

Council Meeting

to be held virtually on Tuesday 22 February 2022 commencing at 7:00pm.

Agenda

Carl Cowie
Chief Executive Officer

Thursday 17 February 2022

Distribution: Public

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Council Meeting

Councillors

Cr Frances Eyre (Mayor) – Swipers Gully Ward

Cr Richard Stockman – Blue Lake Ward

Cr Karen Egan – Bunjil Ward

Cr Natalie Duffy – Edendale Ward

Cr Peter Perkins – Ellis Ward

Cr Ben Ramcharan (Deputy Mayor) – Sugarloaf Ward

Cr Geoff Paine – Wingrove Ward

Officers

Carl Cowie – Chief Executive Officer

Blaga Naumoski – Executive Manager Governance, Communications and Engagement

Emma Christensen – Acting Governance Lead

Nillumbik Shire Council

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Nillumbik Shire Council

Agenda of the Meeting of Nillumbik Shire Council to be held Tuesday 22 February 2022 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

To accept apologies from any Councillors not in attendance at the meeting.

Recommendation

That the apologies be noted.

6. Presentations

7. Confirmation of Minutes

Confirmation of the minutes of the Council Meeting held on Tuesday 14 December 2021.

Recommendation

That Council confirms the minutes of the Council Meeting held on Tuesday 14 December 2021 (**Attachment 1**).

Attachments

1  Minutes of the Council Meeting held Tuesday 14 December 2021

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

10. Questions from the gallery

11. Reports of Advisory Committees

AC.001/22 Advisory Committee Report - 22 February 2022

Distribution: Public

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

Author: Janet Taylor, Governance Officer


Summary

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

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

1. Positive Ageing Advisory Committee Meeting held 3 December 2021; and
2. Health and Wellbeing Advisory Committee Meeting held 9 December 2021.

Attachments

1.  Advisory Committee Meeting Minutes Reported 22 February 2022

Recommendation

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

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12. Officers' reports

CM.001/22 Declaration of the Diamond Creek Business Precinct Special Rate 2022-2027

Distribution: Public

Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety

Author: Danielle Phyland, Economic Development and Tourism Lead

Summary

The purpose of this report is for Council to consider the matter of whether to declare, modify or abandon the Special Rate for Diamond Creek.

Renewing the Special Rate for Diamond Creek will continue to improve the trading climate of the Diamond Creek business precinct through the implementation of a series of business improvement and promotional activities. Over the past five years the scheme has been successful in funding advertising campaigns, events and overall marketing of Diamond Creek.

In accordance with the requirements of the s233 of the *Local Government Act 1989* formal notification of the proposed special rate was undertaken, with a public notice published in the Herald Sun on Friday 27 August 2021 and written notification being sent via mail to owners of properties upon which the special rate would be levied.

Notice has also been provided to the Diamond Creek Traders Association with a copy of the public notice forwarded on to occupiers/businesses (relevant in cases where the owner obliges the tenant pay the special rate) and available on Council's website.

In response to the public notice, Council received 5 written submissions (**Attachment 6**) from the 137 properties liable to pay the special rate. 4 business owners in support of the special rate and 1 property owner opposing its renewal.

In accordance with sections 223(1) (b) and (c) of the *Local Government Act 1989*, Council has heard and considered all submissions and/ or objections at a meeting of its Planning and Consultation Committee Meeting on the 16 November 2021. At this meeting, three business owners made in person submissions in support and one property owner made an objection.

Following consideration of their submissions, the Diamond Creek Traders Association has advised that it wishes to proceed with the renewal of the Special Rate in the form advertised.

Accordingly, this report recommends that Council declares the Special Rate for Diamond Creek for a further five year period.





12. Officers' reports**CM.001/22 Declaration of the Diamond Creek Business Precinct Special Rate 2022-2027**

Recommendation

That Council:

1. Having considered all submissions received and taken account of all objections lodged and complied with the requirements of sections 163A, 163B and 223 of the *Local Government Act 1989* (the Act), and otherwise according to law, hereby declares a Special Rate for Diamond Creek under section 163(1) of the Act for the purpose of defraying expenses to be incurred by Council in providing funds to the incorporated body known and operating as the Diamond Creek Traders Association. The funds, subject always to the approval, direction and control of Council, are to be used for the purpose of funding a centre marketing officer, promotional, advertising, marketing, business development and other incidental expenses as approved by Council and agreed to between Council and the Diamond Creek Traders Association, all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Diamond Creek business precinct.
2. Gives notice to all owners and occupiers of properties included in the special rate renewal and all persons who have lodged a submission and/ or an objection in writing of the decision of Council to declare and levy the Special Rate commencing on 1 July 2022, and the reasons for the decision.
3. Resolves that for the purposes of paragraph 2, the reasons for the decision of Council to declare the Special Rate are that:
 - a) There is sufficient support for the Special Rate from the property owners and occupiers.
 - b) Council considers that it is acting in accordance with the functions and powers conferred on it under the *Local Government Act 1989*, having regard to its role, purposes and objectives under the Act, particularly in relation to the encouragement of commerce, retail activity and employment opportunities in and around the scheme area.
 - c) The basis of distribution of the Special Rate amongst those persons who are liable or required to pay the Special Rate is considered to be fair and reasonable.
4. Undertakes all statutory processes and procedures to implement the Special Rate.
5. Notifies the Diamond Creek Traders Association of the decision.
6. Upon declaration officers finalise the Special Rate Agreement in conjunction with the Diamond Creek Traders Association.

Attachments

- 1  Letter from the Diamond Creek Traders Association
- 2  Diamond Creek Traders Association Promotional Flyer for Special Rate Renewal
- 3  Proposed Map of Diamond Creek Business Precinct 2022-2027
- 4  Herald Sun - Public Notice - Intention to Declare - Diamond Creek Special Charge

12. Officers' reports**CM.001/22 Declaration of the Diamond Creek Business Precinct Special Rate 2022-2027**

5. Notice of Intention to Declare a special rate in Diamond Creek
6. Public Submissions - Diamond Creek Business Precinct Special Rate 2022-2027

Discussion

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

What has happened so far?

6. At the Council Meeting on 24 August 2021, officers recommended that Council give notice of intention to declare a Special Rate for Diamond Creek upon receipt of the Diamond Creek Traders Association request.
7. Public Notice of Council's intention to declare the Special Rate was advertised publicly for a minimum of 28 days as required by section 163 *Local Government Act 1989* (**Attachment 4**).
8. Individual letters with a copy of the public notice were sent within five working days of the Public Notice being published to all property owners and property occupiers who will be made liable for the Special Rate (**Attachment 5**).
9. Any persons affected by the Special Rate were able to provide a written submission (which may include in it a request to be heard at the Planning and Consultation Committee meeting) to the Council within 28 days of the publication of this notice. These will be considered in accordance with section 223 *Local Government Act 1989* (**Attachment 6**).
10. Council heard and considered submissions at the Planning and Consultation Committee meeting held on 16 November 2021.

12. Officers' reports

CM.001/22 Declaration of the Diamond Creek Business Precinct Special Rate 2022-2027

Current and next steps

11. Council will resolve to declare, modify or abandon the special rate.
12. If the Special Rate is declared, notice of the Special Rate will be sent to affected businesses and property owners after this date. Property owners and businesses have 30 days to appeal to the Victorian Civil and Administrative Tribunal (VCAT) from the date of this notice.
13. If there are no valid appeals or any appeals are dismissed by VCAT, Council will finalise the Special Rate Agreement with Diamond Creek Traders Association and will commence collection of the Special Rate in 2022-23 financial year for the following 5 years.
14. Diamond Creek Traders Association will enter into a formal agreement with Council that confirms its role in expending the Special Rate funds in an administrative nature only and at all times under the direction of, and for Council. Payment of the Special Rate funds to the Diamond Creek Traders Association is conditional on entering into such an agreement.

Conclusion

15. The Diamond Creek Traders Association relies on appropriate funds to engage in cooperative marketing and promotion for the Diamond Creek business precinct and to raise the profile of the centre and encourage residents to shop locally. The Special Rate renewal would enable the Association to contribute positively and in partnership with Council to the future promotion and development of Diamond Creek.
16. This report recommends that Council declares the Special Rate scheme for Diamond Creek for a further five year period.

Related Council decisions

17. Special Rates have been declared in the past for Nillumbik precincts. For Diamond Creek the declaration was made at the 27 March 2018 Ordinary Council Meeting.
18. Most recently, Council resolved at its meeting on 24 August 2021 to give notice of its intention to declare a Special Rate for Diamond Creek.

Options

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

12. Officers' reports

CM.001/22 Declaration of the Diamond Creek Business Precinct Special Rate 2022-2027

Council plans and policies

23. This report directly supports the achievement of Council Plan 2021-2025 strategy:
- We support businesses, industries and events, and encourage investment within Nillumbik.

Sustainability implications

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

Community engagement

26. Engagement with the Diamond Creek Traders Association about the Special Rate renewal process began in December 2020 and is ongoing as part of this process.
27. Affected owners and occupiers have been provided the opportunity to make a submission on the proposed special rate following the public notice advertised in the Herald Sun on 27 August 2021.
28. Copies of the proposed declaration of the Special Rate and a detailed plan of the proposed area were available for inspection during normal office hours at the Council offices in Greensborough for a period of 28 days after the date of the public notice, until 24 September 2021.
29. Owners and occupiers were also provided with an alternative option to inspect detailed plans of the proposed special rate and make online submissions for a period of 28 days after the date of the public notice via Council's website.
30. The Council report with all attachments was also available on the Council website.

Innovation and continuous improvement

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

Collaboration

35. The Special Rate encourages collaboration between Traders Associations and Council and provides opportunities for partnerships.

12. Officers' reports

CM.001/22 Declaration of the Diamond Creek Business Precinct Special Rate 2022-2027

36. Monthly reminders have been sent to the Diamond Creek Traders Association, in person meetings with the Marketing Coordinator in March 2021 and regular sharing of templates, other Special Rate examples and information from Mainstreet Australia.

Budget implications

37. There will be no impact on Council's budget. The funds collected through the Special Rate are levied by Council and then used to fund the Diamond Creek Traders Association for its expenditure on marketing and promotion for the Diamond Creek business precinct.
38. There is significant officer time dedicated to managing the special rate and supporting the Diamond Creek Traders Association to administer the levy.

Relevant law

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

Regional, state and national plans and policies

42. Not applicable.

Conflicts of interest

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

12. Officers' reports**CM.002/22 Hurstbridge Farmers Market****Distribution: Public****Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author: Danielle Phyland, Economic Development and Tourism Lead****Summary**

In September 2018, Council resolved to enter into a three (3) year contract with Diamond Valley Community Support (DVCS) for the operation and management of the Hurstbridge Farmers' Market. Previously managed by Council, the market management was opened for Expression of Interest and DVCS were the successful applicant. This report is to inform Councillors of the completion of this contract and provide Officer recommendation for DVCS to retain the management role and be responsible for self-funding the ongoing operation of the market.



The impacts of COVID have been significant for markets across the Shire including the Hurstbridge Market and the DVCS has been working extremely hard to ensure the continuity of the market by making improvements and changes throughout the pandemic such as relocation from Fergusons Paddock to the Hurstbridge Primary School.

Council's Economic Development and Tourism Unit have worked closely with DVCS to ensure they have operated safely throughout the pandemic, provided them with support and guidance for marketing and promotion and discussed new initiatives to enhance the market such as the introduction of a Young Entrepreneurs market hub.

Recommendation

That Council provides Diamond Valley Community Support (DVCS) with confirmation of the satisfactory completion of the contract and allows DVCS to retain the market management role, wholly responsible for self-funding the ongoing operation of the market.

Attachments

- 1  Hurstbridge Farmers Market Report 2019
- 2  Hurstbridge Farmers Market Report 2020 -2021

Discussion

1. The Hurstbridge Farmers' Market (HFM) had been operated by Nillumbik Shire Council since 2009. In response to declining visitor and stallholder numbers at the market, Nillumbik Shire Council engaged Urban Enterprise in 2017 to review the current operation of the HFM. This review suggested transferring management of the market to an external organisation as the best way to revitalise and grow the market.

In June 2018, Council commenced an Expression of Interest (EOI) process to ascertain options for outsourcing the operation of the HFM. A panel, made up of stallholder and community representatives, together with Council officers, assessed the application received and determined that Diamond Valley Community Support (DVCS) were the most suitable applicant based on the selection criteria. It was resolved at the September 2018 Council Meeting that the DVCS would be awarded the contract.

12. Officers' reports**CM.002/22 Hurstbridge Farmers Market**

The market was delivered over the contract period (3 years) by DVCS following methodologies they had developed from their other market operations in surrounding areas. Throughout the contract period, DVCS have made some changes to the operation most significantly ceasing the Victorian Farmers Market Accreditation which was causing restrictions to the stallholder mix. The most recent change was moving the market location from Ferguson's Paddock to the Hurstbridge Primary School on Heidelberg-Kinglake Rd, Hurstbridge, with the aim to attract more visitors and passers-by being situated at a more visible site with passing traffic. DVCS are confident of the long-term future of the market at the current site and have approval from the school to continue operating at the site indefinitely.

Inclusive of the funds received from Nillumbik Council the Hurstbridge Farmers Market has operated with a profit of \$12,111 (FY July 2019-June 2020), \$19,506 (FY July 2020-June 2021) and for part year (July 2021-Dec 2021) of \$1,336. The following data has been provided by the DVCS market manager.

- In the 2020-2021 financial year, we provided \$257,121 of material aid to the Nillumbik and Banyule community. This consisted of:
 - \$87,800 in food relief of which 53% was to Nillumbik residents
 - \$67,098 of education assistance of which 55% was to Nillumbik residents
 - \$42,780 in grocery vouchers of which 23% was to Nillumbik residents
 - The balance was provided via all other material aid.
- In partial financial year July2021-Dec2021, we have provided \$109,585 of material aid. This consists of :
 - \$33,721 in food relief of which 53% was to Nillumbik residents
 - \$20,997 of education assistance of which 55% was to Nillumbik residents
 - \$22,630 in grocery vouchers of which 23% was to Nillumbik residents
 - The balance was provided via all other material aid

The same % of Nillumbik residents has been applied for this partial year, as the final data is yet to be provided.

Related Council decisions

2. At the Ordinary Council Meeting on Tuesday 25 September 2018, it was resolved that Council:
 1. *Enters into a three (3) year contract with Diamond Valley Community Support for the operation and management of the Hurstbridge Farmers' Market.*
 2. *Council agrees to contribute \$21,000 in year one, \$12,000 in year two and \$9,000 in year three via an official three-year agreement to Diamond Valley Community Support for the operation and management of the Hurstbridge Farmers Market from November 2018.*
 3. *Council receives annual reviews and a recommendation made for the future of the Market at the completion of the three-year agreement.*

12. Officers' reports

CM.002/22 Hurstbridge Farmers Market

Options

3. Provide DVCS with confirmation of the satisfactory completion of the contract. DVCS retains the management role and becomes responsible for self-funding the ongoing operation of the market.

Council plans and policies

4. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
 - We support businesses, industries and events, and encourage investment within Nillumbik.

Sustainability implications

5. Should DVCS not chose to continue the market operation, Council is not in a position to resource the management and operation of the market neither financially nor physically. This would mean the market would cease to exist.
6. Ongoing support is required for all Nillumbik markets as restrictions ease from the pandemic. The Economic Development and Tourism Unit provide support to all market committees in partnership with other internal departments such as arts and culture and events.

Community engagement

7. Not applicable.

Innovation and continuous improvement

8. The market has continuously evolved including a name and location change to make them more accessible and engaging to both customers and stall holders.
9. DVCS have introduced a Young Entrepreneurs element to encourage younger stall holders to attend the market, partnering with Council's Economic Development and Tourism Unit to access free business education programs for young people.
10. With the removal of the Victorian Farmers Market accreditation the mix of stallholders has been diversified to attract a wider audience.

Collaboration

11. In managing this partnership, the Economic Development and Tourism Unit have worked with other internal teams to provide support and liaised directly with the market manager. There have also been interactions with the Hurstbridge Village Traders Association and the market to cross promote events and activities. The market has been integrated into and cross promoted during other regional events such as Open Farm Day and Open Cellars.

Budget implications

12. There are currently no funds to continue a financial agreement for managing the market.
13. The objective of the contract was for the market and management of the operation to become sustainable.

12. Officers' reports

CM.002/22 Hurstbridge Farmers Market

Relevant law

14. Not applicable.

Regional, state and national plans and policies

15. Not applicable.

Conflicts of interest

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

12. Officers' reports

CM.003/22 Local Government Performance Reporting Framework - Mid-Year 2021-2022 Performance Report

Distribution: Public

Manager: Jeremy Livingston, Executive Manager Business Transformation and Performance

Author: James Hartigan, Business Performance Analyst

Summary

The purpose of this report is to present to Council the Local Government Performance Reporting Framework (LGPRF) mid-year service performance results for the 2021-2022 financial year.

The report measures Council's current performance against the expected range (based on LGPRF guidelines set by State Government) as well as comparing Council's current performance against the 2020-2021 end of financial year result.

This is the third time Council is completing a mid-year progress update on the LGPRF indicators, with the aim of the report to provide more frequent and current data to better monitor and more proactively address any issues or trends identified with Council's performance.


The report demonstrates that Council is performing well against the LGPRF framework, with all but one result within the expected range based on Local Government Victoria guidelines, and with a large number of indicators improving compared to previous reports.

This strong result also needs to be understood in the context of various COVID-19 challenges and impacts during the reporting period, including 89 days of lockdown between July and October 2021.

Recommendation

That Council notes the Local Government Performance Reporting Framework (LGPRF) service performance results for the period from July to December 2021 (**Attachment 1**).

Attachments

1.  2021-2022 Local Government Performance Reporting Framework Mid-Year Report

Discussion

1. The Local Government Performance Reporting Framework (LGPRF) is a mandatory reporting system which was introduced by the State Government in 2014 to ensure all Victorian councils are measuring and reporting on their performance in a consistent way.
2. The LGPRF is comprised of service performance, financial performance and sustainability measures, along with a governance and management checklist.
3. Key objectives of the LGPRF include councils having information to support strategic decision making and continuous improvement, and communities having information about Council performance and productivity.

12. Officers' reports**CM.003/22 Local Government Performance Reporting Framework - Mid-Year 2021-2022 Performance Report**

4. Results for the LGPRF measures are reported in Council's Annual Report each year. These financial year results are also publicly released on the Victorian Government's "Know Your Council" website (www.knowyourcouncil.vic.gov.au) in November of each year, which provides information on the sector and enables users to benchmark the relative performance of all or similar councils.

Related Council decisions

5. Not applicable.

Summary of results

6. **Attachment 1** demonstrates that Council is performing well against the LGPRF with all but one result within the expected range based on Local Government Victoria guidelines. A large number of indicators are also improving over time when compared to previous reports.
7. Key results identified from the mid-year data include:
- The time taken to action animal management requests is 2 days, lower than for other similar councils (2.64 days), and 92.3% of animals were rehomed or reclaimed from Council during the period, a significantly better result than similar councils;
 - The percentage of required food safety assessments (98.8%) remained high, with only 3 premises not receiving an assessment due to COVID-19 closures;
 - Councillor attendance at Council meetings was maintained at 100%, approximately 4.5% higher than for other similar councils;
 - Although well within the expected range, active library member numbers within the municipality continue to be impacted by COVID-19 restrictions, and also recent library collection purchases and the number of loans per library member;
 - Participation in the maternal and child health service continued to be steady, despite COVID-19 impacts;
 - Over 88% of sealed local roads are maintained within required condition standards, however this result was slightly lower than for other similar councils (95.6%);
 - The time taken to decide statutory planning applications decreased (from 92 days to 87 days) due to a reduction in the backlog of older applications and the digitisation of the planning service, only marginally higher than similar councils (94.2 days);
 - The kerbside missed bin rate decreased significantly following the outsourcing of the collection service at the commencement of the 2020-2021 year (from 13.32 to 6.97 bins missed per 10,000 households); and
 - The one measure not within expected range for the period July to December 2021 was aquatic facilities cost of service. This result has increased, mainly attributed to facility closures due to COVID-19 restrictions impacting participation and income.

12. Officers' reports

CM.003/22 Local Government Performance Reporting Framework - Mid-Year 2021-2022 Performance Report

Council plans and policies

8. This report directly supports the achievement of Council Plan 2021-2025 strategy:
- We are forward-thinking, data-driven and evidence-led in our decision-making, always looking to identify new opportunities.

Sustainability implications

9. Not applicable.

Community engagement

10. Annual results of Council's performance against the LGPRF measures are currently reported on the Victorian Government's "Know Your Council" website in November each year, in addition to Council's Annual Report.

Innovation and continuous improvement

11. The primary aim of the mid-year data collection is to provide more frequent and current data to better monitor and address any issues or trends. The report measures Council's current performance against the expected range (based on LGPRF guidelines set by State Government) as well as comparing Council's current performance against the 2020-2021 end of financial year results.

Collaboration

12. Not applicable.

Budget implications

13. This report is part of Council's reporting obligations against the State Government's Local Government Performance Reporting Framework (LGPRF). Resources for the monitoring and preparation of this report are provided in existing operational budgets.

Relevant law

14. Not applicable.

Regional, state and national plans and policies

15. Not applicable.

Conflicts of interest

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

12. Officers' reports

**CM.003/22 Local Government Performance Reporting Framework - Mid-Year
2021-2022 Performance Report**

12. Officers' reports

CM.004/22 December 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 December 2021.

The Income Statement shows an overall favourable year to date (YTD) variance of \$1.08 million representing 2.61 percent of YTD Budget. This reflects the combined result of lower than budgeted operating income of \$664,341 and lower than budgeted operating expenses of \$1.745 million.

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

The Chief Executive Officer has reviewed the quarterly report and the mid-year financial review and has determined that a revised budget is not required.

Recommendation

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

Attachments

1. Quarterly Finance Report December 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.

Income statement

5. Council closed the period ending 31 December 2021 with a favourable YTD variance of \$1.08 million based on actual operating revenue, costs and commitments. This represents 2.61 percent of the YTD Budget.

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6. The overall variance is made up of the following:
- Income – \$664,341 million (0.70 percent) unfavourable variance. This includes new/additional grant funding \$1.56 million and contributions \$1.5 million, offset by a reduction in user fees (\$3.9 million) as a result of the current pandemic situation as detailed on pages 6 of **Attachment 1**.
 - Expenditure – \$1.74 million (3.67 percent) favourable, mainly attributed to reduced external contracts expenditure (\$3.0 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 (\$667,382), and financial year projects not budgeted for (\$632,545) but for which funding has been received. Additional details on variances are detailed on page 8 of **Attachment 1**.

Balance sheet

7. The balance sheet reflects Council's financial position at 31 December 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 \$1.06 billion of assets which is largely made up of Council's Property, Plant and Equipment. Council's total liabilities are \$59.15 million, which results in net assets of \$1 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 \$37.11 million after all cash transactions for the period to date.
11. The \$37.11 million includes \$33.61 million held in investments as detailed on page 10 of **Attachment 1**.

Capital works

12. The capital works report detailing YTD spend by asset class is detailed on page 9 of **Attachment 1**.
13. This shows an unfavourable variance of \$1.56 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 Council Meeting held on 25 May 2021.

Options

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

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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. The Chief Executive Officer has reviewed the quarterly report and the mid-year financial review and has determined that a revised budget is not required.
23. This is a standard reporting item to Council, the associated costs for which are included in the current budget.

Relevant law

24. *Local Government Act 2020*, section 101 Financial Management Principles.
25. *Local Government Act 2020*, section 97 Quarterly Budget Report
26. Australian Account Standards.

Regional, state and national plans and policies

27. Not applicable.

Conflicts of interest

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

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CM.004/22 December Quarter Financial Report

12. Officers' reports**CM.005/22 Council Plan Quarterly Performance Report - 2021-2022 - Quarter 2**

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

The purpose of this report is to present the Council Plan Quarterly Performance Report (**Attachment 1**) for noting. These reporting updates are received by Council on a quarterly basis to demonstrate in a practicable and tangible way how the Council Plan 2021-2025 is being delivered to the community.

The Council Plan Quarterly Performance Report provides the second update on delivery progress and performance of the 2021-2022 Annual Action Plan actions, which align to delivery of the first year of the Council Plan 2021-2025.

Of the 23 actions that are identified for quarterly reporting in the 2021-2022 Annual Action Plan, 20 actions are currently 'on track', one action has been completed and two actions are experiencing minor issues.

The overall position reflected in the report suggests that Council has made a solid start in delivering on key actions of the Council Plan, and significant outcomes for the community.

All 54 actions identified in the Annual Action Plan 2021-2022 will have updates provided in the corresponding report for the fourth quarter. This will also be published in the Annual Report 2021-2022 when presented to the community later in 2022.

Recommendation

That Council notes and receives the Council Plan Quarterly Performance Report (**Attachment 1**) for the second quarter of 2021-2022.

Attachments

1.  Quarter 2, 2021-2022 Council Plan Performance Report

Discussion

1. The Council Plan 2021-2025 was developed throughout 2021 and adopted by Council in October 2021. The Council Plan 2021-2025 has four high-level strategic themes:
 - Community and Connection – to encourage inclusion and participation to support health and wellbeing and ensure that all our residents have equitable access to services, programs, events and initiatives.
 - Place and Space – to protect, enhance, maintain, plan and design places and spaces that strengthen identity, reinforce character, improve accessibility, encourage social connection and enjoyment, support biodiversity and respect the environment.

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- Sustainable and Resilient – to manage and adapt to changing circumstances that affect our community to ensure it remains sustainable and resilient, both now and into the future.
 - Responsible and Accountable – to facilitate the best possible outcomes for our community, by demonstrating strong leadership and working actively to achieve the community's objectives.
2. The Annual Action Plan 2021-2022, also adopted by Council in October 2021, contains 54 actions contributing to delivery of the Council Plan within the corresponding financial year. Of those 54 actions, 23 are identified for quarterly reporting, while the remainder of the actions will be subject to an update in the corresponding report in the final quarter of this financial year.
 3. Of the 23 actions that are identified for quarterly reporting in the 2021-2022 Annual Action Plan, 20 actions are currently 'on track', one action has been completed and two actions are experiencing minor issues.
 4. Some of the highlights of activities and deliverables achieved during the reporting period (October to December 2021) include:
 - a) An environmental scan including review of local context, policy and legislative context, relevant consultation findings and best-practice has been undertaken to inform a draft Access, Equity and Inclusion Policy;
 - b) Recruitment is underway for an Aboriginal Partnerships Officer (supported by Indigenous Employment Partners). This position will oversee the development of Council's future Reconciliation Action Plan;
 - c) Health and Wellbeing Advisory Committee members and teams across Council contributed to the development of the year one annual implementation plan for the Nillumbik Health and Wellbeing Plan 2021-2025, which is now available on Council's website;
 - d) The Youth Strategy 2022-2026 was adopted by Council at the December 2021 Council Meeting;
 - e) Collation and summary of submissions received from community consultation for the Municipal Planning Strategy was undertaken in December 2021;
 - f) The Kangaroo Ground War Memorial Park Management Plan was adopted at December 2021 Council Meeting. A cost plan has been referred for 2022 budget allocation consideration for capital works expenditure;
 - g) Consultants have been appointed and the drafting process has begun for the Arts and Culture Strategy 2022-2026. A Council briefing has been scheduled in April 2022 for the draft strategy before being presented to the community for feedback;
 - h) Council endorsed the community engagement consultation plan for the new Recreation and Leisure Strategy in December 2021, to be undertaken from 31 January - 6 March 2022;

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- i) Community engagement for the former Plenty CFA site was completed, with submissions considered by Council at the November 2021 Planning and Consultation Committee Meeting. Council subsequently resolved to request the CFA demolish the former fire station and to draft plans for rehabilitation of the site to open space at the December 2021 Council Meeting;
- j) The draft Climate Action Plan was on public exhibition from 4 October – 7 November 2021, and 91 submissions were received which are currently being considered;
- k) Submissions for the Wattle Glen Public Realm Framework were considered at the November 2021 Planning and Consultation Committee. A draft framework will be developed for community engagement in early-mid 2022, with the final framework scheduled to be adopted at a Council Meeting in mid-late 2022;
- l) Following community consultation, Council triaged 22 Eltham Urban Congestion Fund projects into three phases. In October 2021, detailed design commenced on Phase 1 projects. On 7 October 2021, Council submitted functional layout plans / major traffic control items and speed limit change application for Department of Transport approval for Phase 2 and 3 projects;
- m) All identified actions from the three-year Bushfire Mitigation Action Plan remain 'on track'. This includes completion of the annual works program that includes roadside slashing and vegetation management on Council owned land, and a \$250,000 grant received to extend the Communities First Program for 2021-2022;
- n) Regular COVID-19 Taskforce meetings have been held to support and oversee delivery of the Pandemic Recovery Plan and ensure coordination of Council's response to the ongoing pandemic, including vaccination program updates, ongoing strategic alignment and organisational response;
- o) A draft General Local Law and a draft Bend of Islands Local Law were subject to public exhibition in November and December. Feedback is currently being compiled and Council will hear submissions on these draft local laws at the Planning and Consultation Committee Meeting in April 2022;
- p) Progress on key actions in the Economic Development Strategy included participation in Melbourne's North Tourism Campaign generating over 5,000 followers, the Shop Local campaign delivered through @visitnillumbik social media channels and more than 3,000 businesses contacted across the Shire and provided with general and COVID-19 specific business support;
- q) Our Community Engagement Policy continues to be shared through internal communications channels. Guidelines and a toolkit for staff use is in its final stages of development with input from an internal working group; and
- r) 80% of the programs and projects listed in the Capital Works Plan for 2021-2022 have been completed or are in progress. The Diamond Valley Sports and Fitness Centre upgrade is completed, with reopening of the facility occurring in February 2022. Works on Stage 2 of the Diamond Creek Trail also continue, with a practical completion date expected in March 2022.

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CM.005/22 Council Plan Quarterly Performance Report - 2021-2022 - Quarter 2

5. The overall position as reflected in the report suggests that Council has made a solid start in delivering on the key actions supporting the Council Plan.
6. Reporting updates will continue to be received by Council on a quarterly basis that demonstrate in a practicable and tangible way how the Council Plan 2021-2025 is being delivered to the community.

Related Council decisions

7. The Council Plan 2021-2025 together with the Annual Action Plan 2021-2022 were developed and adopted at the October 2021 Council Meeting.

Council plans and policies

8. This report directly supports the achievement of Council Plan 2021-2025 strategy:
 - We maintain good governance and transparency; clearly defining and communicating the role of Councillors and Council.

Sustainability implications

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

Community engagement

10. 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 2021-2025. The Council Plan was also developed and refined through a series of workshops with Councillors following the general election in November 2020.
11. The Council Plan was subject to a four-week public consultation process across July and August 2021, with refinements made following the receipt of submissions. The Council Plan was subsequently adopted by Council in October 2021.
12. The Annual Action Plan 2021-2022, reflecting the first year of delivery of the four-year Council Plan, was also adopted at the October 2021 Council Meeting.

Innovation and continuous improvement

13. Not applicable.

Collaboration

14. Not applicable.

Budget implications

15. This report is part of Council's monitoring of the Council Plan 2021-2025. The resources for the monitoring and the preparation of this report are accommodated within existing operational budgets.

Relevant law

16. Not applicable.

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CM.005/22 Council Plan Quarterly Performance Report - 2021-2022 - Quarter 2

Regional, state and national plans and policies

17. Not applicable.

Conflicts of interest

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

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CM.005/22 Council Plan Quarterly Performance Report - 2021-2022 - Quarter 2

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CM.006/22 **Environment and Sustainability Advisory Committee revised terms of reference and committee renewal**

Distribution: **Public**

Manager: **Hjalmar Philipp, Director Operations and Infrastructure**

Author: **Lisa Pittle, Manager Environment**

Summary

This report presents a review of the operation of the Environment and Sustainability Advisory Committee (ESAC) and the terms of reference which have been updated to align with Council's new Advisory Committee Policy and standardised templates.




It is recommended to renew the committee by June 2022 ahead of the scheduled renewal date of October 2022. The new committee will support the implementation of the Climate Action Plan and the commencement of the Biodiversity Strategy.

Recommendation

That Council:

1. Acknowledges and thanks members of the Environment and Sustainability Advisory Committee for their advice and practical contribution to environment and sustainability outcomes for the Shire over the term of the committee.
2. Endorses the revised terms of reference for the Environment and Sustainability Advisory Committee for public exhibition in March 2022 seeking expressions of interest for membership nomination to renew the committee by July 2022.
3. Instructs officers to report nominations to the Environment and Sustainability Advisory Committee to Council for endorsement.

Attachments

- 1  Environment and Sustainability Advisory Committee terms of reference 2019
- 2  Draft Environment and Sustainability Advisory Committee terms of reference February 2022
- 3  Comparison of 2019 and proposed Environment and Sustainability Advisory Committee terms of reference

Discussion

1. The Environment and Sustainability Advisory Committee (ESAC) was created in November 2016 replacing the former Environment Advisory Committee expanding its remit to include the Green Wedge Management Plan.
2. The terms of reference (TOR) for the current committee was endorsed by Council in September 2019 – see **Attachment 1**.

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CM.006/22 Environment and Sustainability Advisory Committee revised terms of reference and committee renewal

3. The 2019 terms of reference include:
 - a) Clarification of the scope for the Committee, which provided a basis for membership selection to ensure a diversity of subject matter expertise/interest. The scope includes:
 - i) Climate resilience
 - ii) Renewable energy
 - iii) Water conservation
 - iv) Biodiversity and the natural environment
 - v) Sustainable land management
 - vi) Recycling and waste management
 - vii) Environmental education and engagement
 - b) Increase in Committee membership from seven to fourteen.
 - c) Increase in Committee term from two to three years.
 - d) Increase in the frequency of meetings from quarterly to bimonthly.
 - e) Clarification of the reporting procedure of the Committee.
4. The current committee was appointed by Council in September 2019 for a term of 3 years. The committee meets bimonthly on the third Wednesday in February, April, June, August, October and December. Occasional informal meetings are held for interested committee members to discuss issues or work on matters, which may then be presented to the full committee for endorsement.
5. The committee has had four resignations over the term to date reducing membership from 14 to 10 (excluding Councillor representatives).
6. During its current the term, the committee has made a contribution to or considered a wide range of matters including but not limited to:
 - a) Green Wedge Management Plan implementation.
 - b) Queensland Fruit Fly action and advocacy.
 - c) Renewable energy options for Council and community.
 - d) Climate Action Plan development.
 - e) Plenty Solar Farm.
 - f) Council's submission to the Victorian Parliamentary Inquiry into Ecosystem Decline.
 - g) Land Management Incentive Program guidelines review.
 - h) Single-use plastics ban.
 - i) Grant funded Smart Farms project - We Farm, We Sustain, We Thrive.
 - j) The impact of cats and foxes.
 - k) The impact of major transport projects in the Shire.
 - l) Yarra Catchment Scale Integrated Water Management Plan.

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7. ESAC members are currently working on a project concerning protecting the tree canopy in urban areas for Council consideration.
8. In addition, ESAC has considered a number of broader Council policies, strategies and plans from an environment and sustainability perspective. These include:
 - a) Municipal Health and Wellbeing Plan.
 - b) Our People, Our Place, Our Future consultation.
 - c) Domestic Animal Management Plan.
 - d) Local Law review.
 - e) Municipal Planning Strategy.
9. The proposed terms of reference aligned with the new Advisory Committee Policy and the standardised template in **Attachment 2**.
10. The standardised terms of reference (TOR) have resulted in the following changes:
 - a) The introduction, policy statement, aims and objectives retain the committee's broad remit in relation to environment and sustainability while incorporating the standardised template. Refer to **Attachment 3** for a comparison of the purpose and objectives of the 2019 TOR with the introduction, aims, policy statement and objectives of the proposed TOR.
 - b) The previous TOR membership was 14 excluding Councillor Chair and alternate; the proposed TOR includes 11 members representing the community, one representative from the Nillumbik Youth Council and two Councillor representatives (Chair and alternate).
 - c) References to specific policies, strategies and plans are not included in the proposed TOR as they are implicit in the proposed TOR objectives.

Related Council decisions

11. At the February 2021 Council Meeting, Council resolved the following:

That Council:

 - a) *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.*
 - b) *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.*
12. At the meeting in October 2021, Council endorsed a new Advisory Committee Policy, Advisory Committee Terms of Reference Template and Advisory Committee Agenda and Minutes Templates.

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CM.006/22 Environment and Sustainability Advisory Committee revised terms of reference and committee renewal

Options

13. Council may consider the following options with regard to renewing the committee:

Option 1	<p>Renew the committee early, commencing June 2022, with the revised terms of reference. This is the earliest possible date that the committee can be renewed.</p> <p>Renewing the committee early will coincide with and support the implementation of the Climate Action Plan. In addition, the development of the Biodiversity Strategy is proposed to commence in mid-2022 and the new committee will assist in scoping and development of the strategy.</p>
Option 2	<p>Renew the committee at the scheduled date, October 2022, with the revised terms of reference. This is the date that the committee is scheduled for renewal.</p>

14. Following Council endorsement of the revised terms of reference in February, the time frames for option 1 and option 2 are presented below:

Action	Option 1	Option 2
Expressions of Interest sought for committee renewal	March 2022	July 2022
Councillor briefing on outcome of EOI process	3 May 2022	6 September 2022
Councillor endorsement of new committee	21 May 2022	27 September 2022
New committee commencement	June 2022	October 2022

Council plans and policies

15. This report directly supports the achievement of the Council Plan 2021-2025 strategy:

- a) We encourage and support volunteering to enable community participation opportunities and actively celebrate these contributions.
- b) We work with our community, First Nations People, partners and government agencies to promote sustainability.

16. The Environment and Sustainability Committee provides Council with a forum for two-way consultation consistent with the Community Engagement Policy 2021.

Sustainability implications

17. The Environment and Sustainability Advisory Committee provides Council with advice on a wide range of environment and sustainability matters.

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CM.006/22 Environment and Sustainability Advisory Committee revised terms of reference and committee renewal

Community engagement

18. The Environment and Sustainability Committee provides Council with a forum for two-way consultation consistent with the Community Engagement Policy 2021.

Innovation and continuous improvement

19. Not applicable.

Collaboration

20. Not applicable.

Budget implications

21. Not applicable.

Relevant law

22. *Local Government Act 2020.*

Regional, state and national plans and policies

23. Not applicable.

Conflicts of interest

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

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CM.006/22 Environment and Sustainability Advisory Committee revised terms of reference and committee renewal

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12. Officers' reports**CM.007/22 Health and Wellbeing Advisory Committee**

Distribution: Public**Manager: Corrienne Nichols, Executive Manager Communities****Author: Nichole Johnson, Manager Community Partnerships****Summary**

This report seeks endorsement of the updated Terms of Reference (**Attachment 1**) for the Health and Wellbeing Advisory Committee (the Committee). The Terms of Reference have been reviewed to ensure the purpose and function of the Committee:



1. Supports legislative requirements, governance, implementation and evaluation of the Nillumbik Health and Wellbeing Plan 2021-2025; and
2. Reflects the engagement conducted with existing Committee members.

Recommendation

That Council:

1. Endorse the updated Health and Wellbeing Advisory Committee Terms of Reference (**Attachment 1**).
2. Note that an Expressions of Interest period will be open for a period of 3 weeks seeking community members for the Health and Wellbeing Advisory Committee member following endorsement of the Health and Wellbeing Advisory Committee Terms of Reference.
3. Note that Council appointment of six new community members to the Health and Wellbeing Advisory Committee will be sought at the 26 April 2022 Council Meeting.

Attachments

- 1  Health and Wellbeing Advisory Committee - Terms of Reference
- 2  Findings from review

Discussion

1. The Health and Wellbeing Advisory Committee (the Committee) provides a formal mechanism for Council to fulfil the requirements of the *Public Health and Wellbeing Act 2008* (the Act). The Act requires councils to develop Municipal Health and Wellbeing Plans every four years. Plans are developed using municipal specific population health data and the expert advice of leading public health professionals working in the broader catchment area.
2. Council endorsed the *Nillumbik Health and Wellbeing Plan 2021-2025* (the Plan) at the Council Meeting held 26 October 2021.
3. The Committee supports the governance of the Plan through consultation with stakeholders via information sharing, partnership building and alignment with regional priorities in the development, implementation and evaluation of the Plan.

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4. The Committee has partnered with key organisations, government bodies, service providers and community members in the previous four years with representatives appointed as Committee members.
5. After the Plan was endorsed, the Terms of Reference (**Attachment 1**) have been updated. The Draft Terms of Reference are informed by a review to ensure the purpose and function of the Committee:
 - Supports legislative requirements, governance, implementation and evaluation of the Nillumbik Health and Wellbeing Plan 2021-2025
 - Reflects the engagement conducted with existing Committee members.
6. The review considered; best practice governance for the Plan; alignment with legislative requirements; an environmental scan of neighbouring council's health and wellbeing governance structures; a partnership mapping exercise and engagement with current Committee members.
7. Committee members were invited to provide feedback via a survey, an interactive poll during the 9 December 2021 Committee meeting and an invitation for further feedback via email to officers.
8. The Committee currently has delegates from eight partner organisations which were appointed to reflect the priorities and actions of the previous Nillumbik Health and Wellbeing Plan 2017-2021 for a term of two years (until August 2021). The Committee originally had two community member representatives appointed who have since resigned from these appointments.

Related Council decisions

9. The *Nillumbik Health and Wellbeing Plan 2021-2025* was adopted at the Council Meeting on 26 October 2021.

Options

10. Findings from the review along with feedback from Committee members and subsequent proposed changes to the Draft Terms of Reference are included in **Attachment 2**. Findings include the need for:
 - a. Clarifying and realignment of the purpose of the Committee
 - b. Update membership to reflect prevention focus
 - c. Less frequent but more purposeful meetings
 - d. Ongoing partnership building opportunities in-between meetings.

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CM.007/22 Health and Wellbeing Advisory Committee

Council plans and policies

11. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
- We work with our local partners, government and non-government agencies to respond to health and wellbeing priorities in Nillumbik

Sustainability implications

12. Not Applicable.

Community engagement

13. Expressions of Interest for six new community members to join the Committee will be invited through Council communication avenues. Invitations will also be circulated through relevant Council Committees and networks.
14. Partner organisations with a focus on prevention will be invited by Nillumbik Shire Council to nominate an appropriate organisational representative.

Innovation and continuous improvement

15. Not Applicable.

Collaboration

16. The Committee provides a formal mechanism for Council to fulfil the requirements of the Act which requires a Municipal Public Health and Wellbeing Plan to specify how the Council will work in partnership with the Department and other agencies undertaking public health initiatives, projects and programs to accomplish the goals and strategies identified in the public health and wellbeing plan;
17. The Committee supports ongoing and new partnerships, information sharing and alignment of strategy and practice across the region.

Budget implications

18. All costs associated with the delivery of the Committee have been accounted for in the operational budget of the Community Partnerships Department including delivery of a proposed annual health and wellbeing forum.

Relevant law

19. *Public Health and Wellbeing Act 2008.*

Regional, state and national plans and policies

20. *Victorian Public Health and Wellbeing Plan 2019-2023.*

Conflicts of interest

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

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CM.007/22 Health and Wellbeing Advisory Committee

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CM.008/22 **Nillumbik Shire Submission - DELWP Planning Reforms - Improving the Operations of ResCode Discussion Paper**

File: **FOL/21/24533**

Distribution: **Public**

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

Author: **Sean Diffey, Strategic Planner**

Leigh Northwood, Strategic Planning Lead

Summary

The Department of Environment, Land, Water and Planning (DELWP) recently sought feedback from relevant stakeholders (including councils) on its *Improving the Operations of ResCode Discussion Paper* (**Attachment 1**), which introduces a new assessment model for residential development and discusses how the new model is proposed to be applied to amend the ResCode provisions within planning schemes across Victoria.

The report seeks Council's endorsement of the finalised Nillumbik Shire Council submission response (**Attachment 2**) to the *Improving the Operations of ResCode Discussion Paper* and authorisation for Council officers to submit the response to DELWP for formal consideration.

The Discussion Paper was released for public consultation on 8 November 2021 and the proposed reforms have been included as part of the State Government's broader planning system reforms. The proposed reforms form part of a suite of recommendations that were made by the Red Tape Commissioner in review of State and local government processes surrounding building and planning approvals processes.

The deadline for submissions to the Discussion Paper closed on the 17 December 2021, however this timing did not account for Council's reporting cycles, therefore Council officers prior to the close of the consultation period, negotiated with DELWP to provide an officer-level only response (not to be made public), with an endorsed submission to be subsequently provided after Council has time to be briefed and consider the matter at its first February 2022 Meeting. This endorsed submission will become Council's adopted position and will be made public by DELWP along with other submissions made by stakeholders.

Council officers note the proposed changes are wide-ranging and may have broader implications, particularly in regard to how other provisions within the Nillumbik Planning Scheme may be used (or accepted by DELWP), as the 'appropriate planning implementation tool' for particular matters. The preliminary issues identified include (among other matters):

- a. Potential effects on the implementation of Council's future Neighbourhood Character Strategy;
- b. Potential diminishment of Council's discretion in determining planning decisions for residential development;
- c. Limitations on residential planning decisions being confined to the Performance Assessment Module (PAM) in most circumstances;

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-
- d. The determination of a proposal meeting the Performance Criteria and the subjectivity in determining whether these criteria have been met between parties (e.g. Council, applicant and VCAT);
 - e. The resultant development outcomes that will transpire as a result of these reform changes to the Nillumbik Planning Scheme ordinances and the detrimental impacts that may be caused to Nillumbik Shire's established and preferred neighbourhood character;
 - f. Potential unconsidered and detrimental impacts to the flexibility and subsequent utilisation of existing planning controls/tools to strengthen neighbourhood character values.
 - g. Clarification regarding the timing and implementation of the proposed reforms;
 - h. Lack of clarity and detail about the inter-relationship of proposed reforms with identified future consideration and implementation into other planning controls; and
 - i. Clarification regarding the time savings these reforms will have in the planning permit process.

Recommendation

That Council:

1. Endorse the finalised submission response to the Planning for *Improving the Operations of ResCode Discussion Paper* (at **Attachment 2**); and
2. Submit the endorsed Council submission response to DELWP for consideration.

Attachments

1.  Improving the Operation of ResCode Discussion Paper
2.  Improving the Operations of ResCode Nillumbik Shire Council Submission Response

Background

1. In March 2019, the Treasurer and Minister for Planning asked the Red Tape Commissioner to undertake a review of State and local government processes surrounding building and planning approvals and early building works infrastructure approvals to identify opportunities to streamline processes and reduce delays.

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2. The Commissioner convened an Advisory Board and Review Team who have prepared a report *Turning Best Practice into Common Practice – Planning & Building Process Review Report to Government* (released to Council and the public in November 2021), which makes 27 recommendations for improvements across five proposed programs:
 - a) Update and simplify planning rules and processes;
 - b) Partner with local Council planning departments;
 - c) Focus on major projects and attracting investment;
 - d) Planning for priority precincts and growth areas; and
 - e) Prioritising infrastructure delivery.
3. In response to some of the recommendations advised by the Red Tape Commissioner, the Department of Environment, Land Water and Planning (DELWP) prepared its *Improving the Operations of ResCode Discussion Paper* (refer **Attachment 1**), which introduces a new assessment model for residential development applications and discusses how the new model is proposed to be applied and amend ResCode. The Discussion Paper also identifies potential application of the new model across the Victorian Planning Provisions (VPP) and local provisions more broadly. DELWP has recently undergone a public consultation period to seek community and stakeholder feedback about the Discussion Paper and the proposed reforms to ResCode to assist in refining the options for improving the new assessment model.
4. It should be noted that separate briefings for the broader building and planning reforms have previously been prepared and provided to Council (refer to the *Related Council Decisions* section of this briefing), however the *Improving the Operations of ResCode Discussion Paper* more specifically addresses reforms to the ResCode provisions, which falls out of one of the five proposed programs of improvement ('*update and simplify planning rules and processes*') identified in the Red Tape Commissioner's report.

DiscussionProposed Reforms

5. In November-December 2021, the Department of Environment, Land, Water and Planning (DELWP) sought submissions from stakeholders to the proposed ResCode reforms. The Discussion Paper focuses on improving how planning schemes describe the desired planning objectives for residential development in ResCode, at Clauses 54, 55 and 58 and how proposals are assessed against those objectives in the planning assessment process. The Discussion Paper proposes to apply the new model to residential development applications by replacing the current ResCode assessment model, which is currently based on objectives, standards and decision guidelines, with the Performance Assessment Module (PAM).

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6. The PAM is intended to set out more clearly the performance objectives for design matters and the relevant considerations and information requirements that are needed to make an assessment of residential applications. The new model seeks to make it clearer for applicants and assessors when a design response is deemed to achieve the performance objective with the intension that it will significantly reduce uncertainty in the assessment process.
7. Converting the current assessment provisions to the proposed PAM model is intended by DELWP to have the following benefits:
 - A clear, consistent, more modular structure for the preparation of provisions that guide the exercise of discretion across the Victoria Planning Provisions;
 - A more consistent operational framework that promotes the use of objective Performance Measures to clearly signal and facilitate outcomes that are deemed to be acceptable;
 - A consistent structure and format for discretionary provisions that will support the long-term development and delivery of fully digital planning schemes; and
 - Greater certainty for applicants around application requirements and expectations.
8. The Discussion Paper identifies that eventually translating all development assessment provisions in planning schemes to the consistent use of the PAM will mean that, in the longer term, digital platforms will be able to 'collect' all the relevant PAMs for a matter and present them in a consistent, integrated form that will enable:
 - An applicant to clearly see what performance objectives are required to be achieved; how they might be achieved; and exactly what information is required to be presented with the application;
 - The Responsible Authority to get a quick and complete checklist of all the matters that need to be assessed in a form suitable for direct inclusion in their planning report; and
 - The community to readily see which aspects of a proposal achieve expectations and the basis on which certain aspects haven't been assessed.
9. Council officers having reviewed the Discussion Paper note that the proposed reform changes are wide-ranging and have much broader implications than the Discussion Paper has outlined. Of particular concern is how other provisions within planning schemes may be used (or accepted by DELWP) including the use of specific controls as the 'appropriate planning implementation tool' to address a particular matter (i.e. adopting a standardised 'one fits-all' approach). For example, DELWP may require the use of ResCode standards to address other discretionary matters (e.g. neighbourhood character, landscape values and vegetation protection), rather than the use of overlays or policy in some instances. This may not result in the best outcomes, particularly for more unique environments like Nillumbik Shire which require flexible and multi-faceted approaches to be taken when assessing planning applications.

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10. Council's role as the Responsible Authority in assessing and issuing residential planning permits for the municipality makes it a stakeholder to these proposed reforms and was subsequently encouraged by the Department to make a submission. A survey questionnaire was prepared by the Department to assist submission responses, which focuses on the new model (i.e. PAM) and its implications on the assessment and outcomes of residential development and neighbourhood character. Council officers have identified the major key concerns and questions it has raised about the proposed reforms in the 'Key Issues' subsection below (Point 13).
11. The deadline for submissions closed on the 17 December 2021. However, this timing did not account for Council's reporting cycles and break over January 2022. As such, Council officers negotiated with DELWP to provide an officer-level only response by 17 December 2021, with the condition that this version not to be made public and that an endorsed submission would be provided after the Council had the time to be briefed and consider the matter.
12. Council officers presented the preliminary officer-level submission to Council at the 1 February 2022 Council Briefing for their review and feedback. Council officers have now finalised the submission response to the Discussion Paper and proposed ResCode reforms based on the feedback and advice Council provided at the Briefing (see **Attachment 2**). Subject to Council's decision at this meeting, the endorsed submission will be submitted to DELWP for consideration and will supersede the officer-level submission to become Council's adopted position. This version will be made public by DELWP along with other submissions made by stakeholders.

Key Issues

13. In preparing the submission response to the Discussion Paper and proposed reforms, Council officers have identified and subsequently highlighted the following key points of concern that should be further considered and/or investigated by DELWP:

- a) **Impacts on Council's future strategic work (including the Neighbourhood Character Strategy)**

Council officers have concerns regarding the potential effects of the reforms on Council's future strategic work and the extent to which the proposed reforms may effect implementation of future work. Of particular concern is the implications of the reforms on Council's upcoming Neighbourhood Character Strategy work. It is unclear what directives DELWP will implement (e.g. Planning Practice Notes) that will require the PAM model to be applied for neighbourhood character outcomes, as opposed to the use of overlay controls. There is early concern that a 'one-size-fits-all' approach is being implemented under the reforms which does not allow for nuance or discretion in decision making.

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CM.008/22 Nillumbik Shire Submission - DELWP Planning Reforms - Improving the Operations of ResCode Discussion Paper*b) Diminishing discretion in planning and decision making*

Council officers have concerns that Council's discretion in determining planning decisions for residential development will be diminished, including the ability to use discretion to ensure proposals align and comply with local neighbourhood character objectives, and a greater emphasis placed on standardised quantitative controls set by the State Government. Given Nillumbik Shire's unique environmental qualities (e.g. topography, landscapes, environmental risks, vegetation, etc.), Council requires discretion in its decision making to protect the unique neighbourhood character values of the municipality, as compared with other inner metropolitan and growth area municipalities where a 'one-size-fits-all' approach may be more suitable.

c) Limitations of the new Performance Assessment Module (PAM)

Council officers have concerns regarding the limitations that may be imposed on future residential planning decisions if they are confined to the new Performance Assessment Module (PAM) in the majority of circumstances. Statutory Planners advise that discretion to utilise neighbourhood character policy is still very much needed for residential development applications, due to Nillumbik's unique and varied neighbourhood and landscape character values. As Nillumbik hasn't yet commenced its new Neighbourhood Character Strategy, the new model leaves Council's residential planning decisions vulnerable until such work is completed. It is recommended that transitional provisions, or fast-tracked policy-neutral planning scheme amendments be permitted in order for Councils to effectively and efficiently translate existing neighbourhood character policy into the PAM structure and zone schedules.

d) Potential disputes in determining if the Performance Criteria is met

There are concerns regarding the determination of a proposal in meeting the Performance Criteria within the PAM. As the Performance Criteria is a set of qualitative measures, Council officers have identified that there will be subjectivity in determining whether these criteria have been met between parties (e.g. Council, applicant and VCAT). This is anticipated to lead to delays in processing planning permit applications, which reduces the time-savings that are supposed to be generated by these reforms.

e) Undesirable development/built form outcomes

Council officers have concerns regarding the resultant development/built form outcomes that will transpire as a result of these reforms and the detrimental impacts that may result to Nillumbik Shire's established and preferred neighbourhood character. This is because it is currently unknown at this time how Nillumbik's nuances for neighbourhood character will be incorporated into the new system. Council officers are concerned that Council's current neighbourhood character polices will be standardised to quantitative measures or that Council will be restricted in the planning tools it can utilise in order to address neighbourhood character values.

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CM.008/22 Nillumbik Shire Submission - DELWP Planning Reforms - Improving the Operations of ResCode Discussion Paperf) Flexibility of planning controls/tools to strengthen neighbourhood character

Further articulation is needed of the planning tools Council will be able to use to bolster its neighbourhood character objectives and policy and what flexibility Council will have in utilising desired planning tools. Whilst it has been advised that Councils will have the flexibility to utilise other planning tools such to address nuances in neighbourhood character (e.g. variations to residential zone schedules or application of a Neighbourhood Character Overlay [NCO] or Design and Development Overlay [DDO]), it is currently still unclear whether these existing tools and mechanisms will be available (justified) in achieving the desired development/neighbourhood character outcomes that Nillumbik Shire is seeking to achieve. Council officers note there is concern that introduction of the PAM into ResCode, and then potentially across the wider suite of controls, may result in Councils being required to reduce proposed neighbourhood character objectives to the 'the lowest common denominator'. That is, the 'best fit for all' using quantitative standards or that a Department view or required 'burden of proof' may be established to justify the use overlays to 'bolster' neighbourhood character outcomes where the PAM is not considered effective.

g) Implementation of reforms

Clarification is sought regarding the timing and implementation of the proposed reforms and how it will be incorporated into the Nillumbik Planning Scheme. Council officers note that the Discussion Paper lacks detail in regards to how the proposed reforms will be implemented into planning schemes and any supporting department guidance/requirements that will be provided. For example, information regarding when such implementation will likely occur and by what mechanism/s, and the content of any supporting Planning Practice Notes detailing the Department's views on appropriate residential and neighbourhood character implementation tools. Council officers want to obtain this information in order to understand the full implications of these reforms, how it will fit into Council's program of works and whether Council may need to undertake further strategic work.

h) Inter-relationship between the proposed reforms to ResCode and application of the Performance Assessment Module (PAM) within other planning scheme controls

There is a lack of clarity and detail about the inter-relationship of the proposed reforms with the potential consideration and implementation of these into other planning controls (e.g. provisions and overlays). Without clarity on future reforms to other controls within planning schemes and how this may align to the Performance Assessment Model (PAM), it is difficult to ascertain how the suite of controls will all work together to ensure the best planning outcomes are achieved; particularly with regard to neighbourhood character.

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CM.008/22 Nillumbik Shire Submission - DELWP Planning Reforms - Improving the Operations of ResCode Discussion Paperi) Time savings

Clarification is sought regarding the time savings these reforms will have in the planning assessment process as specific time saving metrics have not been outlined in the Discussion Paper. Statutory Planning officers in particular cannot see many time saving benefits that would benefit their processes, as their current assessment of an application under ResCode will not substantially change from existing assessment requirements. This is because a full ResCode assessment under the new model is still required to be conducted and Statutory Planners will still need to use a standard ResCode table for their assessment. An application under the new model will also still continue to need to go through notice and review (i.e. advertising) requirements. Therefore, the new model does not prevent people from objecting to applications even if the proposal meets all of the required standards/measures of the PAM. This part of the planning process, along with securing effective inputs to the planning application, is considered by Council officers where most of the application time is spent (i.e. addressing submissions after advertising).

14. In summary, it is considered that the Discussion Paper misses an opportunity to give a more balanced or nuanced examination of the issues for residential development; particularly relating to protecting unique and varied neighbourhood character values. By placing responsibility of construction sector delay costs on the planning (and building) systems, the Discussion Paper fails to recognise the influences made by proponents and consultants or submitters, to any delay or costs associated with an application. For example, the frequency of poor quality or incomplete applications, pre-application advice being regularly ignored, or, the system being readily exploited to avoid notices and fees, and addressing submitters' issues, etc. Whilst Council officers agree that, where possible, the approvals process should be streamlined, the State Government should be cautious that the rigour and transparency of planning and building assessments are not diluted for the commercial benefit of the development industry.
15. Please refer to **Attachment 2** to view the full finalised submission response that has been prepared. *(Note: The submission response prepared for the Improving the Operations of ResCode Discussion Paper has sought to be consistent with the Council's submission response provided on Planning and Building Approvals Process Review Discussion Paper due to the interconnected relationship between the two initiatives [i.e. reforming the ResCode provisions is a recommendation out of the Planning and Building Approvals Process Review Discussion Paper]. The Municipal Association of Victoria (MAV) has also prepared a submission to these reforms and Council officers have reviewed this and have sought to align Council's submission response to aspects and key points raised that are of relevance to the context of Nillumbik Shire).*

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Related Council decisions

16. Council was initially briefed on these reforms at the 7 December 2021 Council Briefing (Item OB.204/21). This initial briefing was prepared for Council's advisory purposes only in preparation a subsequent briefing and review of Council officers' submission comments to the Discussion Paper. As this item was a Council Briefing, no recommendations were provided to Council and subsequently no decision was required from Council at the time.
17. Council was then further briefed on these reforms at the 1 February 2022 Council Briefing (OB.006/22). This subsequent briefing was prepared to reinform Council of these reforms and provide Council with the formal opportunity to review and provide feedback to the officer-level preliminary submission that was prepared in response to the *Improving the Operations of ResCode Discussion Paper* and submitted to DELWP in a preliminary capacity. As this item was a Council Briefing, no recommendations were provided to Council and subsequently no decision was required from Council at the time.
18. Despite Council having been briefed on this matter previously, Council has not made any related decisions specifically on these reforms to ResCode. This will be the first decision it formally makes on this matter. Council has however made previous decisions on similar matters related to planning reforms and changes to residential development more broadly. See details of the applicable decision below
19. Council was briefed on the broader planning reforms at the 7 December 2021 Council Briefing (Item OB.205/21). This briefing was prepared to advise Council of the broader planning and building reform work being conducted by the State Government over recent years and the need for Council to join other Councils in advocating to State Government about how it consults on these reforms, including the need to be more strategic and transparent in its planning and communication of future consultations and allowing appropriate consultation timeframes for stakeholders to respond to and prepare submissions. This item was then re-presented at the 14 December 2021 Ordinary Council Meeting (Item CM.184/21) where Council officers sought endorsement of an advocacy letter to the State Government to advocate to the Minister of Planning in regard to this matter and of the recommendations sought.
20. Council at the 24 September 2019 Ordinary Council Meeting (Item OCM.146/19) made a decision to endorse a submission response Council officers prepared to the *Better Apartments in Neighbourhoods Discussion Paper* which outlined changes to the planning rules for apartment developments, with a focus on the relationship between new apartment developments and the amenity of existing neighbourhoods. The changes sought to build on the Better Apartments Design Standards in the Victoria Planning Provisions, which were introduced by the State Government in 2017 to improve the internal design of new apartments and make them more liveable and sustainable.

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CM.008/22 Nillumbik Shire Submission - DELWP Planning Reforms - Improving the Operations of ResCode Discussion Paper

Options

21. Council may resolve to:

- a) Adopt the *Improving the Operations of ResCode Discussion Paper Review Submission* and forward to DELWP as Council's adopted position;
- b) Adopt the *Improving the Operations of ResCode Discussion Paper Review Submission* with any identified changes and forward to DELWP as Council's adopted position; or
- c) Not adopt the *Improving the Operations of ResCode Discussion Paper Review Submission* prepared by Council officers and instruct officers to notify DELWP that it will not provide an adopted position of Council on the matter.

Council plans and policies

22. This report directly supports the achievement of the Council Plan 2021-2025 strategy:

- Identity
 - We value, appreciate and enjoy our Green Wedge Shire, including our rural areas and leafy urban areas, which we work hard to protect and enhance.
- Neighbourhood character
 - We respect and enhance the unique neighbourhood character in our communities to ensure a considered approach to planning and development.
 - We promote place making and shaping and advocate for the continuation and enhancement of local character.
 - We champion good design in our public buildings and developments that is consistent with local character.
- Sustainability
 - We seek to embed sustainability initiatives in the planning scheme.
- Good Governance
 - We act in the best interests of our community.

23. Nillumbik Planning Scheme

- Municipal Planning Strategy (MPS)
- Planning Policy Framework (PPF) – Local Planning Policy

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24. Community Vision – Nillumbik 2040

• Our Place

The submission response to the *Improving the Operations of ResCode Discussion Paper* aligns with the Nillumbik 2040 Community Vision theme of 'Our Place' as it seeks to ensure Nillumbik's unique environment and neighbourhood character is prioritised, retained and enhanced through its continued consideration in the ResCode provisions and all other relevant planning approaches. It also seeks to encourage the application of sustainable design principles with the ResCode provisions to strengthen the inclusiveness and accessibility of our neighbourhoods.

• Our Council

The submission response to the *Improving the Operations of ResCode Discussion Paper* aligns with the Nillumbik 2040 Community Vision theme of 'Our Council' as it advocates on local character and urban residential design matters of the Shire, in order to drive progressive yet informed changes to the planning system.

Sustainability implications25. Economic Implications

The Improving the Operations of ResCode reforms is intended to provide economic benefits for planning permit proponents through anticipated time-saving generated from the formation of a new assessment model for residential development design requirements. A proponent will clearly be able to see what performance objectives are required to be achieved for their application, how that might be achieved and exactly what information is required to be presented with the application. This in turn is expected to reduce cost of the assessment process for the proponent (e.g. reducing revision to plans or requiring additional information). There may be some time saving generated for the assessing officer as they will be able to get a quick and complete checklist of all the matters that need to be assessed in a form suitable for direct inclusion in their planning report, however this time-saving will have minimal influence over the overall planning process. The reforms may also have increased economic implications for Council through the need of additional resources in Strategic Planning work to ensure neighbourhood character is sufficiently recognised and protected through the use of appropriate planning tools/mechanisms. Additional resourcing may also be required within Planning Services to ensure proponents are well versed over the new system and the set of requirements they will need to meet regarding their applications for residential development.

26. Social Implications

The Improving the Operations of ResCode reforms will have social implications whereby the community will be able to readily see which aspects of a proposal achieves the required expectations for residential development as well as the aspects that will not be assessed. The new model is also intended to provide clearer transparency and certainty to proponents (particularly Mum and Dad developers) regarding the requirements for residential development within the planning system,

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thus seeking to improve the overall planning experience for users. The community will also continue to have appropriate notice and review opportunities to be informed about and comment on proposals that may impact them. However, if many of the design requirements within the planning scheme are standardised to purely quantitative measures, neighbourhood character values of an area may be eroded and tensions within local communities may subsequently be created (e.g. tensions between those who seek to develop their land versus those that wish to retain established neighbourhood character values of the area).

27. Environmental Implications

The Improving the Operations of ResCode reforms will not have any direct implication on the environment. However, the reforms may have indirect environmental consequences if Nillumbik Shire's neighbourhood character and landscape values (which are highly interrelated with environmental characteristics) are diminished as a result of standardised residential development products that do not respond appropriately to the surrounding site context. Landscape values embedded in Nillumbik Shire's Significant Landscape Overlays (SLOs) may also be weakened if landscape values related to neighbourhood character are standardised and/or put elsewhere in the planning scheme where they are not as clearly identifiable and transparent to proponents and planners.

28. Climate Change Implications

The Improving the Operations of ResCode reforms will not have any direct implication on climate change. However, whilst out of scope of the project, there appears to be a missed opportunity in incorporating Environmentally Sustainable Development (ESD) into the ResCode ordinances, which would seek to achieve best practice in environmentally sustainable development from the design stage through to construction and operation.

Community engagement

29. As the project lead, the Department of Environment, Land Water and Planning (DELWP) commenced the engagement process to all stakeholders through its public engagement website Engage Victoria on the 8 November 2021: <https://engage.vic.gov.au/improving-operation-rescode>. The Department sought feedback on the reforms changes outlined in the *Improving the Operations of ResCode Discussion Paper* and encouraged stakeholders to provide their feedback through the lodgement of submissions, which included a survey questionnaire focusing on the new model (i.e. PAM) and its implications on the assessment and outcomes of residential development and neighbourhood character. The Department will consider community and stakeholder feedback received during the consultation process to assist and refine the options for improving the new assessment model.

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30. Consultation closed on 17 December 2021; noting Council has received an extension to provide an adopted submission. Only preliminary officer-level comments were supplied to DELWP by the 17 December 2021 deadline, noting this submission has not been made public. Upon closing of the consultation period (and upon receiving Council's endorsed submission), the Department will collate and analyse feedback responses received during the consultation period over the coming months, which will be used to inform future decisions about the implementation of the reforms.

Innovation and continuous improvement

31. This project seeks continuous improvement by establishing a new planning assessment model that is intended to deliver consistent, digital ready assessment provisions that support streamlined decision making and will standardise how assessment provisions work for all users. The new model is anticipated to provide the following benefits:

- A clear, consistent, more modular structure for the preparation of provisions that guide the exercise of discretion across the Victorian Planning Provisions (VPP).
- A more consistent operational framework that promotes the use of objective performance measures to clearly signal and facilitate outcomes that are deemed to be acceptable.
- A more consistent structure and format for discretionary provisions that will help the long-term development and delivery of fully digital planning schemes.

Collaboration

32. As part of the consultation process, DELWP collaborated with various councils including Nillumbik Shire to discuss the planning reforms presented in the Discussion Paper. Six representatives from Council (i.e. Strategic Planning and Planning Services officers) attended a forum held by the Municipal Association of Victoria (MAV) C/-DELWP in mid-November 2021, along with officer representatives from other councils. This forum gave participants the opportunity to hear DELWP talk through the proposed planning reforms and ask questions about the reforms themselves and their implication for councils, whilst also giving the Department the opportunity to preliminarily gauge local governments' initial response to the proposed planning reform options.

Budget implications

33. Council has only incurred costs in relation to Council officer time and wages spent in providing input to the project via the attached submission response. The precise budgetary implications of the ResCode planning reforms to Council, particularly around implementation of these reforms into the Nillumbik Planning Scheme, are still unknown at this stage and will be outlined at a later point once advised by the Department of Environment, Land, Water and Planning (DELWP). However, the following statements provide some potential budgetary implications that may be imposed upon Council by these reforms.

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34. As this project is being conducted and led by the State Government (i.e. DELWP) and given the State-wide implications of these reforms, it is assumed that the changes proposed to the Victorian Planning Provision (VPP) ordinances will be implemented via a VC-type planning scheme amendment using the Minister of Planning's S.20(4) abilities under the Planning and Environment Act 1987 (Vic). If this approach is taken, this will incur minimal financial costs for Council as the Minister will process and adopt the amendment with exemption from notice and review requirements. However, if a full amendment process is required to be conducted involving community consultation (i.e. exhibition), Council may be required to contribute to the costs associated with facilitating the amendment including the consultation period. In addition, there may be specific planning implementation options that the Department may let individual Councils determine whether they would like to utilise and incorporate relevant tools into their respective planning schemes (e.g. implementing tools to bolster neighbourhood character policy). In this case, Councils would be responsible for the costs associated with conducting a C-type planning scheme amendment to incorporate the selected options into their respective planning schemes. This could be in the order of \$50K-\$80K if a planning panel is required (which is likely).
35. Observing longer term budgetary implications, it is important to note that the implementation of the ResCode reforms, specifically the Performance Assessment Module (PAM) into the Victoria Planning Provisions, is likely to have flow on effects for other Strategic Planning work that will subsequently be needed to ensure that neighbourhood character objectives and landscape values are still adequately captured in planning assessment tools.
36. It is also unclear if simplification of the ResCode assessment model might also result in DELWP reducing fees associated with processing of planning applications despite the same workload appearing to be required by technical officers. Therefore, a comparable reduction in resourcing may not result where reduced fees are implemented.

Relevant law

37. *Planning and Environment Act 1987 (Vic).*
38. *Building Act 1993 (Vic).*
39. *Local Government Act 2020 (Vic).*

Regional, state and national plans and policies

40. Plan Melbourne 2017–2050
- Direction 2.3 - Increase the supply of social and affordable housing.
 - Policy 2.3.2 - Streamline decision-making processes for social housing proposals.
 - Policy 2.3.3 - Strengthen the role of planning in facilitating and delivering the supply of social and affordable housing.

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- Direction 2.4 - Facilitate decision-making processes for housing in the right locations.
 - Policy 2.4.1 - Support streamlined approval processes in defined locations.
- Direction 2.5 - Provide greater choice and diversity of housing.
 - Policy 2.4.1 - Facilitate housing that offers choice and meets changing household needs.

41. Planning Practice Notes

- PPN15: Assessing an application for One or More Dwellings in a Residential Zone.
- PPN16: Making a Planning Application for One or More Dwellings in a Residential Zone.
- PPN27: Understanding the Residential Development Provisions.
- PPN43: Understanding Neighbourhood Character.
- PPN84: Applying the Minimum Garden Area Requirement.
- PPN90: Planning for Housing.
- PPN91: Using the Residential Zones.

42. Nillumbik Planning Scheme

- Planning Policy Framework (PPF) – State Planning Policy

Next steps

43. If Council endorses the finalised submission response, it will be submitted to DELWP. The adopted version will also be made publically available by DELWP once received.
44. DELWP will collate and analyse feedback responses received during the consultation period over the coming months and use the feedback to inform future decisions about the implementation of the reforms into the planning system. DELWP at this stage has not provided any further details regarding the project timeline; including details about potential implementation options. Council officers however will ensure councillors are briefed on any significant advancements of these reforms, including any information and details about implementation options.

Conflicts of interest

45. No Council officer involved in the preparation of this report has a conflict of interest in relation to this matter.

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**CM.008/22 Nillumbik Shire Submission - DELWP Planning Reforms - Improving
the Operations of ResCode Discussion Paper**

12. Officers' reports**CM.009/22 Planning Scheme Amendment C140nill - Recommendations to the Public Exhibition**

File: PRJ/21/44**Distribution:** Public**Manager:** Renae Ahern, Acting Executive Manager Planning & Community Safety**Author:** Sean Diffey, Strategic Planner**Summary**

The purpose of this report is to update Council in regard to the exhibition of Amendment C140nill (the Amendment) and provide a subsequent recommendation as to the future proceedings of the amendment. The Amendment seeks to apply a Heritage Overlay (HO) on a permanent basis to 1080 Heidelberg-Kinglake Road, Hurstbridge (also known as 'Fermanagh'). The property is subject to a current planning permit application (604/2021/05P), which proposes additions to the dwelling that make substantial changes to the façade of the building.

The property is included in Council's Stage A Heritage Review, which was adopted at Council's June 2021 Council Meeting. The Heritage Review recommended the application of the Heritage Overlay to the property given it is of local historic, aesthetic and associative significance to the Shire of Nillumbik; noting the subsequent amendment to apply the Heritage Overlay (to all places identified in Heritage Review Stages A and B) is not programmed until the Stage B Heritage Review is completed in mid-2022.

Given the implication of the planning permit application, officers have sought approval (under delegation) from the Minister for Planning for Amendment C139nill (now C145nill) to introduce the Heritage Overlay to 1080 Heidelberg-Kinglake Road on an interim basis pursuant to Section 20(4) of the *Planning & Environment Act 1987*. This provides temporary heritage protection for the property allowing Council time to seek approval and progress a further planning scheme amendment (C140nill) to introduce the Heritage Overlay permanently as per the recommendations of the Stage A Heritage Review.

Amendment C140nill was placed on exhibition pursuant to the requirements of the Act, from 25 November 2021 to 14 January 2022 and notifications were sent out to relevant stakeholders as well as being advertised in local media. Council received one supporting submission in total during the exhibition period. The submitter was invited to attend the 8 February 2022 Planning and Consultation Committee Meeting (PCC) to speak to their submission. No further late submissions were received between the exhibition close date and the PCC Meeting.

Given the single submission received to the Amendment was and proposes no changes a Planning Panel is not required to resolve any outstanding issues.

As such, this report recommends that Council resolve to adopt the amendment without changes and seek approval from the Minister for Planning.

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Recommendation**That Council:**

1. Adopts Amendment C140nill to the Nillumbik Planning Scheme as exhibited and directs officers to submit the adopted planning scheme amendment to the Minister for Planning for approval and gazettal.
2. Notifies submitters to the planning scheme amendment of Council's resolution of 22 February 2022 regarding Amendment C140nill and updates Participate Nillumbik accordingly.

Attachments

1. Statement of Significance - 1080 Heidelberg-Kinglake Road, Hurstbridge
2. Planning Scheme Amendment C140nill Explanatory Report
3. Planning Scheme Amendment C140nill Instruction Sheet
4. Planning Scheme Amendment C140nill H0269 Heritage Overlay Map

DiscussionBackground

1. A planning permit application (604/2021/05P) has been received for 1080 Heidelberg-Kinglake Road, Hurstbridge known as 'Fermanagh' which upon review, has alerted Council officers to proposed additions to the dwelling that make substantial changes to the façade of the existing dwelling. These changes are proposed to have significant impacts on the heritage significance of the property; in particular, the dwelling structure.
2. The citation for the site identifies the property is of local historic, aesthetic and associative significance to the Shire of Nillumbik (see **Attachment 1** for Statement of Significance). The Statement of Significance identifies that 'Fermanagh' is noted of historical significance for its ability to demonstrate the manner in which land in the Nillumbik area was subdivided and used for small agricultural pursuits. It illustrates the early period of development of the Hurstbridge township, which accelerated due to the opening of the railway line in 1912. 'Fermanagh' provides tangible evidence of its association with orcharding in Hurstbridge, which was the main agricultural industry in the Diamond Valley region from the 1880s to the 1930s, and with locally notable orchardists the Burke family. The Burke family lived at 'Fermanagh' for over 100 years, and ran an orchard on the property for at least 25 years. Patrick Burke had settled in the area in the 1860s, and with his sons established a nursery, market garden and cool store. The Burke family employed many locals in their orchard at 'Fermanagh' and are known as prominent figures in Hurstbridge's agricultural history. This context meets Criteria A and H for heritage assessment.

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3. Fermanagh and its garden is also aesthetically significant as a particularly well-executed and architect-designed Federation villa that retains an early garden. It is distinguished from other houses of the same era in Hurstbridge with its intact Queen Anne details including Marseille terracotta and roughcast render detailing, decorative timber fretwork and posts to the verandah, combined with the massing and verandah form of an Australian homestead. The property's aesthetic significance is further enhanced by the remaining garden elements including Golden Cypress trees (*Hesperocyparis macrocarpa* 'Horizontalis Aurea') arranged in an ovoid pattern and two Chinese Windmill Palms (*Trachycarpus fortunei*) arranged symmetrically in relation to the house, meeting Criterion E of heritage assessment.
4. Given this significance the citation adopted as part of Council's Heritage Review Stage A, recommends that the site is included in the Schedule to the Heritage Overlay in the Nillumbik Planning Scheme with mapping applied to the property boundaries and tree controls to the Golden Cypress Trees and Chinese Windmill Palms.
5. Council officers under delegation have sought authorisation from the Minister for Planning for Amendment C139nill to introduce the Heritage Overlay to 1080 Heidelberg-Kinglake Road on an interim basis pursuant to Section 20(4) of the *Planning & Environment Act 1987*, providing protection for the property and allowing Council time to seek approval and progress a further planning scheme amendment (C140) to introduce the Heritage Overlay permanently. Amendment C139nill was approved on 27 August 2021 and extended via Amendment C145nill in November 2021.

Exhibition

6. The Amendment was on exhibition from 25 November 2021 to 14 January 2022. Please see **Attachment 2** for the C140nill Explanatory Report, **Attachment 3** for the Instruction Sheet and **Attachment 4** for Planning Scheme Map.
7. Notification letters were sent out to the following stakeholders:
 - Owners and occupiers of 1080 Heidelberg-Kinglake Road, Hurstbridge and properties adjacent.
 - Prescribed Ministers
8. Notifications advertisements were also posted in the Victorian Government Gazette and Herald sun on 25 November 2021.

Submissions

9. Council received one submission which was in support of the Amendment. The submitter claims that the Shire has already lost much of its built and landscape history and hopes that the property 1080 Heidelberg-Kinglake Road, Hurstbridge is spared. The submitter was invited to speak to their submission at the 8 February 2022 PCC Meeting. No further late submissions were received between the exhibition close date and the PCC Meeting.

12. Officers' reports

CM.009/22 Planning Scheme Amendment C140nill - Recommendations to the Public Exhibition

Related Council decisions

10. Council at the 29 June 2021 Council Meeting (Item CM.087/21) adopted the final draft citations of Stage A of the Nillumbik Heritage Review and the proposed Stage B Priority Lists. Specifically, the resolution carried stated:

That Council:

1. *Adopts the Final Draft Citations for Stage A of the Nillumbik Heritage Review.*
2. *Adopts the Priority Lists for Stage B of the Nillumbik Heritage Review.*
3. *Publishes the Final Draft Citations for Stage A of the Nillumbik Heritage Review on Council's website.*

11. Council at the 24 August 2021 Council Meeting (Item CM.121/21) sought a resolution to approve officers' recommendations to seek authorisation from the Minister for Planning to prepare a Planning Scheme Amendment (C140nill) to the Nillumbik Planning Scheme to apply the Heritage Overlay to 1080 Heidelberg-Kinglake Road on a permanent basis as well as to conduct a public exhibition period of the Amendment should authorisation to apply the permanent control be granted by the Minister. Specifically, the resolution carried stated:

That Council:

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

Options

12. As part of considering the submissions received and determining next steps for the Amendment and given Council has not received any objecting submissions, Council has the ability to resolve the following options:
- a) Adopt the amendment pursuant to Section 29(1) of the Planning and Environment Act 1987 (Vic) and seek approval from the Minister for Planning pursuant to Section 31 of the Planning and Environment Act 1987 (Vic), or
 - b) Abandon the amendment.

12. Officers' reports

CM.009/22 Planning Scheme Amendment C140nill - Recommendations to the Public Exhibition

Council plans and policies

13. This report directly supports the achievement of the Council Plan 2021-2025 strategy:

- Identity
 - We celebrate and prioritise the protection of our heritage, arts and culture, places and spaces by focusing on the diversity of experiences that have shaped our shared history.
 - We recognise and celebrate our community's significant contributions to art and culture
- Identify
 - We promote place making and shaping and advocate for the continuation and enhancement of local character.
- Good Governance
 - We act in the best interests of our community.
- Services and Programs
 - We communicate clearly and regularly, taking the time to listen and engage with our community.

14. Community Vision – Nillumbik 2040

- Our Place

Fermanagh has been identified through the Stage A Heritage Review having an important cultural contribution to the Shire's identity. Amendment C140nill aligns with the Nillumbik 2040 Community Vision theme of 'Our Place' as it seeks to ensure the communities across Nillumbik are further strengthened through the promotion of shared heritage and history. The implementation of a Heritage Overlay planning control over the property will endeavour to achieve this vision.

15. The amendment links directly to Council's Heritage Strategy (2011) which aims to:

- To identify, document and care for heritage places in the Shire of Nillumbik in ways which fulfil legal obligations and adopt best practice; and
- To involve communities and to promote awareness, knowledge and enjoyment of heritage places.

16. Nillumbik Planning Scheme

- Municipal Planning Strategy (MPS)
 - Clause 02.03-5 - Built Environment under Heritage
 - Protect and enhance places of heritage significance, including sites of Aboriginal heritage significance.

12. Officers' reports**CM.009/22 Planning Scheme Amendment C140nill - Recommendations to the Public Exhibition**

Sustainability implications17. Economic Implications

The Amendment is not expected to have any adverse or significant economic repercussions for the community. Some additional costs are likely to be imposed on the owners or developers of affected residential properties, since the amendment will necessitate a planning permit for most buildings and works. It is considered that economic effects will be offset by the contribution that the heritage place offers to the broader community.

18. Social Implications

The conservation of Nillumbik's heritage places plays an important role in the strengthening of both personal and community identities. This Amendment aids in the social sustainability of Nillumbik's various communities and is expected to have positive social impacts by providing protection for a place identified as being of aesthetic and historic significance.

19. Environmental Implications

The introduction of a Heritage Overlay is unlikely to result in any significant environmental effects. The amendment will conserve and enhance a place identified as being of aesthetic and historic significance. The amendment will also make a significant positive contribution to the built environment conserving a heritage place.

20. Climate Change Implications

The Amendment will not have any direct implication on climate change given it pertains to historical built form.

Community engagement

21. Pursuant to the relevant sections within Part 3 Division 1 of the *Planning and Environment Act 1987* (Vic), Amendment C140nill was publicly exhibited from 25 November 2021 to 14 January 2022.

Innovation and continuous improvement

22. The Amendment achieves continuous improvement through the implementation of Council's partially adopted Heritage Review; ensuring that Nillumbik Shire continues to better protect and conserve places of heritage significance that will be enjoyed and appreciated by generations of residents and visitors.

Collaboration

23. There have been discussions with the Department of Environment, Land, Water and Planning (DELWP) on this matter to ensure that the Statement of Significance meet their expectations and requirements. Also, given the tandem planning permit application associated with this Amendment, Strategic Planning has also had discussion with the relevant assessing officer in Council's Planning Services team to ensure a development outcome that responds to and respects the property's heritage significance is sought.

12. Officers' reports

CM.009/22 Planning Scheme Amendment C140nill - Recommendations to the Public Exhibition

Budget implications

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

Relevant law

25. The *Planning and Environment Act 1987* (Vic).

26. *Heritage Act 2017* (Vic).

Regional, state and national plans and policies

27. Plan Melbourne (2017-2050)

- Outcome 4 - Melbourne is a distinctive and liveable city with quality design and amenity.
 - Direction 4.4 - Respect Melbourne's heritage as we build for the future
 - 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.
 - Policy 4.4.4 - Protect Melbourne's heritage through telling its stories.

There is more to heritage than place. The stories of Melbourne, including stories from before European settlement, help citizens understand the places where they live and work. They also help create a sense of belonging and community by encouraging tolerance and respect.

28. Planning Practice Note

- PPN 1: Applying the Heritage Overlay (2018)

This practice note provides guidance about the use and application of the Heritage Overlay and sets out the criteria and standards required to apply the control to a place of heritage values/significance.

29. Nillumbik Planning Scheme

- Planning Policy Framework (PPF)
 - Clause 15 - Built Environment and Heritage

Planning should ensure all land use and development appropriately responds to its surrounding landscape and character, valued built for form and cultural context.

12. Officers' reports

CM.009/22 Planning Scheme Amendment C140nill - Recommendations to the Public Exhibition

- Clause 15.03-1S - Heritage conservation

Objective: To ensure the conservation of places of heritage significance.

Strategies: Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance; retain those elements that contribute to the importance of the heritage place and provide for the protection of natural heritage sites and man-made resources.

Next steps

30. If Council chooses to resolve the current recommendations put forward by Council officers to adopt the Amendment, the Amendment with all relevant material will be submitted to the Minister for Planning for approval and gazettal into the Nillumbik Planning Scheme. If approved, a Heritage Overlay will be applied to the property at 1080 Heidelberg-Kinglake Road, Hurstbridge (also known as 'Fermanagh') and will make the following changes to sections of the planning scheme. These include:

- Amending the Schedule to Clause 43.01 (Heritage Overlay) to include 1080 Heidelberg-Kinglake Road, Hurstbridge.
- Amending the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme) to include the Statement of Significance for 1080 Heidelberg-Kinglake Road, Hurstbridge.
- Amending Planning Scheme Map No. 11HO to apply the Heritage Overlay to 1080 Heidelberg Kinglake Road, Hurstbridge.
- Amending the Schedule to Clause 72.08 (Background Documents) to include the citation for 1080 Heidelberg-Kinglake Road, Hurstbridge.

Conflicts of interest

31. 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.010/22 Christmas Hills - Melbourne Water Land Divestment Update

Distribution: Public

Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety

Author: Leigh Northwood, Strategic Planning Lead

Summary

At its 30 November 2021 Council Meeting, Council resolved to (among other matters) agree in principle to becoming Committee of Management (CofM) for land including the Christmas Hills Tennis Court and heritage Post Office to facilitate assessment by Department of Environment, Land, Water & Planning (DELWP) through the Strategic Crown Land Assessment (SCLA) process, with a request the current parking and effluent areas supporting the Christmas Hills Hall be included in the land that Council is seeking to become the CofM for.

Subject to acting upon the resolution of 30 November 2021 (resolution in more detail in the body of the report below), officers have received an update from DELWP with regard to Councils resolution and also the outcomes of the SCLA process.

DELWP has advised it has consulted with Melbourne Water, regarding the request for 'additional area for parking purposes' inclusive of effluent area associated with the Christmas Hills Hall, as put forward by Council (in its 30 November Meeting).

The advice received states that the entire parcel in question, Lot 1 TP611807, 40 Simpson Road, Christmas Hills, has now been determined to be included within their land sales program and they intend to sell this parcel.

The advice further informs Council of existing easements on Title for effluent disposal to the Hall property, and this arrangement will provide access, protection and maintenance of the effluent disposal asset lifelong irrespective of who owns the property and as such, the land approved by SCLA is in their view sufficient.

The SCLA process has now been completed and signed off. The SCLA deems the parcels proposed for CofM by Council, inclusive of the Tennis Court Area and old heritage Post Office, are of medium public value, for the State.

Based on the above, DELWP have requested a resolution of Council, based on the medium public value determined from the recent DELWP – SCLA, that Council formally agree in principle, in becoming the CofM of the proposed areas (which exclude the effluent field as put forward in the 30 November 2021 resolution), as indicated in **Attachment 1**.

DELWP have also requested an updated letter of support for Council becoming CofM for the area at **Attachment 1**, be signed by the Council's CEO and forwarded to them.

12. Officers' reports**CM.010/22 Christmas Hills - Melbourne Water Land Divestment Update**

Recommendation

That Council:

1. Agrees in principle to becoming Committee of Management for the land described as Lot 1 & 2 TP382274, Lot 1 TP516578 & Lot 3 LP27152 being part of 40 Simpson Rd, Christmas Hills identified in (Attachment 1); and
2. Requests the Chief Executive Officer provide a letter of support to Department of Environment, Land, Water & Planning addressing point 1.

Attachments

1. NSC Committee of Management Area Aerial
2. Title Plan Easement for Effluent Area in association with Christmas Hills Hall

Discussion

1. Councillors will recall that as part of Melbourne Waters planned land divestment at Christmas Hills for land deemed surplus to the Watsons Creek Reservoir, in late 2021, DELWP provided confirmation that pursuant to the requirements of the applicable assessment criteria under the Strategic Crown Land Assessment Policy and Guidelines (SCLAPG), that the Christmas Hills Tennis Courts in isolation would not meet the required criteria to allow transfer to the Crown (and therefore consideration of Council becoming CofM).
2. DELWP considered a broader parcel of land including the Tennis Courts, as opposed to just the current lease area of the Tennis Courts, would be more likely to meet the criteria for assessment against the SCLA.
3. In order to progress Melbourne Water's planning of their land SCLAPG criteria for Council to become CofM, DELWP sought Council's formal confirmation as to its appetite to become CofM for the wider parcel should DELWP permit divestment to the Crown.
4. Council in consideration of Melbourne Waters planned land divestment and DELWP's assessment criteria, and in the interests of protecting the long term use of and access to community assets including the Christmas Hills Tennis Courts, Hall and historic post office at its meeting at 30 November 2021 recommended that Council:
 - a) *Agrees in principle to becoming Committee of Management for the land identified in Map 1 to facilitate assessment by DELWP through the Strategic Crown Land Assessment process, noting this agreement is contingent on confirmation by Melbourne Water that no undersized lots (less than 8 hectares) are proposed by Melbourne Water in the final proposed lot configuration in this area of 40 Simpson Road, Christmas Hills for private sale as part of the future divestment of its land;*

12. Officers' reports

CM.010/22 Christmas Hills - Melbourne Water Land Divestment Update

-
- b) *Requests the current parking and effluent areas supporting the Christmas Hills Hall be included in the land that Council is seeking to become the Committee of Management for and include that land in the area put forward to DELWP for consideration through the Strategic Crown Land Assessment process or identify alternate arrangements with respect to this additional area for ongoing management and maintenance of the Christmas Hills Hall; and*
- c) *Requests the Chief Executive Officer provide a letter of support addressing point 1, and identify in such letter, Council's preference for rezoning of the land to Public Use Zone Schedule 6 to reflect the future use of the area for local government use.*
- d) *Formally resolves to provide their support in becoming the Committee of Management for the Crown Land parcels outlined below (Rob Roy hillclimb), upon DELWP consideration and approval and write to DELWP formally advising of its resolution:*
- i. *Crown Allotment: 46b SPI: 46~B\PP3437*
Address: 10 Rob Roy Street, Smiths Gully 3760
- ii. *Crown Allotment: 47b SPI: 47~B\PP3437*
Address: 375 Clintons Road, Smiths Gully 3760
- e) *Requests the Chief Executive Officer provide a letter of support in becoming the Committee of Management for the land identified in point 4 above and send to DELWP.*
5. Subject to acting upon the above resolution, Officers have received an update from DELWP with regard to the above requests by Council and the outcomes of the SCLA process.

Rob Roy Precinct

6. DELWP have noted they are happy with the support letter's contents and have saved the letter to the case file along with the Minutes of the 30 November Council Meeting noting these will be fundamental in helping DELWP with the upcoming Surrender of Land request from Melbourne Water and the land coming back to the Crown/ state Government, accordingly for Council to then become CoM over, also noting as the surrender request progresses, DELWP will update Council.

Tennis Court Area (including requested effluent area)

7. DELWP advised it has inquired with Melbourne Water, regarding the request for the "additional area for parking purposes" inclusive of effluent area associated with the Christmas Hills Hall put forward by Council through its 30 November 2021 resolution.
8. DELWP have advised that Melbourne Water has advised that the entire parcel in question, Lot 1 TP611807, 40 Simpson Road, Christmas Hills, Vic 3775 (approximately 14 hectares), has now been determined as, included within their land sales program and they intend to sell this parcel off to the public.

12. Officers' reports**CM.010/22 Christmas Hills - Melbourne Water Land Divestment Update**

9. DELWP has also advised that the Strategic Crown Land Assessment (SCLA) process has been completed and signed off. The SCLA deems the parcels proposed for CofM by Council, Christmas Hills – inclusive of the Tennis Court Area and old heritage Post Office, are of medium public value, for the State. This area is the same as the area considered by Council at the 30 November 2021 meeting excluding the effluent and carparking area in association with the Christmas Hills Hall (refer **Attachment 1**).
10. Given advice around the effluent area, Officers have inquired with Melbourne Water directly in regard to arrangements for access to the effluent field in association with the Christmas Hills Hall. They have advised there is currently an easement on Title (refer **Attachment 2**) for effluent disposal to the Hall property, and this arrangement will provide access, protection and maintenance of the effluent disposal asset lifelong irrespective of who owns the property and as such, the land approved by SCLA is in their view sufficient. Melbourne Water confirms it intends on selling the remainder (east of the land) with this easement in place to meet our Land Sales Program and also provide a balanced approach for Council/Hall access to the effluent disposal.

DELWP Request

11. Based on above advice, DELWP have requested Officers put forward to Council as soon as possible for its consideration of a resolution based on the medium public value determined from the recent DELWP - SCLA to have Council formally agree in principle, in becoming the CofM of the proposed areas (which exclude the effluent field as put forward in the 30 November 2021 resolution), as indicated in **Attachment 1**.
12. DELWP have also requested an updated letter of support for Council becoming CofM for the area (at **Attachment 1**), be signed by the Council's CEO and forwarded to them.

Planning Scheme Amendment

13. There are no further updates in regard to the planning scheme amendment process to facilitate the land divestment by Melbourne Water at the time of writing of this report.
14. As per the last advice at the 30 November 2021 Council Meeting, the Government Land Planning Service (GLPS) has accepted Melbourne Water's submission to consider the proposed Planning Scheme Amendment to the Nillumbik Planning Scheme to facilitate the divestment.
15. The GLPS has prepared a briefing note for the Minister for Planning to approve in convening an independent Advisory Committee to hear the matter and submissions to it. Sign-off by the Minister was meant to take place at the end of August 2021 in accordance with indicative programmed timeline identified by Melbourne Water, however a delay was created given the Minister for Planning was acting Minister for Water (in the Minister's absence on leave) creating a conflict for sign-off.
16. Melbourne Water are still awaiting notice of Ministerial sign-off.

Advisory Committee Process

17. Subject to sign-off by the Minister to convene an Advisory Committee the GLPS would commence consultation requesting Council assist in determining stakeholders to be notified.

12. Officers' reports**CM.010/22 Christmas Hills - Melbourne Water Land Divestment Update**

18. The GLPS is the responsible authority and will notify nearby residents, council, servicing authorities and interested parties who may be affected by a planning provision change for the area, and place a notice in local newspapers. The public (including Council) will have six weeks to make a submission to the Advisory Committee.
19. Councils, departments and agencies are expected to make a submission and present at the public hearing. Members of the public may also make submissions, attend the public hearing and can present at the hearing if they so elect. The public can also attend the hearing without having made a submission.
20. Agencies and departments (making a submission) will be asked to attend both the public information session and public hearings to explain why a site is surplus (if applicable) and what the proposed planning provision changes are and why. For more complex proposals, departments and agencies may choose to be represented by a planning consultant or legal representatives.
21. The Minister for Planning will write to the landholding Minister and proponent advising of his decision. The GLPS will write to individuals who have made a submission to the Advisory Committee upon the Ministers decision and the Minister for Planning's decision and the Advisory Committee report will be made available on the GLPS website.

Related Council decisions

22. Council meeting at 30 November 2021 (as outlined at Point 4).
23. Council Meeting 27 April 2021 recommendation that Council:
 - a) *Does not support the proposed amendment to the Nillumbik Planning Scheme by Melbourne Water to facilitate the divestment of its land at Christmas Hills in its current form for the reasons identified in this report;*
 - b) *Authorises the Mayor to write to the Minister for Planning and local MPs requesting that the Christmas Hills Tennis Courts be retained by Melbourne Water or gifted to Council in order to protect it as a valuable community asset.*
 - c) *Directs officers to work with councillors and the Christmas Hills community to prepare a submission to the future Government Land Planning Service Advisory Committee process in consideration of the proposed amendment.*

Options

24. Two options exist for Council:
 - a. Resolve as per the recommendation and confirm that Council agree in principle to become Committee of Management for the land in **Attachment 1**; or
 - b. Resolve not to agree that Council become the Committee of Management for the land identified in **Attachment 1**.

12. Officers' reports

CM.010/22 Christmas Hills - Melbourne Water Land Divestment Update

Council plans and policies

25. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
- We act in the best interests of our community.
 - [If you require more one strategy reference – please cut and paste the additional strategy from the [Council Plan 2021-2025](#) – otherwise please delete this line]

Sustainability implications

26. By Council becoming CofM for this land future maintenance and protection will be assured subject to Council's maintenance.

Community engagement

27. The divestment of Watsons' Creek Storage Reservoir was introduced as a project to the community back in 2017.
28. MW's consultants have identified that this early community engagement and consultation, including a community information session on the 18 October 2017, informed preparation of the master plan for the area (which informs the proposed amendment).
29. As noted above the GLPS would run the amendment where public exhibition would be undertaken as part of the amendment process.
30. At the Council Meeting of 27 April, it was resolved that Council *directs officers to work with councillors and the Christmas Hills community to prepare a submission to the future Government Land Planning Service Advisory Committee process in consideration of the proposed amendment.*
31. Officers have requested and received a list of stakeholders from Councillors Egan and Ramcharan and have programmed a meeting to be held at the Christmas Hills Hall on Wednesday 23 February 2022 with stakeholders and affected community members to capture relevant views/concerns subject to formal notification of the Advisory Committee process.
32. Councillors have been invited, and occupiers and stakeholders within the divestment area (incorporated plan boundary) and owner/occupiers adjoining the incorporated plan boundary have been invited to attend the meeting noting permitted numbers are subject to COVID-safe protocols.
33. It is noted a Terms of Reference (TOR) will be prepared for the Advisory Committee and are a requirement that will be made publicly available upon convening of the Committee. Officers will need to review the TOR to understand the scope of what the Committee will and will not consider as detailed in the TOR. Matters 'out of scope' will not be considered by the Committee and should not form part of any submission by Council.
34. It is noted that officers will try to capture as much relevant stakeholder feedback as possible within the confines of statutory arguments that may be feasibly argued within the Terms of Reference prepared for the Advisory Committee.

12. Officers' reports

CM.010/22 Christmas Hills - Melbourne Water Land Divestment Update

Innovation and continuous improvement

35. Not applicable.

Collaboration

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

Budget implications

37. There are potential extra costs for maintenance associated with management of a broader area (approximately 7.7ha), however Council could also consider leasing the parcel to offset the costs.

38. Council's Operations team have advised an estimate in regard to land management/maintenance (that would require amendment subject to detailed inspection of the current state of the land) of approximately \$30 - \$35k per year, and have noted that there may be an initial cost of around \$20-\$25K to address any initial concerns e.g. fencing, trees, weeds, etc.

39. Operations have also identified that significant and or protected plants on the property that require specific management may also add to maintenance costs.

Relevant law

40. The *Planning & Environment Act 1987*.

Regional, state and national plans and policies

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

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

43. The Strategic Crown Land Assessment Policy and Guidelines (SCLAP 2016).

Conflicts of interest

44. 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.010/22 Christmas Hills - Melbourne Water Land Divestment Update

12. Officers' reports

CM.011/22 Review of Instrument of Delegation to Members of Council Staff

Distribution: Public

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

Author: Katia Croce, Governance Lead

Summary

Council is empowered under various legislation to undertake duties and functions in accordance with that legislation. To undertake these duties and functions, it is necessary for Council to delegate relevant powers to the administration of the Council.

It is also necessary for Council to delegate some of its other functions to the administration for reasons of efficiency and to prevent Council from having to make many operational decisions at Council meetings.

This update takes into account the deletion of provisions from the *Environment Protection Act 1970*, updates to various provisions under the *Planning and Environment Act 1987* and a new provision for the Residential Tenancies Regulations 2021 has been included, which affect Council's powers, duties and functions.

This report requests that Council resolves to adopt the amended Instrument of Delegation to reflect legislative changes.



Recommendation

That Council:

1. In the exercise of the powers conferred by the legislation referred to in the attached Instrument of Delegation (**Attachment 1**), Nillumbik Shire Council (Council) resolves that:
 - a. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached Instrument of Delegation to Members of Council Staff, the powers, duties and functions set out in that Instrument, subject to the conditions and limitations specified in that Instrument.
 - b. The Instrument comes into force immediately the common seal of Council is affixed to the Instrument.
 - c. On the coming into force of the Instrument all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked.
 - d. The duties and functions set out in the Instrument must be performed, and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

12. Officers' reports**CM.011/22 Review of Instrument of Delegation to Members of Council Staff**

Attachments

- 1  Instrument of Delegation to Members of Council Staff – February 2022 (clean version)
- 2  Instrument of Delegation to Members of Council Staff – February 2022 (marked up version)

Discussion

1. The power conferred by the legislation enables Council, by Instrument of Delegation, to delegate to a member of Council staff any power, duty or function of Council under the Act or any other Act, other than certain specified powers.
2. The delegations are necessary to enable the Chief Executive Officer and Council staff to carry out the day-to-day management of Council's operations.
3. Council subscribes to a service provided by Maddocks lawyers in which half-yearly recommended updates to Instruments of Delegations are provided to reflect legislative changes.
4. The Instrument of Delegation to Members of Council Staff was last considered by Council at its meeting on 23 March 2021.

Related Council decisions

5. At its Council Meeting on 23 March 2021 Council resolved:

“That Council:

1. *In the exercise of the powers conferred by the legislation referred to in the attached instrument of delegation (**Attachment 1**), Nillumbik Shire Council (Council) resolves that:*
 - a. *There be delegated to members of Council staff holding, acting in or performing There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached Instrument of Delegation to members of Council staff, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.*
 - b. *The instrument comes into force immediately the common seal of Council is affixed to the instrument.*
 - c. *On the coming into force of the instrument all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked.*
 - d. *The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.”*

12. Officers' reports**CM.011/22 Review of Instrument of Delegation to Members of Council Staff**

Options

6. Under the Act, one of Council's objectives is to delegate decision-making to appropriate levels within the organisation.
7. The Instrument of Delegation to Members of Council Staff comprises those delegations which only Council can delegate directly to staff, unlike, other matters which the Chief Executive Officer can sub-delegate to Council staff. They comprise powers, functions and duties that are delegated to positions such as environmental health officers, town planners and other officers authorised under certain legislation.
8. The Instrument of Delegation to Members of Council Staff covers delegations from Council to Directors, Executive Managers, relevant Managers and staff under a range of legislation including, but not limited to, the:
 - *Domestic Animals Act 1994*
 - *Food Act 1984*
 - *Heritage Act 2017*
 - *Local Government Act 1989*
 - *Planning and Environment Act 1987*
 - *Residential Tenancies Act 1997*
 - *Road Management Act 2004*
 - *Planning and Environment Regulations 2015*
 - *Planning and Environment (Fees) Regulations 2016*
 - *Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020*
 - *Residential Tenancies Regulations 2021*
 - *Road Management (General) Regulations 2016*
 - *Road Management (Works and Infrastructure) Regulations 2015*
9. As legislation is amended from time to time, all councils are required to update delegations conferred on various positions within the organisation by Council, to ensure officers are operating and enforcing under the current legislation.
10. A marked up copy of the Instrument of Delegation to Members of Council Staff considered by Council in March 2021 (**Attachment 2**) is presented to illustrate the changes recommended as part of this review.

Council plans and policies

11. This report directly supports the achievement of Council Plan 2021-2025 strategy:
 - Ensures that Council meets its legal responsibilities and manages its risks.

Sustainability implications

12. This report seeks to update the current Council to staff delegations, therefore there would be no change to the existing sustainability impacts.

12. Officers' reports

CM.011/22 Review of Instrument of Delegation to Members of Council Staff

Community engagement

13. Not applicable.

Innovation and continuous improvement

14. Not applicable.

Collaboration

15. Council's Instruments of Delegation have been developed in conjunction with Council's solicitors, Maddocks and satisfies current legislative requirements.

Budget implications

16. The regular updates of Council's Instruments of Delegation and Authorisation are an administrative function, the cost of which is included in Council's operational budget.

Relevant law

17. As outlined in this report this effects a range of legislation under various Acts.

Regional, state and national plans and policies

18. Not applicable.

Conflicts of interest

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

12. Officers' reports**CM.012/22 Informal Meetings of Councillors Records - 22 February 2022**

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 14 December 2021.

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

1. Arts and Cultural Advisory Committee Meeting held 15 November 2021;
2. Councillor Briefing held 7 December 2021;
3. Councillor Briefing (Eltham Park and Ride) held 8 December 2021;
4. Health & Wellbeing Advisory Committee Meeting held 9 December 2021;
5. Climate Action Plan Committee Meeting held 13 December 2021;
6. Council Meeting Pre Meeting held 14 December 2021;
7. Environment & Sustainability Advisory Committee Meeting held 15 December 2021;
8. Councillor Briefing held 1 February 2022;
9. Youth Council Advisory Committee Meeting held 7 February 2022; and
10. Planning and Consultation Committee Pre Meeting held 8 February 2022.

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 Meetings of Councillors Record reported 22 February 2022

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.

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CM.012/22 Informal Meetings of Councillors Records - 22 February 2022

Related Council decisions

2. Not applicable.

Options

3. An Informal Meetings of Councillors is defined in *Item 19 of the Governance Rule – Meeting Procedure*. It is a meeting at which matters are considered that are intended or likely to be the subject of a Council decision or the exercise of delegated authority and which is either of the following:
- 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 at 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 the Council Plan 2021-2025 strategy:
- We maintain good governance and transparency; clearly defining and communicating the role of Councillors and Council.

Sustainability implications

9. None required.

Community engagement

10. Not applicable.

Innovation and continuous improvement

11. Not applicable.

12. Officers' reports

CM.012/22 Informal Meetings of Councillors Records - 22 February 2022

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.

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CM.012/22 Informal Meetings of Councillors Records - 22 February 2022

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12. Officers' reports**CM.013/22 Yarra Plenty Regional Library proposed Budget 2022/2023**

Distribution: Public**Manager: Corrienne Nichols, Executive Manager Communities****Summary**

Yarra Plenty Regional Library (YPRL) is required to prepare and adopt an annual budget under the provisions of the Local Government Act 1989 (the Act). The budget is required to include specific financial information as well as details about the fees and charges that the Library intends to levy.

The proposed Yarra Plenty Regional Library Budget 2022/2023 (proposed Budget) (**Attachment 1**) provides key information about revenue, operational results, service levels, cash and investments, capital works, financial position, financial sustainability and outlines where the energy of Library staff will be focussed over the coming year to achieve the objectives of the Library Plan 2021-2025.

Recommendation

That Council:

1. Endorses the Yarra Plenty Regional Library proposed Budget 2022/2023 (**Attachment 1**); and
2. Resolves that Yarra Plenty Regional Library proposed Budget 2022/2023 (**Attachment 1**) remains confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.

Attachments

1. Yarra Plenty Regional Library proposed Budget 2022/2023 - *CONFIDENTIAL*
2. Supplemental Agreement 2020 between Yarra Plenty Regional Library, Banyule City Council, Nillumbik Shire Council and City of Whittlesea

Discussion

1. The Library Service has prepared this budget with an appreciation of the cost pressures on member Councils and is reviewing operating and purchasing processes to find efficiencies and cost savings. Library services continue to be one of the most popular and valued of all Council services. 125,670 residents of Banyule, Nillumbik and Whittlesea are library members accessing library services regularly.
2. YPRL is required to prepare and adopt an annual budget under the provisions of the *Local Government Act 1989* (the Act). The proposed YPRL budget is required to include specific financial information as well as details about the fees and charges that the Library intends to levy.

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CM.013/22 Yarra Plenty Regional Library proposed Budget 2022/2023

3. The budget document provides key information about revenue, operation results, service levels, cash and investments, capital works, financial position, financial sustainability and outlines where the energy of Library staff will be focussed over the coming year to achieve the objectives of the Library Plan 2021-2025.
4. The proposed YPRL budget was presented to the Yarra Plenty Regional Board on 16 December 2021. A further proposed budget will be presented to the board at an Ordinary Board meeting to be held on 24 February 2022 for adoption.

Related Council decisions

5. At the Council Meeting held 23 March 2021, Council resolved to:
 1. *Continues to be a part of the Yarra Plenty Regional Library Corporation for the next five (5) years.*
 2. *Signs the Supplemental Agreement 2020 (Attachment 2).*

Options

6. Council to consider and provide feedback to YPRL in preparation of receiving a further report at the Council Meeting on 22 February 2022.

Council plans and policies

7. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
 - We actively engage people of all ages and stages in decisions that affect them, ensuring that initiatives meet current and emerging needs.

Sustainability implications

8. Regional Library services provide a cost-efficient model to deliver library services for Councils in Victoria and this was confirmed in the 2019 VAGA audit into Council Library services. The overall finding of the audit was ‘that Regional Library Corporations and co-operative models are, overall, more efficient than standalone Council Libraries, because their longer opening hours and high volume of loans offset their larger investments’. YPRL performs in the top 10 of the State’s Library services for the efficiency measures used in the VAGO audit. Nillumbik Shire residents are also avid users of the library service with close to 50 per cent of residents as active library members.

Community engagement

9. The proposed YPRL Budget 2022/2023 should be adopted by the Board by 30 June 2022, following a four-week public advertising process. The critical next steps for the budget process are:

1	Proposed Budget submitted to the Board for approval	February 2022
2	Public notice advising intention to adopt Budget	February 2022
3	Budget available for public inspection and comment until	April 2022
4	Budget and submissions presented to the Board for adoption	April 2022
5	Copy of adopted Budget submitted to the Minister	June 2022

12. Officers' reports**CM.013/22 Yarra Plenty Regional Library proposed Budget 2022/2023**

Innovation and continuous improvement

10. YPRL is a trusted innovative partner of Council in the delivery of Library Services to our community. During the pandemic, YPRL was one of the first Library Services to deliver a planned digital program, with the aim of making lockdown bearable for residents by ensuring they had something to do, groups to join, digital learning opportunities and resources to borrow. Other innovations were Family Fun Packs and Care Boxes of resources and activities delivered to the home. During this past challenging year, YPRL have worked with Council to completely refurbish Diamond Valley Library, introducing a Parent's lounge, creating a new co-working space, an event space and doubling the children's area. Further during COVID restrictions a Click and Collect hub was provided by the Mobile Library at Diamond Creek as a static service. The Click and Collect service at the Hurstbridge Hub continues to be well received by the community and grows in use. A new Library App, new Library website and new library business software continue to drive efficiencies and innovative new ways of service delivery to our communities.

Collaboration

11. The Yarra Plenty Regional Library Agreement (Library Agreement) between the three (3) member Councils of Nillumbik Shire Council (Nillumbik), Banyule City Council (Banyule) and the City of Whittlesea (Whittlesea) is a collaborative model that demonstrates value for rate payers of all three municipalities

Budget implications

12. The proposed 2022/2023 Budget has been prepared to maintain the quality services that the Regional Library provides to the communities of the three Member Councils. A full analysis has been undertaken of all expenditure and income to ensure that the budget is set at a realistic and achievable level.
13. The proposed YPRL Budget 2022/2023 has been prepared according to the following principles; Income, Council Contribution, State Government Operating Grants, Other Income Streams and Operating Expenditure:
14. YPRL's Income is based on Council Contributions, Grants (primarily State Government Grants), Library Fees, Investment Income and Other Revenues.
15. Council Contribution
- The Member Council contributions are based on the cost apportionment model detailed in the YPRL Library Agreement (November 2015). The overall increase from the 2022/2023 budget is \$270,000 (or 2.00 per cent)
 - Nillumbik's total increase for the 2022/2023 budget is \$23,274.00.

Relevant law

16. Not Applicable.

12. Officers' reports

CM.013/22 Yarra Plenty Regional Library proposed Budget 2022/2023

Regional, state and national plans and policies

17. Not Applicable.

Conflicts of interest

18. No conflicts of interests exist by officers preparing this report.

12. Officers' reports

CM.014/22 Tender Report - Contract 2122-032 Kangaroo Ground Landfill Capping - Civil Contractor

Distribution: Public

Manager: Hjalmar Philipp, Director Operations and Infrastructure

**Author: Enrique Gutierrez, Manager Capital Works
Lance Clark, Senior Procurement Specialist
Vince Lombardi, Chief Financial Officer**

Summary

This report recommends the awarding of contract 2122-032 for Kangaroo Ground Landfill Capping - Civil Contractor.

The tender for this contract was via a selected invitation process, following on from an Expression of Interest (EOI) process that was undertaken in 2019 and which resulted in two Civil Contractor companies being shortlisted.

The tender for contract 2122-032 was a price only tender, as the qualitative evaluation was undertaken as part of the original EOI process.

The programmed works for the capping of the Kangaroo Ground Landfill site is a 5-year program. There may be an opportunity through the contract term to accelerate the program to reduce the current timeline.

It is intended that the works will commence shortly after the contract is awarded (subject to contractor's availability). The current work plan includes a completion date of 30 June 2026.

The Tender Evaluation Panel (TEP) has assessed all submissions and this report provides a summary of their evaluation in recommending the awarding of the contract for 2122-032 for Kangaroo Ground Landfill Capping - Civil Contractor.

Pursuant to the Instrument of Delegation to the Chief Executive Officer, the value of this contract exceeds the specified financial limits and a Council resolution is therefore required to award the contract.

12. Officers' reports**CM.014/22 Tender Report - Contract 2122-032 Kangaroo Ground Landfill Capping - Civil Contractor****Recommendation****That Council:**

1. Accept the tender submitted by the **preferred tenderer** for the sum of \$[Redacted] plus \$[Redacted] for contingency (exclusive of GST), and enter into the following contract:
Number: 2122-032
Title: Kangaroo Ground Landfill Capping - Civil Contractor
Term: 28 February 2022 to 30 June 2026
2. Notes that the contract will be funded through the Waste Management Charge and referred to future budget cycles.
3. Authorises the Director Operations and Infrastructure to finalise and execute the contract documentation.
4. Authorises the Director Operations and Infrastructure to approve any contract amendments to timelines during to the term of the contract.
5. Authorises the Director Operations and Infrastructure to approve additional cost variations that are a result of unknown latent site conditions or changes to project requirements throughout the term of the contract with a total value of no more than the approved contract value including contingency.
6. Any variations that exceed the agreed contract value (including contingency) will require a further Council resolution.
7. Advises all tenderers accordingly.
8. Makes public the decision regarding this contract but the Tender Evaluation Report (**Attachment 1**) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.
9. Resolves that the preferred tenderer be named.

Attachments

1. Tender Evaluation Summary Report - Contract 2122-032 Kangaroo Ground Landfill Capping - Civil Contractor - *CONFIDENTIAL*

Discussion

1. The Kangaroo Ground Landfill at 105 Graham Road received putrescible and solid inert waste from approximately 1970 until its closure in 1999.
2. Whilst the Kangaroo Ground Landfill has been capped and has not accepted waste for many years, the capping must be in accordance with specific standards and requirements issued by the EPA.

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CM.014/22 Tender Report - Contract 2122-032 Kangaroo Ground Landfill Capping - Civil Contractor

3. In June 2017 the Environment Protection Authority Victoria (EPA) issued a Post-Closure Pollution Abatement Notice (PCPAN) for the Kangaroo Ground landfill, located at 105 Graham Road, Kangaroo Ground.
4. PCPANs require the implementation of an EPA approved rehabilitation plan and an ongoing monitoring and maintenance program to remediate and maintain the site.
5. Owners of a closed licensed landfill are required to implement a long term after care program of site monitoring and maintenance program. Typically a long term aftercare program runs around 30 years. Council financial planning takes into account the requirement for a 30 year monitoring and maintenance period.
6. The PCPAN lists a number of general requirements to ensure this happens. One of these requirements relates to the Landfill Rehabilitation Plan with works to be completed by end of the 2022-23 financial year. Borrowings committed in the 21/22 financial year enables this work to commence.
7. Rehabilitating the site will unlock the potential to activate the site for suitable uses.
8. The former Plenty landfill on Yan Yean Road was subject to a similar requirement and works were completed earlier in 2021. A solar farm is now being pursued for that site.

Council plans and policies

9. This report directly supports the achievement of the Council Plan 2021-2025 strategy Good governance
 - We continue to exercise sustainable and responsible financial management.

Tender overview

10. The tender for this contract was via a selected invitation process, following on from an Expression of Interest (EOI) process that was undertaken in 2019 and which resulted in two Civil Contractor company's been shortlisted.
11. A selected invitation for Price only tender was issued on Monday 11 October 2021.
12. The period for tender submissions closed at 2pm on Thursday 11 November 2021
13. The following tenders were received:

TENDERER
Tenderer A – Preferred Tender
Tenderer B

14. As this was a tender for price only, the only weighting applied was for price.
15. Invited Tenderers were required to provide two price options for different landfill capping options.

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CM.014/22 Tender Report - Contract 2122-032 Kangaroo Ground Landfill Capping
- Civil Contractor

16. As this was a tender for price only, the only weighting applied was for price.

Criteria	Weighting %
Price	100%

17. The members of the TEP were:

Position Title	Business Unit
Construction Coordinator	Capital Works
Waste Management Coordinator	Environment
Manager Capital Works	Capital Works
Senior Procurement Specialist	Corporate Services

18. The price comparison outcome was as follows:

TENDERER	SCORE	RANK
Tenderer A – Preferred Tender – Option 2	100/100	1
Tenderer A – Preferred Tender – Option 1	99/100	2
Tenderer B – Option 2	80/100	3
Tenderer B – Option 1	79/100	4

19. **Attachment 1** - Tender Evaluation Summary Report – Confidential, provides the tenderer names and the Evaluation Scorecard Summary.
20. The Tender Evaluation Summary Report (**Attachment 1**) to remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.

Capability & Capacity

21. The preferred contractor's capability was demonstrated in the EOI process, with evidence of:
- Solid industry experience and well resourced.
 - Large amount of works delivered for Victorian landfill rehabilitation/capping projects.
 - Experience in construction and maintenance of an operational gas collection system for the duration of the landfill capping construction.
 - Nominated key resources having significant industry experience and expertise.

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CM.014/22 Tender Report - Contract 2122-032 Kangaroo Ground Landfill Capping - Civil Contractor

22. Recent and previous discussions with the preferred contractor confirmed that:
- a) The company that has the capacity and resources and is well placed to deliver a project of this size and to deliver the project within the required program timelines.
 - b) Has accredited systems for Quality Management, Environmental Management and Occupational Health and Safety in place along with the required insurances.

Tender Interviews and Reference checks

23. There have been multiple tender related meetings/interviews with the preferred tenderer over the course of the EOI and most recently for the price only tender to validate the pricing structure and proposal.
24. There has also been an independent review of both the original EOI submission and tendered pricing by a professional services company that is contracted by Council as the Project Manager for the construction of Kangaroo Ground Landfill Capping project.
25. During these meetings and discussions, the preferred tenderer has evidenced their ability to work in collaboration with Council officers to deliver best outcomes for the project deliverables and has shown flexibility and eagerness to work with Council to meet any change in requirements.
26. The preferred tenderer has demonstrated a desire to propose design improvements and solutions for the benefit of Council and provided a number of cost saving initiatives to Council.

Contingency and risks

27. Given the scale and cost of work, risk management has been a key focus. Lessons learned from the Plenty landfill contract have been considered, including the need to deliver the work at scale, rather than smaller, protracted packages of work. This is because:
- a) mobilisation costs are significant
 - b) fill material has a long lead time
 - c) contractors cannot commit machinery and resources over long time frames
 - d) market costs escalate significantly over time
 - e) using the same contractor significantly reduces delivery risk
28. The key risks for delivery of this contract are:
- a) Procurement and supply of materials, including cover soils and synthetic liners
 - This risk has been mitigated by the redesign of the capping to minimise soil importation, the use of Australian made liners and the use of liners instead of a clay liner for permeability. Sourcing of suitable impermeable clay soils is very difficult at present.

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CM.014/22 Tender Report - Contract 2122-032 Kangaroo Ground Landfill Capping
- Civil Contractor

- b) Inclement Weather
 - Most of the works have been scheduled to be undertaken during the warmer months, thus limiting the impact of heavy rains
- c) Impact to the surround nature reserve and bushland
 - The landfill is surrounded in part by nature reserve and bushland and it is a requirement of the contract that the appointed contractor will have in place a detailed Site Environmental Management Plan (SEMP) to ensure these areas are protected. Compliance with the SEMP will be monitored and enforced for the duration of the works.
- d) COVID-19
 - The preferred tenderer has an operational and compliant COVID safe plan and will operate within the Government guidelines of the day. Impacts to supply chain are to be expected and early procurement will be undertaken to minimise any impact this has on the project.
- e) Delay to commencement of works - additional costs
 - Should the required commencement of works be delayed, any delay will come at additional costs.
 - Based on information from the engaged Project Manager (external to Council), market costs will increase by approximately 9% for each year that the project commencement is delayed.

Budget implications

- 29. The required works form part of the waste management charge with repayment of the entire cost of the project to be made across multiple future years.

Sustainability implications

- 30. The rehabilitated landfill will reduce and manage the potential environmental impacts of the landfill including greenhouse emissions (methane), leachate and toxins.
- 31. The final design of the landfill cap incorporates the use of Geosynthetic liners, which reduces the requirements for use of and sourcing of clay materials.
- 32. The landfill is surrounded in part by nature reserve and bushland and it is a requirement of the contract that the appointed contractor will have in place a detailed Site Environmental Management Plan (SEMP) to ensure these areas are protected. Compliance with the SEMP will be monitored and enforced for the duration of the works.

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**CM.014/22 Tender Report - Contract 2122-032 Kangaroo Ground Landfill Capping
- Civil Contractor**

Stakeholder Consultation/communication

33. Not applicable

Innovation and continuous improvement

34. Lessons learned from Plenty Landfill contract have been considered. Use of Geosynthetic liners as outlined elsewhere in this paper is a key improvement opportunity.

Relevant law

35. The original EOI process was undertaken under Section 186A of the *Local Government Act 1989*

36. The request for tender for price was undertaken under Sections 108 and 109 of the *Local Government Act 2020*

Regional, state and national plans and policies

37. Not applicable.

Conflicts of interest

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

39. There were no disclosable conflicts of interest raised.

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**CM.014/22 Tender Report - Contract 2122-032 Kangaroo Ground Landfill Capping
- Civil Contractor**

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12. Officers' reports

CM.015/22 Tender Report - 2021-092 Annual Supply of Quarry Products

Distribution: Public

Manager: Hjalmar Philipp, Director Operations and Infrastructure

Author: Jeff Saker, Manager Operations Centre

Lance Clark, Senior Procurement Specialist

Summary

This report recommends the awarding of contract 2021-092 for Annual Supply of Quarry Products.

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

This Contract is for business as usual supply and delivery of various crushed rock products for use in road and footpath maintenance to support Council's Road and Drainage Maintenance operational requirements.

The tender for contract was issued as a collaborative tender between City of Whittlesea and Nillumbik Shire Council.

The Tender Evaluation Panel (TEP) has assessed all submissions and this report provides a summary of their evaluation in recommending the awarding of the contract for 2021-092 for Annual Supply of Quarry Products.

Pursuant to the Instrument of Delegation to the Chief Executive Officer, the value of this contract exceeds the specified financial limits and a Council resolution is therefore required to award the contract.

Recommendation

That Council:

1. Accepts the tender submitted by the **preferred tenderers** for the schedule of rates disclosed in (**Attachment 1**) and enter into the following contract:
Number: 2021-092
Title: Annual Supply of Quarry Products
Term: 1 March 2022 to 28 February 2025
Options: Term extensions up to 28 February 2027
2. Authorises the Director Operations and Infrastructure to finalise and execute the contract documentation.
3. Authorises the Director Operations and Infrastructure to approve contract term extensions.
4. Authorises the Director Operations and Infrastructure to approve changes to operational requirements throughout the term of the contract.
5. Advises all tenderers accordingly.

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CM.015/22 Tender Report - 2021-092 Annual Supply of Quarry Products

6. Makes public the decision regarding this contract but the Tender Evaluation Report (**Attachment 1**) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.
7. Resolves that the preferred tenderers be named.

Attachments

1. Tender Evaluation Summary Report - 2021-092 Annual Supply of Quarry Products - *CONFIDENTIAL*

Discussion

1. Council's road and drainage maintenance function has a requirement for the supply and delivery of various crushed rock products (quarry) products as part of day to day operations.
2. These products are used in the maintenance and renewal of unsealed roads and footpaths.
3. This contract replaces a previous contract for required quarry products.
4. The proposed contract provides the requirements under a panel of a two supplier arrangement.

Council plans and policies

5. This report directly supports the achievement of the Council Plan 2021-2025 strategies
Good governance
 - We continue to exercise sustainable and responsible financial management.Movement and place
 - We continue to deliver on our road management responsibilities; working to enhance infrastructure that aligns with the character of the neighbourhood.Sustainability
 - We develop clear and effective initiatives designed to reduce the impact of waste and materials from procurement to disposal.

Tender overview

The Tender Evaluation Panel (TEP) advises that:

6. A public tender was issued on 30 October 2021.
7. The period for tender submissions closed at 4pm on 23 November 2021.
8. The tender for contract was undertaken as a joint collaborative tender between City of Whittlesea and Nillumbik Shire Council. City of Whittlesea was the 'lead' Council of the tender process.
9. Councils reserved the right to appoint up to a maximum of two suppliers each for the supply and/or delivery of quarry products.

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CM.015/22 Tender Report - 2021-092 Annual Supply of Quarry Products

10. Both Councils could appoint their own preferred suppliers based on the outcome of the tendered submissions.
11. Councils sought schedule of rates for both Bin supply (Councils to arrange for collection) and supply and delivery.
12. The following tenders were received:

TENDERER
Tenderer A – Preferred Tender
Tenderer B – Preferred Tender
Tenderer C
Tenderer D

13. All tenders were deemed to be conforming and proceeded to full evaluation stage.
14. The following Evaluation Criteria and Weightings were applied during the evaluation of the conforming and competitive tenders. These weightings were set and agreed to by the Tender Evaluation Panel Members prior to the issue of the tender.

Criteria	Weighting %
Price	60%
Capability	20%
Capacity	10%
Sustainability, Social and Local	10%

15. The weightings reflect the relative importance of each element to this particular contract. They were determined as being most appropriate after considering numerous factors including (but not restricted to) the time, quality, risk and contract management requirements which were likely to have the most impact on the achievement of best value.
16. The members of the TEP were:

Position Title	Council	Role (Scoring or Advisory)
Manager Operations Centre	Nillumbik Shire	Scoring
Senior Procurement Specialist	Nillumbik Shire	Advisory
Senior Infrastructure Engineer	City of Whittlesea	Scoring and Lead
Senior Project Manager	City of Whittlesea	Scoring
Procurement Specialist	City of Whittlesea	Scoring
Rural Works Coordinator	City of Whittlesea	Advisory
Rural Works Officer	City of Whittlesea	Advisory

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CM.015/22 Tender Report - 2021-092 Annual Supply of Quarry Products

17. The final evaluation outcome was as follows:

TENDERER	SCORE	RANK
Tenderer A – Preferred Tender	91.6	1
Tenderer A – Preferred Tender	91.4	2
Tenderer C	86.8	3
Tenderer D	78.6	4

18. As per the conditions of the Tender, on evaluation of the received tendered submissions and each tenderers capability to deliver against the contract requirements and to ensure there was capacity and flexibility in relation to Council's operational needs, the following is the result of the tender outcome for Nillumbik Shire Council.

TENDERER
Tenderer A – Preferred Tender
Tenderer A – Preferred Tender

19. **Attachment 1** - Tender Evaluation Summary Report – Confidential, provides the tenderer names and the Evaluation Scorecard Summary.

20. The Tender Evaluation Summary Report (**Attachment 1**) to remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.

Capability and Capacity

21. Both Tenderer A and Tenderer B have in place the required capability and capacity to support the ongoing operational requirements of Council.

22. Both preferred tenderers clearly evidenced in their tendered submission, their ability to provide the required product options as sought by Council.

Tender Interviews and Reference checks

23. Tender interviews were held with all 4 tenderers

24. There were no flags or key areas of concern raised as part of these interview.

25. As both Tenderer A and Tenderer B are current suppliers to Nillumbik, tender reference checks were not required.

26. Tenderer B was required to confirm they could meet the volume requirements if contracted to supply to both Nillumbik Shire and City of Whittlesea. The reasoning for this was the business model of Tenderer B – recycled quarry products Vs. virgin quarry products.

12. Officers' reports

CM.015/22 Tender Report - 2021-092 Annual Supply of Quarry Products

Contingency and risks

- 27. All tenderers were required to provide a COVID-19 Safe Work Plan with their tendered submissions.
- 28. By appointing a panel of suppliers to the contract, Council can ensure that supply of required products is assured in the event that one of the panel suppliers cannot meet the operational needs and timelines of Council.

Collaboration

- 29. This tender was a collaborative tender process between Nillumbik Shire and City of Whittlesea.

Budget implications

- 30. Budget for operational requirements is managed via the annual budget planning process and there is an approved budget for the requirements of the contract.
- 31. The historical average annual spend for the required products over the past five years is approximately \$240,000 (excluding GST).
- 32. The annual spend will vary, based on operational requirements.

Sustainability implications

- 33. One of the preferred tenderers key business outcomes is a range of services for recycling products from construction and demolition waste - washing, blending, crushing, green and organic waste processing to supplying quality construction and landscaping materials.
- 34. All materials provided by this tenderer come from recycled material origins.
- 35. Both the preferred tenders operate businesses within the Northern Council Alliance areas and provide employment opportunities to residents within the Northern Council Alliance areas.

Stakeholder Consultation/communication

- 36. Not applicable.

Innovation and continuous improvement

- 37. Not applicable.

Relevant law

- 38. Sections 108 and 109 of the Local Government Act 2020.

Regional, state and national plans and policies

- 39. Not applicable.

Conflicts of interest

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

12. Officers' reports

CM.015/22 Tender Report - 2021-092 Annual Supply of Quarry Products

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CM.016/22 Tender Report - Contract 2021-097 Annual Supply and Delivery of Mulch, Sand and Soil

Distribution: Public**Manager: Hjalmar Philipp, Director Operations and Infrastructure****Author: Jeff Saker, Manager Operations Centre****Lance Clark, Senior Procurement Specialist****Summary**

This report recommends the awarding of contract 2021-097 for Annual Supply and Delivery of Mulch, Sand and Soil.

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

This Contract is for business as usual supply of products to support Councils Parks and Open Space operational requirements but the contract can also be sourced by other areas of the Council such as Capital Works.

The Tender Evaluation Panel (TEP) has assessed all submissions and this report provides a summary of their evaluation in recommending the awarding of the contract for 2021-097 for Annual Supply and Delivery of Mulch, Sand and Soil.

Pursuant to the Instrument of Delegation to the Chief Executive Officer, the value of this contract exceeds the specified financial limits and a Council resolution is therefore required to award the contract.

Recommendation

That Council:

1. Accepts the tender submitted by the **preferred tenderers** for the schedule of rates disclosed in (**Attachment 1**) and enter into the following contract:
Number: 2021-097
Title: Annual Supply and Delivery of Mulch, Sand and Soil
Term: 1 March 2022 to 28 February 2025
Options: Term extensions up to 28 February 2027
2. Authorises the Director Operations and Infrastructure to finalise and execute the contract documentation.
3. Authorises the Director Operations and Infrastructure to approve contract term extensions.
4. Authorises the Director Operations and Infrastructure to approve changes to operational requirements throughout the term of the contract.
5. Advises all tenderers accordingly.

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6. Makes public the decision regarding this contract but the Tender Evaluation Report (**Attachment 1**) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.
7. Resolves that the preferred tenderers be named.

Attachments

1. Tender Evaluation Summary Report - Contract 2021-097 Annual Supply and Delivery of Mulch, Sand and Soil - *CONFIDENTIAL*

Discussion

1. Councils Parks and Open Space function has a requirement for the supply and delivery of mulch, sand and soil products as part of the day to day operations. Historically, there have been different contracts for some of the required products and where there has been no contract arrangement in place, request for quotes have been obtained.
2. The proposed contract consolidates the varied requirements under a panel of providers arrangement and provides consistency of how products are sourced.

Council plans and policies

3. This report directly supports the achievement of the Council Plan 2021-2025 strategy Good governance
 - We continue to exercise sustainable and responsible financial management.

Tender overview

The Tender Evaluation Panel (TEP) advises that:

4. A public tender was issued and advertised on 23 October 2021.
5. The tender was to appoint a panel of suppliers for the following products;
 - Playground (Softfall) Mulch
 - Bush Mulch
 - Recycled Timber Mulch (12mm & 20mm)
 - Native Timber Mulch (15mm)
 - Sand
 - Top Soil
6. For each of the required products, there were requirements for supply only and supply with different methods of application – application by blowing and application by hand.
7. Under the conditions of Tender, Council reserved the right to appoint up to a maximum of three providers for each of the categories.
8. The tender requested pricing based on a Schedule of Rates.
9. The period for tender submissions closed at 2pm on Thursday 18 November 2021.
10. The following tenders were received:

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TENDERER
Tenderer A – Preferred Tender
Tenderer B – Preferred Tender
Tenderer C – Preferred Tender
Tenderer D – Preferred Tender

- 11. Only tenders that were conforming and competitive were fully scored. Tender submissions that were evaluated as non-conforming or not sufficiently competitive were set aside from further evaluation.
- 12. All received tenders were conforming and proceeded to full evaluation.
- 13. The following Evaluation Criteria and Weightings were applied during the evaluation of the conforming and competitive tenders. These weightings were set and agreed to by the Tender Evaluation Panel Members prior to the issue of the tender.

Criteria	Weighting %
Price	40
Capability	20
Capacity	20
Collaboration	10
Social and Local	10

- 14. The weightings reflect the relative importance of each element to this particular contract. They were determined as being most appropriate after considering numerous factors including (but not restricted to) the time, quality, risk and contract management requirements which were likely to have the most impact on the achievement of best value.
- 15. The members of the TEP were:

Position Title	Business Unit	Scoring or Advisory Member
Team Leader Amenity	Operations and Infrastructure	Scoring
Open Space Team Leader Assets	Operations and Infrastructure	Scoring
Parks & Open Space Technical Officer – Assets	Operations and Infrastructure	Scoring
Parks and Open Space Coordinator	Operations and Infrastructure	Advisory
Manager Operations Centre	Operations and Infrastructure	Advisory
Senior Procurement Specialist	Corporate Services	Advisory

- 16. As per the conditions of the Tender, on evaluation of the received tendered

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submissions and each tenderers capability to deliver against the required product category and supply and method of application and to ensure there was capacity and flexibility in relation to Council's operational needs, the following is the result of the tender outcome and each of the categories to be awarded to the panel of suppliers.

Product Supply and Application Method	Tenderers	
Supply Only - Bush Mulch	Tenderer D	
Supply and Apply - Bush Mulch - Blowing	Tenderer A	Tenderer B
Supply Only - Playground Mulch	Tenderer D	
Supply & Apply - Playground Mulch - Blowing	Tenderer A	Tenderer B
Supply Only - Recycled Timber Mulch 12mm	Tenderer D	
Supply and Apply - Recycled Timber Mulch 12mm - Blowing	Tenderer A	Tenderer B
Supply Only - Recycled Timber Mulch 20mm	Tenderer D	
Supply and Apply - Recycled Timber Mulch 20mm - Blowing	Tenderer A	Tenderer B
Supply Only - Native timber Mulch 15mm	Tenderer D	
Supply and Apply - Native timber Mulch 15mm - Blowing	Tenderer B	
Supply Only - Topsoil	Tenderer D	
Supply and Apply - Topsoil - Blowing	Tenderer B	Tenderer C
Supply Only - Organic material	Tenderer B	Tenderer C
Supply Only - White Wash sand	Tenderer D	
Supply and Apply - White Wash sand - Blowing	Tenderer A	
Supply and Apply - White Wash sand - By Hand	Tenderer A	

17. **Attachment 1** - Tender Evaluation Summary Report – Confidential, provides the tenderer names and the Evaluation Scorecard Summary.
18. The Tender Evaluation Summary Report (**Attachment 1**) to remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.

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Capability and Capacity

19. All tenderers – based on the products and method of supply and application have the capability to support the supply needs of the Council.
20. While not every tenderer could provide the same product by supply and application method, by appointing the listed panel of tenderers, this will ensure Council has the flexibility to source products from a qualified list of providers in the event that one of the providers is unable to meet operational volumes and required timing, along with known costs.
21. The majority of supply and application of products to Council is required via the blow application method.
22. One of the tenderers (Tenderer D) does not have the plant and equipment capacity to apply by blowing method and did not provide pricing for hand application, but the tenderer provided some of the lowest costings for supply only of products and as such has been selected to provide the majority of products where supply only is a requirement.

Tender Interviews and Reference checks

23. As all the tenderers are known to Council and are current suppliers to Council, tender reference checks and interviews were not required.

Contingency and risks

24. All tenderers were required to provide a COVID-19 Safe Work Plan with their tendered submissions.
25. By appointing a panel of suppliers to the contract, Council can ensure that supply of required products is assured in the event that one of the panel suppliers cannot meet the operational needs and timelines of Council.

Collaboration

26. Not applicable.

Budget implications

27. Budget for operational requirements is managed via the annual budget planning process and there is an approved budget for the requirements of the contract.
28. The historical average annual spend across these categories over the past five years is approximately \$75,000 (Excluding GST).
29. The annual spend will vary, based on operational requirements.

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Sustainability implications

- 30. All tenderers were required to provide information on the processed materials origins and contents for the products they tendered to supply to Council.
- 31. All materials provided, come from sustainable or recycled material origins.
- 32. As part of the tender process, tenderers were invited to provide other options and pricing in relation to the scope of products required.
- 33. Tenderer D provided Council with pricing options for recycling of green materials – in effect creating a circular economy in relation to the products they provide.
- 34. One of the tenderers is a business that is based within the Northern Council Alliance area and provides employment opportunities to more than 30 residents within the Northern Council Alliance areas.

Stakeholder Consultation/communication

- 35. Not applicable.

Innovation and continuous improvement

- 36. Not applicable.

Relevant law

- 25. Sections 108 and 109 of the Local Government Act 2020.

Regional, state and national plans and policies

- 37. Not applicable.

Conflicts of interest

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

Council Meeting Agenda

22 February 2022

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