

Council Meeting

to be held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 27 April 2021 commencing at 7:00pm.

Agenda

Vince Lombardi
Acting Chief Executive Officer

Thursday 22 April 2021

Distribution: Public

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Council Meeting seating plan

Cr Natalie Duffy
Edendale Ward

Cr Karen Egan
Bunjil Ward

Cr Richard Stockman
Blue Lake Ward

Emma Christensen
Acting Governance
Lead

Katia Croce
Acting Executive
Manager Governance,
Communications and
Engagement

Cr Peter Perkins (Mayor)
Ellis Ward

Vince Lombardi
Acting Chief
Executive
Officer

Cr Ben Ramcharan
Sugarloaf Ward

Cr Frances Eyre (Deputy Mayor)
Swipers Gully Ward

Cr Geoff Paine
Wingrove Ward

Nillumbik Shire Council

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Nillumbik Shire Council

Agenda of the Meeting of Nillumbik Shire Council to be held Tuesday 27 April 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

Recognition of Service for former Councillors.

Acknowledgement of the 150 Year Anniversary of the founding of the former Shire of Eltham.

7. Confirmation of minutes

Confirmation of minutes of the Council Meeting held on Tuesday 23 March 2021.

Recommendation

That the minutes of the Council Meeting held on Tuesday 23 March 2021 be confirmed. (**Attachment 1**).

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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

PT.001/21 Petition - Traffic measures in Margaret Street, Research

A petition containing **20** signatures from residents requesting that steps be taken by Council to reduce the amount of 'through' traffic using Margaret Street, Research and reduce the speed at which it is travelling.

The following statement was received from the petition organiser:

To the Infrastructure Team, Nillumbik Shire Council

We are residents of Margaret Street (including Afton Court) in Research which is a 'Local Traffic Only' road and barely more than one lane wide in most parts. In many sections vehicles approaching head on have to stop and negotiate manoeuvring around each other. Over the last few years there has been a noticeable increase in traffic using Margaret Street as a "shortcut". Invariably the 'non-local' traffic is attempting to get from A to B in a minimal time and traverse the narrow and windy sections of road at well above safe speeds.

Many locals use the road in conjunction with, or to get to, the Aqueduct Trail. As such, with no sidewalks and various impassable roadside areas, adults, children and their family pets walk along the road and are in danger of being hit by motorists travelling, and approaching corners, at dangerous but *mostly* "legal" speeds. Indeed when you communicate to motorists that they are travelling too fast the most common response is that they are driving "at the speed limit" and more often than not it is conveyed in an aggressive manner.

I recently watched on in astonishment as a large tipper truck sped into one side of a 'blind corner' that is visible from our property. A 4WD utility approached from the opposite direction, both vehicles travelling too fast to be able to pull up in the event of a vehicle coming towards them. Needless to say the truck had absolutely nowhere to go so the utility was run off the side of the road into the scrub and was stuck on the embankment until the driver exited and engaged his 4WD. Thank goodness a pedestrian, jogger, cyclist or horse rider was not an unwilling participant in this debacle, the results would have been devastating, possibly fatal.

Margaret Street was never designed as a through road, it was apparently not even connected in the middle in the past and does not display on most navigation software as a through road as it is a 'Local Traffic Only' road.

Our street has natural roadside areas which form part of the habitat for the local fauna and extends right to the road edge and actually overhangs the road in a number of places. As such drivers regularly kill wildlife including Blue Tongue lizards and Tawny Frogmouths. Increased volume and speed of traffic results in increase to the number of animals killed.

It is for these reasons that I respectfully request that some steps be taken to reduce the amount of 'through' traffic using Margaret Street and reduce the speed at which it is travelling. I would like to see a 40kmh speed limit and an appropriate amount of signage indicating such. There is only one sign designating the street as 'Local Traffic Only' which is located on a power pole at the Ingrams Street end. This sign is inconspicuous and only visible after entering Margaret Street.

There are no signs to indicate that the street is for local traffic only at the Parsons Street end. I would like to see prominent signage at either end of Margaret Street indicating that it is for 'Local Traffic Only' that are clearly visible to drivers *before* they enter the street.

I look forward to your response to this issue.

Yours sincerely

[Petitioner organiser]

Recommendation

That Council:

1. Receives and notes the petition concerning 'Margaret Street Research traffic' in accordance with the Governance Rule - Meeting Procedure.
2. Refers this petition to the Director Operations and Infrastructure for investigation and response.
3. Notes that officers will advise the petition organiser and Councillors of the outcome.

10. Questions from the gallery

11. Reports of Advisory Committees

AC.004/21 Advisory Committee Report - 27 April 2021

Distribution: Public

Manager: Katia Croce, Acting 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 Recreation Trails Advisory Committee Meeting held 24 March 2021 and the Positive Ageing Advisory Committee Meeting held 9 April 2021. The minutes of each meeting are attached (**Attachment 1**).

Attachments

- 1.  Advisory Committee Meeting Minutes reported 27 April 2021

Recommendation

That the minutes of the Recreation Trails Advisory Committee Meeting held 24 March 2021 and the Positive Ageing Advisory Committee Meeting held 9 April 2021. (**Attachment 1**) be noted.

11. Reports of Advisory Committees

AC.004/21 Advisory Committee Report - 27 April 2021

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12. Reports of Special Committees

Nil

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13. Officers' reports

CM.052/21 Domestic Animal Management Plan 2022 - 2026

Distribution: Public

Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety

Author: Megan Sparks, Team Leader Community Safety and Amenity Support
Caroline Correa, Community Safety Coordinator
Jonathan McNally, Manager Community Safety and Amenity

Summary

The 2017 – 2021 Domestic Animal Management Plan (DAMP) was developed in line with section 68A of the *Domestic Animal Act 1994* (the Act). Council has a legislated responsibility under the Act to ensure compliance and delivery of animal management services related to community expectations around responsible pet ownership. This Plan continues to build on the foundation of work undertaken by Council through the development of its adopted 2017-2021 Domestic Animal Management Plan. This report provides Council with an annual update of the DAMP, as required by the Act.

Section 68A of the Act also requires every Council to prepare a Domestic Animal Management Plan at 4-year intervals. The current plan expires in October 2021, and a new plan must be adopted by Council by December 2021. Any new DAMP must build on the Council's previous plan. The review, development, consultation and adoption of the DAMP will require extensive community consultation and engagement with key stakeholders. Engagement for the DAMP will focus on the core areas of animal management, animal welfare, responsible pet ownership, Local Laws (such as the cat curfew), as well as the importance of educating the community of desexing and microchipping.

Officers have prepared an engagement plan for the development of a new DAMP, with a program of community engagement on domestic animal management to occur through May and June 2021.

Recommendation

That Council

1. Receives and notes the actions undertaken to complete Year Three of the 2017- 2021 Domestic Animal Management Plan (**Attachment 1**), including the progress in the attached DAMP Action Plan – Year 3 (**Attachment 2**).
2. Resolves to begin Community Consultation for the 2021 Nillumbik Shire Council's Domestic Animal Management Plan, in line with the attached Engagement Plan (**Attachment 3**).

Attachments

1. 2017 - 2021 Domestic Animal Management Plan
2. Domestic Animal Management Plan 2017-21 Action Plan
3. Domestic Animal Management Plan Engagement Plan 2021

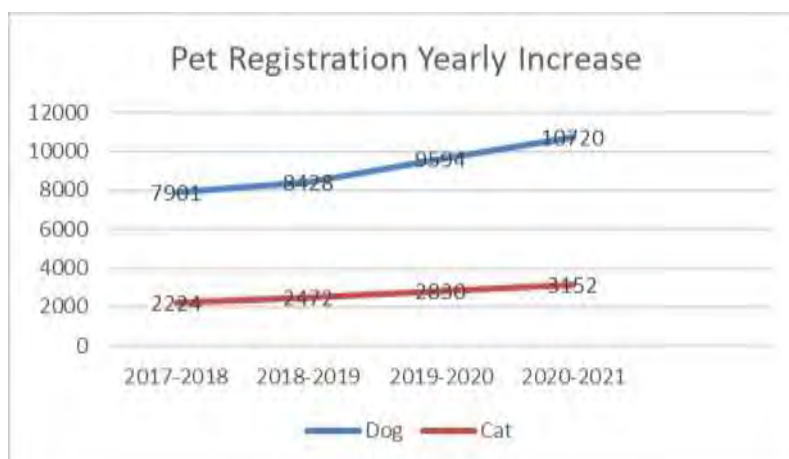
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CM.052/21 Domestic Animal Management Plan 2022 - 2026

Discussion

1. The 2017- 2021 Domestic Animal Management Plan (DAMP) (**Attachment 1**) was developed by Council's Community Safety team in consultation with other departments, key external stakeholders and members of the community.
2. The purpose of the plan is to articulate Council's commitments to facilitate and regulate the co-existence of pets, pet owners and the general population whilst addressing the welfare and legislative requirements of the *Domestic Animal Act 1994*. This plan, as with previous plans is designed to address the provision of animal management services by responding to new emerging animal management issues and implementing strategies that assist the Nillumbik community in Responsible Pet Ownership.
3. A comprehensive breakdown of Pet registration for the past 4 years shows a steady increase in pet ownership across the Shire. In particular, there has been a significant increase in pet registration during the 2019-2020 and 2020-2021 registration years, which is reflective of a community wide trend toward pet ownership during the COVID pandemic. The increased levels of registration are also reflective of continued education focused on the importance of pet registration. It is expected that the future DAMP will need to respond to the increased level of pet ownership.

Year	2017-2018	2018-2019	2019-2020	2020-2021
Dog	7901	8428	9594	10720
Cat	2224	2472	2830	3152
Total	10,125	10,900	12,424	13,872



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CM.052/21 Domestic Animal Management Plan 2022 - 2026

4. Each year, Council has reviewed performance under the current DAMP Action Plan (**Attachment 2**). Key highlights in the delivery of the DAMP include:

Year	Achievements
Year 1	<p>a) Consultation for the development of the DAMP in 2017 included an online survey with 842 respondents and 18 written submissions from residents to the draft Plan and liaising with similar councils and other key industry groups.</p> <p>b) Training provided to Authorised Officers throughout the year. All training is registered for the Authorised Officers to maintain currency and a Professional Development record. This training included:</p> <ul style="list-style-type: none"> • Training provided by Council - including First Aid, Customer Service, Occupational Health and Safety; • Animal Welfare Victoria - including legislation updates, domestic animal businesses; • Municipal Association of Victoria - including legal requirements around brief reporting and writing for dog attacks; • Australia Industry Association Municipality - including networking across the industry and online training for stock control, and wildlife control; and • Other relevant training opportunities from industry partners. <p>c) Implemented the use of social media to communicate key messages to the community e.g. Pet Registration Renewals and Nillumbik Pet Expo.</p> <p>d) Implemented a “Lost and Found” page, updated daily, to assist reuniting owners with their lost pets.</p> <p>e) Implemented a program providing a free boarding service for domestic animals for families who are experiencing family violence or mental health issues.</p>
Year 2	<p>a) Pet Expo continues to attract significant patronage from pet owners who reside outside of the NSC.</p> <p>b) Implemented a service agreement with Yarrambat Veterinary Hospital in accordance with the Code of Practice for the Operation of Breeding and Rearing Business (2014).</p> <p>c) Refresh of responsible pet ownership messaging through a partnership with Animal Welfare Victoria to ensure pet owners have a better understanding of the benefits of having their pets registered.</p> <p>d) Entered into a new 3 year contract to provide Pound services for Banyule City Council.</p>

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Year	Achievements
Year 3	<p>a) Increased active patrols of parks and open spaces including conducting regular patrols of high incident areas. Community Safety Officers continue to engage with the community to provide awareness relating to the reporting of dog attacks and dog rushes.</p> <p>b) Ongoing Community Safety Officer presence at off leash parks within the Shire and walking tracks during business and after hours to encourage community engagement, promote compliance and educate community on responsible pet ownership.</p> <p>c) Community Safety Officers have increased cross-referencing of council databases in all animal management interactions in order to expedite current and future investigations, identify non-compliance issues and analyse trends.</p> <p>d) Implemented formal agreements with partner organisations, Save a Dog Scheme (SADS) and the Cat Protection Society (CPA) to rehome abandoned animals.</p>
Year 4	<p>a) Implemented a program for Yarrambat Veterinary Hospital to provide prompt microchipping for dogs that are due to be released, ensuring that all dogs over the age of three months are microchipped and Registered upon release.</p> <p>b) Implemented a revised cat trapping program. Within the past financial year we have provided 90 cats traps achieving a 48.8% success rate.</p> <p>c) A new dog park is expected to be delivered in 2021 at Eltham North.</p>

5. The Shire Pound continues to form a core part of the domestic animal management program. Council continues to contract a pound service on behalf of Banyule Council. During 2020, there was a 50% reduction in dogs impounded, due largely to reduced animals at large and a focus on returning animals directly to owners during the COVID lockdown periods.

Pound Statistics 2020			
	Nillumbik	Banyule	Total
Impounded Dogs	116	115	231
Impounded Cats	181		181
Dogs Released to owners	102		102
Rehoused dogs	9		9
Released as declared dangerous dog	1		1
Dogs Euthanised	4		4
Welfare*	4		4
Dogs Other	-		-
Cats Adopted	109		109

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Pound Statistics 2020			
	Nillumbik	Banyule	Total
Cats Reclaimed	25		25
Cats Transferred**	15		15
Cats Euthanised	21		21
Cats Quarantined	13		13
Cats Welfare	-		-

6. During 2020, Nillumbik successfully returned 88% of dogs to owners. When combined with dogs that were rehoused, Nillumbik successfully returned or rehoused 97% of impounded dogs. Within Nillumbik, 90% of cats were either returned to owners, adopted, fostered or transferred to specialised species charities. 95% (20) of euthanised cats were captured wild cats.
7. Nillumbik has generally focused efforts toward the management of dogs within our community, however the recent review of the cat trap program has seen an increase in cats being impounded, both through this program and by members of the general public. A continued focus on cats and cat ownership will be required through the development of a new DAMP. Key data in relation to the impoundment of animals during the life of the current DAMP from within Nillumbik includes:

827 Cats Impounded at Cat Protection Society	923 Dogs Impounded at Nillumbik Pound
42% of impounded cats were trapped through the Council program	87.4% were reclaimed
32% were impounded by the public	7.6% were rehoused
24% of cats were surrendered by their owners	3.26% dogs were euthanised
Only 27% of impounded cats are microchipped	0.6% released as declared dangerous dogs
Only 30.6% of impounded cats are desexed	0.2% fell into other categories
9.2% of impounded cats were wild	
6.7% were impounded for humane reasons	
65% of cats were adopted	
15% were reclaimed	
16.6% cats were euthanised	
96% of euthanised cats were wild	

8. Nillumbik's current DAMP 2017-2021 is a four year plan that that expires in October 2021. The attached DAMP Engagement Plan (**Attachment 3**) outlines the approach, engagement strategy, key steps and timeframes for the development of a new Plan by December 2021.
9. It is of importance that the Plan provides a balance of meeting the needs of pet owners and the need of others within the community with in the legislative framework of the *Domestic Animal Act 1994*.

13. Officers' reports**CM.052/21 Domestic Animal Management Plan 2022 - 2026**

10. The review of the DAMP represents an opportunity to ensure that the actions within the DAMP reflect the expectations of the Nillumbik Community. Initiatives that could be considered through the development of a new DAMP could include:
- A focus on educating the community to improve compliance in accordance with the *Domestic Animals Act* as well as increase animal registration and promote Responsible Pet Ownership.
 - Implement programs to increase community awareness in relation to the services provided by Pet Registration fees.
 - Review media and communication plans to increase educational posts on social media as well as enhance services to help reunite owners with their lost pets.
 - Review key messaging in relation to animal management with updated legislation in accordance with the Department of Agriculture, Dogs Victoria and RSPCA.
 - Implement microchip drives in conjunction with CPS and SADS.
 - Promote 'Adopt before you shop' as well as liaise with Dogs Victoria to provide field support to members relating to animal welfare, husbandry and recordkeeping.
 - Investigate opportunities to review cat curfew controls within the Shire.
 - Provide educational sessions to school and community groups throughout the municipality.

Related Council decisions

11. Council adopted the previous Domestic Animal Management Plan 2018-2021 on 31 October 2017. The Plan was reviewed annually, as required by Section 68(a)(3) of the *Domestic Animals Act 1994*.
12. On 28 October, 2014, Council resolved to adopt an order under S26 of the Act which made the following orders:
1. *Dogs must be under effective control of a person by means of a chain cord or leash no longer than three metres:*
 - a. *In all public parks and reserves except where designated by signs in areas listed in section (4).*
 - b. *Within five metres of a shared use path.*
 - c. *On all streets, roads, public car parks and footpaths.*
 2. *Dogs and cats are not permitted whether restrained or otherwise:*
 - a. *Within five metres of any children's playground or public barbeque.*
 - b. *In environmentally sensitive areas where designated by signs (i.e. in the parks listed below).*
 - c. *In schools, kindergartens and childcare centres unless with the prior permission of the Principal or Director.*
 3. *Cats are required to be securely confined between the hours of 7.30 pm and 6 am.*

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4. *Dogs are permitted off-leash but must be under effective control whether restrained or otherwise in the following parks and reserves (as designated by signs):*
 - a. *Eltham Lower Park, Eltham (Melway 21H11).*
 - b. *Griffith Park, Eltham (Melway 21J11).*
 - c. *Plenty River Drive Reserve, Greensborough (Melway 11B8).*
 - d. *Eltham East Linear Reserve north of Diosma Road, Eltham (Melway 22E4).*
 - e. *Falkiner Street Park, Eltham (Barrack Bushland) (Melway 21H9).*
 - f. *Susan Street, Eltham (Melway 21H6).*
 - g. *Gumtree Reserve, Research (Melway 22F5).*
 - h. *Woodridge Linear Park, Eltham (Melway 22B5).*
 - i. *Fergusons Paddock, Hurstbridge (Melway 185K7). South side of path only. Dogs are prohibited from entering the wetlands areas as signposted*
 - j. *Nillumbik Park, Diamond Creek (Melway 12A5). Dogs are prohibited from entering sporting oval and wetlands.*
 - k. *Diamond Creek Reserve, Diamond Creek (Melway 11K7): dogs prohibited from entering wetlands areas where signposted and sporting oval (except at Council approved events).*
 5. *As a guide for implementation, a dog shall be deemed to be under the effective control of its owner if:*
 - a. *It will return to its owner upon command.*
 - b. *The owner retains a clear and unobstructed view of the dog.*
 - c. *It does not bother or worry other people or animals.*
 - d. *It stays within 50 metres of its owner.*
 6. *Dogs and cats are not permitted, whether restrained or otherwise, to enter the following public places in the following parks and reserves (as designated by signs):*
 - a. *Diamond Creek Reserve, Diamond Creek (Melway 11K7): dogs prohibited from entering wetlands areas*
 - b. *Sweeneys Flats, Eltham (Melway 22B10) – Parks Victoria land*
 - c. *Professors Hill Reserve, North Warrandyte (Melway 23C7)*
 - d. *Chase Reserve, Research (Melway 23D5)*
 - e. *Blue Tongue Bend Reserve, North Warrandyte (Melway 23J6)*
 - f. *Temple Ridge and Bailey Gully Reserve, Wattle Glen (Melway 185J11)*
 - g. *Reserve, Watsons Creek (Melway 272D5)*
 - h. *Marngrook oval, Diamond Creek*
 - i. *Coventry oval, Diamond Creek*
 - j. *All sporting ovals in Hurstbridge.*
 7. *Council may exempt any of the provisions of this Order at any time.*

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CM.052/21 Domestic Animal Management Plan 2022 - 2026

Council plans and policies

13. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Promote responsible pet ownership.
14. Officers have noted the Communication Engagement Policy 2021 adopted by Council on 23 February 2021, and will ensure that Community Consultation is undertaken in line with this Policy.

Sustainability implications

15. The proposed approach has been designed to ensure that the processes used in the development, adoption and implementation of both the engagement program and individual project deliverables will utilise available resources and be tailored to meet Nillumbik's unique social, economic and environmental needs.
16. The review of the DAMP represents an opportunity to ensure that activities affecting animal management and responsible pet ownership are carried out in an accountable manner that protects animal welfare, promotes education and reduces impact on the environment.

Community engagement

17. Community engagement is an integral part of developing the DAMP, to educate and inform the Community on the range of animal welfare, animal management and services provided to the community and to articulate Council's commitment to providing outstanding value for money, a robust enforcement framework and education opportunities.
18. Council officers are seeking to understand the community's expectations in relation to Council's role in managing animals and to respond to the various new measures proposed to continue to best manage domestic animals throughout the municipality. This will be of particular importance after the increase of pets purchased during the COVID-19 lockdown period.
19. Council officers have already undertaken a review of the existing DAMP and have had discussions with the following internal stakeholders:
 - Community Safety Officers
 - Community Safety Administration support
 - Customer Experience
 - Recreation and Leisure
 - Planning Services
 - Environment
 - Economic Development & Tourism.

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20. Council officers will now engage the community, as per the attached Domestic Animal Management Plan Engagement Plan 2021 (**Attachment 3**), which deploys various methods of engagement, including:
- A participate Nillumbik site.
 - Pop up's at dog parks and off leash areas.
 - Targeted consultation with dog groups and our local veterinary services.
 - Consultation with key local partner organisations including the Cat Protection Society, Save a Dog Scheme, Banyule City Council, RSPCA and registered domestic animal businesses.
 - Alerts to all registered domestic animal owners through the municipality.
21. It is also anticipated that feedback will be provided and considered as part of the Local Law review, which is running concurrently.

Innovation and continuous improvement

22. Council officers have reviewed other Council DAMP plans, and have benchmarked Nillumbik against their plans.
23. Council officers are proposing a number of new initiatives in the new DAMP, which will be included in this round of consultation, including:
- 24 hour Cat Curfew.
 - Social media engagement.
 - On-going education programs at school/retirement villages and community groups.
 - Liaise with Dogs Victoria regularly in relation to dog breeding.
 - Sponsorships with Cat Protection Society and Save a Dog Scheme.
 - Free Microchip Drives.
 - Review Pound Facilities.
 - Foster care registration reduction programs.

Collaboration

24. Council officers have reviewed a number of similar, urban and rural DAMP's, and will continue to review draft DAMP plans to ensure consistency with neighbouring municipalities and to seek new and progressive ideas.
25. Officers have held and continue to be in discussions with Animal Welfare Victoria, a state government animal welfare agency, and Council's main conduit with State Government regulators.
26. Nillumbik Council has strong relationships with local Veterinary clinics throughout the Shire and Council will continue to seek feedback from those partners.

Budget implications

27. There are no costs beyond the normal operational budget associated with the release of the Draft DAMP for comment.

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CM.052/21 Domestic Animal Management Plan 2022 - 2026

Relevant law

28. Pursuant to Section 68A of the *Domestic Animals Act 1994*, every Council in Victoria is required to produce a Domestic Animal Management Plan (Plan) which will be renewed every four years.
29. The plan is required to outline the services, programs and policies the Council have established to address the administration of the Act and the management of dogs and cats in their community. The specific requirements are:
- 1) *Every Council must, in consultation with the Secretary prepare at four yearly intervals a Domestic Animal Management Plan.*
 - 2) *A Domestic Animal Management Plan prepared by a Council must:*
 - a) *set out a method for evaluating whether the animal control services provided by the Council in its municipal district are adequate to give effect to the requirements of this Act and the regulations.*
 - b) *outline programs for the training of authorised officers to ensure that they can properly administer and enforce the requirements of this Act in the Council's municipal district.*
 - c) *outline programs, services and strategies which the Council intends to pursue in its municipal district to:*
 - i. *promote and encourage the responsible ownership and dogs and cats.*
 - ii. *ensure that people comply with the Act, the regulations and any related legislation.*
 - iii. *minimise the risk of attacks by dogs on people and animals.*
 - iv. *address any over-population and high euthanasia rates for dogs and cats.*
 - v. *encourage the registration and identification of dogs and cats.*
 - vi. *minimise the potential for dogs and cats to create a nuisance.*
 - vii. *effectively identify all dangerous dogs, menacing dogs and restricted breed dogs and to ensure those dogs are kept in compliance with the Act and regulations.*
 - d) *provide for the review of existing orders made under this Act and local laws that relate to the Council's municipal district with a view to determining whether any further orders or local laws dealing with the management of dogs and cats in the municipal district are desirable.*
 - f) *provide for the review of any other matters related to the management of dogs and cats in the Council's municipal district that it thinks necessary.*
 - g) *provide for the periodic review of any program, service, strategy or review outlined under the plan.*
 - 3) *Every Council must:*
 - a) *review its Domestic Animal Management Plan annually and if appropriate amend the plan.*

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b) provide the Secretary (person who is head of the Department of Economic Development, Jobs, Transport and Resources (DEDJTR)) with a copy of the plan and any amendments to the plan.

c) publish an evaluation of its implementation of the plan in its annual report.

30. In addition, Nillumbik Shire Council's Amenity Local Law 2013 holds provisions which are relevant to this DAMP process, including:

- Section 23 - Collection and disposal of dog excrement.
- Section 24 - Keeping of animals – secure confinement.
- Section 26 - Dogs prohibited in markets.

Conflicts of interest

31. The authors declare that there is no conflict of interest whilst investigating and developing the DAMP.

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CM.052/21 Domestic Animal Management Plan 2022 - 2026

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13. Officers' reports**CM.053/21 Local Law Review****Distribution: Public****Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author: Shannon Maynard, Coordinator Recreation and Leisure****Jonathan McNally, Manager Community Safety and Amenity****Summary**

Local Laws have a maximum 10 year life and Nillumbik's *Amenity Local Law 2013* (**Attachment 1**) and *Infrastructure Assets Local Law 2013* (**Attachment 2**) are set to expire in 2023. Councils use local laws to respond to issues and community needs within a municipality. These local laws complement their responsibilities and powers under state laws.

The review, development, consultation and adoption of Local Laws is generally a lengthy and potentially complex process. It is expected the whole project will take approximately 18 months in order to ensure sufficient time to allow community consultation, commensurate with the significance of the changes and the potential community impact, and undertake a rigorous review process to ensure compliance with the Local Government Act, regulations and best practice guidelines.

The purpose of this report is to seek a Council resolution to formally begin the process to replace both Local Laws, starting with a discussion paper for community consideration.

Recommendation

That Council resolves to:

1. Formally undertake the process to replace the *Amenity Local Law* and the *Infrastructure and Assets Local Law*.
2. Endorse the Community Engagement Plan.
3. Endorse the Discussion Paper for the purpose of undertaking Community Engagement Process.

Attachments

- 1  Amenity Local Law 2013
- 2  Infrastructure and Assets Local Law 2013
- 3  Prohibition of Fireworks 2019
- 4  Meeting Procedure Local Law 2017
- 5  Community Engagement Plan
- 6  Local Laws Discussion Paper

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Discussion

1. Councils use local laws to respond to issues and community needs within a municipality. These local laws complement their responsibilities and powers under state law. Councils may introduce local laws to exercise these powers. Local laws are often adopted to protect public health, safety and amenity in a municipality. Local Laws are also often used to govern the use and management of Council assets and regulate Council meetings or functions.
2. Any local laws passed by Council must be designed to ensure that the actions of an individual or group do not have an adverse impact on the rest of the community, and only apply within the municipality in which they are passed, though many councils share similar laws.
3. Nillumbik currently has the following four local laws:

Name	Date created	Objectives
Amenity Local Law 2013	October 2013	The objectives of this Local Law are to provide for the: <ol style="list-style-type: none"> a) safe and fair use and enjoyment of public places; b) safe and fair use of roads; c) regulation of street activities; d) keeping and control of animals; e) fair and reasonable use and enjoyment of private land; f) uniform and fair administration of this Local Law; g) peace, order and good government of the municipality.
Infrastructure Assets Local Law 2013	November 2013	The purposes of this Local Law are to: <ol style="list-style-type: none"> a) provide for the peace, order and good government of the Municipal District; b) protect public assets vested in Council from damage, accelerated deterioration or abuse during the building works process; c) providing a physical environment which aims to minimise hazards to the health and safety of persons attending building sites and those adjacent, opposite or passing building sites; d) prohibiting, regulating and controlling the presence and disposal of refuse, rubbish and soil on and from building sites within the municipal district to reduce hazards to the environment and promote an environment where residents can enjoy a quality of life that meets the general expectation of the community; e) defining the standards to which persons engaged in building works should adhere; and

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Name	Date created	Objectives
		f) educating and inducing persons involved in building works to act responsibly to reduce the extent and cost of infrastructure damage for the benefit of the wider community.
Fireworks Local Law	October 2019	<p>The objective of this Local Law is to prohibit the discharge of fireworks in certain parts of the municipality:</p> <p>a) to restrict activities in a bushfire prone rural environment that can impact on the health and wellbeing of residents, specifically those who have experienced catastrophic bushfires;</p> <p>b) to reduce the risk of danger and injury to animals and wildlife arising from the discharge of fireworks;</p> <p>c) to address nuisance, amenity and environmental impacts of fireworks activities;</p> <p>d) apply standards that address safety matters directed at reducing risk to the community.</p>
Meeting Procedure Local Law 2017	July 2017 Partially Revoked August 2020	<p>Clauses 1-14 of this Local Law ceased to be in operation from 25 August 2020 having been superseded by Council's Governance Rule - Meeting Procedure adopted 25 August 2020.</p> <p>Clause 15 governs the use of the Common Seal of Council.</p>

4. Copies of these Local Laws are attached (**Attachments 1- 4**).
5. A local law, once passed, has a 10-year life unless it is revoked or remade sooner. This ensures that local laws remain current and suitable to the purpose for which they were originally made, as well as responding to new issues or shifting community expectations.
6. The review of, and adoption of the Amenity Local Law and Infrastructure Assets Local Law represent an opportunity for Council to ensure the provisions within these local laws are appropriate, lawful, meet the needs of the Nillumbik Community and are easy to understand and use. Many of the provisions within both of these local laws have been unchanged in content since 2003, with a minor review carried out in 2013.
7. The review of these two local laws also represents an opportunity to modernise the structure of Council's local laws, combining them into a single document.

Related Council decisions

8. The existing Amenity Local Law and Infrastructure Assets Local Law have been in place since 2013. More recently Council adopted the Fireworks Local Law in October 2019, to prohibit the display of fireworks within the rural areas of the Shire. Council also revoked the majority of the Meeting Procedure Local Law in August 2020 as that content is now in the Governance Rules.

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Options

9. The proposed process and timeframes, as outlined in the project plan, has estimated that the formal exhibition of the draft local law will occur in March of 2022, which government gazetting taking place in May, 2022. This provides Council with plenty of time to undertake consultation and appropriately digest feedback.
10. It is expected that the review of local laws in Nillumbik will present an opportunity to review the wording of various provisions within the local laws to make them more effective, whilst also identifying redundant provisions that can be removed. Internal and external engagement with key stakeholders and the community is also likely to identify current issues that are not yet dealt with by the current local laws.
11. The review of the various local law documents also represent an opportunity to make these documents more user friendly, with the potential to consolidate the four separate local laws into a single consolidated document, providing a single source of truth for the public.

Council plans and policies

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

Sustainability implications

13. The proposed approach has been designed to ensure that the processes used in the development, adoption and implementation of both the engagement program and individual project deliverables will utilise available resources and be tailored to meet Nillumbik's unique social, economic and environmental needs.
14. The review of both Local Laws represents an opportunity to ensure that activities on or affecting Council land or assets are carried out in a responsible manner that protects natural assets and reduces any impact on the environment.

Community engagement

15. A Local Law Community Engagement plan (**Attachment 5**) has been developed which includes an extensive consultation process to meet legislative requirements pursuant to the *Local Government Act 2020*, associated regulations and the State Governments Guidelines for Local Laws Manual (2010).
16. A number of key stakeholders have been identified. Local Law Community Engagement plan identifies these stakeholders and outlines the engagement methods that will be used.
17. Following internal workshops with all affected teams and Councillors, a discussion paper (**Attachment 6**) has been prepared which seeks feedback from the community in relation to the new initiatives proposed for consideration as part of this review process.

13. Officers' reports**CM.053/21 Local Law Review**

Innovation and continuous improvement

18. The COVID-19 pandemic has precipitated the need to develop and adopt new ways of connecting with the community. This has been considered in the project planning of the Local Laws review and provides a range of opportunities for the community to be engaged across a number of platforms.
19. The process of review, community engagement and replacement of Local Laws creates opportunity to be innovative and improve the health and wellbeing of residents of Nillumbik through fair, robust, transparent and consistent regulations.

Collaboration

20. Internal workshops have been held with all internal stakeholders which have ownership of or utilise the current local laws. These intensive workshops have provided the working group with adequate insight to prepare a matrix of proposed changes. While some of these suggestions will ultimately not be possible or lawful to impose, they have provided the working group with valuable insights into the Local Law and how it currently functions.
21. Key stakeholders will be targeted for in depth consultation. Victoria Police, VicRoads and the Animal Welfare Victoria, as well as the RSPCA will be afforded an intensive workshop, as those agencies are directly impacted by these changes, particularly Victoria Police, which takes an active role in Local Law enforcement.

Budget implications

22. The review and development of new local laws will be largely run in house by staff from the Planning and Community Safety and Infrastructure directorates, along with support from Council's Legal Advisor. However the development of local laws requires several stages of external review and the procurement of legal advice. \$10,000 has been set aside in the 20/21 Community Safety budget, and \$65,000 has been allocated to the local law review as a major initiative in the 21/22 draft budget.

Relevant law

23. The Guidelines for Local Laws resources recognise local government as a distinct and essential tier of government best placed to make Local Laws in the interests of Victorian communities. The resources seek to equip Councils to undertake best practice Local Law making and achieve a consistent level of performance, rather than impose rigid uniformity. Council as a whole is responsible for its Local Laws in their entirety: they are not the province of any individual department(s) within Council. Accordingly, Local Laws require a "whole of Council" approach.
24. Councillors and senior executives need to be actively involved in a number of areas (even though a considerable body of work will be done by Council officers). This includes broad issues, such as determining the needs of the community in relation to Local Laws, down to specifics, such as formulating permit conditions and setting fees and penalties.
25. Currently both the "Guidelines for Local Laws Manual" and the "Resources Book" published by Local Government Victoria in February 2010 detail the key issues and examples for the process and making of Local Laws. These documents detail such requirements as Local Law Community Impact Statements.

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26. On 1 July 2021 Part 5 – Local Laws and Schedule 8 to the *Local Government Act 1989* will be repealed.
27. The Minister for Local Government proposes that new *Local Government (General Management) Regulations 2021* be made to replace the *Local Government (General) Regulations 2015*. These are to operate from the 2021/2022 financial year and will include local law matters. It is likely that the new regulations will refer to Local Law Community Impact Statements and/or incorporate the Manual and Resources Book or an updated version of them.

Regional, state and national plans and policies

28. The *Local Government Act 2020* prescribes the process for developing, exhibiting and adopting local laws. The Act also specifies the following governing principals for the development of a local law:

The local law requirements are as follows—

- (a) a local law must not be inconsistent with any Act (including the Charter of Human Rights and Responsibilities Act 2006) or regulations;*
 - (b) a local law must not duplicate or be inconsistent with a planning scheme that is in force in the municipal district;*
 - (c) a local law for or with respect to the issuing of film permits must not be inconsistent with the film friendly principles;*
 - (d) a local law must not exceed the power to make local laws conferred by this Act or any other authorising Act;*
 - (e) a local law must be consistent with the objectives of this Act or any other authorising Act;*
 - (f) a local law must be expressed as clearly and unambiguously as is reasonably possible;*
 - (g) unless there is clear and express power to do so under this Act or any other authorising Act, a local law must not—*
 - (i) seek to have a retrospective effect; or*
 - (ii) impose any tax, fee, fine, imprisonment or other penalty; or*
 - (iii) authorise the sub-delegation of powers delegated under the local law;*
 - (h) a local law must comply with any details prescribed in the regulations relating to the preparation and content of local laws*
29. The Guidelines for Local Laws Manual, published in February, 2010 prescribes the best practices for the entire law making process, including community consultation.

Conflicts of interest

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

13. Officers' reports**CM.054/21 Christmas Hills - Melbourne Water Divestment and Planning Scheme Amendment**

Distribution: Public**Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author: Leigh Northwood, Strategic Planning Lead****Summary**

A review of Melbourne Water's supply system was undertaken in 2012 and identified land reserved for the future Watsons Creek Reservoir is no longer required. The land has subsequently been declared surplus.

Given the land is now surplus it must be divested pursuant to the *Victorian Government Land Transactions Policy and Guidelines* (VGLTP 2016) which controls divestment of government land, and sets out a policy for land transactions.

The amendment area comprises approximately 1,319 hectares of land in the localities of Christmas Hills, Panton Hill and Smiths Gully and approximately 150 land titles which include public land owned by Melbourne Water and private and public land previously reserved (through application of the PAO – approximately 313 ha) for the purposes of the Watsons Creek Reservoir.

Melbourne Water propose an amendment to the Nillumbik Planning Scheme in divestment of its land. The purpose of the proposed amendment is to apply alternative zoning - predominantly the Rural Conservation Zone Schedules 3 and 4 (RCZ) and other relevant planning provisions to land within the amendment area, to allow for the sale of this land, over time, in accordance with the VGLTP requirements.

Council have been asked by Melbourne Water to resolve to support the proposed amendment at this Council meeting in meeting their timeframes for the project.

Subject to Council's resolution, the amendment will not follow the traditional planning scheme amendment process. Melbourne Water will refer the proposed amendment to the Government Land Planning Service (GLPS) who will run the amendment process through an advisory committee.

The Minister for Planning is the planning authority for changes to planning provisions for government land that are subject to assistance by the GLPS in this process. The indicative timeframe for this process is 6-8 months.

Recommendation**That Council:**

1. Does not support the proposed amendment to the Nillumbik Planning Scheme by Melbourne Water to facilitate the divestment of its land at Christmas Hills in its current form for the reasons identified in this report;
2. Provide written advice to Melbourne Water advising Council do not wish to become the committee of management for the Christmas Hills Tennis Court, and therefore application of a public use zone would not be applicable; and

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CM.054/21 Christmas Hills - Melbourne Water Divestment and Planning Scheme Amendment

3. Directs officers to prepare a submission to the future Government Land Planning Service Advisory Committee process in consideration of the proposed amendment.

Attachments

1. Christmas Hills Proposed Incorporated Plan 23 February 2021
2. Draft Schedule 1 to Clause 43.03 Incorporated Plan Overlay
3. Melbourne Water Letter Response to Nillumbik Council post briefing 31 March 2021

Discussion

Background to divestment

1. In the 1970's, Melbourne Water (MW) purchased a large area of Christmas Hills, Smiths Gully and Panton Hill for the purpose of the Watsons Creek Reservoir Water Storage Facility. In conjunction with this purchase, other private and public land within the proposed amendment area was also reserved for the future use of the reservoir through the application of the Public Acquisition Overlay (PAO).
2. A review of MW's supply system was undertaken in 2012 and determined that the Watsons Creek Reservoir was no longer required.
3. MW owns approximately 1,000 ha of land which is declared surplus at Christmas Hills. There is a PAO affecting 313 ha of this land.
4. State Government land policies including the *Victorian Government Landholding Policy and Guidelines* (VGLP 2017) apply to this land in that Victorian government agencies must only hold land that is required for current or future service delivery outcomes.
5. Given the land is now surplus it must be divested pursuant to the VGLP. The *Victorian Government Land Transactions Policy and Guidelines* (VGLTP 2016) controls divestment of government land, and sets out a policy for land transactions. It includes the following requirement (among other matters) of Victorian Government agencies:
 - a) *Must not sell (grant a lease or an interest in) any land at a price which is less than the current market (or rental) value of the land as determined by Valuer-General Victoria (VGV); and*
 - b) *Prior to offering land for sale by a public process, must have in place the most appropriate zoning (and other relevant planning provisions) so that the land can be sold on the basis of its highest and best use.*
6. Given the VGLTP requirements, MW must divest the land with an appropriate zone that allows for private use – that is not a public use zone.
7. Through the 'First right of Refusal' process under the VGLP, 280ha of surplus MW land has been identified to be transferred to the Crown with Department of Environment, Land, Water and Planning's (DELWP's) agreement, for extension of the Warrandyte Kinglake Nature Conservation Reserve (WKNCR) (rezoned to the Public Conservation and Resource Zone).

13. Officers' reports**CM.054/21 Christmas Hills - Melbourne Water Divestment and Planning Scheme Amendment**

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8. MW have advised there is no specific requirements in the Government Land polices that direct consultation with Traditional Owners as part of the divestment process or First Right of Refusal process.

The Proposed Amendment Area

9. The amendment area comprises approximately 1,319 hectares of land in the localities of Christmas Hills, Panton Hill and Smiths Gully.
10. Some commercial and community facilities have been constructed within the amendment area over the last 160 years. Those features still present include the Rob Roy Hill Climb track, Christmas Hills Primary School, former Post Office building, WWI memorial, Christmas Hills Hall and tennis courts, CFA station, Pony Land riding centre and fire-fighting tanks. Many of these features are concentrated along Eltham-Yarra Glen Road around Ridge Road.
11. The area comprises approximately 150 land titles which include public land owned by Melbourne Water and private and public land previously reserved (through application of the PAO) for the purposes of the Watsons Creek Reservoir.
12. Whilst the majority of the titles and the total land area are in the ownership of Melbourne Water or the Crown, there are a number of titles in private ownership. These private titles are currently wholly or partially subject to a Public Acquisition Overlay (PAO) for the Watsons Creek Reservoir.
13. Title size in the amendment area varies in reflection of its past settlement and land use history. The breakdown of Melbourne Water owned land title size, excluding land to be transferred for the WKNCR, indicates a third of the titles (35%) or 21 lots, are less than 5 hectares in area. 33 lots are between 5-20 hectares. The small titles are generally located to the south of Eltham-Yarra Glen Road. Only four titles owned by Melbourne Water are currently in excess of 40 hectares in size.
14. The proposed amendment could result in up to 23 additional dwellings in the amendment area (considering that Wanneroo Farm could be feasibly subdivided into 5 lots under the proposed RCZ4) that would increase the resident population of the amendment area by potentially 100 people plus (assuming a household of size of 3 – 4 people). Notably many of the lots rezoned to RCZ could allow for a dwelling to be constructed on a lot less than 5 hectares.

Proposed Amendment

15. The purpose of the proposed amendment is to apply alternative zoning and other relevant planning provisions to land within the amendment area, to allow for the sale of this land in accordance with the VGLTP requirements. Refer to **(Attachment 1)** for the most current draft Incorporated Plan and **(Attachment 2)** for the proposed ordinance to support the Incorporated Plan – Schedule 1 to Clause 43.03.

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Proposed Zoning

16. The balance land is identified to be rezoned prior to sale on the open market. This rezoning is to be facilitated through an amendment to the Nillumbik Shire Planning Scheme (the Scheme) which would:
- a) Rezone approximately 280 ha of land to the Public Conservation and Resource Zone (PCRZ) for an extension of the WKNCR.
 - b) Rezone land currently zoned as Public Use Zone - Schedule 1 (PUZ1) to a mix of both Rural Conservation Zone – Schedule 3 (RCZ3) and Schedule 4 (RCZ4).
 - c) Rezone the following properties which are currently zoned as Public Use Zone – Schedule 1 (PUZ1) to the Public Use Zone – Schedule 6 (PUZ6 – Local Government) to facilitate continued public use of Rob Roy Hill Climb and Christmas Hills Tennis Courts and Christmas Hills Hall (refer to discussion below in regard to these public uses):
 - i) 10 Rob Roy Road, Smiths Gully (Rob Roy Hill Climb);
 - ii) Clintons Road, Christmas Hills; and
 - iii) Part of the land surrounding 787 Ridge Road, Christmas Hills.

Proposed Overlay

17. The amendment proposes to:
- a) Remove the Public Acquisition Overlay – Schedule 2 (PAO2) currently applying to both public and private land for the purposes of the Watsons Creek Reservoir; and
 - b) Apply an Incorporated Plan Overlay – Schedule 1 (IPO1) to land currently owned by MW within the project area (noting that the Planning Scheme does not currently contain an IPO).
18. The intent of the IPO is to control future subdivision and development within the amendment area to ensure it aligns with the Christmas Hills Incorporated Plan.

Amendment Process

19. Subject to Council's consideration and resolution for support or not of the amendment, the amendment will not follow the traditional planning scheme amendment process. Melbourne Water will refer the proposed amendment to the Government Land Planning Service (GLPS) who will run the amendment process.
20. The GLPS is an initiative to deliver changes to planning provisions or correct planning scheme anomalies for land owned, proposed to be owned in the future or to facilitate the delivery of priority projects by the Victorian Government. Government landowning departments and agencies (such as Melbourne Water) that require planning scheme changes for their land can apply for assistance through the GLPS. This can include rezoning surplus government land, making changes to overlay or zone provisions for existing sites delivering a government service delivery outcome or determining planning provisions for land proposed to be owned by government in the future.

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CM.054/21 Christmas Hills - Melbourne Water Divestment and Planning Scheme Amendment

21. Only the landowner or its nominated representative can submit an application and supporting documents to the GLPS.
22. The GLPS assesses the application and provides a recommendation to the landowning department or agency on the appropriate planning pathway.
23. The GLPS has advised the divestment amendment will follow 'Planning Stream B'.
24. The Advisory Committee is made up of planning and development experts who will consider the views of interested groups and individuals.
25. Ideally a letter of support from council would be provided with an application to the GLPS, however if council does not support the proposal the landowning agency or department can still proceed with an application. As noted above, Council will have an opportunity to make a submission and / or be heard at the public hearing.
26. The indicative timeframe for 'Planning Stream B' is 6-8 months in total.
27. Subject to Council's resolution, Melbourne Water will submit all documentation (amendment material) to the GLPS for authorisation from the Minister for Planning.
28. Once the amendment material has been lodged and Ministerial authorisation given, the Minister will refer the proposal to an Advisory Committee with notification anticipated around September 2021 for 6 weeks.
29. Directions and Advisory Committee Hearings are anticipated around end November with the Advisory Committee report due to the Minister by late December 2021. There is no timeframe for the Ministers decision, and as noted above the Minister may or may not release the Advisory Committee report.

Related Council decisions

30. There are none.

Options

Supported initiatives

31. It is acknowledged that Melbourne Water has progressively transferred land reserved for the Watsons Creek Reservoir to the Crown (which has formed part of the WKNCR) in order to help preserve and enhance the conservation link in Christmas Hills. It is considered an excellent initiative that as part of the current proposed amendment Melbourne Water proposes to apply the Public Park and Recreation Zone (PPRZ) and transfer a further 280 hectares of land reserved for the Watsons Creek Reservoir to the Crown to be joined to the existing WKNCR.
32. Other positive initiatives include provision for additional Crown Reserve identified along Watsons Creek via subdivision of land including the provision on title agreements for Five Mile Creek to increase environmental protection of the waterways. Five Mile Creek is also proposed to be fenced to protect the waterway.
33. Rezoning of land associated with the Rob Roy Hill Climb to PUZ1 to reflect its community use and provide more security around future use are also considered positive.

13. Officers' reports

CM.054/21 Christmas Hills - Melbourne Water Divestment and Planning Scheme AmendmentIssues with the proposed amendment

34. It is accepted that the impetus for the rezoning is Melbourne Waters obligation under the VGLP and the VGLTP to divest property (given it is no longer required for future service delivery) and to achieve a price no less than market value, and with *'the most appropriate zoning (and other relevant planning provisions) so that the land can be sold on the basis of its highest and best use'*.
35. It is considered that this requirement (above) as the driving influence behind the proposed amendment, results in tension between the VGLP/VGLTP and requirements of the Victorian Planning Provisions (VPP) pursuant to the Planning & Environment Act 1987, particularly in regard to:
 - a) State policy around planning for bushfire and increased risk of 'threat to life' in a high risk bushfire landscape;
 - b) The purpose of the proposed zone (RCZ) and any intention for future use particularly in RCZ 3 and 4 for dwellings; and
 - c) Creation of 'undersized' RCZ parcels adding to further fragmentation of the Green Wedge.
36. Officers have raised concerns in regard to the above with Melbourne Water, in response to iterations of the master plan and draft amendment documentation. In response Melbourne Water have removed earlier identified building envelopes from the Incorporated Plan, however this has not dealt with the inherent issues of dwellings in the RCZ3 and RCZ4 as described below.

Future impost to Council in assessing planning applications

37. Council seek further certainty in regard to the planning outcome for proposed development (particularly dwellings) within the amendment area.
38. Officers encourage an outcome that would remove the 'negotiable' workload and risk that Council would inevitably inherit with the current proposed planning controls. The proposed controls, do not offer enough certainty for future outcomes without creating considerable work and risk for Council.
39. The sale of these lots to the public creates an impression that the lots can be developed for the purpose of a dwelling use. The lots are constrained by complex planning policy as well as vegetation and topographical features, and any future planning permit applications are likely to be complex and expensive for a land owner to prepare. Applications are also unlikely to be able to satisfy VCAT case law.
40. In officer's view, the State Government should consider and approve the use of land for a dwelling for any lot that it considers appropriate to be developed with a dwelling, based on the background work that has been done for the amendment. This would give Council and future lot owner's greater certainty moving forward and would remove the significant administrative burden from Council moving forward.

13. Officers' reports

CM.054/21 Christmas Hills - Melbourne Water Divestment and Planning Scheme AmendmentConsideration of use of the Restructure Overlay

41. The Incorporated Plan identifies a number of lots which are described as 'undevelopable' particularly in Precinct 1. Notwithstanding that some of these lots share boundaries with private lots rather than Melbourne owned lots, and are in instances 'land-locked', consideration of a Restructure Overlay would be beneficial in regard to these lots. If a RO is applied to land, this could effectively mitigate further fragmentation of land in rural areas consistent with Councils local policy.

Roads and infrastructure – future costs and maintenance

42. As noted above, officers raise concerns with regard to increased residential capacity within the amendment area, with roads in the area being predominantly unmade, and there is only limited servicing infrastructure in the area. An increase in population and more frequent use of roads (and CFA requirements for bush-fire mitigation/fighting) in the area would necessitate maintenance and improvements which will be a cost onus to Council. Unmade roads, particularly require significant upkeep. Consideration should be given by Melbourne Water as to the 'legacy' of costs transferred to Council through the proposed amendment.

Wording in draft Incorporated Plan Overlay (IPO) schedule

43. Officers note the IPO schedule (refer **Attachment 2**) is inconsistent jumping between requiring a BAL rating of 12 and 29.
44. The schedule sets a requirement, in relation to a subdivision application, for a response to the Rob Roy Hill Climb – which is considered vague and its relevance is unclear.
45. The requirement for fencing (for application for subdivision) is also vague – officers question if it not a specific outcome then why is it in the schedule.
46. The future requirements around legal agreements within the IPO should be applied at the time of divestment so that all requirements and constraints are clear for future purchasers.
47. The IPO schedule sets requirements and conditions which unreasonably place a burden on Council. For example, by setting conditions on the patronage of particular accommodation uses (other than a dwelling), which Council assumes it will be left with the task of regulating.
48. Subject to a briefing to Council by Melbourne Water in regard to the divestment and proposed planning scheme amendment, Melbourne Water have provided correspondence (refer **Attachment 3**) that outlines their response to key outstanding concerns raised by Council (as noted above) and by Councillors at the briefing including:
- a) Has there been or is the opportunity for Traditional Owners engagement in the land divestment process and any opportunity in the 'first right of refusal process'.
 - i) Melbourne Water response – *'there is no specific requirements in the Government Land polies that direct consultation with Traditional Owners as part of the divestment process or First Right of Refusal process.'*

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CM.054/21 Christmas Hills - Melbourne Water Divestment and Planning Scheme Amendment

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- b) Ability for further consideration of trails and widening through particularly Precinct 3.
 - i) Melbourne Water response – *‘the land within Precinct 3 is governed by DELWP and the Governor In Council order for transfer to the Warrandyte Kinglake Nature Conservation Reserve. The provision of trails through this Precinct is not at the discretion of Melbourne Water’.*

Christmas Hills Tennis Courts

- 49. A surplus property parcel owned by Melbourne Water known as part of 40 Simpson Road, Christmas Hills is currently also licenced and used as tennis courts and requires consideration by Council. Melbourne Water are requesting Councils view in regard to the future use of the parcel. The location of the tennis courts is better described as adjoining 787 Ridge Road (adjoining the Mechanics Institute Hall.
- 50. It should be noted that the Mechanics Institute hall is both privately owned and privately run. The owners of the Mechanics Institute Hall – also known as the Christmas Hills Hall, have expressed interest in the tennis courts for some years now according to Melbourne Water. They are part of the private Committee of Management that runs the tennis courts.
- 51. Melbourne Water’s objective and discussions to date have been to ensure the tennis courts achieved a community focused outcome. However, Melbourne Water have advised that discussions with DELWP – Crown Land Section have concluded that DELWP are not in a position or have the ability to declare this land transferable to the Crown given the Committee of Management for the tennis court is not a public entity. That is, the owners of the Christmas Hills Hall and Committee of Management are private individuals.
- 52. In addition to this, given that the land is not landlocked, State Policy restricts this land being sold to neighbouring property owners. The objective to achieve a community outcome for the tennis courts may be challenging.
- 53. Melbourne Water have requested Council consider divestment of land to Council and becoming Committee of Management of the surplus land. The tennis courts are a matter that Council has not yet considered (where Rob Roy has had a long held position of Council in place). Given the Hall is privately owned and managed, and the tennis court is currently leased from Melbourne Water to a private Committee of Management, Council have no records in regard to the communities use of the tennis courts. It would appear the courts function as a private facility where people can hire the use of the courts. It should be noted that if Council does not have an appetite to own and manage the tennis courts, Melbourne Water have advised the parcel would be rezoned to RCZ and sold off privately.
- 54. Melbourne Water as part of the follow up correspondence at **Attachment 3**, have requested that Council confirm their interpretation of the tennis court land use and whether the RCZ3 is an appropriate zone control for the site.

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CM.054/21 Christmas Hills - Melbourne Water Divestment and Planning Scheme Amendment

Council plans and policies

55. 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

56. The potential increase in dwellings in the amendment area which is an acknowledged high-risk bushfire landscape, may result in increased vegetation clearances in managing future bushfire risk as required pursuant to bushfire provisions of the Planning Scheme.

Community engagement

57. The divestment of Watsons' Creek Storage Reservoir was introduced as a project to the community back in 2017.

58. MW's consultants have identified that this early community engagement and consultation, including a community information session on the 18 October 2017, informed preparation of the master plan for the area (which informs the proposed amendment).

59. As noted above the GLPS would run the amendment where public exhibition would be undertaken as part of the amendment process.

Innovation and continuous improvement

60. Not applicable.

Collaboration

61. Relevant council officers have met with Melbourne Water on a number of occasions over the last 4 years in regard to this proposed amendment, with past sitting Councillors having also been out to site with Melbourne Water in the early stages of the proposed amendment. Strategic planning, statutory planning and property and facilities maintenance have provided advice in regard to this proposed amendment.

Budget implications

62. It is noted that consideration of applications under the proposed planning controls is identified to add potential administrative onus and costs to Councils in assessment and potential VCAT hearings.

63. The future onus on Council in providing upgraded roads and infrastructure in the amendment area has also been identified as an issue.

Relevant law

64. The *Planning & Environment Act 1987*.

Regional, state and national plans and policies

65. The *Victorian Government Landholding Policy and Guidelines* (VGLP 2017).

66. The *Victorian Government Land Transactions Policy and Guidelines* (VGLTP 2016).

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CM.054/21 Christmas Hills - Melbourne Water Divestment and Planning Scheme Amendment

Conflicts of interest

67. 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.055/21 2021 Annual Community Survey Results**

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

The results of the 2021 Annual Community Survey have been received, which was conducted by Metropolis Research in February 2021 (**Attachment 1**). This annual survey is designed to measure community satisfaction with a range of Council services, facilities and activities, and to measure community sentiment on key issues affecting the community.

The survey also assists Council in meeting State Government performance reporting requirements by measuring community satisfaction in a number of areas covered by this survey.

The 2021 survey findings were variable, with results influenced by a change in survey methodology (from face-to-face to telephone) and also the impact of COVID-19 restrictions and closures on resident activity and Council service availability and access.

Among the key results, community satisfaction with Council's overall performance was rated at 6.59 out of 10, a slight decrease of 1.5% compared to the 6.69 result in 2020. Beyond this headline statistic, the survey provides a rich amount of data on community sentiment.

With the level of data and information provided in this survey, Council will be able to analyse the results as they apply to individual areas and activities, and identify service improvement opportunities. The survey's findings can also be used by Council when undertaking future planning and making budgetary decisions.

Recommendation**That Council:**

1. Receives and notes the results of the 2021 Annual Community Survey (**Attachment 1**).
2. Makes the report's findings available to the public on Council's website.

Attachments

1.  2021 Annual Community Survey Report

Discussion

1. Council commissioned Metropolis Research to undertake the tenth Annual Community Survey in February 2021. The survey is designed to measure community satisfaction with a range of Council services, facilities and activities, and to measure community sentiment on key issues affecting the community. The survey also assists Council in meeting State Government performance reporting requirements by measuring community satisfaction in a number of areas covered by this survey.

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CM.055/21 2021 Annual Community Survey Results

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2. Due to COVID-19 restrictions, surveys were conducted over the telephone across 3 weeks in February. 2021. This was a change in methodology from previous surveys, which were conducted face-to-face, door-to-door in households throughout the Shire.
 3. The survey involved phone interviews with 500 randomly selected community members from across five precincts of the Shire, with 100 interviews conducted in each precinct. The results are weighted so that each precinct contributes proportionally to the overall result, ensuring the results reflect the diversity of the entire Nillumbik community.
 4. It will be our intention to return to the more effective, door-to-door methodology in the future as Metropolis Research advises that the telephone interview methodology does not engender the same level of confidence in the process by the community as the more interactive and personal face-to-face interview methodology. This is reflected in this year's lower survey respondent rate of 29.4%, compared to last year's respondent rate of 45% when undertaken face-to-face.
 5. The 2021 survey covered the following aspects:
 - Satisfaction with Council's overall performance;
 - Community issues, behaviours and attitudes on various Council activities;
 - Satisfaction with planning and housing development;
 - Satisfaction with key aspects of governance and leadership;
 - Customer service;
 - Satisfaction with Council's communications tools and preferred methods of receiving information from Council;
 - Importance and satisfaction ratings of a range of Council services and facilities;
 - COVID-19 impacts.
 6. **Attachment 1** outlines all results from the survey as undertaken by Metropolis Research. Key results and findings from the 2021 were:
 - a) *Overall satisfaction* was rated at 6.59 out of 10, a slight decrease of 1.5% compared to the 6.69 result in 2020. Council's overall performance remains "good" and at 6.59 remains higher than the long-term average of 6.52 achieved since the first survey was conducted in 2011. However, this result remains lower than the northern councils average (7.05) and the Melbourne metropolitan average (6.92).
 - b) Eltham North respondents were most satisfied, while Diamond Creek and Rural precinct respondents were less satisfied than the Shire-wide average.
 - c) Consistent with previous surveys, satisfaction with Council performance generally declined with respondent age. In other words, the higher the age, the lower the satisfaction level. The outlier to this is senior citizens, who were the second most satisfied cohort this year.
 - d) Newer residents to Nillumbik were more satisfied than longer term residents. Those who have lived in the Shire between 1 to 5 years rated satisfaction at 6.96 out of 10, compared to those who have lived in Nillumbik for more than 10 years at 6.50 out of 10.

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CM.055/21 2021 Annual Community Survey Results

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- e) Respondents were asked whether *Council's performance had improved, deteriorated or stayed the same over the past 12 months*. There was an increase in the proportion of respondents who considered performance had improved, up from 7.6% to 11.2%. There was no change in the proportion of respondents who considered performance had deteriorated, which was steady at 8.4%.
- f) 30.6% of respondents were 'very satisfied' (rated 8 or above out of 10) with Council's performance, whilst 10.4% were dissatisfied. Council governance, management and responsiveness was listed as the top reason for dissatisfaction with performance. Rates and financial management, and a perceived lack of communication between Council and the community were also frequent responses.
- g) Traffic and road management were still *top issues* in the Shire, with traffic management (identified as an important issue by 14.2% of respondents) and roads maintenance and repairs (identified by 11.8% of respondents) the top issues for the Shire.
- h) *Bushfire management/prevention issues* remain significant in Nillumbik, particularly in Eltham and the rural precinct.
- i) Council rates were noticeably more prominent as an issue in Nillumbik than across all metropolitan Melbourne councils, and causes a significant negative influence of overall satisfaction with Council's performance. Rates scored far more strongly in dissatisfaction (8.2%) compared to the Melbourne metropolitan average of 3.2%. Metropolis Research notes that respondents who raised Rates as a top issue were always dissatisfied with the level of Council rates and this flows through into lower levels of satisfaction with Council's overall performance.
- j) Other issues that were most *negatively correlated with overall performance* this year were communication, roads, building and development, street trees, and environment.
- k) Satisfaction in all aspects of *governance and leadership* decreased from 6.85 to 6.39 out of 10. This represents a 6.7% decrease and drops the rating from "good" to "solid". This result is a reversal from the recent trend of increases in satisfaction with Council governance and leadership since the low point recorded in 2017.
- l) Notably, this decline was greater than the 1.5% decline in satisfaction with Council's overall performance, and was most evident in relation to Council's representation, lobbying and advocacy rating (down 13.2%) and community consultation and engagement (down 9.3%). Most aspects of *governance and leadership* were measurably and significantly lower when compared to the Melbourne metropolitan average rating in relation to governance and leadership.
- m) Satisfaction with *consultation and engagement* increased for three consecutive years after the lowest result for this measure in 2017. However, this trend reversed in this year's survey, with a 10.3% decrease, translating to a "solid" rating compared to a "good" rating for the previous two years.
- n) Respondents this year placed greater *importance* on the delivery of all surveyed services, up 4.5% compared to last year.

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CM.055/21 2021 Annual Community Survey Results

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- o) There were also strong responses in terms of *satisfaction* for key services including local libraries, waste and recycling and environmental programs. The lowest rated services and facilities were grading of unsealed roads, drains maintenance and repairs, public toilets and maintenance and repair of local sealed roads.
 - p) *Customer service*, despite a decrease in overall satisfaction with performance, still rated higher than the metropolitan Melbourne councils' average. Along with a decline in overall satisfaction in Council's 33 surveyed services, it is likely that COVID-19 impacts, including service closures and restrictions, has influenced this result.
 - q) There was a marked shift in preferred communication method in 2021, with email now the most preferred form of communication, replacing direct mail. COVID-19 and Australia Post delivery delays may have influenced this result. There were also increases in e-newsletters and telephone as preferred methods, and decreases in all other forms of communications. It is noteworthy that access to and receipt of information via electronic means decreased substantially as the respondent's age increases.
 - r) *Perception of safety* in public areas was again very high and continues to rank higher than the overall average of Melbourne metropolitan councils. It is very clear that Nillumbik residents feel considerably safer in public areas than the metropolitan Melbourne average (65.6% feel safe compared to 40.4%, and 6.9% feel unsafe compared to 12.6% unsafe).
 - s) *Planning* achieved its best result (and first increase) in 3 years, and there were also high performing results in planning and development outcomes.
 - t) Council recorded a "very good" rating for *design of public spaces* and *protection of local heritage*, and a "good" rating for *appearance and quality of new developments*.
 - u) Respondents rated the importance of Council addressing the needs of LGBTIQ+ residents at a strong level again this year, despite declining 9% to 7.10 out of 10. This reversed the significant increase recorded last year. 11.6% of respondents did not believe it was important (rating importance at less than five) that Council address the needs of the LGBTIQ+ residents.
 - v) Respondents rated the quality of telecommunication services in their household at 7.13 out of 10, with 54.1% "very satisfied" (rated satisfaction at 8 or more) and 12.6% dissatisfied. Satisfaction was highest in Diamond Creek (7.77 out of 10) and lowest in Eltham (6.81).
 - w) Residents were surveyed on how their household has coped with the COVID-19 pandemic, with the management of financial wellbeing rating better from respondents than physical health and wellbeing and mental health and wellbeing. On average, respondents rated the impact of COVID-19 on their personal health and wellbeing at 3.28 out of 10, or a moderately low level, with 5.4% rating it very high (8 or more).

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CM.055/21 2021 Annual Community Survey Results

- x) In terms of how Council can best support the community in the pandemic, the provision of information, financial assistance, opportunities for social interaction/physical activities, and local business support recorded the most responses.
- 7. The survey report and results will be published on the Council website. The survey results will also be published in Council's 2020-2021 Annual Report, and the State Government "Know Your Council" website.
- 8. Information gained from the survey will be used by Council to inform future planning and decision-making, including development of the Council Plan 2021-2025.

Related Council decisions

- Not applicable.

Council plans and policies

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

Sustainability implications

- 10. Not applicable.

Community engagement

- 11. The Annual Community Survey involved phone interviews with 500 randomly selected residents from across five precincts in the Shire. The data collection methodology for this survey meets State Government reporting requirements.
- 12. Survey fieldwork was undertaken over three weekends in February 2021. To provide some community awareness of this fieldwork, Council placed posts on Council's Facebook page shortly before the surveys were conducted.

Innovation and continuous improvement

- 13. With the level of data and information provided in this survey, there are opportunities to analyse the results as they apply to individual service areas, and identify service improvement opportunities. The survey's findings can also be used by Council when undertaking future Council and service planning, and making budgetary decisions.

Collaboration

- 14. Not applicable.

Budget implications

- 15. The cost of undertaking the 2021 Annual Community Survey is met within the existing operational budget.

Relevant law

- 16. The data collection methodology for this survey, as well as a number of survey outputs, meets State Government reporting requirements for councils.

Regional, state and national plans and policies

- 17. Not applicable.

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CM.055/21 2021 Annual Community Survey Results

Conflicts of interest

18. No conflicts of interest exist in relation to the preparation of this report.

13. Officers' reports**CM.056/21 Council Plan Quarterly Performance Report - 2020-2021 - Quarter 3**

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 third 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, 14 actions are 'on track', one action is complete and three actions have minor issues. The overall position reflected 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 later in 2021.

Recommendation

That Council receives the Council Plan Quarterly Performance Report (**Attachment 1**) for the third quarter, being the period ending 31 March 2021.

Attachments

1.  Council Plan Quarterly Performance Report - 2020-2021 - Quarter 3

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.056/21 Council Plan Quarterly Performance Report - 2020-2021 - Quarter 3**

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, 14 actions are 'on track', one action is complete and three actions have 'minor issues' (**Attachment 1**).
4. Some highlights of activities and deliverables achieved during the third quarter (January to March 2021) include:
- a) Progress towards the development of the Community Vision has continued during this quarter through the 'Our People, Our Place, Our Future' community engagement. Council has received over 1,000 contributions from the community and the feedback is currently being analysed to help inform and shape the Community Vision document (Action 1);
 - b) The Nillumbik Customer First Strategy's annual update was noted by Council at the March Council Meeting, with the strategy continuing to improve customer experience and improved productivity of services (Action 2);
 - c) A major initiatives bid for an Aboriginal Liaison Officer was successful, with the position to commence in January 2022 for a three year contract. Cultural Safety training has also been delivered this quarter to Councillors, the Executive and managers across the organisation (Action 4);
 - d) Construction works commenced on key community infrastructure projects including the Diamond Creek Netball Courts, Hurstbridge Pavilion redevelopment and Diamond Creek Trail (Stage 2). Construction works were completed on the Diamond Creek Netball Pavilion, Eltham Tennis Club Courts and Diamond Creek Trail (Stage 1) (Action 5);
 - e) The 'Art in the Time of COVID-19' exhibition opened in early February and closed in early April, and the Nillumbik Digital Heritage Guide was completed (Action 6);
 - f) The 2020-2021 Fire Hazard Inspection and Enforcement Program concluded with the end of the Fire Danger Period. The program ran for 23 weeks, with 9,194 property inspections completed and 558 Fire Prevention Notices issued. Eight non-compliant properties were compulsorily cleared and 12 infringements were issued to non-compliant property owners. The 2020-2021 Bushfire Mitigation Works Program was also delivered (Action 11);
 - g) The Nillumbik Pandemic Recovery Plan was drafted and will be presented for Council consideration and endorsement at the May Council Meeting (Action 12);
 - h) The 'Women in Business' networking event was delivered successfully, providing an opportunity for locally based women owned or operated businesses to meet, network and hear from a female keynote speaker (Action 14);

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CM.056/21 Council Plan Quarterly Performance Report - 2020-2021 - Quarter 3

- i) Under the digital transformation program, the new Electronic Document and Records Management System (Content Manager) and new Staff Intranet went live on 22 February 2021. The project management module of the new Asset Management System also went live in the Capital Works team (Action 18).
- 5. The overall position as reflected 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. Officers who have been involved in the preparation of this report declare that they do not have a conflict of interest in the subject matter of this report.

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CM.056/21 Council Plan Quarterly Performance Report - 2020-2021 - Quarter 3

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13. Officers' reports**CM.057/21 March Quarter Financial Report**

Distribution: Public**Manager: Vince Lombardi, Chief Financial Officer****Author: Melika Sukunda, Finance Manager****Summary**

This report outlines Council's financial performance and financial position for the period ended 31 March 2021.


The Income Statement shows an overall favourable year to date (YTD) variance of \$685,106 representing 1.98 percent of YTD Budget. This reflects the combined result of lower than budgeted operating income of \$334,406 and lower than budgeted operating expenses of \$1.019 million.

Council's overall financial position at the end of this quarter is sound. The impacts of the state of emergency due to the coronavirus pandemic continue to be monitored.

Recommendation

That Council receives and notes the Financial Report for the period ended 31 March 2021 (**Attachment 1**).

Attachments

1.  Quarterly Finance Report March 2021

Discussion

1. In June 2020, Council adopted the 2020-2021 Budget.
2. Budgeted surplus reflects the amount by which operating revenue exceeds operating expenses, in accordance with relevant accounting standards.
3. Operating expenditure excludes non-operating transactions such as capital works and investments, which are separately detailed in the report.
4. The report compares actual performance to budgeted targets at this stage of the financial year.

Income statement

5. Council closed the period ending 31 March 2021 with a favourable YTD variance of \$685,106 based on actual operating revenue, costs and commitments. This represents 1.98 percent of the YTD Budget.
6. The overall variance is made up of the following:
 - Income – \$334,403 (0.31 percent) unfavourable variance. This includes new/additional grant funding \$1.368 million, contributions \$447,987 and statutory fees and fines \$309,255, offset by a reduction in user fees (\$2.758 million) as a result of the current pandemic situation as detailed on pages 6 and 7 of **Attachment 1**.

13. Officers' reports**CM.057/21 March Quarter Financial Report**

- Expenditure – \$1.019 (1.61 percent) favourable, mainly attributed to reduced external contracts expenditure (\$1.464 million), largely resulting from lower operational expenditure associated with the closure of leisure facilities due to the pandemic. This is offset by higher than anticipated costs relating to materials and related costs (\$432,934). Additional details on variances are detailed on page 8 of **Attachment 1**.

Balance sheet

7. The balance sheet reflects Council's financial position at 31 March 2021 and is prepared in compliance with the Australian Accounting Standards.
8. Council's balance sheet as detailed on page 4 of **Attachment 1** continues to show a strong net position. This is represented by \$1.038 billion of assets which is largely made up of Council's Property, Plant and Equipment. Council's total liabilities are \$59.003 million, which results in net assets of \$979.141 million.

Statement of cash flows

9. The statement of cash flows as detailed on page 5 of **Attachment 1** captures Council's actual cash transactions for the period.
10. Council is showing a cash position of \$44.056 million after all cash transactions for the period to date.
11. The \$44.056 million includes \$41.952 million held in investments as detailed on page 10 of **Attachment 1**.

Capital works

12. The capital works report detailing YTD spend by asset class is detailed on page 9 of **Attachment 1**.
13. This shows an unfavourable variance of \$3.346 million relative to YTD budget, largely driven by new (unbudgeted) externally funded projects and commitments raised for upcoming works.

Related Council decisions

14. Council adopted the 2020-2021 Budget at the Ordinary Council Meeting held on 23 June 2020.

Options

15. The detailed Financial Report for the period ended 31 March 2021 is provided in **Attachment 1**. This report is an analysis of Council's financial performance and financial position as at 31 March 2021. The report also includes an analysis of budget variances.

Council plans and policies

16. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Ensure responsible and efficient management of Council's financial resources.

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CM.057/21 March Quarter Financial Report

Sustainability implications

17. Council's financial sustainability is informed by the indicators set by the Victorian Auditor General's Office (VAGO). These indicators comprise of both short term and longer term measures. This is monitored through the annual external audit and presented to the Audit and Risk Committee.
18. The quarterly financial statements are used as an ongoing mechanism to monitor Council's financial position during the year.

Community engagement

19. The budget was subject to public exhibition prior to its final adoption by Council.

Innovation and continuous improvement

20. Not applicable.

Collaboration

21. Not applicable.

Budget implications

22. This is a standard reporting item to Council, the associated costs for which are included in the current budget.

Relevant law

23. *Local Government Act 2020*, section 101 Financial Management Principles.
24. Australian Account Standards.

Regional, state and national plans and policies

25. Not applicable.

Conflicts of interest

26. No officer involved in the preparation of this report has declared a conflict of interest.

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CM.057/21 March Quarter Financial Report

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13. Officers' reports**CM.058/21 Mayoral and Councillor Allowances**

Distribution: Public**Manager: Vince Lombardi, Chief Financial Officer****Author: Melika Sukunda, Finance Manager****Summary**

This report considers the review of Mayoral and Councillor Allowances paid in accordance with the *Local Government Act 1989* (the 1989 Act).

Under section 74(1) of the 1989 Act, Council must review and determine the level of mayoral and councillor allowances within six months of a general election or by 30 June, whichever is later.


It is recommended that the allowances for Nillumbik be maintained at the existing levels.

Recommendation

That Council:

1. Having reviewed the Mayoral and Councillor allowances, determine to fix the allowances at the existing levels for the four-year term of Council as follows:
 - a) Mayoral allowance \$81,204
 - b) Councillor allowance \$26,245.
2. Give public notice of the determination of allowances in accordance with sections 74 and 223 of the *Local Government Act 1989*, inviting written submissions within 28 days, and consider any written submissions at the Planning and Consultation Committee meeting at 7pm on Tuesday 8 June 2021.

Attachments

- 1  Victoria Government Gazette S 459 13 November 2019 Mayoral and Councillor Allowances Adjustment

Discussion

1. Under section 74(1) of the 1989 Act, Council must review and determine the level of Mayoral and Councillor Allowances by 30 June 2021.
2. The allowances paid to the Mayor and Councillors are established under the *Local Government Act 2020* (the 2020 Act).
3. The Victorian Government sets the upper and lower limits for allowances. There are three categories of councils (small, medium and large), and the categories are based on revenue and population levels. Nillumbik is included in Category 2 (medium-sized councils).
4. Each Council has discretion to determine its position within the relevant limits for its category. Once determined by the Council following each annual election, the level of allowances within the band is fixed for the balance of that Council's four year term.

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CM.058/21 Mayoral and Councillor Allowances

5. The Minister for Local Government also conducts an annual adjustment of allowances to allow for inflation. The most recent adjustment was in December 2019, when the Minister increased allowances by 2.0% (**Attachment 1**).
6. The Mayor and Councillors are entitled to receive an amount equivalent to the Superannuation Guarantee (currently 9.5%) in addition to their allowance.
7. Until Council completes the post-election review, the level of allowances remains at the current level. Once Council has completed the review, the only further changes will be via the Minister's annual adjustment process.

Related Council decisions

8. Council will have the opportunity to consider any written submissions at the Planning and Consultation Committee meeting at 7pm on Tuesday 8 June 2021.
9. A final decision determining the levels at which the Mayoral and Councillor Allowances will be set will be made at the Council meeting on Tuesday 23 June 2021.

Options

10. Allowances are proposed to remain at the current limit.

Council plans and policies

11. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Ensure responsible and efficient management of Council's financial resources.

Sustainability implications

12. Not applicable.

Community engagement

13. Council must ensure that a person has a right to make a public submission under section 223 of the 1989 Act in regard to the review of allowances.

Innovation and continuous improvement

14. Not applicable.

Collaboration

15. Not applicable.

Budget implications

16. This is a standard reporting item to Council, the associated costs for which are included in the current budget.
17. The cost of Mayoral and Councillor Allowances is funded each year through the Operating Budget.

Relevant law

18. Under the Local Government Act 2020 (2020 Act) the Victorian Independent Remuneration Tribunal (the Remuneration Tribunal) is responsible for determining mayoral, deputy mayoral and councillor allowances.

13. Officers' reports

CM.058/21 Mayoral and Councillor Allowances

19. Until the Remuneration Tribunal makes its first determination on allowances, the allowance framework under the 1989 Act, continues to apply, despite the repeal of those relevant provisions last year. Section 39(6) of the 2020 Act provides for this transitional arrangement.

Regional, state and national plans and policies

20. Not applicable.

Conflicts of interest

21. No officer involved in the preparation of this report has declared a conflict of interest.

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CM.058/21 Mayoral and Councillor Allowances

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13. Officers' reports**CM.059/21 Draft Revenue and Rating Plan 2021-2025**

Distribution: Public**Manager: Vince Lombardi, Chief Financial Officer****Author: Melika Sukunda, Finance Manager****Summary**

This report presents the Draft Revenue and Rating Plan 2021-2025 (the Plan) for Council approval prior to exhibition for public consultation. The Revenue and Rating Plan 2021-2025 is a newly introduced requirement under section 93 of the *Local Government Act 2020* (the 2020 Act).

The purpose of the Revenue and Rating Plan is to establish a rating and revenue strategy.

The Draft Revenue and Rating Plan outlines Council's most significant sources of income and provides a framework for informing the income projections in Council's Financial Plan 2021-2025.

Recommendation

That Council:

1. Adopts the Draft Revenue and Rating Plan 2021-2025 (**Attachment 1**) for the purposes of section 93 of the *Local Government Act 2020*.
2. Authorises the Chief Executive Officer to give public notice in accordance with section 223 of the *Local Government Act 1989* and section 96 of the *Local Government Act 2020* of Council's intention to adopt, at a Council meeting proposed to be held at 7:00 pm on Tuesday 22 June 2021, the Revenue and Rating Plan 2021-2025 (**Attachment 1**).
3. Notes that any person who makes a written submission in relation to the Draft Revenue and Rating Plan 2021-2025 and requests to be heard in support of the written submission, be heard at the Planning and Consultation Committee meeting to be held in the Council Chamber, Civic Centre, at 7:00 pm on Tuesday 8 June 2021.
4. Authorises the Chief Executive Officer to undertake any and all administrative procedures necessary to enable Council to carry out its functions under section 223 of the *Local Government Act 1989*.

Attachments

1.  Draft Revenue and Rating Plan 2021-2025

13. Officers' reports

CM.059/21 Draft Revenue and Rating Plan 2021-2025

Discussion

1. Council is required to adopt the Plan prior to 30 June in the year following a general election, under section 93 of the 2020 Act. This is a new requirement under the 2020 Act.
2. The purpose of the Plan is to establish a rating and revenue strategy which, in conjunction with other income sources.
3. The Plan outlines Council's most significant sources of income and provides a framework for informing the income projections in Council's Financial Plan 2021-2025 and future budgets.

Rates and charges

4. The Plan outlines the rates and charges councils are able to levy in order to generate income.
5. The basis of valuations, the use of differential rates and the waste service charge are detailed in the Plan.

Fees and charges

6. The Plan outlines the methodologies behind the calculation of fees and charges.
7. Council's underlying principals in the setting of fees and charges are as follows:
 - a) Fees and charges are set in line with other like services through benchmarking.
 - b) Fees and charges are set at a level that is deemed to be fair and equitable to enable the majority of residents to access the services.
 - c) Full cost or direct cost recovery is achieved where possible.
 - d) Fees are charged in line with State or Federal government legislation or Local Laws.
 - e) Fees are charged in line with State or Federal government funding requirements.
 - f) Fees and charges are comparable to private industry.

Grants and other income

8. The Plan promotes advocacy in the seeking of grant funding for capital works and enhanced service delivery.
9. While other income represents a comparatively small percentage of Council's revenue, the Plan recognises this as a valuable ancillary revenue source, which should be maximised wherever possible.

Related Council decisions

10. Adoption of the Revenue and Rating Plan 2021-2025 at the Council meeting to be held Tuesday 22 June 2021 commencing 7:00pm.

Options

11. Adoption the Draft Revenue and Rating Plan 2021-2025 for the purposes of sections 93 and 96 of the 2020 Act.

13. Officers' reports

CM.059/21 Draft Revenue and Rating Plan 2021-2025

Council plans and policies

12. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Ensure responsible and efficient management of Council's financial resources.

Sustainability implications

13. Council's financial sustainability is informed by the indicators set by the Victorian Auditor General's Office (VAGO).
14. These indicators comprise of both short term and longer term measures. The indicators are calculated and considered as part of the budget process.

Community engagement

15. Following Council's adoption of the Revenue and Rating Plan 2021-2025, public notice will be provided that allows the community the opportunity to lodge submissions. Public exhibition will be for 28 days, and the draft plan will be available for inspection at the Civic Centre and on Council's website.
16. Public submissions in relation to the Draft Plan will be considered at the Planning and Consultation Committee meeting on Tuesday 8 June 2021.
17. Following the consideration of any submissions reviewed, the Plan will then be presented for adoption at the Council Meeting on Tuesday 22 June 2021, whereby Council is then required to formally adopt the Revenue and Rating Plan 2021-2025.

Innovation and continuous improvement

18. Not applicable.

Collaboration

19. The drafting of budget is conducted in consultation with managers and EMT across the organisation.

Budget implications

20. The costs of preparing and exhibiting the Budget, such as public notices, are funded from operating budget allocations.

Relevant law

21. *Local Government Act 1989*, section 223
22. *Local Government Act 2020*, sections 93 and 96.

Regional, state and national plans and policies

23. Not applicable.

Conflicts of interest

24. No officer involved in the preparation of this report has declared a conflict of interest.

13. Officers' reports

CM.059/21 Draft Revenue and Rating Plan 2021-2025

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13. Officers' reports**CM.060/21 Financial Hardship Policy – COVID-19 Pandemic Event**

Distribution: Public**Manager: Vince Lombardi, Chief Financial Officer****Author: Melika Sukunda, Finance Manager****Summary**

This report presents the updated temporary Financial Hardship Policy – COVID-19 Pandemic Event for Council's endorsement.

Council has a Financial Hardship Policy – COVID-19 Pandemic Event which was endorsed by Council in April 2020, with an extension endorsed in September 2020. The temporary policy provides guidelines to assist in the assessment of applications received for the deferment of rates and charges due to financial hardship.

The temporary policy has updated to extend the temporary provisions to 31 May 2021.

Recommendation**That Council:**

1. Endorses the Financial Hardship Policy – COVID-19 Pandemic Event (**Attachment 1**).
2. Notes that these temporary provisions will be reviewed at the May 2021 Council Meeting.

Attachments

- 1  Financial Hardship Policy V5 Covid19 Event

Discussion

1. Council has a Financial Hardship Policy to provide guidance regarding the deferment of rates and charges and the waiving of penalty interest charges in line with *Local Government Act 1989* and the *Penalty Interest Rates Act 1983*.
2. The previous version of this policy were presented to Council in September 2020.
3. This version of the policy is due for review in May 2021 as part of Council's ongoing COVID-19 response.

Policy

4. The policy has been revised to extend existing COVID-19 related provisions to 31 May 2021, in response to the ongoing pandemic event.
5. The temporary provisions will be reviewed and assessed in May to determine when the interim measures can be lifted.

13. Officers' reports

CM.060/21 Financial Hardship Policy – COVID-19 Pandemic Event

Considerations during the COVID-19 Pandemic Event

6. Allows the relaxing of provisions within the policy to expedite the granting of rates and charges deferral or interest free period(s).
7. Financial counselling requirements prior to the acceptance of a financial hardship application have been temporarily suspended, but will be strongly encouraged.
8. A further interest free period to 31 May 2021 has been set, to be reviewed at that time.
9. Payment arrangements will not be mandatory to receive the interest free period for the property owner's primary residence.
10. The property owner or the named agent on the rates instalment notice may make an application. Tenants must contact their property owner or the named agent to apply.
11. Owners of investment or holiday property will be able to apply for hardship consideration during the event, provided they enter into a payment arrangement.

Related Council decisions

12. Council endorsed the previous version of this policy at the 15 September 2020 Ordinary Council Meeting.

Options

13. Council's temporary Financial Hardship Policy has been updated and is presented to Council for formal endorsement.

Council plans and policies

14. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Ensure responsible and efficient management of Council's financial resources.
15. This policy is aligned with Council's Debt Collection Policy – Rates and Charges 2020.

Sustainability implications

16. Not applicable.

Community engagement

17. Not applicable.

Innovation and continuous improvement

18. Not applicable.

Collaboration

19. Not applicable.

Budget implications

20. The cost associated with the implementation of the temporary policy has been reflected in the mid-year budget review.

13. Officers' reports

CM.060/21 Financial Hardship Policy – COVID-19 Pandemic Event

Relevant law

- 21. Local Government Act 2020.
- 22. Local Government Act 1989.
- 23. Penalty Interest Rates Act 1983.

Regional, state and national plans and policies

- 24. Not applicable.

Conflicts of interest

- 25. No officer involved in the preparation of this report has declared a conflict of interest.

13. Officers' reports

CM.060/21 Financial Hardship Policy – COVID-19 Pandemic Event

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13. Officers' reports**CM.061/21 Procurement Policy Update**

Distribution: Public**Manager: Vince Lombardi, Chief Financial Officer****Author: Lance Clark, Senior Procurement Specialist****Summary**

In accordance with Section 186A of the Local Government Act 1989, (LGA 1989) Council must prepare and approve a Procurement Policy and review at least once in each financial year (last reviewed in July 2020).

Under Section 108 of the *Local Government Act 2020* (LGA 2020) Councils will be required to adopt a new Procurement Policy prior to 31 December 2021. The new Procurement Policy cannot be adopted before 1 July 2021.

In order to meet the legislative requirements it is proposed that the current Policy be extended to 1 July 2021, when the new policy will take effect.

The new Procurement Policy under LGA 2020 is being prepared in collaboration with the Northern Councils Alliance (NCA), with the intention to standardise the compliance aspects of the Procurement Policy across all seven Councils.

Recommendation

That Council adopts the existing Procurement Policy 2020-2021 (**Attachment 1**).

Attachments

1. Procurement Policy 2020-2021 Final Public Version

Discussion

1. The Procurement Policy and Procurement Guidelines include the principles, processes and procedures that will apply to all purchases of goods, services and works by the Council.
2. Under S108 of the LGA 2020, Councils will be required to adopt a new Procurement Policy prior to 31 December 2021. The new Procurement Policy cannot be adopted before 30 June 2021.
3. A new Procurement Policy under LGA 2020 is being prepared in collaboration with the Northern Councils Alliance (NCA), with the intention to standardise the compliance aspects of the Procurement Policy across all seven Councils.
4. The new Procurement Policy will be submitted to Council for consideration and adoption in 2021, with an effective date of 1 July 2021. Until the new Policy is adopted and in effect, the existing Procurement Policy under Local Government Act 1989 (LGA 1989) will apply to all Council's procurement processes.
5. In accordance with S186A of the LGA 1989, Council must prepare and approve a Procurement Policy and review at least once in each financial year (last reviewed in July 2020).
6. Given the imminent adoption of a new Procurement Policy under the LGA 2020, it is proposed the current Policy be extended to 30 June 2021, at which time the new policy will take effect.

13. Officers' reports

CM.061/21 Procurement Policy Update

Related Council decisions

7. The existing Procurement Policy was adopted at the Council Meeting on 28 July 2020.

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.

Community engagement

9. Not applicable.

Innovation and continuous improvement

10. Not applicable.

Collaboration

11. The existing Procurement Policy was presented to the Audit and Risk Committee in February 2020.

12. The new procurement policy for LGA 2020 requirements has been developed in collaboration with the Northern Councils Alliance.

Budget implications

13. No applicable.

Relevant law

14. Section 186 of the *Local Government Act 1989*.

15. Section 108 of the *Local Government Act 2020*.

Regional, state and national plans and policies

16. Not applicable.

Conflicts of interest

17. Not applicable.

13. Officers' reports**CM.062/21 Informal Meetings of Councillors Records - 27 April 2021**

Distribution: Public**Manager: Katia Croce, Acting 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 Informal Meetings of Councillors held.

This report lists Informal Meetings of Councillors records submitted since the matter was last reported to Council on 23 March 2021.

An Informal Meetings of Councillors Record was kept for:

- Informal Environment & Sustainability Advisory Committee Meeting – Urban Tree Canopy held 10 March 2021.
- Informal Meeting with Clean Energy Nillumbik held 16 March 2021.
- Councillor Briefing held 16 March 2021.
- Climate Action Plan meeting held 23 March 2021.
- Pre-Meeting to Council Meeting held 23 March 2021.
- Recreational Trail Advisory Committee Meeting held 24 March 2021.
- Economic Development Advisory Committee Meeting held 31 March 2021.
- Councillor Briefing held 6 April 2021.
- Pre-meeting to Planning and Consultation Committee Meeting held 13 April 2021.

Officer Recommendation

That Council, in accordance with *Item 19 of Council's Governance Rule – Meeting Procedure*, receives the Informal Meetings of Councillors Records held 10 March 2021, 16 March 2021, 16 March 2021, 16 March 2021, 23 March 2021, 23 March 2021, 24 March 2021, 31 March 2021, 6 April 2021 and 13 April 2021 as contained in (**Attachment 1**).

Attachments

1.  Informal Meeting of Councillors Record - 27 April 2021

Discussion

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

13. Officers' reports

CM.062/21 Informal Meetings of Councillors Records - 27 April 2021

Related Council decisions

2. Not applicable.

Options

3. An Informal 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 Informal 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 Informal Meetings of Councillors held.
6. The recommendation contains the list of Informal Meetings of Councillors records submitted since the matter was last reported to Council on 23 March 2021.

Conclusion

7. It is recommended that Council receives the records of recent records of Informal 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.062/21 Informal Meetings of Councillors Records - 27 April 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.

13. Officers' reports

CM.062/21 Informal Meetings of Councillors Records - 27 April 2021

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13. Officers' reports

CM.063/21 Expression of Interest - Craft and Produce Market in Eltham

Distribution: Public

Manager: Hjalmar Philipp, Director Operations and Infrastructure

Author: Natalie Campion, Coordinator Property
Jonathon Miller, Manager Property and Facilities Maintenance

Summary

Council was notified by the Eltham Community Market Stallholders Association Inc. (the Committee) on 22 January 2021 that they were no longer able to operate the Eltham Craft and Produce Market under their existing Licence Agreement with Council.

Council's intention is to source an alternative operator, to conduct a craft and produce market from the same location, being in the vicinity of Library Place, Eltham (as depicted in **Attachment 1**).

The most appropriate process to appoint a new operator (and determine the level of interest and on what terms and conditions they are offering) was to conduct a public Expression of Interest (EOI) process; which any business, organisation or community group could respond to by submitting a proposal.

The EOI process has now been conducted. Two submissions were received and have been assessed by an Evaluation Panel (EP).

This report provides a summary of the EP's submission assessment, and recommends granting of a Licence Agreement for the operation of a craft and produce market in Eltham.

Recommendation


That Council:

1. Grant a Licence Agreement to Proponent B _____ as shown in (**Attachment 2**), to operate the Eltham Craft and Produce Market, which includes the following key terms and conditions:
 - **Licence Area:** That part of the land thereon known as:
 - 4-10 Panther Place Eltham (Eltham Library);
 - 829 Main Road Eltham (Alistair Knox Park); and
 - 895 Main Road Eltham (old shire offices).
 - **Permitted Days and Hours of Operation:** 8:30am to 2.00pm on the third Sunday of each month, and also the first Sunday in December. Any additional hours will need to be agreed upon and approved by Council's Manager, Assets and Property, or such person acting in that role.
 - **Licence Fee:** Nil
 - **Licence Term:** 3 years commencing 10 May 2021
 - The Licence Agreement be conditional upon the preferred proponent drafting and implementing a Traffic Management Plan for the market, to the satisfaction of Council.

13. Officers' reports**CM.063/21 Expression of Interest - Craft and Produce Market in Eltham**

2. Authorises the Manager Property and Facilities Maintenance to finalise and execute the Licence Agreement.
3. Advises all Proponents accordingly.
4. Resolves that the Evaluation Scorecard – EOI Eltham Craft and Produce Market (**Attachment 2**) remains confidential on the grounds specified in the definition of confidential information in section 3(1)(f) of the *Local Government Act 2020*.
5. Acknowledge publicly the previous Eltham Craft and Produce Market Committee Members for their volunteer work within the local community.

Attachments

1.  Craft and Produce Market in Eltham - Plan of Land
2. Evaluation Scorecard - EOI Craft and Produce Market in Eltham - *CONFIDENTIAL*

Discussion

1. The Committee operated the Eltham Community Craft and Produce Market (the Market) in the Eltham area for over 40 years. Since 2004, it has operated from Council owned land located in the vicinity of Library Place, Eltham.
2. The Committee operated the Market in accordance with a planning permit and licence agreement with Council, and in accordance with the *Associations Incorporation Reform Act 2012*, administered by Consumer Affairs Victoria.
3. The Committee formally advised Council on 22 January 2021 that they would cease operating as of Monday 22 February 2021.
4. A public Expression of Interest process is the most appropriate mechanism to identify and appoint a new operator. Such a process ensures a transparent decision making process (being open to any business, organisation or community group to respond to by submitting a proposal) and allows Council to grant a Licence to an organisation that best meets its objectives.
5. The proposed Licence agreement includes the following key terms and conditions:
 - **The Licensed Area:** That part of the land thereon known as:
 - o 4-10 Panther Place Eltham (Eltham Library);
 - o 829 Main Road Eltham (Alistair Knox Park); and
 - o 895 Main Road Eltham (old shire offices).
 - **Permitted Days and Hours of Operation:** 8:30am to 2.00pm on the third Sunday of each month, and also the first Sunday in December. Any additional hours will need to be agreed upon and approved by Council's Manager, Assets and Property, or such person acting in that role.
 - **Licence Fee:** Proposed Licence rental fee to Council. (This forms part of the Proponents proposal).
 - **Licence Term:** 3 years.

13. Officers' reports

CM.063/21 Expression of Interest - Craft and Produce Market in Eltham

- **Other General Requirements:** A Traffic Management Plan will need to be prepared and implemented by the successful Proponent. Council's Traffic Management Officers will assist with preparation of the Plan.

6. Council's purpose in undertaking the Invitation for Expressions of Interest were to:

- provide sufficient details to enable each proponent to make a preliminary assessment of the site and prepare an informed proposal;
- enable Council to identify proponents that have the experience and capacity to best meet Council's objectives; and
- enable Council to identify proposals which meet Council's objectives.

7. Council's principal objectives for the Market are to:

- secure a market operator that is aligned with the Council Plan and will enhance the overall experience of visitors to the Shire;
- secure a financially reliable and experienced operator to operate a market;
- secure the provision of sustainably, locally and ethically sourced products; and
- support the local economy and community.

Related Council decisions

8. Not applicable.

Options

9. An Invitation for Expression of Interest was published on Council's website under Public Notices on Monday, 22 March 2021 and closed on Friday, 9 April 2021.
10. Those parties who had previously advised Council of their interest in operating the market were invited to submit an application in response to the EOI.
11. In assessing each Proposal received, the evaluation criteria and weighting as set out in the table below were used:

Evaluation Criteria	Criteria Weighting %
a) Alignment with the Council's Vision and Goals within the Council Plan 2017-2021 and adding to visitor experience: <ul style="list-style-type: none"> ○ A statement outlining how the proponent will observe Council's Plan Vision and Goals. ○ A marketing plan showing how the proponent will operate the market, enhance the experience for visitors to the Shire and increase patronage to the Market. 	25
b) Proponent's financial capacity and experience <ul style="list-style-type: none"> ○ details of the proponent's experience in operating a market or similar (Public events); 	25

13. Officers' reports

CM.063/21 Expression of Interest - Craft and Produce Market in Eltham

Evaluation Criteria	Criteria Weighting %
<ul style="list-style-type: none"> ○ evidence of the proponent's financial capacity to meet the obligations under the Licence, including provision of the proponent's balance sheet and any other relevant financial statements; ○ proof of Public Liability Policy of Insurance in the name of the proponent; and ○ relevant proof of the Licensee's current registration with Consumer Affairs Victoria as an Incorporated Association in accordance with the Associations Incorporation Reform Act 2012; or organisation; or business registration. 	
<p>c) Financial return to Council Details of the proposed:</p> <ul style="list-style-type: none"> ○ Licence rental fee to Council; ○ Annual percentage rent reviews; and ○ 'Operating Hours' (any amendments to the existing Licence Terms proposed). 	10
<p>d) Support the local economy and community Statement setting out how the proposal will support the local economy and community including:</p> <ul style="list-style-type: none"> ○ market practices such as sustainability practices, ethically sourced products, interaction with community; ○ proposed resources required by Council; ○ support to existing stallholders at the current market; ○ proposed markets stallholder fees; ○ proposed patron fees for entry; ○ use of local businesses; and ○ support to community organisations within the Shire. 	40

12. Council is now in a position to review all Proposals received and consider the recommended Proponent to become the new operator of a Craft and Produce Market in Eltham; or not proceed with the appointment of a new Operator for the Market.

13. In response to the EOI, Council received two Proposals which were assessed by the Evaluation Panel.

13. Officers' reports

CM.063/21 Expression of Interest - Craft and Produce Market in Eltham

14. The members of the Evaluation Panel were;

Position Title	Business Unit
Property Officer	Property and Facilities Maintenance
Coordinator Events & Grants	Community Services
Coordinator Economic Development and Tourism	Economic Development and Tourism

15. The recommended proponent Proponent B was the highest ranked of the two proponents and is suitably qualified and experienced in delivery of similar community based markets. In relation to Proponent B's submission, the EPs summary comments are as follows:

- a. Their submission better reflects local understanding in operating community based markets;
- b. They have local knowledge, experience and a strong local community focus;
- c. Funds raised will be better directed to support local community and business; and
- d. They have dedicated staff running markets.

16. It should be noted that both submitters committed to keeping existing stallholder costs to \$50/market. Proponent B has also committed to providing stallholders access to their other community based markets.

17. Neither proponent committed to providing Council with a Licence fee, but have requested Council support in marketing and grant applications.

18. Council will need to continue support in providing public toilet cleaning services for each market event.

19. A licence agreement will need to be conditional on the preferred proponent agreeing to draft and implement a Traffic Management Plan. This was not a condition of the previous licence agreement, however given the number of public attending the event and the proximity of the market to traffic through Panther Place, Council's traffic engineers has advised it should be a requirement of the new agreement and will provide support in drafting.

20. **Attachment 2** – EOI Evaluation Summary Report – Confidential, provides the proponent's names and the Evaluation Scorecard Summary.

Council plans and policies

21. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Create and activate places and spaces that have good connectivity, provide needed infrastructure and promote social interaction.

Sustainability implications

22. Council's principle objective for the new market operator is to supporting the local economy and community.

13. Officers' reports

CM.063/21 Expression of Interest - Craft and Produce Market in Eltham

Community engagement

23. Not applicable, as a Public Expression of Interest process was conducted.

Innovation and continuous improvement

24. When Council is seeking to lease or licence one of its property assets, an Expression of Interest is the most appropriate process to appoint a new Tenant. This provides an opportunity to identify enhanced community outcomes.

Collaboration

25. Council's Property, Events and Grants, and Economic Development and Tourism officers have worked together to evaluate all submissions received from proponents.

Budget implications

26. Council undertakes regular maintenance work of the Eltham Market site, including the large open space of the gravel car park running adjacent to the train track and open space. To support each market event, additional cleaning of the Alistair Knox Park public toilet facilities is completed. All support work is funded through operational budgets.

27. The preferred proponent has requested Council accept the ongoing costs in organising and implementing cleaning to the public toilets at Alistair Know Park, and ongoing access to power.

28. Relevant law

29. Not applicable

Regional, state and national plans and policies

30. Not applicable

Conflicts of interest

31. 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.064/21 Tender Report - Contract 2021-48 Provision of Loan Finance

Distribution: Public

Manager: Vince Lombardi, Chief Financial Officer

Author: Melika Sukunda, Finance Manager
Lance Clark, Senior Procurement Specialist

Summary

This report recommends the awarding of Contract 2021-48 for Provision of Loan Finance.

The purpose of this loan request is to enable Nillumbik Shire Council to fund a portion of the capital works program for the 2021-2022 year.

As per the adopted 2020-2021 Budget, Council resolved to take out \$3.303 million in new borrowings for a number of significant capital projects and to allow Council to respond to Federal Government stimulus opportunities.

The total amount to be borrowed is (Australian) Three Million Three Hundred and Three Thousand Dollars (AU\$3,303,000) and the required loan period is for a ten (10) year term.

The term of the loan is fixed rate, principal and interest based on a ten (10) year repayment term.

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 2021-48 for Provision of Loan Finance.

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 submitted by the **Tenderer A** _____ for the sum of \$ _____ and enter into the following contract:
Number: 2021-48
Title: Provision of Loan Finance
Term: Ten (10) years with first instalment due July 2021
2. Authorises the Chief Financial Officer to finalise and execute the contract documentation.
3. Advises all tenderers accordingly.
4. Resolve 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*.

13. Officers' reports**CM.064/21 Tender Report - Contract 2021-48 Provision of Loan Finance****Attachments**

1. Tender Evaluation Summary Report Contract 2021-48 - Provision of Loan Finance - *CONFIDENTIAL*

Discussion

1. As per the adopted 2020-2021 Budget, Council resolved to take out \$3.303 million in new borrowings for a number of significant capital projects and to allow Council to respond to Federal Government stimulus opportunities.
2. Council issued a public tender for the required loan financing.

Related Council decisions

3. The 2020-2021 Budget, which included the proposed borrowings of \$3,303,000 was adopted at the 23 June 2020 Council meeting.

Council plans and policies

4. This report directly supports the achievement of Council Plan 2017-2021 strategy Ensure responsible and efficient management of Council's financial resources.
 - Ensure responsible and efficient management of Council's financial resources.

Tender overview

5. The Tender Evaluation Panel (TEP) advises that:
 - a) A public tender was issued on 13 February 2021 and advertised in the Melbourne Age on Saturday 13 February 2021.
 - b) The period for tender submissions closed at 2pm on Thursday 4 March 2021.
 - c) The following tenders were received.

TENDERER	Tendered Interest Rate
Tenderer A – Preferred Tender	2.015% p.a. fixed at 10 years
Tenderer B	2.38% p.a. fixed at 10 years

6. The following Evaluation Criteria and Weightings were applied during the evaluation of the conforming and competitive tenders. These weightings were set and agreed to by the Tender Evaluation Panel Members prior to the issue of the tender.

Criteria	Weighting %
Interest Rate	80%
Loan payment options	10%
Service and other additional costs	10%

13. Officers' reports

CM.064/21 Tender Report - Contract 2021-48 Provision of Loan Finance

7. 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.
8. Tenderers were also required to provide information on the following:

Fossil Fuels - Divestments or Offsets
What initiatives or policies are in place or are in progress in relation to divesting from, or off-setting in fossil fuels.
Environmental Management Policy
Documented evidence of Environmental Management Policy and practices.

9. The members of the TEP were;

Member Name	Position Title	Business Unit	Scoring Member or Advisory Member
Melika Sukunda	Finance Manager	Corporate Services	Scoring
Robert Malignaggi	Business Services Lead	Corporate Services	Scoring
Vince Lombardi	Chief Financial Officer	Corporate Services	Scoring
Lance Clark	Senior Procurement Specialist	Corporate Services	Advisory

10. The final evaluation outcome was as follows:

TENDERER	SCORE	RANK
Tenderer A – Preferred Tender	95/100	1
Tenderer B	80/100	2

11. The recommended tender was the highest ranked and is considered best value based on the tendered interest rate.
12. **Attachment 1** - Tender Evaluation Summary Report – Confidential, provides the tenderer names and the Evaluation Scorecard Summary.
13. The Tender Evaluation Summary Report (**Attachment 1**) to remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.

13. Officers' reports

CM.064/21 Tender Report - Contract 2021-48 Provision of Loan Finance

Capacity & Capability

14. The recommended tenderer is one of the top ten banks in Australia.

Contingency and risks

15. The interest rate for the facility has been fixed in order to reduce any market risk associated with increasing interest rates for the duration of the loan.

Collaboration

16. Not applicable.

Budget implications

17. The costs associated with the loan, including interest, are included in the adopted 2020-2021 budget and the draft 2021-2022 Budget.

Sustainability implications

18. Tenderers were required to provide information on their initiatives or policies that existed or were in progress in relation to divesting from, or off-setting in fossil fuels as well as information on their environmental policies and practices.

19. Neither of the tenderers have as yet fully divested from fossil fuel investments but have provided detailed information on their environmental and sustainability policies, practices and targets. Both tenderers have set clear targets in relation to divesting from thermal coal financing. More information on this is provided in (**Attachment 1**).

Stakeholder Consultation/communication

20. Not applicable.

Innovation and continuous improvement

21. Not applicable.

Relevant law

22. Section 186 of the *Local Government Act 1989* (the Act).

Regional, state and national plans and policies

23. Not applicable.

Conflicts of interest

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

25. There were no disclosable conflicts of interest raised.

13. Officers' reports

CM.065/21 Grant-funded Project

Distribution: Public

Manager: Hjalmar Philipp, Director Operations and Infrastructure

Author: Enrique Gutierrez, Manager Capital Works

Heath Gillett, Manager Recreation and Leisure

Nathan Roberts, Recreation and Open Space Planner

Summary

This report relates to a grant funded project. In line with common practice, Council has been requested by the funding body to not disclose any information about the funding, or names of successful or unsuccessful projects until the head of the funding body or their authorised representative has made the information publicly available.

Recommendation

That Council notes this report.

Attachments

Nil

13. Officers' reports

CM.065/21 Grant-funded Project

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

Pursuant to section 66(2) of the *Local Government Act 2020* (the Act), the meeting of the Council be closed to members of the public for the consideration of the following confidential items:

CM.066/21 Grant Funded Project

This item is confidential because it is private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage pursuant to paragraph (g(ii)) of the definition of confidential information under section 3(1) of the *Local Government Act 2020*. This ground is applied because it is information that, if publicly released at the time, is likely to be inappropriately detrimental to the Council or any person (natural or corporate).

Recommendation

That in accordance with section 66(2) of the *Local Government Act 2020*, Council resolves to close the meeting to members of the public to consider confidential items.

- 18. Close of Meeting