

Council Meeting

to be held virtually on Tuesday 26 October 2021 commencing at 7:00pm.

Agenda

Carl Cowie
Chief Executive Officer

Thursday 21 October 2021

Distribution: Public

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

Council Meeting seating plan

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 (Chairperson Consultation Matters) – Sugarloaf Ward

Cr Frances Eyre (Deputy Mayor) – Swipers Gully Ward

Cr Geoff Paine (Chairperson Planning Matters) – 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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Nillumbik Shire Council

Agenda of the Meeting of Nillumbik Shire Council to be held Tuesday 26 October 2021 commencing at 7:00pm

1. Welcome by the Mayor

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

2. Acknowledgement of Country by the Mayor

Nillumbik Shire Council 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.

3. Good Governance Pledge

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

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

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

4. Prayer

A prayer will be read.

5. Apologies

Recommendation

That the apologies be noted.

6. Presentations

7. Confirmation of minutes

Confirmation of minutes of the Council Meeting held on Tuesday 28 September 2021.

Recommendation

That Council:

1. Confirms the minutes of the Council Meeting and Confidential Council Meeting held on Tuesday 28 September 2021 (**Attachment 1** and **Attachment 2**).
2. Resolves that the Confidential Council Meeting minutes (**Attachment 2**) remains confidential in accordance with section 3(1) of the *Local Government Act 2020*.

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8. Disclosure of conflicts of interest

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

9. Petitions**PT.004/21 Petition - Removal of Pine Trees in Bellavista Court Plenty**

A petition containing **23** signatures from residents requests that Council remove the Pine Trees in Bellavista Court, Plenty.

The petition contains the following statement:

The pine trees in the middle of the road reservation outside 37-47 Bellavista Court should be removed as their location prevents vehicles from passing safely, particularly in the event of a bushfire when visibility can be severely limited. This has been an ongoing issue for some 15 years and action is now needed. We understand Nillumbik Shire is currently considering this issue and we support their removal.

The primary concern for all residents of Bellavista Court and Namatjira Avenue is the threat to lives and properties because these trees restrict, and may prevent, access for fire trucks and emergency vehicles for residents evacuating in the event of a fire. Not all bushfires occur on high risk fire days and thus it is not always possible for residents to leave their home the previous day. The removal of these trees has been strongly supported by the Plenty CFA over many years.

The threat of bushfires and their severity is increasing year on year and this issue has become increasingly important over the past 15 years since the issue was first raised.

The Plenty CFA and the residents of Bellavista Court have raised these concerns and requested the removal of these trees repeatedly over the past 10 years, including letters to the Shire, and representations to both Shire officers and councillors. It has also been raised regularly at meetings of the Plenty Gorge Precinct Management Committee (previously Plenty Gorge Fire Management Committee), of which Nillumbik is a member, but with no action to date by the Shire.

This area is in a high-risk Bushfire Management Overlay (BMO) zone. The properties in Bellavista Court and Namatjira Avenue have all the highest features for a bad bushfire scenario, which the CFA confirms to us each year in our Community Fireguard meetings:

- Very steep slopes,
- North –South alignment of the Gorge which means the strong northerly winds on the worst bushfire days blow directly down the Gorge, and
- Thick native bush (conservation zone) with no clearing or back-burning of the understory in at least the past 50 years

The residents of Bellavista Court and Namatjira Avenue are very vulnerable should a bushfire approach our properties and anything which hinders or restricts access for CFA and emergency vehicles to fight a fire puts both lives and properties at risk. The CFA and residents believe that's exactly what these pine trees do.

Although there may be a significant cost to removing the trees, given the risk to human life and property, we believe it is a cost well justified.

Recommendation

That Council:

1. Receives and notes the petition requesting Council remove the Pine Trees in Bellavista Court Plenty, in accordance with the Governance Rule - Meeting Procedure.
2. Refers this petition to the Director Operations and Infrastructure for investigation and response.
3. Notes that officers will advise the petition organiser and Councillors of the outcome.

PT.005/21 Petition - Save Apollo Parklands Now

A petition containing 1,555 signatures from residents titled "Save Apollo Parklands Now".

The petition contains the following statement:

The Eltham Area Community Hospital will be built in Parkland at Civic Drive Greensborough.

This will completely downgrade the amenity of the park & rob the community of vital public open space.

We want our community hospital to maximize impact on our community's health & wellbeing so it needs to be easily accessible by public transport.

We need the best possible location for our hospital.

Unfortunately this site will compromise access to all community infrastructure at Civic Drive including the expanded Diamond Valley Sports & Fitness Centre, Diamond Valley library, the newly built Playground & Nillumbik Shire Office.

This location will create chaos on nearby residential streets as visitors seek to avoid paying for parking.

Recommendation

That Council:

1. Receives and notes the "Save Apollo Parklands Now" petition in accordance with the Governance Rule - Meeting Procedure.
2. Notes that officers will advise the petition organiser of the outcome.

10. Questions from the gallery

11. Reports of Advisory Committees

Nil

12. Officers' reports**CM.145/21 Adoption of Community Vision - Nillumbik 2040**

Distribution: Public**Manager: Jeremy Livingston, Executive Manager Business Transformation and Performance****Author: Yasmin Green, Strategy and Policy Advisor****Summary**

This report presents the Community Vision – Nillumbik 2040 (**Attachment 1**) for adoption, following public consultation, receipt of submissions and refinements to the plan in response to the submissions received.

A community vision is a requirement under section 88 of the *Local Government Act 2020* (the Act) and must be developed with the community and adopted by 31 October 2021. The document seeks to capture the essence of what is most valued about our community and the Shire, reflecting the collective aspirations of our community.

The Community Vision – Nillumbik 2040 (Community Vision) will be used to inform future Council strategic planning, budgeting, service delivery and advocacy to ensure Council is acting in the best interests of the community, and is advocating to all levels of government and agencies.

The information and community feedback gathered through the Our People, Our Place, Our Future community engagement program undertaken in February and March of this year has helped inform the development of our community vision. The community vision was also reviewed by a group representing around one-third of Council's advisory group members prior to the plan being endorsed for public consultation.

On 27 July 2021, Council released the draft Community Vision – Nillumbik 2040 for the purposes of community consultation for a four-week period. Submissions closed on 26 August 2021 and 68 submissions were received. The Planning and Consultation Committee considered a report on the written submissions, and received verbal presentations from a number of submitters at the meeting on 14 September 2021.

Having considered the feedback from the written and verbal submissions, some refinements to the community vision have been made, and these are documented in this report. In addition, responses to the content of the written submissions received are now detailed **Attachment 2**.

12. Officers' reports**CM.145/21 Adoption of Community Vision - Nillumbik 2040**

Recommendation

That Council:

1. Adopts the Community Vision – Nillumbik 2040 (**Attachment 1**) containing amendments and suggestions in response to the submissions received following public consultation.
2. Authorises the Executive Manager Business Transformation & Performance to make any further minor changes to the Community Vision – Nillumbik 2040 that may be necessary and are inconsequential in nature.
3. Makes the adopted Community Vision – Nillumbik 2040 publicly available on Council's website.
4. Thanks submitters and advises them of the outcome of the consultation process.

Attachments

- 1  Community Vision - Nillumbik 2040 - Version for adoption
- 2  Community Vision - Nillumbik 2040 - Community Submissions - Officer Responses

Discussion

1. The *Local Government Act 2020* (section 88) requires that a Council must develop, maintain and review a community vision with its community. A community vision should have an outlook of at least 10 years and describes the community's aspirations for the future of the Shire.
2. Council has developed a community vision, Community Vision – Nillumbik 2040, which is required under the Act to be adopted by 31 October 2021.
3. The information and community feedback gathered through the Our People, Our Place, Our Future community engagement program undertaken in February and March of this year has helped inform the development of the Community Vision – Nillumbik 2040 (**Attachment 1**).
4. The Community Vision is presented across the four themes of:
 - Our People
 - Our Place
 - Our Future
 - Our Council
5. Each of these themes include aspirations, that expand on identified priority areas from the findings of the Our People, Our Place, Our Future community engagement. The aspiration statements are presented in the document alongside direct quotes from Our People, Our Place, Our Future participants, which reflect the community sentiment received from this engagement initiative.

12. Officers' reports**CM.145/21 Adoption of Community Vision - Nillumbik 2040**

6. Following the feedback received via submissions from public consultation period, some refinements to the document have been incorporated into the final version of the community vision (**Attachment 1**). These changes include:
- A vision statement has been created towards the front of the document utilising the already drafted words that introduced each theme across all four themes – Our People, Our Place, Our Future, Our Council;
 - Wording from Local Government Board Interim Report (Middle and Outer Melbourne Review) 1994 has been summarised and reflected in the 'Message from Council' section of the document;
 - New wording has been introduced into the 'Message from Council' section to better reflect issues relating to the preservation and enhancement of Nillumbik's Green Wedge, environment and biodiversity. Wording has also been strengthened in the 'Our Place' section in recognition of this;
 - Wording has been strengthened in the 'Our People' and 'Our Place' sections in recognition of the community's connection and enjoyment of the Green Wedge, as well as the important role that residents make with respect to heritage, identity and management of this important resource;
 - Climate change has been recognised with Council committing to a "climate emergency" response. The 'Message from Council' section now contains specific targets. In addition, changes have been made to the 'Our Future' section to strengthen Council's response to climate change;
 - Wording inclusive of the Wurundjeri Woi-wurrung and all First Nations People has been included throughout the document. The document also contains an updated Acknowledgement of Country;
 - Key environmental information including indigenous flora and fauna statistics is now a feature in the 'Nillumbik now and into the future' section;
 - The overall document has been reviewed and refined to ensure that it is inclusive of all residents, and reflects a shared vision.
7. Having considered the feedback from the written and verbal submissions, and consequently making these refinements to the document, responses to the submissions have now been completed and are detailed in **Attachment 2**.
8. A full graphic designed version of the Community Vision – Nillumbik 2040 is being prepared, and will be available on Council's website following the adoption of the document.

Related Council decisions

9. At the August 2019 Council Meeting, Council endorsed the project approach for a community vision document (then referred to as a Shire Plan). In following this approach, a Research Paper was adopted at the December 2019 Council Meeting. This research paper provided a high-level overview of the issues and trends likely to impact Nillumbik in the future.
10. A Background Paper was then prepared and adopted by Council at the June 2020 Council Meeting. Building on the data and feedback gathered through the research

12. Officers' reports**CM.145/21 Adoption of Community Vision - Nillumbik 2040**

and workshop processes, the paper explored the key challenges and opportunities for Nillumbik towards 2040.

11. At the February 2021 Future Nillumbik Committee Meeting, the Committee (under delegation from Council) endorsed the Our People, Our Place, Our Future community engagement program. This program was a major input into the development of a community vision for Nillumbik. At the conclusion of this program the Our People, Our Place, Our Future Summary Report was presented to the May 2021 Council Meeting.
12. On 27 July 2021, Council released the draft community vision for the purposes of community consultation for a four-week period.
13. The Planning and Consultation Committee, on 14 September 2021, considered a report on the submissions received, and received verbal presentations from a number of submitters. Council resolved to receive and note those submissions, consider those submissions in the finalisation of the community vision document, and note that a report will be presented to the October 2021 Council Meeting to adopt the Community Vision – Nillumbik 2040.

Options

14. Adopt the Community Vision – Nillumbik 2040.

Council plans and policies

15. 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

16. One of the four themes of the Community Vision is 'Our Future'. This section includes sustainability, identifying it as a key focus area for the Shire over the next 20 years.

Community engagement

17. Through the Our People, Our Place, Our Future community engagement program that occurred in February and March 2021, feedback was received which helped inform the development of Nillumbik's community vision.
18. The draft community vision was subject to public consultation process over a four-week period (29 July – 26 August). Submissions to the draft document closed on 26 August 2021, and a total of 68 submissions were received.
19. The Planning and Consultation Committee considered a report on the written submissions, and received verbal presentations from a number of submitters at the meeting on 14 September 2021.

Innovation and continuous improvement

20. Opportunities for innovation and continuous improvement will be identified through the achievement of the Community Vision, through various Council plans and strategies.

12. Officers' reports

CM.145/21 Adoption of Community Vision - Nillumbik 2040

Collaboration

21. Members of Council's Advisory Committees were invited to participate in reviewing the Community Vision – Nillumbik 2040 prior to the draft being finalised for public exhibition and consultation. Around one-third of this membership group attended one of three workshops to review and provided feedback on the document.
22. Partnerships and collaboration will play an integral role in achieving Nillumbik's community vision. Council will continue to work with other levels of government, agencies and the community in order to achieve the aspirations outlined in the vision document.

Budget implications

23. The Community Vision – Nillumbik 2040 is a high-level strategic document and does not make specific budget commitments. The cost of preparing and adopting the community vision, including design and public consultation processes, is met from the operating budget.

Relevant law

24. Section 88 of the *Local Government Act 2020* applies to the development and adoption of a community vision.

Regional, state and national plans and policies

25. Not applicable.

Conflicts of interest

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

12. Officers' reports

CM.145/21 Adoption of Community Vision - Nillumbik 2040

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12. Officers' reports**CM.146/21 Adoption of Council Plan 2021-2025**

Distribution: Public**Manager: Jeremy Livingston, Executive Manager Business Transformation and Performance****Author: Yasmin Green, Strategy and Policy Advisor****Summary**

This report presents the Council Plan 2021-2025 (**Attachment 1**) for adoption, following public consultation, receipt of submissions and refinements to the plan in response to the submissions received.

This report also presents the Annual Action Plan 2021-2022 (**Attachment 3**) for adoption, which comprises 54 actions that align with the adopted Annual Budget 2021-2022 and supports the first year delivery of the new Council Plan. Reporting updates will be received by Council on a quarterly basis that will demonstrate in a practicable and tangible way how the Council Plan 2021-2025 is being delivered to the community.

The Council Plan is the Council's primary strategic document for its four-year term, and is the elected Council's statement of its priorities for the Nillumbik community. The Council Plan is a requirement under section 90 of the *Local Government Act 2020* (the Act) and must be adopted by 31 October 2021.

The information and community feedback gathered through the Our People, Our Place, Our Future community engagement program undertaken in February and March of this year has helped inform the development of the Council Plan. The Council Plan has also been developed and refined through a series of workshops with Councillors, and was also reviewed by a group representing around one-third of Council's advisory group members prior to the plan being endorsed for public consultation.

The Council Plan identifies four themes aligned to our Community Vision – Nillumbik 2040 document. Each theme in the plan includes an objective, strategies and priority actions, along with strategic indicators to monitor the achievement of the objectives and strategies.

On 27 July 2021, Council released the draft Council Plan 2021-2025 for the purposes of community consultation for a four-week period. Submissions closed on 26 August 2021 and 91 submissions were received. The Planning and Consultation Committee considered a report on the written submissions, and received verbal presentations from a number of submitters at the meeting on 14 September 2021.

Having considered the feedback from the written and verbal submissions, some refinements to the Council Plan have been made, and these are documented in this report. In addition, responses to the content of the written submissions received are now detailed **Attachment 2**.

12. Officers' reports**CM.146/21 Adoption of Council Plan 2021-2025**

Recommendation

That Council:

1. Adopts the Council Plan 2021-2025 (**Attachment 1**) containing amendments and suggestions in response to the submissions received following public consultation.
2. Adopts the Annual Action Plan 2021-2022 (**Attachment 3**) and notes that Council will receive quarterly updates on progress of actions in accordance with this plan.
3. Authorises the Executive Manager Business Transformation & Performance to make any further minor changes to the Council Plan that may be necessary and are inconsequential in nature.
4. Makes the adopted Council Plan 2021-2025 and accompanying Annual Action Plan 2021-2022 publicly available on Council's website.
5. Thanks submitters and advises them of the outcome of the consultation process.

Attachments

- 1  Council Plan 2021-2025 - Version for adoption
- 2  Council Plan 2021-2025 - Community Submissions - Officer Responses
- 3  Annual Action Plan 2021-2022

Discussion

1. The *Local Government Act 2020* (section 90) requires all Victorian councils to prepare a Council Plan for its four-year term, and to complete this by 31 October in the year following a general election.
2. The Council Plan is the key strategic document guiding the direction and objectives of the Council during its four-year term. The Council Plan is the elected Council's statement of its priorities for the Nillumbik community.
3. The information and community feedback gathered through the Our People, Our Place, Our Future community engagement program undertaken in February and March of this year has helped inform the development of the Council Plan 2021-2025 (**Attachment 1**). The Council Plan has also been developed and refined through a series of workshops with Councillors.
4. The Council Plan 2021-2025 identifies four themes that align with the four themes within the Community Vision – Nillumbik 2040. The four themes in the Council Plan are:
 - Community and connection
 - Place and space
 - Sustainable and resilient
 - Responsible and accountable.

12. Officers' reports**CM.146/21 Adoption of Council Plan 2021-2025**

5. An objective, a set of strategies and strategic indicators are included under each theme. Council services and key strategy and planning documents have also been included to show their alignment with the Council Plan.
6. Following the feedback received via submissions from public consultation period, priority actions have also now been included in the plan, along with some other refinements which are now included in the final version of the plan (**Attachment 1**).
7. These changes include:
 - The plan now includes the vision statement that was developed for the Community Vision – Nillumbik 2040 document, and which reflect the community sentiment captured from the Our People, Our Place, Our Future engagement program;
 - A revised graphic and summary have been included to better articulate the connection between the Council Plan 2021-2025 and the Community Vision – Nillumbik 2040 (see 'Our Council Plan' section);
 - Lists of priority actions have been included in all four themes of the plan. These actions provide additional information that detail what Council will do in order to achieve Council's objectives. The glossary has been updated and is now inclusive of priority actions (see 'Our Council plan' section);
 - The status of supporting strategies, policies and plans across the four years of the plan is now reflected in the document (see 'Supporting strategies, plans and policies' section under each theme of the plan);
 - Climate change has been recognised with Council committing to a "climate emergency response" (see 'Message from Council' section). Additional wording has been strengthened in support of this under the 'Sustainable and Resilient – Climate Action' section;
 - References to the preservation and enhancement of Nillumbik's Green Wedge, environment, biodiversity, native vegetation and wildlife have been strengthened by the introduction of a separate 'Natural Environment' section in the 'Place and Space' section of the plan. Additional references have also been included throughout the document including in the 'Message from Council' and 'Snapshot of the Shire' sections, as well as being reflected in the plan's priority actions;
 - A new strategic indicator has been included regarding the number of Council auspice 'Friends of' groups;
 - Wording inclusive of the Wurundjeri Woi-wurrung and all First Nations People has been included throughout the document. The document also contains an updated Acknowledgement of Country, as well as a new strategic indicator for the number of reconciliation activities delivered;
 - Some additional references to the enjoyment of the Shire, and the Green Wedge, have been included;
 - Some additional environmental information, including links to relevant pages on Council's website regarding the Shire's unique flora and fauna, have been included.

12. Officers' reports

CM.146/21 Adoption of Council Plan 2021-2025

8. Having considered the feedback from the written and verbal submissions, and consequently making these refinements to the Council Plan, responses to the submissions have now been completed and are detailed in **Attachment 2**.
9. A full graphic designed version of the Council Plan is being prepared, and will be available on Council's website following the adoption of the plan.
10. Each year, Council will operationalise the Council Plan annually through an Annual Action Plan, which will align with the annual budget process and will detail the specific actions committed to delivering each year to achieve the objectives and strategies of the Council Plan across the four years.
11. An Annual Action Plan for the 2021-2022 financial year (**Attachment 3**) has been prepared, and is also presented with this report for adoption. The Annual Action Plan 2021-2022 comprises 54 actions which align with the adopted Annual Budget 2021-2022 and supports the first year delivery of the new Council Plan. Reporting updates will be received by Council on a quarterly basis that will demonstrate in a practicable and tangible way how the Council Plan 2021-2025 is being delivered to the community.

Related Council decisions

12. On 27 July 2021, Council released the draft Council Plan 2021-2025 for the purposes of community consultation for a four-week period.
13. The Planning and Consultation Committee, on 14 September 2021, considered a report on the submissions received, and received verbal presentations from a number of submitters. Council resolved to receive and note those submissions, consider those submissions in the finalisation of the Council Plan, and note that a report will be presented to the October 2021 Council Meeting to adopt the Council Plan.

Options

14. Adopt the Council Plan 2021-2025.

Council plans and policies

15. 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

16. One of the four themes of the Council Plan includes sustainability, identifying it as a key focus area for Council across the duration of the Council Plan.

Community engagement

17. Through the Our People, Our Place, Our Future community engagement program that occurred in February and March 2021, feedback was received which helped inform the development of the Council Plan. The Council Plan has also been developed and refined through a series of workshops with Councillors.
18. The Council Plan was subject to public consultation process over a four-week period (29 July – 26 August). Submissions to the Council Plan closed on 26 August 2021, and a total of 91 submissions were received.

12. Officers' reports

CM.146/21 Adoption of Council Plan 2021-2025

19. The Planning and Consultation Committee considered a report on the written submissions, and received verbal presentations from a number of submitters at the meeting on 14 September 2021.

Innovation and continuous improvement

20. Opportunities for innovation and continuous improvement will be identified through the implementation of the Council Plan.

Collaboration

21. Partnerships and collaboration play an integral role in the implementation of the Council Plan. Council will continue to work with other levels of government, agencies and the community in order to achieve the strategies within the plan.
22. Members of Council's Advisory Committees were invited to participate in reviewing the Council Plan prior to the draft being finalised for public exhibition and consultation. Around one-third of this membership group attended one of three workshops to review and provided feedback on the plan.

Budget implications

23. The Council Plan is a high-level strategic document and does not make specific budget commitments.
24. Each year, in line with the budget process, Council will produce an Annual Action Plan identifying how Council will work towards achieving the objectives and strategies of the Council Plan. Council priorities, strategies and plans, major projects, capital works, service improvements as well as other actions will be set out in the Annual Action Plan.
25. The cost of preparing and adopting the Council Plan, including design and public consultation processes, is met from the operating budget.

Relevant law

26. Section 90 of the *Local Government Act 2020* applies to the development and adoption of the Council Plan.

Regional, state and national plans and policies

27. Not applicable

Conflicts of interest

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

12. Officers' reports

CM.146/21 Adoption of Council Plan 2021-2025

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12. Officers' reports**CM.147/21 Financial Plan 2021 – 2031****Distribution: Public****Manager: Vince Lombardi, Chief Financial Officer****Author: Melika Sukunda, Finance Manager****Summary**

This report recommends that Council adopts the Financial Plan 2021 – 2031 (the Plan) (Attachment 1).

The purpose of the Plan is to demonstrate Council's financial sustainability in order to fund the aspirations of the Community Vision and the Council Plan.

This Plan has been prepared in compliance with the *Local Government Act 2020*, the Department of Jobs, Precincts and Regions Financial Plan Better Practice Guide and Model and the Australian Accounting Standards Board standards.

The information and community feedback gathered through the Our People, Our Place, Our Future community engagement program has been considered throughout the development of the Plan.

Council adopted the draft Plan at the Council Meeting on 27 July 2021 for the purpose of public exhibition. The draft Plan was exhibited for 28 days with 38 submissions received.

Recommendation**That Council:**

1. Having considered the submissions received, Council adopts the Financial Plan 2021 – 2031 (**Attachment 1**).
2. Authorises the Finance Manager to make any further minor changes to the Financial Plan 2021 – 2031 that may be necessary and are inconsequential in nature.
3. Makes the adopted Financial Plan 2021 – 2031 publically available on Council's website.
4. Thanks submitters and advises them of the outcome of the consultation process.

Attachments

- 1  Financial Plan 2021 - 2031

Discussion

1. Council is required to adopt the Plan prior to 31 October in the year following a general election, under section 93 of the *Local Government Act 2020*. The Plan has effect from 1 July in the year following a general election.
2. The scope of the Plan is for the next ten year period, 2021-2031.
3. The Plan includes financial statements outlining the financial resources required to give effect to the Council Plan and contains information about the decisions and assumptions that underpin the forecasts in the statements.

12. Officers' reports

CM.147/21 Financial Plan 2021 – 2031

4. The Plan has been prepared in compliance with the *Local Government Act 2020*, the Department of Jobs, Precincts and Regions Financial Plan Better Practice Guide and Model and the Australian Accounting Standards Board standards.
5. The information and community feedback gathered through the Our People, Our Place, Our Future community engagement program has been considered throughout the development of the Plan.
6. Council adopted the proposed Plan at the 27 July 2021 Council Meeting for the purpose of community consultation.
7. In response to the public exhibition of the proposed Plan, 38 submissions were received from the community.

Related Council decisions

8. Council adopted the proposed Plan at the 27 July 2021 Council Meeting for the purpose of community consultation.

Options

9. This report recommends that Council adopts the Plan.

Council plans and policies

10. This report directly supports the achievement of Council Plan.

Sustainability implications

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

Community engagement

13. Council adopted the draft Plan at the Council Meeting on 27 July 2021 for the purpose of public exhibition.
14. In response to the public exhibition of the draft Plan, 38 submissions were received from the community.
15. Submitters were invited to attend the meeting of the Planning and Consultation Committee to speak to their submissions.

Innovation and continuous improvement

16. Not applicable.

Collaboration

17. Not applicable.

Budget implications

18. The costs associated with the Plan, such as public notices, are funded from operating budget allocations.

12. Officers' reports

CM.147/21 Financial Plan 2021 – 2031

Relevant law

19. *Local Government Act 1989, Local Government Act 2020.*

Regional, state and national plans and policies

20. Not applicable.

Conflicts of interest

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

12. Officers' reports

CM.147/21 Financial Plan 2021 – 2031

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12. Officers' reports**CM.148/21 Adoption of Nillumbik Health and Wellbeing Plan 2021-2025**

Distribution: Public**Manager: Corrienne Nichols, Executive Manager Communities****Author: Nichole Johnson, Manager Community Partnerships
Lauren Treby, Coordinator Social Planning and Equity
Melissa Ensink, Social Planner & Policy Officer****Summary**

This report presents the Nillumbik Health and Wellbeing Plan 2021-2025 (the Plan) (**Attachment 1**) for adoption, following public consultation, receipt of submissions and refinements to the plan in response to submissions received.

The Plan has been informed by community and partner feedback and includes changes resulting from the public exhibition period that was held from 29 July - 26 August 2021 and from the Planning and Consultation Committee meeting held on 14 September 2021.

Recommendation

That Council:

1. Adopts the Nillumbik Health and Wellbeing Plan 2021-2025 (**Attachment 1**)
2. Notes the Nillumbik Community Profile 2021 (**Attachment 2**) and the Nillumbik Health and Wellbeing Plan 2017-2021 Review (**Attachment 3**).
3. Authorises the Executive Manager Community Services to make any further minor changes to the Plan that may be necessary and are inconsequential in nature.
4. Makes the adopted Plan and accompanying documents publicly available on Council's website.
5. Thanks submitters and advises them of the outcome of the consultation process.

Attachments

- 1  Nillumbik Health and Wellbeing Plan 2021-2025
- 2  Nillumbik Community Profile 2021
- 3  Nillumbik Health and Wellbeing Plan 2017-2021 Review

12. Officers' reports

CM.148/21 Adoption of Nillumbik Health and Wellbeing Plan 2021-2025

Discussion

1. It is a requirement of the Victorian *Public Health and Wellbeing Act 2008* that all Victorian councils prepare a Municipal Public Health and Wellbeing Plan (MPHWP) within 12 months of a new Council being elected.
2. As outlined in the Victorian *Public Health and Wellbeing Act 2008*, the process to develop the Nillumbik Health and Wellbeing Plan 2021-2025 (**Attachment 1**) meets the legislative requirements in developing a MPHWP which include:
 - Examining data about local health status and health determinants – included in the Nillumbik Community Profile 2021 (**Attachment 2**)
 - Identifying strategies based on evidence for creating maximum health and wellbeing
 - Specifying measures to prevent family violence and respond to the needs of victims of family violence
 - Involving local community in the development and evaluation of the plan
 - Specifying how council will work with the Department and other agencies
 - Ensuring consistency with the council plan and municipal strategic statement
 - Having regard to the Victorian Public Health and Wellbeing Plan
 - Reviewing the Plan annually, and amending if needed
 - Considering climate change mitigation and adaptation.
3. The Nillumbik Health and Wellbeing Plan 2021-2025 has been developed in accordance with *Public Health and Wellbeing Act 2008* and is informed by:
 - a. The Nillumbik Community Profile 2021
 - b. Community engagement
 - c. A review of local, state and national policy context
 - d. A review of the previous Nillumbik Health and Wellbeing Plan 2017-2021 (**Attachment 3**).
4. The Plan includes an overview of our community, a health and wellbeing vision, our approach, six priority areas and related strategies and outcome indicators. It also includes information about legislative and strategic alignment, evaluation and governance, and a commitment to develop Annual Implementation Plans and Annual Progress Reports.
5. A full graphic designed version of the Plan is being prepared, and will be available on Council's website following the adoption of the plan.

12. Officers' reports

CM.148/21 Adoption of Nillumbik Health and Wellbeing Plan 2021-2025

Related Council decisions

6. Council endorsed the Draft Plan for Public Consultation on 27 July 2021.
7. The Planning and Consultation Committee, on 14 September 2021, considered a report on the submissions received, and received verbal presentations from two submitters. Council resolved to receive and note those submissions, consider those submissions in the finalisation of the Plan, and note that a report will be presented to the October 2021 Council Meeting to adopt the Council Plan.

Options

8. Adopts the Nillumbik Health and Wellbeing Plan 2021-2025.

Council plans and policies

9. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Develop policies, strategies, projects and partnerships to enhance the health and wellbeing of the community..

Sustainability implications

10. The Plan complements work being undertaken through the Nillumbik Climate Action Plan. The Climate Action Plan (currently in draft), includes mitigation and adaptation strategies that will seek to deliver health co-benefits for our community.

Community engagement

11. The Plan was developed in accordance with Council's Community Engagement Policy.
12. In February and March 2021 Nillumbik Shire Council heard from over 2000 voices through the Our People Our Place Our Future community engagement process. This process informed the development of the draft Plan.
13. Targeted engagement with service providers, partners, advisory committees, Councillors and staff also informed the development of the draft Plan.
14. From 29 July - 26 August 2021 the public were invited to provide feedback on the draft Plan.
15. A specific consultation with Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation took place 2 August 2021 during the public exhibition period.
16. Twelve submissions were received through the public exhibition process and two people spoke to their submissions at the Planning and Consultation Committee on 14 September 2021.

12. Officers' reports

CM.148/21 Adoption of Nillumbik Health and Wellbeing Plan 2021-2025

17. Public submissions, staff, Council and partner feedback have been reviewed and considered, and informed the final Plan. Changes based on feedback include:
- a. Updated health and wellbeing vision
 - b. Strengthening priorities:
 - i. expanded gender equality to focus on prevention of family violence not just violence against women
 - ii. expanded reducing harm from alcohol and gambling to alcohol and other drugs to be more inclusive of evolving issues such as illicit drugs and vaping
 - c. Updated our approach to include section on Climate Change, emphasise intersectionality and focus on specific groups experiencing inequalities
 - d. Updated a number of strategies to better reflect breadth of scope of actions
 - e. Updated outcome indicators to include targets (in line with Council Plan)
 - f. Updated data and references to more current information based on staff and partner content knowledge
 - g. Minor grammar and structure changes.

Innovation and continuous improvement

18. Not applicable.

Collaboration

19. Partnerships and collaboration play an integral role in the implementation, monitoring, reporting and evaluation of this Plan. Council will continue to work with partners to deliver the plan, through the Health and Wellbeing Advisory Committee and other regional partnerships.

Budget implications

20. The strategies stated within the Plan, and subsequent actions which fall out of these, will be resourced through the existing operational budget. Where gaps exist in resources or new opportunities for initiatives are presented, additional budget or grant funding opportunities may be sought.

Relevant law

21. *The Public Health and Wellbeing Act 2008, Climate Change Act 2017, Gender Equality Act 2020 and the Disability Act 2006.*

Regional, state and national plans and policies

22. A number of regional and state plans have been taken into account when developing the Plan including the *Victorian Public Health and Wellbeing Plan 2019–2023* in accordance with the *Public Health and Wellbeing Plan 2008*.

Conflicts of interest

23. 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.149/21 September Quarter Financial Report

Distribution: Public

Manager: Vince Lombardi, Chief Financial Officer

Author: Melika Sukunda, Finance Manager

Summary

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

The Income Statement shows an overall unfavourable year to date (YTD) variance of \$204,060 representing (0.38) percent of YTD Budget. This reflects the combined result of lower than budgeted operating income of \$1.05 million and lower than budgeted operating expenses of \$845,338.

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

Recommendation

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

Attachments

1. Quarterly Finance Report September 2021

Discussion

1. In May 2021, Council adopted the 2021-2022 Budget.
2. Budgeted surplus reflects the amount by which operating revenue exceeds operating expenses, in accordance with relevant accounting standards.
3. Operating expenditure excludes non-operating transactions such as capital works and investments, which are separately detailed in the report.
4. The report compares actual performance to budgeted targets at this stage of the financial year.

12. Officers' reports**CM.149/21 September Quarter Financial Report**

Income statement

5. Council closed the period ending 31 September 2021 with an unfavourable YTD variance of \$204,060 based on actual operating revenue, costs and commitments. This represents (0.38) percent of the YTD Budget.
6. The overall variance is made up of the following:
 - Income – \$1.05 million (1.19 percent) unfavourable variance. This includes new/additional grant funding \$293,995 and contributions \$246,664, offset by a reduction in user fees (\$1.731 million) as a result of the current pandemic situation as detailed on pages 6 of **Attachment 1**.
 - Expenditure – \$845,338 (2.62 percent) favourable, mainly attributed to reduced external contracts expenditure (\$1.36 million), largely resulting from lower operational expenditure associated with the closure of leisure facilities due to the pandemic. This is offset by higher than anticipated costs relating to materials and related costs (\$358,964). Additional details on variances are detailed on page 7 of **Attachment 1**.

Balance sheet

7. The balance sheet reflects Council's financial position at 31 September 2021 and is prepared in compliance with the Australian Accounting Standards.
8. Council's balance sheet as detailed on page 4 of **Attachment 1** continues to show a strong net position. This is represented by \$1.08 billion of assets which is largely made up of Council's Property, Plant and Equipment. Council's total liabilities are \$66.83 million, which results in net assets of \$1.01 billion.

Statement of cash flows

9. The statement of cash flows as detailed on page 5 of **Attachment 1** captures Council's actual cash transactions for the period.
10. Council is showing a cash position of \$37.82 million after all cash transactions for the period to date.
11. The \$37.82 million includes \$30.96 million held in investments as detailed on page 9 of **Attachment 1**.

Capital works

12. The capital works report detailing YTD spend by asset class is detailed on page 9 of **Attachment 1**.
13. This shows an unfavourable variance of \$933,010 million relative to YTD budget, largely driven by new (unbudgeted) additional works and commitments raised for upcoming works.

Related Council decisions

14. Council adopted the 2021-2022 Budget at the Ordinary Council Meeting held on 25 May 2021.

12. Officers' reports

CM.149/21 September Quarter Financial Report

Options

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

Council plans and policies

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

Sustainability implications

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

Community engagement

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

Innovation and continuous improvement

20. Not applicable.

Collaboration

21. Not applicable.

Budget implications

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

Relevant law

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

Regional, state and national plans and policies

25. Not applicable.

Conflicts of interest

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

12. Officers' reports

CM.149/21 September Quarter Financial Report

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12. Officers' reports**CM.150/21 Annual Report 2020-2021**

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

This report presents Council's Annual Report 2020-2021 (including audited financial and performance statements) for noting.

The report has been submitted to the Minister for Local Government as required by the *Local Government Act 1989* (which still applies under existing transition provisions).

The Annual Report is Council's highest level reporting document to our community and stakeholders. While Council has a statutory obligation to produce an Annual Report, it is also an opportunity to demonstrate Council's service delivery and performance to the community regarding Council activities over the past financial year.

The Annual Report 2020-2021 also reports on progress and delivery of key strategies and actions for the fourth and final year of the Council Plan 2017-2021.

Recommendation

1. Notes the Annual Report 2020-2021 (**Attachment 1**).
2. Notes that the Annual Report has been submitted to the Minister for Local Government, and it is presented to Council within one month of providing the Annual Report to the Minister for Local Government, satisfying section 134(2)(a) of the *Local Government Act 1989* and section 22(1) of the *Local Government (Planning and Reporting) Regulations 2014*.
3. Notes a copy of the Annual Report was made available for public inspection on Council's website two weeks prior to this meeting, compliant with section 133(2) of the Act.
4. Notes a public notice featured in *The Age* newspaper on 11 October 2021 advising the Annual Report will be considered at the Council Meeting on 26 October 2021, and where a copy of the report can be obtained, compliant with section 134(2)(b) of the Act.

Attachments

1.  Nillumbik Shire Council Annual Report 2020-2021

12. Officers' reports**CM.150/21 Annual Report 2020-2021**

Discussion

1. This report presents Council's Annual Report 2020-2021 for noting. It includes a Report of Operations, Financial Statements, Performance Statement, and the Auditor General's Report on the Financial Statements and the Performance Statement.
2. The Annual Report 2020-2021 has been prepared by Council officers and has been formally submitted to the Minister for Local Government on 8 October 2021, in accordance with the *Local Government Act 1989* (the Act).
3. The Auditor-General has approved the Financial Statements and Performance Statement without any qualifications.
4. As well as meeting statutory requirements, the Annual Report outlines to the community the Council's key achievements and challenges throughout the 2020-2021 financial year. The report also outlines key achievements across the four-year lifespan of the Council Plan 2017-2021.
5. The COVID-19 pandemic continued to have a profound impact on Council's operations, projects and service delivery throughout the 2020-2021 financial year. COVID-19 icons have been introduced into this year's Annual Report that highlight COVID-19 impacts on Council and our community, and Council's response to those impacts.
6. In 2020-2021, of the 51 strategic indicators in the Council Plan, only 14 improved on the previous year. A number of the decreases were as a direct result of service disruptions caused by the COVID-19 pandemic.
7. As outlined in the Annual Report 2020-2021, achievements for the year included (in no particular order):
 - a) Development and adoption of the Nillumbik Community Pandemic Recovery Plan 2021-2022;
 - b) Supporting more than 150 community groups, organisations and local businesses with over \$133,450 in grant funding to support community recovery from COVID-19 impacts through the Nillumbik Recovery Fund;
 - c) Provision of a range of new kerbside waste service bin options, including a weekly 120-litre landfill bin, a larger 140-litre fortnightly landfill bin and a larger 240-litre weekly green waste bin;
 - d) Successfully delivering a fire season online media campaign which reached 95,000 people in Nillumbik and surrounding areas;
 - e) The Diamond Creek Regional Playspace and Eltham North Adventure Playground winning major playground design awards;
 - f) Nillumbik being named on the 2021 Australian Financial Review BOSS Magazine Best Places to Work List, ranking third in the Government, Education and Not-for-Profit industry list and being the only local government organisation recognised;

12. Officers' reports**CM.150/21 Annual Report 2020-2021**

- g) Nillumbik being rated the best Council in the local government sector (and tenth out of 195 organisations overall) for call interaction quality scores measured through the Customer Service Benchmarking Assessment (CSBA) Mystery Shopping program;
 - h) Establishment of the first Nillumbik Youth Council, recruiting 15 diverse local people;
 - i) Delivery of major capital works projects including the Diamond Creek Trail (Stage 1), Diamond Creek Regional Playspace, the Diamond Creek Netball Pavilion and the Greensborough Hockey Club Pavilion, as part of 31 programs and 58 projects with an expenditure of over \$33 million;
 - j) Council was a joint winner for the prestigious Innovation (Metropolitan) Award at the 2020 Cities Power Partnership National Climate Awards for the Hybrid Solar and Battery Off-Grid initiative at the Community Bank Stadium in Diamond Creek;
 - k) An increased focus on community engagement, including the adoption of Council's first Community Engagement Policy;
 - l) Council continued to comply with the Victorian Government rate cap and delivered a 0% rate increase in the 2020-2021 financial year;
 - m) Registering and responding to more than 3,200 applications for swimming pool and spa registrations in response to Victorian Government legislation changes regarding residential swimming pools and spas;
 - n) A series of Shop Local campaigns were delivered throughout COVID-19 restrictions;
 - o) Completion of year 3 of the Yarra Ranges Tourism Partnership with a focus on growing and effectively promoting our visitor economy;
 - p) An increased focus on community engagement, including the adoption of Council's first Community Engagement Policy;
 - q) Received over 2,000 responses in the Our People, Our Place, Our Future community consultations to support the development of Council's strategic plans, including the Community Vision – Nillumbik 2040, Council Plan 2021-2025, Nillumbik Health and Wellbeing Plan 2021-2025 and the Financial Plan 2021-2031;
 - r) Adoption of major activity structure plans for the Eltham and Diamond Creek Activity Centres; and
 - s) Implementation of respective actions in the adopted Domestic Animal Management Plan 2017-2021 and Domestic Wastewater Management Plan 2019.
8. The annual Australian Reporting Awards (ARAs) were established in 1950 to award excellence in preparing annual reports to improve the standards of financial reporting and communicating with stakeholders. In a first for Nillumbik, Council's 2019-2020 Annual Report was awarded a Gold Award by the ARA, one of 24 councils nationally to achieve this recognition.

12. Officers' reports

CM.150/21 Annual Report 2020-2021

Related Council decisions

9. Not applicable.

Council plans and policies

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

- Maintain good governance and effective leadership.

Sustainability implications

11. The Annual Report includes reporting on Council's environmental, social and financial performance. Financial sustainability measures included in the Annual Report are those used by the Auditor-General to assess financial sustainability for local government across Victoria.

Community engagement

12. Pursuant to section 134 of the Act, notice of the meeting to consider the Annual Report was advertised in *The Age* newspaper on 11 October 2021. The Annual Report 2020-2021 was also made available on Council's website from this date.

13. The Financial and Performance Statements, which form part of this annual report, were presented to the September 2021 Council Meeting.

Innovation and continuous improvement

14. The financial statements and the performance statement are prepared in line with the local government sector's better practice guide and model financial statements.

Collaboration

15. Not applicable.

Budget implications

16. The cost of producing the Annual Report is accommodated within existing operational budgets.

Relevant law

17. The Annual Report has been submitted to the Minister for Local Government, and it is presented to Council within one month of providing the Annual Report to the Minister for Local Government, satisfying section 134(2)(a) of the *Local Government Act 1989* and section 22(1) of the *Local Government (Planning and Reporting) Regulations 2014*.

Regional, state and national plans and policies

18. Not applicable.

Conflicts of interest

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

12. Officers' reports

CM.151/21 Eltham Area Community Hospital

Distribution: Public

Manager: Hjalmar Philipp, Director Operations and Infrastructure

**Author: Rosa Zouzoulas, Executive Manager Planning and Community Safety
Jonathon Miller, Manager Property and Facilities Maintenance**

Summary

The Victorian Building Health Authority (VHBA) notified Nillumbik Council in May 2021 that it had identified Council land at Civic Drive, Greensborough (**Attachment 1**) as their preferred site for the development of the Eltham Area Community Hospital.

Council is being asked to resolve a position on whether to sell the land or not for the purposes of developing the Eltham Area Community Hospital.

The VHBA may acquire the land either through agreement with Council or compulsory acquisition.

Locating the hospital at VHBA's preferred site is inconsistent with:

- The objectives of the Victorian *Planning and Environment Act 1987*, specifically the 'fair, orderly, economic and sustainable use, and development of land.
- State Planning Policy 11.03-01S that encourages the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community
- Council's adopted Structure Plans for its Major Activity Centres, developed in accordance with aforementioned state planning policy, that support an employment anchor, such as a key health provider, to establish in the activity centre, are centrally positioned, highly accessible, well-connected, provide positive synergies with surrounding uses and offer co-location to a range of other community uses.
- Council's adopted Civic Drive Community Facilities Upgrade master plan for the area that provides public open spaces responsive to the recreational needs of the local community and highly accessible as required by State Planning policy at 19.02-6.
- State Planning Policy 18.01-2S that requires all new major state government projects to provide for the provision of public transport as well as avoiding detriment to and where possible enhance, the service, safety and amenity desirable for that transport route in the short and long terms
- Clause 02.03-1 Strategic Direction Settlement of the Nillumbik Planning Scheme that seeks to focus development in the established township and urban areas to take advantage of existing infrastructure and maintain the viability of the Eltham and Diamond Creek Major Activity Centres as the main commercial and community activity areas of the Shire
- Regional Planning Policy 11.01-1R through investment in this instance, located away from Metropolitan Activity Centres and established Health Precincts.

12. Officers' reports**CM.151/21 Eltham Area Community Hospital**

Recommendation

That Council:

1. Does not proceed with the sale of land under construction by the Victorian Health Building Authority at Civic Drive (**Attachment 1**) for a community hospital on the basis of it not meeting State and local planning policy and objectives.
2. Notes the benefits of a community hospital in an appropriately planned area.
3. Advises the Victorian Health Building Authority of its decision.

Attachments

1.  Site map

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 a website that contains key information about the hospital. <https://www.vhba.vic.gov.au/health/community-based-care/eltham-area-community-hospital>. The land under consideration is shown in **Attachment 1**.
4. The benefits of the Civic Drive site provided by VHBA on their website are:
 - a) ability to service locals living in Nillumbik and Banyule Local Government Areas by being located in the centre of the Eltham catchment area
 - b) improves local access to a range of health services so people don't have to travel out of the area to get the services they need
 - c) creates a network of services between Austin Hospital, Northern Hospital, as well as the new City of Whittlesea and expanded Craigieburn community hospitals
 - d) the existing surrounding parkland provides a therapeutic environment for patients, staff and visitors
 - e) excellent road access to Greensborough Bypass, providing easy links to the Western Ring Road and North East Link
 - f) the opportunity to leverage existing community services including the Nillumbik Shire Council offices, Diamond Valley Library and the Sports and Fitness Centre and activate a vibrant hub of essential services.
 - g) This site does not encroach on playgrounds or community sporting assets and was considered to both preserve and enhance the public green space.
5. The land is currently zoned Public Park and Recreation (PPRZ).

12. Officers' reports**CM.151/21 Eltham Area Community Hospital**

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6. This zoning was the result of a master planning process for the area which commenced in 2009. In May 2016, Council resolved to adopt the Civic Drive Community Facilities Upgrade Masterplan (2016) and refer the required planning scheme amendment to rezone the remaining land parcels at Civic Drive to Public Park and Recreation Zone. Subsequently a Plan of Subdivision was undertaken to separate the Civic Drive Council Office and Library from the public open space area. The parcels of land at Civic Drive were rezoned from Public Use Zone 6 (Local Government) to PPRZ as part of Amendment C117 which was resolved by Council on 29 October 2019 and formally gazetted on 6 February 2020 following Ministerial approval.
 7. The VHBA may acquire the land either through agreement with Council or compulsory acquisition.
 8. As a concept stage project by the VHBA, Council have not received detailed planning and development information to inform a detailed assessment of any potential impacts from developing the site as a community hospital. It is noted that a benefit/impact assessment fundamentally compares two different scales: localised impact versus wider benefit.
 9. Therefore the factors informing a recommendation are the relevant strategic planning considerations, which are:
 - a) State Planning Policy and Local Planning Policy which supports the consolidation of key community uses within a Major Activity Centre. For example, Clause 11.03-1S (Activity Centres) of State planning policy supports activity centres to be a focus for business, shopping, working, leisure and community facilities that are highly accessible to the community, and supports the development of structure plans for these centres.
 - b) Major Activity Centres are higher-order centres intended to provide a diverse range of jobs, activities and housing for regional catchments that are well served by public transport. These centres play a major service delivery role, including government, health, justice and education services, as well as retail and commercial opportunities.
 - c) Council in accordance with State Planning Policy at 11.03-1S has undertaken extensive local area planning for its Shire that seeks to support services in locations accessible through various means of transport modes, close to the catchment it seeks to service and where complimentary services and activities already exist. This approach minimises both the financial and social implications to the broader community and prevents the Shire from being required to create an activity centre where alternative underutilised strategic redevelopment sites already exist for such uses in existing Major Activity Centres.
 - d) The proposed site at Civic Drive is not within a Major Activity Centre, or higher order activity centre that should support the focus of large scale business and multi-disciplined activity and community centres.
 - e) Therefore locating the hospital at the proposed site is inconsistent with the State, Regional and Local planning objectives and strategies of Council's Planning Scheme as outlined at point 32 of this report, and recently adopted structure plans for its Major Activity Centres.

12. Officers' reports

CM.151/21 Eltham Area Community Hospital

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- f) Apollo Parkways is defined as a neighbourhood activity centre, characterised by low density development in a naturally treed environment. It is not oriented to provide the environment to facilitate an increase in such uses and development beyond access to local goods and services giving people the ability to meet most of their everyday needs within a 20-minute walk, cycle or local public transport trip of their home.
- g) There is currently no structure plan for Apollo Parkways that supports an employment anchor, such as a key health provider, nor the uses that are required to support a Major Activity Centre and any key uses within it, such as a hospital. For example, there is no supporting public transport hub in Apollo Parkways as is provided in either of the Diamond Creek and Eltham Major Activity Centres. Existing structure plans for Diamond Creek and Eltham strongly support the locating of an employment anchor to either of the Diamond Creek or Eltham Major Activity Centres.
- h) In accordance with State Planning Policy at Clause 19.02-S locating the hospital at a site that would provide significant synergies with surrounding uses is a preferred planning outcome. This site lacks these synergies and requires significant effort to retrofit into an established neighbourhood to provide a best fit. For example, within a Major Activity Centre, businesses such as cafes, restaurants and pharmacies, practitioners and supporting retail already exist and are ready to support a hospital.
- i) It is noted the adopted Civic Drive Community Facilities Upgrade Masterplan (2016) envisages a network of linked open spaces for recreational and leisure purposes that support adjoining and nearby uses such as the school, library, leisure centre, and surrounding residential uses. This planned neighbourhood open space was in response to the surrounding area predominantly consisting of residential uses and built form and accords with State Planning Policy at 19.02-6R and Local Planning Policy at 19.02-6L.
10. The incompatibility of VHBA's proposed site with State and local planning objectives, and based on a preliminary consideration of known information, means locating a community hospital at Civic Drive is likely to:
- a) negatively impact existing traffic and parking conditions and further degrade the effectiveness of the surrounding road network much of which is at capacity.
- b) alter the type, size and character of the Centre and surrounding established neighbourhood, including with the attraction of supporting services.
- The issues of traffic and character impact would be exacerbated in any future growth scenario without significant infrastructure upgrade investment by the State. State Planning Policy at 18.01-02 aims to avoid detriment to and where possible enhance, the service, safety and amenity desirable for that transport route in the short and long terms, strategies that traffic and its impact in this instance will be unachievable.
11. These factors informed the Council officer recommendation to VHBA on 9 May 2019 that Civic Drive Greensborough, is not the preferred site for the Eltham Area Community Hospital.

12. Officers' reports

CM.151/21 Eltham Area Community Hospital

Related Council decisions

12. At the August 2021 Council Meeting, Council resolved to commence a consultation process 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
13. At the October 2021 Planning and Consultative Committee Meeting, Council resolved to consider community feedback on the matter and request a further report to be presented at the October 2021 Council Meeting to make a decision on the sale of the land proposed by VHBA for the Eltham Area Community Hospital.

Options

14. Council's options are:
 - a) Agree to sell the land, subject to terms of sale to the satisfaction of Council. The next step in this option would involve Council drafting a terms sheet and entering into negotiations with VHBA for Council's further consideration. In the event Council's terms could not be met, a contract of sale would not be concluded.
 - b) Do not agree to sell the land. The outcomes of this option with respect to a potential land transaction is that the State may compulsorily acquire the land, or find another location for the hospital.

Council plans and policies

15. 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

16. There are no sustainability implications of the subject matter of the report, being the decision to sell land to the State. Sustainability implications of any development of the land are broadly covered in the Discussion.

Community engagement

17. Consultation took the form of a survey on Council's Participate Nillumbik site <https://participate.nillumbik.vic.gov.au>.
18. The consultation was promoted through:
 - a) media release, flyers, e-newsletters;
 - b) series of posts on social media (Facebook, LinkedIn, Instagram);
 - c) community newspapers;
 - d) contacting key stakeholder groups; and
 - e) mail out of 3700 hard copy surveys to the Blue Lake ward via Australia Postal delivery
 - f) additional offer to obtain a hard copy of the survey upon request.
19. The Participate Nillumbik site was open for engagement from 25 August to 26 September 2021.

12. Officers' reports

CM.151/21 Eltham Area Community Hospital

20. 1,070 responses were received; 36% supported the proposal, 61% opposed, with the balance (3%) undecided.
21. The main reasons respondents support the proposal include:
- a) The facility is required by the community, including families and the elderly
 - b) The facility is needed in the area and for those living in outer suburbs
 - c) Access was required to a local / close community hospital / health facility
 - d) The location is central and convenient / it is a great area
 - e) The location has access to major transport arterials / freeways.
22. The main reasons respondents oppose the proposal include:
- a) Traffic congestion
 - b) Parking issues
 - c) Loss of public land / park and green spaces / sports areas
 - d) Public transport accessibility
 - e) The availability of alternative sites
 - f) Inappropriate location
 - g) Inadequate research / impact assessments / consultation.

Innovation and continuous improvement

23. Not applicable.

Collaboration

24. The Victorian Health Building Authority has briefed Council on a number of occasions since May 2021.

Budget implications

25. Costs associated with this decision of Council can be met within operational expenditure.
26. The proceeds from any sale of the land would need to be allocated to the Public Open Space Reserve, and allocated to future projects involving the purchase of new or the upgrade/development of existing open space and its infrastructure

Relevant law

27. The processes and considerations that apply to the transfer of land by agreement or compulsory acquisition fall under the *Land Acquisition and Compensation Act 1986*, the *Local Government Act 2020*.
28. Considerations related to the replacement of Public Open Space by Council are contained in the *Subdivision Act 1988*

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29. The *Planning and Environment Act 1987* requires consideration by relevant authorities
- to provide for the fair, orderly, economic and sustainable use, and [development](#) of [land](#);*
 - to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
 - to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
 - to conserve and enhance those [buildings](#), [areas](#) or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
 - to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*
 - to facilitate [development](#) in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*
30. The *Planning and Environment Act 1987* further requires each local government area to establish a framework for planning the use, [development](#) and protection of [land](#). The Nillumbik Planning Scheme contains relevant planning provisions that support Council's decision making with respect to land use and development in the Shire.

Regional, state and national plans and policies

31. *Victorian Government Land Transactions Policy and Guidelines* dated April 2016 outline the requirements and framework for Victorian Government agencies when dealing with the sale, acquisition or leasing of land.
32. Ministerial Direction No.9 – Metropolitan Planning Strategy (PLAN Melbourne 2017-2050) sets out the long-term framework for the future growth and development of Melbourne. This direction is set out in Clauses 11-19 of the Nillumbik Planning Scheme. Of particular relevance is:
- 11.01-1R – Focus investment and growth in places of state significance including Metropolitan Activity Centres and Health Precincts
 - 11.03-01S – Activity Centres – to encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community. Strategies to achieve this objective include:
 - Undertake strategic planning for the use and development of land in and around activity centres.
 - Support the continued growth and diversification of activity centres to give communities access to a wide range of goods and services, provide local employment and support local economies.
 - Encourage economic activity and business synergies.
 - Reduce the number of private motorised trips by concentrating activities that generate high numbers of (non-freight) trips in highly accessible activity centres.

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- c) 15.01-1S Urban Design – To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity. This objective is met through strategies including:
- Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport.
 - Ensure that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment and on the safety and efficiency of roads.
- d) 18.01-2S Transport System – Strategies to coordinate development of all transport modes to provide a comprehensive transport system include:
- Incorporating the provision of public transport, cycling and walking infrastructure in all major new state and local government road projects.
 - Planning or regulating new uses or development of land near an existing or proposed transport route to avoid detriment to and where possible enhance, the service, safety and amenity desirable for that transport route in the short and long terms.
- e) 19.02-S Health Facilities – To assist the integration of health facilities with local and regional communities. The objective to be delivered through strategies including:
- Plan public and private developments together, where possible, including some degree of flexibility in use.
 - Locate hospitals and other large health facilities in designated health precincts and areas highly accessible to public and private transport.
 - Provide adequate car parking for staff and visitors of health facilities.
- f) 19.02-1R Health Precincts – Metropolitan Melbourne - Facilitate health and community wellbeing precincts through the co-location of:
- Hospitals, allied health services and not-for-profit health providers at the regional level.
 - General practitioners, community health facilities, allied health services and not-for-profit health providers at the neighbourhood level.
 - Ensure health precincts are well serviced by community services.
- g) 19.02-6R Open Space – Develop a network of local open spaces that are accessible and of high-quality and include opportunities for new local open spaces through planning for urban redevelopment projects.
- h) 19.02-6L Open Space in Nillumbik - Develop public open spaces in accordance to the recreational needs of the local communities in the area.

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- i) 02.03-1 Strategic Direction Settlement – Council seeks to focus development in the established township and urban areas to take advantage of existing infrastructure and maintain the viability of these areas. Council seeks to promote Eltham and Diamond Creek Major Activity Centres as the main commercial and community activity areas of the Shire and facilitate an expansion in the range of commercial and community services available in the major activity centres, including those that cater for a local/regional clientele and special interest area.

Conflicts of interest

- 33. No officers involved in the preparation of this briefing have a conflict of interest in this matter.

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12. Officers' reports**CM.152/21 Yarra Catchment Scale Integrated Water Management Plan**

Distribution: Public**Manager: Hjalmar Philipp, Director Operations and Infrastructure****Author: Lisa Pittle, Manager Environment
Kirsten Reedy, Coordinator Environment****Summary**

The Yarra Catchment Integrated Water Management Forum is seeking Council endorsement of Yarra Catchment Scale Integrated Water Management (Yarra IWM) Plan which sets catchment based targets supported by measures and indicators to help deliver on 2030 and 2050 desired states for water sector services.

This report provides background to the development of the Yarra IWM Plan and how it aligns to Council's existing and proposed strategies, including Nillumbik's Integrated Water Management Strategy (2013) and the draft Climate Action Plan.

The report recommends endorsing the plan and incorporating relevant actions in the climate action plan.

Recommendation**That Council:**

1. Endorses the Yarra Catchment Scale Integrated Water Management Plan 2021.
2. Includes a focus area on integrated water management in the draft Climate Action Plan aligned with the Yarra Catchment Scale Integrated Water Management Plan.

Attachments

- 1  Draft Yarra Catchment Scale Integrated Water Management Plan 2021
- 2  Summary of Yarra IWM Plan indicators and measures
- 3  Nillumbik IWM strategy 2013 action update 2021

Discussion

1. Integrated water management planning is a collaborative approach to water planning and management that brings together organisations with an interest in all aspects of the water cycle. It has the potential to provide greater value to our communities by identifying and leveraging opportunities to optimise water-related outcomes.
2. The Victorian government has established 15 catchment based Integrated Water Management Forums across Victoria. Key drivers for IWM are projected population growth and impact of climate change on water sector services.

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3. Council officers have been participating in the Yarra Catchment Integrated Water Management (IWM) Forum. The forum brings together local governments, water corporations, the Port Phillip and Westernport Catchment Management Authority, the Victorian Planning Authority (VPA) and Traditional Owners to work together to ensure the water cycle efficiently contributes to the liveability of the region.
 4. Regarding governance, the Forum comprises Chief Executive Officers and Managing Directors of participating organisations. The IWM working group and individual project groups are made up of officers from participating organisations with responsibility for the various aspects of the water cycle.
 5. In 2018, the Forum produced the Yarra Strategic Directions Statement which established the seven strategic outcomes for the catchment and a portfolio of priority projects designed to achieve these outcomes. The seven strategic outcomes align with and build on the outcomes identified in the Victorian IWM Framework:
 - a) Safe secure affordable water supplies in an uncertain future
 - b) Effective and affordable wastewater systems
 - c) Opportunities are optimised to manage existing and future flood risks and impacts
 - d) Healthy and valued waterways and marine environments
 - e) Healthy and valued urban and rural landscapes
 - f) Community values are reflected in place-based planning
 - g) Jobs, economic growth and innovation
 6. The Yarra Catchment Scale IWM Plan (**Attachment 1**) has been drafted to assist with achieving the seven strategic outcomes above in the Yarra catchment. The collaborative development of the Yarra IWM Plan was led by DELWP as Project Manager representing the five metropolitan IWM Forums, in conjunction with an appointed lead consultancy, E2Design Lab and its consortium of expert advisors.
 7. The Plan is centred around a set of indicators and measures that can be used to assess, monitor and stimulate progress towards the strategic outcomes. The indicators and measures are used to:
 - a) Articulate performance targets against the seven IWM strategic outcomes.
 - b) Assess and prioritise IWM projects and policies that will help us achieve those targets.
 - c) Provide a basis for future monitoring and assessment of progress against the seven strategic IWM outcomes at a catchment scale.
 8. The Plan also recognise that all seven outcomes need to be supported by three strategic enablers, which reflect the ability and willingness of organisations to implement IWM by focusing on commitment, collaboration and capacity.

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9. For each of the enablers and strategic outcomes the Yarra IWM Plan has:
 - a) An overall narrative of the current and future desired state for the Yarra catchment in terms of the seven strategic outcomes.
 - b) The current trajectory to define the future business-as-usual (BAU) state (i.e. where will we end up with the current level of investment in IWM through existing strategies, plans, targets and projects, such as those listed in the SDS);
 - c) A shared understanding of the gap between the BAU state and the future desired state, and the quantitative and qualitative measures of success including targets to fill the gap; and
 - d) A shared understanding of high-level IWM interventions including policy reforms required to progress the catchment toward its desired state.
10. The Catchment Scale IWM Plan will build on and link with the existing strategies and plans of the IWM Forum partners. These will include (but are not limited to) Melbourne Water's Healthy Waterways Strategy, Traditional Owner Country Plans, the Nillumbik Council Plan and Nillumbik's Integrated Water Management Strategy 2013.
11. A summary of the enablers and outcomes with associated indicators, measures and targets is provided in **Attachment 2** together the types of actions that Nillumbik does or may undertake in relation to enablers and contributing to the achievement of targets for the catchment.
12. The next steps for the Yarra IWM Forum is to develop a roadmap of prioritised, catchment based projects that are designed to deliver on 2030 and 2050 targets. The Victorian government intends to announce a grant program soon to support priority projects identified by the 15 IWM Forums.
13. Council adopted the Integrated Water Management Strategy (IWMS) in 2013 and the recommended actions from the strategy together with a brief summary of progress is provided in **Attachment 3**.
14. There are 38 recommended actions from the Nillumbik IWMS include strategic actions, infrastructure projects and community engagement. The summary in **Attachment 3** shows that:
 - a) 5 actions are completed
 - b) 11 actions are in progress
 - c) 15 actions are business as usual
 - d) 5 actions are not commenced
 - e) 2 actions are superseded or not required
15. The summary of progress is not exhaustive and is intended to give Councillors a sense of the types of projects and programs that have been initiated and that may be pursued in the future.

Related Council decisions

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16. Council adopted the Yarra Strategic Plan (YSP) at the May 2021 Council meeting. The YSP provides planning controls specific to the Yarra River and environs and relates to particularly to the following strategic outcomes:
- Healthy and valued waterways and marine environments
 - Healthy and valued urban and rural landscapes
 - Community values are reflected in place-based planning

Options

17. Council have the opportunity to endorse the Yarra Catchment Scale Integrated Water Management Plan. The purpose of endorsing the Plan is to confirm Council's commitment to:
- The principle of integrated water management.
 - Engaging at the catchment scale.
 - Continuing to work, where possible, to contribute to achieving the targets of the Plan.
18. Endorsing the Plan is consistent with the adaptation goals of the draft Climate Action Plan and the Integrated Water Management Strategy 2013.
19. Additional opportunities include:
- Adding a focus area on integrated water management to the draft Climate Action Plan and utilise measures and targets that will achieve Council and community adaptation goals.
 - Continue to be represent Council at the Yarra IWM Forum and engage in the development of priority projects. This will provide an opportunity for Nillumbik projects such as the Eltham Integrated Water Management Corridor concept to be considered as a priority project for the catchment and a candidate for grant funding.
 - Review Council's Integrated Water Management Strategy 2013 to align with the enablers, strategic outcomes, indicators, measures and targets of the Yarra IWM Plan.

Council plans and policies

20. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Work with the local community to review and implement environmental policies to protect biodiversity and conserve natural resources..
21. Council has an Integrated Water Management Strategy adopted in 2013. The strategy outlines projects which deliver multiple benefits such as; water security, protection of receiving waters, ecosystem services, social/political engagement, microclimate benefits, improved liveability and community well-being. There is an implementation plan with a range of programs and infrastructure projects.
22. Refer to **Attachment 3** for a summary of Integrated Water Management Strategy implementation.

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Sustainability implications

23. Integrated water management is an adaptive response to climate change in terms of providing water based services and mitigating risks such as flooding; provides social benefits through healthy waterways and landscapes and a focus on place based planning; provides economic benefits through support for agriculture and business and environmental benefits from waterway and landscape health.

Community engagement

24. Feedback on Council endorsement for the Yarra IWM Plan and incorporating the relevant actions in the climate action plan was sought from the Environment and Sustainability Advisory Committee.
- a) There were no comments regarding endorsement of the Yarra IWM Plan.
 - b) Further discussion will be had regarding opportunities to incorporate IWM within the draft Climate Action Plan.
25. Council's community engagement actions relating to the Nillumbik Integrated Water Management Strategy are summarised in **Attachment 3**.

Innovation and continuous improvement

26. Innovation and continuous improvement are and will be important contributors to achieving integrated water management targets. For example implementation of Council's centralised irrigation system provides staff with the ability to reprogram irrigation cycles remotely in response rainfall reducing water wastage.

Collaboration

27. The catchment based Integrated Water Management Forum is a collaboration between local governments, water corporations, the Port Phillip and Westernport Catchment Management Authority, the Victorian Planning Authority (VPA) and Traditional Owners to work together to ensure the water cycle efficiently contributes to the liveability of the region.

Budget implications

28. Participation in the IWM Forum is managed within existing budgets. Actions arising from integrated water management planning may be submitted for consideration in future budgets.

Relevant law

29. Yarra River Protection (Wilip-gin Birrarung murrn) Act 2017 (the Act). This Act recognises Traditional Owners' custodianship of the river, Birrarung, and identifies the Yarra River corridor as 'one living and integrated natural entity for protection and improvement'.

Regional, state and national plans and policies

30. There are a range of state and regional plans that create the objectives that the Yarra Catchment IWM targets are designed to achieve.

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31. The Victorian government through the Department of Environment, Land, Water and Planning (DELWP) has a number of key policy documents auspicing and underpinning the Yarra Catchment IWM Plan:
- a) *Plan Melbourne 2017-2050* seeks to achieve a number of outcomes including:
 - i) Melbourne is a sustainable and resilient city
 - ii) Regional Victoria is productive, sustainable and supports jobs and economic growth
 - b) *Water for Victoria 2016* sets clear objectives on the role of water for the creation of liveable cities and towns across the state. The relevant actions are:
 - i) Action 5.7 – represent community values and local opportunities in planning
 - ii) Action 5.8 – put integrated water management into practice.
 - c) The *Integrated Water Management Framework for Victoria 2017* aims to help government, the water sector and the community work towards achieving resilient and liveable towns and cities. This IWM Framework has established 15 catchment based IWM forums across Victoria.
32. Melbourne Water's *Healthy Waterways Strategy 2018-28* sets a long-term vision for managing the health of rivers, wetlands and estuaries in the Port Phillip and Westernport region, in order to protect and improve their value to the community.
33. *Victoria's Climate Change Strategy 2021*. The 2030 and 2050 objectives of Victoria's Climate Change Strategy aim at ensuring climate-resilient built and natural environments, liveable and healthy communities, and resilient biodiverse ecosystems.
34. *The Yarra Strategic Plan* (YSP) is a requirement of the Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017 (the Act). The intent of the YSP is to coordinate and harmonise planning for the use, development and protection of the Yarra River, its parklands and other land in its vicinity.

Conflicts of interest

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

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CM.153/21 Bend of Islands Local Law

Distribution: Public

Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety

Author: Jonathan McNally, Manager Community Safety and Amenity
Caroline Correa, Community Safety Coordinator

Summary

The purpose of this report is to:

- a. Outline the limitations of existing animal controls within the Bend of Islands; and
- b. For Council to resolve to engage with the Bend of Islands community in order to develop an animal management local law for the Bend of Islands.

The Bend of Islands is a unique area of Nillumbik that features dwellings located in a natural bush setting, and is subject to heightened planning controls. Under the Nillumbik Planning Scheme, the area is located within the Special Use Zone Schedule 2 – Environmental Living – Bend of Islands (SUZ2). The provisions of the SUZ2 include restrictions on the keeping of animals, both domestic and livestock.

Adjacent to the Bend of Islands SUZ2 is the Special Use Zone Schedule 1 - Heritage Golf and Country Club (SUZ1). The SUZ1 contains a similar restriction on the keeping of cats and dogs.

The Planning Scheme is not the most effective tool to restrict the keeping of animals in this area as it does not apply equally to all properties within the Bend of Islands. A local law provision would more effectively limit the keeping of animals in this sensitive environmental area.

An initial draft of a local law provision has been developed. Targeted engagement with the community will enable the development of a meaningful local law that is acceptable to the community.

It is proposed to engage with the Bend of Islands community during November in tandem with the broader engagement being carried out for the draft Nillumbik General Local Law.

Recommendation

That Council:

- 1. Resolves to develop a Bend of Islands animal local law to introduce restrictions on the keeping of animals within the Bend of Islands.
- 2. Resolves to engage with the Bend of Islands community to develop a Bend of Islands animal local law provision.

Attachments

Nil

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Discussion

1. The keeping of animals within the Bend of Islands has been controlled since the adoption of the Environmental Living Zone into the former Shire of Healesville Planning Scheme in 1982. The Environmental Living Zone (ELZ) was incorporated into the Healesville Planning Scheme in 1976 and was gazetted in September 1982.
2. The Special Use Zone (SUZ2) replaced the Environmental Living Zone with the introduction of the New Format Planning Scheme which was adopted by Council in August 2000.
3. The planning scheme provision in the SUZ2 at Clause 37.01 notes that:

The keeping of domestic pets or livestock by residents and or/visitors, is prohibited. For the purpose of this Clause, domestic pets include dogs, cats, goats, horses, donkeys and dingoes.

The Responsible Authority maintains a Register of Non-Conforming Animal Uses in the Special Use Zone (SUZ2). The Responsible Authority shall have regard to this document when administering the scheme.
4. Clause 63 of the Victorian Planning Provisions provides the policy basis for existing use rights. Existing use rights apply to the land, not the owner, and it is up to the owner of the property to prove that they apply. An existing use right is established through a number of methods of 'proof', however in the instance of Bend of Islands and animal keeping, the existing use is established where the use (keeping of domestic pets or livestock) was lawfully carried out immediately before the 'approval date' (that is the date the new control was gazetted). An existing use right expires if either the use has stopped for a continuous period of 2 years, or has stopped for two or more periods which together total two years in any period of three years. Existing uses that do not comply with the current planning scheme requirements are identified as a non-conforming uses.
5. Pursuant to the requirements of the SUZ2, a Register of Non-Conforming uses was prepared in June 1993. The register included a table of owners, addresses and any "non-conforming" animals that may be kept at the properties within the Bend of Islands.
6. Periodically since 1993 Council has reviewed the Non-Conforming Use Register and has "extinguished" or removed properties from the register if the property owners had not kept the registered animals for a period longer than two years (thereby foregoing any existing use rights).

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7. In relation to the SUZ1 (Heritage Golf and Country Club) Planning Scheme Amendment L53 to the Healesville Planning Scheme rezoned the Nillumbik side (Henley Property) of the golf course to a Restricted Use Zone (Major Tourist Development) to allow for use and development of the golf course in April 1995. In June 2000 the New Format Planning Scheme was gazetted and placed the Nillumbik portion of the golf course into the SUZ1. The SUZ1 contains the same controls (as reformatted) specific to the golf course as approved under Amendment L53, including the restriction on the keeping of cats and dogs. Specifically, 2.0 of the SUZ1 states that:

Land shall be used in accordance with a Development Plan prepared in accordance with Part 4.0 to the satisfaction of the responsible authority.

The keeping of cats and dogs or horse riding is prohibited (and cannot be permitted by a Development Plan).

8. The majority of the SUZ1 area is developed with the Heritage Golf Course use, however there is one residential property at 191 Henley Bridge Road that sits within the SUZ1 and is affected by the restrictions on keeping cats or dogs.
9. The restriction on the keeping of domestic pets or livestock is a lawful and effective tool for restricting animals within the SUZ1 and SUZ2, however being a planning control, it can lawfully only be applied to those properties that have constructed a dwelling (or commenced the use of the land for a dwelling) since the planning control came into effect. In essence, the planning control as originally introduced into the Healesville Planning Scheme in 1982 can only be enforced on those properties that did not have a dwelling use at the time the planning control was adopted.
10. The keeping of animals in the context of the SUZ1 and the SUZ2 is considered an ancillary use to the primary dwelling use of a property. As such, if a dwelling use was lawfully established prior to the planning control, then by rights the residents of the dwelling can keep animals on the property (exercising existing use rights).
11. There are 65 properties within the SUZ2 that were developed with a dwelling in 1981 which, provided the use of the land for a dwelling has not ceased for a period of at least two years, retain existing use rights for the keeping of domestic animals and livestock, which cannot have been extinguished through the maintenance of the register. There are a total of 141 properties in the SUZ2. It is important to note that residents within the Bend of Islands have lived in this area with the understanding that the existing planning controls lawfully restrict the keeping of pets on all properties within the Bend of Islands.
12. There were originally 19 properties listed on the Non-Conforming Existing Use Rights (NCEUR) register. Since then, there remains 12 properties on the register which retain their NCEUR. The other seven properties have previously been informed that their Existing Use Rights have been extinguished.

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13. The most effective course of action to ensure controls exist to limit the keeping of animals within the SUZ1 and SUZ2 would be to introduce a local law that is specific to the keeping of animals in this area. Council does not need to remove the existing provisions from the Planning Scheme, however in order to restrict the keeping of pets on those properties that existed prior to the introduction of the SUZ1 and SUZ2 controls, a local law would be required to restrict the keeping of pets.
 14. A local law would be inconsistent with the Planning Scheme if the local law prohibits something which is otherwise specifically permitted under the Planning Scheme. However, a local law is capable of being enacted which regulates the ancillary keeping of domestic pets and livestock in the SUZ1 and SUZ2 because the ancillary keeping of domestic pets and livestock is not specifically regulated in the Planning Scheme.
 15. A local law can be enacted so that it only applies within the SUZ1 and SUZ2 area of the Nillumbik Shire and a local law could:
 - prohibit the keeping and registration of any new domestic pets and livestock on any property that had a dwelling on it prior to 1981 (or it could apply to all properties in the Bend of Islands); or
 - control the numbers and types of domestic pets and livestock allowed on a property.
 - Allow for a permit system for properties that require an assistance animal.
 16. A local law cannot, however, require a person to forfeit an existing domestic pet or livestock. Further, if a local law is enacted, Council needs to be very clear about the purpose of the local law, for example, the environmental conservation / wildlife protection purpose. A local law would also need to clearly define what domestic pets and livestock are regulated.
 17. A local law could be drafted to include a permit system whereby domestic pets and livestock (as defined) are prohibited except in accordance with a permit that is issued. If someone has an existing animal, a permit can be issued allowing the person to keep that animal, subject to any conditions imposed in the permit. A permit system is a more effective way to regulate animals keeping, as Council regulates animals keeping, compliance and records through this mechanism.
 18. As a key component of addressing the issue of domestic pets and animals within the SUZ1 and SUZ2, direct engagement with this community is required.
 19. Draft provisions have been developed in order to allow the community to understand what a local law would look like, and how it would operate. Draft provisions are:

“The **Bend of Islands** is a unique area within the **municipal district** of **Council**. The ecology of the area is dominated with distinct understory vegetation of grasses, woody shrubs, orchids, vines and herbs. There is over one hundred (100 plus) species of birds including 2 threatened species being the powerful and baring owls. The object of the local law is to prohibit the keeping of **domestic pets** including dogs and cats and domestic livestock within the area of **Bend of Islands** to protect and preserve the unique ecology of the area.

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- a) An **owner** or **occupier** of **land** must not keep a dog or cat on the **land**.
 - b) A person must not:
 - i. bring on **land**;
 - ii. have in their possession on **land** –
a dog or cat.
 - c) An **owner** or **occupier** of **land** must not keep any **domestic pet** or **livestock** on the **land**.
 - d) A person must not:
 - i. bring on **land**;
 - ii. have in their possession on **land**-
 - iii. any **domestic pet** or **livestock**.
 - e) *For the purposes of paragraph a), a permit may be granted for the keeping of an **assistance animal**.*
 - f) *for the purposes of this clause, a permit may be granted for the keeping of a dog, cat, **domestic pet** or **livestock** currently lawfully being kept on the **land**. **Such permits** may be granted annually until such time as the dog, cat, domestic pet or livestock ceases to reside on the property or dies.*

For the purposes of this clause, the following definitions apply:

'Bend of Islands' means the area hatched on the attached plan and includes all land with the **Special Use Zone Schedule 1** and **Special Use Zone Schedule 2**

'domestic pet' includes goats, horses, donkeys and dingoes.

'land' means any land that is within or partly within the boundary of Bend of Islands or within the area defined by the **Special Use Zone Schedule 1 (and/or 2)** as shown in the map to this clause as shown in the map to this clause.

'livestock' includes a cow, horse, pig, donkey, alpaca, llama and an **animal** of any species used in connection with primary production or kept for recreational purposes other than a dog or cat.

'assistance animal' has the same meaning as the *Disability Discrimination Act 1992*.

'Special Use Zone Schedule 1' means land located within the Special Use Zone Schedule 1 under the Nillumbik Planning Scheme"

'Special Use Zone Schedule 2' means land located within the Special Use Zone Schedule 2 under the Nillumbik Planning Scheme."

20. It is important to note that this is a draft provision for the purposes of engaging with this community, and is intended to be a translation of the existing controls within the planning scheme. The draft provision has been developed to be enforceable, and to mirror the existing controls within the planning scheme. Additionally, the provision allows for land owners who currently have a pet to continue to keep a pet until such time that the pet passes away. Finally, and in order to ensure that the draft provision does not impact on the right to have an assistance animal, a permit can be granted to keep an assistance animal on properties within this area.

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Related Council decisions

21. The provisions of both the SUZ1 and SUZ2 were adopted as part of the new format planning scheme in 2000. It should be noted translation to the new format was required by the State Government.

Options

22. Direct engagement with the Bend of Islands community is essential to understand the expectation of the community in ensuring animal keeping continues to be restricted within the Bend of Islands. Ultimately Council has two options available:
- Resolve to engage with the Bend of Islands community in order to develop local laws provisions for the community.
 - Resolve to accept the limitations of the existing planning controls and not proceed with the development of local laws provisions.

Council plans and policies

23. 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

24. If a local law is enacted, Council needs to be very clear about the purpose of the local law, in particular, the purpose of the current restriction and any future local law needs to be aligned with an environmental conservation / wildlife protection purpose.

Community engagement

25. The development of Bend of Islands specific local law provisions will require targeted engagement with the Bend of Islands community. Chatterbox have been engaged to lead the engagement with this community, which will include direct mail outs to each property and two online information session/workshops with the community. The engagement program will be carried over a 6 week period from 1 November 2021 to 10 December 2021.

Innovation and continuous improvement

26. Not applicable

Collaboration

27. Not applicable

Budget implications

28. The development of specific local law provisions dealing with the Bend of Islands can be contained in the existing budget allocated for the review of all of the Nillumbik Local Laws. \$50,000 has been allocated to the local law review as a major initiative in the 2021/22 budget.

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Relevant law

29. Section 71 of the *Local Government Act 2020* contains Council's power to make local laws. Section 72 of the Act sets out the requirements for developing a local law.
30. The Act also specifies the following governing principals for the development of a local law:
- The local law requirements are as follows-*
- (a) *a local law must not be inconsistent with any Act (including the Charter of Human Rights and Responsibilities Act 2006) or regulations;*
 - (b) *a local law must not duplicate or be inconsistent with a planning scheme that is in force in the municipal district;*
 - (c) *...*
 - (d) *a local law must not exceed the power to make local laws conferred by this Act or any other authorising Act;*
 - (e) *a local law must be consistent with the objectives of this Act or any other authorising Act;*
 - (f) *a local law must be expressed as clearly and unambiguously as is reasonably possible;*
 - (g) *unless there is clear and express power to do so under this Act or any other authorising Act, a local law must not—*
 - (i) *seek to have a retrospective effect; or*
 - (ii) *impose any tax, fee, fine, imprisonment or other penalty; or*
 - (iii) *authorise the sub-delegation of powers delegated under the local law;*
 - (h) *a local law must comply with any details prescribed in the regulations relating to the preparation and content of local laws.*
31. *Planning and Environment Act 1987* is of relevance where it relates to the existing planning controls that affect the Bend of Islands.
32. In addition to the local law making powers in the *Local Government Act*, the *Domestic Animals Act 1994* also provides support for Councils to make a local law in respect of the management of domestic animals. Specifically, Section 42 of the *Domestic Animals Act 1994* relevantly provides
- A Council may make a local law for or with respect to all or any of the following –*
- (a) *...*
 - (b) *prohibiting the keeping of dogs or cats in a specified area of the municipal district of the Council where threatened native fauna are at risk of attack;*
 - (c) *...*

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Regional, state and national plans and policies

33. Not applicable

Conflicts of interest

34. 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.154/21 Draft Nillumbik General Local Law**

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

The purpose of this report is to:

- a. Seek Council endorsement of the draft Nillumbik General Local Law (**Attachment 1**); and
- b. For Council to resolve to exhibit the draft Nillumbik General Local Law.

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

Council resolved in April 2021 to formally undertake a review of the existing local laws, and to carry out a first round of community engagement in the form of a local laws discussion paper presenting new ideas to the community, as well as seeking feedback on the existing local laws.

Community engagement to garner feedback was completed in June and July 2021. Feedback identified a range of improvements, gaps and possible new local law themes for review. Officers have consolidated both the community and Councillor feedback to develop an initial draft Nillumbik General Local Law, as well as a Local Law comparison table (**Attachment 2**). The purpose of the comparison table is to compare the existing provisions with the proposed draft provisions.

The purpose of the review is to identify gaps in current legislation, retain valued parts of the existing laws, and create or rework areas that are in need of updating or inclusion. Local laws are required to be reviewed every ten years. The draft Nillumbik General Local Law has been developed to modernise the provisions within the various existing local laws, and to develop new local laws that to respond to both best practice, the values of the Shire and Community and Councillor feedback.

Officers are seeking Council endorsement of the draft Nillumbik General Local Law in order to carry out a first exhibition of the draft local law during November 2021.

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Recommendation

That Council:

1. Endorses the Draft Nillumbik General Local Law (**Attachment 1**), for the purpose of public exhibition.
2. Invites written submissions on the Draft Nillumbik General Local Law to Council between 1 November and 10 December 2021.
3. Considers public submissions at the Planning and Consultation Committee meeting to be held in February 2022.
4. Notes that any person who makes a written submission in relation to the Draft Nillumbik General Local Law and requests to be heard in support of their written submission, be heard at the February 2022 Planning and Consultation Committee meeting.

Attachments

- 1  Draft Nillumbik General Local Law - Oct 21
- 2  Nillumbik General Local Law Comparison Table Oct 21
- 3  Local Laws Review - Phase 1 engagement summary
- 4  Local Law Participate Nillumbik Written submissions - redacted
- 5  Local Law Submissions Part 1_Redacted
- 6  Local Laws Submissions Part 2_Redacted
- 7  Local Laws Submissions Part 3_Redacted

Discussion

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

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3. Nillumbik currently has the following four local laws:

Name	Date created	Objectives
Amenity Local Law	October 2013	<p>The objectives of this Local Law are to provide for the:</p> <ul style="list-style-type: none"> a) safe and fair use and enjoyment of public places; b) safe and fair use of roads; c) regulation of street activities; d) keeping and control of animals; e) fair and reasonable use and enjoyment of private land; f) uniform and fair administration of this Local Law; g) peace, order and good government of the municipality.
Infrastructure Assets Local Law	November 2013	<p>The purposes of this Local Law are to:</p> <ul style="list-style-type: none"> a) provide for the peace, order and good government of the Municipal District; b) protect public assets vested in Council from damage, accelerated deterioration or abuse during the building works process; c) providing a physical environment which aims to minimise hazards to the health and safety of persons attending building sites and those adjacent, opposite or passing building sites; d) prohibiting, regulating and controlling the presence and disposal of refuse, rubbish and soil on and from building sites within the municipal district to reduce hazards to the environment and promote an environment where residents can enjoy a quality of life that meets the general expectation of the community; e) defining the standards to which persons engaged in building works should adhere; and f) educating and inducing persons involved in building works to act responsibly to reduce the extent and cost of infrastructure damage for the benefit of the wider community.
Fireworks Local Law	October 2019	<p>The objective of this Local Law is to prohibit the discharge of fireworks in certain parts of the municipality:</p> <ul style="list-style-type: none"> a) to restrict activities in a bushfire prone rural environment that can impact on the health and wellbeing of residents, specifically those who have experienced catastrophic bushfires; b) to reduce the risk of danger and injury to animals and wildlife arising from the discharge of fireworks;

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Name	Date created	Objectives
		<p>c) to address nuisance, amenity and environmental impacts of fireworks activities;</p> <p>d) apply standards that address safety matters directed at reducing risk to the community.</p>
Meeting Procedure Local Law	<p>July 2017</p> <p>Partially Revoked August 2020</p>	<p>Clauses 1-14 of this Local Law ceased to be in operation from 25 August 2020 having been superseded by Council's Governance Rule - Meeting Procedure adopted 25 August 2020.</p> <p>Clause 15 governs the use of the Common Seal of Council.</p>

4. Council has completed a detailed review of the four existing Nillumbik local laws. Recommendations in relation to each local law are as follows:

Amenity Local Law	<p>The provisions within the existing amenity local law generally attempt to address the majority of relevant issues within the Shire. However the provisions are generally relatively generic, lack detail and are often difficult to enforce. The intent of the vast majority of provisions has been retained, however provisions have been redrafted and expanded to provide greater clarity to users of the local law.</p> <p>Proposed provisions are more detailed and specific to activities and behaviours that require controls in place.</p> <p>The proposed provisions are intended to provide officers with the tools to operate more effectively and are consistent with Councils that have more recently adopted local laws.</p>
Infrastructure Assets Local Law	<p>The provisions within the Infrastructure Assets local law generally attempt to protect Council's infrastructure and assets. Many of the provisions are adequate, however they have not responded to the changing expectations of Council and its community. Additionally, not all Council assets are adequately protected. The provisions have at times been difficult to enforce. The intent of the vast majority of provisions has been retained, however provisions have been redrafted and expanded.</p> <p>Proposed provisions are more detailed and specific to activities and behaviours that require controls in place.</p> <p>The proposed provisions are intended to provide officers with the tools to operate more effectively and are consistent with Councils that have more recently adopted local laws.</p>
Fireworks Local Law	<p>The operative clauses of the existing fireworks local law are sound and have effectively banned fireworks within the rural areas of the Shire since adoption in October 2019. Rather than continuing with a single issue local law, officers recommend that the fireworks local law be incorporated into a Nillumbik General Local Law.</p>

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Meeting Procedure Local Law	<p>Clauses 1-14 of this Local Law ceased to be in operation from 25 August 2020 having been superseded by Council's Governance Rule - Meeting Procedure adopted 25 August 2020.</p> <p>Clause 15 governs the use of the Common Seal of Council.</p> <p>Officers recommend the clauses relating to the use of the Common Seal be incorporated into the Draft Local Law.</p>
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5. The drafting of new local laws must ensure that all local laws conform to the following standards:
 - necessary
 - consistent (in language and effect)
 - compliant (with the legislation under which they are made and other legislative requirements)
 - enforceable
 - accessible
 - efficient
 - accountable
 - transparent
 - current

6. Phase 1 engagement in relation to the local laws review project focussed on testing the Community's appetite to consider the introduction of some new provisions into Council's local laws. Engagement was carried out through the exhibition of a Local Laws discussion paper with 10 key ideas presented to the community, covering a range of issues that had been identified following an internal review and engagement program and a Councillor workshop held in March 2021. Through the engagement process, Council also sought feedback on the existing local laws documents, and asked for any other new ideas or gaps that the community felt need to be addressed through the review of the draft Nillumbik General Local Law.

7. Through the engagement period, Council received 782 contributions from 732 contributors through the survey posted on Participate Nillumbik. In addition to the survey responses, Council also received 36 written submissions that were either attached to the participate responses, or were submitted directly to Council. A detailed assessment of the community response to the discussion paper is contained in the attached Local Laws Review Phase 1 Engagement Summary report (**Attachment 3**). Copies of all written submissions are contained in **Attachments 4, 5, 6 and 7**.

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8. Council has considered the responses to the discussion paper and submissions made in relation to the existing local laws and can provide the following responses:

Proposed provision	Council response
<p>Consider a permit trigger on the use of drones being launched from Council controlled land. Consider a prohibition on drones flying and or recording over private property without the express permission of the land owner.</p>	<p>Council agrees that a provision requiring a permit should be developed. The Local Law should also allow for the designation of drone friendly areas of public open space where a permit would not be required to fly drones.</p> <p>Provisions have been included in the draft local law at Clause 20.f)</p>
<p>Consider a provision prohibiting the use of barbed wire as fencing in the municipality. Council could regulate, but could not be made retrospective i.e. this would only apply to new fences constructed, which adds to the complexity of enforcing this provision.</p>	<p>Following considerable community feedback both for and against this proposal, ultimately legal advice indicates that Council cannot regulate the use of barbed wire in most circumstances, and the enforcement of such a provision would be prohibitive and beyond the limited resources of Council.</p> <p>No provision has been drafted.</p>
<p>Consider a provision that restricts the landing of helicopters away from existing approved landing sites.</p>	<p>The landing of helicopters is controlled by the Nillumbik Planning Scheme. These controls are considered sufficient, and a local law cannot override the planning scheme.</p> <p>No provision has been drafted.</p>
<p>Consider a prohibition on single use plastics at Council endorsed events – markets, festivals etc.</p>	<p>Council supports introduction of ban on single use plastics at all Council endorsed events on Council land. This will operate in conjunction with state government bans on some single use plastics to come into effect in 2023, and will also include a ban on the use of balloons.</p> <p>Provisions have been included in the draft local law at Clause 20. d) ii)</p>
<p>Consider a restriction on placing election signage on Council buildings or land</p>	<p>The current Nillumbik Planning Scheme and local law provisions are satisfactory in that political signage cannot be displayed on public land. The planning scheme has exemptions for political signage on private land.</p> <p>Proposed to retain current provisions and revise wording. Draft Clause 25. a)</p>

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Proposed provision	Council response
Consider better and more robust Barking Dog controls , as the existing provisions in the Domestic Animals Act are lacking	Council and the community generally support additional measures to allow officers to respond to barking dog and other nuisance animal complaints. Provisions have been included in the draft local law at Clause 37.
Consider a provision to introduce a coin mechanism or wheel lock requirement for supermarkets/traders who provide trolleys	There was limited support to introduce provisions requiring coin mechanisms or wheel locks on shopping trolleys due to the impact this would have on users of shopping trolleys. No new provision has been drafted, however the existing provision has been redrafted to include the trolley owner (retailer) as being responsible for dumped trolleys. Provisions have been revised in the draft local law at Clause 31.
Consider a requirement to lock away spray cans and/or stop displaying them at point of sale to assist in the theft of cans and require people to ask for cans	Generally community and Council support in having provisions that limit access to spray paint as a disincentive to reduce graffiti. Provisions have been included in the draft local law at Clause 27.
Consider a prohibition on smoking around Council buildings	Council and community supported the introduction of a broadened ban on smoking around Council buildings. Provisions have been included in the draft local law at Clause 18. d).
Consider a restriction on the use of glyphosates and other harmful chemicals and/or prohibit the sale of glyphosates within the municipality	Provisions banning the use or sale of Glyphosates would be unenforceable and fail to satisfy the relevant criteria in the <i>Local Government Act 2020</i> . No provision has been drafted.

9. The Phase 1 engagement also allowed the community to provide new ideas that Council could consider in the review of the local laws. In total, there were 448 contributions that included written comments relating to both the discussion paper, but also providing an opportunity for the community to identify new ideas for the draft Nillumbik General Local Law to address. These ideas have been summarised into the following core topics:

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Community Feedback	Officer Comment
Focus on wildlife and environmental protections	<p>Wildlife and native fauna is protected through various federal and state level pieces of legislation. A local law cannot override or undermine existing legislation, and a local law is viewed as subservient to state and federal legislation. As such, a local law cannot introduce controls for purposes already legislated in other areas.</p> <p>Nillumbik has a strong stance of advocating for the protection of native flora and fauna.</p> <p>A proposed provision within the draft local law is the protection of substantial amenity or canopy trees in areas where the planning scheme does not currently provide protections. This is of particular importance in township and urban areas not currently covered by overlays that protect important canopy trees.</p>
Management of animals in our community	<p>The current Amenity Local Law incorporates a number of provisions relating to animals within the community. The draft local law proposes to expand and add to these provisions to provide the tools to more effectively manage animals within the community. Part 6 of the Draft Local Law relates to animals.</p> <p>The management of domestic pets within the community is largely governed by the <i>Domestic Animals Act 1994</i> and the Domestic Animal Management Plan. This includes on/off leash areas, cat curfews and requirements for the de-sexing of animals prior to registration.</p>
Stronger litter controls	<p>The state government has recently enacted the new <i>Environmental Protection Act 2017</i> and the <i>Environment Protection Act Regulations 2020</i>. Both of these incorporate significantly increased infringements for offences.</p>
Management of traffic and parking	<p>Control of traffic is governed by the <i>Road Safety Road Rules 2017</i>. The local law can introduce provisions relating to parking controls on Council controlled land, but cannot introduce controls aimed at governing traffic management. Part 3 of the Draft Local Law relates to the management of municipal places, buildings and reserves and will provide additional tools for the control of vehicles on Council land.</p>
Comments relating to council services	<p>Various submissions were received making comment to the provisions of services. These have all been forwarded to the relevant business units to action.</p>

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Community Feedback	Officer Comment
Comments relating to planning provisions	There were a significant number of submissions that related to planning controls across the Shire. These comments have been provided to the Planning Services department. The Local Law cannot be utilised as a quasi-planning scheme, and the majority of planning related comments received are best dealt with through the planning system. The exception to this is the inclusion of a provision in the draft local law relating to the protection of substantial amenity trees within the urban areas of the Shire.
Stronger nuisance controls	Part 7 of the draft local law incorporates significant additional provisions aimed at addressing land use and amenity. Specifically, draft Clause 48 has been developed to respond to regular nuisance type complaints received by Council. These include noise, light and odour type nuisance complaints. The intention is that the local law will provide officers with additional tools to utilise in addition to the <i>Public Health and Wellbeing Act</i> .
Cutting Red Tape	New provisions within the Draft Local Law have generally been limited to those that respond to issues regularly evident within the community. Although many of the provisions in the draft are longer than those they replace, the intention is that the new local law provides greater clarity in the intention of each provision. The Draft Local Law is also a combination of four existing local laws, along with much of the guidance that currently sits in the Amenity Local Law Administrative Policy Guidelines. The draft local law is intended to be a single local law document, rather than having multiple documents providing local laws within Nillumbik.

10. The draft Nillumbik General Local Law has been developed to achieve three main aims:
- Review and revise the existing provisions within the four existing local laws
 - Consolidate the four existing local laws into a single general local law document
 - Develop new provisions aimed at addressing issues relevant to the community in 2021 and over the next 10 years that may not have been relevant when the local laws were last reviewed.
11. The existing local laws governed the vast majority of issues present within the Nillumbik Community, and did so in a manner that was consistent with surrounding municipalities at the time they were developed. However, across Victoria, Councils have actively reviewed their local laws to modernise them to address current issues within the community. The draft Nillumbik General Local Law is intended to provide the tools for Council to respond to the needs of the community over the next 10 years.

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12. Over and above the existing controls within the various Nillumbik local laws, the draft Nillumbik General Local Law introduces revised or new provisions aimed at addressing the following:

- More specific controls in relation to behaviours and uses of municipal places;
- Sale of spray paint
- Control of clothing bins
- Revised animal keeping controls
- Animal nuisance and noise controls
- Feeding of wild birds
- Management of dead livestock
- Nuisance including light, noise and odour
- More specific controls in relation to unsightly properties
- Containment of pool wastewater
- Revised burning off provisions
- Use of recreational vehicles (motorised toy vehicles)
- Revised caravan and mobile dwelling (tiny home) controls
- Control of shipping containers
- Events controls
- Protection of amenity trees
- Earthworks controls
- Revised waste controls
- Greater protection of council assets
- Revised controls for building sites
- Expanded governance regarding the issue of permits
- Expanded governance regarding the enforcement of the local law
- Revised schedule of penalties

Related Council decisions

13. The existing Amenity Local Law and Infrastructure Assets Local Law have been in place since 2013. More recently Council adopted the Fireworks Local Law in October 2019, to prohibit the display of fireworks within the rural areas of the Shire. Council also revoked the majority of the Meeting Procedure Local Law in August 2020 as that content is now in the Governance Rules.
14. Council endorsed the Local Law Discussion Paper at the April Council Meeting, and proceeded with a round of community engagement from May to July 2021.

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Options

15. The draft Nillumbik General Local Law has gone through a thorough engagement process in order to inform the development of the draft.
16. The options are:
 - Exhibit the draft to the Nillumbik community in order to gain feedback. This will enable final redrafting of the local law prior to Council considering it for final adoption in 2022.
 - Not exhibit the draft Nillumbik General Local Law. This option will have implications given the existing Amenity Local Law and Infrastructure Assets Local Law have been in place since 2013 and have a life of 10 years, requiring them to be reviewed by 2023. Significant delays will impact timeframes to achieve adoption of a new Nillumbik General Local Law by 2023.

Council plans and policies

17. 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

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

Community engagement

20. Officers seek the endorsement of the draft Nillumbik General Local Law in order to carry out a second round of engagement as part of the local law review project.
21. The engagement plan for this project allowed for three rounds of community engagement.
 - Phase 1 of the engagement involved the discussion paper and seeking broad feedback in relation to the existing local laws.
 - Phase 2 will involve the exhibition of the draft Nillumbik General Local Law document to allow the community to make submissions in relation to the draft provisions.
 - Phase 3 will be a final round of exhibition, in accordance with Section 223 of the *Local Government Act 1989* will occur in mid-2022 prior to the formal adoption of a local law.
22. The Phase 2 engagement will involve exhibition of the draft Nillumbik General Local Law on Participate Nillumbik and a number of facilitated drop in sessions, most likely online, being hosted by Chatterbox. Phase 2 engagement will be carried out for a 6 week period from 1 November to 10 December 2021.

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23. Both the phase 2 and phase 3 exhibition periods will allow submitters to present their submissions at a Planning and Consultation Committee meeting.

Innovation and continuous improvement

24. The COVID-19 pandemic has precipitated the need to develop and adopt new ways of connecting with the community. This has been considered in the project planning of the local laws review and provides a range of opportunities for the community to be engaged across a number of platforms.

Collaboration

25. Key stakeholders will be targeted for in depth consultation. Victoria Police, VicRoads and the Animal Welfare Victoria, as well as the RSPCA will be afforded an intensive workshop, as those agencies are directly impacted by these changes, particularly Victoria Police, which takes an active role in Local Law enforcement.

Budget implications

26. The review and development of new local laws will be largely run in house by staff from the Planning and Community Safety and Infrastructure directorates, along with support from Council's Legal Advisor. However the development of local laws requires several stages of external review and the procurement of legal advice. \$10,000 was set aside in the 2020/21 budget, and \$50,000 has been allocated to the local law review as a major initiative in the 2021/22 budget.

Relevant law

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

The local law requirements are as follows-

- (a) *a local law must not be inconsistent with any Act (including the Charter of Human Rights and Responsibilities Act 2006) or regulations;*
- (b) *a local law must not duplicate or be inconsistent with a planning scheme that is in force in the municipal district;*
- (c) *a local law for or with respect to the issuing of film permits must not be inconsistent with the film friendly principles;*
- (d) *a local law must not exceed the power to make local laws conferred by this Act or any other authorising Act;*
- (e) *a local law must be consistent with the objectives of this Act or any other authorising Act;*
- (f) *a local law must be expressed as clearly and unambiguously as is reasonably possible;*

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- (g) *unless there is clear and express power to do so under this Act or any other authorising Act, a local law must not—*
 - (i) *seek to have a retrospective effect; or*
 - (ii) *impose any tax, fee, fine, imprisonment or other penalty; or*
 - (iii) *authorise the sub-delegation of powers delegated under the local law;*
- (h) *a local law must comply with any details prescribed in the regulations relating to the preparation and content of local laws.*

28. The Guidelines for Local Laws Manual, published in February, 2010 prescribes the best practices for the entire law making process, including community consultation.

Regional, state and national plans and policies

29. The Guidelines for Local Laws resources recognise local government as a distinct and essential tier of government best placed to make Local Laws in the interests of Victorian communities. The resources seek to equip Councils to undertake best practice Local Law making and achieve a consistent level of performance, rather than impose rigid uniformity. Council as a whole is responsible for its Local Laws in their entirety: they are not the province of any individual department(s) within Council. Accordingly, Local Laws require a “whole of Council” approach.

30. Currently both the “Guidelines for Local Laws Manual” and the “Resources Book” published by Local Government Victoria in February 2010 detail the key issues and examples for the process and making of Local Laws. These documents detail such requirements as Local Law Community Impact Statements.

Conflicts of interest

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

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CM.155/21 Amendment C142nill to Apply the Heritage Overlay (permanently) to 50 Oatland Road, Plenty

Distribution: Public

Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety

Author: Leigh Northwood, Strategic Planning Lead

Summary

The purpose of this report is to seek Council's approval to seek authorisation from the Minister for Planning under Section 8A of the *Planning & Environment Act 1987* to prepare and exhibit Amendment C142nill to the Nillumbik Planning Scheme to apply the Heritage Overlay (HO) to 50 Oatland Road, Plenty on a permanent basis.

Officers have received a Section 29A demolition consent application pursuant the *Building Act 1993* to demolish the dwelling located on the property.

The property is included on Council's *Priority List for Stage B Heritage Review* as adopted by Council at its June meeting, noting the Council report identified that a future planning scheme amendment to apply the HO to implement Stage A and Stage B Heritage Reviews would be prepared subject to adoption of Stage B (early 2022).

The citation for the property identifies a recommendation for inclusion in the Heritage Overlay for 'local significance'.

Given threat of demolition, officers have sought approval (under delegation) from the Minister for Planning for Amendment C141nill to introduce the HO to the property 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 to introduce the HO permanently.

The application of the HO to the property is compliant with Section 4 of the *Planning and Environment Act 1987* which implements the Victorian Planning Provisions (VPP), State planning policy at Clause 15.03-1S Heritage conservation identifies the objective 'to ensure the conservation of places of heritage significance', and Planning Practice Note 1 in *Applying the Heritage Overlay* identifies that 'places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay' should be included in the HO.

It should be noted the application of the Heritage Overlay does not mean that the dwelling cannot be renovated or restored, it does mean however that the dwelling cannot be demolished, and that any plans to renovate or restore would require a planning application with the Heritage Overlay as a planning permit trigger.

Council have two options, Council can choose:

1. to seek authorisation from the Minister to prepare and exhibit Amendment C142nill to apply the HO to the property on a permanent basis; or
2. not to seek authorisation from the Minister as noted above, with acknowledgement that this decision would not be supported by the intent of the Victorian Planning Provisions, State policy and the intent as identified in Council's resolution to adopt Stage A Heritage Review, and prepare Stage B Heritage Review in protecting identified local heritage in Nillumbik.

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CM.155/21 Amendment C142nill to Apply the Heritage Overlay (permanently) to 50 Oatland Road, Plenty

Public exhibition of the proposed planning scheme amendment would be undertaken should authorisation to apply the permanent control be granted from the Minister for Planning.

Recommendation

That Council:

1. Notes Amendment C141nill 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 50 Oatland Road, Plenty;
2. Requests the Minister for Planning, under Section 8A of the *Planning and Environment Act 1987*, to authorise the preparation and exhibition of Amendment C142nill to the Nillumbik Shire Planning Scheme; and
3. Undertakes public exhibition of Amendment C142nill which will apply permanent planning controls through the use of the heritage overlay should authorisation be granted.

Attachments

1. Citation 50 Oatland Road, Plenty
2. C142nill Instruction Sheet - authorisation
3. C142nill Explanatory Report - authorisation
4. C142nill Planning Scheme Map

Discussion

Background to the amendment

1. Officers have received a Section 29A demolition consent application under the *Building Act 1993* to demolish the dwelling located the property.
2. The property is included on Council's *Priority List for Stage B Heritage Review* as adopted by Council at its June meeting, noting the Council Report identified that a future planning scheme amendment to apply the HO to implement Stage A and Stage B Heritage Reviews would be prepared subject to adoption of Stage B.
3. The finalised citation for the site identifies the property is of local historical and representative significance to the Shire of Nillumbik (see **Attachment 1** for citation) and meets Criterion A and D in assessment of heritage value pursuant to Planning Practice Note 1 – *Applying the Heritage Overlay*.

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CM.155/21 Amendment C142nill to Apply the Heritage Overlay (permanently) to 50 Oatland Road, Plenty

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4. 50 Oatland Road, Plenty, is historically significant for its association with the development of Plenty in the interwar years. As an intact timber bungalow built for William Charles and Priscilla Mary Lierse in c1928, originally on a 30 acre lot, it provides tangible evidence of the interwar subdivision pattern in which large rural landholdings in the Plenty area were divided for sale in allotments of 10 or 30 acres. In response to an increasing population in the area, this development coincided with and supported a growing Plenty town centre. Established in the 1920s, the town centre included a Primary School (HO213), Methodist Church (HO250), Store and Hall (HO248). The Lierse family were early residents in the Diamond Creek and Plenty area involved in a variety of agricultural and other pursuits. They were heavily involved in the development of community life in Plenty from the mid-1920s (Criterion A).
 5. Arthurs Creek, Doreen, Hurstbridge, Strathewen, Plenty, Diamond Creek, Yarrambat and Research became important centres for a fruit-growing industry that was based at Diamond Creek. Smaller orchardists, however, often struggled to make a living from their trees and often turned to other activities such as raising chickens, selling firewood or even working for other landowners or in goldmines, as well as tending their fruit trees. This was the case for William Charles Lierse, who was an orchardist and sanitary contractor prior to establishing a poultry farm on the property by 1943. 50 Oatland Road provides important tangible evidence of these early agricultural activities in the area. The significance of the place is enhanced by its rural setting, which maintains its street frontage and setback to Oatland Road (Criterion A).
 6. The subject site is a largely intact representative example of a timber interwar bungalow. It has had very few changes made to the original or early built fabric across its principal elevations. Key characteristics include its asymmetric built form with projecting front room below a dominant Dutch gable roof, and an extensive wrap-around verandah under the sweep of the main roof line. The extant c1920s garage, poultry shed, and open setting evidence the use of the site as a poultry farm complex (Criterion D).
 7. 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 C141nill. If needed, the interim planning controls can be extended. 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.
 8. It should be noted the application of the Heritage Overlay does not mean that the dwelling cannot be renovated or restored, it does mean however that the dwelling cannot be demolished, and that any plans to renovate or restore would require a planning application with the Heritage Overlay as a planning permit trigger.

12. Officers' reports

CM.155/21 Amendment C142nill to Apply the Heritage Overlay (permanently) to 50 Oatland Road, Plenty

Related Council decisions

9. At Council's Meeting of 29 June 2021 Council resolved:

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

10. Council can choose to seek authorisation from the Minister to prepare and exhibit Amendment C142nill to apply the HO to the property on a permanent basis (refer **Attachment 2** Instruction Sheet, **Attachment 3** Explanatory Report and **Attachment 4** Amendment Map); or
11. Council can choose not to seek authorisation from the Minister as noted above, with acknowledgement that this decision would not be supported by the intent of the Victorian Planning Provisions, State policy and the intent as identified in Councils resolution to adopt Stage A Heritage Review, and prepare Stage B Heritage Review in protecting identified local heritage in Nillumbik.

Council plans and policies

12. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Prepare and develop an improved and holistic approach to strategic planning..
13. 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

14. 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

15. Public exhibition of the proposed planning scheme amendment would be undertaken should authorisation to apply the permanent control be granted from the Minister for Planning.
16. Officers have also engaged with property owners and applicants to assist them in understanding this process and also to identify a pathway given their specific needs.

12. Officers' reports

CM.155/21 Amendment C142nill to Apply the Heritage Overlay (permanently) to 50 Oatland Road, Plenty

Innovation and continuous improvement

17. N/A

Collaboration

18. There has been discussion with DELWP on this matter.

Budget implications

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

Relevant law

20. The *Building Act* (1983)

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

22. The application of the HO to the property is compliant with Section 4 of the *Planning and Environment Act 1987* which implements the Victorian Planning Provisions (VPP).

Regional, state and national plans and policies

23. 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.

24. The application of the HO to the property is consistent with State planning policy at Clause 15.03-1S Heritage conservation identifies the objective '*to ensure the conservation of places of heritage significance*' with key strategies being to '*identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme*' and '*to provide for the protection of natural heritage sites and man-made resources. Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance*'. Planning Practice Notes 1 in Applying the Heritage Overlay

25. Planning Practice Note 1 (2018) *Applying the Heritage Overlay* sets out the criteria and standards required for current citations to apply the heritage overlay. The application of the HO in this matter is consistent with the Practice Note where '*places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay*' should be included in the HO.

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.155/21 Amendment C142nill to Apply the Heritage Overlay (permanently) to
50 Oatland Road, Plenty**

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12. Officers' reports**CM.156/21 Advisory Committee Policy and Standardised Terms of Reference and Templates**

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

Nillumbik Shire Council has a long history of utilising Advisory Committees to provide advice and recommendations to Council. These Committees are essential forums to provide input to the development of Council policy and decision-making in their areas of focus.

Under the *Local Government Act 1989*, Council was able to establish Advisory Committees, however with the implementation of the *Local Government Act 2020* (the 2020 Act), the relevant sections relating to Advisory Committees were repealed. The 2020 Act is silent on Advisory Committees but does not preclude them.

To ensure Advisory Committees continued to operate and play a key role connecting community views and experts with the decision-making process of Council, a section on Advisory Committees was included in the Governance Rule Decision-making Policy adopted by Council on 25 August 2020.

At its Council meeting on 23 February 2021, Council requested council officers prepare a standardised format to Advisory Committees Terms of Reference (ToR) giving effect to gender equality, diversity and inclusiveness, to be adopted by all Council Advisory Committees as part of their next scheduled review.

The Advisory Committee Policy (**Policy**) has been developed to establish a consistent approach to managing advisory committees starting with the development of standardised terms of reference and templates. It also sets minimum standards on a range of matters to ensure a sound governance framework is in place to support the establishment and ongoing management of Council's advisory committees.

The Policy takes into account feedback from Councillors and officers and proposes to strengthen accountability around the respective roles and responsibilities in relation to committee management, and provide for a better defined link for information and idea sharing between committees and the broader organisation.

The purpose of this report is to seek Council endorsement of the new Advisory Committee Policy (**Attachment 1**) and standardised templates (**Attachments 2 - 4**) for Council's Advisory Committees.

Recommendation

That Council endorses the Advisory Committee Policy (**Attachment 1**), Advisory Committee Terms of Reference Template (**Attachment 2**) and Advisory Committee Agenda and Minutes Templates (**Attachments 3 and 4**).

12. Officers' reports

CM.156/21 Advisory Committee Policy and Standardised Terms of Reference and Templates

Attachments

- 1  Advisory Committee Policy
- 2  Advisory Committee Terms of Reference Template
- 3  Advisory Committee Agenda Template
- 4  Advisory Committee Minutes Template

Discussion

1. The main function of an Advisory Committee is to enable stakeholder engagement that provides input and guidance to support quality decision making and in turn, the achievements of Council's goals and objectives under the Council Plan.
2. Advisory Committees facilitate access to independent and often specialist advice from external stakeholders as well as collaboration with the community on a range of matters.
3. Council has not had a policy to guide Advisory Committees, nor has it had a standard ToR. This Policy would support Council in ensuring good governance and appropriate management of Advisory Committees.
4. The framework established in the Policy provides guidance on the following matters:
 - a) the process for establishing a terms of reference;
 - b) membership, period of membership and method of appointment including the process for seeking expressions of interest and appointing community representatives;
 - c) delegated authority and decision making;
 - d) meeting procedures and the process for preparation and distribution of committee papers;
 - e) access and disclosure of confidential information;
 - f) the inclusion of a code of conduct to ensure transparency and accountability when managing conflicts of interest and expected standards of behaviour; and
 - g) guidance on who should respond to media enquiries.
5. Both the Policy and standardised ToR documents are seen as providing clarity and consistencies in the formation and operation of its Advisory Committees. The ToR template is designed to incorporate information specific to each Committee. This will reflect the role and diversity of Committees, whilst still maintaining strong governance and a similar experience for all Committee members.

12. Officers' reports**CM.156/21 Advisory Committee Policy and Standardised Terms of Reference and Templates**

6. Some of the proposed items to bring consistency include:
- Formal reporting through Council;
 - Availability of Meeting Minutes on Council's website;
 - Membership selection based on Equity, Diversity and Skills;
 - Councillor Chair of each Committee;
 - Non-voting Management Representative on each committee;
 - Review of committees yearly; and
 - Roles, Responsibilities and Conduct of Advisory Committee members.
7. The templates for Agendas and Minutes will also offer a consistent approach to the management of committees.

Related Council decisions

8. At its meeting on 23 February 2021 Council resolved:

'That Council:

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

Advisory Committee	Councillor(s) appointed
Arts Advisory Committee	Cr Geoff Paine (Chair) Cr Peter Perkins (Deputy Chair)
Economic Development Advisory Committee	Cr Geoff Paine (Chair) Cr Karen Egan Cr Richard Stockman
Environment and Sustainability Advisory Committee	Cr Karen Egan (Chair) Cr Ben Ramcharan (Alternate Chair)
Health and Wellbeing Plan Advisory Committee	Cr Richard Stockman
Inclusion Advisory Committee	Cr Peter Perkins (Chair) Cr Frances Eyre (Alternate Chair)
Living and Learning Advisory Committee	Cr Geoff Paine
Nillumbik Youth Council	Cr Ben Ramcharan
Panton Hill Bushland Reserves System User Group Advisory Committee	Cr Ben Ramcharan (Chair)
Positive Ageing Advisory Committee	Cr Frances Eyre (Chair)
Recreational Trails Advisory Committee	Cr Karen Egan Cr Richard Stockman

9. Requests officers to prepare a further report relating to the Environment and Sustainability Advisory Committee including a review of the existing Terms of Reference and operation to be considered at a future Council Meeting.

12. Officers' reports

CM.156/21 Advisory Committee Policy and Standardised Terms of Reference and Templates

10. **Requests officers prepare a standardised format to advisory committee terms of reference giving effect to gender equality, diversity and inclusiveness, to be adopted by all Council Advisory Committees as part of their next scheduled review.**

Options

11. Council has two options relating to this matter.

Option 1 (Recommended)

Council has the opportunity to endorse a policy and a series of templates to guide Advisory Committees. This will ensure a level of consistency relating to the formation, and functioning of Advisory Committees. It is recommended that Council approve the attached Advisory Committee Policy and templates.

Option 2

Defer the decision to proceed with the Advisory Committee Policy and templates. Deferring the endorsement of the Policy and associated templates will mean that the Advisory Committees will continue to operate without an approved policy framework.

Council plans and policies

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

Sustainability implications

13. There are no sustainability impacts relating to this report.

Community engagement

14. There is no impact on the Community. Impacted members of Advisory Committees have been engaged with on an individual basis.

Innovation and continuous improvement

15. The requirements of the *Gender Equality Act 2020* and the *Local Government Act 2020* requires that Council seeks to ensure gender equality, diversity and inclusiveness therefore it is appropriate to extend this to Council's Advisory Committees. Standardising Advisory Committee ToR will ensure that gender equality, diversity and inclusiveness will be incorporated into all Advisory Committees from their next scheduled review.

Collaboration

16. The Governance team established a working group with all key staff who hold responsibility for current Advisory Committees, to collaborate on the development of the Policy and all templates.
17. The working group will continue to operate into the future, as it was recognised that sharing skills, experience, and problem solving was very beneficial to the group and consistent with Council's organisational values.

12. Officers' reports

CM.156/21 Advisory Committee Policy and Standardised Terms of Reference and Templates

18. Council's Legal Advisor reviewed the Policy and ToR template to ensure compliance with relevant Acts and regulations.

Budget implications

19. There are no budget implications arising from the continuation of the existing Advisory Committee arrangements

Relevant law

20. The Policy was developed in response to the implementation of the *Local Government Act 2020*, and the repeal of sections of the *Local Government Act 1989*.

Regional, state and national plans and policies

21. Not applicable.

Conflicts of interest

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

12. Officers' reports

**CM.156/21 Advisory Committee Policy and Standardised Terms of Reference and
Templates**

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12. Officers' reports**CM.157/21 Bourchiers Road Special Charge Scheme, Kangaroo Ground - formal questionnaire results**

File: FOL/20/2109**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 Bourchiers Road requesting that Council investigate road sealing.

Initial questionnaires were sent to all property owners in Bourchiers 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 estimated cost liabilities for each property were sent to all property owners in Bourchiers Road, Kangaroo Ground on 15 March 2021, to allow them to formally vote on whether to proceed with the Special Charge Scheme.

At the 24 August 2021 Council meeting (CM.123/21), Council resolved to defer the item to a future meeting. This deferral allowed Council officers to clarify a matter that arose in relation to the level of support for the proposed scheme.

The results of the questionnaire indicate that the scheme is supported by 6 out of 10 property owners (60%).

As the level of support is 60 per cent, in line with Council's endorsed Special Charge Scheme Policy, it is recommended that the development process proceeds and Council invites affected property owners for nominations to join the task group and provide comments for consideration within the design process.

Recommendation**That Council:**

1. Proceeds with the development of a Special Charge Scheme for the sealing of Bourchiers Road, Kangaroo Ground with a rural standard of construction.
2. Invites affected property owners for nominations to join the task group and to provide comments for consideration with the design process.

Attachments

1.  Bourchiers Road Special Charge Scheme area
2.  Summary of questionnaire comments
3.  Estimated liabilities apportionment summary

12. Officers' reports

CM.157/21 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 were sent to property owners in early January 2020 to establish the level of support for further investigation into constructing Bourchiers Road. The properties engaged as part of this scheme are shown on the **Attachment 1**.
3. The results of the initial questionnaire are shown in Table 1 below:

	Support further investigation	Not supportive of further investigation	No response	Total
Votes	7	1	2	10
Percentage	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, 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 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.
7. One of the recurring themes that emerged in the comments from property owners was that the cost was too high and that Council and State Government should contribute more to the scheme, given wider community using the road to access the river reserve at the end of the road.
8. 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 (Special Charge Scheme Policy)*, where in this case the project would primarily be funded by property owners adjoining the road.

12. Officers' reports

CM.157/21 Bouchiers Road Special Charge Scheme, Kangaroo Ground - formal questionnaire results

9. The method used to apportion liabilities to properties is outlined in the *Special Charge Scheme Policy*. 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. Indicative costs for the properties involved in the proposed Special Charge Scheme for sealing Bouchiers Road are outlined in **Attachment 3**.
10. At the Council meeting on 24 August 2021 (CM.123/21), a motion was carried that Council defer the item to a future meeting. This deferral allowed Council officers to clarify a matter that arose prior to the meeting.
11. The matter was in relation to previous correspondence issued to property owners, which indicated that the scheme was supported by 5 out of 10 property owners (50 per cent) when comments in questionnaire responses were considered.
12. As part of the clarification process, a further review of Council’s *Special Charge Scheme Policy* (section 2.5) establishes that the results need to be based on the response to the vote (yes / no) only. Therefore proper application of the approach outlined in the policy means 6 out of 10 property owners are in support (60%). A letter was sent to all property owners dated 12 October 2021, informing them of this outcome.
13. In any event, under section 163B(6) of the *Local Government Act 1989*, Council is unable to make a declaration when it receives objections from a majority of the property owners.
14. The results of the formal questionnaire are shown in Table 2 below:

	Construction	No change	No response	Total
Votes	6	4	0	10
Percentage	60%	40%	0%	100%

Table 2 – Results from the formal questionnaire

15. Therefore, the level of support established for a Special Charge Scheme for Bouchiers Road, Kangaroo Ground is 60 per cent, as required in order for a scheme to progress, in accordance with the *Special Charge Scheme Policy*.
16. Given that the level of support is 60 per cent, and in line with Council’s endorsed Special Charge Scheme Policy, it is recommended that the development process proceeds and Council invites affected property owners for nominations to join the task group and provide comments for consideration within the design process.

12. Officers' reports

CM.157/21 Bouchiers Road Special Charge Scheme, Kangaroo Ground - formal questionnaire results

Related Council decisions

17. Not applicable.

Options

18. Options available to Council are to:

- Resolve to proceed as per the recommendations of this report, or
- Resolve to abandon further investigation into a Special Charge Scheme for Bouchiers Road, Kangaroo Ground, place any further scheme investigation on a three year moratorium and notify affected property owners accordingly.

Council plans and policies

19. 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

20. 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.

21. Socially, Bouchiers 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.

Community engagement

22. Consultation has been carried out in line with Council's *Special Charge Scheme Policy*. 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.

23. The properties engaged as part of the scheme can be viewed in **Attachment 1**.

Innovation and continuous improvement

24. Not applicable.

12. Officers' reports

CM.157/21 Bourchiers Road Special Charge Scheme, Kangaroo Ground - formal questionnaire results

Collaboration

25. 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).
26. 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 with what would ordinarily be apportioned to this property under a Special Charge Scheme (or a different amount deemed suitable by them).
27. Council received DELWP's official position on 20 July 2021, declining Council's invitation for any financial contribution to the scheme.

Budget implications

28. All costs associated with the investigation of the scheme are accommodated within existing operational budgets.
29. If the scheme proceeds, Council will have 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

30. 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

31. Not applicable.

Conflicts of interest

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

12. Officers' reports

CM.157/21 Bouchiers Road Special Charge Scheme, Kangaroo Ground - formal questionnaire results

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12. Officers' reports

CM.159/21 Informal Meetings of Councillors Records - 26 October 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 28 September 2021.

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

1. Informal Meeting of Councillors - Councillor Briefing 21 September 2021.
2. Informal Meeting of Councillors Record - RTAC Meeting 29 September 2021.
3. Informal Meeting of Councillors - Pre-meet Council Meeting 28 September 2021.
4. Informal Meeting of Councillors - Pre-meet Council Meeting 28 September 2021.
5. Informal Meeting of Councillors Record - Positive Ageing Advisory Committee 1 October 2021.
6. Informal Meeting of Councillors - Councillor Briefing 5 October 2021.
7. Informal Meeting of Councillors Record - Youth Advisory Committee held 11 October 2021.
8. Informal Meeting of Councillors - Pre-meet PCC Meeting 12 October 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 Record of Councillors Record - 26 October 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.159/21 Informal Meetings of Councillors Records - 26 October 2021

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 as the last Council Meeting.

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.

12. Officers' reports

CM.159/21 Informal Meetings of Councillors Records - 26 October 2021

Collaboration

12. None required.

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.159/21 Informal Meetings of Councillors Records - 26 October 2021

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13. Notices of Motion

NOM.005/21 Community Farm for Eltham

Cr Geoff Paine advised of his intention to move the following:

Motion

That Council requests council officers prepare an Issues and Options paper on the viability of a Community Farm at Bell Street Eltham (known as Fabbro's Field), including the possible objectives and operating models.

NOM.006/21 Opportunities for revitalisation of underutilised public land at the Eltham Gateway

Cr Geoff Paine advised of his intention to move the following:

Motion

That Council helps facilitate discussions with Major Roads Projects Victoria (MRPV) and the "New Gateway Project" Group in order to further explore opportunities for revitalisation of underutilised public land at the Eltham Gateway area, including areas beyond the MRPV footprint, to recreate the altered southern gateway to Nillumbik.

14. Delegates' Reports

15. Supplementary and urgent business

16. Confidential reports

17. Close of Meeting