

Council Meeting

held virtually on Tuesday 26 October 2021, meeting commenced at 7:04pm.

Minutes

Carl Cowie
Chief Executive Officer

Friday 29 October 2021

Distribution: Public

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Nillumbik Shire Council

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Nillumbik Shire Council

Minutes of the Meeting of Nillumbik Shire Council held Tuesday 26 October 2021.
The meeting commenced at 7.04pm.

Councillors present:

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

Officers in attendance:

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

1. Welcome by the Mayor

2. Acknowledgement of Country

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

3. Good Governance Pledge

The Good Governance Pledge was ready by Cr Geoff Paine.

4. Prayer

A prayer was read by Pastor Craig Anderson, Infinity Church.

5. Apologies

Nil

6. Disclosure of conflicts of interest

Cr Karen Egan disclosed a material conflict of interest in CM.157/21 Bouchiers Road Special Charge Scheme, Kangaroo Ground.

7. Presentations

Nil

8. Confirmation of minutes

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

Council Resolution

MOVED: Cr Geoff Paine

SECONDED: Cr Karen Egan

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*.

CARRIED UNANIMOUSLY

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.

Council Resolution

MOVED: Cr Richard Stockman

SECONDED: Cr Geoff Paine

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.

CARRIED UNANIMOUSLY

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.

Council Resolution

MOVED: Cr Richard Stockman

SECONDED: Cr Ben Ramcharan

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.

CARRIED UNANIMOUSLY

10. Questions from the gallery

1. Mara Favoretto asked the following questions:

Question 1

What are the grounds on which the legal advice is based that indicate that “Council cannot regulate the use of barbed wire in most circumstances”?

Response 1

Council’s advice has identified legislation that allows the use of barbed wire as an appropriate means of fencing a parcel of land. Specifically, the *Impounding of Livestock Act 1994* which places an onus on land owners adequately containing livestock. The use of barbed wire for fencing in these circumstances is considered reasonable and appropriate. In much the same way, the *Building Regulations 2018* reference the use of barbed wire in circumstances where construction sites require secure confinement.

Question 2

If the legal advice “indicates that Council cannot regulate the use of barbed wire in MOST (my capitals) circumstances,” then in what circumstances CAN the use of barbed wire be regulated?

Response 2

Advice received by Council Officers indicated that a local law could be considered where it ‘fills the gap’ and regulates the use of barbed wire for fences which do not require a building permit and which are identified as causing harm to the environment such as in a designated wildlife or nature corridor for the migration passage of indigenous animals. Further detailed strategic work is required to identify and justify the development of a specific local law to restrict the use of barbed wire in these locations, should such a local law be required as a result of such work.

2. Tim Fleet asked the following questions:

As part of the “community consultation”, the VHBA conducted an online survey between 2 – 31 Aug 2021 to seek community input and feedback on the proposed Eltham area Community hospital site.

The VHBA clearly stated on their website that they would review all submissions and prepare a report based on the survey responses which would be provided to the Nillumbik Shire Council for consideration before council’s decision on whether to sell the land to the VIC Government is made.

Question 1

Has Council been provided with this report?

Response 1

Yes, Council received this information last Friday 22 October 2021.

Question 2

If no, has VHBA given a reason for not providing this report to council?

If yes, why has this report not been made public by either the VHBA or Council?

Response 2

It's not Council's report to release, however Council will make a request to the VHBA asking that they release the report publically. Speaking for myself, I certainly read the report, went through the report. They also provided the raw data to us (de-identifying the respondents). That has certainly helped to inform my decision on what we should be doing or not doing with that land.

3. Dianne Brooker on behalf of Friends of Apollo Parkways Inc

Question

Regarding the proposed hospital at Civic Drive.

Have the VHBA been advised of a further Stadium expansion as outlined in the Masterplan for the DVSFC? This includes 3 additional basketball courts and 3 Squash courts.

Response

VHBA have been provided the Civic Drive Open Space Masterplan; the document relevant to the entire Civic Drive Precinct Area. That document refers to a Diamond Valley Sports and Fitness Centre Masterplan, which is publicly available on our website.

The DVSFC Masterplan is a \$50M plus unfunded concept on land southeast of the road dividing the playground and fitness centre. Yes that Masterplan does exist, it also proposes a \$50M+ concept which we haven't funded one dollar for as of now.

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

Council Resolution

MOVED: Cr Frances Eyre

SECONDED: Cr Geoff Paine

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.

CARRIED UNANIMOUSLY

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 in **Attachment 2**.

12 Officers' reports

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

Council Resolution

MOVED: Cr Ben Ramcharan

SECONDED: Cr Richard Stockman

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.

CARRIED UNANIMOUSLY

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.

Council Resolution

MOVED: Cr Geoff Paine**SECONDED: Cr Ben Ramcharan****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.

CARRIED UNANIMOUSLY

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.

Council Resolution

MOVED: Cr Natalie Duffy**SECONDED: Cr Frances Eyre****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.

CARRIED UNANIMOUSLY

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.

Council Resolution

MOVED: Cr Geoff Paine

SECONDED: Cr Richard Stockman

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

CARRIED UNANIMOUSLY

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.

Council Resolution**MOVED: Cr Natalie Duffy****SECONDED: Cr Karen Egan****That Council:**

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*.

12. Officers' reports

CM.150/21 Annual Report 2020-2021

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.

CARRIED

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

Council Resolution

MOVED: Cr Richard Stockman

SECONDED: Cr Karen Egan

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.

CARRIED

The Mayor, Cr Peter Perkins called for a division

For: Crs Karen Egan, Geoff Paine, Peter Perkins, Ben Ramcharan and Richard Stockman

Against: Crs Natalie Duffy and Frances Eyre

Bianca Hubble, Executive Assistant to Chief Executive Officer left the meeting at the conclusion of the above item at 8:27pm.

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.

Council Resolution

MOVED: Cr Ben Ramcharan

SECONDED: Cr Geoff Paine

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.

CARRIED UNANIMOUSLY

12. Officers' reports**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.

12. Officers' reports

CM.153/21 Bend of Islands Local Law

Motion

MOVED: Cr Ben Ramcharan

SECONDED: Cr Geoff Paine

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 **among other measures in keeping with the objectives of the Special Use Zone Schedules 1 and 2 area.**
2. Resolves to engage with the Bend of Islands community to develop a Bend of Islands animal local law provision **and identify other provisions that would be appropriate in the Special Use Zone Schedules 1 and 2 area.**

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

Council Resolution

MOVED: Cr Ben Ramcharan

SECONDED: Cr Geoff Paine

That Council:

1. Resolves to develop a Bend of Islands local law to introduce restrictions on the keeping of animals within the Bend of Islands among other measures in keeping with the objectives of the Special Use Zone Schedules 1 and 2 area.
2. Resolves to engage with the Bend of Islands community to develop a Bend of Islands animal local law provision and identify other provisions that would be appropriate in the Special Use Zone Schedules 1 and 2 area.

CARRIED

The Mayor, Cr Peter Perkins called for a division:

For: Crs Natalie Duffy, Frances Eyre, Geoff Paine, Ben Ramcharan and Richard Stockman

Against: Crs Karen Egan and Peter Perkins

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.

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.

12. Officers' reports

CM.154/21 Draft Nillumbik General Local Law

-
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.

Motion

MOVED: Cr Geoff Paine
SECONDED: Cr Ben Ramcharan

That Council:

1. Endorses the Draft Nillumbik General Local Law (**Attachment 1**), **subject to minor corrections to clarify intent to Clauses 35a and 52b**, 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.

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

Council Resolution

MOVED: Cr Geoff Paine
SECONDED: Cr Ben Ramcharan

That Council:

1. Endorses the Draft Nillumbik General Local Law (Attachment 1), subject to minor corrections to clarify intent to Clauses 35a and 52b, 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.

CARRIED UNANIMOUSLY

12. Officers' reports

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.

12. Officers' reports**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.

Motion

MOVED: Cr Richard Stockman

SECONDED: Cr Karen Egan

That Council:

1. Abandons proposed Planning Scheme Amendment C142nil to apply the Heritage Overlay (permanently) to 50 Oatland Road, Plenty.
2. Notifies the land owners of 50 Oatland Road, Plenty of Council's resolution
3. Notifies the Minister for Planning of Council's resolution.

LOST

Motion

MOVED: Cr Karen Egan

SECONDED: Cr Richard Stockman

That Council:

1. Defers consideration of CM.155/21 Amendment C142nill to Apply the Heritage Overlay (permanently) to 50 Oatland Road, Plenty.
2. Requests officers to undertake consultation with the owners of 50 Oatland Road, Plenty to advise:
 - a. the reasons for the proposed Planning Scheme Amendment; and
 - b. of the Planning Scheme Amendment process.
3. Requests officers to prepare a report for the 16 November 2021 Planning and Consultation Committee meeting for consideration and determination.

12. Officers' reports

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

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

Council Resolution

MOVED: Cr Karen Egan

SECONDED: Cr Richard Stockman

That Council:

1. Defers consideration of CM.155/21 Amendment C142nill to Apply the Heritage Overlay (permanently) to 50 Oatland Road, Plenty.
2. Requests officers to undertake consultation with the owners of 50 Oatland Road, Plenty to advise:
 - a. the reasons for the proposed Planning Scheme Amendment; and
 - b. of the Planning Scheme Amendment process.
3. Requests officers to prepare a report for the 16 November 2021 Planning and Consultation Committee meeting for consideration and determination.

CARRIED

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.

Council Resolution

MOVED: Cr Frances Eyre**SECONDED: Cr Geoff Paine**

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**).

CARRIED UNANIMOUSLY

Cr Egan disclosed a material conflict of interest in the following item due to a close association with a resident of Bourchiers Road.

Cr Egan left the meeting prior to discussion of this item at 9:21pm.

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.

12. Officers' reports

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

Council Resolution

MOVED: Cr Ben Ramcharan

SECONDED: Cr Frances Eyre

That Council:

1. Proceeds with the development of a Special Charge Scheme for the sealing of Bouchiers 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.

CARRIED

Cr Duffy abstained from the vote.

Cr Egan returned to the meeting at the conclusion of this item at 9:32pm.

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.

Council Resolution

MOVED: Cr Karen Egan

SECONDED: Cr Frances Eyre

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

CARRIED UNANIMOUSLY

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.

Cr Geoff Paine sought leave of Council to amend his motion.

Council Resolution

MOVED: Cr Geoff Paine

SECONDED: Cr Frances Eyre

That Council grant leave to Cr Geoff Paine to amend NOM.005/21 Community Farm for Eltham.

CARRIED UNANIMOUSLY

Council Resolution

MOVED: Cr Geoff Paine

SECONDED: Cr Frances Eyre

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 and report back to Council by the June 2022 meeting.

CARRIED UNANIMOUSLY

NOM.006/21 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:

Council Resolution

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.

Cr Geoff Paine sought leave of Council to amend his motion.

Council Resolution

MOVED: Cr Geoff Paine
SECONDED: Cr Frances Eyre

That Council grant leave to Cr Geoff Paine to amend NOM.006/21 Opportunities for revitalisation of underutilised public land at the Eltham Gateway.

CARRIED

Council Resolution

MOVED: Cr Geoff Paine
SECONDED: Cr Frances Eyre

That Council:

1. Helps facilitate discussions with MRPV, the “New Gateway Project” Group and other related stakeholders in order to further explore opportunities for revitalisation of underutilised public land at the Eltham Gateway that includes areas beyond the MRPV footprint that can be used to recreate the altered southern gateway to Nillumbik; and
2. Authorises Council officers to assist in determining the viability of and sources of funding for the Eltham Gateway renewal project.

CARRIED UNANIMOUSLY

14. Delegates' Reports

Nil

15. Supplementary and urgent business

Nil

16. Confidential reports

Nil

17. Close of Meeting

The meeting closed at 9:42pm.

Confirmed: _____
Cr Peter Perkins, Mayor