

Council Meeting

to be held virtually on Tuesday 22 February 2022 commenced at 7:01pm.

Minutes

Carl Cowie
Chief Executive Officer

Friday 25 February 2022

Distribution: Public

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Nillumbik Shire Council

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Nillumbik Shire Council

**Minutes of the Meeting of Nillumbik Shire Council held Tuesday 22 February 2022.
The meeting commenced at 7.01pm.**

Councillors present:

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

Officers in attendance:

Carl Cowie	Chief Executive Officer
Vince Lombardi	Chief Financial Officer
Hjalmar Philipp	Director Operations and Infrastructure
Blaga Naumoski	Executive Manager Governance, Communications and Engagement
Nichole Johnson	Acting Executive Manager Communities
Rosa Zouzoulas	Executive Manager Planning and Community Safety
Eddie Cheng	Manager, Information Technology
Nik Mistriotis	Lead Systems Architect
Emma Christensen	Acting Governance Lead

1. Welcome by the Mayor

2. Acknowledgement of Country

Acknowledgement of Country was read by the Mayor, Cr Frances Eyre.

3. Good Governance Pledge

The Good Governance Pledge was read by Cr Richard Stockman.

4. Prayer

A prayer was read by Reverend Dr Tim Johnson, Senior Minister at St John's Anglican Church, in Diamond Creek.

5. Apologies

An apology for this meeting has been received from Cr Natalie Duffy.

Council Resolution

MOVED: Cr Ben Ramcharan

SECONDED: Cr Karen Egan

That the apology from Cr Natalie Duffy be noted.

CARRIED

6. Presentations

Nillumbik Australia Day Awards and Citizenship Ceremony 2022

On 26 January we presented our Australia Day Awards and welcomed our newest citizens in a Citizenship Ceremony. The event was held at Eltham Community and Reception Centre, and livestreamed for our virtual audience.

We heard from Nillumbik Reconciliation Group representatives Jan Aitken and Jan Mackenzie, and Wurundjeri Elder Uncle Ian Hunter. Our guest speaker was Paralympian and Nillumbik native Jaryd Clifford. My thanks to you all for your contributions.

Our Citizens of the Year for 2022 are Eltham residents Marlis Dopheide and Miranda Armstrong, who were also named Volunteers of the Year. Marlis and Miranda have spent many years welcoming refugees to Nillumbik, and assisting them to find housing, schools for their children, employment and education opportunities.

Our Senior Citizen of the Year is Lorraine Hudson of Hurstbridge. In 2021 Lorraine, with support from her son Daniel of DC Meats, spent three months making meals to hand out to locals in what was a difficult year for many. She made hundreds of meals to help take the pressure off and bring a smile to the face of Nillumbik families.

Our Young Citizens of the Year are Eltham residents Hayden And Stephanie Rujak. Through their volunteer work over the past seven years, 15-year-old Hayden and 12-year-old Stephanie have worked hard to support people experiencing homelessness, escaping family violence, and struggling with the pressures of the pandemic.

With the help of a network of youth volunteers, the Rujaks run Hayden's Helping Hands, which was awarded Community Group of the Year. Hayden's Helping Hands' volunteers are all children, and they have contributed the equivalent of \$200,000 in quality clothes, food, bedding and other items to those in need since the group was established.

Congratulations to all our deserving award recipients.

The other important part of the event was welcoming our new citizens. More than 50 people took the citizenship pledge, and on behalf of Council, I wish them all a happy and prosperous future.

Lastly, I'd like to acknowledge the many Council staff who played a part in bringing this event to fruition. A lot goes on behind the scenes to put on successful events of this scale, so thank you all.

Australia Day 2022 Honours List

It was great, yet again, to see members of our community being recognised for their achievements in the recent Governor General's Australia Day Honours List and tonight I would like to acknowledge them and their achievements.

The following Nillumbik resident was awarded a Companion of the Order of Australia (AC) in the General Division:

- Distinguished Professor Jennifer Graves AO, for eminent service to science, particularly through leadership and research in evolutionary genetics, to international and national professional societies, for science education in schools, and as a mentor and role model for women.

The following Nillumbik residents were awarded a Medal of the Order of Australia (OAM) in the General Division:

- David Gregory, for service to the small business sector.
- Dr Anthony Michaelson, for service to the community through alcohol and drug use prevention programs.

I would like to commend each of them for their dedication, service and achievement of excellence in their respective fields. They embody the Nillumbik ethos of service, diligence, commitment and above all, serving the broader community.

Thank you.

Tribute – Aunty Judy Nicholson

Council would like to pay tribute to Aunty Judy Nicholson who passed away on 18 January 2022.

Judy was a proud Wurundjeri woman, a talented indigenous artist and a fierce advocate for cultural education. Judy had a deep connection to country and a lifelong fascination for the native flora and fauna of Australia.

Judy worked with many councils across Melbourne including Nillumbik Shire. Her artworks are featured prominently here at Bunjil Reserve in Smiths Gully, Panton Hill and the Watson's Creek area (collectively known as The Panton Hill Bushland Reserve), and at the Gawa Trail in Watsons Creek. Work is currently underway to replicate some of the Gawa Trail artwork at Edendale Farm.

For the last two years, Judy has been working with Council and community on an indigenous seasonal garden project at Eltham North Adventure Playground. Judy's artwork, *The Wurundjeri Seasons*, was completed in 2021, and will soon be installed at this site.

Judy told the stories of her culture through her art. She often used symbols and colours significant to the Wurundjeri Woi-wurrung people to weave a visual story.

For many years, Judy also delivered cultural workshops, walks and talks on different aspects of Wurundjeri culture. Judy was passionate about sharing knowledge. She was just as passionate about increasing her own knowledge – she never stopped learning.

Judy was open and generous when it came to sharing her culture. It was important to her that her audience understood the Wurundjeri culture and that the knowledge, art, ideas and cultural heritage of her people was preserved beyond the oral tradition.

Judy leaves a rich legacy of artworks across Melbourne and beyond. She educated us. She inspired us. And she did so with an energy, passion and curiosity that was truly unique.

For Judy, family was paramount and we offer our condolences to Judy's family and friends.

7. Confirmation of Minutes

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

Council Resolution

MOVED: Cr Geoff Paine

SECONDED: Cr Peter Perkins

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

CARRIED UNANIMOUSLY

8. Disclosure of conflicts of interest

Nil

9. Petitions

Nil

10. Questions from the gallery

Janelle Hyett asked the following question:

Can council please advise what is happening with play space in the Collard Drive and Herbert's Lane Diamond Creek estate areas?

We were told that the developer had land put aside for council to construct a play area for the children in this area. Apparently the land that was dedicated to this has been sold as a house block

Response

The planning controls that govern how this area has and continues to be subdivided and developed, is the Development Plan Overlay, it has objectives that must be met. The Development Plan was approved for this area in June 2002 and sets the framework for:

- all subdivision and development applications,
- identifies open space areas in two nodes along Diamond Creek and Scrubby Creek, with the potential for linking this open space to other open space areas, the local road network and the Diamond Creek township.

A further open space area is envisaged in the central area just south of Herberts Lane although this location will be largely required for drainage purposes as required by Melbourne Water and some active recreational open space around the main drainage function.

The main focus of the open spaces along the creeks in this area, is to provide both conservation and recreation open space. It will allow for the protection of remnant vegetation along the creek, and provide the opportunity for development of trails on cleared, flat land to accommodate active open space for residents of the broader area.

Once the area has been fully developed in accordance with the approved Development Plan, likely in the coming 5-6 years, Council will become the responsible authority that will maintain these areas of open space. The approved Development Plan does not require the developer or subdivider to install a playground beyond the provision of open space. It should be noted though, that Council could look to fund a playground in the future, once it becomes the land manager of the developed open spaces.

Accordingly, Council will be better able to assess the needs of the community and determine in accordance with its Playground Strategy, where a playground might potentially be installed post the final subdivision and development of the area subject to the Development Plan and this part of Diamond Creek.

Gila Schnapp has asked the following questions

1. Why does Eltham equitably include all those liable for the Special rate charge within the Major activity centre structure plan boundary but Diamond Creek does not? e.g. Collins and Main St.

Response 1

The Diamond Creek Traders Association determine the boundary they wish to include in the special rate and present this to Council in their request for a special rate.

2. Will all owners liable for the Special Rate charge, who are not also the business occupier, be permitted to become members of the Diamond Creek Traders Association if they wish?

Response 2

Purpose of the Traders Association is to represent businesses in each of the relevant precincts with marketing activity to promote their businesses and the business precinct more broadly.

You are encouraged to liaise with the Traders Association.

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

Council Resolution

MOVED: Cr Geoff Paine

SECONDED: Cr Peter Perkins

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

CARRIED UNANIMOUSLY

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

Council Resolution

MOVED: Cr Peter Perkins

SECONDED: Cr Geoff Paine

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.

CARRIED UNANIMOUSLY

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.

Council Resolution

MOVED: Cr Karen Egan

SECONDER: Cr Richard Stockman

That Council provide 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.

CARRIED UNANIMOUSLY

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 bar 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.

Council Resolution

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

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

CARRIED UNANIMOUSLY

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.

Council Resolution

MOVED: Cr Ben Ramcharan

SECONDED: Cr Richard Stockman

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

CARRIED UNANIMOUSLY

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.

Council Resolution

MOVED: Cr Richard Stockman**SECONDED: Cr Geoff Paine**

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

CARRIED UNANIMOUSLY

12. Officers' reports**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.

Council Resolution**MOVED: Cr Ben Ramcharan****SECONDED: Cr Karen Egan****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.

CARRIED UNANIMOUSLY

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.

Council Resolution

MOVED: Cr Richard Stockman

SECONDED: Cr Geoff Paine

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 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.

CARRIED UNANIMOUSLY

12. Officers' reports

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: **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;
- 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);

12. Officers' reports

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

- 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.

Council Resolution

MOVED: Cr Geoff Paine
SECONDED: Cr Peter Perkins

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.

CARRIED UNANIMOUSLY

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

File: PRJ/21/44**Distribution:** Public**Manager:** Rosa Zouzoulas, Executive Manager Planning & Community Safety**Author:** Leigh Northwood, Strategic Planning Lead**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.

12. Officers' reports

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

Council Resolution

MOVED: Cr Karen Egan

SECONDED: Cr Geoff Paine

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.

CARRIED UNANIMOUSLY

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

Council Resolution

MOVED: Cr Ben Ramcharan

SECONDED: Cr Karen Egan

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 DELWP? addressing point 1.

CARRIED UNANIMOUSLY

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.

Council Resolution

MOVED: Cr Peter Perkins

SECONDED: Cr Ben Ramcharan

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.

CARRIED UNANIMOUSLY

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;
10. PCC Pre Meeting held 8 February 2022.

Council Resolution

MOVED: Cr Geoff Paine**SECONDED: Cr Karen Egan**

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

CARRIED UNANIMOUSLY

12. Officers' reports

CM.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.

Council Resolution

MOVED: Cr Karen Egan**SECONDED: Cr Richard Stockman****That Council:**

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

CARRIED UNANIMOUSLY

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.

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.

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

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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.

Council Resolution

MOVED: Cr Ben Ramcharan
SECONDED: Cr Geoff Paine

That Council:

1. Accept the tender submitted by the **preferred tenderer Shamrock Civil Engineering Pty Ltd** for the sum of **\$13,804,381.00** plus **\$2,070.657.15** 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.

CARRIED UNANIMOUSLY

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.
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.

12. Officers' reports

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

Council Resolution

MOVED: Cr Peter Perkins

SECONDED: Cr Karen Egan

That Council:

1. Accepts the tender submitted by the **preferred tenderers Hanson Construction Materials Pty Ltd (Tenderer A) and Repurpose It Pty Ltd (Tenderer B)** 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.
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.

CARRIED UNANIMOUSLY

12. Officers' reports

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: Blake Hunton, Parks and Open Space Coordinator

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.

12. Officers' reports

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

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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.

Council Resolution

MOVED: Cr Geoff Paine

SECONDED: Cr Karen Egan

That Council:

1. Accepts the tender submitted by the **preferred tenderers: Ecodynamics Mulch Pty Ltd (Tenderer A), Blow It Mulch & Mega Mulch (Tenderer B), MulchXpress Pty Ltd (Tenderer C) and Bark King (Repurpose It) (Tenderer D)** 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.
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.

CARRIED UNANIMOUSLY

14. Notices of Motion

Nil

15. Delegates' Reports

Nil

16. Supplementary and urgent business

Nil

17. Confidential reports

Nil

18. Close of Meeting

The meeting closed at 7:58pm.

Confirmed: _____
Cr Frances Eyre, Mayor