

Planning and Consultation Committee Meeting

to be held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 14 February 2023 commencing at 7:00pm.

Agenda

Carl Cowie
Chief Executive Officer

Thursday 9 February 2023

Distribution: Public

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Council Chamber Planning and Consultation Committee Meeting seating plan

**Cr Natalie
Duffy**
Edendale Ward

Cr Karen Egan
Bunjil Ward

**Cr Richard
Stockman**
Blue Lake Ward

**Cr Peter Perkins
(Chairperson
Planning Matters)**
Ellis Ward

**Cr Ben Ramcharan
(Mayor)**
Sugarloaf Ward

**Cr Geoff Paine
(Deputy Mayor)**
Wingrove Ward

Katia Croce
Governance
Lead

Blaga Naumoski
Director
Governance and
Communications

**Cr Frances Eyre
(Chairperson
Consultation Matters)**
Swipers Gully Ward

Carl Cowie
Chief Executive
Officer

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Nillumbik Shire Council

**Agenda of the Planning and Consultation Committee Meeting to be held Tuesday 14
February 2023
commencing at 7:00pm.**

1. Welcome by the Chair

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

2. Acknowledgement of Country

The Acknowledgement of Country to be read by the Chairperson

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. Apologies

Recommendation

That the apologies be noted.

4. Disclosure of conflicts of interest

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

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5. Confirmation of Minutes

COM.001/23 Confirmation of Minutes Planning and Consultation Committee Meeting held Tuesday 8 November 2022

Summary

Confirmation of the minutes of the Planning and Consultation Committee Meeting held on Tuesday 8 November 2022.

Recommendation

That the Committee (acting under delegation from Council) confirms the minutes of the Planning and Consultation Committee Meeting held on Tuesday 8 November 2022 (**Attachment 1**).

Attachments

1. Minutes Planning and Consultation Committee Meeting held Tuesday 8 November 2022

5. Confirmation of Minutes

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6. Officers' reports

PCC.001/23 Draft Neighbourhood Character Strategy Outcomes of Phase 2 Engagement

Item: Consultation Matter

Distribution: Public

Manager: Rosa Zouzoulas, Director Planning and Community Safety

Author: Leigh Northwood, Manager Strategic Planning

Summary

The development of both a new Neighbourhood Character Strategy (NCS) and Housing Strategy (HS) are priority actions in the current Council Plan 2021-2025.

The project to develop a NCS is fully funded over 2 financial years (see budget implications below) and is significantly advanced with a consultant team comprising Ethos Urban and Chatterbox Projects engaged to assist with much of the technical and consultation to develop the new NCS along with Council officers.

The areas covered by the Strategy include all residential land within the Shire (this does not include Green Wedge).

This most recent round of engagement (Phase 2 – Draft NCS) was specifically about seeking feedback on the draft Neighbourhood Character Strategy itself.

Engagement was conducted over a 6 week period between 29 August 2022 and 10 October 2022.

The engagement activities were effective in reaching over 1,500 people, with 107 providing direct feedback via a survey or submission, 175 people visiting the place-based pop-up events and over 1,200 people visiting the Participate Nillumbik project page (refer below for further detail with regard to outcomes of consultation).

With regard to relevant feedback to Phase 2 engagement, three key and interrelated topics were prominent:

- a) The strength of the document;
- b) Development and density; and
- c) Trees and vegetation.

Particularly written submissions to the draft NCS are lengthy and have a lot of technical matters that need to be unpacked and effectively responded to.

Subject to this PCC, officers will bring recommendations to a future Council briefing which will include a detailed analysis of submission responses including commentary from officers including the Project Working Group. This briefing will identify recommended direction to consultants with regard to changes to the draft NCS and its next iteration.

Subject to changes to the draft NCS with consideration of feedback provided through Phase 2 engagement, officers will subsequently seek approval from Council to put the draft NCS out for a third round of engagement (close the loop) at a Council meeting in mid-2023.

After conducting this third round of engagement, the next step in the project is for Council to consider:

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- a) Adopting a final draft (potentially with further changes) of the NCS.
- b) Initiating a planning scheme amendment to give weight to the NCS in the Nillumbik Planning Scheme noting this process involves another formal round of consultation whereby the final adopted version of the NCS will be exhibited to the community and stakeholders pursuant to the notification requirements of the *Planning & Environment Act 1987*, who will have another opportunity to provide comment.

Recommendation

That the Committee (acting under delegation from Council):

- 1. Notes the public responses, as outlined in this report, to the Phase 2 engagement for the Draft Neighbourhood Character Strategy (NCS).
- 2. Resolves that the confidential un-redacted copies of written submissions and survey responses to the Phase 2 public engagement of the Draft NCS (at **Attachments 2 and 3**) remain confidential on the grounds specified in the definition of confidential information in Section 3(1)(f) of *the Local Government Act 2020*.
- 3. Writes to all respondents to the public engagement to express Council’s gratitude for their contribution and to advise them of the Committee’s resolution and the next steps in the project on the updated Participate Nillumbik page.
- 4. Notes officers will bring an updated draft of the NCS to a Council meeting in mid-2023, to seek Council’s approval to undertake a third round of public engagement on the draft NCS, as updated as an outcome of Phase 2 engagement.

Attachments

- 1. Neighbourhood Character Strategy Phase 2 Consultation Findings Report
- 2. Consolidated un-redacted survey responses draft NCS Phase 2 engagement - *CONFIDENTIAL*
- 3. Consolidated un-redacted written submissions draft NCS Phase 2 engagement - *CONFIDENTIAL*
- 4. Consolidated redacted survey responses draft NCS Phase 2 Engagement
- 5. Consolidated redacted written submissions draft NCS Phase 2 Engagement

Discussion

- 1. The development of both a new Neighbourhood Character Strategy (NCS) and Housing Strategy (HS) are priority actions in the current Council Plan 2021-2025.
- 2. The project to develop a NCS is fully funded over 2 financial years (see budget implications below) and is significantly advanced with a consultant team comprising Ethos Urban and Chatterbox Projects engaged to assist with much of the technical and consultation to develop the new NCS along with Council officers.

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3. The areas covered by the Strategy include all residential land within the Shire (this does not include Green Wedge).
4. Local Government is required by State Planning policy and guidelines to develop and use a Neighbourhood Character Study to provide a strategic basis for the local (Council led) planning policy section of the planning scheme regarding:
 - a) The location and type of preferred neighbourhood character precincts that exist within residential zones.
 - b) How each precinct should be adequately respected, whilst not prejudicing the over-arching state government policy directives to provide growth in housing supply, diversity, affordability, inclusivity (among other matters).
5. As such, a Neighbourhood Character Strategy is an important strategic document for Council, and through the planning scheme, it is used to define and protect neighbourhood character when assessing planning permit applications, including to defend Council's planning decisions at VCAT.
6. This Council has an existing Neighbourhood Character Strategy that was implemented in 2004, but this is now significantly compromised by its age.

Components of the NCS

7. The key components of the draft NCS include:
 - a) A summary of the planning context for the NCS;
 - b) A summary of engagement;
 - c) Identification of key issues and threats to neighbourhood character in the Shire's residential areas;
 - d) A summary of the performance of the existing neighbourhood character settings applied by the Nillumbik Planning Scheme;
 - e) The separation of the Shire's residential areas into eight neighbourhood character areas, including Bush Residential 1 and 2; Garden Court 1, 2 and 3; Garden Residential; and Rural Residential 1 and 2.
 - f) A draft precinct profile for each character area, which provides: detailed mapping of each character area; a description and summary of its key attributes; a preferred character statement; and a set of neighbourhood character objectives and design guidelines to support the preferred character.

Project Stages

8. The key stages of the programme are briefly listed as follows:
 - a) Prepare the initial project material and conduct background research.
 - b) Conduct further research, including public engagement to capture local views on what constitutes preferred character in Nillumbik's urban and township residential areas.
 - c) Prepare a draft Strategy.
 - d) Conduct public engagement on the draft Strategy.

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- e) Consider changes to the draft Strategy, including by further public engagement, and present the finalised Strategy for adoption to a Council Meeting with a proposed planning scheme amendment to implement the Strategy.

Community engagement on the draft NCS

9. Three rounds of engagement are programmed for this project. These are as follows:
 - a) 'Championing the Strategy' - 1st Round (March – May 2022) – **completed**.
 - b) 'Testing the Draft Strategy' - 2nd Round (29 August 2022 and 10 October 2022) – **completed**.
 - c) 'Close the Loop – Did we get this right?' - 3rd Round (Mid-2023).
10. The planning scheme amendment to implement the final NCS into the planning scheme will be run as a separate, subsequent, and costed project. The amendment process will have its own extensive round of consultation and right of review, in accordance with the statutory process set down by the *Planning and Environment Act 1987*.
11. A first round of public engagement for the project, which was conducted in March-May 2022, aimed to capture what the community identifies as important contributing elements to neighbourhood character, noting the quantity of the feedback was substantial, comprising 332 written submissions, plus additional verbal feedback from a number of activities.
12. Community feedback in the first round of engagement placed a strong emphasis on the importance of vegetation and landscape in defining the local neighbourhood character in Nillumbik and many suggestions were made regarding how to ensure future development supports particularly these aspects of local neighbourhood character.
13. This most recent round of engagement (Phase 2 – Draft NCS) was specifically about seeking feedback on the draft Neighbourhood Character Strategy itself. It was also about informing and updating the community about where the project was up to and encouraging people to view the draft strategy as well as the relevant draft Precinct Profiles for their neighbourhood and to provide feedback.
14. People who live in, work in, and visit Nillumbik were identified as the target population for this engagement. The consultation was open for six weeks from 29 August to 10 October 2022.
15. Formal engagement activities where people could provide feedback included:
 - a. survey (available in hardcopy and online via Council's [Participate Nillumbik](#) engagement platform);
 - b. place-based pop-ups x 2 (Eltham Farmers Market and Diamond Creek Fair); and email/written submissions.

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16. Notably the Participate Nillumbik project page provided (and continues to provide) a range of resources to support the community in finding out more about the project, the draft Strategy and opportunities to provide feedback including:
 - a. an information video;
 - b. virtual walking tour;
 - c. document library including the draft Strategy; and
 - d. an interactive mapping tool that allowed users to see how the draft Strategy proposes to treat a particular neighbourhood or property, with direct links to the survey and submission form.

17. Other activities where people could ask questions and find out more information included online and in-person appointment sessions with a planner; and online community information sessions however take up of these opportunities was not utilised by the community.

18. Engagement activities were supported by a range of communication activities including:
 - a. information on Council’s Participate Nillumbik engagement platform;
 - b. information in Nillumbik News/e-News and other relevant Council newsletters;
 - c. social media posts on Council’s social media platforms as well as paid social media advertisements;
 - d. posters and postcards placed at libraries, Council’s customer service areas, schools and other community facilities which included QR codes for easy access to Council’s Participate Nillumbik page and the survey);
 - e. project flyer available at the place-based pop-ups;
 - f. direct notification to relevant community groups;
 - g. direct notification to submitters to Phase 1 engagement with regard to preparation of the draft Neighbourhood Character Strategy;
 - h. promotion on community newsletters, such as school newsletters; and
 - i. promotion through Council’s advisory committees, community groups etc.

19. The project proposes that a third round of engagement (close the loop) will be conducted in mid-2023 where a further revised draft of the NSC will be put out for further feedback as to whether the document has adequately captured the earlier feedback.

20. After conducting this third round of engagement, the next step in the project is for Council to consider:
 - a) Adopting a final draft (potentially with further changes) of the NCS.

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- b) Initiating a planning scheme amendment to give the adopted NCS statutory weight through the Nillumbik Planning Scheme.

Outcomes of Phase 2 engagement:

21. With regard to engagement see the attached Phase 2 Consultation Findings Report at **Attachment 1** prepared by engagement consultants for the project Chatterbox. Key matters to note with regard to Phase 2 engagement are:

- a. The engagement activities were effective in reaching over 1,500 people, with 107 providing direct feedback via a survey or submission, 175 people visiting the place-based pop-up events and over 1,200 people visiting the Participate Nillumbik project page.

Survey responses (refer to **Attachment 2** for consolidated un-redacted survey responses and **Attachment 4** for consolidated redacted survey responses):

- b. 82 survey responses were received.
- c. All survey respondents reported living in Nillumbik except for one respondent that provided no response. 95.1% said they 'live or own a property in a township/locality' within Nillumbik Shire. Many survey respondents reported residing in Eltham (44 or 53.7%), Eltham North (16 or 19.5%), or Diamond Creek (7 or 8.5%).

Written responses (refer to **Attachment 3** for consolidated un-redacted written responses and **Attachment 5** for consolidated redacted written submission responses):

- d. 26 written submissions were received.
- e. Submission respondents (24) indicated they live or own a property in Nillumbik and most submission respondents were from Eltham (17).

22. It is noted that **Attachments 2 and 3** remain confidential on the grounds specified in the definition of confidential information in Section 3(1)(f) of *the Local Government Act 2020*.

Groups:

- a. There were also six (6) community groups/ organisations who provided a submission, these were:
 - i. Brougham Street Cohousing Joint Venture Design Group
 - ii. Eltham Community Action Group
 - iii. Friends of Apollo Parkways {FoAP}
 - iv. Nillumbik Climate Action Team
 - v. Nillumbik Shire Council Operations and Infrastructure
 - vi. Wattle Glen Residents' Association

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Location of respondents and Neighbourhood Character Types (NCT's) most responded to:

- b. As most people who completed a survey or provided a submission resided in Eltham, Eltham North, or Diamond Creek, this correlated with the localities that participants wanted to comment on. For example, the area of Eltham attracted the most feedback (45 or 54.9%), followed by Eltham North (17 or 20.7%) and Diamond Creek (7 or 8.5%).
- c. Other localities that received smaller amounts of feedback included Hurstbridge (4 or 4.8%), North Warrandyte (4 or 4.8%) and Greensborough (2 or 2.4%).
- d. As identified above and consistent with traditional engagement responses around similar matters, more participants commented on Neighbourhood Character Types allocated to Eltham, Eltham North, or Diamond Creek.

Satisfaction rates:

- e. Overall, most people (62.2%) of those who filled in a survey were satisfied or very satisfied with the Neighbourhood Character Type allocated to their selected address/locality. There were 21% who indicated that they were unsatisfied or very unsatisfied and 17% who were unsure.
- f. When looking at these results in relation to the specific Neighbourhood Character Types (NCT's) that attracted the most comments the table below highlights the satisfaction rates.
- g. Those respondents identified as having the NCT of 'Garden Court 2' were generally most dissatisfied. Officers and Ethos will ground truth these responses to identify if a change in NCT is appropriate or not as part of the next draft of the NCS, and will clearly identify the reasons why we have or have not recommended changes the identified NCT.

NCT	Number of respondents	satisfied/ very satisfied	unsatisfied/ very unsatisfied
Bush Residential 1	25 (no.) or 30.5%	72%	16%
Bush Residential 2	37 (no.) or 45.1%	68%	14%
Garden Court 2	8 (no.) or 9.7%	25%	50%
Garden Residential	7 (no.) or 8.5%	57%	29%

- h. Survey respondents were also mostly satisfied or very satisfied with the Preferred Character Statements (65.9%) and Objectives for the Neighbourhood Character Areas (64.6%).
- i. In relation to levels of satisfaction with the Design Guidelines for the Neighbourhood Character Areas, 52% of survey respondents were satisfied or very satisfied; 26% were unsatisfied or very unsatisfied and 22% were unsure.

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- j. When looking at other feedback and comments from the surveys and submissions particularly across the Design Guidelines, a lot of feedback particularly in the written submissions was quite detailed and will need to be worked through from a technical perspective. A number of issues were also raised that are out of scope of the NCS and this will need to be further analysed and highlighted as part of reporting back to Council on the recommended changes to the draft NCS.

Key Feedback received:

- k. With regard to relevant feedback, three key and interrelated topics were prominent:
 - i. The strength of the document:

There were many positive comments about the strategy overall, however people wanted to see stronger language included to ensure the document and its intentions and objectives could be enforced, particularly around building heights, density and protection of trees and vegetation.
 - ii. Development and density:

There were also many comments around the need to limit development, height, density and subdivisions in certain areas to protect and maintain neighbourhood character. Feedback also referred to concern that some overdevelopment had already taken place and was impacting neighbourhood character.
 - iii. Trees and vegetation:

Protecting and enhancing trees, vegetation and the green character of Nillumbik was also expressed strongly in the feedback. There were many comments and concerns expressed about loss of vegetation, tree canopy and greenery in response to land being cleared for development.

Responding to feedback

- 23. As noted, particularly the written submissions are lengthy and have a lot of technical matters that need to be unpacked and effectively responded to. There are also areas of feedback where the NCS is not the guiding document that will set the policy context for certain matters, for example development density and subdivision where such matters are addressed as part of change areas in the Housing Strategy (which is yet to be prepared).
- 24. Officers are spending significant time between December and March (leading up to a future briefing to Council on recommended changes) in analysing the feedback and forming a view and recommendations as to matters that we will require our consultant Ethos Urban to consider with regard to changes to the draft NCS prior to release of a further draft for public feedback programmed for mid-2023.

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Related Council decisions

25. The related Council decisions are summarised as follows:

- 26 October 2021 - Council’s resolution to adopt the Council Plan 2021-2025, which includes as priority actions to develop a NCS and HS;
- 14 June 2022 – The resolution of Council’s Planning and Consultation Committee to note the community feedback to the first round of engagement to the project and that a first draft of the NCS is scheduled to be presented to the August 2022 Council Meeting; and
- 23 August 2022 – Council’s resolution to endorse the first draft of the NCS for public engagement from late August to mid-October for 6 weeks and present findings of the consultation to a PCC in early 2023.

Options

26. Council at its meeting in considering a final draft of the NCS may choose to implement the new adopted NCS, further refine the final draft of the NCS, or abandon the NCS.

27. *Note: the planning scheme amendment process to implement the NCS will involve another formal round of consultation whereby the final adopted version of the NCS will be exhibited to the community and stakeholders pursuant to the notification requirements of the Planning & Environment Act 1987, who will have another opportunity to provide comment.*

Council plans and policies

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

- We respect and enhance the unique neighbourhood character in our communities to ensure a considered approach to planning and development.

29. With regard to achieving neighbourhood character outcomes, the neighbourhood character strategy has regard to, and is supported by a suite of other Council Plan 2021-2025 priority actions, particularly with regard to vegetation noting State government policy particularly with regard to bushfire policy context, means the Planning Scheme is constrained by such State level requirements.

30. The following Council Plan priority actions align to the work being undertaken in preparation of the Neighbourhood Character Strategy, noting that some of these laws, policies/strategies do/will ‘fill the gaps’ that the NCS will not be able to given its relative scope and rules of implementation:

- a. Undertake a review of our Local Laws, which has resulted in implementation of Local Law 52 *Protection of Amenity Trees*, which requires a local law permit (subject to certain conditions) to *remove, damage, interfere with or kill a substantial tree* within the Urban Growth Boundary. Importantly this local law applies where the planning scheme is silent with regard to vegetation removal, i.e. where exemptions may apply at Clause 52.12 of the planning scheme to vegetation removal in the Bushfire Management Overlay or Bushfire Prone Areas mapping;

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- b. Review the Biodiversity Strategy to provide a renewed focus for Council, the community and our partners;
- c. Investigate measures to establish and enhance the urban tree canopy;
- d. Review Council’s tree management policy and supporting guidelines; and
- e. Investigate measures to protect wildlife across a range of settings, including roadsides.

Access, Equity and Inclusion

- 31. In meeting relevant objectives of Council’s *Access, Equity and Inclusion Policy*, and as relevant to areas the NCS may influence with regard to such, consultation on the draft NCS has been carefully designed to access as many stakeholder groups as possible, noting the Stage 2 Consultation Findings Report (**Attachment 1**) outlines, among other demographic analysis at page 21, that with regard to gender of survey respondents, 50 (61%) of respondents were female and 27 (32.9%) were male, and five respondents preferred not to say.
- 32. Survey respondents were also asked to indicate if they identified with a prescribed listing of diversity characteristics. As shown in Figure 5 at page 24 of the Stage 2 Consultations Findings Report (**Attachment 1**), of the 82 survey 3 each respondents identified as a person with a disability, 3 as a person of Aboriginal or Torres Strait Island descent, and 3 persons as speaking English as a second language. 2 people identified as LGBTQI+.

Sustainability implications

- 33. Protecting a preferred neighbourhood character can provide direct benefits in regard to sustainability, including but not limited to retention and facilitation of vegetation cover.

Community engagement

- 34. This is discussed above.

Innovation and continuous improvement

- 35. The project aims to provide innovation and continuous improvement in terms of:
 - a) Utilising best and current planning knowledge and practice to enhance Nillumbik’s neighbourhood character values and subsequently improve upon residential development outcomes.
 - b) Utilising innovative engagement tools, such as the virtual walking tour and use of interactive technology in later rounds of consultation on the draft Strategy.
 - c) The successful implementation of the final Strategy (and associated outputs), which will define and appropriately protect preferred neighbourhood character values in the Shire.

Collaboration

- 36. The project is being managed in consultation with an internal Project Working Group comprising members from relevant units within Council.

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Budget implications

37. The project is fully funded and accounted for across Council's 2021-22/2022-23/ and 2023-24 financial years to the amount of \$220,000 (with additional for GST).

Relevant law

38. The project responds to relevant provisions within the Nillumbik Planning Scheme and relevant to that from a legal perspective, *The Planning and Environment Act 1987* is the State legislation that regulates all Victorian planning schemes.

Regional, state and national plans and policies

39. Accommodating population growth and providing housing diversity while retaining the valued elements that characterise a place is a well-established urban planning objective that underpins several planning policies at both the State and local levels.
40. In the Victorian Planning Policy Framework (PPF), *Clause 11.02-1S Supply of urban land* requires planning for urban growth to consider amongst other matters, neighbourhood character and landscape considerations. Further, *Clause 15.01-5S Neighbourhood character* seeks to recognise, support and protect neighbourhood character, cultural identity, and sense of place.

Conflicts of interest

41. No officer involved in the writing of this report has a conflict of interest with its subject matter.

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