

Council Meeting

held virtually on Tuesday 24 August 2021 commenced at 7:04pm.

Minutes

Carl Cowie
Chief Executive Officer

Friday 27 August 2021

Distribution: Public

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

Nillumbik Shire Council

Contents

1.	Welcome by the Mayor	3
2.	Acknowledgement of Country	3
3.	Good Governance Pledge	3
4.	Prayer	3
5.	Apologies	3
6.	Presentations	4
7.	Confirmation of minutes	5
8.	Disclosure of conflicts of interest	5
9.	Petitions	6
PT.003/21	Petition - The Old CFA Building	6
10.	Questions from the gallery	7
11.	Reports of Advisory Committees	21
AC.010/21	Advisory Committee Report - 24 August 2021	21
12.	Officers' reports	22
CM.116/21	Domestic Animal Management Plan	22
CM.117/21	Intention to Declare a Special Rate Renewal for the Diamond Creek Business Precinct	23
CM.118/21	Acknowledgement of Country	25
CM.119/21	Response to public exhibition of Planning Scheme Amendment C133	27
CM.120/21	Kangaroo Ground War Memorial Park Draft Management Plan for Council endorsement for public exhibition	29
CM.121/21	Planning Scheme Amendment C140 to apply the Heritage Overlay to 1080 Heidelberg-Kinglake Road, Hurstbridge	31
CM.122/21	Nillumbik Planning Scheme Amendment C126Nill Submission to the Minister for Approval	33
CM.123/21	Bourchiers Road Special Charge Scheme, Kangaroo Ground - formal questionnaire results	35
CM.124/21	Appointment of Councillor Representative to the Banyule/Nillumbik Local Learning Employment Network Inc. Board	37
CM.125/21	Quarterly Risk and Safety Report - June 2021	41
CM.126/21	Tender Report - Contract 2021-060 Provision of Underground Stormwater Drainage Cleaning and Condition Audits	43
CM.127/21	Tender Report - Contract 2021-079 Eltham Skate Park Project – Design & Construction	45
CM.128/21	Informal Meetings of Councillors Records - 24 August 2021	47
CM.129/21	Eltham Area Community Hospital	49

Council Meeting Minutes	24 August 2021
CM.131/21 CEO Employment Matters Committee	50
13. Notices of Motion	51
NOM.004/21 Civic Drive Roundabout Greensborough - Road Safety	51
14. Delegates' Reports	51
15. Supplementary and urgent business	51
16. Confidential reports	52
CM.130/21 CEO Employment Matters Committee	52
17. Close of Meeting	52

Nillumbik Shire Council

**Minutes of the Meeting of Nillumbik Shire Council held Tuesday 24 August 2021.
The meeting commenced at 7.04pm.**

Councillors present:

Cr Richard Stockman	Blue Lake Ward
Cr Karen Egan	Bunjil Ward
Cr Natalie Duffy	Edendale Ward
Cr Peter Perkins	Ellis Ward (Mayor)
Cr Ben Ramcharan	Sugarloaf Ward
Cr Frances Eyre	Swipers Gully Ward (Deputy Mayor)
Cr Geoff Paine	Wingrove Ward

Officers in attendance:

Carl Cowie	Chief Executive Officer
Vince Lombardi	Chief Financial Officer
Hjalmar Philipp	Director Operations and Infrastructure
Blaga Naumoski	Executive Manager Governance, Communications and Engagement
Narelle Hart	Acting Executive Manager Communities
Jeremy Livingston	Executive Manager Business Transformation and Performance
Rosa Zouzoulas	Executive Manager Planning and Community Safety
Eddie Cheng	Manager, Information Technology
Katia Croce	Governance Lead

1. Welcome by the Mayor

2. Acknowledgement of Country

Acknowledgement of Country was read by the Mayor, Cr Peter Perkins.

3. Good Governance Pledge

The Good Governance Pledge was ready by Cr Natalie Duffy.

4. Prayer

A prayer was read by Stewart Hunt, Lead Pastor, The Vine Baptist Church.

5. Apologies

Nil

6. Presentations

Suzanne Vincent and Denis Buckley Condolence

I was saddened to hear of the recent passing of two of our Nillumbik Shire Council staff members, Suzanne Vincent and Denis Buckley.

Suzanne Vincent was our school crossing supervisor at Wattle Glen Primary School from 2017. She was an active member of the school community and provided the team with laughs such as telling stories of the children at her crossing.

A stand out story would be when she had a child pretending to be the Sloth from Zootopia when crossing the road and her trying to encourage the Sloth to be quicker.

Suzanne was kind, witty and showed such dedication to her job and children at Wattle Glen Primary. She will be sorely missed.

Denis Buckley, or Bucky as he was known to everyone, commenced with the Shire of Eltham (now Nillumbik) on 14 October 1975.

He spent many an hour operating a tractor and mower to ensure that the sporting grounds were always ready for a variety of matches and sporting events and more recently, mowing the open spaces for everyone to enjoy.

Before settling on a tractor, he was also known to “run garbage” for a time, just to maintain his fitness while playing football.

He enjoyed the solitude of being in the tractor and being able to control his own workday.

Denis was well known and respected. After almost 46 years with the Shires of Eltham and then Nillumbik, Denis made a long lasting and memorable impact with his workmates, past and present and he will be sadly missed by all.

On behalf of Council, I extend my deepest condolences to Suzanne and Denis’ families, friends and their colleagues at Nillumbik Council.

Their work and time at Council is greatly appreciated and will not be forgotten.

Robert Bell Condolence

I was saddened to hear of the recent passing of local community identity Robert Bell.

I didn’t know Robert personally, but I am reliably informed that he was an authentic environmentalist and eco warrior. He chose to spend his retirement voluntarily weeding the Kinglake National Park, roadside verges and paddocks of noxious weeds. He often chose to sleep in the bush and preferred to live without phones or modern conveniences.

Robert knew every weed by its botanical name, and its origins. He had a great knowledge of local bushland, native grasses, the wildlife who depended on them, as well as invasive species and how treat them safely without resorting to harmful chemicals and pesticides.

Robert had the ability to encourage others to help him and join in. He taught many and his generosity shone through. Locals tell stories of finding a box of tomatoes on their doorstep which could always be tracked back to Robert.

He had no agenda or political affiliation, acting only on his abiding love of the bush and natural environment.

Robert will be sadly missed by many in the Nillumbik community and on behalf of Council, I extend our deepest sympathies to his family and friends.

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 as soon as you are able.

7. Confirmation of minutes

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

Council Resolution

MOVED: Cr Ben Ramcharan
SECONDED: Cr Geoff Paine

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

CARRIED UNANIMOUSLY

8. Disclosure of conflicts of interest

Cr Egan declared a general conflict of interest in Item Number CM.123/21 – Bouchiers Road Special Charge Scheme Kangaroo Ground - formal questionnaire results because she has a close association with a resident of Bouchiers Rd.

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.

Council Resolution

MOVED: Cr Richard Stockman

SECONDED: Cr Natalie Duffy

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.

CARRIED UNANIMOUSLY

10. Questions from the gallery

The Mayor Cr Peter Perkins advised the gallery, that there are a significant number of questions on the Eltham Community Area Community Hospital tonight. To be fully transparent we will read out all questions and our answers. There are a number of questions which are similar and so the responses will seem repetitive but we want to respond to each person fairly.

As you know the Eltham Community Area Community is a project of the State Government, being conducted by the Victorian Health Building Authority (VHBA). A number of questions relate specifically to questions that can only be answered by the VHBA and as such our responses reflect that. We make no apology for that.

Council has tried to be as clear as possible about its involvement in the project up to and including notification from VHBA of their preferred site. This Council (seven Councillors currently with us tonight) were never consulted. The final preferred location for the Eltham Community Area Community was a decision entirely of the VHBA on behalf of the Minister for Health.

Council has been asked to consider the sale of land at Civic Drive to facilitate the development of the Community Hospital. It is important for the community to understand that even if Council refuses to sell the land in question (that's sale by agreement), a sale via a compulsory process (compulsory acquisition) would still be an option available for the State Government in accordance with the *Land Acquisition and Compensation Act 1986*.

1. Katrina Naish asked the following questions:

In regards to the proposed site for VHBA it's been stated that they require 4-5 hectares include room to grow.

Question 1

How many hectares is the Civic drive site?

Response 1

The site identified by VHBA is approximately 10,000 m², or 1 hectare.

Question 2

When VHBA requested Council propose potential sites for its review what criteria apart from land size were you given?

Response 2

The selection criteria was to include; 4-5 hectares in size to future proof the hospital for future expansion if necessary, it's easily accessible and well placed to service long term population growth and to support the network of other health facilities and services.

2. Sahan Fernando asked the following questions:

Question 1

Proposed hospital will increase the traffic in the area.

Would VHBA improve the road to the proposed hospital and would they remove the roundabout to solve this issue?

Question 2

Artist's impression of the proposed hospital does not include 23 townhouses that will be built at the front of the hospital.

Has VHBA considered town houses that will be built at the front or do they know about it?

Responses 1 & 2

The Eltham Area Community Hospital is a State Government project undertaken by VHBA. It is understood that the VHBA were aware of the townhouses to be constructed at Whittingham Circuit including all other major projects and surrounding uses. Any questions about the project including the impacts would be best put to the VHBA as they are the responsible authority.

3. Ishari Fernando asked the following question:

Victoria government may want to expand the proposed hospital in the future. This may take over the kids play area and the outdoor theatre.

Question 1

Can VHBA guarantee the protection of existing community facilities such as the library, kids play area and the outdoor theatre?

Response 1

Council as a key stakeholder of the project area and its surrounds is seeking further detail on the proposed hospital and advice on its potential economic, social and environmental impacts on the precinct. In short that's another question for VHBA we can't make any guarantees on their behalf.

4. Kwok Yi Hatton asked the following questions:

I would like to know the evacuation plan for the new Eltham Community Hospital please. The traffic can be chaotic at school drop off and pick up times, sport days etc. There's often heavy traffic at the Civic Drive roundabout.

Question 1

In case of an emergency, such as a bush fire, will everyone from the new hospital, 3 schools, council office, library, stadium, shops and residents be able to evacuate this area safely and quickly?

Response 1

Council takes its responsibility for community safety very seriously and as such has and will continue to discuss such matters with the VHBA. Council has and will continue to advocate for an efficient and safe road network in all discussions and communications with government

Question 2

The land fronting the 'St John of God' campus, on the opposite side of the roundabout, has been suggested by many local residents as a more appropriate site for the hospital.

What efforts have been made to explore this option?

Response 2

As this is a Victorian Government project, any questions about the project and its location would be best put to the VHBA as the responsible authority. St John of God suggestion just for you to note is not in the Shire of Nillumbik it is actually in the Shire of Banyule. We don't believe it was identified by anyone as a site in the year coming up to the State Government announcing their preferred site.

5. Travis Hall asked the following question:

Question 1

Apollo Parkways Primary School does not have a dedicated school parking area and taking away even more car parks will cause traffic chaos twice daily for all commuters in this vicinity (Council staff included).

If the community hospital does go ahead in the Civic Drive location, will Council finally look at parking alternatives for the 500 plus parents who attend the Apollo Parkways Primary School and currently use this area as one of the primary pickup and drop-off points for their children?

Response 1

Council as a key stakeholder has an interest in the impact of parking in the area if the community hospital does go ahead in the Civic Drive location, and will be interested in the parking solution VHBA may propose as part of the potential development.

Council will advocate for an efficient and safe road network to the Government and the VHBA. Just noting Travis that the Apollo Parkways Primary School is a State Government facility and is not in the remit of Council or ratepayers to provide the required car parking that's the situation.

6. Rosemary Burdett asked the following questions

The proposed Eltham Community Hospital to be built on the only existing car parking spaces that service the Diamond Valley Stadium, Diamond Valley Library, Nillumbik Shire Offices, Apollo Parkways Primary School and Civic Playspace will cause congestion in local streets, added traffic flow to and from Apollo Parkways and possibly the reinstating of public transport that has previously been stopped due to the safety concerns to school children.

Question 1

What will the Nillumbik Councillors be basing their decision to sell or not sell the Civic Drive Recreational Open Space to the State Government for the Eltham Community Hospital?

Response 1

Council will need to gain a more comprehensive understanding of the proposal and its impacts before a decision can be made to sell the land to the Government for the Eltham Area Community Hospital. This will be informed by community feedback and there is an agenda item later tonight that provides a bit more info there.

Question 2

Will they be seeking information on traffic/public transport/parking reports prepared by the Nillumbik Shire Council's own infrastructure department or will they rely on information provided by the Victorian Health Building Authority?

Response 2

Council has at this point, Council has not been requested to provide any parking and traffic information to VHBA.

Council is not aware of the scope of any traffic or parking studies the VHBA may undertake.

Council takes its responsibility for community safety very seriously and has raised these matters and concerns with the VHBA the relevant authority.

7. Jo Conlon asked the following question:

Question 1

The VHBA recently replied to a query concerning traffic & parking at Civic Drive that a "detailed analysis & traffic management plan would be produced".

Will Nillumbik Councillors sell the Civic Drive site in the absence of this "detailed" analysis as VHBA have stated only a preliminary one has been completed at this point?

Response 1

Council will need to gain a more comprehensive understanding of their proposal and its impacts before a decision can be made to sell the land to the Government for the Eltham Area Community Hospital. That decision will be informed by community feedback and all details of the proposal. Noting that even if Council refuses to sell the land to the State Government, it doesn't mean they won't compulsory acquire the land that is an option very live to them.

8. Peter Burdett asked the following questions:

Question 1

Given that most hospital precincts are built around a hospital after it is built.

How does the Nillumbik Shire Council envisage inserting such a large and busy hospital site in the middle of an open space/playground/recreation/library/council office area will work?

Response 1

Council will need to gain a more comprehensive understanding of the proposal and its impacts before a decision can be made to sell the land to the Government for the Eltham Area Community Hospital. That does not mean they won't compulsory acquire the land if Council refuses to sell the land. The decision will be informed by community feedback and all details of the proposal.

Question 2

How will this space accommodate the future expansion of the hospital given that this is one of the requirements stated by the VHBA?

Please do not refer this question back to the VHBA as this directly relates to Council making a decision on whether or not to sell this land to the State Government.

Response 2

Council will need to gain a more comprehensive understanding of the proposal and its impacts before a decision can be made to sell the land to the Government for the Eltham Area Community Hospital. The decision will be informed by community feedback officers reports and all details of the proposal. Noting that if we don't sell the land they can compulsory acquire it.

9. Carol Doherty asked the following question:

Question 1

I am asking my question of Nillumbik Council not VHBA:

If the "preferred" VHBA site of, current Civic Precinct carpark and southern PPRZ land, was never on the list of proposed sites (as per Council Meeting 27/7/21), is it State Government cherry picking a cheap, serviced site and the Shire allowing established and well utilized council services to be diminished.

Response 1

Council cannot comment on the site selection process that may have been used of the State or its representatives. The other thing is Council provided a list of eight options, six of those options were listed as preferred locations in no priority order, that was reported at the last Council meeting, and there were two others that we have spoken about as other sites. The site that is proposed now is part of a small part of a site that Council officers put to the State Government very early on in this process early last year. I hope that provides some more information because the preface of the question, I don't think is quite right that the proposed site now forms a very small part of a larger 5 hectare site along with seven others.

Question 2

I am asking my question of Nillumbik Council not VHBA: If, as I now understand, Shire Officers compiled the list of 6 proposed sites (as per Council meeting 27/7/21). *(The Mayor noted that it was actually eight sites).*

On what grounds did the Eltham electorate MP request that the Main Road, Eltham site be removed from this list?

Response 2

Council cannot comment on the of the State or its representatives. The decision on where to site the Eltham Area Community Hospital was a decision made solely by the State Government.

10. Kelly Farrow asked the following questions:

Question 1

For context - this question refers to apparent misinformation being given to the Nillumbik community that the land sale will bring an ongoing financial benefit to Nillumbik Shire (such as through establishment of a public-private partnership PPP, or other arrangements). (This question should not be referred to the VHBA as it directly relates to Nillumbik's interests and information).

Can the Councillors please clarify - what are the potential financial benefits to the Nillumbik Shire (one-off AND/OR ongoing benefits) that might come from selling the Civic Drive site to the Vic Gov for the Eltham area community hospital?

Response 1

So through verbal briefings from the VHBA Council has sought to gain a more comprehensive understanding of the proposal and its impacts before a decision can be made to sell the land to the Government for the Eltham Area Community Hospital.

The decision will be informed by an understanding the detail of the project and how that may benefit the community including any direct financial benefits that may be realised from the sale of the land that will be undertaken in accordance with the Victorian Government Land Transactions Policy and Guidelines, April 2016.

Question 2

Given that Nillumbik Councillors will decide in October whether or not to sell off our PPRZ lands for the purpose of the Vic Gov building a large multi-storey hospital and paid carpark.

Can Councillors please advise the community, by way of specific example, of any equivalently sized, nearby, flat/usable, recreational space in Apollo Parkways area that the residents of this hilly area will be able to access and enjoy in place of the Civic Drive land?

Response 2

So through verbal briefings from the VHBA Council has sought to gain a more comprehensive understanding of the proposal and its impacts before a traffic can be made to sell the land to the Government for the Eltham Area Community Hospital.

The decision will be informed by understanding the detail of the project and how that may impact surrounding land uses including the recreational area immediately north of the proposed project area. It is understood through discussions with the VHBA that their amended project area will no longer utilise the recreational open space area fronting Civic Drive.

12. Richard Williamson asked the following questions

Danielle Green MLA (Yan Yean) published comments on social media that stated the Eltham area community hospital would be an opportunity for Nillumbik Shire to relocate to 895 Main Road Eltham, as the hospital would likely need to expand at some future point and need to acquire additional office buildings or property.

This question also takes as context the Council's answer at the 27 July meeting to Julia Drew that the Civic Drive land was nominated to the VHBA by council executives 'on the condition that should it be chosen, that Council's Shire offices be relocated to the old shire office site in Eltham to provide for a new hospital building'.

Question 1

Can the Nillumbik Shire Council please advise the public of its plans (current or future plans) to relocate Council offices to 895 Main Rd Eltham?

Response 1

Council does not have any plans to relocate the Council offices to 895 Main Rd Eltham or anywhere else.

Question 2

150 Diamond Creek Rd and surrounds is owned in part by the Department of Transport & has a public acquisition overlay attached.

Would Nillumbik Shire Council & the City of Banyule be prepared to collaborate on any future strategic planning work that would enable the Eltham area Hospital be located on this site?

Response 2

Nillumbik Shire Council has not received any proposal to consider that area, however is open to contributing to appropriate discussions with the State should a proposal be put forward and we can't speak for Banyule.

12. Lyn D'Alton asked the following questions

Question 1

Why did Council not disclose to the purchasers of Whittingham Circuit that the Council Office area was on a list of potential community hospital sites given to the VHBA (known in the 2019 site list, and which has now morphed into the PPRZ land), thereby neglecting to consider Section 32 of the Sale of Land Act, the 'Local Government Best Practice Guidelines for the sale, exchange and transfer of land', the Local Government Acts of 1989 and 2020, and Consumer Affairs Victoria, which all state the 'land must be offered for sale with full disclosure of relevant information', and 'facts about the surrounding neighbourhood that may affect the use and enjoyment of the property to a greater extent than ordinary properties in the area (such as significant development proposals nearby)'?

Response 1

Council is confident the sale of land at Whittingham Circuit was conducted in line with relevant legislation and in accordance with legal advice throughout the entire sale process.

Question 2

What is Council's litigation response strategy if the VHBA acquire any part of the Council Civic Drive precinct for a community hospital, and the purchasers at Whittingham Circuit take legal action?

Response 2

The State has the option to compulsorily acquire the land.

13. Laena D'Alton asked the following questions:

Question 1

Why wasn't the Council Carpark, bounded by Flintoff Street and Para Road, not included on the Council's list of sites submitted to the VHBA?

As there is excellent train and bus transport next to this site which would fulfil the Nillumbik Council's climate change goals as outlined in the Climate Change Action Plan 2016-2020, and the Labour State Government's goal of 50% reduction in carbon emissions by 2030 which also underpins the VHBA's climate change documentation.

Response 1

VHBA requested a list of sites that met criteria, largely spatial. The list for VHBA to consider was put forward on the basis of their criteria.

The decision on where to site the Eltham Area Community Hospital was a decision made solely by the State Government. Flintoff Street and Para Road is down near the Greensborough Train Station and that is well and truly in the City of Banyule. We were only asked to select sites in Nillumbik not Banyule.

Question 2

Can the Council please outline how they implemented their Climate Change Action Plan 2016-2020 when preparing the list of potential community hospitals sites for the VHBA?

Response 2

VHBA requested a list of sites that met criteria, largely spatial. The list for VHBA to consider was put forward on the basis of their criteria. The decision on where to site the Eltham Area Community Hospital was a decision made solely by the State Government.

14. Thomas Doherty asked the following questions:

Question 1

Is the Council aware that due to CoVid restrictions, VHBA have cancelled all of their community information work-shops?

In lieu of these information sessions VHBA have requested that emails be sent (please note the current link on their webpage is broken and no email can be sent or more importantly received).

Question 2

How does Council expect the community to have all the information required to make an informed decision on the proposed hospital location?

Response 1& 2

Thomas, the Eltham Area Community Hospital is a State Government project undertaken by VHBA. Any questions about the project including the impacts would be best put to the VHBA as the responsible authority. The other thing, We did have a short meeting with representatives from the VHBA, their CEO Mr Fiske and a couple of other staff members. We did make the point that the workshops had been cancelled and made the request that the sessions be held virtually - Zoom type meetings to disseminate information, so we have advocated for that.

15. John D'Alton asked the following questions:

Question 1

Will the Nillumbik Council refuse to sell the proposed site PPRZ to VHBA and hold VHBA accountable to both the Council's Planning Scheme rules regarding overdevelopment of an existing location, increasing traffic issues, and the material and actual loss of car parking spaces, and the Council's Climate Change Action Plan, according to which a planning permit would not be granted for the proposed building of a community hospital or ANYTHING else on the PPRZ site?

Question 2

Will Council please detail what further evidence they require, above the already ample evidence presented to Council from multiple sources, in order to reject the sales of both 895 Main Rd Eltham and PPRZ land Civic Drive to the VHBA?

Responses 1 & 2

Council has not yet resolved a formal position on whether to sell land or not.

Council is seeking further detail of the proposal and its impacts before a decision can be made. This will be informed by a better understanding of the project's detail, and the broader community's feedback and it is also worth noting that the State Government would still have compulsory acquisition available to them if Council did indeed resolve not sell the land.

16. Margaret McKenzie asked the following questions

Question 1

Could you provide me with the dates as to when Council sent any communications to residents and the Community by post or email since 2019 2020 and early 2021 regarding the proposed hospital?

Response 1

The Eltham Area Community Hospital is a State Government project undertaken by VHBA. As such, communications about the project are managed by the State who manage the project.

Question 2

VHBA & Vicki Ward both state that a major benefit for the proposed hospital site is its close proximity to retail.

Would Council call IGA Shopping centre with a few shops as retail.....Hello!

Knowing Councils previous dealings with the private landlord how can Vicki Ward or VHBA guarantee this will reinvigorate the shops when the re-opening of the TAFE did not reinvigorate the shops?

Response 2

As you can imagine the Eltham Area Community Hospital is a State Government project undertaken by VHBA. Any questions about the project including the impacts would be best put to the VHBA as the responsible authority.

17. Stewart McKenzie asked the following questions

Question 1

In Councils opinion why was only Apollo Parkways & Eltham the only areas up for selection when you have Diamond Creek Greensborough Montmorency all with accessible transport and train stations and retail?

Response 1

Good question, but the decision on where to site the Eltham Area Community Hospital was a decision made solely by the State Government.

Council officers did propose a site in Greensborough and Diamond Creek, but not in Montmorency as it is not in Nillumbik Shire. So the site in Greensborough is the site in under contention at the moment, Diamond Creek there was one proposed there, but Montmorency is in Banyule.

Question 2

It has been suggested that Eltham does not want the traffic from the hospital even though it is a major activity centre; does this then defeat the argument of potentially moving Council Offices to Main Road Eltham site?

Response 2

The decision on where to site the Eltham Area Community Hospital was a decision made solely by the State Government. The siting of a Community Hospital is a different proposition to council offices. As we have said previously, there is no plan to move Council Offices to Main Road Eltham or anywhere else.

18. Dr Svetlana Ryzhikh on behalf of Friends of Apollo Parkways (FoAP) asked the following questions:

Question 1

A reply from VHBA to a FoAP member concerning public transport to the Civic Drive site stated "VHBA will work with the DoT to investigate options to improve public transport access to Civic Drive."

Will Councillors when they vote to sell or save the land be reassured by such vague platitudes when there are NO specifics as to HOW the VHBA will solve the problem of providing public transport to the site?

Response 1

Council has not yet resolved a formal position on whether or not to sell land ~~or not~~. It is important to note that if Council resolves not to sell the land the State Government the option of compulsory acquisition is still very open to it.

Council will consider all available information at the time before making any decision and we have an agenda item later tonight that kicks that off.

Question 2

From the discussion with Nillumbik's CEO Carl Cowie on 19 August the FoAP learned that PPRZ zoned land has one of the lowest costs due to its inability to be developed for commercial or residential use. VHBA is not deterred by the zoning, and could be driven by the desire to get the land on the cheap and "deliver on Labor's election promise".

Will the Nillumbik Councillors stop the VHBA's park grab that is monetarily and politically driven?

Response 2

Council is proposing to seek further information from the community prior to resolving a formal position on whether to sell land or not, acknowledging that that might not be the end of it either way.

Council will consider all available information at the time before making any decision.

19. Greg Ryjikh asked the following questions:

Question 1

No accurate traffic and parking modelling can be done until the Sports Stadium, Library and two schools start operating at full capacity.

Will the Nillumbik Council insist that VHBA postpones its decision to buy or not buy Apollo Parklands until the precinct facilities reopen, and accurate data can be gathered and analysed?

Response 1

Council recognise the potential impacts on parking and traffic and as an impacted landholder and stakeholder. Council will consider all available information at the time before making any decision whether to sell the land or not.

Council will advocate for an efficient and safe road network to the Government and the VHBA.

20. Dr Svetlana Ryzhikh asked the following questions:

Question 1

Deanne Leaver (VHBA Executive Manager Planning and Development) stated in the meeting with Vicki Ward and FoAP on 27 July that the “Compulsory Acquisition of the site is not on the cards.” (Page 3 of meeting’s transcript).

In their negotiations with the NSC, did any of the VHBA representatives refer to compulsory acquisition as the means of purchasing the site for Eltham Area Community Hospital from NSC?

Question 2

If not, why and who is using this surmise to corral the Councillors into submission and make them sell the land “because the State Government will take it anyway”?

Responses 1 & 2

Yes. Compulsory Acquisition is an option that is available to the State.

21. Tim Fleet asked the following questions:

Question 1

Regarding the proposed community hospital in Civic Drive, will any internal traffic profiling and car parking modelling been completed by council be available to the public prior to the end of Nillumbik's community consultation period?

Response 1

No. Council does not have the information from the VHBA regarding detailed hospital design to inform traffic and carpark modelling.

Question 2

Additionally has Nillumbik been made aware of any traffic profiling and car park modelling completed by VHBA, and if so will this also be made public?

Response 2

Through verbal briefings from the VHBA Council has sought to gain a more comprehensive understanding of the proposal and its impacts before a decision can be made to sell the land to the Government for the Eltham Area Community Hospital.

Council is not aware of the scope or likely timelines of any traffic or parking studies the VHBA may undertake although we have advocated for such.

22. Kate Fleet asked the following questions:

Question 1

Are Nillumbik Councillors and council officers aware that City of Banyule Council were excluded from the process to identify the best site for the Eltham area Community Hospital?

Response 1

Council is aware that there was no approach to Banyule City Council from VHBA for the purpose of site selection for the Eltham Area Community Hospital.

Question 2

Given that the VHBA have identified the major benefit for Civic Drive's site selection is proximity to NE Link and Ring Road, is there any reason in council's opinion why Banyule would not have been asked to submit potential sites to the VHBA?

Response 2

This is a question best directed to VHBA as the responsible authority on that one.

23. Dianne Brooker asked the following questions:

Question 1

No previous or current Councillors have resolved to submit any land to the VHBA for consideration. In future communications, can the distinction be made clear - the Civic Dr site was self-selected by VHBA and never offered by the Council?

Response 1

The Civic Drive site was not recommended by Council officers as the preferred site. It's true that it forms the sub-set of a larger site the 4-5 hectare site that encompasses the Sports Complex, the Library, Shire Offices, the ampetheatre and the park and the car park and some public open space that is there and the government have chosen to narrow in and focus on the site that they have. The broader site was put to VHBA by Council staff.

Question 2

What governance process led to a single Councillor having the Council buildings listed as a site for the VHBA to consider?

Response 2

The previous Council operated under the governance process of an individual Councillor being responsible for a specific area of Council business under a Portfolio structure (for example, Planning, Social Infrastructure etc).

24. Kevin Ringer asked the following questions:

Question 1

Banyule City Council was excluded from the site selection process for the Eltham area Community Hospital.

How can Nillumbik Councillors assure themselves that the parkland at Civic Drive was the best & only feasible site for the Eltham Area Community Hospital given this failure to engage with the City of Banyule?

Response 1

It is understood through discussions with the VHBA that their amended project area will no longer utilise the recreational open space area fronting Civic Drive. Council are currently seeking to gain a more comprehensive understanding of the proposal and its impacts before a decision can be made to sell the land to the Government for the Eltham Area Community Hospital.

Question 2

What view do the Shire of Nillumbik have on this process failure?

Response 2

This is a question best directed to VHBA as the responsible authority.

25. David Boyle asked the following questions:

Question 1

How has the site for the proposed community hospital been selected given that the "preferred site" does not comply with at least four of the five criteria listed in the VHBA "site Selection Criteria" and was this questioned by Council?

Response 1

Council cannot comment on the site selection process that may have been used by the State Government.

The Eltham Area Community Hospital is a State Government project undertaken by VHBA. Any questions about the project including the site selection would be best put to the VHBA as the responsible authority.

Council officers have advocated for options within the Eltham Major Activity Centre as preferred on the following basis:

- placing a major community facility into an activity centre
- providing an anchor employer for the activity centre and one befitting the predominant skills of the local workforce
- supporting synergies with surrounding services, retail etc.
- placing the hospital in close proximity to a public transport hub
- making high-use of a key development site in the activity centre

The above outcomes are highly consistent with State and Council Activity Centre Policy.

Question 2

Will Council make available to the community the Report and/or Business Case that has resulted in the proposed site being the preferred site?

Response 2

Council has not received a Report and/or Business Case that has resulted in the proposed site being the preferred site by this State Government or VHBA.

26. John Molina asked the following question:

Question 1

Has the council proposed to the VHBA an alternative site such as the larger site near St John of God/Vic Roads?

Response 1

Council officers were not asked to propose sites in other municipalities and the community did not get much of a heads up, I think community found out about the decision to site the hospital on the current Civic Drive site a week or so after councillors, we as a Council got no prior notification that that site was likely to be picked.

27. Trish Turco asked the following questions:

Question 1

In order to come to a decision about whether to sell the Civic Drive allotted land to the state government for VHBA use, what independent research has the council and councillors done to ensure it fits the VHBA criteria and is a good fit for our community.?

Response 1

Council has not yet resolved a formal position on whether or not to sell land.

Council is seeking further detail of the proposal and its impacts before a decision can be made. This will be informed by a better understanding of the project's detail, and the broader community's feedback.

Question 2

The 2015 Master plan for Civic Drive seemed to be very comprehensive it took into consideration the needs & aspirations of the diverse community that makes up Apollo Parkways. The Northern Community space was only opened a year before COVID and has been much used and loved when not in tight lockdowns.

The Southern Community space has not been developed as promised, however, our current times of lockdowns have only stressed how important it is to our mental health, to have accessible walking paths surrounded with calming shady trees. These were proposed for the southern space.

Has your research taken into consideration COVID lockdowns may have skewed any current surveyor reports and please look into how we can make this achievable?

Response 1

Research around the project is a question for VHBA as the responsibility authority. Council is aware of the challenges COVID lockdown presents in making such important decisions. Council has stressed to the VHBA of the precinct's values and utilisation to the local community.

28. Rex Niven asked the following question:

Question 1

Could you please advise when safe glass recycling will commence?

Response 1

Council has submitted a draft transition plan to DELWP nominating 2026-27 as the start date for a separate glass collection service. The start date for the service may be brought forward pending availability of a facility that can accept a separate glass waste stream, development of service options which best fit the Nillumbik community and community consultation.

11. Reports of Advisory Committees

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

Distribution: Public

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

Author: Janet Taylor, Governance Officer

Summary

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

In accordance with Advisory Committee Terms of Reference, the 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.

Council Resolution

MOVED: Cr Geoff Paine

SECONDED: Cr Frances Eyre

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

CARRIED UNANIMOUSLY

12. Officers' reports

CM.116/21 Domestic Animal Management Plan

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.

Council Resolution

MOVED: Cr Natalie Duffy

SECONDED: Cr Ben Ramcharan

That Council:

1. Endorses the attached draft Domestic Animal Management Plan 2021-2025 (**Attachment 1**) for the purpose of community consultation.
2. Considers public submissions at the Planning and Consultation Committee Meeting to be held on 12 October 2021
3. 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, to be heard at the October 2021 Planning and Consultation Committee Meeting.

CARRIED UNANIMOUSLY

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

Council Resolution**MOVED: Cr Natalie Duffy****SECONDED: Cr Richard Stockman****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.

CARRIED UNANIMOUSLY

12. Officers' reports

CM.118/21 Acknowledgement of Country

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.

Council Resolution

MOVED: Cr Natalie Duffy

SECONDED: Cr Geoff Paine

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**.

CARRIED UNANIMOUSLY

12. Officers' reports

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

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.

Recommendation

That Council:

1. Resolve to adopt the Amendment as exhibited and send the amendment to the Minister for Planning requesting that the Minister approve Amendment C133;
2. Request officers to update the Participate Nillumbik webpage and notify the submitter in regard to Councils decision.

Motion

MOVED: Cr Frances Eyre

SECONDED: Cr Geoff Paine

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 Councils decision
3. **Requests officers to notify the family of Alan Marshall resolution 1 above.**

12. Officers' reports

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

THE MOTION WAS PUT TO THE VOTE AND CARRIED AND BECAME THE COUNCIL RESOLUTION AS FOLLOWS:

Council Resolution

MOVED: Cr Frances Eyre

SECONDED: Cr Geoff Paine

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 Councils decision
3. Requests officers to notify the family of Alan Marshall resolution 1 above.

CARRIED UNANIMOUSLY

12. Officers' reports

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

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.

Recommendation**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. Council 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**Motion****MOVED: Cr Ben Ramcharan****SECONDED: Cr Natalie Duffy****That Council:**

1. Endorses the Kangaroo Ground War Memorial Park Draft Management Plan, 24 August 2021 (Attachment 1), **subject to the amendment outlined in part two of this motion**, 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. **Amends the list of stakeholders on page 31 of the Draft Management Plan to include the Kangaroo Ground Cemetery Trust and Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation and puts the list in alphabetical order;**
3. **Requests that officers after the consultation period, run a workshop with the stakeholder group and council to discuss how all feedback received will be incorporated into the plan; and**
4. Hears submissions received to exhibition of the Draft Management Plan at the November Planning and Consultation Committee Meeting.

THE MOTION WAS PUT TO THE VOTE AND CARRIED AND BECAME THE COUNCIL RESOLUTION AS FOLLOWS:

Council Resolution**MOVED: Cr Ben Ramcharan****SECONDED: Cr Natalie Duffy****That Council:**

1. Endorses the Kangaroo Ground War Memorial Park Draft Management Plan, 24 August 2021 (Attachment 1), subject to the amendment outlined in part two of this motion, 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;
2. Amends the list of stakeholders on page 31 of the Draft Management Plan to include the Kangaroo Ground Cemetery Trust and Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation and puts the list in alphabetical order;
3. Requests that officers after the consultation period, run a workshop with the stakeholder group and council to discuss how all feedback received will be incorporated into the plan; and
4. Hears submissions received to exhibition of the Draft Management Plan at the November Planning and Consultation Committee Meeting.

CARRIED UNANIMOUSLY

12. Officers' reports

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

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.

Council Resolution

MOVED: Cr Karen Egan

SECONDED: Cr Frances Eyre

That Council:

1. Note 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. Request 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. Undertake public exhibition of Amendment C140 which will apply permanent planning controls through the use of the heritage overlay should authorisation be granted.

CARRIED UNANIMOUSLY

12. Officers' reports

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

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

Council Resolution

MOVED: Cr Geoff Paine

SECONDED: Cr Frances Eyre

That Council:

1. Amend 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.

CARRIED UNANIMOUSLY

Cr Karen Egan declared a general conflict of interest in Item CM.123/21 Bouchiers Road Special Charge Scheme, Kangaroo Ground - formal questionnaire results because of a close association with a resident of Bouchiers Rd.

Cr Karen Egan left the meeting at 8:43pm prior to this item being considered.

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.

12. Officers' reports

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

Motion

MOVED: Cr Ben Ramcharan
SECONDED: Cr Richard Stockman

That Council defer this item to a future meeting.

THE MOTION WAS PUT TO THE VOTE AND CARRIED AND BECAME THE COUNCIL RESOLUTION AS FOLLOWS:

Council Resolution

MOVED: Cr Ben Ramcharan
SECONDED: Cr Richard Stockman

That Council defer this item to a future meeting.

CARRIED UNANIMOUSLY

Cr Karen Egan returned to the meeting at 8:46pm at the conclusion of the above item.

12. Officers' reports

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

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 Local 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.

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.

12. Officers' reports

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

3. Notes that the Coordinator Economic Development and Tourism from Council's Economic Development team will continue to represent Council on the BNLLLEN 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.

Motion**MOVED: Cr Ben Ramcharan****SECONDED: Cr Natalie Duffy****That Council:**

1. Nominates **Cr Frances Eyre** as Councillor Representative (Category 7 – Local Government) to the Banyule Nillumbik Local Learning ~~Living~~ **Local** and Employment Network (BNLLLEN) Inc. Board for a two year period until 24 August 2023.
2. Advises BNLLLEN 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 BNLLLEN Inc. Board for action and resolution at its September BNLLLEN Meeting.
3. Notes that the Coordinator Economic Development and Tourism from Council's Economic Development team will continue to represent Council on the BNLLLEN 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~~ **Local** Learning and Employment Network Inc Board for a two year term.

THE MOTION WAS PUT TO THE VOTE AND CARRIED AND BECAME THE COUNCIL RESOLUTION AS FOLLOWS:

Council Resolution**MOVED: Cr Ben Ramcharan****SECONDED: Cr Natalie Duffy****That Council:**

1. Nominates Cr Frances Eyre as Councillor Representative (Category 7 – Local Government) to the Banyule Nillumbik Local Learning and Employment Network (BNLLLEN) Inc. Board for a two year period until 24 August 2023.
2. Advises BNLLLEN 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 BNLLLEN Inc. Board for action and resolution at its September BNLLLEN Meeting.

12. Officers' reports

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

3. Notes that the Coordinator Economic Development and Tourism from Council's Economic Development team will continue to represent Council on the BNLLLEN 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 Local Learning and Employment Network Inc Board for a two year term.

CARRIED UNANIMOUSLY

12. Officers' reports

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

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.

Council Resolution

MOVED: Cr Frances Eyre

SECONDED: Cr Geoff Paine

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*.

CARRIED UNANIMOUSLY

12. Officers' reports

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

Distribution: Public**Manager: Hjalmar Philipp, Director Operations and Infrastructure****Author: Jeff Saker, Roads and Drains Maintenance Coordinator****Joseph Emmanuel, Manager Infrastructure****Lance Clark, Senior Procurement Specialist****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.

Recommendation

That Council:

1. Accept 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.
5. Advises all tenderers accordingly.

12. Officers' reports

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

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.

Council Resolution

MOVED: Cr Geoff Paine
SECONDED: Cr Ben Ramcharan

That Council:

1. Accept the tender submitted by the **preferred tenderer Environmental Services Group Pty Ltd** 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.
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.

CARRIED UNANIMOUSLY

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****Steven Blight, Construction Coordinator****Tara Jolfaei, Recreation and Open Space Planner****Lance Clark, Senior Procurement Specialist****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. Accept 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.

12. Officers' reports

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

Council Resolution

MOVED: Cr Geoff Paine

SECONDED: Cr Natalie Duffy

That Council:

1. Accept the tender submitted by the **preferred tenderer** Hayley Constructions for the sum of \$468,045.00 plus \$93,609.00 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.

CARRIED UNANIMOUSLY

12. Officers' reports

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

Distribution: Public

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

Author: Janet Taylor, Governance Officer

Summary

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

Council Resolution

MOVED: Cr Ben Ramcharan

SECONDED: Cr Frances Eyre

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.

CARRIED UNANIMOUSLY

12. Officers' reports

CM.129/21 Eltham Area Community Hospital

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.

Council Resolution

MOVED: Cr Richard Stockman**SECONDED: Cr Frances Eyre**

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**.

CARRIED UNANIMOUSLY

Carl Cowie, Chief Executive Officer declared a direct conflict of interest in Item CM131/21 - CEO Employment Matters Committee as it relates to his contract. The CEO, did not leave the room as the item was for noting only, but stated he would not be present for the confidential item.

12. Officers' reports

CM.131/21 CEO Employment Matters Committee

Distribution: Public

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

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

Summary

This report is an overview of a separate confidential report to consider the Chief Executive Officer's (CEO's) performance plan 2020/2021.

Council Resolution

MOVED: Cr Geoff Paine

SECONDED: Cr Karen Egan

That Council notes this report.

CARRIED UNANIMOUSLY

13. Notices of Motion

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

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

Council Resolution

MOVED: Cr Richard Stockman

SECONDED: Cr Geoff Paine

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.

CARRIED UNANIMOUSLY

14. Delegates' Reports

Nil

15. Supplementary and urgent business

Nil

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).

Council Resolution

MOVED: Cr Ben Ramcharan
SECONDED: Cr Geoff Paine

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.

CARRIED UNANIMOUSLY

The meeting closed to members of the public at 9:17pm.

The meeting re-opened to members of the public at 9:25pm.

17. Close of Meeting

The meeting closed at 9:25pm.

Confirmed: _____
Cr Peter Perkins, Mayor