

# Council Meeting

to be held virtually on Tuesday 24 August 2021 commencing at 7:00pm.

## Agenda

**Carl Cowie**  
**Chief Executive Officer**

Thursday 19 August 2021

Distribution: Public

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# **Council Meeting**

## **Councillors**

**Cr Peter Perkins (Mayor)** – Ellis Ward

**Cr Richard Stockman** – Blue Lake Ward

**Cr Karen Egan** – Bunjil Ward

**Cr Natalie Duffy** – Edendale Ward

**Cr Ben Ramcharan** – Sugarloaf Ward

**Cr Frances Eyre (Deputy Mayor)** – Swipers Gully Ward

**Cr Geoff Paine** – Wingrove Ward

## **Officers**

**Carl Cowie** – Chief Executive Officer

**Blaga Naumoski** – Executive Manager Governance, Communications and Engagement

**Katia Croce** – Governance Lead

## Nillumbik Shire Council

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**Contents**


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1.	Welcome by the Mayor	1
2.	Acknowledgement of Country by the Mayor	1
3.	Good Governance Pledge	1
4.	Prayer 1	
5.	Apologies 1	
6.	Presentations	2
7.	Confirmation of minutes	2
8.	Disclosure of conflicts of interest	3
9.	Petitions 3	
PT.003/21	Petition - The Old CFA Building	3
10.	Questions from the gallery	3
11.	Reports of Advisory Committees	5
AC.010/21	Advisory Committee Report - 24 August 2021	5
12.	Officers' reports	7
CM.116/21	Domestic Animal Management Plan	7
CM.117/21	Intention to Declare a Special Rate Renewal for the Diamond Creek Business Precinct	21
CM.118/21	Acknowledgement of Country	25
CM.119/21	Response to public exhibition of Planning Scheme Amendment C133	29
CM.120/21	Kangaroo Ground War Memorial Park Draft Management Plan for Council endorsement for public exhibition	33
CM.121/21	Planning Scheme Amendment C140 to apply the Heritage Overlay to 1080 Heigelberg-Kinglake Road, Hurstbridge	41
CM.122/21	Nillumbik Planning Scheme Amendment C126Nill Submission to the Minister for Approval	45
CM.123/21	Bourchiers Road Special Charge Scheme, Kangaroo Ground - formal questionnaire results	53
CM.124/21	Appointment of Councillor Representative to the Banyule/Nillumbik Living Learning Employment Network Inc. Board	57
CM.125/21	Quarterly Risk and Safety Report - June 2021	61
CM.126/21	Tender Report - Contract 2021-060 Provision of Underground Stormwater Drainage Cleaning and Condition Audits	67
CM.127/21	Tender Report - Contract 2021-079 Eltham Skate Park Project – Design & Construction	73
CM.128/21	Informal Meetings of Councillors Records - 24 August 2021	79

**Council Meeting Agenda****24 August 2021**

12. Officers Reports	87
CM.131/21 CEO Employment Matters Committee	87
13. Notices of Motion	89
NOM.004/21 Civic Drive Roundabout Greensborough - Road Safety	89
14. Delegates' Reports	91
15. Supplementary and urgent business	91
16. Confidential reports	91
CM.130/21 CEO Employment Matters Committee	91
12. Close of Meeting	91

## **Nillumbik Shire Council**

### **Agenda of the Meeting of Nillumbik Shire Council to be held Tuesday 24 August 2021 commencing at 7:00pm**

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#### **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 Woi Wurrung 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 First Nations people 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**

<b>Recommendation</b>
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**That** the apologies be noted.

## 6. Presentations

### **Diamond Creek Regional Playspace - 2021 Parks and Leisure Australia Awards**

The Diamond Creek Regional Playspace was developed by Nillumbik Shire Council through collaboration with community groups, local business' and organisations. Many groups and people contributed to the refurbishment and construction of the tram café adjacent to the play space by the Diamond Creek Rotary Club. The play space features experiences for all ages and abilities.

At the recent 2021 Awards of Excellence Function, we were thrilled that the Diamond Creek Regional Playspace was announced the recipient of a prestigious Parks and Leisure Australia award.

The popular park, which was a huge collaboration between Council, residents, community groups and businesses, won the Playspace Award in the over \$500,000 category for the Victoria/Tasmania region.

Diamond Creek Regional Playspace features experiences for all-ages and abilities, and its nature-themed design references Diamond Creek's gold mining history.

Funded with \$2.5 million from the Victorian Government's Growing Suburbs Fund and designed and built by Ace Contractors Group Pty Ltd.

Congratulations to everyone involved who has made the place space such a success. If you haven't visited yet, we look forward to seeing you soon.

## 7. Confirmation of minutes

Confirmation of minutes of the Council Meeting held on Tuesday 27 July 2021.

<b>Recommendation</b>
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**That** Council:

1. Confirms the minutes of the Council Meeting held on Tuesday 27 July 2021 (**Attachment 1**).

**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.003/21 Petition - The Old CFA Building**

A petition containing **314** signatures (143 physical and 171 online) from residents calling on Council to approve the demolition of the old Plenty CFA building and return the area to an Open Space targeted to the needs of the Nillumbik and Plenty Community.

The following statement was included in the petition:

*Construction has commenced on the new CFA building situated on Heritage Park (the land located directly west of the historic Plenty Hall). During various community consultations over the last 3 years, the weight of community opinion and expectations is that the loss of the Heritage Park and approximately 130 tree would be replaced through demolishing the current old CF building and returning that area to open space.*

*The old CFA building (which has asbestos, and electrical issues and sewer problems) has ongoing expensive maintenance costs and retaining this old substandard building is a waste of rates. Further consideration of alternative usage of the building without having onsite management for extended daily hours risks damage (rubbish and physical) to the historical centre of Plenty.*

<b>Recommendation</b>
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**That Council:**

1. Receives the petition calling on Council to approve the demolition of the old Plenty CFA building and return the area to an Open Space targeted to the needs of the Nillumbik and Plenty Community.
2. Refers the petition to the Director Operations and Infrastructure for investigation and response.
3. Notes officers will advise the head petitioner and Councillors of the outcome.

**10. Questions from the gallery**

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11. Reports of Advisory Committees

AC.010/21 Advisory Committee Report - 24 August 2021

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**Distribution:** Public

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

**Author:** Janet Taylor, Governance Officer

**Summary**

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

In accordance with Advisory Committee Terms of Reference, the following minutes of Advisory Committee meetings are attached (**Attachment 1**) and presented to Council for noting:

1. Living and Learning Network Advisory Committee Meeting held 28 July 2021.

**Attachments**

1.  Advisory Committee Minutes reported 24 August 2021

**Recommendation**

**That** the minutes of the Advisory Committee meetings reported be noted (**Attachment 1**).

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**12. Officers' reports****CM.116/21 Domestic Animal Management Plan**

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**Distribution: Public****Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author: Megan Sparks, Team Leader Community Safety and Amenity Support  
Jonathan McNally, Manager Community Safety and Amenity  
Caroline Correa, Community Safety Coordinator****Summary**

In accordance with the *Domestic Animals Act 1994* all Victorian Councils must develop and adopt a Domestic Animal Management Plan (DAMP) every four years. Council's current DAMP expires on 03 December 2021. The Draft DAMP 2021-2025 (**Attachment 1**) has been developed in line with section 68A of the Act. Council has a legislated responsibility under the Act to ensure compliance and delivery of animal management services in line with community expectations around responsible pet ownership.

The draft DAMP has been developed through extensive community consultation, including 523 surveys completed on Participate Nillumbik. It is proposed to undertake a further round of community consultation to gather feedback on the draft DAMP.

<b>Recommendation</b>
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**That Council:**

1. Endorses the attached draft Domestic Animal Management Plan 2021-2025 (**Attachment 1**) for the purpose of community consultation.
2. Releases the draft Domestic Animal Management Plan 2021-2025 for community consultation from 25 August to 22 September 2021.
3. Considers public submissions at the Planning and Consultation Committee meeting to be held on 12 October 2021.
4. Notes that any person who makes a written submission in relation to the Domestic Animal Management Plan 2021-2025 and requests to be heard in support of the written submission, be heard at the October 2021 Planning and Consultation Committee meeting.

**Attachments**

- 1  Draft Domestic Animal Management Plan 2021-2025

**12. Officers' reports****CM.116/21 Domestic Animal Management Plan**

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**Discussion**

1. The review of the DAMP represents an opportunity to ensure that the actions within the DAMP reflect the expectations of the Nillumbik Community. The existing DAMP 2017-2021 had a strong focus on assisting animals and their owners during times of hardship, tourism opportunities and pet programs that benefit our aging population and people with disabilities. These activities will continue, with a focus on the impact of pets in domestic violence situations and homelessness.
2. In April 2021 Chatterbox were commissioned to undertake Community Engagement for the development of the new DAMP 2021-2025.
3. The format and content of a DAMP is set by the State Government in order to ensure consistency across the state of Victoria. A DAMP must respond to the following key areas:
  - Training of authorised officers
  - Programs to promote and encourage responsible ownership and compliance with legislation
  - Programs to address over-population rates and high euthanasiation rates.
  - Registration and identification
  - Nuisance
  - Dog attack
  - Dangerous, menacing and restricted breed dogs
  - Domestic animal business
  - Other matters
  - Annual review of plan and annual reporting.
4. 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 Cat Protection Society (CPS) and Save a Dog Scheme (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 Shire.

12. Officers' reports

CM.116/21 Domestic Animal Management Plan

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5. Following the completion of the initial engagement program through May and June 2021, officers have developed a draft DAMP 2021-2025. In addition to continuing programs already established under the current DAMP, the new DAMP will also consider:
- Encouraging responsible pet ownership in order to protect the health and welfare of other animals and wildlife and to minimise the potential of nuisance or harm to others.
  - Enhance the knowledge and provide the required tools for all Community Safety Officers to deliver best practice programs and services.
  - Gain better understand of dog and cat populations within Nillumbik Shire Council and redress circumstances of preventable euthanasia.
  - Increase Animal Registration, identification and compliance.
  - Ways to minimise the risk of dog attacks/rush in the community.
  - To ensure that declared dogs are identified and managed to minimise the risk to safety of residents and the broader community.
6. Key actions that have been included in the Draft DAMP following the engagement period include:
- Education about responsible pet ownership had the highest overall level of importance for the community in relation to Council's animal management services. Council will continue to encourage statutory compliance and promote responsible pet ownership. The Community Safety Team will develop Educational Programs on all aspects of responsible pet ownership as well as provide information sessions at local community centres, retirement villages, schools and other relevant groups.
  - A modernisation of the responsible pet ownership material including the development of short educational videos, whilst engaging with an animal behaviourist on promoting responsible pet ownership and help families transition to returning to school/work since the COVID-19 pandemic.
  - Review Council's animal management service which includes Local Laws provisions and existing S10A and S26 Orders made under the Act.
    - Section 10A Order "mandatory desexing of cats"
    - Section 26 Order of 'Exclusion of dogs on sporting ovals in Diamond Creek and Hurstbridge' to potentially include all sporting ovals within Nillumbik Shire Council.
    - Section 26 Order 'Dogs in public places'. This order requires dogs to be on leash in all public places, other than in designated areas where dogs are allowed off leash. It also requires owners/carers to ensure they have their dogs:
      - Under effective control at all times.
      - On leash within five 5 metres of playgrounds in pre-schools and childcare centres.

## 12. Officers' reports

**CM.116/21 Domestic Animal Management Plan**

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- Review of Section 26 order 'Cats are required to be securely confined during the hours of 7:30pm and 6am' to develop a strategy and policy on a 24 hour curfew for cats.
- Review Council's Local Laws to implement new provisions relating to barking dogs.
- Ensure authorised officers are appropriately trained to conduct their animal management duties. Officers will be required to hold a Certificate IV Animal control and Regulation, Certificate IV in Local Government (Regulatory Services) or similar. Planned training for Community Safety officers will including:
  - Industry Related Training
  - Good Governance Training
  - Occupational Health & Safety related training
  - Technical Skills.
- Address the overpopulation of unwanted cats and dogs while minimising euthanasia rates by:
  - Creating a proactive Cat Trapping Program in areas where wild cats are known to congregate. The program will take place 2 times each year and would include notifying residents in surrounding areas of an upcoming cat trapping program. This measure would be put in place to ensure cats are confined to an owner's property to reduce the amount of family cats being trapped.
  - A focus for Council to collaborate with Cat Protection Society (CPS) and Save a Dog Scheme to assist in the rehoming of unwanted domestic animals.
  - Educate the community about the ramifications of feeding cats not belonging to them and encourage cat trapping un-homed cats.
  - Educate and encourage community in the surrendering their unwanted animal in particular kittens and pups to be rehomed through suitable shelters.
  - Provide information on the harm caused by cats to wildlife.
- Continue to reunite lost and found cats and dogs to their owners when possible
  - In conjunction with CPS conduct two free microchipping days per year.
  - Provide SADS a set donation of each dog rehomed within the scheme.
- Reduce nuisance caused by cats and dogs by increasing street and park/reserve patrols. The aim is to educate and enforce when owners are not carrying a receptacle for the removal of dog excrement as well as educate about effective control and what is deemed a nuisance animal. There is a need to increase community awareness of programs that Council offer in relation to cat trapping and attending to complaints about nuisance dogs.
- Promote the benefits of desexing cats and dogs by supporting information prepared by the Australian Veterinary Association, Animal Welfare and the RSPCA.
- Minimise dog attacks and improve community awareness through procedures for reporting a dog attack or rush.

**12. Officers' reports****CM.116/21 Domestic Animal Management Plan**

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- Council has had an increase of 49.33% of cat registrations and a 44.65% increase of dog registrations in 4 years, however there is still a need to generate community awareness of the benefits of microchipping and registration of cats and dogs. Key messages of benefits of registration will include:
  - Facilities such as dog parks;
  - Pounds and Shelter facilities;
  - Reunification including individual registration tags and animal management officers to support the collect and return of stray animals to owners;
  - Free information booklets;
  - Pet Expos;
  - On-line Responsible Pet Ownership e-learning course;
  - Animal Management officers to attend to barking dog complaints, cat and dog trespassing complaints, park and street patrols, training courses and programs;
  - Animal Management officers are able to attend and audit Domestic Animal Businesses;
  - Dangerous and restricted breed dog management;
  - Education programs;
  - Evacuation and relief centres ;
  - Identifying locations where animals may have been left behind in the case of emergency;
  - Research in dog and cat welfare.
- To have a plan in place in case of an emergency, whether that be personal security, biosecurity or evacuation.
- Enhance community safety by reducing the number of dogs not under effective control in Councils off lead parks and reserves.
- Continue to provide assistance to venerable community members by caring for their animals free of charge and liaising with services such as VicPol, RSPCA, Shelters and Health Ability.
- Investigate the installation of dog excrement bag dispenses at local parks and walking trails.

**Related Council decisions**

7. 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*.
8. 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).*

## 12. Officers' reports

## CM.116/21 Domestic Animal Management Plan

- 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.*
- 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*



**12. Officers' reports**

**CM.116/21 Domestic Animal Management Plan**

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- 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..

**Options**

**Council plans and policies**

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

- Promote responsible pet ownership.

**Sustainability implications**

10. The Draft DAMP demonstrates Council's approach to ensure effective animal management and responsible pet ownership, are carried out in accountable manner that protects animal welfare, promotes education, responsible pet ownership and ways to reduce domestic animal impact on the environment, including Council controlled land and residential properties.

**Community engagement**

11. In April 2021 Chatterbox were commissioned to undertake Community Engagement of the DAMP. The engagement program has included the following responses:

- a) Input from an internal stakeholder working group comprising of Community Safety, Communications, Economic Development, Environment and Open Space.
- b) 523 x Surveys (online and hard copy versions)
- c) 8 popup sessions that have resulted in 189 x Voting Pod, 81 x Quick Poll, 52 x Dotmocracy, 13 x Creative Drawings and 10 Chat-board activities.
- d) Consultation and community engagement specifically focusing on the DAMP including an online survey on 'Participate Nillumbik' for all residents to complete and 8 x place-based pop up engagement sessions at the below locations:
  - St Andrews Market
  - Eltham Town Square
  - Hurstbridge Village
  - Diamond Creek Off-Leah Park
  - Diamond Creek Community Centre
  - Hurstbridge Dog Park
  - Lower Eltham Park
  - Hurstbridge Market
  - Aqueduct Trail, Research
  - Eltham North Adventure Park.
- e) Flyers distributed at Pop up sessions, local stores and Veterinarian Practices
- f) Correspondence was emailed directly to Community Groups
- g) A series of posts were placed on Facebook, Instagram, Twitter and LinkedIn encouraging participants.

## 12. Officers' reports

## CM.116/21 Domestic Animal Management Plan

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12. Key messages from the response to community consultation were:

- **Participants are a variety of ages:** All age groupings were represented although persons aged 35 to 49 years were particularly engaged. (156 surveys or 30.2%)
- **Participants live or work in Nillumbik:** 97.8% of participants reported living within the Shire and all areas were represented with the exception of Kinglake, Kinglake West and Strathewen. Participants from Eltham were particularly engaged (193 surveys or 42.9%)
- **Participants have a variety of relationships to cats and dogs in Nillumbik:** all relationship options were selected with the exception of Registered Domestic Animal Business, signalling participants have a variety of, and sometimes multiple, relationships to cats and dogs. The majority of participants are a dog and/or cat owner (395 or 76.0%) and many use local parks, reserves or playgrounds (299 or 57.5%). 101 (or 19.4% of) participants identified as a non-dog or cat owners.
- **Most participants have one or more dogs and some participants have one or more cats:** most participants, (365 or 89.2%) have one or more dogs and 138 (or 33.7%) have one or more cats. The majority of dog owners have one dog and the majority of cat owners have one cat.
- **Participants have owned pets for a range of timespans (less than 12 months to 10 years and over and the majority have been dog owners and/or cat owners for 10+ years)**
- **Some participants welcomed a new pet to their household during the 2019/20 pandemic:** the majority of participants (344 or 81.9%) did not welcome a new pet during the 2019/20 pandemic. Some participants did welcome a new pet for a range of reasons including: existing pet died, old or unwell; coincidence, already considering, planning or searching; animal needed a home or rescue dog; and for companionship.
- **The majority of participants agreed or strongly agreed that pets give comfort and support to many people and encourage social interaction:** most participants (496 or 95.9%) agreed that *pets give great comfort and support to many people in the community and they are more likely to talk to other people if they are with a dog* (379 or 73.3%). Mixed views were reported for *likelihood to become a dog/cat owner in the next two years or future*
- **The majority of participants (pet owners only) consistently agreed or strongly agreed that pets play an important and positive role in their life:** *pets are an important part of their family* (161 or 98.2%); *give them great comfort and support* (162 or 98.8%); *that they are likely to continue having a pet in their life* (154 or 93.9%); *they exercise more because they have a dog/pet* (124 or 76.1%); *and they are more likely to talk to more people because they have a dog* (127 or 78.4%)
- **The majority of participants reported desirable pet ownership behaviours (dogs) are always or often observed in their neighbourhood:** in particular, participants observed *dogs in public spaces who are friendly and well behaved* (424 or 82.2%), *dog owners who have their dog on a leash when they are meant to* (411 or 79.8%), *groups of dog owners socialising while their dogs play* (368 or 71.7%), *Dogs responding to owners' commands* (355 or 69.3% of participants),

## 12. Officers' reports

## CM.116/21 Domestic Animal Management Plan

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*dog owners picking up their dog's poo (350 or 68.0%), and dogs returning to their owners when called (332 or 64.8%)*

- **Many participants indicated dogs should be allowed on sporting fields, however mixed views were apparent:** many of the 506 participants who answered this question indicated **Yes** (254 or 50.2%), although many **No** (167 or 33%) and **Unsure** (85 or 16.8%) responses were also reported.
  - The reasoning behind **Yes** responses included: sporting fields are public spaces that can be shared with dogs and their owners who need spaces to exercise and socialise; sporting fields are flat, fenced spaces that are good and safe for dogs off-leash, particularly when dog designated spaces and parks are limited; and most dog owners do pick up dog poo on sporting fields, or they can use them provided they do pick up dog poo
  - The reasoning behind **No** responses included: dog owners do not pick up dog poo; it is unhygienic and creates health risks; and dogs dig the grounds and make holes in the surface
  - The reasoning behind **Unsure** responses included: dog owners do not pick up dog poo; sports fields are a good space for dog access; and dog owners are not fully responsible, may not supervise or have effective control
- **Many participants reported a few desirable and undesirable pet ownership behaviours involving cats in their neighbourhood:** in particular, participants observed cats being kept inside houses during the day/night (200 or 40.4%), cats outside at night (175 or 34.0%). In contrast, cats fighting other cats has been never or rarely observed (380 or 75.4%) and cats making loud noises has never or rarely been observed (365 or 72.0%)
- **The majority of survey and quick poll participants were supportive of the proposal for a 24-hour cat curfew in Nillumbik, although mixed views were evident:** just over half of participants indicated strong support (260 or 50.8%) and a further 80 (or 15.6%) indicated somewhat support (but they had some concerns). 60.0% of Quick poll participants indicated Support for the proposal.
  - The reasoning behind **Strongly support** responses included: cats are hunters, predators and instinctively kill native wildlife, birds and animals; cats are a nuisance, they poo in and disturb my gardens and upset my pets/birds; and cats roam and their movements are unrestricted and unpredictable
  - The reasoning behind **Somewhat support** responses included: not indoors exclusively, cats need some time outdoors for wellbeing and exercise; okay outside within own property, under supervision or on leash; and cats kill native wildlife, birds and animals
  - The reasoning behind **No opinion** responses included: not a cat owner
  - The reasoning behind **Somewhat oppose** responses included: not indoors exclusively, cats need some time outdoors for wellbeing and exercise; agree with current night curfew; and it is not reasonable or practical

## 12. Officers' reports

## CM.116/21 Domestic Animal Management Plan

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- The reasoning behind **Strongly oppose** responses included: cats are used to being outside and need time for fresh air, exercise, play and overall health and wellbeing; it is inhumane, unreasonable, excessive and unnatural, cats have a right to go outside; and my cat plays or stays on our property, doesn't disturb wildlife and is not a nuisance.
  - **The level of support for the proposal for a 24-hour cat curfew varied across areas (suburb, township and village):** stronger levels of support were evident for: Bend of Islands, Christmas Hills, Cottles Bridge, Hurstbridge, North Warrandyte, Research, Smiths Gully and St Andrews. These insights are based on low response levels for many areas and should be regarded indicative and not conclusive.
  - **The majority of participants were aware of Council's animal management services and related regulations prior to participating in the consultation:**
    - **Topics with highest overall level of awareness:** Victorian law requires dogs/cats to be registered with their local council (483 or 95.6%), Dog walkers are required to carry a poo bag (452 or 89.7%), Dog owners must have 'effective control' of dogs in off-leash areas (450 or 89.8%) and Difference between registering and microchipping a dog/cat (445 or 88.3%).
    - **Topics with lowest overall level of awareness:** Community Safety Officers inspect all Domestic Animal Businesses throughout the municipality every year (335 or 66.7% said No), Council provides a cat trap hire service (310 or 61.5% said No) and the Save a Dog Scheme (277 or 55.5% said No).
  - **The majority of survey and Dotmocracy participants aged 18 years and over indicated most of Council's animal management services are very important or important:**
    - **Services with highest overall level of importance:** education about responsible pet ownership, provide/maintain off-leash areas, respond to reports of nuisance dogs/cats, collect/return stray dogs/cats to owners, and Protect/enforce dog-free nature reserves/environmentally sensitive areas.
    - **Services with lowest overall level of importance:** Annual Pet Expo and Checking dog/cat registration via patrols or door-knocks.
  - **The majority of participants have not reported an animal-related issue to Council over the past two years. Of the 96 participants who had reported an animal-related issue over the past two years:**
    - Dog-related issues (64 or 66.7%) included: Nuisance barking dogs, night and daytime; Dogs off leash or not under effective control in public spaces; and Dog attacking my dog or wildlife.
    - Cat-related issues (24 or 25.0%) included: Cats outside at night, after curfew; Stray or roaming cats; and Feral or wild cats.
    - Pet or other animal-related issues (8 or 8.3%) included: Injured or sick animal (kangaroo, fox, and horse); and Injured wildlife.

**12. Officers' reports****CM.116/21 Domestic Animal Management Plan**

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**Innovation and continuous improvement**

13. Due to the COVID-19 pandemic new ways of connecting with the community were implemented, such as advertising the DAMP with QR codes to allow direct access to Participate Nillumbik.
14. In response to the community feedback received, the draft DAMP proposes a number of new initiatives including:
  - 24 hour Cat Curfew
  - Social media engagement
  - On-going education programs at school/retirement villages & 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**

15. Key stakeholders were targeted for in depth consultation including Cat Protection Society, Save a Dog Scheme and Veterinary Clinics through Nillumbik. Consultation included workshops with neighbouring Councils such as Banyule, Hume, Mornington and multiple rural councils. The Cat Protection Society and Save a Dog Scheme will have an ongoing involvement in implementing schemes related to Responsible Pet Ownership.

**Budget implications**

16. The review and development of the new DAMP has been run in house by staff from the Community Safety and Amenity department, Recreation and Leisure team along with support from Council's Legal Advisor. Chatterbox were appointed to assist with Community Engagement of the DAMP in line with the Local Law Review.

**Relevant law**

17. 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.
18. 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:
  - a) *Every Council must, in consultation with the Secretary prepare at four yearly intervals a Domestic Animal Management Plan.*
  - b) *A Domestic Animal Management Plan prepared by a Council must:*
    - i) *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*

## 12. Officers' reports

## CM.116/21 Domestic Animal Management Plan

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- ii) *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*
  - iii) *outline programs, services and strategies which the Council intends to pursue in its municipal district to:*
    - (1) *promote and encourage the responsible ownership and dogs and cats*
    - (2) *ensure that people comply with the Act, the regulations and any related legislation*
    - (3) *minimise the risk of attacks by dogs on people and animals*
    - (4) *address any over-population and high euthanasia rates for dogs and cats*
    - (5) *encourage the registration and identification of dogs and cats*
    - (6) *minimise the potential for dogs and cats to create a nuisance*
    - (7) *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.*
  - iv) *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*
  - v) *municipal district are desirable.*
  - vi) *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.*
  - vii) *provide for the periodic review of any program, service, strategy or review outlined under the plan.*
- c) *Every Council must:*
- i) *review its Domestic Animal Management Plan annually and if appropriate amend the plan*
  - ii) *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*
  - iii) *publish an evaluation of its implementation of the plan in its annual report.*
19. 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.

**12. Officers' reports**

**CM.116/21 Domestic Animal Management Plan**

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**Regional, state and national plans and policies**

20. Not applicable.

**Conflicts of interest**

21. 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.

**12. Officers' reports**

**CM.116/21      Domestic Animal Management Plan**

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**12. Officers' reports****CM.117/21 Intention to Declare a Special Rate Renewal for the Diamond Creek Business Precinct**

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**Distribution: Public****Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author: Rania Mullins, Economic Development and Tourism Officer****Summary**

This report seeks to inform Councillors of the recent request from the Diamond Creek Traders Association to commence the process to declare a Special Rate for Diamond Creek for 2022-2027 for the purposes of marketing, promotion and development of the Diamond Creek business precinct.

A Special Rate for the purposes of marketing, promotion and development of Diamond Creek has been in place since 1 July 2017. The current Special Rate expires on 30 June 2022.

Diamond Creek Traders Association have formally requested that Council commence the statutory process to renew the Special Rate for another 5 year period (**Attachment 1**).

The funds collected from a Special Rate assist precincts/shopping centres to market and promote the individual businesses and the precinct/shopping centre as a whole, to attract new visitors and customers. Over the past five years the Diamond Creek Special Rate has contributed to improving centre branding, social media presence and raised customer awareness.

If Council chooses to commence the statutory process the next step is to publicly advertise Council's Intention to Declare a Special Rate and to invite submissions from owners and businesses liable to pay the proposed Special Rate. Any submissions may be heard at the Planning and Consultation Committee meeting on 16 November 2021, following which, Council would resolve to declare, modify or abandon the Special Rate at a Council meeting to be held in early 2022.

**Recommendation****That Council:**




1. Gives notice of intention to declare a Special Rate for Diamond Creek Business Precinct.
2. Advertises the required Public Notice of Council's intention to declare the Special Rate Scheme for a minimum of 28 days as required by section 163 *Local Government Act 1989*.
3. Sends individual letters with a copy of the public notice to all property owners and property occupiers who will be made liable for the Special Rate.
4. Hears and considers submissions at its Planning and Consultation Committee meeting to be held on 16 November 2021.

## 12. Officers' reports

### CM.117/21 Intention to Declare a Special Rate Renewal for the Diamond Creek Business Precinct

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#### Attachments

- 1  Letter from the Diamond Creek Traders Association requesting Council commence statutory process - Special Rate Renewal 2022-2027.
- 2  Diamond Creek Traders Association Promotional Flyer for Special Rate Renewal
- 3  Proposed Map of Diamond Creek Business Precinct 2022-2026

#### Discussion

1. A Special Rate proposal involves a proportional or fixed rate levied on properties included in the Special Rate area. The Special Rate enables the implementation of an ongoing program and it will fund the ongoing engagement and paid employment of a Centre Marketing Manager/Coordinator or Officer.
2. The current Special Rate for Diamond Creek commenced on 1 July 2017 for a period of five years and is due to expire on 30 June 2022. The Special Rate has been successful in funding a range of promotional and business development activities over the past five years.
3. The Diamond Creek Traders Association have formally requested Council to renew the Special Rate for another five years, commencing 1 July 2022 (**Attachments 1 and 2**) for the proposed Special Rate area (**Attachment 3**).
4. The (137 properties) businesses affected by the proposed 2022 - 2027 Special Rate renewal reflects the existing 2017 - 2022 Special Rate (137 properties).
5. This Special Rate would raise an amount of \$120,000 in year one of the agreement based on the total of the levies collected. This charge is calculated based on the contribution of each property depending on the Capital Improved Value (CIV) of the property and is increased by CPI each year.

#### Related Council decisions

6. A Special Rate was last declared for Diamond Creek at the Ordinary Council Meeting held 27 March 2018.

#### Options

7. Special Rates for marketing, promotion and business development are an important strategy for retail centres such as Diamond Creek to revitalise and maintain marketing activities.
8. Without a Special Rate, traders groups must seek funding from external bodies and/or Council. Alternatively, they could resort to a 'pay to play' model for marketing and promotion activities for the precinct.
9. As part of a renewed Special Rate Agreement, clear key performance indicators will be stated and templates created for reporting, to ensure the annual reporting is timely, simple and effective.

**12. Officers' reports**

**CM.117/21 Intention to Declare a Special Rate Renewal for the Diamond Creek Business Precinct**

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**Council plans and policies**

10. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Identify new economic development opportunities and improve amenity for our villages in conjunction with key stakeholders including residents.

**Sustainability implications**

11. Without a Special Rate the Diamond Creek Traders Association would be required to generate their own funds for marketing activities.
12. Without the Special Rate in place, traders may look to Council to fund marketing and promotional campaigns on their behalf/ no funding is currently allocated or available for such activities.

**Community engagement**

13. Engagement with the Diamond Creek Traders Association about the Special Rate renewal process began in December 2020 and is ongoing as part of this process.
14. Affected businesses will have the opportunity to make a submission on the proposed Special Rate following the Public Notice being advertised as per the statutory process.

**Innovation and continuous improvement**

15. Council has offered specialist advice in regards to best practice approaches the Association could consider.
16. This is based on decisions made in other business main streets throughout the State where a Special Rate was either declared, modified or abandoned.
17. An alternative submission option will be made available to affected property owners and occupiers on Council's website via a simple online form.
18. The Special Rate intention to declare will be shared via Council's Business in Nillumbik e-newsletter and through the Business in Nillumbik Facebook group to raise awareness of the process and inviting submissions from affected parties.

**Collaboration**

19. The Special Rate encourages collaboration between Traders Associations and Council and provides opportunities for partnerships.
20. Monthly reminders have been sent to the Diamond Creek Traders Association, in person meetings with the Marketing Coordinator in March 2021 and regular sharing of templates, other Special Rate examples and information from Mainstreet Australia.

**Budget implications**

21. There will be no impact on Council's budget. The funds collected through the Special Rate are levied by Council and then used to fund the Diamond Creek Traders Association for its expenditure on marketing and promotion for the Diamond Creek business precinct.

12. Officers' reports

CM.117/21 Intention to Declare a Special Rate Renewal for the Diamond Creek Business Precinct

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**Relevant law**

22. A Special Rate may be declared by Council under section 163 of the *Local Government Act 1989* (the Act). In declaring a Special Rate, Council must consider:
  - a. That the proposal relates to the performance of a function authorised by the Act.
  - b. That there will be a special benefit to the persons liable to pay the Special Rate.
  - c. That there is a proportional distribution of the rate amongst those persons liable to pay the Special Rate.
  - d. The total cost of the Special Rate including the annual amount, which the Chamber has budgeted to spend on various marketing and other activities.
23. The Act requires Council to give public notice of a proposed declaration of the special charge and write to all people who will be liable to contribute. The proposed declaration for this special charge is being prepared in accordance with the Act.
24. Owners (or occupiers who would pay the charge as a condition of their lease) may object to the proposal within 28 days. If objections are received from more than fifty percent of persons liable, Council will be prevented from making the declaration and the Special Rate cannot proceed.

**Regional, state and national plans and policies**

25. Not applicable.

**Conflicts of interest**

26. 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.

**12. Officers' reports****CM.118/21 Acknowledgement of Country**

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**Distribution: Public****Manager: Corrienne Nichols, Executive Manager Communities****Author: Nichole Johnson, Manager Community Partnerships  
Lauren Treby, Coordinator Social Planning and Equity****Summary**

A new Acknowledgement of Country provides a powerful opportunity for truth-telling, broader education about the First Nations history of Nillumbik and to strengthen our ongoing commitment to Reconciliation.

An updated Acknowledgement of Country (including a short and long version) has been drafted in consultation with Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation.

<b>Recommendation</b>
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**That Council:**

1. Endorses the updated short and long Acknowledgements of Country prepared in consultation with Wurundjeri Woi-wurrung Elders for use in Council meetings, events, publications and communications.
2. Notes the Acknowledgement of Country Guide in **Attachment 1**.

**Attachments**

- 1  Acknowledgement of Country Guide

**Discussion**

1. Nillumbik Shire Council has a long standing commitment to Reconciliation between First Nations People and other Australians, recognising the need for an inclusive inter-related community.
2. If a Traditional Owner is not available to provide a Welcome to Country, an Acknowledgement of Country can be delivered instead.
3. An Acknowledgement of Country is usually delivered as part of the welcome at the start of meetings and events.
4. An Acknowledgement of Country will be delivered at significant/large internal meetings or meetings with external participants' e.g. advisory committees, services networks, Council Meetings etc.
5. An Acknowledgment of Country should be included in Council publications and communications.
6. Officers sought advice from Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation over two monthly Cultural Consultation meetings. Wurundjeri Woi-wurrung Elders asked Council to use strong language in an updated Acknowledgement of Country.

**12. Officers' reports****CM.118/21 Acknowledgement of Country**

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7. Traditional Owners noted that Council must begin to think about how powerful language can be and that truth-telling is high on the agenda with the recent establishment of the Aboriginal-led Yoo-rrook Justice Commission.

**Related Council decisions**

8. Not applicable.

**Options****9. Acknowledgement of Country - short version**

We acknowledge the Wurundjeri Woi-wurrung people as the Traditional Owners of the Country on which Nillumbik is located, we pay our respects to Elders past, present and future, and extend that respect to all First Nations People. We respect the enduring strength of the Wurundjeri Woi-wurrung and acknowledge that sovereignty was never ceded.

**10. Acknowledgement of Country - long version**

Nillumbik Shire Council respectfully acknowledges the Wurundjeri Woi-wurrung people as the Traditional Owners of the Country on which Nillumbik is located, and we value the significance of the Wurundjeri people's history as essential to the unique character of the shire. We pay tribute to all First Nations People living in Nillumbik, give respect to Elders past, present and future, and extend that respect to all First Nations People.

We respect the enduring strength of the Wurundjeri Woi-wurrung and acknowledge the ongoing impacts of past trauma and injustices from European invasion, massacres and genocide committed against First Nations People. We acknowledge that sovereignty was never ceded.

Wurundjeri Woi-wurrung people hold a deep and ongoing connection to this place. We value the distinctive place of our First Nations People in both Nillumbik and Australia's identity; from their cultural heritage and care of the land and waterways, to their ongoing contributions in many fields including academia, agriculture, art, economics, law, sport and politics.

11. Acknowledgement of Country Guide in **Attachment 1** provides:
- background information and guidance for delivering an Acknowledgement of Country
  - how and when to request a Welcome to Country ceremony be performed by Traditional Owners
  - how and when to use a short Acknowledgment of Country versus a long Acknowledgment of Country.
12. The short version of the Acknowledgment of Country can be used in written format on small Council documents, on email signatures and verbally to begin small internal meetings.
13. A long version of the Acknowledgment of Country can be used in public speeches, to begin significant meetings and in larger Council publications.
14. For some strategic publications officers may develop a more tailored Acknowledgement of Country of via consultation with Wurundjeri Woi-wurrung.

**12. Officers' reports**

**CM.118/21 Acknowledgement of Country**

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15. Upon endorsement, Acknowledgment of Country guide will be shared with all staff and existing communications updated accordingly.

**Council plans and policies**

16. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Strengthen the focus on social inclusion, building social capital and connection within communities.
  - To develop a reconciliation plan between Council and the Wurundjeri Woi-wurrung community as traditional owners, and strengthen practices to ensure the ongoing support of Aboriginal and Torres Strait Islander people.

**Sustainability implications**

17. Not applicable.

**Community engagement**

18. Traditional Owners, the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation have endorsed the two options providing, with a preference for Council to use the longer version when possible.

**Innovation and continuous improvement**

19. Not applicable.

**Collaboration**

20. Not applicable.

**Budget implications**

21. Not applicable.

**Relevant law**

22. This report supports Council's responsibility to the Victorian Charter of Human Rights and Responsibilities Act 2006 (The Charter), which sets out the basic rights, freedoms and responsibilities for all people in Victoria. The Charter aims to improve service delivery and ensure transparent decision making by promoting a human rights culture across state and local government departments and agencies, and people delivering services on behalf of government across Victoria.

**Regional, state and national plans and policies**

23. Not applicable.

**Conflicts of interest**

24. 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.

**12. Officers' reports**

**CM.118/21 Acknowledgement of Country**

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**12. Officers' reports****CM.119/21      Response to public exhibition of Planning Scheme Amendment C133**

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**Distribution:    Public****Manager:        Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author:         Julie Paget, Strategic Planner****Summary**

The purpose of this report is to update Council in regard to the outcomes of exhibition of Amendment C133 (the Amendment) which seeks to amend a Heritage Overlay (HO147) at 13 Park West Road, Eltham in order to protect a structure known as the Alan Marshall Bungalow and surrounds.

Amendment C133 amends Planning Scheme Map No 13 to show the correct location of heritage overlay (HO147) which will now cover the structure (including internal controls), a 5m curtilage and a pathway to Park West Road, Eltham.

The Amendment was placed on exhibition pursuant to the requirements of *the Planning and Environment Act 1987* (the Act), from 10 June to 12 July 2021.

One supporting submission has been received during the exhibition period (**Attachment 1**).

Where a submission raises an issue with a proposed amendment, the statutory amendment process provides for Council to request that the Minister for Planning appoint an independent planning panel to consider the amendment. In this instance, given the single submission is in support of the Amendment and proposes no changes, it is recommended a planning panel is not required.

Should Council resolve to adopt Amendment C133, the amendment must then be submitted to the Minister for Planning within 10 business days for approval.

<b>Recommendation</b>
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**That Council:**

1. Resolves to adopt the Amendment as exhibited and send the amendment to the Minister for Planning requesting that the Minister approve Amendment C133;
2. Requests officers to update the Participate Nillumbik webpage and notify the submitter in regard to Council's decision.

**Attachments**

- 1  Submission from Eltham District Historical Society regarding Amendment C133

**Discussion**

1. Alan Marshall is a famous Australian author who resided in a modest bungalow at the rear of (what is now known as) 13 Park West Road, Eltham between 1955 and 1972. His works include *I Can Jump Puddles* (1955), *This is the Grass* (1962) and *In Mine Own Heart* (1963). He also wrote *Pioneers and Painters: One Hundred Years of Eltham and its Shire* in 1971. The bungalow was a focal point for many visitors including those from overseas.

**12. Officers' reports****CM.119/21 Response to public exhibition of Planning Scheme Amendment C133**

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2. In the original heritage citation which was undertaken as part of the Shire of Eltham Heritage Study in 1992, the bungalow itself and the surrounds to a radius of 15m were considered to be significant.
3. The original heritage overlay (HO147) was introduced into the Nillumbik Planning Scheme through Amendment C3 in 2001.
4. A historical mapping error has resulted in a Heritage Overlay (HO147) being incorrectly applied, with only a small portion of the bungalow covered, and a development application has been received for the site.
5. Council sought an interim heritage overlay (HO268), through Amendment C132 during the caretaker period, to cover the remainder of the bungalow and a 5m curtilage to the south and east of the structure which was approved by the Minister for Planning on 18 December 2020.
6. The interim planning controls applied until June 2021 and were extended through Amendment C136 (under identical terms) until June 2022. This extension allows Council time to process Amendment C133 to apply new planning controls on a permanent basis.
7. Amendment C133 amends Heritage Overlay (HO147) at 13 Park West Road, Eltham in order to provide permanent protection for the correct location of the Alan Marshall Bungalow and surrounds.

**Exhibition**

8. The Amendment was on exhibition from 10 June to 12 July 2021 in full accordance with the relevant statutory requirements. As part of this, owners and occupiers of the properties affected by the amendment, were directly notified of the amendment. Further, notice of the amendment was provided on Council's Participate Nillumbik website.
9. One supporting submission has been received to the amendment.

**Related Council decisions**

10. At the Council meeting of 25 February 2021 Council resolved to:
  - *Request the Minister for Planning, under Section 8A of the Planning and Environment Act 1987, to authorise the preparation of Amendment C133 to the Nillumbik Shire Planning Scheme; and*
  - *Undertake public exhibition of the proposed planning scheme amendment which will apply permanent planning controls through the use of the heritage overlay on the structure known as the Alan Marshall bungalow and surrounds, should authorisation be granted.*

**Options**

11. When a Council has one or more submissions which raise issue with an amendment and the Council wishes to still pursue the amendment, the next statutory step in the amendment process is for the Council to request the Minister for Planning appoint a Planning Panel to consider the amendment and the submission(s).

**12. Officers' reports**

**CM.119/21 Response to public exhibition of Planning Scheme Amendment C133**

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12. If no submissions that raise issue with the Amendment are received, Council may resolve to adopt the Amendment and request the Minister for Planning approve the amendment (without convening a Panel).
13. It is the officers' view that the appointment of a planning panel will not be necessary given the straight forward nature of the amendment and given no opposing submissions have been received.

**Council plans and policies**

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

**Sustainability implications**

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

**Community engagement**

17. Amendment C133 was placed on exhibition pursuant to the requirements of the Planning and Environment Act 1987 (the Act) on Thursday 10 June 2021 and ran until 12 July 2021.
18. A range of communication channels were used including:
  - Social media posts
  - Media release
  - Government Gazette notice
  - Herald Sun public notice
  - Participate Nillumbik [www.participate.nillumbik.vic.gov.au/amendment-c133](http://www.participate.nillumbik.vic.gov.au/amendment-c133)
  - DELWP amendment website [delwp.vic.gov.au/public-inspection](http://delwp.vic.gov.au/public-inspection).
19. In addition, individual notification was provided to Prescribed Ministers (as per Section 19(1(a) and (c)) of the Planning and Environment Act) along with the owner of the site and 14 residents and owners adjoined to the site.
20. One supporting submission has been received (**Attachment 1**).

**Innovation and continuous improvement**

21. Not applicable.

**12. Officers' reports**

**CM.119/21 Response to public exhibition of Planning Scheme Amendment C133**

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**Collaboration**

22. Council officers have been proactively liaising with the Department of Environment, Land, Water and Planning to prepare amendment material to the department's satisfaction.

**Budget implications**

23. Costs associated with this amendment will be funded from the planning scheme amendment budget allocation for the 20/21 and 21/22 financial years.

**Relevant law**

24. *Planning and Environment Act 1987* (the Act).

**Regional, state and national plans and policies**

25. Plan Melbourne (2017-2050) Outcome 4.

- Policy 4.4.1 Recognise the value of heritage when managing growth and change.
- With all three levels of government sharing responsibility for protecting Melbourne's post settlement cultural heritage, decision-making must be consistent and credible and be based on clear and widely accepted heritage conservation principles and practices.

**Conflicts of interest**

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

**12. Officers' reports**

**CM.120/21 Kangaroo Ground War Memorial Park Draft Management Plan for Council endorsement for public exhibition**

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**Distribution: Public**

**Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety**

**Author: Andrew Feeney, Senior Urban Designer**

**Summary**

Council endorsement is sought to exhibit a Draft Management Plan that has been prepared for the Kangaroo Ground War Memorial Park.

The Draft Management Plan identifies a range of capital expenditure park improvement works that would rectify, restore and enhance the existing conditions that are essential to the existing character and function of the park.

The Draft Management Plan also identifies an appropriate operational expenditure standard of annual park landscape maintenance.

Cost estimates for the capital expenditure works and an estimate for the operational expenditure are provided in the Draft Management Plan, and would need to be allocated in Council budgets for delivery according to the order of their identified priority.

The Draft Management Plan outlines the separate Governance Project that is being led by Community Partnerships department.

In addition, the Draft Management Plan outlines how the governance plan will also address governance matters directly relating to park improvement works that are outlined in the Management Plan, as well as park matters that fall outside the Management Plan's scope.

The intent and scope of both the Draft Management Plan and the separate governance project are broadly supported by key park stakeholders who were briefed on the management and government plan approach since the last Councillor Briefing. The exhibition of the Draft Management Plan will provide opportunity for stakeholders and the community to provide feedback that will be considered in finalising it.

<b>Recommendation</b>
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**That Council:**

1. Endorses the Kangaroo Ground War Memorial Park Draft Management Plan, 24 August 2021 (**Attachment 1**) for public exhibition to seek feedback, via Participate Nillumbik, for a period of twenty-eight days, from Monday 30 August to Sunday 26 September 2021, inclusive; and
2. Hears submissions received to exhibition of the Draft Management Plan at the November Planning and Consultation Committee Meeting.

**12. Officers' reports****CM.120/21 Kangaroo Ground War Memorial Park Draft Management Plan for Council endorsement for public exhibition**

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**Attachments**

- 1  Kangaroo Ground War Memorial Park Draft Management Plan 24 August 2021
- 2  Kangaroo Ground War Memorial Park Concept (Draft 16 September 2020. Subject to changes resolved at OCM 15 September 2020)

**Discussion**Background

1. The Draft Management Plan (**Attachment 1**) has been prepared in lieu of developing a master plan from the Concept that was endorsed with changes (**Attachment 2**) at the Ordinary Council Meeting held 15 September 2020.
2. Officers sought feedback from Councillors earlier this year. Officers understand that Council generally considered the endorsed Concept to exceed Councillor expectations in regard to the degree of change proposed, and level of investment required for the park.
3. An initial Draft Management Plan was prepared outlining a practical road map for maintaining and enhancing the existing essential functions and character of the park with minimum change and moderate investment, and presented at a Councillor briefing on 15 June 2021.
4. An outline of a separate governance project that was identified to be led by Community Partnerships to address a range of governance matters concerning the park was also presented at the 15 June briefing.
5. Officers understand Council to be generally supportive of the scope and approach of the initial Draft Management Plan and the outline of the separate governance project. Officers also understand Council to generally support key park stakeholders and their interest who were involved in the master plan project and the need to update these key stakeholders.
6. Limited material changes were identified to the initial draft management plan presented at the Councillor briefing. These included exclusion of an alternate park access road investigation from the Draft Management Plan (to be undertaken separately and subject to an allocated separate budget) and removal of the black colour paint finish, identified for the treatment of the fire spotter's cabin atop the war memorial tower, from the Draft Management Plan.
7. Officers met with key park stakeholders on 14 July 2021 to brief them on the evolution of the Management Plan from the original Concept and Master Plan and the general approach and key capital expenditure improvement works (as carried over from the adopted Concept) that would make up the Draft Management Plan and governance plan projects. Stakeholders were generally very supportive of the approach and scope of the proposed Management Plan. They were also very supportive of the separate governance project and confirmed their interest in participating in it.

12. Officers' reports

**CM.120/21 Kangaroo Ground War Memorial Park Draft Management Plan for Council endorsement for public exhibition**

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Draft Management Plan

8. The Draft Management Plan is prepared to enable Council to adopt a coordinated approach to asset management based on maintaining the existing essential functions and character of the park with minimum change and moderate investment.
9. The Draft Management Plan identifies and outlines a range of capital expenditure improvement works that would rectify, restore and enhance the existing conditions that are essential to the existing character and function of park, and operational expenditure improvement work in the form of an appropriate standard of annual landscape maintenance for the park.
10. Key capital expenditure improvement works outlined in the Draft Management Plan include:
  - a new pavement threshold to the western area of the park and DDA-compliant access pathway to the Moor-rul viewing platform;
  - removal of any redundant infrastructures within the foyer of the war memorial tower and painting of the fire spotter's cabin to reduce its visual prominence;
  - renovation of the stone caretaker's cottage for a use to be determined through the governance project;
  - cypress tree removal and replacement tree planting;
  - removal of existing stone retaining wall and rosemary hedge around war memorial tower base, and reinstatement of lawn and stone edging in manner authentic to heritage;
  - a Memorial Walk (subject to discontinuance of existing park road and the provision of a new alternate park entry and road) comprising use of part of the existing park road, and new gardens incorporating curated memorials;
  - new Memorial Gardens within the vicinity of the war memorial tower incorporating memorials including heritage significance palm plantings and the Lone Pine tree;
  - park sign;
  - interpretative signs at key features;
  - interpretative display material at key features including Moor-rul viewing platform and war memorial tower foyer; and
  - replacement bench seating and picnic tables.
11. The operational expenditure improvement work comprises an increase in the standard of annual park landscape maintenance, from Council's existing 'Amenity' standard to 'Priority sites' standard, in recognition of the park's cultural and heritage value, and to enable the park to be presentable and fit for visitation throughout the year, especially at memorial service times.
12. All of the capital expenditure improvement works will require a project budget to deliver the design, documentation, approvals and construction phases of work as necessary to realise the improvements as part of the implementation of the management plan.

12. Officers' reports

**CM.120/21 Kangaroo Ground War Memorial Park Draft Management Plan for Council endorsement for public exhibition**

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13. Project costs for the delivery of each of the capital expenditure improvement works are estimated and an operational expenditure annual budget for the standard of park landscape maintenance nominated is provided, as are priorities for the implementation of the capital and operational expenditure improvement work.
14. All of the capital expenditure improvement works will need to be allocated in Council capital works budgets for their delivery. Adoption of the standard of annual landscape maintenance identified in the management plan will need to be factored in Council's operational expenditure and programming.
15. The Draft Management Plan and its component capital and operational expenditure improvement works will need to be implemented within the context of the governance system that is being developed for the park with key park stakeholders as part of a separate Governance Project led by Community Partnerships.

Governance

16. The Draft Management Plan outlines the separate governance project that Community Partnerships department are leading with key park stakeholders to develop a governance plan for the park. The Draft management Plan indicates that the governance plan will:
  - i. Establish a governance system for the park, that:
    - identifies a suitable governance model;
    - outlines a Capability that can be established within Nillumbik Shire Council to enable implementation of the governance model with defined roles, responsibilities and resources of council;
    - defines the status, role and agency of stakeholders, and
    - establishes an agreed set of place values upon which all park decisions (including decisions required in the implementation of the management plan and delivery of the park improvements) are based.
  - ii. Outline governance projects for governance matters directly related to improvement works outlined in the Draft Management Plan, and on which the implementation of the improvement works are contingent upon, for example, agreement on what Interpretive Display Material is most appropriate to be displayed in the Moor-rul viewing platform display cabinets that are currently without any interpretive display material.
  - iii. Outline governance projects for park matters that fall outside the park improvements outlined in the Draft Management Plan, for example, hosting of memorial services.
17. An inception stakeholder meeting in regard to the governance project was held on 4 August in advancing the future governance framework for the Park.



12. Officers' reports

CM.120/21 Kangaroo Ground War Memorial Park Draft Management Plan for Council endorsement for public exhibition

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18. Key park stakeholders identified to participate in the governance project are listed below.
- Montmorency-Eltham RSL Sub Branch
  - Friends of Kangaroo Ground War Memorial Park Inc.
  - Nillumbik Reconciliation Group
  - Friends of Moor-rul Grasslands
  - Andrew Ross Museum
  - Yarra Plenty Regional Library
  - Yarra Plenty Heritage Group
  - Eltham District Historical Society
  - CFA
  - Victorian Police.

**Related Council decisions**

19. None pertaining to the Draft Management Plan.
20. Regarding the endorsed Concept (and master plan project the management plan project replaces), at its meeting on 15 September 2020, it was resolved that Council:
1. *Endorses the Concept (Attachment 1) [Attachment 2 of this briefing report] as a formative product of the Master Plan project subject to the following changes:*
    - a) *Retention of the Moor-rul Viewing Platform*
    - b) *Improved viewing options and continual use of the Moor-rul Viewing Platform as site to display information.*
    - c) *No reference to removal of fire spotter cabin.*
  2. *Endorses the Concept subject to the above changes (Attachment 1) [Attachment 2 of this briefing report] being made available on Council's Participate Nillumbik website, for information only (along with information about the project's next steps including public consultation to obtain feedback on a Draft Master Plan).*
  3. *Endorses Officers to proceed with the Master Plan phase of the project, based on the Concept subject to the above changes (Attachment 1) [Attachment 2 of this briefing report], including:*
    - a) *Preparing a Draft Master Plan for public review, and*
    - b) *Completing the Master Plan for adoption at a future Council Meeting.*

**Options**

21. None pertaining to the Draft Management Plan.

**12. Officers' reports**

**CM.120/21 Kangaroo Ground War Memorial Park Draft Management Plan for Council endorsement for public exhibition**

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**Council plans and policies**

22. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Improve the appearance of public spaces.

**Sustainability implications**

23. None pertaining to the Draft Management Plan.

**Community engagement**

24. Following the Councillor briefing on 15 June 2021, a project page outlining the management plan project replaced the master plan project page and 'closed the loop' with community on the master plan project (and encompassing endorsed Concept).
25. Key park stakeholders who had been involved in the master plan project attended a briefing by officers on the management plan and governance plan projects on 14 July 2021, and were generally supportive of the new direction of this project.
26. Subject to Council endorsement of the Draft Management Plan (**Attachment 1**), public exhibition for the purposes of obtaining feedback, via Participate Nillumbik, for twenty-eight days, from Monday 30 August to Sunday 26 September 2021, inclusive will be undertaken.

**Innovation and continuous improvement**

27. Not applicable.

**Collaboration**

28. Not applicable.

**Budget implications**

29. The Draft Management Plan provides capital expenditure (CAPEX) project cost estimates for the works defined in the management plan and an annual operational expenditure (OPEX) budget estimate for the standard of park landscape maintenance nominated. The Draft Management Plan excludes any allowances for a new park access road that is subject to investigation and outside the scope of the management plan.
30. The Draft Management Plan allocates project cost estimates for each individual work item defined, however, works may be undertaken individually or collectively depending on the nature of the works and their identified priorities, subject to funding.
31. The total project cost of all CAPEX works identified in the Draft Management Plan amount to an estimated \$1,300,000 (+/- 20%), rounded. The endorsed Concept (that included a new park access road that is not included in the Draft Management Plan costing) was estimated at \$3,600,000 (+/- 20%), rounded.
32. The estimated budget for OPEX park landscape maintenance to an improved standard of park maintenance (from the existing 'Amenity' standard to a 'Priority sites' standard) is \$47,000 p.a., rounded. This represents an increase of \$30,840 p.a. over the existing maintenance budget of \$16,160 p.a.

**12. Officers' reports**

**CM.120/21 Kangaroo Ground War Memorial Park Draft Management Plan for Council endorsement for public exhibition**

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33. The Draft Management Plan makes some allowances for items that need to be determined through the separate governance project, such as the Interpretative Display Material in the Moor-rul viewing platform and provision for some memorials within the Memorial Walk gardens and Memorial Gardens, however, these estimates will need confirmation on development of the curatorial approach to these types of items through the separate governance project.

**Relevant law**

34. Not applicable.

**Regional, state and national plans and policies**

35. Not applicable.

**Conflicts of interest**

36. No officers involved in the preparation of this report have a conflict of interest.

**12. Officers' reports**

**CM.120/21 Kangaroo Ground War Memorial Park Draft Management Plan for Council endorsement for public exhibition**

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**12. Officers' reports**

**CM.121/21      Planning Scheme Amendment C140 to apply the Heritage Overlay to 1080 Heigelberg-Kinglake Road, Hurstbridge**

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**Distribution:    Public**

**Manager:       Rosa Zouzoulas, Executive Manager Planning and Community Safety**

**Author:         Leigh Northwood, Strategic Planning Lead**

**Summary**

1080 Heidelberg-Kinglake Road, Hurstbridge also known as 'Fermanagh' is a property subject to a current planning permit application which proposes additions to the dwelling that make substantial changes to the façade of the building.

The property was included in Council's Stage A Heritage Review adopted at Council's Meeting 29 June 2021 for application of the Heritage Overlay (HO), noting a future amendment to apply the HO would not take place until Stage B Heritage Review is completed in late 2021.

Given the planning permit application, officers have sought approval (under delegation) from the Minister for Planning for Amendment C139 to introduce the HO to 1080 Heidelberg-Kinglake Road on an interim basis pursuant to Section 20(4) of the *Planning & Environment Act 1987* providing protection for the property and allowing Council time to seek approval and progress a further planning scheme amendment (C140) to introduce the HO permanently.

Approval is required from Council to allow officers to seek authorisation from the Minister for Planning under Section 8A of the *Planning & Environment Act 1987* for preparation of Amendment C140 to the Nillumbik Planning Scheme to apply the Heritage Overlay to 1080 Heidelberg-Kinglake Road on a permanent basis.

Public exhibition of the Amendment C140 would be undertaken pursuant to the *Planning & Environment Act* should authorisation to apply the permanent control be granted.

<b>Recommendation</b>
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**That Council:**





1. Notes Amendment C139 requested under delegation pursuant to Section 20(4) of the *Planning & Environment Act 1987* to seek application of the Heritage Overlay on an interim basis to 1080 Heidelberg-Kinglake Road, Hurstbridge;
2. Requests the Minister for Planning, under Section 8A of the *Planning and Environment Act 1987*, to authorise the preparation of Amendment C140 to the Nillumbik Shire Planning Scheme; and
3. Undertakes public exhibition of Amendment C140 which will apply permanent planning controls through the use of the heritage overlay should authorisation be granted.

## 12. Officers' reports

### CM.121/21 Planning Scheme Amendment C140 to apply the Heritage Overlay to 1080 Heigelberg-Kinglake Road, Hurstbridge

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#### Attachments

- 1  Citation
- 2  Amendment C140 Explanatory Report
- 3  Amendment C140 Instruction Sheet
- 4  Amendment C140 Planning Scheme Map

#### Discussion

1. A planning permit application has been received for 1080 Heidelberg-Kinglake Road, Hurstbridge known as 'Fermanagh' which upon review has alerted Council officers to proposed additions to the dwelling that make substantial changes to the façade of the existing dwelling.
2. Council officers under delegation have sought authorisation from Minister pursuant to Section 20(4) of the *Planning and Environment Act 1987* for the Minister to apply an interim heritage overlay to the property through Amendment C139. If needed, the interim planning controls can be extended.
3. This allows immediate protection for the property, and subject to authorisation from the Minister, allows council to prepare and undertake a full amendment process including exhibition and potentially panel to apply the HO permanently (the subject of this report).
4. The citation for the site identifies the property is of local historic, aesthetic and associative significance to the Shire of Nillumbik (refer to **Attachment 1** Citation). Fermanagh is noted of historical significance for its ability to demonstrate the manner in which land in the Nillumbik area was subdivided and used for small agricultural pursuits. It illustrates the early period of development of the Hurstbridge township, which accelerated due to the opening of the railway line in 1912. 'Fermanagh' provides tangible evidence of its association with orcharding in Hurstbridge, which was the main agricultural industry in the Diamond Valley region from the 1880s to the 1930s, and with locally notable orchardists the Burke family. The Burke family lived at 'Fermanagh' for over 100 years, and ran an orchard on the property for at least 25 years. Patrick Burke had settled in the area in the 1860s and with his sons established a nursery, market garden and cool store. The Burke family employed many locals in their orchard at 'Fermanagh' and are known as prominent figures in Hurstbridge's agricultural history. This context meets Criteria A and H for assessment.
5. Fermanagh and garden is also aesthetically significant as a particularly well-executed and architect-designed Federation villa that retains an early garden. It is distinguished from other houses of the same era in Hurstbridge with its intact Queen Anne details including Marseille terracotta and roughcast render detailing, decorative timber fretwork and posts to the verandah, combined with the massing and verandah form of an Australian homestead. The property's aesthetic significance is further enhanced by the remaining garden elements including Golden Cypress trees (*Hesperocyparis macrocarpa* 'Horizontalis Aurea') arranged in an ovoid pattern and two Chinese Windmill Palms (*Trachycarpus fortunei*) arranged symmetrically in relation to the house meeting Criterion E of heritage assessment. Refer to **Attachment 2** for Explanatory Report to support the amendment.

**12. Officers' reports****CM.121/21 Planning Scheme Amendment C140 to apply the Heritage Overlay to 1080 Heigelberg-Kinglake Road, Hurstbridge**

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6. Given this significance the citation adopted as part of Councils Heritage Review Stage A recommends that the site is included in the Schedule to the Heritage Overlay, specifically Amendment C140 seeks to amend Clause 43.01 of the Nillumbik Planning Scheme to include the property in the Heritage Overlay with Operational Provisions amended to include the citation (refer **Attachment 3** Instruction Sheet)
7. Heritage Overlay mapping it identified to be applied to the property boundaries and tree controls to the Golden Cypress Trees and Chines Windmill Palms (refer to **Attachment 4** for extent of mapping) consistent with the recommendations of the adopted citation.

**Related Council decisions**

8. Council Meeting of 29 June 2021 for adoption of the Nillumbik Heritage Review Stage A, specifically:

***That Council:***

- a) *Adopts the Final Draft Citations (**Attachment 1**) for Stage A of the Nillumbik Heritage Review.*
- b) *Adopts the Priority Lists for Stage B of the Nillumbik Heritage Review (**Attachment 2**).*
- c) *Publishes the Final Draft Citations (**Attachment 1**) for Stage A of the Nillumbik Heritage Review on Council's website.*

**Options**

9. Not applicable.

**Council plans and policies**

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

**Sustainability implications**

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

**12. Officers' reports**

**CM.121/21 Planning Scheme Amendment C140 to apply the Heritage Overlay to 1080 Heigelberg-Kinglake Road, Hurstbridge**

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**Community engagement**

13. Pursuant to the *Planning and Environment Act (1987)* notification will be required and the amendment materials would be on public exhibition for a minimum 1 calendar month with submissions invited. Any submissions would be brought to a future Planning and Consultative Committee (PCC) and also future Council meeting for consideration and potential resolution to convene a Panel to consider unresolved submissions, if submissions are received. The dates of the exhibition period are not yet set.

**Innovation and continuous improvement**

14. Not applicable.

**Collaboration**

15. Not applicable.

**Budget implications**

16. The cost of preparing the amendment is provided for within the 21/22 Strategic Planning amendment budget.

**Relevant law**

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

**Regional, state and national plans and policies**

18. Plan Melbourne (2017-2050) Outcome 4

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

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

**Conflicts of interest**

19. 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.



**12. Officers' reports**

**CM.122/21 Nillumbik Planning Scheme Amendment C126Nill Submission to the Minister for Approval**

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**Distribution: Public**

**Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety**

**Author: Bea Guevara, Senior Strategic Planner  
Leigh Northwood, Strategic Planning Lead**

**Summary**

The purpose of this report is to consider the key matters of consideration and recommendations raised at the C126nill Planning Panel Hearing and to seek Councils adoption and to request the Minister for Planning approve the amendment subject to mapping changes.

This Planning Scheme Amendment C126nill is running parallel with the road discontinuance process to facilitate rezoning of the land from the Neighbourhood Residential Zone to the Public Park and Recreation Zone in acknowledgement of the future open space function of the area.

The road discontinuance is being undertaken pursuant to a formal statutory process as required under the *Local Government Act 1989*.

Formal exhibition of Amendment C126nill took place for 1 calendar month through January and February 2021 as required under Section 19 of the *Planning and Environment Act 1987*.

Council received three submissions during the public exhibition of the Amendment. One supporting submission and two objecting submissions.

Submissions to Amendment C126nill were considered on 9 March 2021 by Council's Planning and Consultation Committee.

Council resolved to request the Minister for Planning to appoint an independent Planning Panel to consider the Amendment, and refer all submissions to the panel appointed, in accordance with Section 23(1)(b) of the *Planning and Environment Act 1987*.

The Panel Hearing took place virtually on 25 May 2021 where four parties made submissions. Council has since received the Panel Report containing recommendations from the Panel. The Panel report was made public on 28 June 2021.

Council's legal representatives on 5 July 2021 confirmed that the owners of 86 John Street have formally lodged a claim of 'adverse possession' pursuant to Section 60 of the *Transfer of Land Act 1958*.

Legal advice to Council (as of 5 July 2021) is that the mapping for the road discontinuance be amended to remove the area that is the subject of the formal adverse possession claim, before titles are lodged to complete the road discontinuance process. This is currently underway.

This report will include officer recommendations for Council's consideration.


**12. Officers' reports****CM.122/21 Nillumbik Planning Scheme Amendment C126Nill Submission to the Minister for Approval**

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**Recommendation****That Council:**

1. Amends the mapping for Amendment C126nill to reflect the road discontinuance mapping, thereby removing that area of land subject to recent adverse possession from the amendment area.
2. Adopts Amendment C126nill to the Nillumbik Planning Scheme subject to mapping change identified at (1) above and then submits it to the Minister for Planning for approval and gazettal.
3. Notifies the owners of land affected by the Amendment and advise them of Council's resolution on 24 August 2021 regarding Amendment C126nill.

**Attachments**

- 1  Nillumbik C126nill Panel Report

**Discussion**Context and Purpose for Amendment C126nill

1. The context and purpose for Amendment C126nill (the Amendment) has been outlined previously to the current Council at its March Future Nillumbik Committee (now Planning Consultation Committee) and March 2021 Council Meeting.
2. The Amendment applies to the eastern ends of Bridge and John Streets in Eltham.
3. Amendment C126nill seeks to apply the Public Park and Recreation Zone (PPRZ) to Council managed land to ensure Council's open space assets are correctly zoned in applying orderly planning to reflect the sites' open space purpose. The primary purpose of the Zone is to recognise areas for public recreation and open space and to protect and conserve the natural environment. Pursuant to *Planning Practice Note 2 (Public Land Zones)*, the Amendment further seeks to allow Council as the public land manager to undertake works to upgrade and provide ongoing maintenance of these reserve spaces without the need for a planning permit.

Panel Hearing and Report

4. The Panel Hearing took place virtually on 25 May 2021 where four parties made submissions.
5. There were three key matters of consideration identified by the Panel at the Hearing, being:
  - A. *Status of the subject land*
  - B. *Landscaping and vehicle access*
  - C. *Extension of the PPRZ at Bridge Street*
6. Council has since received the Panel Report, on the 11 June 2021, containing recommendations from the Panel. The Panel Report has also been made available on Council's Participate Nillumbik website.

## 12. Officers' reports

**CM.122/21 Nillumbik Planning Scheme Amendment C126Nill Submission to the Minister for Approval**

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7. Please see **Attachment 1** for Panel Report.
8. Regarding point A above, it was presented to the Panel that the parallel process of the road discontinuance is evidence that the status of the subject land is not resolved. The Panel Report states that:
- Some submitters disputed the legal status of the Amendment land. The [They] submitted that it was not certain that the subject land would 'vest' in Council in the near future. They submitted that the Public Park and Recreation Zone should not be applied until the status of the subject land was resolved.*
9. Point B was raised in a written submission during the Public Exhibition period of the Amendment. This submission was considered by Council at its 23 March 2021 Council Meeting but was not pursued at the Panel Hearing. The Panel's conclusions outlined below found that the amendment would not result in any adverse impacts on existing vehicle access and will enable Council to landscape the area and maintain it as open space.
10. Point C was raised by a supporting submitter. It was suggested that the land proposed for rezoning to PPRZ be extended to the corner of 8 Plumtree Close on the Bridge Street side of the subject land. Council has previously resolved to undertake a future amendment to extend the PPRZ to this land.
11. In summary, the Panel concludes:
- *The subject land must be Crown land or be vested in, or controlled by, Council (or another public body) before it is rezoned to PPRZ.*
  - *It is not a matter for the Panel to determine the legal status of the subject land. The status of the land can only be resolved through separate processes outside the remit of this Panel.*
  - *The Amendment will not result in any adverse impacts on existing vehicle access.*
  - *The rezoning will enable Council to establish and maintain the proposed pocket parks as part of a broader open space network.*
  - *That the extension of the PPRZ to the edge of Plumtree Close (at eastern end of Bridge Street) is a logical change to the Amendment, but such a rezoning proposal cannot proceed until the land is vested in or controlled by a Minister, government department, public authority or a municipal Council.*
12. Based on reasons set out in the Panel Report, the Panel recommends that Amendment C126nill be adopted as exhibited with changes, subject to the following:
- i. *That Council satisfy itself that sufficient notice of the Amendment was provided in accordance with the requirements at section 19 of the Planning and Environment Act 1987 before it decides whether to adopt the Amendment. If it is not satisfied, it must give notice of the Amendment in accordance with the Planning and Environment Act 1987.*
  - ii. *The subject land is not rezoned to Public Park and Recreation Zone until it is Crown land or is vested in or controlled by a Minister, government department, public authority or a municipal Council.*

## 12. Officers' reports

**CM.122/21 Nillumbik Planning Scheme Amendment C126Nill Submission to the Minister for Approval**

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- iii. *An additional section of land (as shown in Figure 2) at the eastern end Bridge Street, Eltham (to the edge of Plumtree Close) be rezoned from Neighbourhood Residential Zone Schedule 1 to Public Park and Recreation Zone, once that land is vested in or controlled by a Minister, government department, public authority or a municipal Council.*

Response to Panel Report Recommendations

13. In response to point *i, paragraph 12*, Section 19 of the *Planning and Environment Act 1987* provide Council guidance in notifications for Planning Scheme Amendments including:
- **S. 19(1)(b) amended by No. 86/1989 s. 4(2)(a).**
    - (b) *to the owners (except persons entitled to be registered under the **Transfer of Land Act 1958** as proprietor of an estate in fee simple) and occupiers of land that it believes may be materially affected by the amendment;*
  - **S. 19(1C) inserted by No. 128/1993 s. 5.**
    - (1C) *Subsection (1A) does not apply in relation to the giving of notice to an owner of land of an amendment which provides for—*
      - (a) *the reservation of that land for public purposes; or*
      - (b) *the closure of a road which provides access to that land,*
    - (2) *A planning authority must publish a notice of any amendment it prepares in a newspaper generally circulating in the area to which the amendment applies.*
14. Additionally, the following section of the Act outlines when a planning authority does not give notice under subsection 1:
- **S. 19(5) amended by No. 81/2004 s. 7.**
    - (5) *The failure of a planning authority to give a notice under subsection (1) does not prevent the adoption or approval of the amendment by the planning authority or its submission to or approval by the Minister.*
    - (6) *Subsection (5) does not apply to a failure to notify an owner of land about the preparation of an amendment which provides for—*
      - (a) *the reservation of that land for public purposes; or*
      - (b) *the closure of a road which provides access to that land.*
    - (7) *A planning authority may take any other steps it thinks necessary to tell anyone who may be affected by the amendment about its preparation.*
15. Officers confirm that advertising in the Herald Sun on 8 January 2021 and Victorian Government Gazette on 7 January 2021; and notifying all ratepayers and occupiers via direct mail in addition to the parallel road discontinuance process have adequately provided for notification to satisfy the requirements of the amendment.

**12. Officers' reports****CM.122/21 Nillumbik Planning Scheme Amendment C126Nill Submission to the Minister for Approval**

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16. In response to point *ii, paragraph 12*, it is confirmed the status of the amendment land was 'road reserves' at the time of discontinuance, and that status as 'road reserves' has formally changed when a notice was placed in the Government Gazette on **8 April 2021**. The road reserve status has been removed pursuant to a road discontinuance process undertaken by Council, resulting in the land now being **unencumbered**. Accordingly, Council's status as a land manager is irrelevant as noted above, pursuant to the Gazetteal, the road reserve status has changed.
  17. To provide context, the previous road status of the Amendment site required Council to manage and maintain the land. According to the *Road Management Act 2004 (RMA) Section 3*, a municipal road means any road which is not State road. Section 36(c) of the *RMA* states that if the road is a municipal road, the municipal council of the municipal district in which the road or part of the road is situated is the coordinating road authority.
  18. Council's legal representatives on 5 July 2021 confirmed that the owners of 86 John Street have formally lodged a claim of 'adverse possession' pursuant to Section 60 of the *Transfer of Land Act 1958*.
  19. Legal advice to Council (as of 5 July 2021) is that the mapping for the road discontinuance be amended to remove the area that is the subject of the formal adverse possession claim, before titles are lodged to complete the road discontinuance process. This is currently underway.
  20. In response to point *iii, paragraph 12*, Council may consider another Nillumbik Planning Scheme amendment for the extension of the additional section of land at the eastern end of Bridge Street, Eltham (to the edge of Plumtree Close) be rezoned from Neighbourhood Residential Zone Schedule 1 to Public Park and Recreation Zone, once the second road discontinuance process has begun. At this point, officers will not recommend to make changes to amendment C126nill regarding this extension.

**Related Council decisions**

21. At Council's Meeting of 25 February 2020, Council resolved to commence the statutory procedure to remove the road reserve status and proceed to rezone eastern sections of Bridge and John Streets from Neighbourhood Residential Zone (NRZ) to Public Park and Recreation Zone (PPRZ).
22. At Council's Meeting of 28 July 2020, Council resolved to request the Minister for Planning under Section 8A of the *Planning and Environment Act 1987* to authorise the preparation and exhibition of Amendment C126nill.
23. At the Future Nillumbik Committee (FNC) meeting of 9 February 2021, the Committee heard submissions made to Council as part of its proposal to discontinue two road reserves located at the eastern end of Bridge Street in Eltham and the eastern end of John Street in Eltham, pursuant to the statutory process under the *Local Government Act 1989*.

**12. Officers' reports**

**CM.122/21 Nillumbik Planning Scheme Amendment C126Nill Submission to the Minister for Approval**

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24. At that FNC the Committee (acting under delegation from Council) resolved to:
- *Note the 12 submissions including three objections made with respect to the proposal to discontinue two road reserves located at the eastern end of Bridge Street in Eltham and the eastern end of John Street in Eltham; and*
  - *Consider a further report at the next available Council Meeting to resolve a position on the proposed road discontinuance relating to the eastern ends of John Street and Bridge Street in Eltham.*
25. At Council's 23 March 2021 Council Meeting it was resolved that Council:
- *Notes the submissions to Amendment C126nill.*
  - *Requests the Minister for Planning appoint an independent Planning Panel to consider the Amendment, and refer all submissions to the panel appointed, in accordance with Section 23(1)(b) of the Planning and Environment Act 1987.*
  - *Prepares a submission to the Panel appointed that considers all submissions and which does not oppose the extension to the area proposed to be rezoned to include that land between Bridge Street and the corner of 8 Plumtree Close, Eltham.*
  - *Notifies all submitters and owners and occupiers of the land affected by the proposed amendment of Council's resolution.*

**Options**

26. The statutory amendment process requires Council to formally consider the Panel Report and to make a decision to adopt or abandon the Amendment.
27. Officers contend that the Amendment is strategically sound and note that this position has been clearly supported by the Planning Panel. Consequently, officers recommend to Council that it adopt the Amendment which a mapping change to remove the land adjoining 86 John Street, Eltham where adverse possession has been claimed.
28. If Council resolve to adopt the Amendment, (with or without changes), it would then be submitted to the Minister for Planning for approval and gazettal. The gazettal of the Amendment will rezone the eastern ends of Bridge and John Street, Eltham from Neighbourhood Residential Zone to Public Park and Recreation Zone. The Amendment would be complete at gazettal.

**Council plans and policies**

29. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Prepare and develop an improved and holistic approach to strategic planning.
  - Provide a range of infrastructure that encourages people of all ages to participate in a variety of active and passive opportunities.

**Sustainability implications**

30. The Amendment is expected to have positive environmental effects and economic and social benefits as it will confirm the intended status and management of land as public open space.

**12. Officers' reports**

**CM.122/21 Nillumbik Planning Scheme Amendment C126Nill Submission to the Minister for Approval**

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31. The social interactions and community building that public open spaces bring enhances community connectivity and community capital.
32. Retention of the open space assists in maintaining the attractiveness and amenity of the public realm.
33. Retention of the open space will continue to provide habitat for flora and fauna within the predominantly urban environment.
34. Pockets of planted open space help connect larger patches of bushland, and allow freedom of movement for wildlife.

**Community engagement**

35. Pursuant to the *Planning and Environment Act 1987*, amendment C126nill was publicly exhibited from 7 January 2021 to 18 February 2021.
36. Pursuant to notification requirements of the Act, Council officers sent out notification letters to all surrounding owners/occupiers and Prescribed Ministers, and notification in the Herald Sun and Government Gazette were also posted on 7 January 2021 to inform the public of the formal exhibition period.
37. The Amendment was also made available on Council's Participate Nillumbik website.
38. After the Exhibition, submitters were given the opportunity to speak to their submission at the 9 March 2021 Future Nillumbik Committee. This took place before Council considered the submissions and resolved to request the Minister for Planning appoint an independent planning panel, and upon doing so refer the submissions to that Planning Panel.
39. Submitters at the Panel Hearing were given a further opportunity to speak to their submissions and any response they have to the Panel Report at the 10 August 2021 Planning Consultation Committee.

**Innovation and continuous improvement**

40. The Amendment ensures that planning controls are accurate, correct and consistent with its current use. This will improve the effectiveness and efficiency of achieving the objectives of planning in Victoria.

**Collaboration**

41. Officers liaised with the Department of Environment, Land, Water and Planning (DELWP) to ensure that amendment documents were prepared to their standard and that they are kept informed throughout the Planning Scheme Amendment process.

**Budget implications**

42. Planning scheme amendment budget allocation 20/21 and 21/22 financial years

**Relevant law**

43. *Planning and Environment Act 1987*.

**12. Officers' reports**

**CM.122/21 Nillumbik Planning Scheme Amendment C126Nill Submission to the Minister for Approval**

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**Regional, state and national plans and policies**

44. This Amendment supports the objective of Clause 19.02 Open Space to establish, manage and improve a diverse and integrated network of public open space that meets the needs of the community. Specifically, the amendment supports the following strategy set out in Clause 19.02 6S:

*Ensure that urban open space provides for nature conservation, recreation and play, formal and informal sport, social interaction, opportunities to connect with nature and peace and solitude.*

45. The Victorian Health and Wellbeing Plan 2019-2023, outlines the government's key priorities to improve the health and wellbeing of Victorians. Priorities supported by the Amendment include increasing active living by increasing easy access to parks, open spaces and public spaces with opportunities for physical activity where appropriate.
46. Plan Melbourne 2017-2050 highlights the importance of 20-minute neighbourhoods. The 20-minute neighbourhood concept aims to improve liveability by giving people the ability to meet most of their daily needs within a 20-minute walk from home. The subject sites are within 12-15 minutes' walk from the Eltham Major Activity Centre (Eltham MAC). The formalisation of these pocket parks will advance the objectives of Plan Melbourne 2017-2050 and continue providing access to the residents' daily needs such as recreation and as well as services provided with the Eltham MAC

**Conflicts of interest**

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



**12. Officers' reports****CM.123/21      Bouchiers Road Special Charge Scheme, Kangaroo Ground - formal questionnaire results****Distribution:    Public****Manager:        Hjalmar Philipp, Director Operations and Infrastructure****Author:         Vladimir Mistic, Project Engineer****Summary**

On 25 October 2019, Council received a petition signed by property owners in Bouchiers Road requesting that Council investigate road sealing.

Initial questionnaires were sent to all property owners in Bouchiers Road, Kangaroo Ground in early January 2020 to establish the level of support to construct the road via a Special Charge Scheme. The initial questionnaire demonstrated that 70 per cent or '7' of the '10' property owners were in favour to further investigate the scheme.

An information session was held online via the Microsoft Teams application on 3 September 2020 to explain the Special Charge Scheme process and answer any questions from property owners.



Formal questionnaires with an estimated cost liabilities for each property were sent to all property owners in Bouchiers Road, Kangaroo Ground on 15 March 2021, to allow them to formally vote on whether to proceed with the Special Charge Scheme. The formal questionnaire demonstrated that 50 per cent or '5' of the '10' property owners supported further development of the scheme.

As the level of support is below 60 per cent, and in line with Council's endorsed Special Charge Scheme Policy, it is recommended that Council abandon the Scheme and place further investigations for road construction in Bouchiers Road, Kangaroo Ground on a three year moratorium.

**Recommendation****That Council:**

1. Abandons further investigation into a Special Charge Scheme for Bouchiers Road, Kangaroo Ground.
2. Places any further investigation into a Special Charge Scheme for Bouchiers Road, Kangaroo Ground on a three year moratorium.
3. Notifies affected property owners accordingly.

**Attachments**

- 1  Bouchiers Road Special Charge Scheme area
- 2  Summary of questionnaire comments

## 12. Officers' reports

**CM.123/21 Bourchiers Road Special Charge Scheme, Kangaroo Ground - formal questionnaire results****Discussion**

1. On 25 October 2019, Council received a petition signed by property owners in Bourchiers Road requesting that Council investigate road sealing.
2. Initial questionnaires, sent to property owners in early January 2020 to establish the level of support for further investigation into constructing Bourchiers Road.
3. The results of the initial questionnaire are shown in Table 1 below:

	Support further investigation	Not supportive of further investigation	No response	Total
<b>Votes</b>	7	1	2	10
<b>Percentage</b>	70%	10%	20%	100%

**Table 1 – Results from the initial questionnaire**

4. Due to restrictions at the time preventing public gatherings, an information session was held online via the Microsoft Teams application on 3 September 2020 to discuss a construction proposal, cost apportionment and the Special Charge Scheme process. A number of property owners were represented at this information session.
5. Following the information session, a formal questionnaires with estimated liabilities for each property were sent to property owners on 15 March 2021 to establish the level of support for the development of a Special Charge Scheme to construct Bourchiers Road.
6. The method used to apportion liabilities to properties is outlined in the *Special Charge Schemes for Road and Drainage Works Policy and Guidelines*. Total scheme cost was estimated to be \$344,406, where the amount levied between 10 properties was \$298,557. The range of estimated liabilities for each property was from \$22,215 to \$37,038, with Council's estimated liability for the Crown Land and its Reserve being \$45,849. The upper limit cost was calculated as an addition of 20 per cent to the estimated cost.
7. The questionnaires also asked property owners to comment in respect to amenity, environment, street character, construction standard and any other factors considered relevant to the proposed scheme. A summary of the comments received is shown in **Attachment 2** of this report.
8. The results of the formal questionnaire are shown in Table 2 below:

	Construction	No change	No response	Total
<b>Votes</b>	5	5	0	10
<b>Percentage</b>	50%	50%	0%	100%

**Table 2 – Results from the formal questionnaire**

**12. Officers' reports****CM.123/21 Bourchiers Road Special Charge Scheme, Kangaroo Ground - formal questionnaire results**

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9. The level of support established for a Special Charge Scheme for Bourchiers Road, Kangaroo Ground is below 60 per cent level required in order for a scheme to progress, in accordance with the *Special Charge Schemes for Road and Drainage Works Policy and Guidelines*.
10. At the initiation stage of the scheme there was over 60 per cent support from property owners to investigate options to seal Bourchiers Road, Kangaroo Ground. However, at the formal questionnaire stage the level of support had dropped below 60 per cent from property owners.
11. One of the reoccurring themes received in the comments from property owners were that the cost was too high and that it is not fair that Council and State Government do not contribute more to the scheme given wider community using the road to access the river reserve at the end of the road.
12. This questionnaire was based on sealing Bourchiers Road via a Special Charge Scheme in line with the *Local Government Act 1989* and Council's *Special Charge Schemes for Roads and Drainage Works Policy and Guidelines*, where in this case the project would primarily be funded by property owners adjoining the road.
13. Given that the level of support is below 60 per cent, it is recommended that Council abandon the Scheme and place further investigations for road construction in Bourchiers Road, Kangaroo Ground on a three year moratorium.

**Related Council decisions**

14. Not applicable.

**Options**

15. Options available to Council are to:
  - Resolve to proceed as per the recommendations of this report, or
  - Resolve to proceed with the scheme, contrary to the recommendations of this report.

**Council plans and policies**

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

**Sustainability implications**

17. As part of the initial phases of the project Council sought advice from Melbourne Water on the impacts the road sealing may have on the nearby Yarra River. We are yet to receive a response on this.
18. Socially, Bourchiers Road provides access to a popular section of the Yarra River, which is accessed by visitors for a range of recreational activities such as canoeing, kayaking, fishing, swimming and bushwalking.

**12. Officers' reports****CM.123/21 Bourchiers Road Special Charge Scheme, Kangaroo Ground - formal questionnaire results**

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**Community engagement**

19. Consultation has been carried out in line with Council's *Special Charge Schemes for Roads and Drainage Works Policy and Guidelines*. This involved:
- An initial questionnaire, on 10 January 2020 to determine the level of support for further investigation into a Special Charge Scheme,
  - An information session, held on 3 September 2020 where the scheme process was outlined to property owners in attendance, and
  - A formal questionnaire, on 15 March 2021 to determine the level of support to proceed with the development of a Special Charge Scheme.
20. The properties engaged as part of the scheme can be viewed in **Attachment 1**.

**Innovation and continuous improvement**

21. Not applicable.

**Collaboration**

22. The property 110 Bourchiers Road providing access to the Yarra River is Crown Land, which is managed by Department of Environment, Land, Water and Planning (DELWP).
23. Although Crown Land is exempt from the application of special charges under the *Local Government Act 1989*, Council officers have contacted DELWP inviting them to make an ex gratia financial contribution, in line what would ordinarily be apportioned to this property under a Special Charge Scheme (or a different amount deemed suitable by them).
24. Council received DELWP's official position on 20 July 2021, declining Council's invitation for any financial contribution to the scheme.

**Budget implications**

25. All costs associated with the investigation of the scheme are accommodated within existing operational budgets.
26. If the scheme were to proceed, Council would have had to contribute the cost for two properties (Crown Land at 110 Bourchiers Road and a Council's Reserve at 120 Bourchiers Rd), which is between **\$45,848.61** and **\$55,018.33**.

**Relevant law**

27. The 'Special Charge Scheme' legislation under Section 163 of the *Local Government Act 1989* (the Act), enables a Council to recover the cost of the works from property owners, for works that will be of special benefit to them.

**Regional, state and national plans and policies**

28. Not applicable.

**Conflicts of interest**

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

12. Officers' reports

**CM.124/21 Appointment of Councillor Representative to the Banyule/Nillumbik Living Learning Employment Network Inc. Board**

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**Distribution: Public**

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

**Author: Janet Taylor, Governance Officer**

**Summary**

Council is a member or participant in a range of external organisations at a local, regional or sector level.

Councillors are appointed to represent Council as delegates to those organisations. In some cases, an alternate is also appointed who can attend if the primary Councillor is not available.

Banyule Nillumbik Living Learning and Employment Network Inc. Board (BNLLEN) is made up of representatives from various organisations and institutions that support its vision *'to create seamless education, training, and employment outcomes for young people that are inclusive, responsive and innovative.'*

Council's organisational representative to BNLLEN is the Coordinator Economic Development and Tourism from Councils Economic Development Team under Category 7 - Local Government, and is a sitting member on the Board.

BNLLEN Board approached Council and asked if Council would consider nominating a Councillor Representative to the Board.

The Board indicated that it is encouraging Councillor involvement on the BNLLEN as well as maintaining Council's current representative on the BNLLEN - Coordinator Economic Development and Tourism from Councils Economic Development Team.

The Board is interested in strengthening and widening its membership and is actively recruiting members with a range of skills and abilities.

This report seeks to move the membership of the current Council representative (Coordinator Economic Development and Tourism) to Category 11 – Co Opted member on a permanent basis and nominate a Councillor Representative under Category 7 – Local Government to represent Council at BNLLEN Board meetings.



**12. Officers' reports****CM.124/21 Appointment of Councillor Representative to the Banyule/Nillumbik Living Learning Employment Network Inc. Board**

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**Recommendation****That Council:**

1. Nominates Cr \_\_\_\_\_ as Councillor Representative (Category 7 – Local Government) to the Banyule Nillumbik Living Learning and Employment Network (BNLLEN) Inc. Board for a two year period until 24 August 2023.
2. Advises BNLLEN Inc, of Council's decision, and submits the required Organisational Membership form (**Attachment 1**) and Change of Organisation Representative form (**Attachment 2**) for Councillor Representatives of BNLLEN Inc. Board for action and resolution at its September BNLLEN Meeting.
3. Notes that the Coordinator Economic Development and Tourism from Council's Economic Development team will continue to represent Council on the BNLLEN Inc. Board as a Category 11 – Co-Opted member on a permanent basis.
4. Officers bring a report back to Council in August 2023 to appoint a Councillor Representative to Banyule Nillumbik Living Learning and Employment Network Inc Board for a two year term.

**Attachments**

- 1  Organisational Membership Form
- 2  Change of Organisation Representative Form

**Discussion**

1. Council recognises it is important for it to be represented on various external committees to ensure the interests of the community are considered.
2. Council is a member or participant in a range of external organisations at a local, regional or sector level. Positions on external organisations enable Council to be represented in key sector organisations and allow Council to be better informed and influence outcomes on issues of interest of the Nillumbik Shire.
3. Councillors are appointed to represent Council as delegates to those organisations. In some cases, an alternate is also appointed to attend if the primary Councillor is not available.
4. Council appoints Councillor Representatives to internal Advisory Committees and External Committees each year at the Extraordinary Meeting following the appointment of the Mayor and Deputy Mayor.
5. The Banyule Nillumbik Local Learning & Employment Network (BNLLEN) works in partnership with education providers, parents and families, business and industry and community groups to improve education, training and employment outcomes for young people in the Banyule/Nillumbik region.
6. The BNLLEN is a community not-for-profit governed by a volunteer Board. The Board works to ensure the BNLLEN achieves its vision, mission and strategic goals as well as fulfilling its, ethical, legal and financial obligations.

12. Officers' reports

**CM.124/21 Appointment of Councillor Representative to the Banyule/Nillumbik Living Learning Employment Network Inc. Board**

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7. An Executive Officer oversees the operational management of the organisation. The Board is interested in strengthening and widening its membership and is actively recruiting members with a range of skills and abilities including;
  - a) Knowledge and commitment to youth and local community.
  - b) Expertise in youth issues including employment, education, training and well-being.
  - c) Strategic leadership, governance and compliance.
  - d) Understanding of elements of management of a not-for-profit community organisation.
  - e) Ability to advocate on behalf of the organisation with stakeholders, including local, state and federal governments.
  - f) Meeting bi-monthly on Wednesday mornings in Greensborough.
8. The Board approached Council and asked Council to consider nominating a Councillor Representative to the Board.
9. BNLLLEN's Association Rules provides 10 membership categories as noted on the Organisation Membership Form (Attachment 1). A further category, not listed on the Organisation Membership Form provides opportunity for membership at BNLLLEN's discretion as follows:
  - a) The BNLLLEN Board / Committee can nominate a Representative (up to 3) who shall be a Community Member or a person associated with an Organisational Member (which Council is). This is based on the individual's industry experience and/or skill set.
  - b) This category is not an option on the Membership Form as it is at the discretion of the current Board Committee of Directors.
10. Council is currently a member under Category 7 - Local Government. Council's current organisational representative is the Coordinator Economic Development and Tourism, who is a sitting member on the Board.
11. This report seeks to move the membership of the current Council representative (Coordinator Economic Development and Tourism) to Category 11 – Co Opted member on a permanent basis and nominate a Councillor Representative under Category 7 – Local Government to represent Council at BNLLLEN Board meetings.
12. The Chair and Executive Board of BNLLLEN have indicated support of this proposal, which will be actioned and resolved at its 15 September 2021 BNLLLEN Meeting. The Board requires a Council Resolution and the signed membership forms (Attachments 1 and 2) from Council in order to action and resolve this proposal
13. Members are appointed to BNLLLEN for a two year period. It is proposed that the nominated Councillor Representative be appointed for a two year period and the matter be brought to Council at the upcoming Extraordinary Meeting following the appointment of the Mayor and Deputy Mayor to confirm the nomination for Councillor Representation to BNLLLEN until August 2023.

**12. Officers' reports**

**CM.124/21 Appointment of Councillor Representative to the Banyule/Nillumbik Living Learning Employment Network Inc. Board**

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**Related Council decisions**

14. Not applicable.

**Options**

15. Appoint a Councillor as Councillor Representative (Category 7 – Local Government) to the Banyule Nillumbik Living Learning and Employment Network Inc. Board for a two year period until 24 August 2023.
16. Note that the Coordinator Economic Development and Tourism from Council's Economic Development team will join the Banyule Nillumbik Living Learning and Employment Network Inc. Board as a Category 11 – Co-Opted member on a permanent basis after completing and submitting Attachment 1 to BNLEEN.
17. Advise BNLEEN Inc, of Council's decision, and submit the required Organisational Membership form (**Attachment 1**) and Change of Organisation Representative form (**Attachment 2**) for Councillor Representatives to BNLEEN Inc. Board for action and resolution at its September BNLEEN Meeting.

**Council plans and policies**

18. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Build on our commitment to lifelong learning for the community.

**Sustainability implications**

19. The community voices provided by external committees are a resource for how Council conducts its business which complements other sources of information, expertise and evidence.

**Community engagement**

20. Not applicable.

**Innovation and continuous improvement**

21. Ensuring we include the voices of our community is an important aspect of how Council innovates and continuously improves.

**Collaboration**

22. Not applicable.

**Budget implications**

23. There are no budgetary implications to this matter.

**Relevant law**

24. Not applicable.

**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 in the subject matter of this report.



**12. Officers' reports****CM.125/21 Quarterly Risk and Safety Report - June 2021**

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**Distribution: Public****Manager: Jeremy Livingston, Executive Manager Business Transformation and Performance****Author: Craig Commene, Risk and Safety Lead****Summary**

This report provides a summary of Council's Risk and Safety Report for the financial year ending June 2021.

The report is presented in accordance with the Local Government Performance Reporting Framework (LGPRF). This reporting framework requires the presentation of a report to Council at least every six months, detailing the strategic risks, operational risks, the consequences and likelihood of occurrence, and risk mitigation strategies.

Risk and Safety reporting to Council is tabled each quarter following consideration by Council's Audit and Risk Committee.

The full confidential Risk and Safety Report for June 2021 is attached to this report (**Attachment 1**) and provides detailed information for Council's consideration.

<b>Recommendation</b>
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**That Council:**

1. Notes the summary of the confidential Risk and Safety Report for the financial year ending June 2021.
2. Resolves that the attached report (**Attachment 1**) remains confidential in accordance with section 3(1)(a) and (f) of the *Local Government Act 2020*.

**Attachments**

1. Quarterly Risk and Safety Report - June 2021 - *CONFIDENTIAL*

**Discussion**

1. Council's commitment to risk management is outlined in the Risk Management Policy adopted in June 2018, with the following objectives:
  - Ensure that all risks that could affect the achievement of our Council's goals, strategies and actions are identified, assessed and treated to a commercially, professionally and politically acceptable level of risk;
  - Integrate risk management into decision making processes and embed it into the organisation culture to help make informed choices for the benefit of Council and our stakeholders;
  - Ensure that necessary resources are allocated in support of the policy outcomes;
  - Maintain stakeholders trust and due diligence;
  - Align all risk management practices across the organisation and to promote and support a consistent corporate approach to risk management that can be clearly understood and applied by everyone and provide a basis for higher standards of accountability; and

12. Officers' reports

CM.125/21 Quarterly Risk and Safety Report - June 2021

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- To ensure that risk management is seen as the responsibility of all staff, i.e. "Risk Management is everyone's business".
2. In addition to the Risk Management Policy, Council's Risk Management Framework 2018 communicates and describes the risk management structure and procedures that are used to identify, analyse, evaluate, treat, monitor and communicate key risks, including management reporting.
3. The context of the Risk Management Policy and Framework takes into account that local government presents a distinct risk character and profile that needs to be taken into account when considering risk management. Many assets and services are available 24 hours a day seven days a week in an unsupervised way, some are managed or provided by volunteers or committees of management or are managed by contractors, others are regulated by compliance legislation.
4. This Risk and Safety report broadly reports on:
  - Risk management;
  - Business continuity;
  - (Anti) Fraud and corruption control;
  - Insurance premiums;
  - Incident management and insurance claims;
  - Occupational Health and Safety;
  - Other data; and
  - Strategic risk summary report.
5. The Quarterly Risk and Safety Report has been prepared in accordance with Council's Risk Management Policy and Framework and is consistent with the Australian Standard AS/NZS 31000:2009 Risk Management.
6. Highlights from the Risk and Safety Report for the financial year ending June 2021 are as follows.
7. Major Incident – COVID-19 Pandemic
  - Council continues to observe all directives issued by the Victorian Chief Health Officer in response to the COVID-19 State of Emergency; and
  - As restrictions change, the focus of the Risk and Safety team has been to provide advice, support and assistance to transition the organisation through COVID-19 lockdowns.
8. Council's insurance policies were renewed as at 30 June 2021 following a public tender for motor vehicle, property (industrial special risks), Councillors and officers liability (directors), public liability and professional indemnity insurance. Council's smaller policies were placed following instructions provided to Council's Broker, JLT Australia.

## 12. Officers' reports

## CM.125/21 Quarterly Risk and Safety Report - June 2021

9. The following tables summarises recorded incidents by type for matters involving Council. It should be noted that this table shows all reported incidents, rather than all claims, as not every incident results in a claim being made.

Incidents by type	Jul – Sep 20	Oct - Dec 20	Jan - Mar 21	Apr – Jun 21	Total Jul - Jun 21	Last Year Jul - Jun 20
Property	18	22	4	16	60	62
Motor vehicle	10	7	12	11	40	67
Professional Indemnity	3	2	0	0	5	1
Public Liability	52	48	41	16	187	255
Occupational Health and Safety	15	20	23	29	84	80
Total all incidents	98	99	80	99	376	465

10. The following table summarises all incidents by Directorate.

Incidents by Directorate	Jul – Sep 20	Oct - Dec 20	Jan - Mar 21	Apr – Jun 21	Total Jul - Jun 21	Last Year Jul - Jun 20
Corporate Services	0	1	0	2	3	16
Communications, Governance and Engagement	1	2	0	3	6	0
Planning and Community Safety	8	4	17	13	42	30
Community Services	2	5	5	4	16	30
Operations and Infrastructure	87	87	58	77	309	389
Total all incidents	98	99	80	99	376	465

11. A high proportion of reported incidents during the financial year ending June 2021 are generated within the normal course of operations in the Operations and Infrastructure Directorate (82%). These incidents relate to major classes of asset or maintenance type incidents for Council buildings, recreational facilities, playgrounds, trees, drainage, footpath, road damage and major plant.

## 12. Officers' reports

CM.125/21 Quarterly Risk and Safety Report - June 2021

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12. Tree related risks are mitigated through the:
  - Tree Management Policy;
  - Reactive tree maintenance program;
  - Proactive electric power line clearance program;
  - Proactive box clearance program;
  - Proactive inspections of high risk trees; and
  - Meeting the objectives of the Municipal Emergency Management Plan and Municipal Fire Management Plan.
13. Road, footpath, drainage and roadside related risks are mitigated through the:
  - Road Management Plan;
  - Road Asset Management Plans; and
  - Proactive and reactive maintenance programs.
14. Property incidents typically reported are property theft, break-ins, storm damage vandalism and accidental damage to Council buildings or fixed equipment such as in playgrounds and recreational facilities. Risks are mitigated through maintenance programs and insurance.
15. There were 16 reports of property theft, break-ins, storm damage and vandalism noted during the June 2021 quarter. Overall reported property incidents were consistent when compared to the previous financial year.
16. Motor vehicle incidents include accidental damage involving Council's light and heavy fleet, including incidents caused by third parties. Risks are mitigated through maintenance, education and insurance.
17. There were 11 motor vehicle incidents during the June 2021 quarter which resulted in one motor vehicle insurance claim lodged with Council's insurer.
18. Settlement for the stolen community transport bus was concluded during the June 2021 quarter, the community bus has not yet been replaced.
19. Professional indemnity relates to incidents and claims for alleged negligence or breach of duty arising from an act, error or omission in the performance of Council services.
20. No new professional indemnity incidents were reported.
21. Public liability incidents are reported where the third party is seeking compensation for personal injury, property damage and economic loss. These claims are managed by an external claims manager or Council's insurer. Typical incidents primarily relate to vehicle road damage, property damage, tree related or trip and fall incidents.
22. This quarter, eight trip and fall incidents were reported at various locations.
23. Four incidents related to vehicle damage, primarily these are tyre or body work damage caused by the road surface or road related infrastructure. (Note that the *Road Management Act 2004* threshold is currently \$1,400).

**12. Officers' reports**

**CM.125/21 Quarterly Risk and Safety Report - June 2021**

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24. There were six flooding and 19 tree damage incidents causing property damage, primarily attributed to rainfall and wind related events. Several miscellaneous incidents were noted, including two tree root damage incidents.
25. Occupational Health and Safety incidents relate to safety matters reported as incidents, hazards and near misses. Typical incidents relate to cuts and lacerations, insect and animal bites, musculoskeletal injuries and slip trips and falls. These incidents are managed by Council's Risk and Safety team through the Occupational Health and Safety Management System.
26. The overall occupational health and safety annual trend data for the financial year ending June 2021 for incidents was consistent compared to the same period ending June 2020.
27. Incident costs, including under excess claim costs and insurance excesses, are managed within existing budgets. Where appropriate, insurance claims were made, repairs undertaken and matters reported to the Police.

**Related Council decisions**

28. This summary, along with the confidential Risk and Safety Report, has been provided to meet the requirements of the Local Government Performance Reporting Framework (LGPRF) and consolidation of management reporting.
29. Ongoing reporting to Council on risk and safety matters is presented quarterly following each meeting of Council's Audit and Risk Committee.

**Council plans and policies**

30. 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**

31. Trend data from this report is used to inform management processes for the mitigation of risks associated with property, motor vehicle, professional indemnity, public liability and safety as they relate to Council's strategic and operational risks.
32. Council's risk profile includes environmental risks and climate change as a consequence of failure to adequately mitigate those risks.

**Community engagement**

33. Not applicable.

**Innovation and continuous improvement**

34. Trend data from this report is used to inform management processes and gap analysis to identify continuous improvement opportunities associated with property, motor vehicle, professional indemnity, public liability and occupational health and safety.

**Collaboration**

35. Not applicable.

**12. Officers' reports**

**CM.125/21 Quarterly Risk and Safety Report - June 2021**

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**Budget implications**

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

**Relevant law**

37. Not applicable.

**Regional, state and national plans and policies**

38. Not applicable.

**Conflicts of interest**

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

**12. Officers' reports****CM.126/21 Tender Report - Contract 2021-060 Provision of Underground Stormwater Drainage Cleaning and Condition Audits**

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**Distribution: Public****Manager: Hjalmar Philipp, Director Operations and Infrastructure****Author: Jeff Saker, Roads and Drains Maintenance Coordinator  
Joseph Emmanuel, Manager Infrastructure****Summary**

This report recommends the awarding of contract 2021-060 for Provision of Underground Stormwater Drainage Cleaning and Condition Audits.

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

This contract is for standard Council operational requirements and replaces a previous contract for the same service requirements.

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 2021-060 for Provision of Underground Stormwater Drainage Cleaning and Condition Audits.

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.

<b>Recommendation</b>
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**That Council:**

1. Accepts the tender submitted by the **preferred tenderer** for the schedule of rates disclosed in (**Attachment 1**) and enter into the following contract:  
Number: 2021-060  
Title: Provision of Underground Stormwater Drainage Cleaning and Condition Audits  
Term: 1 September 2021 to 31 August 2024  
Options: Term extensions up to 31 August 2026
2. Authorises the Director Operations and Infrastructure to finalise and execute the contract documentation.
3. Delegates the powers and authorisation to the Director Operations and Infrastructure to review and approve the options to extend the contract term for a maximum of up to two further years.
4. Authorises the Director Operations and Infrastructure to approve additional cost variations that are a result of changes to operational requirements throughout the term of the contract.

**12. Officers' reports**

**CM.126/21 Tender Report - Contract 2021-060 Provision of Underground Stormwater Drainage Cleaning and Condition Audits**

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5. Advises all tenderers accordingly.
6. Makes public the decision regarding this contract but 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*.
7. Resolves that the preferred tenderer be named.

**Attachments**

1. Attachment 1 - Tender Evaluation Summary Report - Confidential - *CONFIDENTIAL*

**Discussion**

1. This contract is for standard Council operational requirements and replaces a previous contract for the same service requirements.
2. Services delivered under the contract arrangements include the following activities on Council's underground drainage network;
  - Cleaning and material disposal
  - Condition inspection and detailed reporting
  - Verification and updating of drainage inventory data, and
  - Programmed inspection and cleaning of Gross Pollutant Traps (GPT).
3. Trained and qualified technicians are used to undertake these works.

**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**

The Tender Evaluation Panel (TEP) advises that:

5. A public tender was issued and advertised in the Melbourne Age on Saturday 24 April 2021.
6. The period for tender submissions closed at 2pm on Thursday 20 May 2021.
7. The tender called for a Schedule of Rates for an estimated program of service requirements.
8. There were twelve (12) tendered submissions received.
9. Only tenders that were conforming and competitive were fully scored. Tender submissions that were evaluated as non-conforming or not sufficiently competitive were set aside from further evaluation.
10. After initial assessment of tendered submissions and schedule of rates, only four tenders were shortlisted for full evaluation.



12. Officers' reports

**CM.126/21 Tender Report - Contract 2021-060 Provision of Underground Stormwater Drainage Cleaning and Condition Audits**

11. The following tenders were evaluated as non-conforming or not sufficiently competitive and were subsequently set aside from further evaluation.

12.

<b>TENDERER</b>	<b>Reasons why tender was set aside from further evaluation</b>
Tenderer E	5 <sup>th</sup> highest rates of the conforming submissions
Tenderer F	6 <sup>th</sup> highest rates of the conforming submissions
Tenderer G	Highest rates of the conforming submissions
Tenderer H	Incomplete tendered submission
Tenderer I	Incomplete tendered submission
Tenderer J	Incomplete tendered submission
Tenderer K	Incomplete tendered submission
Tenderer L	Incomplete tendered submission

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.

<b>Criteria</b>	<b>Weighting %</b>
Price	40%
Capability	15%
Capacity	30%
Collaboration	10%
Social and Local	5%

13. 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.

12. Officers' reports

CM.126/21 Tender Report - Contract 2021-060 Provision of Underground Stormwater Drainage Cleaning and Condition Audits

14. The members of the TEP were;

Position Title	Business Unit	Scoring Member or Advisory Member
Operations Centre Lead	Infrastructure	Scoring
Team Leader Cleansing	Infrastructure	Scoring
Team Leader Roads and Footpaths	Infrastructure	Scoring
Senior Procurement Specialist	Corporate Services	Advisory

15. The final evaluation outcome was as follows:

TENDERER	SCORE	RANK
Tenderer A – Preferred Tender	90/100	1
Tenderer B	84/100	2
Tenderer C	83/100	3
Tenderer D	73/100	4

16. **Attachment 1** - Tender Evaluation Summary Report – Confidential, provides the tenderer names, the Evaluation Scorecard Summary and the Schedule of Rates Cards.

17. 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*.

**Capability**

- 18. Is a company that specialises in the services that Council requires and has in place accreditation in Quality Management, Environmental Management and OHS systems and practices.
- 19. Operates two waste disposal/recycle facilities that are specifically purpose designed for stormwater waste, GPT waste, street sweepings and hydro excavation muds.
- 20. Has technology systems and solutions in place to assist and support Councils Asset Management and Operational teams in delivering against planned and unplanned maintenance requirements.
- 21. Has the experience and skills to deliver against the Council's requirements.

**Capacity**

- 22. Has sufficient trained and skilled technicians and plant and equipment to successfully deliver against the service requirements of Council.
- 23. Will deliver all aspects of the contract requirements 'in-house' with no subcontracting of any services required.

**12. Officers' reports**

**CM.126/21 Tender Report - Contract 2021-060 Provision of Underground Stormwater Drainage Cleaning and Condition Audits**

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24. Has a large modern fleet to service this contract.

**Sustainability implications**

- 25. Have own EPA approved waste disposal/recycle facilities that are specifically designed for recycling of stormwater waste, GPT waste, street sweepings and hydro excavation muds.
- 26. These facilities work by passing the material through a series of separation screens, a trommel and hoppers. The raw product is 90-95% recycled, with the recycled content used as a by-product to suppliers. The by-product is a leaf mulch.
- 27. Any contaminated soil waste from the cleaning processes, are separated and disposed of via a nominated EPA Approved contaminated waste disposal facility.
- 28. Will provide Council with reports to understand the tonnage of waste and the resulting percent of volume of recovered and recycled by-products generated by the contract with Nillumbik Shire Council.
- 29. The modern fleet of jet/vac units used by the preferred tenderer are full water recyclers which enable the preferred tender to maximise time on site, minimise waste disposal costs and minimise water usage.

**Collaboration with Council and Social and Local benefits**

- 30. Has four full-time, one-part time and one casual employees who reside in Nillumbik\Northern Council Alliance area. Have committed to taking on one Trainee/apprentice if successful in tender.
- 31. Is an equal opportunity employer and there are five female employees in Management positions.
- 32. Actively engages social enterprises and Indigenous businesses by using organisations such as Supply Nation and Social Traders.

**Tender Interviews and Reference checks**

- 33. A tender interview was held with the preferred tenderer on 6 July 2021.
- 34. This tender interview provided the tender evaluation panel with additional insight to the organisation and service capability and capacity.
- 35. Two tender reference checks were undertaken and there were no concerns or flags raised as part of these reference checks.

**Contingency and risks**

- 36. COVID-19 - Given the nature of the works, stormwater and sewer services have been determined to be essential services during COVID-19 and Stage 4 lockdowns in Victoria and the preferred tenderer has been able to continue to deliver service to their contracts during the Stage 4 lockdowns and restrictions.
- 37. Continuity of Service - Has in place sufficient trained technicians and plant and equipment to ensure continuity of service in the event of staff absences and/or plant

**12. Officers' reports**

**CM.126/21 Tender Report - Contract 2021-060 Provision of Underground Stormwater Drainage Cleaning and Condition Audits**

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and equipment breakdowns.

**Collaboration**

38. Not applicable.

**Budget implications**

39. Costs are accounted for in the annual budget planning processes.

40. Annual costs will be dependent on the programmed schedule of required services based on annual maintenance needs.

41. Annual costs can be impacted by weather events that result in flooding which in turn can result in blocked drains or at capacity Gross Pollutant Traps.

**Stakeholder Consultation/communication**

42. Not applicable.

**Innovation and continuous improvement**

43. Has in place a Trenchless Repair & Rehabilitation solution for damaged pipe repair which can reduce the requirement and resulting costs to have to remove and replace damaged pipes.

**Relevant law**

44. Section 186 of the Local Government Act 1989.

**Regional, state and national plans and policies**

45. Not applicable.

**Conflicts of interest**

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

47. There were no disclosable conflicts of interest raised.

**12. Officers' reports****CM.127/21 Tender Report - Contract 2021-079 Eltham Skate Park Project – Design & Construction****Distribution: Public****Manager: Hjalmar Philipp, Director Operations and Infrastructure****Author: Enrique Gutierrez, Manager Capital Works****Summary**

This report recommends the awarding of contract 2021-079 for Eltham Skate Park Project – Design & Construction.

The works will improve the safety, condition, function of the facility, and provide Nillumbik Shire community with a modern facility that will cater for current demand and will extend the life span of the facility for a further 15 - 20 years.

The Tender Evaluation Panel (TEP) has assessed all submissions and this report provides a summary of their evaluation in recommending the awarding of the contract for 2021-079 for Eltham Skate Park Project – Design & Construction.

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 **preferred tenderer** for the sum of \$[Redacted] plus \$[Redacted] for contingency (exclusive of GST) and enter into the following contract:  
Number: 2021-079  
Title: Eltham Skate Park Project – Design & Construction  
Term: 30 August 2021 to 31 May 2022
2. Authorises the Director Operations and Infrastructure to finalise and execute the contract documentation.
3. Authorises the Director Operations and Infrastructure to approve additional cost variations up to and within the value of approved project budget.
4. Any variations that exceed the project budget will require a further Council resolution.
5. Advises all tenderers accordingly.
6. Makes public the decision regarding this contract but 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.
7. Resolves that the preferred tenderer be named.

**Attachments**

**12. Officers' reports**

**CM.127/21 Tender Report - Contract 2021-079 Eltham Skate Park Project – Design & Construction**

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1. Attachment A - Tender Evaluation Summary Report - Confidential - *CONFIDENTIAL*

**Discussion**

1. Eltham Skate Park is located at 66-78 Susan St, Eltham, a popular outdoor space at Alistair Knox Park, Eltham.
2. The skate park (constructed in 2005), is due for a refurbishment.
3. A facility assessment report was undertaken in 2017, which identified the following:
  - There is limited flow in the facility, with only three riding lines.
  - The facility only caters for a limited number of users, predominantly advanced riders, with limited provision for beginners.
  - There are a number of features, which are outdated, and do not meet current skate trends.
  - The concrete surface in some areas of the park is worn with visible cracking, chips, differential settlement, and rough and uneven skate surfaces.
4. The works will improve the safety, condition, function of the facility, and provide Nillumbik Shire community with a modern facility that will cater for current demand and will extend the life span of the facility for a further 15 - 20 years.

**Council plans and policies**

5. This report directly supports the achievement of Council Plan 2017-2021 strategy
  - Ensure responsible and efficient management of Council's financial resources.
  - Provide a range of infrastructure that encourages people of all ages to participate in a variety of active and passive opportunities.

**Tender overview**

The Tender Evaluation Panel (TEP) advises that:

6. A public tender was issued and advertised in the Melbourne Age on Saturday 5 June 2021.
7. The period for tender submissions closed at 2pm on Thursday 1 July 2021.

12. Officers' reports

CM.127/21 Tender Report - Contract 2021-079 Eltham Skate Park Project – Design & Construction

8. The following tenders were received.

<b>TENDERER</b>	<b>Tendered Sum (Excluding GST)</b>
<b>Tenderer A – Preferred Tender</b>	\$468,045.00
Tenderer B	\$580,000.00
Tenderer C	\$592,300.00
Tenderer D	\$635,107.97
Tenderer E	\$650,000.00

9. Only tenders that were conforming and competitive were fully scored. Tender submissions that were evaluated as non-conforming or not sufficiently competitive were set aside from further evaluation.

10. The following tenders were evaluated as non-conforming or not sufficiently competitive and were subsequently set aside from further evaluation.

<b>TENDERER</b>	<b>Reasons why tender was set aside from further evaluation</b>
Tenderer D	Did not proceed due to high tendered costs
Tenderer E	Did not proceed due to high tendered costs

11. 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.

<b>Criteria</b>	<b>Weighting %</b>
Price	40%
Capability	30%
Capacity	20%
Social and Local	10%

12. 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.

12. Officers' reports

CM.127/21 Tender Report - Contract 2021-079 Eltham Skate Park Project – Design & Construction

13. The members of the TEP were;

Position Title	Business Unit	Scoring Member or Advisory Member
Construction Coordinator	Capital Works	Scoring
Recreation and Open Space Planner	Recreation and Leisure	Scoring
Project Manager	Capital Works	Scoring
Manager of Capital works	Capital Works	Advisory
Senior Procurement Specialist	Corporate Services	Advisory

14. The final evaluation outcome was as follows:

TENDERER	SCORE	RANK
Tenderer A – Preferred Tender	82/100	1
Tenderer B	77/100	2
Tenderer C	62/100	3

- 15. The recommended tender was the highest ranked and is considered best value due to evidenced capability and capacity combined with tendered costs.
- 16. **Attachment 1** - Tender Evaluation Summary Report – Confidential, provides the tenderer names and the Evaluation Scorecard Summary.
- 17. 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*.

**Capability**

- 18. Experienced in delivery of similar projects working in collaboration with their nominate design team.
- 19. Has the technical expertise and experience in both design and construction teams to successfully deliver this project.

**Capacity**

- 20. Have the staff and capacity to deliver against the required timelines.
- 21. The nominated Design firm that will deliver the design and lead the community consultation phase has worked with the preferred tenderer on similar projects with good delivery outcomes



**12. Officers' reports**

**CM.127/21 Tender Report - Contract 2021-079 Eltham Skate Park Project – Design & Construction**

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**Tender Interview**

- 22. Tender interview was held with the preferred tenderer and their nominated Design partner on 22 July 2021.
- 23. There were no flags or issues raised as part of the tender interview process.

**Contingency and risks**

- 24. A 20% Contingency has been allocated to this project due to following risks
  - Unknown soil contamination status – the site is immediately adjacent to an old landfill site
  - Some possible uncertainty relating to soil stability – the site is next to Diamond Creek
  - Unknown quantity of fill material – final design to be developed according to community consultation results.
  - Potential material cost increases
  - Flooding of the Diamond Creek, reducing site access.

**Collaboration**

- 25. Not applicable for this contract.

**26. Budget implications**

Contract Amount	\$ 439,045.00
+ Contract Provisional Item	\$ 29,000.00
20% Contingency	\$ 93,609.00
Total	\$ 561,654.00
Approved Budget	\$ 812,149.00

- 27. The costs of the works are funded via a \$300,000 Victorian State Government Parks Revitalisation Grant and Council Contributions of \$512,149.

**Environmental, Local and Social Sustainability**

- 28. As part of the tender process, tenderers were required to provide information on environmentally friendly concrete solutions.
- 29. There is currently no environmentally friendly concrete option in the Australian market for 'shot-crete' (spray-mix) concrete, which is suitable for use for skate ramps.
- 30. Where possible within the other areas of the skate park redevelopment – 'green concrete' options will be used for pathways and other areas, where fit for purpose.
- 31. Where possible, removed material\debris from the site will be recycled.

**12. Officers' reports**

**CM.127/21 Tender Report - Contract 2021-079 Eltham Skate Park Project – Design & Construction**

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- 32. The preferred tenderer is undertaking some research with a Victorian based supplier of concrete, to look at future environmentally friendly solutions/options for 'shot-crete'.
- 33. The preferred tenderer is not based within the Northern Council Alliance (NCA) area but has committed to sourcing 25% of concrete from supplier within the NCA and general hardware from local suppliers.
- 34. Participates in Apprenticeship scheme and has one apprentice.
- 35. Is a Victorian based supplier.
- 36. Has in place Environmental Management Plan.
- 37. Has a Diversity and Inclusion Policy and has one female in mid-level management role.

**Stakeholder Consultation/communication**

- 38. Community input was sought via Council's Participate Nillumbik platform for the Eltham Skate Park Upgrade project.
- 39. A pop-up information session that was scheduled to be held on Thursday 8 July 2021 was cancelled due to COVID Lockdown. All community responses were received via online survey.
- 40. The deadline for submissions closed on 1 August 2021. 115 of submissions were received with support for the project running at 97%.

**Innovation and continuous improvement**

- 41. Not applicable

**Relevant law**

- 42. Section 186 of the Local Government Act 1989.

**Regional, state and national plans and policies**

- 43. Not applicable.

**Conflicts of interest**

- 44. As part of the tender process, all members of the Tender Evaluation Panel were required to declare any disclosable conflicts of interest.
- 45. There were no disclosable conflicts of interest raised.

**12. Officers' reports****CM.128/21 Informal Meetings of Councillors Records - 24 August 2021**

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

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

This report lists Informal Meetings of Councillors records submitted since the matter was last reported to Council on 27 July 2021.

An Informal Meetings of Councillors Record was kept for the following meetings (**Attachment 1**):

1. Informal Meeting of Councillors Record Councillor Briefing - 15 June 2021.
2. Informal Meeting of Councillors Record Pre-meet to Planning and Consultation Committee Meeting and Councillor Briefing – 13 July 2021.
3. Informal Meeting of Councillors Record Councillor Briefing (2) – 13 July 2021.
4. Informal Meeting of Councillors Record Councillor Briefing – 20 July 2021.
5. Informal Meeting of Councillors Record Pre-meet to Council Meeting – 27 July 2021
6. Informal Meeting of Councillors Record L&LN Advisory Committee – 28 July 2021
7. Informal Meeting of Councillors Record - Positive Ageing Advisory Committee – 6 August 2021.
8. Informal Meeting of Councillors Record – Local Laws Workshop - 9 August 2021
9. Pre-meet to Planning and Consultation Committee Meeting held 10 August 2021.

**Officer Recommendation**

**That** Council, in accordance with *Item 19 of Council's Governance Rule – Meeting Procedure*, receives the Informal Meetings of Councillors Records (**Attachment 1**) for the meetings held.

**Attachments**

1.  Informal Meeting of Councillors Records - 24 August 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.

**Related Council decisions**

2. Not applicable.

**12. Officers' reports**

**CM.128/21 Informal Meetings of Councillors Records - 24 August 2021**

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**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:
  - 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.
  - 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 27 July 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.

**12. Officers' reports**

**CM.128/21 Informal Meetings of Councillors Records - 24 August 2021**

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**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.

**12. Officers' reports**

**CM.128/21 Informal Meetings of Councillors Records - 24 August 2021**

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**12. Officers' reports****CM.129/21 Eltham Area Community Hospital**

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**Distribution: Public****Manager: Carl Cowie, Chief Executive Officer****Author: Hjalmar Philipp, Director Operations and Infrastructure****Summary**

The Victorian Building Health Authority (VHBA) has identified Council land at Civic Drive, Greensborough as its preferred location for the development of the Eltham Area Community Hospital.

The VHBA has publicly indicated it is seeking community feedback before it makes a decision to purchase the Council land.



Following a decision by VHBA whether or not to purchase the land, the VHBA may acquire it either through agreement with Council or compulsory acquisition.

Separate to any engagement undertaken by the VHBA, Council can also seek community feedback to inform the potential sale of Council land. This report contains a proposed approach to do so.

**Recommendation**

**That** Council commences a consultation process as outlined in Proposed Community Engagement Next Steps **Attachment A** to seek the views of the Nillumbik community to inform the potential sale of Council land for the purpose of a community hospital at Civic Drive at the location outlined in **Attachment B**.

**Attachments**

- 1  Attachment A - Proposed Community Engagement Next Steps
- 2  Attachment B - VHBA Preferred Location

**Discussion**

1. The Victorian Building Health Authority (VHBA) notified Nillumbik Council in May 2021 indicating it had identified Council land at Civic Drive, Greensborough as their preferred location for the development of the Eltham Area Community Hospital.
2. The Eltham Area Community Hospital is one of ten community hospitals the Victorian Government has committed to build.
3. VHBA have indicated it will seek community feedback before a decision is made on purchasing the land shown in Attachment B.
4. A summary of the key considerations for Council regarding transfer of land to the State following legal advice is contained in points 5- 12.
5. Council has the power to sell the land to a Minister or Public Body pursuant to section 116 of *Local Government Act 2020*.
6. Council can negotiate the terms of the transaction if it decides to sell the land to the VHBA.

12. Officers' reports

CM.129/21 Eltham Area Community Hospital

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7. Guidance for the VHBA's approach to negotiating a sale by agreement is contained in the *Victorian Government Land Transactions Policy and Guidelines*, April 2016, accessible here:  
[https://www.planning.vic.gov.au/\\_data/assets/pdf\\_file/0030/125877/VGLTPG-Victorian-Government-Land-Transactions-Policy-and-Guidelines-2016-Final.pdf](https://www.planning.vic.gov.au/_data/assets/pdf_file/0030/125877/VGLTPG-Victorian-Government-Land-Transactions-Policy-and-Guidelines-2016-Final.pdf)
8. If Council and VHBA are able to agree on terms of sale, a contract of sale will be prepared and settlement can be completed in accordance with that contract. There is no set timing for this process; it is determined by terms being discussed.
9. If Council does not agree to sell the land to the VHBA or agreement on the terms of sale is unable to be reached, the VHBA may seek to compulsorily acquire the land in accordance with the *Land Acquisition and Compensation Act 1986*.
10. Compulsory acquisition involves placing a Public Acquisition Overlay on the land, under a planning scheme amendment process so that the land is reserved for a public purpose. The Minister for Planning could choose to accelerate an amendment to the planning scheme amendment process.
11. The *Land Acquisition and Compensation Act 1986* provides for exemptions from the land reservation process which can accelerate the process of acquisition.
12. Compensation under a compulsory acquisition is separate to the acquisition process and is negotiated and paid in accordance with the *Land Acquisition and Compensation Act 1986*. This means the land can be acquired without compensation having been resolved.

**Related Council decisions**

13. There are no Council decisions related to the potential sale of land identified by the VHBA for the Eltham Area Community Hospital.

**Options**

14. The option for Council is to resolve to potentially sell the land or not. Council has the option to develop terms of sale in the event it resolves to sell.
15. Council may also undertake its own community consultation process to inform its decision.

**Council plans and policies**

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

**Sustainability implications**

17. Not applicable.



**12. Officers' reports**

**CM.129/21 Eltham Area Community Hospital**

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**Community engagement**

18. Council has not sought community views on the potential sale of Council land to VHBA. As the matter involves the potential transfer of public land, it is appropriate for Council to engage with its community on the matter. A proposed consultation approach is outlined in **Attachment A**.

**Innovation and continuous improvement**

19. Not applicable.

**Collaboration**

20. At the request of VHBA in 2019, a list of potential sites for a community hospital was provided. Neither Council nor its officers were involved in the site selection assessment.

**Budget implications**

21. Costs associated with community consultation can be met within operational expenditure.

**Relevant law**

22. *Local Government Act 2020*;  
23. *Land Acquisition and Compensation Act 1986*.

**Regional, state and national plans and policies**

24. No applicable.

**Conflicts of interest**

25. 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.

**12. Officers' reports**

**CM.129/21      Eltham Area Community Hospital**

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**12. Officers Reports**

**CM.131/21 CEO Employment Matters Committee**

**Distribution: Public**

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

**Summary**

This report is an overview of a separate confidential report to consider matters relating to the Chief Executive Officer's (CEO's) Performance Plans 2020/2021 and 2021/2022

**Recommendation**

**That** Council notes this report.

**Attachments**

Nil

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13. Notices of Motion

**NOM.004/21 Civic Drive Roundabout Greensborough - Road Safety**

Cr Richard Stockman advised of his intention to move the following:

**Motion**

**That** Council writes to the Minister for Roads and Road Safety, the Hon. Ben Carroll MP and Minister for Transport Infrastructure, the Hon. Jacinta Allan MP requesting:

- a) A detailed investigation be undertaken into traffic congestion and road safety at the Civic Drive / Diamond Creek Road Roundabout, Greensborough, including road safety audit, particularly given projected increased traffic volumes as a result of North East Link and Yan Yean Road projects.
- b) Engagement be undertaken with affected Nillumbik Shire residents to explain investigations undertaken and plans to address congestion and safety issues.
- c) Consideration be given to funding intersection improvements at the Civic Drive/Diamond Creek Rd, Greensborough intersection to reduce congestion and improve road and pedestrian safety.

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14. Delegates' Reports

15. Supplementary and urgent business

16. 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.130/21 CEO Employment Matters Committee**

This item is confidential because it is personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs pursuant to paragraph (f) 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.

12. Close of Meeting