

Planning and Consultation Committee Meeting

to be held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 6 June 2023 commencing at 7:00pm.

Agenda

Carl Cowie
Chief Executive Officer

Thursday 1 June 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

Rowena Cairns
Acting Manager
Governance and
Property

Blaga Naumoski
Director
Governance,
Communications
and Community
Safety

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

Carl Cowie
Chief Executive
Officer

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5. Confirmation of Minutes

COM.001/23 Confirmation of Minutes Planning and Consultation Committee Meeting held Tuesday 11 April 2023

Nillumbik Shire Council

Agenda of the Planning and Consultation Committee Meeting to be held Tuesday 6 June 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**

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

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.

5. Confirmation of Minutes

Confirmation of the minutes of the Planning and Consultation Committee Meeting held on Tuesday 11 April 2023.

Recommendation

That the Committee (acting under delegation from Council) confirms the minutes of the Planning and Consultation Committee Meeting held on Tuesday 11 April 2023 (**Attachment 1**).

Attachments

1. Minutes of the Planning and Consultation Committee Meeting held on 11 April 2023

6. Officers' reports

PCC.005/23 Review of the Governance Rule - Meeting Procedures - Hearing of Submissions

Item: Consultation Matter

Distribution: Public

Manager: Blaga Naumoski, Director Governance, Communications and Community Safety

Author: Rowena Cairns, Acting Manager Governance and Property

Summary

This report provides Council with the feedback of the community engagement undertaken in relation to the Draft Governance Rule – Meeting Procedures (**Attachment 1**).

Following endorsement for public consultation, Council's Draft Governance Rule – Meeting Procedures was open for community consultation for the period 1 March 2023 to 30 March 2023 inclusive.

A total of ten (10) submissions, including two written submissions were received. Submissions and Attachments are contained in (**Attachment 2 and 3**).

Officers will now use the feedback from the community together with the submissions heard at the Planning and Consultation Committee meeting and bring a report to the 27 June 2023 Council Meeting for endorsement of the revised Governance Rule – Meeting Procedures.

Recommendation

That the Committee (acting under delegation from Council):

1. Acknowledges and notes the 10 submissions from members of the community who provided feedback on the Draft Governance Rule – Meeting Procedures (**Attachments 2 and 3**).
2. Considers the feedback contained in the submissions during the finalisation of the Governance Rule – Meeting Procedures.
3. Considers the presentations made to the Committee during the finalisation of the Governance Rule – Meeting Procedures.
4. Receives a report at the 27 June 2023 Council Meeting to consider endorsing the Governance Rule – Meeting Procedures.
5. Resolves the confidential un-redacted copy of the written submissions to the Draft General Local Law (**Attachment 3**) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(f) of the *Local Government Act 2020*.

Attachments

1. Draft Governance Rule - Meeting Procedures
2. Public Submissions - Governance Rule - Meeting Procedures - Redacted
3. Public Submissions - Governance Rule - Meeting Procedures- Unredacted - *CONFIDENTIAL*

6. Consultation Matters

PCC.005/23 Review of the Governance Rule - Meeting Procedures - Hearing of Submissions

Discussion

1. On 25 August 2020, Council adopted its Governance Rule – Meeting Procedures (**Meeting Procedures**) as required under the then new *Local Government Act 2020* (the Act).
2. On 30 November 2021, the *Regulatory Legislation Amendment (Reform) Bill 2021* was introduced into Parliament, foreshadowing a change to *the Local Government Act 2020* that would require all Councils to alter their Governance Rules by the end of August 2022 to accommodate processes for the conduct of Council meetings by electronic means of communication.
3. The *Regulatory Legislation Amendment (Reform) Act 2022* passed in March 2022 replaced the existing temporary emergency provisions and the changes commenced on 2 September 2022 provide for attendance and participation in Council meetings and delegated committees by electronic means of communication.
4. The changes mean that section 60 of the Act now states:
 - 1) A Council must develop, adopt and keep in force Governance Rules for or with respect to the following —
 - a) the conduct of Council meetings (including holding Council meetings by electronic means of communication);
 - b) the conduct of meetings of delegated committees (including holding meetings of delegated committees by electronic means of communication);
 - ba) requesting and approval of attendance at Council meetings and meetings of delegated committees by electronic means of communication.
5. Other minor amendments:
 - widen the definition of being present at a meeting to include attendance by electronic means; and
 - make permanent the temporary measures relating to the need to live stream any meeting that is held solely by electronic means;
6. The Minister’s Good Practice Guideline MGP3-3 issued under section 87 of the Act, took effect on 2 September 2022 and state that “Electronic meetings, commonly referred to as ‘virtual meetings’, could include meetings where all the participants attend in person, some person attend electronically i.e., ‘hybrid’ or where attendees across several meeting locations join electronically i.e. ‘parallel’”.
7. The phrase “electronic means of communication” is not defined in the Act nor in the *Interpretation of Legislation Act 1984* so it has its ordinary dictionary meaning, which includes telephone calls.
8. In recognition of the requirement to amend Council’s Meeting Procedures (including the requirement to undertake a community engagement process as part of the process), together with the opportunity to reflect on the first 24 months of operation of the rules, in August 2022, a decision was taken to conduct a thorough review of the Council’s existing Governance Rule - Meeting Procedures.

6. Consultation Matters

PCC.005/23 Review of the Governance Rule - Meeting Procedures - Hearing of Submissions

9. The Meeting Procedures review was informed by the experience of Council meetings since the adoption of the current rules in mid-2020, and feedback from meeting participants during that time (staff and members of the community) and the Councillors. Benchmarking has been undertaken with interface councils, as well as with selected other councils on a number of key issues.
10. The proposed changes to the Meeting Procedures currently in operation include:
- making permanent the previously temporary provisions enabling the conduct of electronic Council meetings (which became necessary during the pandemic);
 - flexibility to enable members of the public to address Council meetings in a way tailored to the specific matter being considered, while ensuring there is a right to be heard on all matters before a decision is made;
 - review of the public question time provision to provide greater clarity;
 - changes to the notice of motion provisions to ensure enough time is provided for the admission of a notice of motion and clarify around appropriate formats of notice of motions. The proposed changes require Council to seek an officer report before making a change to a service level or committed to an expenditure that has not previously been budgeted for;
 - the introduction of the process for admission of delegate’s reports;
 - clarifying the process for the receipt of petitions;
 - a number of administrative changes are also proposed (removal of some now redundant provisions, minor formatting and punctuation issues and renumbering of clauses throughout); and
 - clearer language and definitions.
11. Importantly, the Draft Meeting Procedures would regulate proceedings at Council meetings, and delegated committee meetings, for the following meeting types:
- In person: all Councillors and attendees present in the Council Chamber.
- Hybrid: a number of Councillors and attendees in the Council Chamber, with a Councillor or attendee(s) to join and participate via a video conferencing system.
- Fully remote: Councillors and attendees join via video conferencing system.
12. The clauses are proposed around requesting and approving attendance by electronic means. Recognising the importance of participating in the decision-making process in full public view, the proposed provisions pertaining to electronic meetings recommends that hybrid meetings will not proceed if more than one Councillor requests electronic participation, and introduces a process for holding wholly electronic meetings.

6. Consultation Matters

PCC.005/23 Review of the Governance Rule - Meeting Procedures - Hearing of Submissions

13. Various existing clauses have also been changed to manage remote attendance, including:
- how the Chair should manage a situation if a member attending electronically cannot hear proceedings, or cannot be seen or heard, but a quorum is present; and
 - how to close a meeting for an agenda item that is confidential or how to ensure that a Councillor with a declared conflict of interest is unable to hear a discussion are other aspects that need controls.
14. The above changes do not necessitate any changes to existing audio visual equipment currently in the Council Chamber. Any requests or improvements to such equipment will be brought back to Council for consideration at a future time.

Related Council decisions

15. Council resolved at its 28 February 2023 Council Meeting that Council:
- 1) *Endorses the draft Governance Rule – Meeting Procedures shown at Attachment 2 for public consultation from 1 March 2023 to 30 March 2023 inclusive;*
 - 2) *Invites written submissions regarding the proposed amendments outlined in the draft Governance Rule – Meeting Procedures by 30 March 2023;*
 - 3) *Considers public submissions at the Planning and Consultation Committee meeting to be held on 13 June 2023; and*
 - 4) *Notes that any person who makes a written submission in relation to the draft Governance Rule – Meeting Procedures and requests to be heard in support of the written submission, be heard at the June 2023 Planning and Consultation Committee meeting.*

Options

16. The Council notes and considers the written and verbal submissions made in relation to the revision of the Meeting Procedures during the finalisation of the Governance Rule – Meeting Procedures.
17. That upon considering the written submissions and hearing the verbal submissions at the Planning and Consultation Committee meeting, Council will be asked to endorse the revised Governance Rule – Meeting Procedures at the 27 June 2023 Council meeting.

Council plans and policies

18. 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.

6. Consultation Matters

PCC.005/23 Review of the Governance Rule - Meeting Procedures - Hearing of Submissions

Access, Equity and Inclusion

19. As this report relates to the development or review of a policy, program or service that has a direct and significant impact on the public, the *Gender Equality Act 2020* requires that a Gender Impact Assessment (GIA) be undertaken.
20. A GIA has been conducted and has identified potential gender inequality implications and recommendations, including:
 - Removal of gendered references from the proposed Rules, with these replaced by neutral references or titles (for example, removing reference to the Mayor as ‘Mr Mayor’ or ‘Madam Mayor’).
 - Inclusion of participation by electronic means will improve accessibility to Council and delegated committee meetings for Councillors or members of delegated committees who may have caregiving responsibilities.
21. This report does not impact negatively on any rights identified in *the Charter of Human Rights and Responsibilities Act 2006* (VIC).

Sustainability implications

22. There are no sustainability implications arising from the recommendation contained in this report.

Community engagement

23. The Minister’s guideline is not written in such a prescriptive way that it could be easily “adopted” into the Governance Rules as envisaged under section 60(5) of the Act and so be exempt from the need for a process of community engagement.
24. This means that Council must use a process of community engagement in making these changes to the existing Governance Rules.
25. The Meeting Procedures were open for public consultation via Council’s Participate site for the period exhibited for the period 1 March to 30 March 2023.
26. The Meeting Procedure website was visited 198 times with a total of 263 views during the exhibition period.
27. A total of ten (10) submissions were received via Participate together with two written submissions. Full details of the submissions can be found in the Combined Public Submissions - Draft Governance Rule (**Attachment 2 and 3**).
28. A copy of the un-redacted Submissions and Attachments to the Draft Budget 2023 2024 are contained in (**Attachment 3**). It is proposed that these Submissions and Attachments remain confidential on the grounds specified in the definition of confidential information in Section 3(1) of the *Local Government Act 2020*.
29. The consistent theme from the submissions related to the Prayer being included in the Order of Business. Nine out of the ten submissions asked for the removal of the Prayer.

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PCC.005/23 Review of the Governance Rule - Meeting Procedures - Hearing of Submissions

30. The *Local Government Act 2020* does not require councils to conduct Prayers. It does expect that councils will reflect, and are accountable to, the communities that they are elected to serve and therefore the officer advice is that Council in making a decision should consider the purpose and effect in acknowledging religion at our Council meetings and how this reflects on and serves all members of the community.
31. Other themes included rectification of minor drafting errors, improving transparency of voting by Councillors, Delegates Reports, Virtual Meetings, Petitions and Public Question Time.
32. Officers will update the Meeting Procedures to address the community feedback with changes that are not substantive but which will assist in providing clarity and consistency of intent and approach.

Innovation and continuous improvement

33. The development of the Meeting Procedures will facilitate improvements in the experience of meetings.

Collaboration

34. Knowledge has been shared informally between several councils as to both the process and content of changing the Meeting Procedures to support Council in allowing for online attendance and participation in meetings on an ongoing basis.

Budget implications

35. There are no budget impacts of this report, with no proposed changes to the audio visual equipment in the Council Chamber and the impact on staff resourcing largely officer time associated with undertaking the community engagement program and preparing the subsequent reports for Council. These impacts are allowed for within the relevant staff work plans.

Relevant law

36. Section 60 of the *Local Government Act 2020* and the Ministerial Best Practice Guideline issued under section 87 of that Act; as well as *the Regulatory Legislation Amendment (Reform) Act 2022* are applicable to the consideration of this matter.
37. Council's Community Engagement Policy and guidelines have been referenced and will be followed in the preparation of this review.
38. In developing this report to Council, the subject matter has been considered in accordance with the requirements of the *Charter of Human Rights and Responsibilities Act 2006*.
39. It is considered that the subject matter does not raise any human rights issues.

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Regional, state and national plans and policies

40. Not applicable.

Conflicts of interest

41. The *Local Government Act 2020* requires members of Council staff and persons engaged under contract who provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.
42. The 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.

6. Consultation Matters

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6. Officers' reports

PCC.006/23 Draft Neighbourhood Character Strategy - updated draft and proposed Phase 3 Engagement (Close the Loop)

Item: Consultation Matter

Distribution: Public

Manager: Rosa Zouzoulas, Director Planning, Environment and Strategy

Author: Leigh Northwood, Manager Strategic Planning and Environment

Summary

The purpose of this report is to provide Council with the updated Draft Neighbourhood Character Strategy (NCS) (**Attachment 1**) for consideration of approval to put the draft out for programmed Phase 3 engagement (close the loop).

Changes to the draft NCS are a result of a detailed analysis of submission responses to Phase 2 engagement and hearing verbal submissions to the February 2023 PCC on the matter. The recommendations also include feedback from the Project Working Group (PWG). See below for detail with regard to the breadth of changes made to the draft and the locations of such changes within the document, however key changes include among other matters:

- a) Additional and clarified definitions within the draft including definitions for canopy tree and amenity tree and 'muted tones';
- b) Introduction of a section within the NCS clarifying the interrelationship and tensions with climate action and Environmentally Sensitive Development (ESD) and how other policies/strategies work in this space and support the NCS;
- c) Review of approximately 20 mapped Neighbourhood Character Precincts (i.e. submitters who are not satisfied with their identified Neighbourhood Character Precinct for various reasons) noting 4 areas have had applied Neighbourhood Character Precinct changed as a result of this review;
- d) Further consideration of colour (particularly 'muted tones') and materiality both in built form and fences;
- e) Further consideration in the design guidelines as to the role of canopy trees in side setbacks vs front setbacks (defining what a canopy tree is for Nillumbik);
- f) New Section 8.0 Implementation added the Draft NCS. This includes discussion with regard to technically how the objectives and design guidelines in an adopted NCS could be effectively implemented into the planning scheme noting this section also identifies a proposed expansion of the Significant Landscape Overlay (SLO) and introduction of Schedules to the Residential Zones to implement a variation above the performance standards set by ResCode to achieve the Preferred Character for each neighbourhood character precinct; and
- g) Identification of further work to support implementation of the Neighbourhood Character Strategy is also recommended in the latest draft including preparation of a vegetation and landscaping guidelines document to support the delivery of the various landscape outcomes intended in the NCS.

PCC.006/23 Draft Neighbourhood Character Strategy - updated draft and proposed Phase 3 Engagement (Close the Loop)

Engagement on the draft NCS has been an iterative process, and the first two rounds of engagement on the draft Neighbourhood Character Strategy had very different intents. It is noted the purpose of Phase 3 engagement (close the loop) is to ensure all community feedback relevant to the draft strategy has been considered and clarity is provided as to how feedback has been considered, where changes have been made accordingly, and if not why. Phase 3 engagement is proposed for five weeks through June/July.

As per the project program, the updated Draft Neighbourhood Character Strategy is programmed to be brought to the September Planning and Consultation Committee meeting where any submitters will be invited to speak.

Recommendation

That the Committee (acting under delegation from Council):

1. Notes the draft Nillumbik Neighbourhood Character Strategy, which is provided as **Attachment 1**;
2. Endorses the draft Nillumbik Neighbourhood Character Strategy for Phase 3 engagement through June and July (for 5 weeks); and
3. Notes that a report is scheduled to be presented to Council’s Planning and Consultation Committee in September 2023 that will present feedback to Phase 3 engagement on the draft Nillumbik Neighbourhood Character Strategy.

Attachments

1. Draft Nillumbik Neighbourhood Character Strategy
2. Draft NCS - Phase 2 Survey Response Analysis Table Redacted
3. Draft NCS - Phase 2 Written Response Analysis Table Redacted

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.
3. The areas covered by the Strategy include all residential land within the Shire (this does not include Green Wedge).
4. Council heard verbal submissions to the PCC of 14 February 2023 with regard to feedback to the most recent round of engagement on the NCS (Phase 2), which was specifically about seeking feedback on the first draft of Neighbourhood Character Strategy itself, and particularly neighbourhood character precinct mapping, preferred character statements, objectives and design guidelines.

PCC.006/23 Draft Neighbourhood Character Strategy - updated draft and proposed Phase 3 Engagement (Close the Loop)

Feedback to Phase 2 engagement

5. Refer to **Attachment 2** and **Attachment 3** which provides an analysis of redacted feedback to survey and written responses respectively received to Phase 2 engagement. Responses have been provided by both Council officers and Ethos, noting those rows highlighted in yellow are those that have been referred to Ethos for further consideration and response.
6. Note the package of recommended changes to Ethos, also included feedback from the PWG which comprises officers from strategic planning, urban design, statutory planning, environment, land management, communications, who have worked through the submissions and also considered further points of clarification/change to the draft NCS in preparation of the next draft.

Changes made to draft NCS

7. As noted above, **Attachments 2 and 3** respectively provide detail with regard to response to all feedback, and these tables will be made available on the Participate Nillumbik webpage (redacted) subject to Phase 3 engagement being endorsed, however in summary the main changes to the draft NCS (as presented at **Attachment 1**) are as follows:
 - a. Wider use of definitions within the document:
 - i. Where a term is not defined, it takes its ordinary and general meaning; consistent with the Ministerial Direction for Form and Content of Planning Schemes.
 - ii. See in further analysis below where definitions have been added across a number of matters in supporting the intents within the draft NCS and providing clarity e.g. muted tones, canopy trees, 'modern architecture'.
 - b. Introduction of section within the draft NCS to clarify the interrelationship and tensions with climate action and Environmentally Sensitive Development and how other policies/strategies work in this space:
 - i. Discussion added in Section 4.10, discussing the interrelationship between NCS, climate change and ESD. Opportunities for further work also discussed in Section 8.5 in regard to ESD, vegetation and landscaping etc.
 - ii. ESO/vegetation and landscaping discussion also enhanced at Section 2.4.
 - c. Review of approximately 20 mapped Neighbourhood Character Precincts (i.e. submitters who are not satisfied with their identified Neighbourhood Character Precinct for various reasons noting quite a few have provided no reason for not being satisfied with the identified typology for their property).
 - d. Further consideration of colour (particularly 'muted tones') and materiality both in built form and fences:
 - i. Appendix B added (page 139) showing examples of dwellings which apply a muted colour palette of earth and bush tones across Nillumbik;
 - ii. Discussion in key issues and threats (Section 4.9) has been enhanced identifying inconsistent colours & materials;

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- iii. Further work (Section 8.6) has been added identifying need for guidelines for dwelling materiality, roofing and fencing;
- iv. Design guidelines added across all precinct profiles relating to clarification of 'muted tones' and the use of non-reflective materials & finishes for walls, roofs and windows:
 - *New development should use a muted colour palette of earthen and bush tones, particularly greens, browns and greys.*
 - *Use non-reflective materials and finishes for walls, roofs and windows.*
- v. Definition of Light Reflective Value (LRV) and Muted Colour Palette added to definitions at page 4:
 - *The light reflectance value of an individual colour indicates the amount of light and heat that individual colour will reflect.*
 - *Refers to earthen and bush tones, particularly greens, browns and greys - See appendix B for examples across Nillumbik Shire.*
- e. Further consideration in the design guidelines as to the role of canopy trees in side setbacks vs front setbacks (defining what a canopy tree is for Nillumbik);
 - i. Design guidelines pertaining to gardens and landscaping and siting and setbacks have been amended within all precinct profiles, tightening recommendations in regard to species and canopy trees;
 - ii. Canopy and Amenity tree defined in definitions at page 3 and 4:
 - *A canopy tree is defined as an indigenous tree that is a character species of an ecological vegetation class (EVC) that occurs in Nillumbik Shire Council and has the capacity to reach 20m in height or greater at maturity; and*
 - *An amenity tree is a species indigenous to Nillumbik municipal area that has the capacity to reach a minimum height at maturity of 8m.*
 - iii. Discussion relating to canopy vs amenity trees & role of planting in setbacks has been amended in key issues & threats (Section 4.3);
 - iv. Design guidelines across all character precincts updated to provide further clarity as to species selection:
 - *Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate indigenous and native species as identified in the Nillumbik Live Local Plant Local Guide.*
 - v. Definitions updated to include a definition of Ecological Vegetation Classes (EVC) consistent with species identified in the *Nillumbik Live Local Plant Local Guide* accordingly:
 - *Ecological Vegetation Classes (EVC) are the standard unit for classifying vegetation types in Victoria. EVCs are described through a combination of floristics, lifeforms and ecological characteristics, and through an inferred fidelity to particular environmental attributes.*

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- f. Review of provision of rear setback canopy trees particularly in proposals for more than one dwelling on a lot;
 - i. Discussion has been enhanced in key issues & threats (Section 4.3) & further work (Section 8.6) relating to the loss of vegetation in rear setbacks, the scope of Neighbourhood Character Strategy generally & recommendations for further work regarding provisions for rear setback canopy trees.

Use of language in the draft NCS:

- g. Review of language for opportunity to strengthen intent where appropriate, noting it has been conveyed in officer responses and to Councillors that the planning scheme amendment to implement the NCS objectives is where specific ordinance will be drafted meeting the required rules of drafting that would effectively identify specific requirements that would meet identified design responses in the NCS, and that provisions within the planning scheme to implement neighbourhood character objectives will need to be a mixture of both discretionary and mandatory requirements to optimise character outcomes:
 - i. A section has been added the draft NCS (Section 8.1) addressing the role/limitations of language in the NCS noting that language used throughout the draft NCS is consistent with the requirements for preparing planning scheme ordinance. This is in accordance with *Practitioners Guide - Appendix 1 (DTP, April 2022)* as well as *Planning Practice Note 43 - Understanding Neighbourhood Character*. Key to this is that it is not the role of the NCS to use mandatory language such as ‘must’ rather it is the role of the strategy to provide the intents for neighbourhood character through objectives and design guidelines, and for those objectives and design guidelines to be used in various implementation methods in the planning scheme to achieve the desired outcomes – some being more mandatory e.g. performance standards as discussed below, and some more discretionary which is particularly important for areas with complex environment settings.
 - ii. New Section 8.0 Implementation added the Draft NCS (as was programmed for to be implemented into the draft as part of original scope) detailing recommended implementation. This includes discussion with regard to technically how the objectives and design guidelines in an adopted NCS could be effectively implemented into the planning scheme via preparation of planning scheme ordinance to support a future planning scheme amendment. Notably this can only occur once the programmed Housing Strategy has been substantially completed, consistent with the requirements of the relevant Planning Practice Notes where these strategies NCS and Housing Strategy are iterative. Recommendations in this new section include among other matters:

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- Updating the Nillumbik Shire Planning Policy Framework (PPF) with the non-measurable elements of the Character Areas Profiles including, Character Area Maps and character elements which cannot sit within a Zone or Overlay Schedule, which also assist in protecting and enhancing the character of these residential areas;
- Updates to applicable residential zone schedules in alignment with *Planning Practice Note 91*, the five neighbourhood character objectives for each neighbourhood character area, will be specified in a schedule to a residential zone to implement the preferred neighbourhood character in the Nillumbik Planning Scheme. The schedules that can be added to the Residential Zones provide the mechanism to implement many of the Design guidelines developed to achieve the Preferred Character for each neighbourhood character precinct. The schedules can contain different design standards than those that would otherwise apply through the ResCode standards at Clauses 54 and 55 of the planning scheme. The draft NCS identifies variations to ResCode standards across street setback, side setbacks, minimum site coverage, permeability and landscaping requirements. This represents a performance standard based approach whereby an application would need to demonstrate how it meets the performance standard.
- Section 8.4 (page 43) identifies a proposed expansion of the Significant Landscape Overlay (SLO) which is the current tool used within the Nillumbik Planning Scheme to implement Neighbourhood Character objectives. The latest draft of the NCS recommends the SLO is proposed for heavily vegetated Character Areas that are not currently covered by an existing SLO. This includes Bush Residential 1, Bush Residential 2, Urban Canopy Residential 2 and Rural Residential 1. The relevant areas within the Shire that are not currently covered by the SLO but are recommended to have the SLO applied to them based on the recommendations of the draft NCS include areas of Greensborough, Yarrambat, Diamond Creek, Eltham, Eltham North and Wattle Glen. Vegetation and landscaping in these Character Areas has been identified in the draft NCS as having significant and a defining neighbourhood character element. The SLO will require a permit for the removal of indigenous and native vegetation and trees identified in the design guidelines, supported by the *Nillumbik Live Local Plant Local Guide*. The SLO will also reflect the minimum site coverage and permeability requirements of the Zone schedule. To ensure consistency, the existing SLO which currently applies to certain areas may also need to be amended in aligning to the additional zone schedule performance standards.
- It is important to note that recommendations in Section 8 would need to be fully worked through as part of development of a planning scheme amendment which would include workshopping with the Department of Transport and Planning in drafting planning scheme controls (schedules/overlays) that would be effective in implementing NCS intents and objectives. A future planning scheme amendment process would also require formal notification and consultation pursuant to the statutory

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requirements of the *Planning and Environment Act 1987* (the Act) that would allow for submissions to proposed changes to the planning scheme. Formal adoption of the NCS does not of itself approve changes as recommended in the Strategy to the planning scheme to implement the NCS – that is a matter for separate planning scheme amendment process and attributable Council decision making as required by the Act.

- h. Consider alternative name for Garden Court typology as there appears to be some perceptions that this typology is not as desirable as others (particularly Bush Residential typology):
 - i. Garden Court typology renamed to Urban Canopy Residential in the draft NCS.
- i. Two submissions identified the cover photo on the draft as an issue noting it did not effectively demonstrate Nillumbik’s green indigenous tree canopy. The current cover photo Ethos has advise depicts the Garden Residential neighbourhood character typology (NCT) in Diamond Creek. The submissions, and Councillors confirmed a preference for an image of the Bush Residential NCT be used on the front cover.
 - i. Cover photo updated with an image of Bush Residential typology located in Eltham.

Further work to support implementation of the Neighbourhood Character Strategy

- j. The draft NCS identifies additional further work that is highly recommended to support the effectiveness of the Neighbourhood Character Strategy and its implementation into the Nillumbik Planning Scheme. These include:
 - **Dwelling materiality, roofing and colour palette:** further work to be undertaken to identify materials and surface colours that are appropriate within the identified neighbourhood character settings while also responding to relevant ESD principles, such as Light Reflectance Value (LRV). As mentioned earlier, sustainability objectives are often at odds with the application of earthen and bushy tones, building materials and roofing.
 - **Specific guidelines for fencing:** further work recommended regarding front fencing to support this Neighbourhood Character Strategy. These guidelines would specify suitable fencing materials, and the transparency and colours which best respond to the neighbourhood character of each precinct. These guidelines would be updated accordingly over time to allow for product and material innovation and to support acceptable front fence design for future residential development.
 - **Specific guidelines for vegetation and landscaping:** further work should be undertaken to determine appropriate provisions for rear setback canopy tree planting, including identifying specific areas where greater consideration is needed in regard to rear setback planting. Also, further work should investigate and identify the minimum deep soil areas required for the range of preferred tree species for Nillumbik Shire, including canopy trees and amenity trees. A **supporting vegetation and landscaping guidelines document** would correspond with the directions and recommendations of

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the *Nillumbik Live Local Plant Local Guide*, and support the delivery of the various landscape outcomes intended. Officers are of a view that this particular recommendation is of high merit in ensuring that the planting intents and requirements within the draft NCS once adopted and implemented will result. Without guidelines around planting (which can be implemented into the planning scheme), which consider matters such as suitable permeability of surfaces surrounding for example a canopy tree to enable it to grow and thrive at maturity and a commensurate depth and breadth of soil to also accommodate such, efforts to compel planting of vegetation as intended by the NCS would not be as effective. It is one matter to intend and compel planting, however it is another to ensure the vegetation planted is ensured the best opportunity to thrive and mature.

Related Council decisions

8. 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; and
 - 14 February 2023 - The resolution of Council's Planning and Consultation Committee to note the community feedback to the second round of engagement to the project and that an updated draft of the NCS is scheduled to be presented to the June 2023 Council Meeting.

Options

9. The officer recommendation proposes that Council endorse the draft NCS for a third round of community engagement. The rationale for this recommendation is that Phase 3 'close the loop' engagement on the draft is the next programmed action in the project plan and it is important and timely to now demonstrate to the community how and where we have captured their substantive feedback to the draft.
10. It is noted, as discussed above, that this is not the last opportunity for the community to consider the NSC, noting upon any adoption of a final NCS, a planning scheme amendment pursuant to the requirements of the *Planning and Environment Act 1987* would involve formal notification on the planning scheme amendment that would implement the NCS into the planning scheme.

Council plans and policies

11. 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.

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- The priority actions to develop a new Housing Strategy and Neighbourhood Character Strategy for the Shire.
12. 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.
 13. 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;
 - 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

14. 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.

Sustainability implications

15. 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

Proposed Consultation on the Phase 3 Draft of the NCS

16. Engagement on the draft NCS has been an iterative process, and the first two rounds of engagement on the draft Neighbourhood Character Strategy had very different intents. It is noted the following purpose and timeframes of the 3 phases of engagement on the draft NCS:

PCC.006/23 Draft Neighbourhood Character Strategy - updated draft and proposed Phase 3 Engagement (Close the Loop)

Phase 1 Consultation First round of engagement – Championing the strategy (COMPLETE)	Phase 2 Consultation Second round of engagement - Consultation on the draft Neighbourhood Character Strategy (COMPLETE)	Phase 3 Consultation Third round of engagement – Close the loop (CURRENT)
<p>Purpose: To inform the community about the project, educate the community about neighbourhood character, the Strategy and the process and engage on what people value about their neighbourhoods.</p> <p>28 March – 8 May (6 weeks)</p>	<p>Purpose: To seek feedback on the draft Strategy, particularly the proposed Neighbourhood Character Precincts (using the find your address tool) and the attributable Neighbourhood Character objectives and design guidelines.</p> <p>29 August – 10 October 2022 (5 weeks)</p>	<p>Purpose: To ensure all community feedback relevant to the draft strategy has been considered and Council provide clarity as to how feedback has been considered, where changes have been made accordingly and if not why.</p> <p>June – July Phase 3 Engagement (5 weeks due to school holidays from 26 June – 7 July).</p>

17. Engagement given the project has been through substantive investment and time in engagement phases previously is recommended to include (subject to Council approval at the June PCC):
 - a. Updated Participate Nillumbik webpage including updates to online plug-in search your property function to reflect changes to character precincts made in latest draft of NCS;
 - b. Notification to all submitters that the updated draft is available on Participate Nillumbik;
 - c. Written and Survey Feedback Analysis Tables (redacted) to be made available on the Participate Nillumbik page to allow submitters to review how their feedback has been responded to;
 - d. Online feedback form;
 - e. Q&As (updated);
 - f. 2 x bookable, moderated, virtual drop-in sessions (15 min slots) over 2 evenings in the week of 10 July 2023 after school hols which still gives a good week and a half for people to provide a response/feedback and over two evenings as this gives flexibility if someone can't attend one of the sessions, they should be able to attend the other; and
 - g. The engagement will be promoted through social media, noting paid social media alerts have proven successful through previous rounds of engagement.
18. After the engagement, the response to engagement will be reported to Councillors by a briefing in September and any submitters will be invited to attend a PCC in the same month.
19. The draft NCS is programmed to be brought to a Council Meeting in November/December for consideration of adoption.

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Innovation and continuous improvement

20. The project is important to updating Council's planning policy regarding housing in residential areas, particularly in regards to neighbourhood character.

Collaboration

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

Budget implications

22. 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

23. *Planning and Environment Act 1987* (the Act).

Regional, state and national plans and policies

24. The Neighbourhood Character Strategy and Housing Strategy are required by State Planning Policy.

Conflicts of interest

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

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6. Officers' reports

PCC.007/23 Draft Biodiversity Strategy - community engagement approach

Item: Consultation Matter

Distribution: Public

Manager: Rosa Zouzoulas, Director Planning, Environment and Strategy

Author: Leigh Northwood, Manager Strategic Planning and Environment

Summary

Council is in the process of developing a new Draft Biodiversity Strategy. It will provide strategic direction for Council action to support the protection of Nillumbik's biodiversity.

This report seeks endorsement of the proposed Stage 1 community engagement process in relation to the development of the new Draft Biodiversity Strategy.

The community will be invited to contribute to the development of the Draft Strategy during a community engagement period from 26 June to 30 July 2023 (stage 1).

Once the Biodiversity Strategy has been drafted, the community will subsequently be invited to provide comments on the Draft Biodiversity Strategy in 2024 (stage 2).

Recommendation

That the Committee (acting under delegation from Council):

1. Notes the Biodiversity Strategy Community Engagement Plan (**Attachment 1**).
2. Endorses the proposed Biodiversity Strategy Stage 1 community engagement period (26 June – 30 July 2023) and process as follows:
 - 2 online stakeholder workshops
 - 2 school workshops
 - 2 place-based pop ups
 - Liaison with Council advisory committees and Youth Council
 - A dedicated Participate Nillumbik webpage
 - A survey.
3. Requests that officers make the report "What we've already heard from our community – A collation of recent Shire community consultation findings to inform the Nillumbik Biodiversity Strategy in 2023" (**Attachment 2**) available to the public on Council's website.
4. Requests officers to brief Council on the findings of the Stage 1 community engagement at a future date.

Attachments

1. Biodiversity Strategy Community Engagement Plan
2. Summary of previous (biodiversity) consultation findings

Discussion

1. The Council Plan 2022/23 Annual Action Plan includes Action #18 to “Continue to review our Biodiversity Strategy to provide renewed focus for Council, the community and our partners”.
2. Community engagement consultancy, Chatterbox, has been engaged to design and deliver the community consultation to help inform the development of the Draft Strategy.
3. Stage 1 community engagement will be undertaken between 26 June and 30 July 2023, to help inform the development of the Draft Strategy. Detail is provided in the Biodiversity Strategy Community Engagement Plan (**Attachment 1**).
4. The objectives of the Stage 1 engagement are to:
 - a) Build on relevant previous community feedback on biodiversity matters “what we have heard already” (summarised in **Attachment 2**)
 - b) Understand community attitudes around biodiversity
 - c) Provide the general community with opportunities to have their say
 - d) Target and seek input from relevant and highly interested key stakeholder groups.
5. The community engagement process will include:
 - a) 2 online stakeholder workshops
 - b) 2 school workshops (in person)
 - c) 2 place-based pop ups (one urban in Diamond Creek and one rural in St Andrews)
 - d) Liaison with Council advisory committees and Youth Council
 - e) A dedicated Participate Nillumbik webpage
 - f) A survey.
6. A list of the type of questions that will be asked in the survey is provided as part of **Attachment 1**.

Related Council decisions

7. On 24 May 2022, Council adopted its Annual Action Plan 2022-2023 which encompasses 46 actions to support the second year delivery of the Council Plan 2021-2025. It includes action 18 to ‘continue to review our biodiversity strategy to provide renewed focus for Council, the community and our partners’.

Options

8. Councillors were presented with a proposed community engagement process at a Councillor workshop on 2 May 2023 and provided with the opportunity to provide feedback.
9. This feedback has informed the refining of the community engagement process, including stakeholder identification and survey.
10. Endorsement of the community engagement process is now sought, including commencing stage 1 engagement on 26 June 2023.

Council plans and policies

11. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
- We are committed to protecting and enhancing the environmental integrity of our community's unique surroundings, Aboriginal heritage, natural environment and diverse wildlife.
 - We understand and value biodiversity and its importance to human health and wellbeing, and take action to protect and enhance biodiversity in Nillumbik.
 - We communicate clearly and regularly, taking the time to listen and engage with our community.

Access, Equity and Inclusion

12. The community engagement process has been designed to be accessible to, and collect feedback from, diverse community representation – including rural and urban voices, young people and adults, day time and evening feedback opportunities, and in-person and on-line feedback opportunities.

Sustainability implications

13. The finalised Biodiversity Strategy will provide strategic direction for Council to support positive environmental outcomes.

Community engagement

14. This community engagement will be undertaken in accordance with Council's Community Engagement Policy.
15. Specialist community engagement consultancy, Chatterbox, has been engaged to design and lead the consultation process.
16. Council's Environment and Sustainability Advisory Committee was consulted to support the refinement of the Stage 1 community engagement process.
17. In addition to community engagement, local and regional professional stakeholders will also be engaged (i.e. DEECA, Parks Victoria, Melbourne Water, neighbouring councils and Trust for Nature).
18. Representatives of Wurundjeri Woi-wurrung have been consulted to ascertain how they would prefer to be engaged with, and this engagement will take place later in 2023.

Innovation and continuous improvement

19. The Draft Biodiversity Strategy will be developed with innovation and continuous improvement as a guiding principle.

Collaboration

20. In addition to carrying out community consultation, Council will consult with stakeholders such as neighbouring Councils, Parks Victoria, Melbourne Water, DEECA and others to support the design of a Draft Biodiversity Strategy that considers biodiversity at a regional scale.

Budget implications

21. There are no 2023/2024 budget implications.

Relevant law

22. *Local Government Act 2020.*

Regional, state and national plans and policies

23. When developing the Draft Biodiversity Strategy a range of regional, state and national plans and policies will be taken into account.

Conflicts of interest

24. 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.

- 7. Supplementary and urgent business**
- 8. Confidential reports**
- 9. Close of Meeting**