As the Committee would include all Councillors, it is not necessary to limit further the extent of the Committee's powers.

Matters before the Planning and Consultative Committee

13. This report proposes that the Planning and Consultative Committee will consist of two areas being Planning Matters and Consultative Matters.
14. Items heard as Planning Matters would relate to Council's Statutory and Strategic Planning areas, for example, planning permit applications and any matter referred in accordance with the Terms of Reference.
15. All other items before the Committee would be heard as Consultative Matters.
16. The order of business to be considered by the Planning and Consultative Committee would be Planning Matters followed by the Consultative Matters.

Chair of Committee

17. Section 63(2) of the Act specifies that a delegated committee is to be chaired by –
 - a) a Councillor appointed by the Council or the Mayor to chair meetings of the delegated committee; or
 - b) if the Councillor appointed by the Council or the Mayor to chair meetings of the delegated committee is not present at the meeting, a Councillor who is present at the meeting and is appointed by the members of the delegated committee who are present at the meeting.
18. It is proposed that the two areas would each have a chairperson elected by Council resolution. Preliminary matters such as the welcome, confirmation of minutes and disclosure of conflicts of interest would be chaired by the chair of Planning Matters.

13. Officers' reports

CM.016/21 Delegated Committee of Council

19. In the event there are no Planning Matters on the agenda, the chair of the Consultative Matters will chair the meeting in its entirety.
20. The meeting will be closed by the chair of the last committee agenda item considered.
21. Following the first term, the chairperson for Planning Matters and Consultative Matters would be elected by Council resolution for the term of one Council year.

Meeting Conduct and Frequency

22. Meetings will be open to the public (unless confidential business is being considered in accordance with section 66 of the Act).
23. Committee Meetings will be held according to the schedule determined by Council (**Attachment 3**). Meetings will generally be held once per month on the second Tuesday (however this may vary due to public and school holiday dates or other factors).
24. An extraordinary delegated committee meeting may be called by Council resolution, by Committee resolution, by the Mayor, or by three or more Councillors.

Rights to address the Committee

25. The Governance Rule - Meeting Procedure enables any member of the public to register to address a delegated committee in regard to any matter listed on the Committee's agenda. This includes matters where Council has invited public submissions through a consultation process, as well as any other matter on the agenda. This means that a member of the public can attend and address the Committee on a matter, even if Council has not invited public submissions on the matter or if the person has not already lodged a written submission.
26. This conforms to section 60(2)(b) of the Act in ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered.

Requirements

27. Members of the Planning and Consultative Committee must adhere to all standards of conduct including Council's Governance Rules and Councillor Code of Conduct.

Council plans and policies

28. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Maintain good governance and effective leadership.

Sustainability implications

29. This report seeks to abolish one committee and establish one committee, therefore there would be no change to the existing sustainability impacts.

Community engagement

30. Not applicable.

Innovation and continuous improvement

31. Not applicable.

13. Officers' reports

CM.016/21 Delegated Committee of Council

Collaboration

32. Not applicable.

Budget implications

33. There are no significant budget implications arising from the abolishment of the FNC and establishment of a new Delegated Committee – Planning and Consultative Committee.

Relevant law

34. As outlined in this report, a delegated committee may be established in accordance with section 63 of the *Local Government Act 2020* and section 188 of the *Planning and Environment Act 1987*.

Regional, state and national plans and policies

35. Not applicable

Conflicts of interest

36. All officers involved in the preparation of this report have made a declaration that they do not have a conflict of interest in the subject matter of this report.

13. Officers' reports

CM.017/21 Council's Advisory Committees

Distribution: Public

Manager: Blaga Naumoski, Executive Manager Governance, Communications and Engagement

Author: Katia Croce, Governance Lead
Emma Christensen, Senior Governance Officer

Summary

At the Extraordinary Meeting of Council held Tuesday 24 November 2020, Council appointed the Mayor and Deputy Mayor as representatives to the Audit and Risk Committee, all Councillors to the CEO Employment Matters Committee, and deferred the appointment of Councillors to other advisory committees pending a review of the current arrangements.

The existing arrangements for advisory committees have been reviewed and this report seeks to retain the existing 12 advisory committees, appoint Councillors to the nine Advisory Committees deferred at the Ordinary Council Meeting on 24 November 2020, the new Nillumbik Youth Council, and request a further report to Council relating to the Environment and Sustainability Advisory Committee (ESAC).

Recommendation

That Council:

- Retains the following Advisory Committees and appoints Councillors as its representatives for the 2021 Council year:

Advisory Committee	Councillor(s) appointed
Arts Advisory Committee	1. _____ (Chair) 2. _____ (Deputy Chair)
Economic Development Advisory Committee	1. _____ (Chair) 2. _____ 3. _____
Environment and Sustainability Advisory Committee	1. _____ (Chair) 2. _____ (Alternate Chair)
Health and Wellbeing Plan Advisory Committee	1. _____
Inclusion Advisory Committee	1. _____ (Chair) 2. _____ (Alternate Chair)
Living and Learning Advisory Committee	1. _____
Nillumbik Youth Council	1. _____

13. Officers' reports

CM.017/21 Council's Advisory Committees

Advisory Committee	Councillor(s) appointed
Panton Hill Bushland Reserves System User Group Advisory Committee	1. _____ (Chair)
Positive Ageing Advisory Committee	1. _____ (Chair)
Recreational Trails Advisory Committee	1. _____ or more councillors appointed by Council

2. Requests officers to prepare a further report relating to the Environment and Sustainability Advisory Committee including a review of the existing Terms of Reference and operation to be considered at a future Council Meeting.
3. Requests officers prepare a standardised format to advisory committee terms of reference giving effect to gender equality, diversity and inclusiveness, to be adopted by all Council Advisory Committees as part of their next scheduled review.

Attachments

Nil

Discussion

1. Council has a range of advisory committees which provide an important mechanism for consultation with the community and key stakeholders. Advisory committees provide advice to Council but do not make formal decisions.
2. Council currently has 12 Advisory Committees being:
 - 1) Arts Advisory Committee
 - 2) Audit and Risk Committee
 - 3) CEO Employment Matters Committee
 - 4) Economic Development Advisory Committee
 - 5) Environment and Sustainability Advisory Committee
 - 6) Health and Wellbeing Plan Advisory Committee
 - 7) Inclusion Advisory Committee
 - 8) Living and Learning Advisory Committee
 - 9) Nillumbik Youth Council
 - 10) Panton Hill Bushland Reserves System User Group Advisory Committee
 - 11) Positive Ageing Advisory Committee
 - 12) Recreational Trails Advisory Committee.

13. Officers' reports**CM.017/21 Council's Advisory Committees**

Related Council decisions

3. Following a council election, it is timely that Council review the existing arrangements for advisory committees and appointment of Councillors as representatives to these committees.

4. At the Extraordinary Meeting of Council held Tuesday 24 November 2020, Council resolved:

“That Council:

1. *Appoints the Mayor and Deputy Mayor to the Audit and Risk Committee and all Councillors to the CEO Employment Matters Committee.*
2. *Defers the appointment of Councillors to other Advisory Committees to allow time for the Mayor and Councillors to review the arrangements for Advisory Committees.*
3. *Requests officers report back to Council no later than 23 February 2021 Council meeting on the arrangements for and appointments to other Advisory Committees.*
4. *Notes that where a Councillor is responsible for chairing an Advisory Committee, the responsible Committee will appoint a Temporary Chairperson for that meeting until Council resolves otherwise.*
5. *Notes that all Councillors are welcome to attend any or all Internal Advisory Committees up until 23 February 2021 and beyond.”*

This report satisfies point 3 of the Council Resolution.

5. Council appoints Councillors as representatives on its advisory committees and reviews these appointments annually. The next review of appointments is due in November 2021.

Options

6. The existing arrangements and the associated terms of reference for the remaining 10 advisory committees that had the appointment of Councillors deferred, have been reviewed.
7. Following this review, it is appropriate to continue with the existing arrangements for 10 of the advisory committees and appoint Councillors as representatives.
8. An opportunity has been identified for the current ESAC terms of reference and operation to be reviewed to ensure that the required scope of environment and sustainability matters are covered. A review can also include the operation of the committee in terms of its purpose and objectives, and other administrative matters.
9. It is appropriate to appoint a Councillors as representatives to the ESAC pending this review and subsequent report to Council where this review is considered.

Council plans and policies

10. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Strengthen the focus on social inclusion, building social capital and connection within communities.

13. Officers' reports

CM.017/21 Council's Advisory Committees

Sustainability implications

11. As there is no change to the existing arrangements, there is no impact on the existing sustainability implications.
12. A review of the ESAC will consider environment and sustainability to ensure the required scope is being satisfied by this advisory committee.

Community engagement

13. Advisory committees provide an opportunity for Council to consult and communicate with the community and key stakeholders on specific matters through the appointed Councillors and committee members to each advisory committee.
14. The reporting of the minutes for each advisory committee through the monthly Council Meeting, provides the opportunity for other Councillors and interested parties to review the operation and direction of each advisory committee.

Innovation and continuous improvement

15. The requirements of the *Gender Equality Act 2020* and the *Local Government Act 2020* that Council seeks to ensure gender equality, diversity and inclusiveness means that it is appropriate to extend this to Council's advisory committees. Standardising advisory committee terms of reference will ensure that gender equality, diversity and inclusiveness will be incorporated into all advisory committees from their next scheduled review.

Collaboration

16. Not applicable

Budget implications

17. There are no budget implications arising from the continuation of the existing advisory committee arrangements, or receiving a further report to Council relating to the ESAC.

Relevant law

18. Not applicable

Regional, state and national plans and policies

19. Not applicable

Conflicts of interest

20. All officers involved in the preparation of this report have made a declaration that they do not have a conflict of interest in the subject matter of this report.

13. Officers' reports**CM.018/21 C134nill Rezoning of 20A Henry Street and 20 Dudley Street, Eltham**

Distribution: Public**Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author: Bea Guevara, Senior Strategic Planner****Summary**

The purpose of this report is to seek a Council resolution to gain authorisation from the Minister for Planning to amend the Nillumbik Shire Scheme, pursuant to Section 8A of the *Planning and Environment Act 1987*.

The amendment proposes to correct a mapping anomaly that occurred as part of an amendment to the Nillumbik Planning Scheme C117nillpt1 to rezone Council reserves to the Public Park and Recreation Zone (PPRZ).

The PPRZ has been applied incorrectly (via mapping) to a privately owned parcel of land located at 20 Dudley Street, Eltham where this mapping (PPRZ) should apply to the Henry Street Reserve at 20A Henry Street, Eltham. This amendment proposes to reinstate the Activity Centre Zone Schedule 1 (ACZ1) to 20 Dudley Street, Eltham (the correct zone).

There is an existing planning permit application to subdivide 20 Dudley Street, Eltham into seven lots to reflect the finished construction of seven units. The matter has been discussed with Department of Environment, Land, Water and Planning (DELWP) and they have recommended that Council submit the Amendment as a 'fast track' Section 20(4) amendment. As the amendment is correctional, it will be exempt from notice requirements under Section 9 of the *Planning and Environment Act 1987* and Exhibition.






It is recommended that Council seeks authorisation from the Minister for Planning under Section 8A of the *Planning and Environment Act 1987* (the Act) to prepare Amendments C134nill as shown in **Attachments 1, 2, 3 and 4** to this report.

Recommendation

That Council resolves to request the Minister for Planning under Section 8A of the *Planning and Environment Act 1987* to authorise the preparation of Amendment C134nill to the Nillumbik Shire Planning Scheme as a Section 20(4) amendment to:

1. Rezone 20 Dudley Street, Eltham from Public Park and Recreation Zone to Activity Centre Zone Schedule 1.
2. Rezone 20A Henry Street, Eltham from Activity Centre Zone Schedule 1 to Public Park and Recreation Zone.

Attachments

- 1  C134nill Instruction Sheet
- 2  Explanatory Report C134nill - Authorisation
- 3  Nillumbik Planning Scheme, Amendment C134 001zn Map 13 Authorisation
- 4  Nillumbik C117nillpt1 Explanatory Report Approval Gazetted
- 5  Nillumbik C117nillpt1 007znMap13 Approval Gazetted

13. Officers' reports**CM.018/21 C134nill Rezoning of 20A Henry Street and 20 Dudley Street, Eltham**

Discussion

1. The mapping anomaly was identified during the process of assessing a planning permit application at 20 Dudley Street, Eltham to subdivide the property into seven lots. It was then discovered that amendment C117nillpt1, gazetted in February 2020, applied the PPRZ to 20 Dudley Street, Eltham instead of Henry Street Reserve at 20A Henry Street, Eltham. The C117nillpt1 Explanatory Report (**Attachment 4**) clearly identifies that the Henry Street Reserve at 20A Henry Street, Eltham was intended to be rezoned to PPRZ. The map prepared by DELWP (**Attachment 5**) rezones 20 Dudley Street, Eltham in error.
2. The amendment is required to correct a mapping error in the Nillumbik Planning Scheme, to ensure that planning controls are accurate, correct and consistent. This will improve the effectiveness and efficiency of achieving the objectives of planning in Victoria. Amendment C117nillpt1 intended to rezone the Council owned land at 20A Henry Street, Eltham, Henry Street Reserve, from Activity Centre Zone Schedule 1 to Public Park and Recreation Zone to reflect its current use.

Related Council decisions

3. At its 29 October 2019 Ordinary Meeting, Council resolved to:
 1. *Note the submissions received in relation to Amendment C117.*
 2. *Resolves to split the amendment to Part 1 & Part 2.*
 3. *Adopts Part 1 of Amendment C117 to the Nillumbik Planning Scheme, and submits the Amendment to the Minister for Planning for approval.*
 4. *Requests the Minister for Planning appoint a Planning Panel to consider the submission for Part 2 of Amendment C117.*

Options

Not applicable.

Council plans and policies

4. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Ensure seamless service delivery and an open and responsive approach to our customers.
5. Nillumbik *Health and Wellbeing Plan 2017-2021* includes the key strategy 'Encourage Active Living', which identifies the objective to:

Design, develop and promote the development of built infrastructure and the natural environments that support active transport, improved walkability and active recreation.
6. The proposed amendment helps implement the Eltham Major Activity Centre Structure Plan 2004 and relevant local planning policies.
7. The amendment ensures that the planning controls which apply to land within the municipality are consistent with the Local Planning Policy Framework.

13. Officers' reports

CM.018/21 C134nill Rezoning of 20A Henry Street and 20 Dudley Street, Eltham

Sustainability implications

8. The amendment is expected to have positive environmental effects and economic and social benefits as it will confirm the intended status and management of land as public open space. The amendment ensures consistency of the use of the land and provides certainty for land owners. The correct zoning of the land will also minimise the need for planning permits when the use is consistent with the zoning, which will have a beneficial economic effect for both land owners and the council.

Community engagement

9. Pursuant to the *Planning and Environment Act 1987*, amendment C117nill was publicly exhibited from 22 August 2019 to 20 September 2019.
10. It received a total of 47 submissions. These submissions did not raise any concerns with the proposed zoning of 20 and 20A Henry St Eltham.

Innovation and continuous improvement

11. The amendment ensures that planning controls are accurate, correct and consistent. This will improve the effectiveness and efficiency of achieving the objectives of planning in Victoria.

Collaboration

12. It was officers from the Statutory Planning team that made Strategic Planning aware of this mapping anomaly. Ongoing communication helps identify and resolve issues within the Planning Scheme and ensure that planning controls are up to date and accurate.
13. Department Environment Land Water and Planning's input was requested to help officers identify the type of planning scheme amendment that best suits this type of correctional amendment. They identified that a Section 20(4) 'fast tracked' planning scheme amendment would be the applicable pathway under the Act to correct the zoning of the two properties.

Budget implications

14. Planning scheme amendment budget allocation 20/21 financial year.

Relevant law

15. *Planning and Environment Act 1987*.

Regional, state and national plans and policies

16. The amendment will ensure that the Nillumbik Planning Scheme remains consistent with the Planning Policy Framework, which seeks to support the objectives of planning in Victoria.

13. Officers' reports

CM.018/21 C134nill Rezoning of 20A Henry Street and 20 Dudley Street, Eltham

17. Plan Melbourne 2017-2050 highlights the importance of 20-minute neighbourhoods. The 20-minute neighbourhood concept aims to improve liveability by giving people the ability to meet most of their daily needs within a 20 minute walk from home. The subject sites are within 12-15 minute walks from the Eltham Major Activity Centre. The formalisation of these pocket parks will advance the objectives of Plan Melbourne 2017-2050 and continue providing access to the residents' daily needs such as recreation and as well as services provided with the Eltham Major Activity Centre.

Conflicts of interest

18. Officers involved in the preparation of this report do not have a conflict of interest in the subject matter of this report.

13. Officers' reports

**CM.019/21 Exhibition of Amendment C129 to the Nillumbik Planning Scheme
(Removal of the EAO from various parcels in Plenty)**

Distribution: Public

Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety

Author: Paul Fyffe, Senior Strategic Planner

Renae Ahern, Manager Planning Services

Amanda Cuxson, Acting Manager Planning Services

Leigh Northwood, Strategic Planning Lead

Summary

The amendment intends to remove the Environmental Audit Overlay (EAO) from land that was formerly known as 323-325 Yan Yean Road, Plenty (the site).

The EAO is applied to land which is potentially contaminated and was applied in 2000 to the site due to historical gold mining occurring there. Measures have been taken at the site which identify and respond to contamination and allow for residential subdivision of the site, subject to conditions. Considering this, Council resolved in June 2020 to commence a planning scheme amendment, Amendment C129, to remove the EAO from the site.

Amendment C129 was exhibited in October and November 2020 and Council received one submission, which is from the Environment Protection Authority (EPA). In its submission, the EPA questions the level of assessment regarding one of the measures taken to respond to the contamination. As the EPA is the state authority responsible for contamination issues, its submission presents an issue for the amendment.

Where a submission raises an issue with a proposed amendment, the statutory regulations for conducting an amendment provide for Council to request that the Minister for Planning appoint an independent planning panel to consider the amendment. This step allows Council to receive and consider independent, technical recommendations on an amendment before proceeding to its final decision.

The EPA's submission was considered on 9 February 2021 by Council's Future Nillumbik Committee.




Recommendation

That Council:

1. Notes the submission from the Environment Protection Authority (EPA) to Amendment C129 to the Nillumbik Planning Scheme.
2. Requests the Minister for Planning appoint an independent planning panel to consider the amendment.
3. Notifies the EPA and owners and occupiers of land affected by the proposed amendment of Council's resolution.

13. Officers' reports**CM.019/21 Exhibition of Amendment C129 to the Nillumbik Planning Scheme
(Removal of the EAO from various parcels in Plenty)**

Attachments

- 1  Land at the former site of 323-325 Yan Yean Road, Plenty and application of the EAO to the site - both shown in orange
- 2  Submission from the Environment Protection Authority (EPA) in response to public exhibition of Nillumbik Amendment C129
- 3  Statement from the EPA regarding Nillumbik Amendment C129, which was read to the February 2021 Meeting of Council's Future Nillumbik Committee

DiscussionThe Environmental Audit Overlay (EAO)

1. Since 2000, State planning policy and legislation requires use of the EAO as the mechanism within all planning schemes to identify potentially contaminated land and to require an appropriate assessment and outcome before allowing any sensitive use or associated development. Residential use is a type of sensitive use.
2. The EAO performs its function by stating that a pre-requisite for a sensitive use to be permitted, or any building and works associated with development for a sensitive use, is that an environmental audit, undertaken by a qualified Environmental Auditor, must be conducted of the site and further, that the audit must deem that the use is appropriate in one of the following ways:
 - The auditor issues a Certificate of Environmental Audit, which occurs where an audit indicates that the land is suitable for any use within the land use zoning – there are no restrictions on the use of the site due to its environmental condition;
 - or**
 - The auditor issues a Statement of Environmental Audit. A Statement is issued when contamination is found on-site. A statement includes the nature of the contamination, and indicates that the site is either suitable for nominated uses, or not suitable for any uses at all. When it nominates suitable uses, the Statement usually also applies conditions to the use, such as to require remedial works, the requirement to maintain particular conditions, avoid particular activities, or to prohibit certain activities. If the contamination is sufficiently contained or minimal, a Statement can still allow a sensitive use to occur. All owners, current and future are bound by the direction and conditions of any Statement of Environmental Audit which is issued.
3. Guidelines for application, use and removal of the EAO are set out in *State Planning Practice Note No.30 – Potentially Contaminated Land (2005)*. In regards to removing the EAO, the practice note states that the overlay should be removed from land which has been provided a Certificate of Environmental Audit. Further, it is stated that it may be appropriate to remove the EAO where a Statement of Environmental Audit has

13. Officers' reports

**CM.019/21 Exhibition of Amendment C129 to the Nillumbik Planning Scheme
(Removal of the EAO from various parcels in Plenty)**

been issued, if the conditions are considered sufficiently minor, or have been completed. In addition, the planning practice note advises that the timely removal of an EAO will avoid costly and time-consuming requirements for all parties. The EAO can only be applied and removed by a planning scheme amendment.

4. It is important to note that Council has experienced on-going issues with the State Government in relation to use of the EAO, including:
 - The statutory framework for the EAO appears to have holes. For example, Council officers are of the view that the framework does not give Council the authority to require an environmental audit to be conducted before planning approval for residential subdivision is issued, rather it is only a requirement before residential use and development can occur (i.e. before construction and use of a dwelling).
 - Certain guidelines are rather vague. For example, whilst the relevant planning practice note suggests and appears to promote removal of an EAO where there are minimum restrictions or conditions, it provides no clear guidance as to what constitutes minimum conditions.
 - The State Government typically does not provide particularly clear advice regarding the EAO, presumably out of a wish to avoid any liability issues.
 - The relevant planning practice note for the EAO, mentioned above, is now 15 years old, which brings into question the currency of its policy position and guidance.

The EAO at No. 323-325 Yan Yean Road

5. Ever since the EAO came into operation in 2000, it has been applied to land that was formerly no. 323-325 Yan Yean Road, Plenty (the site). The site and existing application of the EAO is defined by the colour orange in **Attachment 1**.
6. An environmental audit was conducted for the site in 2000. It identified contamination on the property due to historical gold-mining activity, but deemed that the contamination did not preclude low-density residential use. A Statement of Environmental Audit was issued that allows for low density residential use, subject to conditions. These conditions particularly seek to prevent residential use occurring in an area that was identified to contain mullock heaps of contaminated soil and to ensure the mullock heaps are properly managed to prevent impacts.
7. In 2016 the owner of the property was granted a planning permit for residential subdivision (12 lots) and remedial works. The permit requires remedial works to address contamination before the subdivisional works can commence. The remedial works were conducted by Connolly Environmental Pty Ltd, who provided a report noting they had removed the contaminated soil from the proposed residential lots and capped this under part of the proposed road for the subdivision, which is now a constructed road called Thornbill Drive. These works were not conducted under the supervision of an Environmental Auditor, and as such, no revised Statement of Environmental Audit was ever prepared. Consequently, Council applied a legal restriction, a Section 173 Agreement pursuant to the *Planning & Environment Act 1987*, which replicates the conditions of the existing Statement of Environmental Audit

13. Officers' reports

**CM.019/21 Exhibition of Amendment C129 to the Nillumbik Planning Scheme
(Removal of the EAO from various parcels in Plenty)**

to the whole of the site. A Section 173 Agreement is a binding and clearly visible restriction which appears on title. This restriction would 'flag' the on-going statutory requirements of the Statement of Environmental Audit in the absence of an EAO.

Commencement of Amendment C129

8. As noted above, the State Government's practice note on operation of the EAO, supports timely removal of the overlay when suitable conditions are in place. With the Section 173 Agreement in place on the site, which imposes the conditions of the Statement of Environmental Audit, Council resolved in July 2020 to request the Minister for Planning authorise the preparation and exhibition of an amendment, Amendment C129 to the Nillumbik Planning Scheme, to remove the EAO from the site. In other words, to remove the EAO shown in **Attachment 1**.
9. On 17 August 2020, Council received the authorisation it requires from the Minister for Planning to prepare and exhibit Amendment C129. Further, on 4 September 2020, the Minister granted Council with exemptions from two of the standard notification requirements, which are the requirements to provide notice of the amendment in the Government Gazette and in a newspaper circulating in the area. It is understood that these exemptions were provided given the localised and technical nature of the amendment.

Exhibition of Amendment C129

10. Amendment C129 was exhibited from 5 October to 16 November 2020 (six weeks) in full accordance with the relevant statutory requirements. As part of this, owners and occupiers of the properties affected by the amendment, such as the relevant Thornbill Drive properties, and adjacent land were directly notified of the amendment. Further, notice of the amendment was provided on Council's Participate Nillumbik website. By exhibiting the amendment for 6 weeks, the exhibition period was notably longer than the minimum required of one calendar month.
11. In response to exhibition of Amendment C129, Council received some calls from certain owners of land affected by the amendment. Further, one submission was received (discussed below), which was from the Environment Protection Authority (EPA). The lack of submissions to exhibition of the amendment is expected given:
 - The localised and technical nature of the amendment
 - It is expected that the landowners of lots within the amendment area would support removal of the EAO and residents often only provide a submission to an amendment when they oppose it.

Submission from the Environment Protection Authority (EPA)

12. The EPA is the state government authority responsible for managing contamination and its submission indicates that it has an issue with the exhibited amendment.
13. A copy of the EPA's submission is provided as **Attachment 2** and its content is briefly summarised as follows:
 - It states that the EPA's response is intended to inform Council and does not endorse a particular outcome or "support" the proposal to remove the EAO.

13. Officers' reports**CM.019/21 Exhibition of Amendment C129 to the Nillumbik Planning Scheme
(Removal of the EAO from various parcels in Plenty)**

-
- Advises that Council should satisfy itself that removal of the EAO is appropriate.
 - Notes, as an issue, that the remediation and validation at the site were not carried out with the oversight of an environmental auditor and consequently, do not have the same level of accountability as the assessments undertaken as part of the statutory audit process.
 - States that Council may wish to undertake its own review of the report to satisfy itself that remediation and validation has been done to an acceptable standard.
14. Officer's interpretation of the submission is that it is indicating that the EPA does not believe Council can appropriately satisfy itself that removal of the EAO is appropriate until a review of the remediation works has been conducted by an environmental auditor and that review approves of the works. This summation was confirmed in a subsequent conversation with the EPA.
15. One action Council has taken to assist in considering the EPA's submission is to receive an indicative quote from an environmental auditor to undertake a review of the remedial works conducted at the site. The auditor has advised Council that a review of the remediation works would likely cost approx. \$8,000.
16. If this review of the remedial works was undertaken, officers consider it appropriate that the cost of the review should be borne by the relevant landowner(s), as:
- This is consistent with the general requirement that the owners of land are responsible for responding to planning requirements relevant to their land.
 - The relevant planning practice note generally infers or implies that the cost of satisfying the requirements of the EAO should be borne by landowners/applicants.
 - The EAO, which identifies the potential for contamination, has been applied to the site in an appropriately transparent manner for potential buyers.
 - It would set an unreasonable and unacceptable precedent for Council's use of public funds (i.e. rates) if Council were to accept the cost in this instance. Owners of other properties within the EAO would likely expect the same response.
 - It also sets a potential future liability for Council if it, rather than the owner, engages the auditor, and the auditor is found to have made an error.
 - There may be significant additional costs to Council if the auditor finds the remedial works, which were undertaken by the owner and their contractor/s prior to the subdivision of the site (the former property of no. 323-5 Yan Yean Road) being released, are not sufficient and that more works are required.

13. Officers' reports

**CM.019/21 Exhibition of Amendment C129 to the Nillumbik Planning Scheme
(Removal of the EAO from various parcels in Plenty)**

Options

The role of an independent Planning Panel

17. When a Council has one or more submissions which raise issue with an amendment and the Council wishes to still pursue the amendment, the next statutory step in the amendment process is for the Council to request the Minister for Planning appoint a Planning Panel to consider the amendment and the submission(s).
18. Regarding this, there are good reasons for Council to continue to pursue Amendment C129 and to seek to appropriately remove the EAO from the site, including:
 - The EAO is typically a significant imposition on any residential land and its owners. Consequently, State guidelines detail that the overlay should be removed unless its continued application is necessary.
 - The necessity of retaining the EAO at the relevant site is seriously questionable. The key requirements of the EAO have been fulfilled. An audit has been conducted and a Statement of Environmental Audit has been issued which defines that low-density residential use can occur subject to conditions.
 - The conditions of the Statement of Environmental Audit are replicated in a transparent and binding fashion by a Section 173 Agreement that has been registered to the site, including the recently created lots.
19. However, the EPA has raised a substantive procedural issue with the remedial works conducted by Connolly Environmental Management Pty Ltd. Therefore, to proceed with the amendment, Council would be required to request an independent planning panel to consider the amendment.
20. It is the officers' view that the appointment of a planning panel should greatly assist Council's consideration of the amendment, noting:
 - The panel will use relevant expertise to provide Council with independent recommendations on the amendment.
 - It is expected the panel will recommend a path to Council and/or landowners to adequately and appropriately respond to the procedural issue (detailed above) with the remedial works.
 - If such a path is established and leads to the remedial works being approved by an auditor, this should present the opportunity to further improve and streamline the legal restrictions currently applied to the site by the Statement of Environmental Audit and replicated through the S173 Agreement.

13. Officers' reports**CM.019/21 Exhibition of Amendment C129 to the Nillumbik Planning Scheme
(Removal of the EAO from various parcels in Plenty)**

Consideration of Amendment C129 by Council's Future Nillumbik Committee

21. On 9 February 2021, Council's Future Nillumbik Committee considered an officer report which:
- a) Advised of the response to exhibition of Amendment C129, including to summarise the submission received from the EPA.
 - b) Recommended that the Committee:
 - i. *Note the submission from the Environment Protection Authority (EPA) to Amendment C129 to the Nillumbik Planning Scheme.*
 - ii. *Recommend to Council's Meeting that it request the Minister for Planning appoint an independent planning panel to consider the amendment.*
 - iii. *Notify the EPA and owners and occupiers of land affected by the proposed amendment of Council's resolution.*
22. When considering the matter, the Future Nillumbik Committee heard from the EPA who requested the Nillumbik CEO read a statement from the authority. The statement is provided as **Attachment 3** and mostly replicates points made in the EPA's submission, which is provided as **Attachment 2**.
23. The February Future Nillumbik Committee Meeting resolved to implement the officer recommendation with no changes. The resolution of the Committee is articulated through the officer recommendation made by this report.

Appointment of a Panel and Pre-Panel Dates

24. Early in the statutory amendment process, a Council must agree to potential future dates for a Panel process to be convened following exhibition of an amendment. The purpose of setting these dates, known as "pre-Panel dates", is to avoid delays between the exhibition of an amendment and the conducting of a Panel. The pre-Panel dates for Amendment C129 are as follows:
- Directions Hearing – in the week commencing 22 March 2021
 - Panel Hearing – in the week commencing 19 April 2021
25. If Council resolves to request the appointment of a planning panel to consider Amendment C129, officers will write immediately to the Minister for Planning to make this request and it is expected that a Panel will then be appointed to run in accordance with, or close to, the pre-Panel dates.

Related Council decisions

26. At the July 2020 Council Meeting, Council resolved to request the Minister for Planning authorise Council to prepare and exhibit a planning scheme amendment which will remove the EAO from the former site of No. 323-325 Yan Yean Rd.
27. As noted above, the February 2021 meeting of Council's Future Nillumbik Committee resolved that it (acting under delegation from Council):
- a) *Note the submission from the Environment Protection Authority (EPA) to Amendment C129 to the Nillumbik Planning Scheme.*

13. Officers' reports

**CM.019/21 Exhibition of Amendment C129 to the Nillumbik Planning Scheme
(Removal of the EAO from various parcels in Plenty)**

- b) *Recommend to Council's Meeting that it request the Minister for Planning appoint an independent planning panel to consider the amendment.*
- c) *Notify the EPA and owners and occupiers of land affected by the proposed amendment of Council's resolution.*

Council plans and policies

28. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Prepare and develop an improved and holistic approach to strategic planning.

Sustainability implications

29. The subject matter is relevant to appropriately responding to potentially contaminated land through the Nillumbik Planning Scheme.

Community engagement

30. The proposed Amendment C129 was exhibited from 5 October to 16 November 2020 in accordance with the requirements of the *Planning and Environment Act 1987*.
31. Direct notification of the amendment was provided to:
- Owners and occupiers of the land affected by the amendment and adjacent land
 - Prescribed State Government ministers
 - The EPA.
32. Notification of the amendment's exhibition was also placed on Council's Participate Nillumbik website.
33. Given the localised and technical nature of the amendment, the Minister for Planning exempted Council from the normal notification requirements to place a notice of the amendment in the Victoria Government Gazette and a local newspaper. Further explanation of how the exhibition was conducted and of the submission received is detailed above under "Discussion".

Innovation and continuous improvement

34. The recommendations of a Planning Panel on this issue may provide steps that will improve Council's, and other parties', processes for managing contamination through the Nillumbik Planning Scheme.

Collaboration

35. Council officers are proactively liaising with the Department of Environment, Land, Water and Planning and the EPA to address the issues outlined in this report.

Budget implications

36. The following are budget considerations relevant to this matter:
- The cost of convening an independent planning panel will be borne by Council and is expected to be under \$10,000 in cost.

13. Officers' reports

**CM.019/21 Exhibition of Amendment C129 to the Nillumbik Planning Scheme
(Removal of the EAO from various parcels in Plenty)**

- As mentioned above under “Discussion”, Council has received a quote indicating that the cost for an environmental auditor to conduct a review of the remediation works at the site is approximately \$8,000. Council officers would expect the relevant land owners to bear this cost, as for Council to do so appears broadly inconsistent with relevant guidelines and would set an unreasonable and unacceptable precedent for Council and its use of public funds.

Relevant law

37. The *Planning and Environment Act 1987* provides the regulatory framework for both the application of the EAO and conducting a planning scheme amendment.

Regional, state and national plans and policies

38. State planning policy for managing contamination is relevant and has already been outlined above in this report.

Conflicts of interest

39. Officers preparing this report have no conflict of interest in relation to its subject, content and recommendations.

13. Officers' reports

CM.020/21 Planning Scheme Amendment C133

Distribution: Public

Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety

Author: Julie Paget, Strategic Planner

Leigh Northwood, Strategic Planning Lead

Summary

Amendment C133 will provide for a revised application of the Heritage Overlay to the Alan Marshall bungalow (and surrounds). (Refer **Attachment 1** for the planning scheme amendment explanatory report and **Attachment 2** for the updated planning scheme map).







The purpose of this report is to seek Council's approval to seek authorisation from the Minister to prepare and exhibit a planning scheme amendment pursuant to Section 8A of the Planning & Environment Act 1987.

Recommendation

That Council resolves to:

1. Request the Minister for Planning, under Section 8A of the Planning and Environment Act 1987, to authorise the preparation of Amendment C133 to the Nillumbik Shire Planning Scheme; and
2. Undertake public exhibition of the proposed planning scheme amendment which will apply permanent planning controls through the use of the heritage overlay on the structure known as the Alan Marshall bungalow and surrounds, should authorisation be granted.

Attachments

- 1  Explanatory Report C133nill - authorisation
- 2  Nillumbik Planning Scheme Amendment C133 002zn Map 13 - authorisation
- 3  Aerial photograph of 13 Park West Road showing existing and interim heritage overlays
- 4  Alan Marshall Citation January 2021
- 5  Street View of 13 Park West Road
- 6  Photographs from site visit December 2020

13. Officers' reports**CM.020/21 Planning Scheme Amendment C133**

DiscussionBackground to the amendment

1. Alan Marshall is a famous Australian author who resided in a modest bungalow at the rear of (what is now known as) 13 Park West Road, Eltham between 1955 and 1972. His works include *I Can Jump Puddles (1955)*, *This Is The Grass (1962)* and *In Mine Own Heart (1963)*. He also wrote *Pioneers and Painters: One Hundred Years of Eltham and its Shire in 1971*. The bungalow was a focal point for many visitors including those from overseas.
2. He was awarded the Order of the British Empire in 1972 and an Order of Australia in 1981. In addition, Alan Marshall's name is perpetuated by the Alan Marshall Award, an annual prize inaugurated by the Victorian Fellowship of Australian Writers in 1976. The Nillumbik Prize for Contemporary Writing, now biennial, includes the Alan Marshall Short Story Award.
3. This amendment will provide for a revised application of the Heritage Overlay to the Alan Marshall bungalow (and surrounds) which is located at the rear of 13 Park West Road Eltham. (Refer **Attachment 1** for the planning scheme amendment explanatory report and **Attachment 2** for the updated planning scheme map).
4. A development application has been received for this site which upon review has alerted Council officers to the fact that the mapping of the existing heritage overlay (HO147), which is intended to provide protection for the structure and surrounds, is incorrect and only covers a small portion (to the north) of the bungalow itself.
5. Council sought an interim heritage overlay (HO268), through Amendment C132 during the caretaker period, to cover the remainder of the bungalow and a 5m curtilage to the south and east of the structure which was approved by the Minister for Planning on the 18th December 2020. The interim planning controls will apply until June 2021 to allow Council time to prepare and process Amendment C133 to apply new planning controls on a permanent basis. If needed, the interim planning controls can be extended.
6. Whilst the Minister for Planning has approved interim planning controls through the introduction of the heritage overlay HO 268 to cover the exposed section of the bungalow and surrounds, strategic justification is required by means of expert heritage advice as to the appropriate application of the mapping to support the amendment.
7. In the original citation which was undertaken as part of the Shire of Eltham Heritage Study in 1992, the bungalow itself and the surrounds to a radius of 15m were considered to be significant.
8. The original heritage overlay (HO147) was introduced into the Nillumbik Planning Scheme through Amendment C3 in 2001.
9. HO147 has been incorrectly applied to the rear of 13 Park West Road. **Attachment 3** shows the existing and interim heritage overlays in operation to demonstrate the incorrect mapping application.
10. Officers have engaged heritage consultants to update the statement of significance and overall heritage citation for the Bungalow, as requested by Department of Environment, Land Water and Planning (DELWP), to justify the application of the correct mapping.

13. Officers' reports

CM.020/21 Planning Scheme Amendment C133

-
11. Planning Practice Note 1 (2018) *Applying the Heritage Overlay* sets out the criteria and standards required for current citations to apply the heritage overlay. Of particular relevance is the information relating to curtilage and heritage overlay polygons. The land surrounding the heritage item is known as a 'curtilage' and will be shown as a polygon on the Heritage Overlay map.
 12. The Heritage Overlay applies to both the listed heritage item and its associated land to ensure that any development, including subdivision, does not adversely affect the setting, context or significance of the heritage item, in this case the Bungalow. The new citation is provided at **Attachment 4**.
 13. One of the key issues identified for review by DELWP is the extent of the curtilage. The existing citation has a radius that includes an existing dwelling which is in close proximity to boundary fence on the neighbouring property (9 Park West Road). Whilst it is possible to have a heritage overlay apply to land on an adjoining property, the value of that protection has to be considered. This issue has been considered by the heritage consultant as part of the updated citation.
 14. In the updated citation the heritage consultant has recommended a 5m curtilage on the north, east and south of the bungalow and to the property boundary on the west. The consultant has also recommended a pathway to Park West Road as discussed below.
 15. DELWP has also raised the issue of line of sight from and to the bungalow from Park West Road and whether a formal pathway (with potential access) should be created as part of the heritage protection.
 16. At present a small section of the bungalow can be viewed from the road, however it is mostly obscured by existing vegetation (**Attachment 5**). The heritage consultant has recommended that a pathway, at least the width of the bungalow including roof overhang, should be created to the street which will maintain a visual link to the street. This pathway would also strengthen the understanding of the bungalow as a separate residential entity as it functioned for Alan Marshall. This will also maintain a presence from the public domain and, as suggested by DELWP, assist in access, maintenance and surveillance to ensure the place is being retained and maintained.
 17. Whilst the southern end of the bungalow is partly obscured by a shrub, this is of no significance. It is also of note that the southern end of the bungalow is of mud brick construction and contributes to its significance in the Eltham context.
 18. A link to the street would leave this wall visible to the public. It is also possible that Council may consider an interpretative plaque on the street explaining the significance of the place.
 19. Concerns have been raised about the condition of the bungalow, however initial feedback from the consultant indicates that the structure itself appears sound. There has been some damage to the external sheet lining however this can be replaced and this will not be detrimental to the heritage value of the place. Photographs from the recent site visit have been provided at **Attachment 6**.

13. Officers' reports

CM.020/21 Planning Scheme Amendment C133

20. The protection of the bungalow has been a long standing position by Council. In 2004 a demolition request was rejected and it appears that a submission for state heritage protection was made. Discussions with Heritage Victoria indicate that they do not appear to have received the submission back in 2004 or that it has been lost.
21. It has been suggested that a new submission to Heritage Victoria could be made if Council wishes to have the Alan Marshall bungalow and surrounds considered for state heritage recognition.

Related Council decisions

22. Not applicable.

Options

23. Not applicable.

Council plans and policies

24. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Prepare and develop an improved and holistic approach to strategic planning.
25. The amendment links directly to Council's Heritage Strategy (2011) which aims to:
- To identify, document and care for heritage places in the Shire of Nillumbik in ways which fulfil legal obligations and adopt best practice; and
 - To involve communities and to promote awareness, knowledge and enjoyment of heritage places.

Sustainability implications

26. The conservation of Nillumbik's heritage places play an important role in the strengthening of both personal and community identity. This work aids in the social sustainability of Nillumbik's various communities.

Community engagement

27. Pursuant to the *Planning and Environment Act (1987)* notification will be required and the amendment materials will be on public exhibition for 6 weeks with submissions invited. Any submissions will be brought to a Future Nillumbik Committee and Council meeting for consideration and potential resolution to convene a Panel to consider unresolved submissions, if submissions are received. The dates of the exhibition period are not yet set.

Innovation and continuous improvement

28. Not applicable.

Collaboration

29. There has been considerable discussion with DELWP regarding this matter.

Budget implications

30. The cost of preparing the amendment is provided for within the Strategic Planning budget.

13. Officers' reports

CM.020/21 Planning Scheme Amendment C133

Relevant law

31. The *Planning and Environment Act* (1987).

Regional, state and national plans and policies

32. Plan Melbourne (2017-2050) Outcome 4

Policy 4.4.1 Recognise the value of heritage when managing growth and change.

With all three levels of government sharing responsibility for protecting Melbourne's post settlement cultural heritage, decision-making must be consistent and credible and be based on clear and widely accepted heritage conservation principles and practices.

Conflicts of interest

33. All officers involved in the preparation of this report have made a declaration that they do not have a conflict of interest in the subject matter of this report.

13. Officers' reports

CM.021/21 Tender Report - Contract 1920-046 Collaborative Procurement for Landfill Services

Distribution: Public

Manager: Hjalmar Philipp, Director Operations and Infrastructure

Author: Lisa Pittle, Manager Environment

Mikael Ooi, Waste Management Coordinator

Summary

This report recommends awarding of contract 1920-046 Collaborative Procurement for Landfill Services for the supply of landfill disposal services.

The contract term is for an initial period of four (4) years, with two (2) x two (2) year options to extend the contract. The total duration of the contract, including the exercise of any options, shall not exceed eight (8) years. This contract commences on 1 April 2021.

This contract was developed through a collaborative procurement process including thirty (30) metropolitan councils with the Metropolitan Waste and Resource Recovery Group (MWRRG) as facilitator.

The Tender Evaluation Panel (TEP) appointed by MWRRG assessed all submissions and this report provides a summary of their evaluation as well as an assessment with regard to Nillumbik's requirements in recommending the awarding of contract 1920-46 for Collaborative Procurement for Landfill Services via MWRRG.

Pursuant to the Instrument of Delegation to the Chief Executive Officer, the value of this contract exceeds the specified financial limits and a Council resolution is therefore required to award the contract.

Recommendation

That Council:

1. Accepts the tenders from the preferred tenderers and their tendered schedule of rates as follows:
 - a) **Tenderer 8** _____ for their tendered schedule of rates for tier 1 guaranteed landfill waste disposal.
 - b) **Tenderer 3** _____ for their tendered schedule of rates for non-guaranteed landfill waste disposal.

and enter into the following contract:

Number: Contract 1920-46

Title: Collaborative Procurement for Landfill Services

Term: 1 April 2021 to 31 March 2025

Options: Term extensions up to 31 March 2029

2. Authorises the Director Operations and Infrastructure to finalise and execute all required contract documentations.

13. Officers' reports

CM.021/21 Tender Report - Contract 1920-046 Collaborative Procurement for Landfill Services

3. Authorises the Director Operations and & Infrastructure to approve contract term extensions for a maximum of four (4) years.
4. Advises all tenderers accordingly.
5. Resolves that the Tender Evaluation Reports (**Attachments 1 and 2**) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.

Attachments

1. Tender Evaluation Report - MWRRG - *CONFIDENTIAL*
2. Tender Evaluation Summary Report - Nillumbik - *CONFIDENTIAL*

Background

1. In 2010, Metropolitan Waste Resource Recovery Group (MWRRG) conducted a collective procurement process for landfill services for metropolitan councils. Contract No: 2010/1: Provision of Landfill Facilities and Services to Receive and Dispose of Municipal Waste was awarded to a panel of landfill contractors across Melbourne.
2. 26 Melbourne metropolitan councils, including Nillumbik, are parties to this contract which delivers approximately 865,000 tonnes of landfill waste annually to the landfill operators.
3. Under this contract, Nillumbik Council appointed Hanson Landfill Services on a guaranteed basis for disposal of landfill waste at their Wollert landfill and Cleanaway for a non-guaranteed, contingency arrangement to be able to dispose of landfill waste at their Ravenhall landfill if Wollert was unavailable.
4. All available contract extensions for Contract No: 2010/1 have now been exercised and the contract will expire on 31 March 2021.
5. MWRRG has facilitated a collaborative procurement on behalf of 30 metropolitan councils to ensure the continuity of landfill waste disposal. The tender was issued on 16 March 2020 and closed on 4 June 2020.
6. The overall objectives of this collaborative procurement for landfill services is to:
 - Enable metropolitan councils to access services for the disposal/transfer of waste that cannot be recovered through other means.
 - Provide a transitional bridging period for the disposal of landfill waste until an Alternative Waste Processing (AWP) contract is available.
 - Enable the appointment of a panel of landfill providers.
 - Ensure consistency across the metropolitan area.
 - Integrate with other household waste services.

13. Officers' reports

CM.021/21 Tender Report - Contract 1920-046 Collaborative Procurement for Landfill Services

- Achieve a robust contract model that is based on best value, pricing transparency, appropriate risk allocation.
- Provide flexible contract terms.
- Reduce tender costs for councils.
- Ensure workable contingency arrangements for councils.

7. Nillumbik Council requirements

8. The purpose of this contract for Nillumbik is to provide for disposal of the following landfill waste from the following sources:

- Putrescible waste from residential kerbside collections – approximately 8000 to 8500 tonnes per year.
- Solid inert waste (hard waste) dropped off at the Recycling and Recovery Centre – approximately 850 to 1000 tonnes per year
- Putrescible and solid inert waste from road and drainage maintenance (street sweepings, dumped rubbish) – approximately 600 tonnes per year

9. New Contract Model Framework

10. All metropolitan councils were invited to participate in the landfill collective procurement process. Thirty (30) councils, including Nillumbik, executed Memoranda of Understanding (MOUs) with MWRRG to enable a competitive collaborative procurement of landfill services to be tendered out in the market place.

11. Nillumbik signed the MOU with MWRRG on 15 November 2019.

12. The documents that are required to be executed for the new contract are as follow:

- A Participation Agreement between MWRRG and Nillumbik Shire Council.
- Landfill Services Deed between MWRRG and contractors.
- Direct Deeds between Nillumbik Shire Council, and contractors.

Related Council decisions

13. Council resolved to sign a Memorandum of Understanding (MOU) with MWRRG to participate in the collaborative procurement for landfill services on 26 March 2019 under OCM.035/19.

Council plans and policies

14. This report directly supports the achievement of Council Plan 2017-2021 strategy:

- Provide waste management service that meet the needs of our community.

Tender overview

15. To manage the tender process, Tender Evaluation Panel (TEP) members were selected by MWRRG and was comprised of officers from Dandenong and Knox councils and MWRRG officers.

13. Officers' reports

CM.021/21 Tender Report - Contract 1920-046 Collaborative Procurement for Landfill Services

- 16. A public tender was issued on 16 March 2020.
- 17. The initial tender proposed closing date was 8 May 2020.
- 18. The tender period was extended as a result of a request from the Minister following requests from the landfill operators to allow an additional time to respond as a result of COVID19.
- 19. The period for tender submissions closed at 5pm on Thursday, 4 June 2020
- 20. The following tenders were received. Table 1 below shows the services that are being offered by tenderers:

Table 1: Summary of Tenderers and Services Provided

Tenderer	Services offered				
	Putrescible waste	Solid Inert	Transfer with Landfill Service	Transfer Service Only	Alternative Offer
Tenderer 1	-	-	-	-	Yes
Tenderer 2	-	Yes	-	-	-
Tenderer 3	Yes	Yes	Yes	Yes	-
Tenderer 4	-	-	-	-	Yes
Tenderer 5	-	-	Yes	Yes	-
Tenderer 6	Yes	Yes	-	-	-
Tenderer 7	-	-	-	Yes	-
Tenderer 8	Yes	Yes	-	-	-

- 21. The following evaluation criteria and weightings were applied during the evaluation of the conforming/nonconforming tenders. These weightings were set and agreed to prior to the issue of the tender by the MWRRG's Tender Evaluation Panel members.

Table 2: Evaluation criteria and weighting

Criteria	Weighting %
1) Professional Competence <ul style="list-style-type: none"> • Contract Period • Service Offering • Executive Summary • Alternative Offer • Compliance with Specification • External Resources (Subcontractor) 	Non-weighted

13. Officers' reports

CM.021/21 Tender Report - Contract 1920-046 Collaborative Procurement for Landfill Services

Criteria	Weighting %
• Capability	20%
2) Quality Systems For Deliverables	
a) Occupational Health & Safety (OH&S)	
b) Quality Management System (QMS) and Certification	25%
c) Risk Management	
d) Business Continuity	
e) Strategic Innovation and Value Adding	Non-weighted
3) Commercial	
f) Financial Viability	25%
a) Compliance with Proposed Contract	
b) Pricing Schedule	
c) Insurance	
d) Conflict of Interest	
e) References	Non-weighted
f) Site Requirements	
4) Social Procurement	
a) Sustainable Procurement Objectives	10%
b) Social Procurement Objectives	
5) Local Jobs First Policy	
a) Local Industry Development Outcomes	20%
b) Job Outcomes	

22. The weightings reflect the relative importance of each element to this particular contract. They were determined as being most appropriate after considering numerous factors including (but not restricted to) the time, quality, risk and contract management requirements which were likely to have the most impact on the achievement of best value.

23. An independent probity consultant (Landell) was appointed by MWRRG to overview the procurement process. The probity consultant has certified that:

- The procurement process was conducted in accordance with the relevant probity requirements.
- The recommendations of the Evaluation Panel are:
 - a) Based on relevant information.
 - b) Appropriately not based on irrelevant information.

13. Officers' reports

CM.021/21 Tender Report - Contract 1920-046 Collaborative Procurement for Landfill Services

- c) Not biased or prejudicial in relation to any of the providers and any approval decision in favour of the recommended provider based on the Evaluation Report would be defensible from a probity perspective.

24. The final evaluation outcome was as follows:

Table 3: Final evaluation score

TENDERER	SCORE
Tenderer 6	94.90%
Tenderer 3	92.17%
Tenderer 5	91.02%
Tenderer 8	90.13%
Tenderer 4	83.80%
Tenderer 1	71.52%
Tenderer 7	69.87%
Tenderer 2	37.72%

25. The MWRRG TEP recommends that the following landfill contractors/transfer services contractors be referred to participating councils as compliant proposals and may be appointed by participating councils for disposal of landfill waste:
26. The MWRRG TEP recommendation is that that the following offers be referred to participating councils as compliant proposals:
- Landfill Services
 - a) Tenderer 3
 - b) Tenderer 8
 - c) Tenderer 6
 - Transfer Services
 - a) Tenderer 3
 - b) Tenderer 5
 - Alternative offers
 - a) Alternative offers from Tenderers 1 and 4 are referred to Councils for consideration only.
27. **Attachment 1** provides the confidential tender evaluation summary report - MWRRG.
28. **Attachment 2** provides the confidential tender evaluation summary report responding to Nillumbik's requirements.

13. Officers' reports

CM.021/21 Tender Report - Contract 1920-046 Collaborative Procurement for Landfill Services

Discussion

29. The MWRRG TEP evaluation has been reviewed in order to recommend a provider/s for Nillumbik. Key considerations are:
- Ability to provide for disposal of putrescible and solid inert waste.
 - Price.
 - Additional transport cost to be charged by the current collection contractor under contract 1819-086.
 - Alternate facility if the primary facility becomes unavailable.
30. The cost of the travel distance to the facility has a significant impact on the total cost of landfill collection and disposal. One way travel distances based on approximate distance between the recommended tenderer facility locations and alternative facility locations and Nillumbik Operations Centre are provided for reference.
- Tenderer 8 landfill – 14.3km.
 - Tenderer 3 transfer station – 23.2km.
 - Tenderer 5 transfer station – 33.2km.
 - Tenderer 3 landfill – 50km.
 - Tenderer 6 landfill – 57.3km.
31. Proposed alternative facility travel distances:
- Tenderer 1 – 43.8km.
 - Tenderer 4 – 70.5km.
32. The most cost effective options for Nillumbik to dispose of landfill waste are Tenderer 8 and Tenderer 3. While Tenderer 3 provides a quality service, their facility has a significantly longer travel distance making the additional transport cost and higher gate fee prohibitive. Similarly, the price from Tenderer 5 is for their transfer station and then they deliver to landfills operated by Tenderer 3 or Tenderer 8. Direct haul to these sites is more efficient and cost effective for Council.
33. The Nillumbik evaluation considered but has not recommended the landfill waste to energy offers proposed by Tenderers 1 and 4 for the following reasons:
- Facilities are not constructed and the construction timetable is uncertain.
 - Travel distance – facilities are to be located between 40 and 70km away.
 - Lack of clarity on price.
34. At the end of the initial contract term, Council will have the opportunity to consider either extending the contract with appointed tenderers or consider a new option.
35. The remaining options are:
- Option 1: Direct haul of landfill waste to Tenderer 3 landfill.
 - Option 2: Direct haul of landfill waste to Tenderer 8 landfill.

13. Officers' reports

CM.021/21 Tender Report - Contract 1920-046 Collaborative Procurement for Landfill Services

36. Tier 1 pricing for guaranteed supply of landfill waste for the initial contract term of four years only has been considered as it is unlikely that there will be a significant change in the availability of alternative landfill services for Nillumbik Council in that period.
37. Cost analysis of these options for the disposal of approximately 8,000 tonnes of kerbside landfill waste shows that the total cost of delivering landfill waste to Tenderer 3 is about 13 per cent more than delivering to Tenderer 8 based on the same aggregate quantity. The total cost includes collection and delivery of waste and the disposal cost for 2021-22. The collection and delivery cost difference is based on existing pricing from Council's current provider JJ's Waste & Recycling to deliver landfill waste to Tenderer 8 and Tenderer 3. The collection and delivery (lift rate) cost difference reflects the additional distance to travel to Tenderer 3 and associated labour and fuel costs.
38. While Tenderer 3 offers the lowest gate fee, the additional cost of travel results in a total cost that is about 13 per cent higher than the total cost of delivery to Tenderer 8. The best rate from Tenderer 3 (greater than 30,000 tonnes per month) would still result in a higher total cost of almost 10 per cent. This also does not take into account the additional greenhouse gas emissions associated with the additional travel.
39. Tenderer 8 is the preferred tenderer for Nillumbik for tier 1 guaranteed supply of putrescible and solid inert waste from kerbside collections, the Recycling and Recovery Centre and roads and drainage operations. They are the preferred tenderer based on based on the outcome of the MWRRG tender evaluation and consideration of the total cost to deliver landfill waste to the facility.
40. It is recommended to also appoint Tenderer 3 on a non-guaranteed basis as a contingency if Tenderer 8 becomes unavailable.

Collaboration

41. This is a collaborative procurement process facilitated by MWRRG with Nillumbik as a participating council.

Budget implications

42. The recommended tender is an increase of approximately 8.5 per cent on the current gate fee. This results in a minor 2020-21 budget increase for April to June 2021 of approximately \$8000.

Sustainability implications

43. Greenhouse gas emissions from landfill are approximately two to three per cent of Council's overall emissions profile. The facilities recommended for disposal of Nillumbik's landfill waste have methane capture systems which export electricity to the grid.

Stakeholder Consultation/communication

44. Not applicable.

Innovation and continuous improvement

45. This contract provide a transitional bridging period for the disposal of landfill waste until an AWP contract is available.

13. Officers' reports

CM.021/21 Tender Report - Contract 1920-046 Collaborative Procurement for Landfill Services

Relevant law

46. Section 49 of the *Environment Protection Act 1970* empowers the Metropolitan Waste and Resource Recovery Group to facilitate efficient procurement of waste and resource recovery infrastructure and services through the collective procurement of waste management facilities and waste and resource recovery services.

Regional, state and national plans and policies

47. The Victorian government's circular economy policy *Recycling Victoria* sets a target of 80 per cent average resource recovery rate from all waste streams following the waste hierarchy by 2030.

Conclusion

48. It is recommended that Council accepts the following tenders:

- Tenderer 8 for their tendered schedule of rates for tier 1 guaranteed landfill waste disposal.
- Tenderer 3 for their tendered schedule of rates for non-guaranteed landfill waste disposal.

and enters into a for Contract 1920-046 Collaborative Procurement for Landfill Services (MWRRG Reference: 2020-23 – The Provision of Landfill Services) for a period of four (4) years with two (2) by two (2) years extension options.

Conflicts of interest

49. As part of the tender process, all MWRRG members of the Tender Evaluation Panel were required to declare any disclosable conflicts of interest and no disclosable conflicts of interest raised.
50. No officer involved in the preparation of this report has a conflict of interest.

13. Officers' reports**CM.022/21 Local Roads and Community Infrastructure Program - Extension**

Distribution: Public**Manager: Hjalmar Philipp, Director Operations and Infrastructure****Author: Lawrence Seyers, Lead Transport Planner****Summary**

To confirm the proposed works to be funded by the Local Roads and Community Infrastructure Program prior to submission to the Department of Infrastructure, Transport, Regional Development and Communications for approval.

Recommendation**That Council:**

1. Notes the Local Roads and Community Infrastructure Program Extension funding allocation to Nillumbik Shire Council of \$2,203,883 (excluding GST).
2. Approves the projects nominated for submission to the Department of Infrastructure, Transport, Regional Development and Communications under the Local Roads and Community Infrastructure Program.

Attachments

Nil

Discussion

1. On 22 May 2020 the Australian Government announced a \$500 million Local Roads and Community Infrastructure Program (LRCI Program).
2. This program was established to support local councils deliver priority local road and community infrastructure projects across Australia, supporting jobs and the resilience of local economies to help communities bounce back from the COVID-19 pandemic.
3. Funding allocations for the LRCI Program were calculated in a similar way to how the Roads to Recovery Program and the road component of the Financial Assistance Grants works. This formula takes into consideration road length and population and is based on recommendations of Local Government Grants Commissions.
4. Nillumbik Shire Council received an initial funding allocation of \$739,151 (excluding GST). This funding was made available to Council on 1 July 2020, and completion of the projects is required by 31 July 2021. On 18 August 2020, Council approved the list of projects to deliver under this initial funding (refer FN.027/20).
5. Through the 2020–21 Budget, the Australian Government announced a \$1 billion extension of the LRCI Program (LRCI Extension Program).
6. Nillumbik Shire Council was advised it would receive a further funding allocation of \$2,203,883 (excluding GST). This funding is available to Council on 1 January 2021, with completion of the projects by 31 December 2021.
7. Under the grant agreement Council is required to complete and submit a Work Schedule for nominated projects to the Commonwealth Department of Infrastructure, Transport, Regional Development and Communications for approval.

13. Officers' reports**CM.022/21 Local Roads and Community Infrastructure Program - Extension**

8. Councillors have been briefed on a potential list of projects that may be considered for funding as part of Council's budget and capital works program.
9. Projects must meet the following eligibility criteria includes:
 - a) Must be additional to Council's existing work program for 2020-21;
 - b) Must deliver benefits to the community;
 - c) Construction must be completed by 31 December 2021; and
 - d) Involve the construction or maintenance of local government roads or council-owned community infrastructure assets.
10. Eligible road projects are projects that involve the construction or maintenance of roads managed by local governments. This could include projects involving any of the following associated with a road:
 - a) Traffic signs;
 - b) Traffic control equipment;
 - c) Street lighting equipment;
 - d) A bridge or tunnel;
 - e) A facility off the road used by heavy vehicles in connection with travel on the road (for example, a rest area or weigh station);
 - f) Facilities off the road that support the visitor economy; or
 - g) Road and footpath maintenance, where additional to normal capital works schedules
11. Eligible community infrastructure projects are projects that involve the construction, maintenance and/or improvements to council-owned assets (including natural assets) that are generally accessible to the public. These projects must deliver benefits to the community, such as improved accessibility, visual amenity, and/or safety. Examples of eligible works include:
 - a) Closed Circuit TV (CCTV);
 - b) Bicycle and walking paths;
 - c) Painting or improvements to community facilities;
 - d) Repairing and replacing fencing;
 - e) Improved accessibility of community facilities and areas;
 - f) Landscaping improvements, such as tree planting and beautification of roundabouts;
 - g) Picnic shelters or barbeque facilities at community parks;
 - h) Playgrounds and skate parks (including all ability playgrounds);
 - i) Noise and vibration mitigation measures; or
 - j) Off-road car parks (such as those at sporting grounds or parks).

13. Officers' reports**CM.022/21 Local Roads and Community Infrastructure Program - Extension**

Related Council decisions

12. At the 11 August 2020 Future Nillumbik Committee meeting, Council approved the submission to the Department of Infrastructure, Transport, Regional Development and Communications of the proposed works under the Local Roads and Community Infrastructure Program (initial round of funding).

Options

13. Projects for the LRCI Program Extension have been nominated on the basis of meeting eligibility criteria and importantly, delivery by 31 December 2021.
14. A key consideration was distribution of grant funding allocation across the municipality.
15. An assessment was undertaken to refine the interim long-list of projects to a short-list that included consideration of:
- Council-owned asset;
 - No third party permits required or could be obtained in 3 months;
 - Designs prepared or could be quickly prepared in 3 months;
 - Construction can commence within 3 to 6 months; and
 - Council resources available to deliver or an ability to engage relevant expertise.
16. Consideration was also given to projects that may not be chosen for funding through other funding mechanisms.
17. The proposed projects and funding allocation are listed below. In completing the final detailed design, all projects will be scaled to match available funding. The projects include:
- Eltham North Synthetic Soccer Pitch.** This involves the replacement of the Synthetic Soccer Pitch at Eltham North oval (\$275,000).
 - Elizabeth Street, Diamond Creek Footpath.** This project involves the construction of footpath on Elizabeth Street, Diamond Creek (\$50,000).
 - Drainage Works.** This allocation is to undertake proactive upgrades across drainage assets (\$175,000).
 - Bicycle Racks.** This is to install bicycle racks at key locations including Eltham Activity Centre and Eltham North Adventure Playground (\$40,000).
 - Bridge Rehabilitation Works.** This allocation is to undertake proactive upgrades across Council's bridge structures (\$100,000).
 - Diamond Creek Trail Amenity Program.** This allocation is to construct public open space infrastructure along the Diamond Creek Trail.
 - Church Road, Panton Hill Road Safety Works.** This involves localised shoulder sealing, pavement widening and guard rail installation to improve road safety at a high priority location (\$250,000).
 - Building Improvement Works.** This allocation is to undertake proactive upgrades across Council's building assets (\$150,000).

13. Officers' reports

CM.022/21 Local Roads and Community Infrastructure Program - Extension

- i) **Parks and Open Space Infrastructure Works.** This allocation is to undertake upgrades across Council's public open space infrastructure (\$150,000).
 - j) **Ingrams Road Traffic Management.** This allocation is to construct a series of speed attenuation devices along Ingrams Road in Research (\$80,000).
 - k) **Marngrook Oval Surrounds.** This allocation is to undertake carpark, stormwater drainage and road and pedestrian safety improvements around Marngrook Oval and Diamond Creek Regional Playground (\$250,000).
 - l) **CFA Plenty Building Works.** This allocation is to undertake upgrade/repurposing works of the existing Plenty CFA building, which is Council owned and will be vacated when the new Plenty Fire Station has been constructed (\$80,000).
 - m) **Research Toilet Works.** This allocation is to deliver an improved public toilet adjacent to the Research shops (\$180,000).
18. Council is asked to approve these projects nominated for submission to the Department of Infrastructure, Transport, Regional Development and Communications under the Local Roads and Community Infrastructure Program.

Council plans and policies

19. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Advocate effectively for Nillumbik's interests at a state and national level.

Sustainability implications

20. This report does not directly raise any sustainability implications.

Community engagement

21. There are constrained timelines for delivery of the projects, requiring completion by 31 December 2021. The consultation undertaken from Council's budget includes the long term capital works program and has been used a point of reference together with Council's asset renewal priorities and ongoing community feedback.

Innovation and continuous improvement

22. The LRCI Extension Program is demonstrating continuous improvement from the initial LRCI Program, particularly with regard to submission of Work Schedules and ongoing project management. Funding has been set aside in the LRCI Extension Program for project management to deliver the additional capital works program by 31 December 2021.

Collaboration

23. Not applicable.

Budget implications

24. The nominated projects will be funded through the LRCI Extension Program funding allocation of \$2,203,883 (excluding GST).

Relevant law

25. Not applicable.

13. Officers' reports

CM.022/21 Local Roads and Community Infrastructure Program - Extension

Regional, state and national plans and policies

26. Not applicable.

Conflicts of interest

27. All officers involved in the preparation of this report have made a declaration that they do not have a conflict of interest in the subject matter of this report.

13. Officers' reports**CM.023/21 Tender Report - Contract 2021-8 Graffiti Removal and Management Services****Distribution: Public****Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author: Jonathan McNally, Manager Community Safety and Amenity****Summary**

This report recommends the awarding of contract 2021-8 for Graffiti Removal and Management Services.

The contract term is for an initial period of three (3) years, with two (2) x one (1) year options to extend the contract. The total duration of the contract, including the exercise of any options, shall not exceed five (5) years.


The Tender Evaluation Panel (TEP) has assessed all submissions and this report provides a summary of their evaluation in recommending the awarding of the contract for 2021-8 for Graffiti Removal and Management Service.

Pursuant to the Instrument of Delegation to the Chief Executive Officer, the value of this contract exceeds the specified financial limits and a Council resolution is therefore required to award the contract.

Recommendation**That Council:**

1. Accepts the tender from and enter into a contract with the **Tenderer A** _____ as per the preferred tenderers schedule of rates shown in **Attachment 1** for the following contract:
Number: 2021-8
Title: Graffiti Removal and Management Service
Term: 1 April 2021 to 30 March 2024
Options: Two (2) x one (1) year term extensions
2. Authorises the Chief Executive Officer to finalise and execute the contract documentation.
3. Authorises the Chief Executive Officer to approve contract term extensions.
4. Advises all tenderers accordingly.
5. Resolves that the Tender Evaluation Report (**Attachment 1**) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.

Attachments

1. Tender Evaluation Summary Report - *CONFIDENTIAL*
2.  Graffiti Removal Plan Policy

13. Officers' reports

CM.023/21 Tender Report - Contract 2021-8 Graffiti Removal and Management Services

Discussion

1. Graffiti removal and management services are a critical Council role in relation to the following key objectives:
 - To protect and enhance the amenity of our Shire;
 - To ensure the appropriate management and maintenance of the significant Council assets throughout the Shire; and
 - To enhance the feeling of community wellbeing, safety and liveability within the Shire.
2. Council does not currently have a formal contract in place for the provision of graffiti removal and management services. The service is currently provided via a non-contracted arrangement.
3. Council has undertaken a Public Request for Tender process to put in place a formal contract for Graffiti Removal and Management Services.

Related Council decisions

4. The Graffiti Removal Plan was adopted at the March 2020 Ordinary Council Meeting

Council plans and policies

5. This report directly supports the achievement of Council Plan 2017-2021 strategy Improve the appearance of public spaces.
 - Improve the appearance of public spaces.
 - Ensure responsible and efficient management of Council's financial resources.
6. This report directly supports the objectives of the Graffiti Removal Plan Policy (**Attachment 2**).

Tender overview

The Tender Evaluation Panel (TEP) advises that:

7. A public tender was issued on 10 October 2020 and advertised in the Melbourne Age on Saturday 10 October 2020.
8. The period for tender submissions closed at 2pm on Thursday 5 November 2020.
9. The tender called for submissions to provide the following services via a schedule of rates:
 - a) Undertake and perform regular inspections and removal of all graffiti as per an agreed schedule as required within Shire boundaries, and undertake and perform removal of all other reported graffiti within the municipality on receipt of notification by authorised Council representative or via system notifications to Contractor in accordance with Council's established timeframes as per the table below;

13. Officers' reports

CM.023/21 Tender Report - Contract 2021-8 Graffiti Removal and Management Services

Type of graffiti	Timeframe from Notification
Offensive	Within 24 hours
On high profile infrastructure*	Within 24 hours
Reported Graffiti – Parks & Playgrounds	Within 36 hours
All other reported graffiti	Within 7 days
Identified in annual audit	As advised by Council within budget constraints

- b) Capture and record data and process all graffiti related service requests in Councils Customer Management System; and
- c) Maintain a register of all graffiti events on a database. Data is to include all details of graffiti and data is to be made available to nominated council staff and Vic Police upon request.
- d) Tenderers were also required to evidence their technology for covert surveillance if requested by Council.

10. The following tenders were received.

11.

TENDERER
Tenderer A – Preferred Tender
Tenderer B
Tenderer C
Tenderer D

The Senior Procurement Specialist assessed all submissions for completeness and conforming tenders and performed initial tender pricing analysis/comparisons.

- 12. Only tenders that were conforming and competitive were fully scored. Tender submissions that were evaluated as non-conforming or not sufficiently competitive were set aside from further evaluation.
- 13. Only tenders that were conforming and competitive were fully scored. Tender submissions that were evaluated as non-conforming or not sufficiently competitive were set aside from further evaluation.
- 14. The following tenders were evaluated as non-conforming or not sufficiently competitive and were subsequently set aside from further evaluation.

TENDERER	Reasons why tender was set aside from further evaluation
----------	--

13. Officers' reports

CM.023/21 Tender Report - Contract 2021-8 Graffiti Removal and Management Services

19. The recommended tender was the highest ranked and is considered best value because they:
- are a well-established organisation and a 'leader' in the provision of graffiti management, with a proven and demonstrated capacity and capability to deliver against the key objectives of the Councils Graffiti Removal Plan policy;
 - has accredited quality management, environmental management and health and safety as well as risk management systems and processes in place;
 - has in place established technology systems and has a fleet of custom built and fully equipped vehicles;
 - Has established on-going contracts and relationships with other local government bodies, agencies and facility management organisations and as such can assist Council with developing a strategic approach to Graffiti Management reduction initiatives such as recommendations around lighting improvements, plantings and anti-graffiti coating in areas deemed to be 'high hit' locations, rather than the existing approach which is to primarily just paint out;
 - business operations are located within a neighbouring Northern Region Council area and business is providing local employment opportunities to 14 residents from within the Northern Region Council Group area; and
 - tender reference checks evidenced satisfaction by clients with an ability to assist clients in developing and managing their approach to graffiti management requirements.
20. **Attachment 1** - Tender Evaluation Summary Report – Confidential, provides the tenderer names, the Evaluation Scorecard Summary and the preferred tenderers Schedule of Rates.

Capability and Capacity

21. Well established organisation and a 'leader' in the provision of graffiti management. Northern Region Council Area based business with nationwide contracts and services in place.
22. Initial tender response referred to monthly patrols with a focus on getting community involved to proactively report graffiti. Further information requested and response provided and further supported by reference checks, confirmed organisation can be highly proactive to provide a service in line with graffiti removal plan.
23. Has proven ability to work collaboratively with Clients, supported by a well-structured and established operational setup including a fleet of highly visible customised vehicles and equipment, backed up by accredited systems and processes.

Tender Interviews and Reference checks

24. There were two tender reference checks undertaken and both evidenced satisfaction by clients with management of their graffiti management requirements.

13. Officers' reports

CM.023/21 Tender Report - Contract 2021-8 Graffiti Removal and Management Services

Contingency and risks

- 25. Due to the size and structure of the company and operations, there is no risk to continuity of the service.
- 26. As part of the tender specification, there are now defined permitted hours of service operation. These permitted hours of services are to ensure that where ever possible, Council does not have a contractor undertaking services in less than optimal safety conditions or times.

This is in line with Councils obligations under the Victorian Occupational Health and Safety Act 2004.

Days	Hours of Operation
Monday - Friday	Between Hours 6:00am - 6:00pm
Saturday*	Between Hours 6:00am - 6:00pm
Sunday*	Between Hours 7:00am - 6:00pm
Public Holidays*	Between Hours 7:00am - 6:00pm

* Indicates that the only works permitted on these days is the removal of reported Offensive graffiti or graffiti that is reported on High Profile Infrastructure.

- 27. The Councils nominated Contract Manager may on a case-by-case basis, request the appointed contractor to undertake urgent works outside of these stated hours of operation.

Collaboration with other Councils and Governments and statutory bodies

- 28. Not applicable.

Budget implications

- 29. Provision is made in the annual Community Safety operating budget for the provision of a graffiti removal service. The 2021/2022 draft budget allocates \$130,000 for the service at this stage.
- 30. The preferred tenderers schedule of rates resulted the lowest overall average rate* per m2 for graffiti removal based on tendered rates for Monday–Friday.

* Excludes rates for highly specialised rectification of acid attacks on Glass surfaces.

Sustainability implications

- 31. Preferred tenderer is a business based within the Northern Region Council Area, providing employment opportunities to 14 residents.
- 32. Possibility of further employment/trainee opportunities based on outcome of tender and understanding ongoing workloads.

13. Officers' reports

CM.023/21 Tender Report - Contract 2021-8 Graffiti Removal and Management Services

33. Is compliant with the International Environmental Management Standard ISO14001:2004. Materials used are biodegradable or limited to high pressure water.

Stakeholder Consultation/communication

34. Not applicable

Innovation and continuous improvement

35. The preferred tenderer can provide to Council, strategic advice as well as network connections in relation to how Council can develop a strategic approach to improving graffiti management outcomes. This was further evidenced during tender reference checks whereby the referee outlined a number of initiatives implemented by the tenderer to combat ongoing graffiti hotspots.

36. The preferred tenderer has also indicated a willingness to work closely with Council to implement improved access to data relating to the identification and removal of graffiti.

Relevant law

37. The tender process described in this report is in accordance with Council's Procurement Policy and Guidelines, the relevant provision of the *Local Government Act 1989* – section 186 (Restriction on power to enter into contracts), section 3C (Council Objectives) and section 208 (Best Value Principles).

Regional, state and national plans and policies

38. Not applicable.

Conflicts of interest

39. As part of the tender process, all members of the Tender Evaluation Panel were required to declare any disclosable conflicts of interest.

40. There were no disclosable conflicts of interest raised.

13. Officers' reports**CM.024/21 DELWP Proposed ESD Planning Policy Framework Changes - Council Submission****Distribution: Public****Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author: Leigh Northwood, Strategic Planning Lead****Summary**

DELWP have released a paper - '*Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system*' (The Roadmap) (**Attachment 1**). The intent of 'the Roadmap' is to strengthen Environmentally Sustainable Development (ESD) as a keystone principle in Victoria's planning system, embedded in the strategic objectives of State and local planning provisions.

The deadline for submissions to 'the Roadmap' are due with DELWP by **26 February 2021**.



'The Roadmap' is stage 1 of two stages of implementation programmed by DELWP, and proposes to update the Planning Policy Framework (PPF) to include environmentally sustainable development (ESD) as a specific principle in the purpose of the Victoria Planning Provisions (VPP) and update references to existing ESD related policies where relevant to the planning system. The focus of these changes is on lot and precinct scale developments.

Officers brought a draft submission to Council for consideration at a briefing on 19 January 2021. Feedback and direction from this briefing has been used to amend Council's submission (**Attachment 2**).

Recommendation**That Council:**

1. Adopts the attached submission (**Attachment 2**) to '*Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system*' (The Roadmap), and directs Council officers to formally lodge the adopted submission with DEWLP by 26 February 2021; and
2. Makes the adopted submission publicly available on Council's Participate Nillumbik website.

Attachments

- 1  DELWP Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system'
- 2  Final NSC Submission to DELWP ESD Roadmap 23022021

13. Officers' reports

CM.024/21 DELWP Proposed ESD Planning Policy Framework Changes - Council Submission

Discussion

1. DELWP have released a paper for review – '*Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system*' (The roadmap) (refer **Attachment 1**). The intent of 'the Roadmap' is to strengthen Environmentally Sustainable Development (ESD) as a keystone principle in Victoria's planning system, embedded in the strategic objectives of State and local planning provisions.
2. This work is integral in delivering key actions of *Plan Melbourne (2017-2050)*, particularly with regard to the directions and policy of '*Outcome 6 – Melbourne is a sustainable and resilient city*' (refer **Attachment 2**). It is also noted this State-wide approach to ESD will need to work alongside the building system and a combination of planning and building system reforms are required to support improvements in the energy and water efficiency of new buildings. This is also aligned to Action 80 of *Plan Melbourne* "*Review of planning and building systems to support environmentally sustainable development outcomes*".
3. The Planning Policy Framework (PPF) supports integrated decision making across government. Planning authorities must take account of and give effect to the general principles and the specific policies contained in the PPF. Each planning authority must decide whether a proposal will produce acceptable outcomes in terms of objectives, strategies and policy guidelines set out in the PPF.
4. Currently the PPF includes policies on responses to natural hazards and climate change, energy, water, waste management, sustainable transport, noise abatement and air quality. The first stage of this project (the Roadmap) proposes to update the PPF to include environmentally sustainable development (ESD) as a specific principle in the purpose of the Victoria Planning Provisions (VPP) and update references to existing ESD related policies where relevant to the planning system. The focus of these changes is on lot and precinct scale developments. The proposed changes largely focus on matters of clarity and emphasis, but the proposed changes do include:
 - Specific ESD planning policy objectives for the built environment;
 - Recognising urban heat as a hazard that needs a more emphatic response across the urban environment;
 - Introducing a new strategy supporting use of siting and design responses to minimise exposure on new sensitive uses to air and noise pollution from transport corridors; and
 - Clearer objectives around the need for new developments to provide for the segregation of waste and recyclables.
5. The PPF differs from the more detailed and prescriptive ordinance set out under zones, overlays and particular provisions (primary implementation tools). Stage 2 of this project will develop specific particular provisions to support clear, consistent, and straightforward decision making and design responses to implement the intent of the ESD objectives in the PPF. It will also examine whether certain local planning scheme measures should be adopted as state level standards.

13. Officers' reports**CM.024/21 DELWP Proposed ESD Planning Policy Framework Changes - Council Submission**

-
6. It is noted Stage 2 work is programmed for consultation by DELWP between **April-May 2021** with initiatives complete for Stage 2 in September 2021.

Related Council decisions

1. Not Applicable

Options

2. Officers note supporting environmentally sustainable development (ESD) through Victoria's planning system is vitally important, particularly to local governments who are predominantly responsible for administering the planning scheme, and require effective policy and robust primary implementation tools to ensure effective outcomes.
3. Council have prepared a DRAFT submission (**Attachment 3**) which details a response to each proposed change (as identified in the VPP) to implement ESD objectives, noting that Stage 2 will be integral to further support the policy directives proposed in the VPP.
4. The deadline for submissions to 'the Roadmap' are due with DELWP by **26 February 2021**.
5. Council officers attended a programmed information session on 9 February hosted by the Municipal Association of Victoria (MAV) along with DELWP in regard to 'the Roadmap' reforms. This did not result in any further recommended changes to Council's submission by officers.
6. An integrated approach to ESD, supported through proposed changes to the particular provisions of all planning schemes (including consolidated application requirements) and through supporting guidance materials and tools, will need to recognise that measures are complimentary and varied to address ESD - for example, siting and design responses that respond to urban heat amelioration may also contribute to the stormwater management of a development.
7. Council's submission identifies some 'gaps' in the proposed reforms in regard to loss of and impacts on existing vegetation in urban environments and how important this is, particularly for areas of Metropolitan Melbourne like Nillumbik Shire where there are significant tracts of native vegetation located within the urban growth boundary which provide extensive linkages into the broader biodiversity network. Retention of native vegetation is considered fundamental and needs to be addressed in policy – with particular re-dress of policy 'tension' e.g. *Clause 52.12 Bushfire Protection Exemptions* to clear native vegetation and *Clause 52.17 Native Vegetation*.
8. Council's draft submission further identifies the following:
- a) Introduction of commentary at responses to clause 15 Built Environment and Heritage, clause 19.01-2S Renewable energy, and clause 15.01-2S Building design in regard to the importance of building material choice (identifying mudbrick construction in Nillumbik as a sustainable material) and including the need for consideration of this type of building material for maximising insulation, minimising waste and reducing production/transportation costs.

13. Officers' reports**CM.024/21 DELWP Proposed ESD Planning Policy Framework Changes - Council Submission**

- b) At clause 19.01-2S Renewable energy, commentary on the importance that State planning policy facilitates local renewable energy initiatives, and that any policy is outcome focussed, as methods for achieving sustainable outcomes will evolve in the future and a focus on current methods will not adequately provide for future innovation.
- c) In 'general policy gaps', commentary on ESD outcomes for single dwellings (including those located in the Green Wedge) and the need for State government provisions within planning schemes and the role they play in ensuring all new buildings meet appropriate environmental performance standards - including single dwellings. Commentary also acknowledges that non-statutory measures such as incentives that assist owners of existing single dwellings to adopt more sustainable building design outcomes are an important part of securing effective ESD outcomes.

Council plans and policies

- 9. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Advocate effectively for Nillumbik's interests at a state and national level.
- 10. The draft submission to the 'Roadmap' includes consideration of other relevant Council strategies (adopted and in development) including:
 - a) Climate Action Plan (2016-2020) (and updated currently under preparation);
 - b) Biodiversity Strategy (2012);
 - c) Bushfire Mitigation Strategy (2019-2023);
 - d) Green Wedge Management Plan (2019);
 - e) Invasive Species Action Plan (2015);
 - f) State of Environment Report (2014); and
 - g) Integrated Water Management Plan (2013).

Sustainability implications

- 11. The Shire of Nillumbik recognises that climate change is one of the most serious challenges facing the world today and into the future. Council understands the importance of preserving the Green Wedge, contributing to global efforts to reduce greenhouse gas emissions across all sectors, conserving natural resources and to promoting a healthy, safe and resilient community.
- 12. Development of the new Climate Action Plan will inform changes to key policy, objectives and strategies to inform Shire-wide action on ESD.
- 13. This work – the State governments '*Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system*' (The roadmap) will be integral in informing changes to the Victorian Planning Provisions and 'enshrining' ESD objectives into planning in Victoria, thereby supporting future initiatives of Councils Climate Action Plan.

13. Officers' reports**CM.024/21 DELWP Proposed ESD Planning Policy Framework Changes - Council Submission**

Community engagement

14. The draft PPF changes (Stage 1) are largely policy neutral and reflect existing government policy (predominantly Plan Melbourne). DELWP have asked the changes be reviewed by local government and subject matter experts to ensure they can be readily implemented through the planning system. The draft amendments will be reviewed based on this feedback and adopted in 2021.
15. Following the preparation of more detailed draft planning provisions and standards (Stage 2), these proposals will be open to public consultation through the Engage Victoria website. Comments on the PPF will also be accepted. DELWP's current advice is that public consultation is expected to commence by mid-2021.

Innovation and continuous improvement

16. The proposed reforms represent continuous improvement of the Victorian Planning Provisions and the Nillumbik Planning Scheme particularly in regard to ESD.

Collaboration

17. The submission has been prepared with collaborative feedback from a number of different internal departments within Council.

Budget implications

18. None.

Relevant law

7. The Roadmap identifies, the [Planning and Environment Act 1987](#) (the Act) at Section 4 incorporates sustainable land use and development, the protection of natural resources and the maintenance of ecological processes as key legislated objectives of planning in Victoria. The Act also specifies that the planning framework includes objectives to:
 - Enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels, and
 - Ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land.

Regional, state and national plans and policies

19. Plan Melbourne 2017-2050 outlines the key actions to support long-term land use, infrastructure and transport planning over the three decades.
20. The proposed ESD reforms directly advance Outcome 6 of the Plan – Melbourne is a sustainable and resilient city, specifically in regard to:
 - a) Direction 6.1 Transition to a low-carbon city to enable Victoria to achieve its target of net zero greenhouse gas emissions by 2050.
 - i) Policy 6.1.1 - Improve energy, water and waste performance of buildings through environmentally sustainable development and energy efficiency upgrades.

13. Officers' reports

CM.024/21 DELWP Proposed ESD Planning Policy Framework Changes - Council Submission

- b) Direction 6.2 - Reduce the likelihood and consequences of natural hazard events and adapt to climate change.
 - i) Policy 6.2.2 - Require climate change risks to be considered in infrastructure planning.
 - c) Direction 6.3 - Integrate urban development and water cycle management to support a resilient and liveable city.
 - i) Policy 6.3.1 - Reduce pressure on water supplies by making the best use of all water sources.
 - d) Direction 6.4 Make Melbourne cooler and greener.
 - i) Policy 6.4.1 - Support a cooler Melbourne by greening urban areas, buildings, transport corridors and open spaces to create an urban forest.
21. The proposed policy reforms have been advocated for through numerous submissions to Parliamentary Enquiries and DELWP by both the Municipal Association of Victoria and the Council Alliance for Sustainable Built Environment.

Conflicts of interest

22. All officers involved in the preparation of this report have made a declaration that they do not have a conflict of interest in the subject matter of this report.

13. Officers' reports

CM.025/21 De Fredericks Road Special Charge Scheme - Declaration

Distribution: Public

Manager: Hjalmar Philipp, Director Operations and Infrastructure

Author: Vladimir Mistic, Project Engineer

Summary

Following a consultation process Council resolved on 25 August 2020 (Item OCM.138/20) its Intention to declare a Special Charge Scheme to construct De Fredericks Road, Yarrambat.

Council's notice of its intention to declare a scheme was publicly advertised in The Age newspaper on 14 September 2020.

A letter and notice of the proposal was sent to all property owners with a liability under the scheme. Council has received correspondence from one affected property owner that constitutes a submission and objection under the Local Government Act 1989 (the Act).

This report recommends that Council formally declares De Fredericks Road Special Charge Scheme, Yarrambat (between Ironbark Road and Hacketts Road).

Recommendation

That Council:

1. Notes that one submission, which is also considered an objection was received for this scheme.
2. Having considered this submission and objection, gives notice under section 163 (4) of the *Local Government Act 1989* of the declaration of a special charge for the purpose of constructing De Fredericks Road, Yarrambat (between Ironbark Road and Hacketts Road).
3. Incorporates the following outline of declaration:
 - a) The Special Charge Scheme shall apply to the properties in De Fredericks Road, as shown in **Attachment 1**.
 - b) The apportionment cost to each property is based on the method shown in the report and **Attachment 2**.
 - c) The total estimated cost to each property is shown in **Attachment 3** and may be paid as a lump sum or by quarterly instalments over a 10 year period with interest as provided by section 163(1)(b) of the *Local Government Act 1989*.
 - d) The interest rate applicable to instalments paid by each due date is to be one per cent higher than the rate applying to Council in relation to funds borrowed for this project.
 - e) The Special Charge Scheme for De Fredericks Road shall remain in place for 10 years.
 - f) The estimated total project cost is \$403,519.88 with a benefit ratio of 1 (100 per cent). The total amount to be levied under this special charge is \$403,519.88.

13. Officers' reports**CM.025/21 De Fredericks Road Special Charge Scheme - Declaration**

- g) Within 12 months of the completion of works a final cost statement will be issued to all of the property owners in the De Fredericks Road Special Charge Scheme and any adjustments to liabilities will be made at that time.
4. That the submitters and objectors be advised of Council's decision and the reason for the decision.

Attachments

1. De Fredericks Road - Special Charge Scheme Area
2. Guidelines for apportionment of costs for road construction
3. Cost apportionment to affected properties
4. Summary of submission received by Council
5. Full Submission

Discussion

1. Council resolved its intention to declare the De Fredericks Road Special Charge Scheme, Yarrambat (between Ironbark Road and Hacketts Road) on 25 August 2020 (Item OCM.138/20). Property owners were notified of the resolution via public notice in *The Age* newspaper on 14 September 2020. A letter and a notice of the proposal was sent to all property owners with a liability to the scheme.
2. Both the public notice and the letter sent to property owners of intention to declare a scheme outlined the rights of any person to make a submission under Section 223 or an objection under Section 163B of the *Local Government Act 1989* (the Act), in relation to this Special Charge Scheme. Submissions and objections were to be made in writing within 28 days after the date of the public notice.
3. Correspondence representing one (1) objection under Section 163B of the Act, was received in relation to this Special Charge Scheme. This objection was also considered as a submission for the purposes of Section 223 of the Act.
4. A summary of the issues raised in the submission and an officer comment in response to each issue, is attached to this report **Attachment 4**.
5. The full (redacted) submission can also be viewed in **Attachment 5**.
6. The special benefit of the road construction is considered to be improved access and amenity to property owners and the residents in the scheme. There is no Council land, non-rateable land or Crown land within the scheme and the standard of the road will not need to increase beyond the normal residential standard in the area. Considering this, it has been determined that there is no special benefit to the community and no special benefit to properties not included in the Scheme. Therefore, the benefit ratio is '1' (100 per cent).

13. Officers' reports

CM.025/21 De Fredericks Road Special Charge Scheme - Declaration

7. Having considered the objection/submission, it is recommended that Council declare the Special Charge Scheme for the construction of De Fredericks Road Special Charge Scheme, Yarrambat (between Ironbark Road and Hacketts Road). The issues raised in the objection/submission have been discussed in **Attachment 4** and are not considered grounds for varying or abandoning the scheme.
8. Subject to Council resolving its intention to declare the scheme the next steps would involve:
 - a) Property owners will be sent a notice advising of the formal declaration and outlining their appeal rights to the Victorian Civil and Administrative Tribunal (VCAT).
 - b) Tenders for the construction of the road will be called (subject to any appeal to VCAT).

Related Council decisions

9. Council resolved on 30 April 2019 to proceed with development of a Special Charge Scheme for the sealing of De Fredericks Road, Yarrambat (Item OCM.053/19).
10. Council resolved on 25 August 2020 (Item OCM.138/20), to give public notice of its intention to declare a Special Charge Scheme in accordance with Part 8 of the Local Government Act 1989, for the consideration of De Fredericks Road Special Charge Scheme, Yarrambat (between Ironbark Road and Hacketts Road).

Options

11. Options available to Council are to:
 - a) formally declare the Special Charge for the construction of De Fredericks Road, Yarrambat (between Ironbark Road and Hacketts Road), as per the recommendation of this report;
 - b) not declare a Special Charge for the construction of De Fredericks Road; or
 - c) alter the proposed declaration, provided it is in accordance with Section 163 (2BA) of the Act.

Council plans and policies

12. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Ensure that the provision of community infrastructure responds to community needs.

Sustainability implications

13. Should a Special Charge Scheme proceed, environmental management would form part of criteria by which the contractor is selected to complete the road construction.
14. Council's Climate Change Action Plan 2016-2020 recognises the increased potential for heavy precipitation events. The construction of De Fredericks Lane, with appropriate drainage, will support the management of flooding risk.

13. Officers' reports**CM.025/21 De Fredericks Road Special Charge Scheme - Declaration**

Community engagement

15. The initial questionnaire, sent on 4 September 2018 indicated that 8 of 13 (61.5 per cent) property owners supported further investigation into a scheme.
16. The information session was held on 20 February 2019.
17. Following the information session, a formal questionnaire was sent to all property owners on 6 March 2019. The results indicated that 8 of 13 (61.5 per cent) property owners supported the development of a scheme.
18. The final information session was held on 30 July 2020.
19. The level of support for the scheme is 61.5 per cent which is above the 60% threshold set within Council's Special Charge Scheme Policy.
20. Consultation was carried out in accordance with the Council's *Special Charge Schemes for Road and Drainage Works – Policy and Guidelines 2018*, **Attachment 2** and **Attachment 3**. Information sessions for all residents and meetings with task group members to finalise design details for the street were held. All affected property owners have been advised of Council's intention to declare the scheme and their rights to make submissions or objections to this.

Innovation and continuous improvement

21. Not applicable.

Collaboration

22. Not applicable.

Budget implications

23. Council has incorporated costs for administering the scheme in the current services budget. The survey and other scheme development costs incurred will be recovered if the scheme proceeds and the charge is levied.

Relevant law

24. The authority of Council to declare a special charge is in accordance with Section 163 of the Act.
25. The rights of a person lodge a submission are in accordance with Section 163A and Section 223 of the Act.
26. The rights of a person to lodge an objection are in accordance with Section 163B of the Act.
27. As referred to in the options part of this report, Section 163 (2BA) of the Act states:
"A Council must not make a declaration under subsection (1) which has been altered from the proposed declaration specified in the public notice if the effect of the alteration is to increase the liability of any person to pay the special rate or special charge to be imposed by the proposed declaration unless —
 - a) *the alteration is made in response to a submission or objection received by the Council in response to the proposed declaration; and*

13. Officers' reports

CM.025/21 De Fredericks Road Special Charge Scheme - Declaration

- b) *the increase in the liability of any person to pay the special rate or special charge does not exceed 10%.* ”

Regional, state and national plans and policies

- 28. Not applicable.

Conflicts of interest

- 29. The officers involved in the preparation of this report do not have a conflict of interest in the subject matter of this report.

13. Officers' reports

CM.026/21 Rockliffe Street Special Charge Scheme - Declaration

Distribution: Public**Manager: Hjalmar Philipp, Director Operations and Infrastructure****Author: Patrick Wood, Design Coordinator****Summary**

Following a consultation process Council resolved on 25 August 2020 (Item OCM.139/20), its intention to declare a Special Charge Scheme to construct Rockliffe Street, Eltham.

Council's notice of its intention to declare a scheme was publicly advertised in *The Age* newspaper on 14 September 2020.

A letter and notice of the proposal was sent to all property owners with a liability under the scheme. Council has received eight pieces of correspondence from affected property owners which constitute a submission and two pieces of correspondence constituting an objection under the *Local Government Act 1989*.

This report recommends that formally declares the Rockliffe Street Special Charge Scheme.

Recommendation






That Council:

1. Notes that eight submissions including two objections were received for this scheme.
2. Having considered these submissions and objections, gives notice under section 163 (4) of the *Local Government Act 1989* of the declaration of a special charge for the purpose of constructing Rockliffe Street, Eltham.
3. Incorporates the following outline of declaration:
 - a) The Special Charge Scheme shall apply to the properties in Rockliffe Street, as shown in **Attachment 1**.
 - b) The apportionment cost to each property is based on the method shown in the report and **Attachment 2**.
 - c) The total estimated cost to each property is shown in **Attachment 3** and may be paid as a lump sum or by quarterly instalments over a 10 year period with interest as provided by section 163(1)(b) of the *Local Government Act 1989*.
 - d) The interest rate applicable to instalments paid by each due date is to be one per cent higher than the rate applying to Council in relation to funds borrowed for this project.
 - e) The Special Charge Scheme for Rockliffe Street shall remain in place for 10 years.
 - f) The estimated total project cost is \$377,820.63 with a benefit ratio of 1 (100 per cent). The total amount to be levied under this special charge is \$377,820.63.

13. Officers' reports**CM.026/21 Rockliffe Street Special Charge Scheme - Declaration**

- g) Within 12 months of the completion of works, a final cost statement will be issued to all of the property owners in the Rockliffe Street Special Charge Scheme and any adjustments to liabilities will be made at that time.
4. That the submitters and objectors be advised of Council's decision and the reason for the decision.

Attachments

- 1 . Rockliffe Street, Eltham - Special Charge Scheme Area
- 2 . Guidelines for apportionment of costs
- 3 . Apportionment to affected properties
- 4 . Summary of submissions received by Council
- 5 . Full Submissions

Discussion

1. Council resolved its intention to declare the Rockliffe Street Special Charge Scheme on 25 August 2020 (Item OCM.139/20). Property owners were notified of the resolution via public notice in *The Age* newspaper on 14 September 2020. A letter and notice of the proposal was sent to all property owners with a liability to the scheme.
2. Both the public notice and the letter sent to property owners of intention to declare a scheme outlined the rights of any person to make a submission under Section 223 or an objection under Section 163B of the *Local Government Act 1989* (the Act), in relation to this Special Charge Scheme. Submissions and objections were to be made in writing within 28 days after the date of the public notice.
3. Correspondence representing eight (8) submissions was received by Council. Of these submissions:
 - a) Four were supportive of the scheme;
 - b) Three were not supportive of the scheme (noting that 2 of the 3 submissions were from the same household and for the purposes of the Section 163B of the Act these are considered as one objection);
 - c) One was supportive of the scheme, but disagrees with the distribution of the charge.
4. A summary of the issues raised in the submissions and an officer comment in response to each issue, is attached to this report **Attachment 4**.
5. The full (redacted) submissions can be seen in **Attachment 5**.
6. Correspondence representing two objections under Section 163B of the Act, was received in relation to this Special Charge Scheme. These objections were also considered as submissions for the purposes of Section 223 of the Act.

13. Officers' reports**CM.026/21 Rockliffe Street Special Charge Scheme - Declaration**

7. The special benefit of the road construction is considered to be improved access and amenity to property owners and the residents in the scheme. There is no Council land, non rateable land or Crown land within the scheme and the standard of the road will not need to increase beyond the normal residential standard in the area. Considering this, it has been determined that there is no special benefit to the community and no special benefit to properties not included in the Scheme. Therefore, the benefit ratio is '1' (100 per cent).
8. Having considered the submissions and objections, it is recommended that Council declare the Special Charge Scheme for the construction of Rockliffe Street, Eltham. The issues raised in the eight (8) submissions / two (2) objections have been discussed in **Attachment 4** and are not considered grounds for varying or abandoning the scheme.
9. Subject to Council resolving its intention to declare the scheme the next steps would involve:
 - a) Property owners will be sent a notice advising of the formal declaration and outlining their appeal rights to the Victorian Civil and Administrative Tribunal (VCAT).
 - b) Tenders for the construction of the road will be called (subject to any appeal to VCAT).

Related Council decisions

10. Council resolved on 28 May 2019 to proceed with the consultation process for the Rockliffe Street Special Charge Scheme (Item OCM.070/19).
11. Council resolved on 25 August 2020 (Item OCM.139/20), to give public notice of its intention to declare a Special Charge Scheme in accordance with Part 8 of the *Local Government Act 1989*, for the construction of the full length of Rockliffe Street.

Options

12. Options available to Council are to:
 - a) declare a Special Charge for the construction of Rockliffe Street (recommendation of this report);
 - b) not declare a Special Charge for the construction of Rockliffe Street; or
 - c) alter the proposed declaration, provided it is in accordance with Section 163 (2BA).

Council plans and policies

13. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Ensure that the provision of community infrastructure responds to community needs.

Sustainability implications

14. Should a Special Charge Scheme proceed, environmental management would form part of the criteria by which the contractor is selected to complete the road construction.

13. Officers' reports

CM.026/21 Rockliffe Street Special Charge Scheme - Declaration

15. Council's Climate Change Action Plan 2016-2020 recognises the increased potential for heavy precipitation events. The construction of Rockliffe Street, with appropriate drainage, will support the management of flooding risk.

Community engagement

16. The initial questionnaire, sent on 14 November 2018 indicated that 17 of 27 (63.0 per cent) property owners supported further investigation into a scheme.
17. The information session was held on 6 March 2019.
18. Following the information session, a formal questionnaire was sent to all property owners on 25 March 2019. The results indicated that 18 of 27 (66.7 per cent) property owners supported the development of a scheme.
19. During the development phase a third questionnaire was sent out to determine the support for traffic calming devices to be included in the scope of the Special Charge Scheme.
20. The questionnaire relating to the inclusion of traffic treatments indicated that 18 of 27 (66.7 per cent) property owners supported the inclusion.
21. The final information session was 12 March 2020.
22. There has been increase in support between the initial and formal questionnaire of one property owner, taking the level of support to 66.7 per cent which is above the 60 per cent threshold set within Council's Special Charge Scheme Policy.
23. Consultation was carried out in accordance with the Council's Special Charge Schemes for Road and Drainage Works – Policy and Guidelines. Information sessions for all residents and meetings with task group members to finalise design details for the street were held. All affected property owners have been advised of Council's intention to declare the scheme and their rights to make submissions or objections to this.

Innovation and continuous improvement

24. Not applicable.

Collaboration

25. Not applicable.

Budget implications

26. Council has incorporated costs for administering the scheme in the current services budget. The survey and design costs incurred will be recovered if the scheme proceeds and the charge is levied.

Relevant law

27. The authority of Council to declare a special charge is in accordance with Section 163 of the Act.
28. The rights of a person lodge a submission are in accordance with Section 163A and Section 223 of the Act.
29. The rights of a person to lodge an objection are in accordance with Section 163B of the Act.

13. Officers' reports

CM.026/21 Rockliffe Street Special Charge Scheme - Declaration

30. As referred to in the options part of this report, Section 163 (2BA) of the act states:
- “A Council must not make a declaration under subsection (1) which has been altered from the proposed declaration specified in the public notice if the effect of the alteration is to increase the liability of any person to pay the special rate or special charge to be imposed by the proposed declaration unless —*
- a) the alteration is made in response to a submission or objection received by the Council in response to the proposed declaration; and*
 - b) the increase in the liability of any person to pay the special rate or special charge does not exceed 10%. ”*

Regional, state and national plans and policies

31. Not applicable.

Conflicts of interest

32. The officers involved in the preparation of this report do not have a conflict of interest in the subject matter of this report.

13. Officers' reports**CM.027/21 Informal Meetings of Councillors Records - 23 February 2021**

Distribution: Public**Manager: Blaga Naumoski, Executive Manager Governance, Communications and Engagement****Author: Janet Taylor, Governance Officer****Summary**

In accordance with *Item 19 of Council's Governance Rule – Meeting Procedure*, adopted on 25 August 2020, Council is required to report as soon as practicable to a Council Meeting a record of each Information Meetings of Councillors held.

This report lists Information Meetings of Councillors records that have been submitted since the matter was last reported to Council on 15 December 2020.

An Information Meetings of Councillors Record was kept for:

- Councillor Briefing held 19 January 2021.
- Councillor Workshop held 20 January 2021.
- Pre-meeting to Council Meeting held 27 January 2021.
- Councillor Briefing held 2 February 2021.
- Environment & Sustainability Advisory Committee held 3 February 2021.
- Health and Wellbeing Advisory Committee held 4 February 2021.
- Councillor Induction Workshop held 5 February 2021.
- Councillor Induction Workshop held 6 February 2021.
- Pre-meeting to Future Nillumbik Committee Meeting held 9 February 2021.

Officer Recommendation

That Council, in accordance with *Item 19 of Council's Governance Rule – Meeting Procedure*, receives the Information Meetings of Councillors records held on 19 January 2021, 20 January 2021, 27 January 2021, 2 February 2021, 3 February 2021, 4 February, 5 February 2021, 6 February 2021 and 9 February 2021, as contained in (**Attachment 1**).

Attachments

1. Informal Meeting of Councillors Record - 23 February 2021

Discussion

1. *Item 19 of Council's Governance Rule – Meeting Procedure*, requires records of Information Meetings of Councillors be reported to a Council Meeting and recorded in the minutes of that meeting.

Related Council decisions

2. Not applicable

13. Officers' reports

CM.027/21 Informal Meetings of Councillors Records - 23 February 2021

Options

3. An Information Meetings of Councillors is defined in *Item 19 of the Governance Rule – Meeting Procedure*. It is a meeting at which matters are considered that are intended or likely to be the subject of a Council decision or the exercise of delegated authority and which is either of the following:
 - A planned or scheduled meeting that includes at least half the Councillors and at least one Council officer. These meetings do not include meetings of Councillors and Council staff that are not planned or scheduled.
 - A meeting of an Advisory Committee where at least one Councillor is present. An Advisory Committee is any committee established by the Council, other than a special committee, that provides advice to the Council or to a special committee or to a member of Council staff who has been delegated a power or duty or function of the Council.
4. A record must be kept of any Information Meeting of Councillors and include the names of all Councillors and Council staff attending, the matters considered, disclosures of conflict of interest and whether a Councillor left the meeting after making a disclosure.
5. In accordance with *Item 19 of the Governance Rule – Meeting Procedure*, Council is required to report as soon as practicable to a Council Meeting, a record of any Information Meetings of Councillors held.
6. The recommendation contains the list of Information Meetings of Councillors records that have been submitted since the matter was last reported to Council on 15 December 2020.

Conclusion

7. It is recommended that Council receives the records of recent records of Information Meetings of Councillors as contained in this report, fulfilling *Item 19 of the Governance Rule – Meeting Procedure*.

Council plans and policies

8. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Ensure that Council meets its legal responsibilities and manages its risks.

Sustainability implications

9. None required.

Community engagement

10. Not applicable

Innovation and continuous improvement

11. Not applicable.

Collaboration

12. None required.

13. Officers' reports

CM.027/21 Informal Meetings of Councillors Records - 23 February 2021

Budget implications

13. This is a routine reporting item, the resources for which are contained in Council's current operating budget.

Relevant law

14. *Local Government Act 2020.*

Regional, state and national plans and policies

15. None applicable.

Conflicts of interest

16. All officers involved in the preparation of this report have made a declaration that they do not have a conflict of interest in the subject matter of this report.

Council Meeting Agenda

23 February 2021

- 14. Notices of Motion**
- 15. Delegates' Reports**
- 16. Supplementary and urgent business**
- 17. Confidential reports**
- 18. Close of Meeting**