

# **Council Meeting**

to be held at the Civic Centre, Civic Drive, Greensborough  
on Tuesday 23 August 2022 commencing at 7:00pm.

## **Agenda**

**Vince Lombardi  
Acting Chief Executive Officer**

Thursday 18 August 2022

Distribution: Public

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# Council Chamber Council Meeting seating plan

**Cr Natalie Duffy**  
Edendale Ward

**Cr Karen Egan**  
Bunjil Ward

**Cr Richard Stockman**  
Blue Lake Ward

**Katia Croce**  
Governance Lead

**Sally Johnson**  
Acting Executive  
Manager Governance,  
Communications and  
Engagement

**Cr Frances Eyre**  
**(Mayor)**  
Swipers Gully  
Ward

**Vince**  
**Lombardi**  
Acting Chief  
Executive  
Officer

**Cr Peter Perkins**  
Ellis Ward

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

**Cr Geoff Paine**  
Wingrove Ward

**Nillumbik Shire Council**

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**Nillumbik Shire Council****Agenda of the Meeting of Nillumbik Shire Council to be held  
Tuesday 23 August 2022 commencing at 7:00pm****1. Welcome by the Mayor**

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

**2. Acknowledgement of Country by the Mayor**

Nillumbik Shire Council respectfully acknowledges the Wurundjeri Woi-wurrung people as the Traditional Owners of the Country on which Nillumbik is located, and we value the significance of the Wurundjeri people's history as essential to the unique character of the shire. We pay tribute to all First Nations People living in Nillumbik, give respect to Elders past, present and future, and extend that respect to all First Nations People.

We respect the enduring strength of the Wurundjeri Woi-wurrung and acknowledge the ongoing impacts of past trauma and injustices from European invasion, massacres and genocide committed against First Nations People. We acknowledge that sovereignty was never ceded.

Wurundjeri Woi-wurrung people hold a deep and ongoing connection to this place. We value the distinctive place of our First Nations People in both Nillumbik and Australia's identity; from their cultural heritage and care of the land and waterways, to their ongoing contributions in many fields including academia, agriculture, art, economics, law, sport and politics.

**3. Good Governance Pledge**

As Councillors, we are mindful of our civic responsibilities and obligations. We pledge to take them seriously, and to carry them out with diligence and integrity.

We know the decisions we take will affect the people and environment of Nillumbik, now and in the future. We undertake, therefore, to make sound and principled decisions of lasting value, in a spirit of fairness and for the good of all.

We also pledge to serve the needs and wellbeing of the community and the environment, in an open and honest manner and to the best of our abilities.

**4. Prayer**

A prayer will be read.

**5. Apologies**

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

**Recommendation**

**That the apologies be noted.**

6. Presentations

**Rachel de Krester** (Wingrove Ward) receives \$200 as a contribution for being selected to represent Australia at the 2022 ICF Canoe Marathon World championships in Portugal.

**Abbey Arnot** (Ellis Ward) receives \$150 as a contribution for being selected to the Victoria at the School Sport Victoria U12 Netball in Woolongong.

Nillumbik Shire Council wishes them every success with their future sporting pursuits.

**7. Confirmation of Minutes**

**COM.001/22 Confirmation of Minutes Council Meeting held Tuesday 26 July 2022**

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**Summary**

Confirmation of the minutes of the Council Meeting held on Tuesday 26 July 2022.

**Recommendation**

**That Council confirms the minutes of the Council Meeting held on Tuesday 26 July 2022  
(Attachment 1).**

**Attachments**

1  Minutes of the Council Meeting 26 July 2022

**7. Confirmation of Minutes**

**COM.001/22 Confirmation of Minutes Council Meeting held Tuesday 26 July 2022**

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**8. Disclosure of conflicts of interest**

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

**9. Petitions****10. Questions from the gallery**

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**11. Reports of Advisory Committees****AC.007/22      Advisory Committee Report - 23 August 2022**

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**Distribution:** Public**Manager:** Sally Johnson, Acting Executive Manager Governance, Communications and Engagement**Author:** Katia Croce, Governance Lead

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

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

1. Positive Ageing Advisory Committee – 1 July 2022; and
2. Youth Council Advisory Meeting - 11 July 2022.

**Attachments**

1. Advisory Committee meeting minutes reported 23 August 2022

**Recommendation**

That Council notes the Minutes of the Advisory Committee meetings reported (**Attachment 1**).

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**12. Officers' reports**

**CM.082/22      Amendment C142nill Outcomes of Panel Hearing - Application of the Heritage Overlay to 50 Oatland Road, Plenty**

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**Distribution:** Public

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

**Author:** Leigh Northwood, Manager Strategic Planning

**Summary**

The purpose of this report is:

- a) To present recommendations of the recent Planning Panel Report as a result of the Panel Hearing which took place virtually on 12 July 2022 in hearing submissions to Amendment C142nill;
- b) To identify specific outcomes of the Panel's recommendations; and
- c) Identify options for Council consideration.

Formal exhibition of Amendment C142nill took place between 27 January 2022 and 02 March 2022 as required under Section 19 of the *Planning and Environment Act 1987* with Council receiving twenty-eight submissions all objecting. Submissions were considered at the April Planning and Consultation Committee, and at its April Meeting Council resolved to request the Minister for Planning to appoint an independent Planning Panel to consider the Amendment, and refer all submissions to the panel appointed, in accordance with Section 23(1)(b) of the *Planning and Environment Act 1987*.

The Panel Report was received on 27 July, appreciably earlier than the prescribed timeframes, and given such, officers have compressed reporting workflows to bring the matter to the earliest possible Council Meeting for consideration of decision by Council. In accordance with section 26 of the *Planning and Environment Act 1987*, the report was made available for public inspection on 05 August.

On recommendations of the Panel from the Hearing, while the Panel acknowledges the personal and financial circumstances of the landowners (as did Council in submission and at the Hearing), the Panel concluded these are not relevant to the Amendment, but may be considered as part of any future development proposal. Similarly, the Panel concluded the exhibited extent of the Heritage Overlay was appropriate, and that the structural integrity of a place is not a relevant consideration in determining heritage significance.

On matters of heritage significance, the Panel concluded the threshold for:

- Criteria A has not been met because there is no family association with the land and the 1.6-hectare lot does not provide tangible evidence of the interwar subdivision pattern of the area where lots of 10 (4 hectares) to 30 acres (12.1 hectares) were created.
- Criterion D has not been met because the comparative analysis in the citation has not demonstrated the dwelling is an important representative example of an interwar bungalow.

As a result, the overall recommendation from the Panel was that Amendment C142nill should be abandoned.

**12. Officers' reports****CM.082/22      Amendment C142nill Outcomes of Panel Hearing - Application of the Heritage Overlay to 50 Oatland Road, Plenty**

Key matters in informing this recommendation are explored below noting expert opinions with regard to heritage are always subjective (being the nature of heritage matters), and in officers' view inconsistency has come out of this Panel itself, particularly with consideration of an alternate assessment against the Victorian Heritage Register (VHR) Guidelines being given weight by the Panel in this instance.

**Recommendation**

**That Council:**

1. Notes that Officers under delegation requested the Minister for Planning, to exercise their power under section 20(4) of the *Planning and Environment Act 1987* to prepare, adopt and approve an amendment to the Nillumbik Planning Scheme to apply the Heritage Overlay to 50 Oatlands Avenue Plenty on an interim basis, with the Minister subsequently approving Amendment C141nill on 14th April 2022 to apply the heritage overlay to part of the land known as 50 Oatland Road, Plenty on an interim basis;
2. Notes that the PCC under delegation at its November 2022 meeting, resolved to request authorization from the Minister for Planning to prepare and exhibit a planning scheme amendment to apply the Heritage Overlay on a permanent basis through Amendment C142nill to the Nillumbik Planning Scheme;
3. Notes the recommendations of the Panel Report for Amendment C142nill (dated 27 July 2022) and as a consequence of such recommendations, resolves to abandon Amendment C142nill;
4. Writes to the Minister for Planning, under Section 28 of the *Planning and Environment Act 1987*, of its decision to abandon planning scheme amendment C142nill to the Nillumbik Planning Scheme to apply the Heritage Overlay to 50 Oatlands Avenue Plenty on a permanent basis;
5. Requests that officers publish a notice of the decision in relation to point 3 above on Council's website within 10 days of this decision;
6. In relation to point 1 above, requests the Minister for Planning to exercise their power under section 20(4) of the *Planning and Environment Act 1987* to prepare, adopt and approve an amendment to the Nillumbik Planning Scheme to remove the interim Heritage Overlay to 50 Oatlands Avenue Plenty; and
7. Updates all submitters to C142nill of Council's decision.

**Attachments**

1. Planning Panel Report for Amendment C142nill 50 Oatland Road, Plenty

**12. Officers' reports****CM.082/22      Amendment C142nill Outcomes of Panel Hearing - Application of the Heritage Overlay to 50 Oatland Road, Plenty****Discussion**Background to Amendment C142nill

1. The purpose C142nill is to apply the Heritage Overlay (HO) to part of the site of 50 Oatland Road, Plenty. The site was identified (as early as 2016) as being of local historical and representative significance to the Shire of Nillumbik and meeting Criterion A and D in assessment of heritage value pursuant to Planning Practice Note 1 – Applying the Heritage Overlay based on expert heritage advice.
2. 50 Oatland Road was programmed to be reviewed as part of Council's Stage B Heritage Review and was identified as part of Council's adopted Stage B Priority List at its June 2021 Council meeting in consideration of adoption of Stage A Heritage Review findings. However, Council received a Section 29A demolition consent application pursuant the *Building Act 1993* to demolish the dwelling located on the property in September 2021 which facilitated the need to bring the review of this property forward.
3. Given threat of demolition, officers in accordance with Council's adopted position with regard to Priority Places identified for Heritage Stage B, and consistent with the requirements of the *Planning and Environment Act 1987*, sought approval (under delegation) from the Minister for Planning for Amendment C141nill to introduce the HO to the property on an interim basis pursuant to Section 20(4) of the *Planning and Environment Act 1987*, providing short-term protection to allow consideration of planning scheme amendment C142nill to introduce the HO on a permanent basis.
4. Amendment C141nill (interim heritage protection) was approved by the Minister for Planning on 25 February 2022 and gazetted on 14 April 2022. The interim HO is due to expire on 9 February 2023.
5. Formal exhibition of Amendment C142nill took place from 27 January 2022 to 2 March 2022 consistent with requirements under Section 19 of the *Planning and Environment Act 1987* with Council receiving twenty-eight submissions all objecting and the majority pro-forma.
6. Submissions were considered at the April 2022 Planning and Consultation Committee, and subsequently at the Council April Meeting where Council resolved to request the Minister for Planning to appoint an independent Planning Panel to consider the Amendment, and refer all submissions to the panel appointed, in accordance with Section 23(1)(b) of the *Planning and Environment Act 1987*.

Planning Panel Hearing and Panel Report Recommendations

7. The Panel Hearing took place virtually on 12 July 2022, where three parties made submissions including the property owner represented by lawyers Best Hooper, calling upon expert witness testimony of heritage consultant Bryce Raworth. Council was represented by officers, calling upon the expert witness testimony of heritage consultant Mark Huntersmith of GML Heritage (formerly Context). Richard Kelsey, a submitter, also presented.

**12. Officers' reports****CM.082/22      Amendment C142nill Outcomes of Panel Hearing - Application of the Heritage Overlay to 50 Oatland Road, Plenty**

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8. The Panel's report was submitted to Council on the 27<sup>th</sup> July 2022, appreciably earlier than the prescribed timeframes, and given such, officers have compressed reporting workflows to bring the matter to the earliest possible Council Meeting for consideration of decision by Council. In accordance with section 26 of the *Planning and Environment Act 1987*, the report was made available for public inspection on 05 August.
  9. The matters raised in the submissions for consideration by the Panel at the Hearing, included:
    - a) If approved, the Heritage Overlay extent should be reduced to allow for the construction of a dwelling between 50 and 56 Oatland Road.
    - b) The Victorian Heritage Register Criteria and Threshold Guidelines, 2020 (the VHR Guidelines) should be considered as a guide to assess thresholds of significance.
    - c) The dwelling is in such a poor state that the demolition is justified.
    - d) The threshold of significance had not been met for Heritage Convention (HERCON) Criteria A (historical significance) and D (representativeness).
  10. On recommendations of the Panel from the hearing, while the Panel acknowledges the personal and financial circumstances of the landowners (as did Council in submission and at the hearing), the Panel concluded these are not relevant to the Amendment, but may be considered as part of any future development proposal. Similarly, the Panel concluded the exhibited extent of the Heritage Overlay (HO) was appropriate, and that the structural integrity (as raised in point c above) of a place is not a relevant consideration in determining heritage significance.
  11. The recommendation from the Panel was that Amendment C142nill should be abandoned.

**Observations on matters of heritage significance**

12. The Panel concluded the threshold for Criteria A has not been met because there was not compelling demonstrable proof of the family association with the land and the 1.6-hectare lot does not provide tangible evidence of the interwar subdivision pattern of the area where lots of 10 (4 hectares) to 30 acres (12.1 hectares) were created. When providing other examples of dwellings as 'comparative analysis' as required in justifying significance, at least 2 of the examples as demonstrating this development period used by Council's heritage consultant in the citation were yet to have the heritage overlay applied to them (they are identified in the Stage B Heritage Review with an amendment just about to begin). This somewhat compromised the argument as unfortunately the comparisons were not yet within the Heritage Overlay noting there is a lack of remaining heritage places within Plenty which has compromised the ability to provide a robust comparative analysis.
13. Officers note DELWP advice when considering application of the Heritage Overlay (HO) is identified in Planning Practice Note 01 (PPN01). PPN01 sets out the following approach to thresholds:
  - To apply a threshold, some comparative analysis will be required to substantiate the significance of each place.

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- The comparative analysis should draw on other similar places within the study area, including those previously included in a heritage register or overlay.
14. The comparative analysis is therefore the primary tool in determining heritage significance noting PPN01 however provides limited clarity on how thresholds are met.
15. Ultimately the Panel was persuaded by Bryce Raworth that the fact that more directly comparable dwellings could not be found within the HO highlights a lack of this typology in the current Heritage Overlay. This view is not supported by officers given that the HO was approved by the Minister for Browns Lane, Plenty via Amendment C138nill with the same comparative analysis as Oatlands Road.
16. Notably the Panel also accepted the views of Bryce Raworth that consideration of an alternate assessment against the Victorian Heritage Register (VHR) Guidelines should be given weight. Consideration of the VHR Guidelines required that the dwelling would need to be better than typical and have elements that were more than just a checklist of an interwar bungalow to meet Criteria D.
17. The Panel (in this instance) concluded that the use of the VHR Guidelines to determine local heritage significance is appropriate and has identified that the dwelling at 50 Oatland Road would need to be better than typical and have elements that were more than just a checklist of an interwar bungalow to meet Criteria D. It should be noted that much of the associated context (agricultural sheds etc.) had unfortunately been removed since the original citation which was prepared in 2016.
18. It should also be noted that the view of the Panel in regard to use of the VHR Guidelines is inconsistent with the findings of previous Panels. Although there has been some support from Panels (albeit this has been inconsistent in application) with regard to use of the VHR Guidelines in addition to Planning Practice Note 01 in assessment thresholds for places with local significance, it is noted DELWP and the relevant Practice Note PPN01 does not identify that the VHR Guidelines should be applied when assessing a place for significance and it should be noted that the VHR Guidelines are specifically crafted to evaluate places of State significance (not local significance).
19. To highlight this inconsistent view, officers note the recent Panel Report C208more (15 July 2022), to implement the recommendations of Moreland's Heritage Nominations Study into their planning scheme, noting that the Panel did not consider use of VHR Guidelines with regard to submissions to the amendment, but rather the PPN01 was exclusively considered in evaluating submissions to the Panel.
20. Notably the Panel in its report for C387melb (10 November 2021), to implement the recommendations of Melbourne City Council's Hoddle Grid Heritage Review, in which the same heritage expert Bryce Raworth provided evidence in supporting objecting submissions, highlighted this inconsistency of approach across all the experts' opinions (providing evidence to that Panel hearing) noting with specific reference to evidence presented by Mr. Raworth in his expert witness report that:

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*The Panel notes that all experts used the VHRG in an inconsistent manner. This is not a criticism but rather a reflection that there is a more contextual nuanced process to establishing local significance. To apply the VHRG without appropriate caution risks creating a distorted outcome by introducing a higher level consideration of significance.*

*The thresholds of PPN01 (for at least one criterion) are ultimately what needs to be met for local significance. Whether they do in each case is effectively a matter of judgement and relative contextual merit.*

21. It is the view of officers and Council's heritage consultant, the Panel's recommendation with regard to C142nill, reflects an acceptance of an opinion that should not be taken to be accepted practice or 'precedent setting', given the demonstrable mixed views of Panel's recommendation and expert heritage consultants opinion on the matter, and importantly, DELWP's current requirements via PPN01.

**Related Council decisions**

22. At Council's Meeting of **29 June 2021** Council resolved:

That Council:

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

23. At Council's Meeting of **26 October 2021** Council resolved:

That Council:

- *Defers consideration of CM.155/21 Amendment C142nill to Apply the Heritage Overlay (permanently) to 50 Oatland Road, Plenty.*
- *Requests officers to undertake consultation with the owners of 50 Oatland Road, Plenty to advise:*
  - *the reasons for the proposed Planning Scheme Amendment and*
  - *Of the Planning Scheme Amendment process.*
- *Requests officers to prepare a report for the 16 November 2021 Planning and Consultation Committee meeting for consideration and determination.*
- *Subject to the above resolution officers have continued discussions with the owners of 50 Oatland Road, and at the preparation of this report were identifying in collaboration with the owners a suitable time to for a face to face pre application meeting (the owners requesting face to face) to discuss not only the amendment but other proposed plans for development of the parcel.*

**12. Officers' reports**

**CM.082/22      Amendment C142nill Outcomes of Panel Hearing - Application of the Heritage Overlay to 50 Oatland Road, Plenty**

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24. At the Planning and Consultation Committee meeting **16 November 2021**, the Committee resolved:

That the Committee (acting under delegation from Council):

- *Notes Amendment C141nill requested under delegation pursuant to Section 20(4) of the Planning & Environment Act 1987 to seek application of the Heritage Overlay on an interim basis to 50 Oatland Road, Plenty;*
- *Requests the Minister for Planning, under Section 8A of the Planning and Environment Act 1987, to authorise the preparation and exhibition of Amendment C142nill to the Nillumbik Shire Planning Scheme; and*
- *Undertakes public exhibition of Amendment C142nill which will apply permanent planning controls through the use of the heritage overlay should authorisation be granted.*

25. At Council's Meeting of **26 April 2022** Council resolved:

That Council:

- *Notes the submissions to Amendment C142nill to the Nillumbik Planning Scheme.*
- *Requests the Minister for Planning appoint an independent planning panel to consider Amendment C142nill pursuant to Section 23(1)(b) of the Planning and Environment Act 1987.*
- *Requests that Officers notify submitters to Amendment C142nill of the Committee's resolution and update Participate Nillumbik accordingly with next steps in the Amendment process.*
- *Brings the C142nill Panel report as an outcome of the Panel Hearing (once available) to a future Council briefing for Council consideration.*

**Options**

26. Council has two options:

- Option 1: Request the Minister for Planning consider and approve Amendment C142nill; or
- Option 2: Resolve to abandon Amendment C142nill, and request the Minister for Planning prepare an Amendment to remove the interim HO applied to part of the site via Amendment C142nill.

**Option 1**

27. Officers note that personal circumstances are not something that the Planning and Environment Act allows consideration of with regard to decision-making and therefore notwithstanding officers are very aware of the land owners circumstances and are sympathetic, such circumstances cannot influence technical observations nor recommendations.

12. Officers' reports

**CM.082/22 Amendment C142nill Outcomes of Panel Hearing - Application of the Heritage Overlay to 50 Oatland Road, Plenty**

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28. As noted above with regard to the Panel's recommendations and observations on matters of heritage significance, the fact that the Panel has been persuaded by arguments particularly with regard to use of the VHR Guidelines and comparative analysis at this particular Panel hearing, does not in officer's view establish a precedent, nor does it mean that Council must support the Panel's recommendation.
29. Officers note this is a single opinion, and as evidenced in examples of other amendment Panel Reports above, acceptance of use of the VHR Guidelines and assessment of comparative analysis is highly inconsistent, not currently supported by the requirements of the relevant guidance as provided in PPN01 and as evidenced in the examination of the C387melb amendment, something that the expert consultant for the landowners for this particular Panel Hearing Mr Raworth, uses in arguing for a particular outcome.
30. It is noted however that the Minister would likely be swayed by this particular Panel's recommendation with regard to this particular matter given the overt acceptance of use of the VHR Guidelines and limitations of the comparative analysis.

Option 2

31. Should Council seek to abandon the Amendment officers note Council still have to await for the Minister to undertake the requested planning scheme amendment to remove the interim HO which is taking considerable time at the moment (months in many instances).
32. In accordance with the *Planning and Environment Act 1987* (the Act), a local government can decide to resolve an approach at key milestones of the planning scheme amendment however the Minister for Planning is the only authority that has the decision making powers to approve or refuse a planning scheme amendment. The Act does not have statutory timeframes to bind the Minister for Planning, accordingly it could be some time before the Minister removes the interim overlay and gazettes their decision to provide the owners of the land with the ability to apply for consent to demolish the dwelling.
33. This effectively means that the land owners cannot be given the "all clear" to demolish the dwelling by submitting a demolition consent pursuant to Section 29A of the *Building Act* while the interim HO remains in place across part of the subject site.
34. It is noted the subject site is zoned as Rural Conservation Zone Schedule 1 (RCZ1). The purpose of the RCZ1 is *to provide for rural residential development that is compatible with the environmental values of the land given the close proximity to the Plenty Gorge*.
35. The subject site is also affected by the Development Plan Overlay Schedule 5 (DPO5), the Bushfire Management Overlay (BMO) and the Bushfire Prone area mapping.

**12. Officers' reports****CM.082/22      Amendment C142nill Outcomes of Panel Hearing - Application of the Heritage Overlay to 50 Oatland Road, Plenty**

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36. If the land owners did so choose, they may submit a planning application to seek to demolish the existing dwelling for assessment against the current planning controls (the HO as planning permit trigger), and may also at the same time as part of the same application, and for the same application fee, apply for a new dwelling and associated works noting a planning application would not be required to remove the dwelling if the HO was not in place, however a planning application is still required for a new dwelling and any associated works, given the other planning controls affecting the parcel which are active planning permit triggers as identified above.
  37. If Council resolve to abandon Amendment C142nill and request the Minister remove the interim HO, and a planning permit application is lodged before the removal of the interim HO, then officers in assessing an application to demolish the existing dwelling, and construct and new dwelling, would be able to use the Council resolution as basis for any consideration of demolition of the existing dwelling and other associated buildings affected by the interim HO.
  38. Officers would strongly advise, as they have in numerous meetings with the land owners, that they make use of Council's pre-application service to fully resolve as much of the planning matters for any application as possible prior to lodging to avoid any delays in assessment, for example new dwelling plans and BMO assessment as required inputs to any planning application (regardless of the HO matter).
  39. It is noted that the current interim HO is 'tied' to consideration of the permanent HO as proposed through Amendment C142nill. If Council resolves to abandon the Amendment any such resolution to facilitate such needs to be specific and reference specific parts of the *Planning and Environment Act 1987* to effectively allow for Ministerial consideration and action in regard to both abandoning C142nill, but also removal of the current interim control facilitated by C141nill from the planning scheme as presented in the recommendation.

**Council plans and policies**

40. 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.
41. The amendment links directly to Council's Heritage Strategy (2011) which aims to:
  - To identify, document and care for heritage places in the Shire of Nillumbik in ways which fulfil legal obligations and adopt best practice; and
  - To involve communities and to promote awareness, knowledge and enjoyment of heritage places.

**Sustainability implications**

42. The conservation of Nillumbik's heritage places plays an important role in the strengthening of both personal and community identities. This work aids in the social sustainability of Nillumbik's various communities.

**12. Officers' reports**

**CM.082/22      Amendment C142nill Outcomes of Panel Hearing - Application of the Heritage Overlay to 50 Oatland Road, Plenty**

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**Community engagement**

43. In accordance with Section 19 of the Planning and Environment Act 1987 the Amendment was notified and exhibited from 27 January 2022 to 02 March 2022.
44. There has been substantial engagement with the landowner, and their representatives. An initial meeting with the owners was attended by Councillor Eagan and Councillor Stockman.
45. A subsequent meeting, with the owner's and their representatives, regarding both the Heritage Overlay and a future dwelling application has been held with officers from the Strategic and Statutory teams working together although no detailed plans have yet been presented to enable a formal pre application meeting with the relevant advice.

**Innovation and continuous improvement**

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

**Collaboration**

47. There have been discussions with the Department of Environment, Land, Water and Planning (DELWP) on this matter to ensure that the Statement of Significance meet their expectations and requirements.
48. Strategic Planning has been working with the pre-application planning officer in Council's Planning Services team to try to assist the current owners.

**Budget implications**

49. There are no future costs associated with regard to any options presented for this matter apart from officer time.

**Relevant law**

50. *Planning and Environment Act 1987*

**Regional, state and national plans and policies**

51. *Plan Melbourne (2017-2050)*

- *Outcome 4 - Melbourne is a distinctive and liveable city with quality design and amenity.*
  - *Direction 4.4 - Respect Melbourne's heritage as we build for the future*
    - *Policy 4.4.1 - Recognise the value of heritage when managing growth and change.*

*With all three levels of government sharing responsibility for protecting Melbourne's post settlement cultural heritage, decision-making must be consistent and credible and be based on clear and widely accepted heritage conservation principles and practices.*

12. Officers' reports

CM.082/22      Amendment C142nill Outcomes of Panel Hearing - Application of the Heritage Overlay to 50 Oatland Road, Plenty

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- *Policy 4.4.4 - Protect Melbourne's heritage through telling its stories.*

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

**Conflicts of interest**

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

**12. Officers' reports**

**CM.082/22      Amendment C142nill Outcomes of Panel Hearing - Application of the Heritage Overlay to 50 Oatland Road, Plenty**

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**12. Officers' reports****CM.083/22 Eltham Area Community Hospital, Ryans Road Diamond Creek****Distribution:** Public**Manager:** Hjalmar Philipp, Director Operations and Infrastructure**Author:** Lawrence Seyers, Lead Transport Planner

Leigh Northwood, Manager Strategic Planning

**Summary**

On 11 June 2022, the Victorian Government announced a site had been selected for a new Community Hospital in Melbourne's northeast, to be located on a government-owned parcel of land at 405 Ryans Road, Diamond Creek.

Council's views were not sought on the potential constraints or particular values that may need protecting before announcing its selection of the site.

A preliminary review by Council officers of the site and proposal, based on publicly available information has been undertaken to inform a potential advocacy position for Council.

**Recommendation**

**That** Council resolves to write to the Victorian Health Building Authority and the Eltham Area Community Consultative Committee Chair, Vicki Ward MP advocating for a number of enhancements as part of the State Government's community hospital at 405 Ryans Road Diamond Creek (provided as **Attachment 3**).

**Attachments**

- 1 Figures referenced in Council Report  

- 2 Harton Hill Farmhouse and Outbuildings, Monterey Cypress Drive Heritage Report  
 prepared by Trethewan Architecture
- 3 Eltham Area Community Hospital, Ryans Road Diamond Creek - Advocacy Points  


**Discussion**

1. On 11 June 2022, the Victorian Government announced a site had been selected for a new Community Hospital in Melbourne's northeast, to be located on a government-owned parcel of land at 405 Ryans Road, Diamond Creek.
2. Council's views were not sought on the potential constraints or particular values that may need protecting before announcing its selection of the site.
3. This new community hospital will be operated by Austin Health, and has been provided an interim name of 'the Eltham Area Community Hospital'. It will be a public hospital providing a range of day hospital and primary health care services, including unplanned urgent care, general medical and specialist appointments, day surgery and chronic disease management.

**12. Officers' reports****CM.083/22 Eltham Area Community Hospital, Ryans Road Diamond Creek**

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4. The Eltham Area Community Hospital will be delivered by the Victorian Health Building Authority (VHBA). The project webpage states construction will commence in 2022 and be complete in 2024.
  5. The parcel of land chosen for the Hospital is currently undeveloped with the exception of a cluster of agricultural buildings (Horton Hill Farmhouse) and consists of a series of properties that front onto Ryans Road that have been acquired by VicRoads (now Department of Transport) for the purposes of constructing a future arterial road (see **Figure 1** in **Attachment 1**). To the south of the site is a high voltage electricity easement, to the north, east and west of the subject site has a general residential interface.
  6. The announcement stated the Ryans Road site is close to a range of community facilities and services including playgrounds, schools and sporting facilities, and is serviced by a number of bus routes connecting to surrounding areas including Eltham Station, Greensborough, Diamond Creek and Hurstbridge.
  7. A preliminary review of the site and proposal, based on publicly available information has been undertaken to inform a potential advocacy position for Council. The following provides some information on:
    - a) The planning context;
    - b) The environmental context;
    - c) The amenity context, in particular the location as an entrance to Diamond Creek;
    - d) Residential interface;
    - e) Heritage;
    - f) Traffic, transport and parking, including pedestrian access and safety; and
    - g) Relevant public acquisition overlays.

***Planning Context***

8. The site and surrounding land is within the General Residential Zone (GRZ).
9. The GRZ allows for a range of uses that it considers appropriate in a residential setting. However, it also requires an application for a planning permit for non-residential use and development, including for a hospital, to appropriately respond to and respect the over-arching residential purpose of the zone. For example:
  - One purpose of the zone is to encourage development that respects the neighbourhood character of the area.
  - The zone sets a number of relevant decision guidelines for non-residential use and development, such as:
    - Whether the use or development is compatible with residential use;
    - The scale and intensity of the use and development;
    - The design, height, setback and appearance of the proposed buildings and works;
    - The proposed landscaping; and

**12. Officers' reports****CM.083/22 Eltham Area Community Hospital, Ryans Road Diamond Creek**

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- The safety, efficiency and amenity effects of traffic to be generated by the proposal.
10. The VHBA has advised Council officers that the Minister for Health proposes to use powers provided by Section 16 of the Planning and Environment Act 1987 to remove the need for any planning approval for the proposed use and development of the hospital. The wording of Section 16 is as follows:
- Application of a Planning Scheme: A planning scheme is binding on every Minister, government department, public authority and municipal council except to the extent that the Governor in Council, on the recommendation of the Minister, directs by Order published in the Government Gazette.*
11. Section 16 allows the Minister to remove the jurisdiction of the Nillumbik Planning Scheme in relation to the proposed hospital and that the VHBA intends to use this mechanism.
12. For recent Victorian Government infrastructure projects in the Shire of Nillumbik, such as the Hurstbridge Line Duplication Project, the Fitzsimons Lane Upgrade Project and the Car Parks for Commuters Projects (at Eltham and Wattle Glen railway stations), the Victorian Government has sought planning approval through the Nillumbik Planning Scheme, but typically through clauses and mechanisms, such as those available at Clause 52 of the Scheme, which have been introduced in recent years to limit and streamline the extent of approval required by the Victorian Government for key projects.
13. Whilst provisions at Clause 52 of the Nillumbik Planning Scheme exist to “fast track” planning approval for certain types of Victorian Government projects, the provisions still apply some level of requirement for the Victorian Government to engage with the community and Council and further, to respond to particular planning issues, such as flooding and vegetation. It is noted that Council has been able to use these requirements to advocate for a number of important improvements to key Victorian Government projects. The proposed use of Section 16 appears different, as it appears to set no statutory obligation on the Victorian Government to engage or respond to particular requirements.
14. A Community Consultative Committee (CCC) exists for the proposed community hospital. The Member for Eltham, Vicki Ward MP, is Chair of the CCC and Council has an officer representative that attends meetings.
15. It is understood through VHBA that as design progresses, it will formally write to Council to provide an update and to advise of the proposed approach to address any need for planning approval.

**12. Officers' reports****CM.083/22 Eltham Area Community Hospital, Ryans Road Diamond Creek*****Environmental Context***

16. The site appears to have some remnant canopy vegetation, particularly comprising a concentration in the north of the site and scattered trees through the middle portion of the site. Any environmental impacts of the removal of this vegetation would normally need to be assessed against the requirements of Clause 52.17 (Native Vegetation) of the Nillumbik Planning Scheme. It is expected that, if this Clause was considered, a planning permit may be required to remove native vegetation (e.g. remnant trees) and a requirement may be set that no net loss to biodiversity occur by applying the framework of avoid, minimise and offset vegetation loss in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017).
17. A further aspect of the site that is relevant to the remnant vegetation is that the most cleared part of the property appears to be that within an electricity mains easement that runs through the property's southern half. Presumably, this easement will be a no development zone for any hospital buildings (and perhaps other associated infrastructure), which will therefore perhaps reduce the extent to which the proposal will be able to avoid and minimise impact on the existing remnant vegetation.

***Amenity Context***

18. The site is considered to contribute significantly to a visual non-urban break that exists on a main entrance along Ryans Road into Diamond Creek. This visual break is particularly evident on the western side of Ryans Road on the approach to Diamond Creek and the following factors are particularly considered to contribute to this break:
  - That two sizeable properties on the west side of Ryans Road (i.e. the subject site at 405 Ryans Road and the abutting site to the south) present as rural properties and together have a frontage to the west side of Ryans Road of approximately 460 metres;
  - The two properties are uphill from Ryans Road which means that the rural appearance is not diluted by an urban backdrop; and
  - There is a notable amount of canopy vegetation within the visual urban break that is provided by the two properties. This vegetation is predominantly on 405 Ryans Road and comprises a mixture of remnant canopy vegetation and exotic trees.
19. The east side of Ryans Road has more residential development than the west side but still appears to contribute to the visual appearance of an urban break by the following:
  - There is at least one notable break in the development at 396-406 Ryans Road;
  - Much of the residential development does not extend far back to the creek environs and given it is on the downside of the road, the Diamond Creek parklands and hills beyond provide a non-urban visual backdrop; and
  - There is significant setback from the residential development to Ryans Road.

**12. Officers' reports****CM.083/22 Eltham Area Community Hospital, Ryans Road Diamond Creek**

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20. Past Council engagement regarding the character and development of Diamond Creek, for example engagement to inform the Diamond Creek Major Activity Centre Structure Plan, has identified a strong and cherished perception in the Diamond Creek community that Diamond Creek is a township separate to the bulk of metropolitan Melbourne. The visual non-urban break on Ryans Road, described above, likely contributes to that local perception regarding the township's distinct identity.
  21. On this matter, the Nillumbik Planning Scheme recognises the importance of non-urban breaks to the character of localities in the Shire. For example:
    - Clause 11.03-3S (Peri-urban areas) has the following strategies:
      - Prevent dispersed settlement and provide for non-urban breaks between urban areas; and
      - Enhance the character, identity, attractiveness and amenity of peri-urban areas.
  22. While the planning settings support development, in line with planning scheme, any development—where practical, should attempt to minimise impact on the site's contribution to the appearance of a non-urban break for Diamond Creek. This could perhaps be achieved in a number of ways. For example, by:
    - Minimising the height and bulk of the hospital building;
    - Carefully siting the development in the landscape;
    - Restricting the spread of the total development across the site; and
    - Carefully using landscaping to screen buildings and works.

***Residential Interface***

23. The site has significant residential interface, including:
  - It abuts developed residential land for approximately 570 metres, stretching along its northern and western boundaries, including to abut approximately 16 residential properties on these boundaries; and
  - It is in close proximity to developed residential land on the adjacent (east side) of Ryans Road.
24. It is expected that a key concern for residents in the surrounding residential streets will be the extent to which the proposed use and design for the hospital will respond to and respect their residential amenity.

***Heritage***

25. Council adopted its Heritage Review Stage A at its ordinary meeting of June 2021 and at the same meeting adopted its priority list for Stage B Heritage Review. Heritage Review Stage B is now in the final stages of completion.

**12. Officers' reports****CM.083/22 Eltham Area Community Hospital, Ryans Road Diamond Creek**

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- 26. At its July 2022 Council Meeting, adopted the Stage B Heritage Review and resolved to seek authorisation from the Minister to prepare and exhibit an amendment to apply the HO to all places recommended through both Stage A and B Heritage Reviews (as adopted). The proposed site of the hospital, 405 Ryans Road, Diamond Creek (known as Harton Hills Farmhouse) was part of the Stage B Heritage Review and is recommended for application of the Heritage Overlay. The citation is provided at **Attachment 2**.
  - 27. The Harton Hills farm complex has been identified as both historically significant (HERCON Criteria E) and aesthetically significant (HERCON Criteria A). It is historically significant for its illustration of farming in the Diamond Creek district, which remained an integral part of the economic life of the district through the Interwar period. The most significant occupation of the property was by Alison Stewart Davis and Harold Carmichael Davis from 1935 until 1949, when the current c1930s two-storey brick residence was constructed and dog breeding was undertaken at the site. It is also during this period that the Davises operated a Jersey stud at the site. The site also has historic associations with orchard farming in the area which was undertaken during the Coventry family's occupation of the site.
  - 28. It is aesthetically significant as an uncommon example of a substantial inter-war brick farmhouse. The two-storey nature of the building is also distinctive in the Shire, where most substantial houses were single-storey. The outbuildings on the site demonstrate the operation of the farm during the 1930s and 1940s. The Monterey cypress drive contributes to the setting of the place and emphasises its grandeur.
  - 29. The Statement of Significance within the citation identifies that the original form, materials and detailing of the c1907 farmhouse, 1930s farmhouse and outbuildings and the Monterey cypress drive and their setting contribute to the significance of the place. Tree controls (for the Monterey Cypress on the site), outbuildings and fence controls are also recommended for inclusion in the Schedule to the Heritage Overlay.
  - 30. It is not known whether the Victorian Government is aware of the documented heritage significance of the site. It is expected that the Victorian Government is not aware, as it did not seek the views of Council regarding any potential constraints or particular values that may need protecting before announcing its selection of the site.

***Traffic and Transport***

- 31. Ryans Road is Transport Zone 2 (DOT responsible road authority).
- 32. It is anticipated the VHBA would undertake detailed traffic assessment of the project, based on design parameters of the community hospital (for example number of beds, projected visitations etc).
- 33. Based on preliminary review by Council officers, safe and effective movement and access to/from the Community Hospital will likely require a signalised intersection with pedestrian crossings on all legs and localised widening of Ryans Road to accommodate dedicated right and left turning lanes into the Community Hospital site.

**12. Officers' reports****CM.083/22 Eltham Area Community Hospital, Ryans Road Diamond Creek**

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34. There are two options for a signalised intersection, one at Kim Street and one at Windmill Rise. Based on the topographic, vegetation and safety constraints (vehicle sightlines) at Kim Street, the most suitable location appears to be at Windmill Rise where an existing central median can be modified to accommodate a right turn lane for southbound vehicles and the flatter topography and limited vegetation provides safer sight distances than Kim Street (see **Figure 2 in Attachment 1**).
35. Local road access is possible via Juane Park Drive, however may not be supported by the adjacent residential community. It may be possible to support low vehicle volume access (to provide secondary access for deliveries/staff parking etc.). Local road access is also possible via Aqueduct Lane, however may not be supported by the adjacent residential community and is covered by significant patches of vegetation (see **Figures 3 and 4 in Attachment 1**).

***Footpath provision – Ryans Road***

36. Ryans Road only has a footpath on the eastern side (see **Figure 5 in Attachment 1**).
37. The presence of a hospital on the western side of Ryans Road is likely to increase demand and/or expectations for safe pedestrian movement on this side of the road. This includes the expectation for a footpath on the western side from the 'Ryans Road Wetland Basin' (at 5 Juane Park Drive) to Aqueduct Road.
38. Provision of a footpath on the western side of Ryans Road (in the vicinity of the proposed Community Hospital) will likely be required to be constructed on the adjacent land owned by DOT due to an insufficient road reservation width, steep roadside topography, existing roadside swale drainage, road pavement location and existing power poles (see **Figures 6 and 7 in Attachment 1**).
39. Provision of a footpath on the western side of Ryans Road (in the vicinity of existing properties from 407-435 Ryans Road) will likely require consideration of the removal of existing road reserve parking, detailed consideration of steep roadside topography, existing roadside vegetation, existing roadside drainage, road pavement location, existing guardrail and existing power poles (see **Figures 8-10 in Attachment 1**).

***Shared Path – connection to Diamond Creek Trail***

40. The proposed Community Hospital site at Ryans Road is in close proximity to the Diamond Creek Trail and to provide this connection, there are sections of footpath required to provide a direct and continuous path of travel. It will require a footpath from the end of Kim Street to the Diamond Creek Trail (see **Figure 11 in Attachment 1**).

***Bus Services and Bus Stops***

41. The site is serviced by a number of bus routes connecting to surrounding areas including Eltham Station, Greensborough, Diamond Creek and Hurstbridge.
42. The closest existing bus stop for routes heading northbound is located at Henry Arthur Drive (approximately 250m south of Kim Street). There is no footpath on the western side of Ryans Road, and no public transport shelter (see **Figures 12 and 13 in Attachment 1**).
43. An additional northbound bus stop, with waiting shelter, will be required at Kim Street, to provide an appropriate public transport response (see **Figure 14 in Attachment 1**).

**12. Officers' reports****CM.083/22 Eltham Area Community Hospital, Ryans Road Diamond Creek**

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44. The closest existing bus stop for routes heading southbound is located at Kim Street and is considered an appropriate location for the Community Hospital (see **Figure 15** in **Attachment 1**).

***Parking on local streets***

45. The adjacent local streets, particularly Juane Park Drive, Kim Street and Windmill Rise can be expected to be subject to increased demand for on-street parking. There are currently no parking restrictions on any of the local streets adjacent to the proposed Community Hospital (see **Figures 16-18** in **Attachment 1**). The development of a Community Hospital is likely to generate parking demand in local streets that will need careful consideration for 'no-standing' and 'permit parking only' restrictions.

***Public Acquisition Overlay – Metropolitan Ring Road extension between Diamond Creek Road and Ryans Road***

46. The land at 405 Ryans Road, Diamond Creek is part of a series of properties that VicRoads (now Department of Transport) has acquired over many decades for the purpose of constructing an access controlled arterial road (highway/freeway standard) from the Greensborough Bypass/Diamond Creek Road roundabout to Ryans Road.
47. The Metropolitan Ring Road extension between Diamond Creek Road and Ryans Road alignment was originally identified as 'F5' and Ryans Road alignment was identified as 'F7' in the 1969 Melbourne Transportation Plan (see **Figure 19** in **Attachment 1**).
48. In 1973 the Victorian Government abandoned a number of freeway reservations due to public controversy over the freeway building proposals, including the proposed 'F7' along Diamond Creek (see **Figure 20** in **Attachment 1**), however retained the 'F5'.
49. The ~130 metre wide Public Acquisition Overlay for the 'F5' Metropolitan Ring Road extension between Diamond Creek Road and Ryans Road remains in the Nillumbik Planning Scheme (see **Figure 21** in **Attachment 1**).
50. An arterial road extension from the Greensborough Bypass/Diamond Creek Road roundabout to Ryans Road is not current government policy or a committed project.
51. There is significant public interest in this road alignment and the need, or otherwise, for this road link over many years. The corridor has a number of remnant native vegetation patches, particularly around Aqueduct Road (see **Figures 22** and **23** in **Attachment 1**).
52. Whilst the 'F7' along Diamond Creek was abandoned as government policy in the 1970s, the retention of the alignment of the 'F5' is an ongoing issue for Shire of Nillumbik.

**12. Officers' reports****CM.083/22 Eltham Area Community Hospital, Ryans Road Diamond Creek**

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53. In September 2007 the Department of Infrastructure completed the North East Integrated Transport Study (NEITS) which stated:

*"Use of the reservation at the eastern end of the Greensborough Bypass within the NEITS time horizon is considered unlikely for road purposes (25+ years). Beyond this time its future is less clear. The reservation will remain until longer term transport network needs are determined. If used for a road, the existing width of the reservation makes it likely that there would be a significant portion of remnant land within the reservation, which should be considered for other purposes.*

*In the meantime, a shared bicycle path could be provided within the reservation; this link is part of the Principal Bicycle Network and would provide a primary cycling corridor from the recently constructed path along Greensborough Bypass to the Maroondah Aqueduct Trail."*

54. At the time of NEITS, the Shire of Nillumbik was of the view that current demand is insufficient to justify even a local road along this alignment, and that current environment, land use and transport policies (e.g. location of Urban Growth Boundary, transport mode shift targets) will further reduce any demand for transport links in this reservation. In addition, Council believed that much of the reservation is surplus to the land required for an appropriate road.
55. The Shire of Nillumbik has previously written to VicRoads seeking a masterplan of this land set aside for the Metropolitan Ring Road extension between Diamond Creek Road and Ryans Road, however this was declined by VicRoads pending resolution of North East Link options assessment.
56. With the decision to proceed with the adopted North East Link alignment in 2018, there is no strategic reason to retain this reservation as a freeway standard alignment.
57. The Shire of Nillumbik could now request a Masterplan of the corridor in its advocacy for the Community Hospital with consideration given to the potential for a minor local access road, shared paths, parklands and some abutting residential development.
58. The NEITS noted that sales of the land could be used to offset construction costs.
59. Abutting development would provide a more active road frontage than is usually found on many high standard arterial road developments that are characterised by property back fences and un-maintained verges. Such an environment is often perceived as unwelcoming and insecure for walking and cycling, even when facilities are provided.

***Aqueduct Trail***

60. The east-west Aqueduct Trail is identified through this broader area. The Aqueduct Trail is sufficiently far removed from the land at 405 Ryans Road, Diamond Creek to not require any commitments to this trail from the Community Hospital development.

***Public Acquisition Overlay – localised widening of Ryans Road***

61. The land at 405 Ryans Road, Diamond Creek is also affected by a Public Acquisition Overlay to provide for localised widening of Ryans Road (see **Figure 24** in **Attachment 1**). This land may be required to provide for the required traffic signals, additional northbound bus stop at Kim Street and a footpath on the western side of Ryans Road.

**12. Officers' reports****CM.083/22 Eltham Area Community Hospital, Ryans Road Diamond Creek**

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**Related Council decisions**

62. No Council decision relevant to a community hospital at 405 Ryans Road, Diamond Creek.

**Options**

63. Council has the option of advocating to the State Government for outcomes related to and/or as a result of a community hospital at 405 Ryans Road, Diamond Creek.

**Council plans and policies**

64. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
- We work with our local partners, government and non-government agencies to respond to health and wellbeing priorities in Nillumbik.
  - We work with our community, neighbouring councils and transport and planning agencies to advocate for improved transport solutions.

**Sustainability implications**

65. Not applicable at this stage.

**Community engagement**

66. Council has received a number of community enquires since the announcement and has referred these to the Victorian Government's Victorian Health Building Authority (VHBA). Council has received from the VHBA an email address at the State Government to which to direct these enquiries.
67. The Victorian Government (VHBA) is responsible for managing the community engagement for this project. At this stage, the VHBA has only provided officers with high level, tentative advice as to what shape engagement will take. As stated above in Paragraphs 15 and 16, it appears:
- a) The primary mechanism for engagement with the community will be the respective Community Consultative Committee (CCC). The Member for Eltham, Vicki Ward MP, is Chair of the CCC and Council has an officer representative that attends meetings.
  - b) Council will receive some level of formal update on the project from the VHBA.
  - c) The announcement of the site selection stated that the designs for the community hospital will be released late 2022 when construction begins. The project is due for completion in 2024.

**Innovation and continuous improvement**

68. Not applicable at this stage.

**Collaboration**

69. Council officers have convened an internal Project Working Group to discuss the Community Hospital project and it includes officers from communications, infrastructure, transport, planning and governance teams.

**12. Officers' reports**

**CM.083/22 Eltham Area Community Hospital, Ryans Road Diamond Creek**

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**Budget implications**

70. Council's 2022/2023 operating expenditure does not include provision for third party specialist assessments or advice related to the community hospital at Ryans Road.

**Relevant law**

71. The Victorian Government are likely to use powers provided by Section 16 of the Planning and Environment Act 1987 to provide planning approval and exempt the project from the jurisdiction and requirements of the Nillumbik Planning Scheme.

**Regional, state and national plans and policies**

72. Not applicable at this stage.

**Conflicts of interest**

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

**12. Officers' reports**

**CM.083/22      Eltham Area Community Hospital, Ryans Road Diamond Creek**

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**12. Officers' reports**

**CM.084/22 Panton Hill Bushland Reserve System (PHBRS) User Group Advisory Committee renewal**

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**Distribution:** Public

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

**Author:** Lisa Pittle, Manager Environment

**Summary**

The Panton Hill Bushland Reserves System (PHBRS) User Group was formed in 2011 to support the implementation of the PHBRS Management Plan. The User Group has representatives from the various groups using the reserves or with an interest in the activities occurring in the reserves.

The User Group is an Advisory Committee of Council. The current term of the PHBRS User Group Committee will expire in October 2022.

The revised Terms of Reference and the process to renew the committee are presented for endorsement.

**Recommendation**

**That Council:**

1. Acknowledges and thanks members of the Panton Hill Bushland Reserve System User Group Advisory Committee for their advice and practical contribution to the ongoing management of the reserves.
2. Endorses the revised terms of reference for the Panton Hill Bushland Reserve System User Group Advisory Committee for public exhibition in September 2022 seeking expressions of interest for membership nomination to renew the committee by February 2022.
3. Instructs officers to report nominations to the Panton Hill Bushland Reserve System User Group Advisory Committee to Council for endorsement.

**Attachments**

1. Panton Hill Bushland Reserves User Group Advisory Committee terms of reference  
 December 2021
2. Revised Panton Hill Bushland Reserve System User Group Advisory Committee  
 terms of reference August 2022

**Discussion**

1. The PHBRS is made up of seven individual reserves in the Watsons Creek catchment, near the townships of Panton Hill, Smiths Gully and Watsons Creek.
2. On 28 June 2011, Council adopted the PHBRS Management Plan as the key document to manage the important conservation, social and recreation values of the reserves.
3. As part of the adoption of the Plan, Council sought to facilitate community engagement with the establishment of a broad-interest advisory group for the PHBRS.

**12. Officers' reports****CM.084/22 Panton Hill Bushland Reserve System (PHBRS) User Group Advisory Committee renewal**

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4. The PHBRS User Group Advisory Committee was established to provide a formal mechanism for Council to consult with the various user groups of the reserves and to encourage an understanding, appreciation, enjoyment and care by the community and the reserve users of the significant natural features, biodiversity, social, educational, recreational and historical values of the Panton Hill bushland reserves.
  5. The committee is made up of nine community representatives selected to represent a broad spectrum of reserves users including environmental interests, horse riding, bushwalking and mountain bike groups, the indigenous and artistic communities and the general community.
  6. Successive PHBRS User Group Advisory Committees have provided beneficial advice, feedback and hands-on involvement in developing, promoting and implementing reserve management and community engagement programs such as:
    - a) PHBRS Community Engagement and Communications Plan: a strategic summary of values, objectives and modes of communication with reserve users and the wider community to promote the reserves in an intentional way.
    - b) PHBRS Interpretation Design Plan which is a summary of the biodiversity, cultural and historic content of the Panton Hill Bushland Reserves presented as a cohesive themed multi-layered story to assist artists in the interpretation process. Implementation includes:
      - i) Completion of a public art project by the Paradoxa Collective in collaboration with Wurundjeri artists.
      - ii) The Paradoxa Artist collective has also run a series of events exploring different themes from the Interpretation Design Plan.
    - c) Design and location of reserve signage including:
      - i) PHBRS entrance and wayfinding signage incorporating Indigenous artwork.
      - ii) PHBRS Map Sign design located in Fire Fighters Memorial Park, Smiths Gully Store and Gawa Wurundjeri Resource Trail for promotion and wayfinding.
    - d) Planning and support for on-ground works, community events and programs in the reserves including planting, trail maintenance, orchid and historic walks which are often initiated and carried out by committee members. Examples include:
      - i) Port Phillip and Westernport Catchment Management Authority Grant project: 'Wurundjeri Food, Fibre and Medicine Garden: Restoring Indigenous cultural practices in Bunjil Reserve'. A Friends Group has been established focusing on tending the Wurundjeri Food, Fibre and Medicine Garden near the entrance to Bunjil Reserve.
      - ii) Shared trail and entranceway upgrades accommodating horse riding, bushwalking and mountain bike groups with a focus on sustainability.
      - iii) Additional trail upgrades with support of the Smiths Gully Mountain Bike Group becoming effectively a Friends of the PHBRS trails group to undertake maintenance activities.

**12. Officers' reports****CM.084/22 Panton Hill Bushland Reserve System (PHBRS) User Group Advisory Committee renewal**

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7. The current committee was appointed in October 2019 for a term of two years. The term was extended for one year (due to the impact of Covid-19) with Terms of Reference revised to align with Council's new Advisory Committee Policy – see **Attachment 1**.
  8. The committee meets formally three times per year on the third Thursday every four months. Meetings are held in February, June and October.
  9. The term of the current committee expires in October 2022.

**Related Council decisions**

10. At the Council meeting on 14 December 2021, Council resolved the following:
11. That Council
  - a) Endorses the revised Terms of Reference of the Panton Hill Bushland Reserve System User Group Advisory Committee 2021 (Attachment 2); and
  - b) Endorses a one-year extension of the current Panton Hill Bushland Reserve System User Group Advisory Committee to the end of 2022.
  - c) Council will receive a further report at the end of 2022 on renewing the Panton Hill Bushland Reserve System User Group Advisory Committee.

**Options**

12. The revised terms of reference for the committee are provided in **Attachment 2** for endorsement. The terms of reference are substantially the same as those endorsed by Council in December 2021. The only changes (highlighted in red text) are:
  - a) Inclusion of a statement enabling an alternative member of a user group to attend when the substantive committee member is unable.
  - b) A reference to inviting other community members or government agency representatives to provide information on a particular topic.
13. Following Council endorsement of the revised terms of reference, the time frames for committee renewal are presented below:

Action	Timing
Expressions of Interest sought for committee renewal	September 2022
Councillor briefing on outcome of EOI process	15 November 2022
Councillor endorsement of new committee	13 December 2022
New committee commencement	February 2022

**12. Officers' reports****CM.084/22 Panton Hill Bushland Reserve System (PHBRS) User Group Advisory Committee renewal****Council plans and policies**

14. This report directly supports the achievement of the Council Plan 2021-2025 strategies:
  - We encourage and support volunteering to enable community participation opportunities and actively celebrate these contributions.
15. The Panton Hill Bushland Reserve System Management Plan was adopted by Council in 2011. The broad management objectives of the plan are to:
  - a) Conserve natural ecosystems and environments.
  - b) Conserve vulnerable and rare flora and fauna species.
  - c) Promote awareness and appreciation of the reserves and their special features.
  - d) Provide sustainable and safe recreational activities for visitors.
  - e) Provide opportunities for scientific research and apply the results to management of the reserves.

**Sustainability implications**

16. The work of the PHBRS User Group Advisory Committee contributes to social sustainability in terms of enhancing community connections. It contributes to environmental sustainability and the impact of climate change on the reserve in terms of providing opportunities to connect with nature; works to maintain the environmental values of the reserves; and biodiversity observations to track the impact of climate change.

**Community engagement**

17. The PHBRS User Group Advisory Committee provides a formal mechanism for Council to consult with the various user groups of these bushland reserves.

**Innovation and continuous improvement**

18. Not applicable.

**Collaboration**

19. Not applicable.

**Budget implications**

20. Not applicable

**Relevant law**

- Not applicable

**Regional, state and national plans and policies**

21. Not applicable

**Conflicts of interest**

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

**12. Officers' reports****CM.085/22 A first draft of the Nillumbik Neighbourhood Character Strategy****Distribution:** Public**Manager:** Rosa Zouzoulas, Executive Manager Planning and Community Safety**Author:** Leigh Northwood, Manager Strategic Planning**Summary**

This report provides a draft of the Nillumbik Neighbourhood Character Strategy (NCS) (**Attachment 1**) and recommends Council endorse the draft NCS for a round of community engagement to run for 6 weeks from late August to mid-October. This consultation represents the second round of engagement with regard to the project.

A NCS is an important policy document for Council to protect neighbourhood character through the planning scheme. Council has an existing NCS which dates from 2003 and a new strategy is now required. Developing a new NCS is a priority action in the current Council plan.

Development of the draft NCS has been particularly informed by:

- The requirements and limitations set by State Planning Policy regarding the scope and jurisdiction of a NCS.
- A first round of public engagement for the project which aimed to capture what the community identifies as the important contributing elements to neighbourhood character.
- The technical planning research and expertise necessary for a NCS to justify a future planning scheme amendment.

A key feature of the draft NCS is to divide the Shire's residential areas into a number of character areas and provide a precinct profile for each area. To support and enhance neighbourhood character, each precinct profile provides a preferred character statement, neighbourhood character objectives and design guidelines.

The draft Nillumbik NCS articulates and supports many of the elements that were supported in the first round of community consultation conducted in April-May 2022. The draft strategy places an emphasis on vegetation in the preferred character statements, particularly indigenous vegetation, noting the supporting design guidelines which support the contribution of vegetation in each precinct include requirements to support such including:

- Each precinct is provided with a recommended density of canopy vegetation.
- There is generally a preference for low to no front fencing.
- Appropriate setbacks are recommended to allow a suitable level of vegetation to be protected and established.

The draft NCS includes feedback as provided by both Councillors (workshop and subsequent draft document review) and the internal Project Working Group guiding the technical inputs - particularly regarding changes to improve the clarity and effectiveness of the guidelines to provide sufficient space for vegetation, protect vegetation and to minimise the intrusion of buildings in support of protecting neighbourhood character.

**12. Officers' reports****CM.085/22 A first draft of the Nillumbik Neighbourhood Character Strategy**

The draft neighbourhood character profiles are considered to be a matter that will be of particular interest to the community and should be tested with the community before any further development of the Strategy, noting it is anticipated that clarifications around mapping and application of the neighbourhood profile areas will be the focus of submissions that will be received to this round of engagement. The proposed next engagement has been designed to:

- Optimise the community's awareness of the round of engagement.
- Offer the community various opportunities to discuss the draft Strategy with Council's project team, including to have 1:1 sessions where an officer can explain how the Strategy proposes to treat a particular neighbourhood or property.
- Allow community members to easily access the document and to easily understand what it proposes for a particular property or neighbourhood and then, to give direct feedback.
- Respect that people may wish to consult on-line to avoid potential exposure to Covid, or for other reasons.

When this proposed consultation is completed the results will then be considered and reported to the next available meeting of Council's Planning and Consultation Committee, which is scheduled to occur in early 2023. It is noted considerable work is required between this proposed consultation and the next draft of the NCS to consider and adequately respond to anticipated feedback.

A third round of engagement is programmed to be conducted in early to mid-2023. It is intended that this further round of engagement will:

- Release a further revised draft of the NSC, which will have been modified to appropriately respond to the feedback to the first draft of the document i.e. the feedback Council receives to **Attachment 1**.
- Allow community members the opportunity to consider the revised draft and to provide feedback as to whether the document has adequately captured the earlier feedback.

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

**Recommendation**

**That Council:**

1. Notes the draft Nillumbik Neighbourhood Character Strategy, which is provided as **Attachment 1**;
2. Endorses the draft Nillumbik Neighbourhood Character Strategy for public engagement from late August to mid-October (for 6 weeks); and
3. Notes that a report is scheduled to be presented to Council's Planning and Consultation Committee in early 2023 that will present the community's response to the draft Nillumbik Neighbourhood Character Strategy.

**12. Officers' reports****CM.085/22 A first draft of the Nillumbik Neighbourhood Character Strategy****Attachments**

1. Neighbourhood Character Strategy - Draft Strategy

**Discussion**Developing a new Nillumbik NCS

1. It is a requirement of State Planning Policy that each Council develops:
  - a) A NCS to identify a preferred character for residential areas and how future development will support that character.
  - b) A Housing Strategy (HS) to identify how the municipality will provide sufficient growth in housing supply and diversity.
2. The NCS is particularly required to inform and justify provisions in the local sections of the planning scheme designed to protect neighbourhood character, including for when decisions are reviewed at VCAT. It should be noted, though, that both a NCS and HS are still required by State Planning Policy to support the State Government's intended growth in housing supply and diversity in metropolitan Melbourne.
3. Council has an existing NCS and Housing Strategy. However, both are dated, noting that the existing NCS was produced in 2003 and the HS was produced in 2001. The significant age of these documents will increasingly have consequences for the weight given to them in planning settings, such as VCAT. Consequently, the development of both a new NCS and HS are priority actions in the current Council Plan.
4. The project to develop a NCS is fully funded over 2 financial years (see "Budget implications" below) and is significantly advanced. The study area for the NCS is identified in **Attachment 1** and only includes those parts of the Shire that are within residential zones.
5. A consultant team, comprising Ethos Urban and Chatterbox Projects, has been engaged to assist with much of the technical and consultation to develop the new NCS. The project has the stages outlined in the following table:

TABLE A – KEY STAGES TO DEVELOP THE NILLUMBIK NCS

Step	Action	Timing/Status
a)	Develop the project and conduct background research.	Completed
b)	Conduct further research, including to conduct a first round of public engagement as to what constitutes the preferred character in residential areas.	Completed
c)	Prepare a first draft of the NCS	Completed
d)	Conduct public engagement on the draft NCS	Spring 2022

## 12. Officers' reports

## CM.085/22 A first draft of the Nillumbik Neighbourhood Character Strategy

Step	Action	Timing/Status
e)	Consider changes to the draft NCS, including by further engagement, and then recommend Council: <ul style="list-style-type: none"> <li>• Adopt a final NCS (potentially with further changes); and</li> <li>• Commence a planning scheme amendment to implement it (note that a planning scheme amendment to implement the NCS would require completion of the HS).</li> </ul>	From early 2023 with the NCS scheduled to be adopted in late 2023

6. The planning scheme amendment referred to in Stage e) of Table A will be run as a separate, subsequent, 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*.

Preparation of a draft NCS

7. The draft NCS, which is provided as **Attachment 1**, has been particularly informed by the following:
- a) The requirements and limitations of a neighbourhood character strategy applied by State Planning Policy. Examples of these limitations and requirements include:
    - i. A NCS should not attempt to veto development expectations set by the State Government, but rather guide development to support a preferred character for an area.
    - ii. Many matters which are relevant to housing and residential areas are actually the responsibility of other State and Council strategies. Examples of these matters are traffic management, environmental sustainability of housing, diversity of housing, housing growth, protection of flora and fauna and pollution.
    - iii. Whilst community consultation is an important factor in informing a NCS, the Strategy NCS is a technical planning document, which must be significantly informed by technical expertise and research that defines neighbourhood character and recommends how it should be protected.
    - iv. The document is required to have a structure and rationale which will satisfy its purpose to inform a future planning scheme amendment.
  - b) A first round of public engagement for the project, which was conducted in April-May 2022, aimed to capture what the community identifies as important contributing elements to neighbourhood character. Particular points of note about that consultation are:
    - i. The quantity of the feedback was substantial, comprising 332 written submissions, plus additional verbal feedback from a number of activities.

**12. Officers' reports****CM.085/22 A first draft of the Nillumbik Neighbourhood Character Strategy**

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- ii. In its response, the community 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.
  - 8. The key components of the draft NCS include:
    - a) A summary of the planning context for the NCS;
    - b) A summary of the first round 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:
      - i. Bush Residential 1 and 2;
      - ii. Garden Court 1, 2 and 3;
      - iii. Garden Residential; and
      - iv. Rural Residential 1 and 2.
    - f) A draft precinct profile for each character area, which provides:
      - i. More detailed mapping of each character area;
      - ii. A description and summary of its key attributes;
      - iii. A preferred character statement; and
      - iv. A set of neighbourhood character objectives and design guidelines to support the preferred character.
    - g) Discussion of next steps, the proposed consultation (discussed below) and further work.
  - 9. The preferred character statement articulates the valued features and characteristics of an area to be respected by new development. To support the preferred character, the neighbourhood character objectives and the urban design guidelines provide more detail as to how relevant development should be sited and designed. For example, by setting direction regarding a desired density of canopy trees, recommending minimum front setbacks and making recommendations relevant to front fencing and the streetscape.
  - 10. The draft Nillumbik NCS articulates and supports many of the elements that were supported in the community consultation conducted in April-May 2022. For example, the strategy:
    - a) Places an emphasis on vegetation in the preferred character statements, particularly indigenous vegetation.

**12. Officers' reports****CM.085/22 A first draft of the Nillumbik Neighbourhood Character Strategy**

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- b) Provides guidelines which support the contribution of vegetation in each precinct, noting:
    - i. Each precinct is provided with a recommended density of canopy vegetation.
    - ii. There is generally a preference for low to no front fencing.
    - iii. Appropriate setbacks are recommended to allow a suitable level of vegetation to be protected and established.
  - 11. The draft neighbourhood character profiles are considered to be a matter that will be of particular interest to the community and should be tested with the community before any further development of the Strategy. Therefore, the next scheduled step in the project is to conduct a second round of engagement, which will seek the community's feedback on the draft Strategy.
  - 12. The proposed engagement has been designed to:
    - a) Optimise the community's awareness of the round of engagement.
    - b) Offer the community various opportunities to discuss the draft Strategy with Council's project team, including to have 1:1 sessions where an officer can explain how the Strategy proposes to treat a particular neighbourhood or property.
    - c) Allow community members to easily access the document and to easily understand what it proposes for a particular property or neighbourhood and then, to give direct feedback.
    - d) Respect that people may wish to consult on-line to avoid potential exposure to Covid, or for other reasons.
  - 13. To achieve these objectives, the proposed consultation will have the following key elements:
    - a) Run for 6 weeks and is scheduled to run from late August to mid-October.
    - b) Notify the community by a range of methods, such as direct notification to all past submitters, social media posts, paid social media advertisements and e-newsletters.
    - c) Provide various types of sessions for people to be informed about and provide verbal feedback to the draft Strategy, including:
      - i. 2 x pop-up information stalls, with one at the Diamond Creek Rotary Town Fair and one at the Eltham Farmers' Market.
      - ii. 2 x on-line group information sessions with a Q&A component.
      - iii. 3 x sessions of 1:1 face to face interviews, where members of the public can talk individually to a member of Council's project team. It is scheduled that there will be a session each at Hurstbridge, Eltham and Diamond Creek.
      - iv. 2 x teleconferencing sessions, where members of the public can talk individually online to a Council officer about the draft Strategy.

**12. Officers' reports****CM.085/22 A first draft of the Nillumbik Neighbourhood Character Strategy**

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- d) Use Council's Participate Nillumbik as an engagement platform, which will provide:
    - i. Background information, including an informative video;
    - ii. Access to the draft NCS;
    - iii. The option to provide a survey response, or general submission;
    - iv. A mapping tool that will allow users to see how the draft NCS proposes to treat a particular neighbourhood or property and then allow them to provide direct written feedback through the on-line survey; and
    - v. Contact details to discuss the draft NCS with a Council officer.
  - 14. When the consultation is completed the results will then be considered and reported to the next available meeting of Council's Planning and Consultation Committee, which is scheduled to occur in early 2023.
  - 15. It is important to note that the proposed second round of engagement (late August to mid-October 2022) is not the last round of engagement proposed for the project.
  - 16. The project proposes that a third round of engagement will be conducted in early to mid-2023. It is intended that this further round of engagement will:
    - a) Release a further revised draft of the NSC, which will have been modified to appropriately respond to the feedback to the first draft of the document i.e. the feedback Council receives to **Attachment 1**.
    - b) Allow community members the opportunity to consider the revised draft and to provide feedback as to whether the document has adequately captured the earlier feedback.
  - 17. 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.
    - b) Initiating a planning scheme amendment to give the adopted NCS statutory weight through the Nillumbik Planning Scheme.
  - 18. As noted earlier, such a planning scheme amendment would also be exhibited, in accordance with the requirements of the *Planning and Environment Act 1987*.

**Related Council decisions**

- 19. 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; and
  - 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.

**12. Officers' reports****CM.085/22 A first draft of the Nillumbik Neighbourhood Character Strategy****Options**

20. The officer recommendation proposes that Council endorse the draft NCS for a round of public engagement. The rationale for this recommendation are that public engagement on the draft is the next scheduled step in the project and it is important and timely to now test key aspects of the draft with the community.
21. It is particularly emphasised, as discussed above, that this is not the only opportunity for the community to consider a draft of the NSC, noting the project provides for a third round of engagement on a later draft of the document in fully resolving it.

**Council plans and policies**

22. 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.
  - The priority actions to develop a new HS and NCS for the Shire.

**Sustainability implications**

23. 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**

24. This is discussed above.

**Innovation and continuous improvement**

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

**Collaboration**

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

**Budget implications**

27. 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**

28. 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**

29. As outlined earlier, a NCS is required by State Planning Policy.

**Conflicts of interest**

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

**12. Officers' reports****CM.086/22      Regional / Municipal Gallery Business Case and Masterplan****Distribution:** Public**Manager:** Corrienne Nichols, Executive Manager Community Services**Author:** Nichole Johnson, Manager Community Partnerships**Summary**

The purpose of this report is to address the outstanding Council resolutions from 29 October 2019 and the 23 June 2020 Ordinary Council Meetings relating to the undertaking of a Regional or Municipal Gallery Business Case and Masterplan.

This report also identifies smaller creative infrastructure development opportunities for Nillumbik Shire through the construction of a Creative Infrastructure Framework.

**Recommendation****That Council:**

1. Discontinues the Business Case and Masterplan for a Regional or Municipal Gallery.
2. Endorses proceeding with smaller creative infrastructure development opportunities for Nillumbik Shire through the construction of a Creative Infrastructure Framework.

**Attachments**

1. Regional Gallery Feasibility Study

**Discussion**

1. At the 29 October 2019 Ordinary Council Meeting (OCM) Council accepted the findings of the Regional Gallery Feasibility Study (**Attachment 1**) and resolved to:
  - a. Endorse continuation of a business case and masterplan for a regional or municipal gallery at: a) 895 Main Street, Eltham. b) Another council owned facility/site.
  - b. Endorse investigation of options of public/private partnerships (not specific to any particular site).
2. Following the October 2019 Council Meeting the Victorian Health Building Authority (VHBA) advised Council they were awaiting confirmation from the relevant Ministers office that 895 Main Road Eltham was one of the preferred sites to develop a hospital.
3. 895 Main Road Eltham was a key site for analysis identified through the Council resolution for development of a Regional or Municipal Gallery Business Case and Masterplan.
4. As the VHBA proposal could potentially render any work on a Regional or Municipal Business Case and Masterplan undertaken at the 895 Main Road Eltham site unusable, the 23 June 2020 Ordinary Council Meeting Council endorsed a resolution to:

**12. Officers' reports****CM.086/22      Regional / Municipal Gallery Business Case and Masterplan**

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- a. Wait until the official announcement from the State Government regarding the preferred site for the Community Hospital before progressing the Regional or Municipal Gallery Business Case and Masterplan further.
  - 5. Recent communications with the State Government have now indicated that 895 Main Road Eltham is no longer a site for consideration for the Community Hospital.

**Related Council decisions**

- 6. At the 29 October 2019 OCM Council accepted the findings of the Regional Gallery Feasibility Study (**Attachment 1**) and resolved to:
  - a. Endorse continuation of a business case and masterplan for a regional or municipal gallery at: a) 895 Main Street, Eltham. b) Another council owned facility/site.
  - b. Endorse investigation of options of public/private partnerships (not specific to any particular site).
- 7. At the 23 June 2020 OCM Council endorsed a resolution to:
  - a. Wait until the official announcement from the State Government regarding the preferred site for the Community Hospital before progressing the Regional / Municipal Gallery Business Case and Masterplan further.

**Options**

- 8. Discontinue further investment into a Regional or Municipal Gallery Business Case and Masterplan.
- 9. Explore the development of multiple smaller creative infrastructure opportunities across the municipality.
- 10. To provide an evidence led approach to the development of creative infrastructure in Nillumbik Shire, following a creative infrastructure audit the development of a Creative Infrastructure Framework is recommended.
- 11. This framework, informed by an audit, will provide an evidence led strategic approach for any potential future Council investment in creative infrastructure by:
  - a. Identifying gaps in the service offering of creative infrastructure to residents
  - b. Identifying priority projects and locations
  - c. Provide a range of opportunities for consideration from minor infrastructure upgrade through to stand alone development.

**Council plans and policies**

- 12. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
  - We recognise and celebrate our community's significant contributions to art and culture.
- 13. Arts and Culture Plan 2018-2022:
  - a. Public and participatory arts are an everyday experience
  - b. Develop and grow creative and cultural industries

**12. Officers' reports****CM.086/22      Regional / Municipal Gallery Business Case and Masterplan**

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- c. Support and promote arts and cultural activities that maximise access.

**Sustainability implications**

14. Not Applicable

**Community engagement**

15. A range of themes emerged from the consultation undertaken for the Nillumbik Regional Gallery Feasibility Study Report (**Attachment 1**).
16. The What We Know Arts and Culture Strategy 2022-26 Community Consultation Summary Report (What We Know Report) summarises the voices of 2216 participants from 16 separate consultation documents into key themes and sub-themes highlighting community wants and needs from its Arts and Culture service.
17. This Report also presents a strong desire for creative hubs including exhibition space that support mid-career and established artists to professionally display their artworks.
18. Physical space in which to practice and share art is requested more often than anything else by creative practitioners in Nillumbik in the What We Know Report.

**Innovation and continuous improvement**

19. Not Applicable

**Collaboration**

20. Not Applicable

**Budget implications**

21. The development of a Creative Infrastructure Framework will be funded through existing operational budget.

**Relevant law**

22. Not Applicable

**Regional, state and national plans and policies**

23. Not Applicable

**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.

**12. Officers' reports**

**CM.086/22      Regional / Municipal Gallery Business Case and Masterplan**

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**12. Officers' reports****CM.087/22 Proposed Flagpole Schedule**

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

The purpose of this report is to present the Proposed Flagpole Schedule (**Attachment 1**) and the Flag Request Process (**Attachment 3**) for endorsement.

**Recommendation**

**That Council endorses the Flagpole schedule (**Attachment 1**) and the Flag Request Process (**Attachment 3**).**

**Attachments**

- 1 Flagpole schedule
- 2 Australian flags booklet
- 3 Flag Request Process
- 4 Mock-up for Nillumbik Flag

**Discussion**

1. Council has purchased and installed two additional flagpoles at the Civic Centre.
2. The Australian Flag and the Australian Aboriginal Flag will now permanently be flown along with the Torres Strait Islander Flag.
3. On Tuesday the 17 May 2022 on International Day Against Homophobia, Biphobia, Intersex Discrimination and Transphobia (IDAHOBIT) Council raised the Progress Pride Flag for the first time.

**Related Council decisions**

4. Not Applicable

**Options**

5. Officers are recommending that the Flagpole Schedule (**Attachment 1**) be endorsed which recommends flying the Progress Pride Flag on the fourth flagpole.
6. This flag would be lowered to raise other cause flags and then raised again after.

**12. Officers' reports****CM.087/22 Proposed Flagpole Schedule**

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7. Flying the Progress Pride Flag signifies to community that Nillumbik is inclusive, welcoming and accepting of all people.
8. Victorian Commissioner for LGBTIQ+ Communities, Todd Fernando, spoke of the significance of symbolism and visibility, and the impact it can have on community, especially young people or those who feel unsafe. Not supporting LGBTIQA+ people in visible or affirming ways, can foster a sense of invisibility or exclusion.
9. The Progress Pride flag, is a flag that much of the community already easily recognises, it is a flag that we know a significant amount of the community find meaning and a sense of value in and can contribute to the feeling of safety and belonging for our current and future LGBTIQA+ community.
10. The Flagpole Schedule (**Attachment 1**) highlights that these flags may be lowered and raised on appropriately recognised days of significance as outlined in the schedule.
11. The Flagpole schedule has been prepared in line with the Australian National Flag Protocols outlined in the *Australian flags booklet* (**Attachment 2**).
12. Requests for additional flags to be flown in support of specific causes may be raised on occasions by Councillors, Officers or Community. In order to initiate a new flag to be raised on any particular cause day, Councillors, Officers or other community members and organisations would be required to put forward a request to Council for any additional flag to be flown on the additional flagpole at the Civic Centre. This will ensure that only appropriately recognised flags are flown on approved occasions as determined by Council.
13. A proposed Flag Request Process (**Attachment 3**) has been prepared. A formal request form will also be developed.
14. A mock-up for a Nillumbik Flag (**Attachment 4**) is also provided for consideration.

**Council plans and policies**

15. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
  - We champion equity, diversity, access and inclusion for people of all abilities, ages, cultural identities, gender identities, geographic locations, religions, sexualities, and socio-economic backgrounds.
16. Directly supports the policy commitments outlined in the Draft Access, Equity and Inclusion Policy.
17. Directly supports the achievement of the Nillumbik Health and Wellbeing Plan 2021-2025 social inclusion and connection priority
  - Celebrate the diversity of our community and actively work to reduce inequalities among groups including older people, under represented cultural groups, people identifying as LGBTIQA+, people with disability, carers and First Nations People.
  - Celebrate the rich history, cultures and achievements of First Nations People.

**12. Officers' reports****CM.087/22 Proposed Flagpole Schedule**

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18. Directly supports the achievement of the Nillumbik Reconciliation Charter which outlines Council's long standing commitment to Reconciliation between First Nations People and other Australians, recognising the need for an inclusive inter-related community.

**Sustainability implications**

19. Not Applicable

**Community engagement**

20. This initiative represents the implementation of Council Plan actions (as outlined above). These actions were developed in consultation with the community.

**Innovation and continuous improvement**

21. Not Applicable

**Collaboration**

22. Not Applicable

**Budget implications**

23. No budget implications

**Relevant law**

24. Not Applicable

**Regional, state and national plans and policies**

25. This report also supports Council's responsibility to the Victorian Charter of Human Rights and Responsibilities Act 2006 (The Charter), which sets out the basic rights, freedoms and responsibilities for all people in Victoria. The Charter aims to improve service delivery and ensure transparent decision making by promoting a human rights culture across state and local government departments and agencies, and people delivering services on behalf of government across Victoria.

**Conflicts of interest**

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

**12. Officers' reports**

**CM.087/22      Proposed Flagpole Schedule**

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**12. Officers' reports****CM.088/22      Diamond Creek Netball Stadium Roof****Distribution:** Public**Manager:** Hjalmar Philipp, Director Operations and Infrastructure**Author:** Rebecca Burton, Manager Recreation and Leisure

Enrique Gutierrez, Manager Assets and Capital Works

**Summary**

In May 2022 the State government announced it will provide \$1 million dollars for two outside courts at the Diamond Creek netball facility on Diamond Street to be covered with a new roof.

For Council to receive the funds, it needs to apply through Sports and Recreation Victoria by 26 August 2022.

Funding is capped at \$1 million for this project and Council must provide any shortfall to complete the project.

The report outlines the funding commitment and conditions, the project scope, project cost, funding shortfall and other considerations relevant to the project such as siting, heritage, vegetation impacts and visual amenity.

**Recommendation****That Council:**

1. Supports an application to Sports and Recreation Victoria to receive the funding allocated in the 2022-23 Victorian State Budget towards the Diamond Creek Netball Court Covers.
2. Refers any balance of funds required to deliver the project to Council's future budgets.
3. Thanks the Victorian State Government for its support for community infrastructure in Nillumbik Shire Council.

**Attachments**

Nil

**Discussion**

1. Premier Daniel Andrews visited the Diamond Creek netball facility in May 2022 along with Minister for Community Sport Ros Spence, Vicki Ward MP and Danielle Green MP, to announce the State government will provide \$1 million dollars for two outside courts at the Diamond Creek netball facility to go 'under cover' with a new roof.
2. Providing coverage over two of the courts will allow the clubs at Nillumbik Force Association to train and play in all-weather conditions. The all-weather covers will further enhance the precinct which features eight newly resurfaced courts and a new pavilion.
3. Nillumbik Force Netball Association's preference is for the two courts immediately south of the pavilion to be covered.

**12. Officers' reports**

**CM.088/22      Diamond Creek Netball Stadium Roof**

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4. The Association has also requested these two courts to be enclosed with a fence to preserve the life of the court surface. The Association objective to host State competitions in the future, protecting the court surface with a fence will support this objective. Enclosing the courts with a fence will be subject to Melbourne Water approval.
5. As part of the funding commitment from the State Government, Council has been invited by Sports and Recreation Victoria to apply for the \$1 million made available for the construction of a roof over two courts at the Diamond Creek Outdoor Netball Courts. Funding is capped at \$1 million for this project and Council must provide any shortfall to complete the project.
6. Council must complete their application, including the provision of all supporting documentation to Sports and Recreation Victoria no later than 26 August, 2022. This is to ensure the funding agreement can be signed off in October 2022.
7. Supporting documentation includes concept plans, a detailed project cost estimate, a project management plan, project schedule detailing key milestones and delivery times, a risk analysis, a stakeholder management plan, written support from the key stakeholders and details on how Council will fund any project shortfalls.
8. The project would also include under roof lighting (some of the existing lighting would be no longer required).
9. Cost estimates have been sought from suppliers for the roof. The current estimate is \$1.52 million and includes the roof structure, lighting and stormwater management but excludes permit fees, construction industry escalations and project contingency. The final project delivery price may therefore be approximately \$1.8 million. This estimate does not include the construction of any fence enclosing the roofed area.
10. This estimate is consistent with costing for the recently constructed roof over netball courts in Yarra Ranges Shire Council.
11. The preferred site location of the covered courts is the two courts immediately south of and adjacent to the pavilion. This is the preferred location of both the Nillumbik Force Netball Association and Council officers. It is the most appropriate location and would tie in well with the pavilion and allow for viewing from the pavilion's upper veranda area. It is also the location that would present the least impact to visual amenity and vistas around the site to surrounding parkland and open space. It is also the location mentioned in the funding commitment.
12. This location does have some issues that need to be worked through:
  - **Heritage listed Hawthorn Hedge and other boundary vegetation** – Shade from the roof structure and excavations for column footings are likely to impact on the heritage listed Hawthorn Hedge and other vegetation along the southern and south-eastern boundaries of the courts. Assessments from both heritage consultants and arborists are being sought.
  - **Amenity and visual impact on residential properties in Diamond Street** – the opinions of the residents at the northern end of Diamond Street would be sought as part of the community consultation for the project. No public consultation has been undertaken on this proposal to date.

**12. Officers' reports****CM.088/22      Diamond Creek Netball Stadium Roof**

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- **Melbourne Water Approval** – The entire site is subject to inundation from the Diamond Creek and as such, all works must be approved. While the roof structure itself should not present an issue, the proposed fencing of the courts beneath the roof may cause Melbourne Water some concern. The fencing of the courts may not be possible. An application to consider the proposal has been submitted to Melbourne Water.
  - 13. The only other location where the roof over two courts could be considered would be the two northern most courts. This is a less desirable location due to the obvious separation from the pavilion, the severe impact to the vista across the courts from the playground and surrounds to the creek, trail and rest of the reserve and the impact on the area of the courts most frequently by the public.
  - 14. Anticipated delivery timing of the project would be as follows, subject to approval from Sports and Recreation Victoria.
    - 26 August, 2022 – Submission of Grant Application
    - October, 2022 – Signing of Funding Agreement
    - January - March, 2023 – Design and Construct Tender and evaluation
    - April 2023 OCM – Contract award
    - May - October, 2023 – Design Development and Public Consultation
    - November, 2023 – Council endorsement
    - December, 2023 - September, 2024 – Permits, approvals and appeals.
    - October – November, 2024 - Detailed Design
    - January – September, 2025 - Construction, including materials procurement.

**Related Council decisions**

15. Not Applicable.

**Options**

16. The option of not proceeding with a submission to access the funding is not recommended.

**Council plans and policies**

17. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
- We facilitate participation in sports, leisure and recreational activities.

**Sustainability implications**

18. Not applicable at this time.

**Community engagement**

19. Not applicable at this time.

**Innovation and continuous improvement**

20. Not applicable at this time.

**12. Officers' reports**

**CM.088/22      Diamond Creek Netball Stadium Roof**

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**Collaboration**

21. Not applicable at this time.

**Budget implications**

22. Any budget requirements above the \$1,000,000 State Government commitment would need to be obtained from allocation of capital expenditure in future years. The shortfall is estimated to be up to \$800,000.

**Relevant law**

23. Not applicable

**Regional, state and national plans and policies**

24. Not applicable

**Conflicts of interest**

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

**12. Officers' reports****CM.089/22 Pre-Election Commitment Communication Protocols****Distribution:** Public**Manager:** Sally Johnson, Acting Executive Manager Governance, Communications and Engagement**Author:** Ricardo Prince, Communications and Advocacy Lead**Summary**

It is important to ensure that the ordinary business of Council continues through any election period - State or Federal - in a responsible and transparent manner, in accordance with statutory requirements and established election conventions – especially during the 'caretaker' campaign period.

It is important that Council conducts itself in a manner that is ethical, fair and equitable, and that it is publicly perceived as doing so.

This need is heightened during a year in which both State and Federal elections are being held.

The recent Federal Election highlighted the importance of having clear processes and protocols in place to guide any Council or Councillor involvement in announcements of election commitments made by candidates.

An important role of Council is to advocate on its community's behalf. Holding candidates accountable for commitments made during election campaigns is an important element of advocacy and sharing information about such commitments is an important method to help ensure this accountability.

The development of Pre-Election Commitment Communication Protocols therefore, will help to provide clarity, avoid any unintended bias or the perception of bias, and deliver greater accountability.

They outline the parameters within which Council could appropriately share information about election commitments that will impact the community.

**Recommendation****That Council:**

1. Formally endorses the Pre-election Commitment Communication Protocols (**Attachment 1**) as Council policy.
2. Instructs Council officers to make the protocols publically available on Council's website and provide them to anyone who nominates as a local candidate in State and Federal elections.

**Attachments**

1. Pre-Election Commitment Communication Protocols

**12. Officers' reports****CM.089/22 Pre-Election Commitment Communication Protocols**

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**Discussion**

1. In the lead-up to a Federal or State election, candidates will make a number of local commitments, deliverable should they or the party they represent, be elected to government.
2. Some of these commitments will directly impact Council services, facilities and operations. Others may be less directly linked to Council but will have implications for the community and will therefore be of interest to Council.
3. Advocacy on the community's behalf is a key responsibility and area of focus for Council and commitments made by election candidates - State or Federal – are something in which Council takes a keen interest.
4. It is important also, that Council be impartial – and be seen to be impartial – in how it responds to election commitments. This impartiality is critical to ensuring public confidence in both Council decisions, and that its advocacy is pursued in the best interests of the community.
5. The Pre-Election Commitments Communications Protocols aim, through a series of clear steps, is to provide clarity – for candidates, the community, Councillors and Council officers - around how Council is to be engaged on announcements of election commitments and also on how these will be communicated by Council.
6. The Protocols also require candidates to confirm with Council that their commitment aligns with existing whole-of-Council advocacy priorities and, should this commitment require part funding by Council, whether Council has capacity within its existing resources to do so.
7. Once formally endorsed, the Pre-Election Commitment Communication Protocols will be shared with any individual who has nominated to stand as a candidate at the upcoming State Election, to be held on November 26, and in any subsequent State or Federal election or by-election.
8. Any commitment promoted on Council platforms or through Council channels (website, social media, speeches etc.) will be accompanied by a brief explainer on Council's rationale for promoting it through its channels.

**Related Council decisions**

1. Council's *Advocacy Priorities 2022* document, endorsed in December 2021.
2. The *Nillumbik Shire Council Communications Strategy 2022-2025*, endorsed in July 2022.

**Options**

3. Not endorse the protocols and enter pre-election periods (State and Federal) without a clear policy with which to guide Council's handling of such announcements.

**Council plans and policies**

4. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
  - We act in the best interests of our community.

**12. Officers' reports****CM.089/22 Pre-Election Commitment Communication Protocols**

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- We communicate clearly and regularly, taking the time to listen to, and engage with our community.

**Sustainability implications**

5. Not applicable

**Community engagement**

6. While no formal community engagement was undertaken on this issue, the promotion of candidate election commitments on Council communications platforms in the immediate lead-up to the recent Federal Election drew a strong response, with some in the community expressing concern over perceptions of partisanship.

**Innovation and continuous improvement**

7. Among the clear trends to emerge from results of the 2022 Community Survey was the need for more effective communication from Council. The Pre-Election Commitment Communication Protocols aim to clearly communicate to the community, a key aspect of Council's role and its obligations under this role.

**Collaboration**

8. Not applicable

**Budget implications**

9. Any actions undertaken in the development and implementation of the Pre-Election Commitment Communication Protocols that fall within the existing operational budget.

**Relevant law**

10. *Local Government Act 2020* (s10)

**Regional, state and national plans and policies**

11. Not applicable

**Conflicts of Interest**

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

**12. Officers' reports**

**CM.089/22      Pre-Election Commitment Communication Protocols**

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**12. Officers' reports****CM.090/22      Council Plan Quarterly Performance Report - 2021-2022 - Quarter 4**

**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 for Council's consideration.

This report provides the fourth and final update on delivery progress and performance of the 2021-2022 Annual Action Plan priority actions (**Attachment 1**), which aligns to delivery of the first year of the Council Plan 2021-2025). This report also provides an update on Council's performance against the strategic indicator measures outlined in the Council Plan (**Attachment 2**).

Of the 54 actions in the 2021-2022 Annual Action Plan, 33 actions are 'complete', 17 actions are 'on track' (ongoing items) and 4 actions experienced minor issues and have been 'rescheduled' for completion in the 2022-2023 financial year. This suggests that Council has made solid progress in delivering on the priority actions of the Council Plan and significant outcomes for the community.

Of the 56 strategic indicators in the Council Plan, 20 were achieved this year, 17 were not achieved, and 19 recorded no material change. While these mixed results reflect the impact of COVID-19 restrictions and closures on service delivery and availability for core services including customer service, volunteering and attendance at Council facilities, it also demonstrates that Council services were returning to business as usual levels of activity by the end of 2021-2022, with improvements in areas such as environment, arts and culture, Living and Learning and capital works.

The entire year's performance against the delivery of the Council Plan will be published in the Annual Report 2021-2022, which will be presented to the community later in 2022.

**Recommendation**

**That** Council receives the Council Plan Quarterly Performance Report (comprising **Attachments 1** and **2**), reflecting Council's performance against the Council Plan 2021- 2025 as at 30 June 2022.

**Attachments**

- 1 Council Plan Performance Report - Priority actions 2021-2022
- 2 Council Plan Performance Report - Strategic indicators

**12. Officers' reports****CM.090/22      Council Plan Quarterly Performance Report - 2021-2022 - Quarter 4****Discussion**

1. The Council Plan 2021-2025 was developed throughout 2021 and adopted by Council in October 2021. The Council Plan 2021-2025 has four high-level strategic themes:
  - Community and Connection – to encourage inclusion and participation to support health and wellbeing and ensure that all our residents have equitable access to services, programs, events and initiatives.
  - Place and Space – to protect, enhance, maintain, plan and design places and spaces that strengthen identity, reinforce character, improve accessibility, encourage social connection and enjoyment, support biodiversity and respect the environment.
  - Sustainable and Resilient – to manage and adapt to changing circumstances that affect our community to ensure it remains sustainable and resilient, both now and into the future.
  - Responsible and Accountable – to facilitate the best possible outcomes for our community, by demonstrating strong leadership and working actively to achieve the community's objectives.
2. The Annual Action Plan 2020-2021 contains 54 actions contributing to delivery of the Council Plan within the corresponding financial year. Of these 54 actions, 33 actions are 'complete', 17 actions are 'on track' (ongoing items) and 4 actions experienced minor issues and have been 'rescheduled' for completion in the 2022-2023 financial year (**Attachment 1**).
3. The Council Plan 2021-2025 contains 56 strategic performance indicators which demonstrate performance against a range of key metrics and services across Council operations. Of these 56 strategic indicators, 20 were achieved this year, 17 were not achieved, and 19 recorded no material change (**Attachment 2**).
4. This report provides Council with an update on the progress delivery of those actions and indicators, and documents how Council is performing and delivering on the first year of the Council Plan for the Nillumbik community.
5. The overall position as reflected in the report suggests that:
  - Council has made solid progress in delivering on the priority actions of the Council Plan and significant outcomes for the community; and
  - Strategic indicators – While these mixed results reflect the impact of COVID-19 restrictions and closures on service delivery and availability for core services including customer service, volunteering and attendance at Council facilities, it also demonstrates that Council services were returning to business as usual levels of activity by the end of 2021-2022, with improvements in areas such as environment, arts and culture, Living and Learning and capital works.

**12. Officers' reports****CM.090/22      Council Plan Quarterly Performance Report - 2021-2022 - Quarter 4****Commentary on priority actions**

6. Some of the highlights of activities and deliverables achieved during the quarter (April to June 2022) include:
- a) The Access, Equity and Inclusion Policy was developed in consultation with staff and the community, and was adopted at the July 2022 Council meeting;
  - b) Year 2 actions of the Disability Action Plan have been completed;
  - c) The Reconciliation Action Plan framework was presented to a Councillor briefing in June 2022. Development of the plan is dependent on recruitment of an Aboriginal Partnerships Officer which has been delayed, but is being supported by Indigenous Employment Partners, who are consulting with Council on the plan's development;
  - d) The first year of the Nillumbik Health and Wellbeing Plan has been implemented successfully, with a focus on prioritising social connection post COVID-19 lockdown and adaption to the changing needs of our community. The plan's first year progress will be formally reported to Council at the September 2022 Council Meeting;
  - e) Key actions in the Ageing Well in Nillumbik Action Plan were delivered, including the Aged Care Navigation and Advocacy Service provided to residents, as well as delivery of regular in person community education sessions on navigating the aged care system;
  - f) The first Nillumbik Youth Summit was held in May with more than 50 students from local high schools to discuss topics that matter most to Nillumbik's young people. Participants made a number of recommendations to support and inform actions in the implementation of the Youth Strategy including a youth hub, gender equity working group, solar panels and recycling workshops. Investigations into a Youth Hub for Nillumbik have commenced;
  - g) Phase 3 community engagement on the draft Municipal Planning Strategy was endorsed at the May 2022 Council Meeting, and engagement commenced in June 2022 for a 6-week period;
  - h) Council was briefed in July 2022 with progress of actions in the Green Wedge Management Plan 2019, and presented with a draft list of priority actions for 2022-2023;
  - i) The draft Arts and Culture Strategy 2022-2026 was released for public consultation at the April 2022 Council Meeting. It was exhibited from 1 May to 22 May 2022 and five formal submissions were received. The public submissions were considered at the July 2022 Planning and Consultation Committee Meeting;
  - j) A Local Art Infrastructure Audit was completed in June 2022. A Creative Infrastructure Framework will follow in 2022-2023. A report will be presented to Council at the August 2022 Council Meeting to confirm this position;
  - k) A review of the existing Biodiversity Strategy actions has commenced. A preliminary project plan for the development of a new biodiversity strategy, incorporating consideration of the Invasive Species Action Plan and the Roadside Management Plan, was presented to a Councillor briefing in early July 2022;

**12. Officers' reports****CM.090/22      Council Plan Quarterly Performance Report - 2021-2022 - Quarter 4**

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- l) The public submissions on the new Recreation and Leisure Strategy 2022-2030 were considered at the April 2022 Planning and Consultation Committee Meeting, and following some refinements, the draft strategy was adopted by Council at the June 2022 Council Meeting;
  - m) Streetscape beautification works at Yarrambat and Kangaroo Ground have been completed as part of the 2021-2022 budget program;
  - n) Council endorsed the draft Diamond Creek Community Infrastructure Strategic Plan for public exhibition in June 2022, to raise community awareness and specifically seek feedback in regard to the proposed Youth Hub. It is intended that public submissions will be considered at the September 2022 Planning and Consultation Committee Meeting;
  - o) Rooftop solar systems on three Council early years' facilities (Fergusson's Park, Diamond Creek Memorial and Woodridge) have been successfully installed and are operational;
  - p) The finalised Climate Action Plan 2022-2032 was presented to the April 2022 Council Meeting for adoption. At this meeting, Council endorsed a declaration of climate emergency, and adopted the Climate Action Plan subject to updates within the plan reflecting Council's adopted declaration of a climate emergency;
  - q) In accordance with section 115 of the *Local Government Act 2020*, Council gave notice in May 2022 that it proposes to enter into a lease with LMS Energy Pty Ltd for a solar farm on the former Plenty landfill site. It is proposed that LMS Energy will be responsible for the cost of developing, operating and maintaining the solar farm, and will lease the site from Council for an initial term of 25 years;
  - r) Delivery of the Pandemic Recovery Plan is now complete. The supporting plan taskforce met for the last time in May 2022, and a final progress report is being prepared for presentation to Council at the September 2022 Council Meeting. Moving forward, medium to long term recovery actions will be embedded into the new Relief and Recovery Plan and Nillumbik Health and Wellbeing Plan year 2 implementation plan;
  - s) All identified actions from the three-year Bushfire Mitigation Action Plan remain on track. Significant progress has been made in creating a community focussed approach to bushfire;
  - t) At the July 2022 Council Meeting, Council endorsed the draft Nillumbik General Local Law 1 for the purpose of public exhibition (from 1-22 August 2022), with the view to consider public submissions at the October 2022 Planning and Consultation Committee Meeting;
  - u) The review and development of the new Strategic Risk Register was completed in April 2022, along with a review and update of Council's Risk Management Policy and Risk Management Framework. All three documents were endorsed by Council's Audit and Risk Committee in May 2022, and presented to Council for formal noting at the June 2022 Council Meeting;

**12. Officers' reports****CM.090/22      Council Plan Quarterly Performance Report - 2021-2022 - Quarter 4**

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- v) Council received and endorsed the final year update on the four-year Nillumbik Customer First Strategy 2019-2022 at the April 2022 Council Meeting, prior to the strategy expiring. The key actions outlined in the strategy are now operational. Key benchmarks and measurements are now enshrined into day-to-day business;
  - w) Council's Communications Strategy 2022-2025 was adopted at the July 2022 Council Meeting. The development of this document involved extensive community engagement process, which included submissions at the June 2022 Planning and Consultation Committee Meeting.
  - x) At the end of 2021-2022, actual expenditure on Council's capital works program was \$25.57 million. This amount represents 96% of the total capital expenditure budget planned to be expended (\$26.67 million) in 2021-2022. Main projects completed this year included the Diamond Valley Sports and Fitness Centre upgrade (\$16.89 million), Stage 2 of the Diamond Creek Trail (\$5.5 million), the new Diamond Creek Netball Courts (\$2.18 million) and Pavilion (\$2.8 million), Hurstbridge Football and Cricket Club Pavilion (\$0.86 million), Diamond Valley Library (\$1.63 million) and Eltham Skate Park (\$0.77 million).
7. The following actions experienced minor issues and delays in 2021-2022 and have been rescheduled for completion in the 2022-2023 financial year:
- a) Develop a Building Municipal Control Plan which identifies building risks within the Shire and categorise the risk to Council and community;
  - b) Develop the Wattle Glen Public Realm Framework;
  - c) Develop a Performing Arts Policy;
  - d) Develop an Events Policy to ensure a clear, consistent, inclusive and equitable approach in the delivery of events.

**Council Plan strategic indicators**

- 8. The Council Plan 2021-2025 contains 56 strategic performance indicators which demonstrate performance and delivery progress against a range of key metrics and services across Council operations.
- 9. Of these 56 strategic indicators, 20 were achieved in 2021-22, 17 were not achieved, and 19 recorded no material change.
- 10. A +/- 2% threshold has been applied to the indicator change results (i.e. if the % change falls within +/- 2%), the status is recorded as 'no change'. This is due to the diversity of data sources and measurement scales used across the range of indicators.
- 11. The vast majority of these 'no change' results are from the Annual Community Survey results, which were heavily influenced by COVID-19 restrictions and closures and their impact on Council service delivery and availability.
- 12. The 17 'not achieved' indicators relate primarily to services most heavily impacted by COVID-19 restrictions and closures, as well as new measures in the Council Plan where the methodology is still being refined and improved by Council over time.

**12. Officers' reports****CM.090/22      Council Plan Quarterly Performance Report - 2021-2022 - Quarter 4**

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**Related Council decisions**

13. In concert with the adoption of the Council Plan 2021-2025, the Annual Action Plan 2021-2022 was developed and adopted at the October 2021 Council Meeting.

**Council plans and policies**

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

**Sustainability implications**

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

**Community engagement**

16. Through the Our People, Our Place, Our Future community engagement program that occurred in February and March 2021, feedback was received which helped inform the development of the Council Plan 2021-2025. The Council Plan was also developed and refined through a series of workshops with Councillors following the general election in November 2020.
17. The Council Plan was subject to a four-week public consultation process across July and August 2021, with refinements made following the receipt of submissions. The Council Plan was subsequently adopted by Council in October 2021.
18. The Annual Action Plan 2021-2022, reflecting the first year of delivery of the four-year Council Plan, was also adopted at the October 2021 Council Meeting.

**Innovation and continuous improvement**

19. Not applicable

**Collaboration**

20. Not applicable.

**Budget implications**

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

**Relevant law**

22. Not applicable.

**Regional, state and national plans and policies**

23. Not applicable.

**Conflicts of interest**

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

**12. Officers' reports**

**CM.091/22      Tender Report - Contract 2021-081 Roadside Weed Management Services**

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**Distribution:** Public

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

**Author:** Jeff Saker, Manager Operations Centre

**Summary**

This report recommends the awarding of contract 2021-081 for Roadside Weed Management Services Panel.

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 to deliver business as usual operational requirements for ongoing management of weeds along Council roadsides using a panel of qualified Services contractors. The contract replaces a previous contract for the required services.

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 2021-081 for Roadside Weed Management Services.

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 tenders submitted by the **preferred tenderers** for the schedule of rates disclosed in (**Attachment 1**) and enter into the following contract:  
Number: 2021-081  
Title: Roadside Weed Management Services  
Term: 1 September 2022 to 31 August 2025  
Options: Term extensions up to 31 August 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. Authorises the Director Operations and Infrastructure to appoint new service contractors to the panel throughout the term of the contract.
6. Advises all tenderers accordingly.

12. Officers' reports

CM.091/22      **Tender Report - Contract 2021-081 Roadside Weed Management Services**

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7. 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*.
8. Resolves that the preferred tenderers be named.

**Attachments**

1. Attachment 1 - Tender 2021-081 Evaluation Summary Report - **CONFIDENTIAL**

**Discussion**

1. Council manages Roadside Reserves in response to a variety of legislative and local policy drivers.
2. The scope of services is informed by:
  - Meeting Council's obligations as a land manager under the *Catchment and Land Protection Act 1994* (CaLP)
  - Reducing the impact of weeds and pest animals on biodiversity.
  - Reducing biomass of weeds on roadsides as a contribution to bushfire mitigation.
  - Acting as a 'good neighbour' by controlling the spread of weeds and pest animals onto neighbouring properties.
3. The key categories of the services required under the contract to maintain the roadside reserves are:
  - Weed control
  - Vegetation planting
  - Fire management and fuel reduction
  - Civil and other works relating to unsealed/gravelled paths
4. The contract is to appoint a panel of four contractors to deliver against the key service requirements and replaces a previous panel contract arrangement.
5. Annual operating expenditure is allocated for these services based on ongoing investment to control a range of weed species on public land.
6. Council prioritise the works program around the CaLP listed invasive species (for example, there are now no large infestations of blackberry on Council land and control is focussed on ensuring minor infestations are eliminated before they can spread).
7. The broader annual control program is based on officer inspections, contractor reports, community reports recorded as customer requests, community groups including Landcare and Friends groups and reports from Agriculture Victoria compliance officers specifically in relation to Serrated Tussock infestations.

**12. Officers' reports**

**CM.091/22      Tender Report - Contract 2021-081 Roadside Weed Management Services**

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**Council plans and policies**

8. This report directly supports the achievement of the Council Plan 2021-2025 strategy  
Good governance

- We continue to exercise sustainable and responsible financial management.

## Natural environment

- 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.

**Tender overview**

The Tender Evaluation Panel (TEP) advises that:

9. A public tender was issued on Saturday 28 May 2022.
10. The period for tender submissions closed at 2pm on Thursday 23 June 2022.
11. The following tenders were received:

<b>TENDERER</b>
<b>Tenderer 1 – Preferred Tenderer</b>
<b>Tenderer 2 – Preferred Tenderer</b>
<b>Tenderer 3 – Preferred Tenderer</b>
<b>Tenderer 4 – Preferred Tenderer</b>
Tenderer 5
Tenderer 6
Tenderer 7
Tenderer 8
Tenderer 9
Tenderer 10
Tenderer 11
Tenderer 12
Tenderer 13
Tenderer 14
Tenderer 15
Tenderer 16

**12. Officers' reports****CM.091/22      Tender Report - Contract 2021-081 Roadside Weed Management Services**

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12. Only tenders that were conforming and competitive were fully scored. Tender submissions that were evaluated as non-conforming or not sufficiently competitive were set aside from further evaluation.
  13. The following tenders were evaluated as non-conforming or not sufficiently competitive and were subsequently set aside from further evaluation.

<b>TENDERER</b>	<b>Reasons why tender was set aside from further evaluation</b>
Tenderer 14	Incomplete tender submission
Tenderer 15	Incomplete tender submission
Tenderer 16	Incomplete tender submission

14. Tenderers were required to provide a schedule of rates for Year 1 of the initial contract term.
15. The tendered and accepted rates will apply for Year 1 of the initial contract term.
16. There will be annualised rate adjustments for remaining years of the contract using the published Consumer Price Index (CPI) – All Groups Melbourne using the June quarter.
17. The following Evaluation Criteria and Weightings were applied during the evaluation of the conforming and competitive tenders. These weightings were set and agreed to by the Tender Evaluation Panel Members prior to the issue of the tender.

<b>Criteria</b>	<b>Weighting %</b>
Price	40%
Capability (Quality/Technical) & Capacity (Resources)	40%
Collaboration	10%
Sustainable Procurement (Social, Local and Environmental)	10%

18. The weightings reflect the relative importance of each element to this particular contract. They were determined as being most appropriate after considering numerous factors including (but not restricted to) the time, quality, risk and contract management requirements which were likely to have the most impact on the achievement of best value.
19. Using the tendered schedule of rates, analysis was undertaken to understand tenderers base of operations and travel distances and estimated travel times to three key locations within Council areas.

**12. Officers' reports****CM.091/22      Tender Report - Contract 2021-081 Roadside Weed Management Services**

20. Using this logic, travel costs were applied in addition to the tendered schedule of rates using a standard volume of works for 5 sub-categories of the key service requirements. This provided a value for money outcome for each of the evaluated tendered submissions.
21. The members of the TEP were:

<b>Position Title</b>	<b>Business Unit</b>	<b>Scoring Member or Advisory Member</b>
Team Leader Amenity	Infrastructure	Scoring
Senior Technical Officer	Infrastructure	Scoring
Parks and Open Space Coordinator	Infrastructure	Scoring
Manager Operations Centre	Infrastructure	Advisory
Senior Procurement Specialist	Corporate Services	Advisory

22. The final evaluation outcome was as follows:

<b>TENDERER</b>	<b>SCORE</b>	<b>OVERALL RANK</b>	<b>Local Company*</b>
Tenderer 1 – Preferred Tender	93	1	Yes
Tenderer 2 – Preferred Tender	89	2	Yes
Tenderer 3 – Preferred Tender	86	3	No
Tenderer 4 – Preferred Tender	83	4	Yes
Tenderer 5	71	5	No
Tenderer 6	70	6	Yes
Tenderer 7	70	7	Yes
Tenderer 8	66	8	No
Tenderer 9	57	9	Yes
Tenderer 10	50	10	No
Tenderer 11	49	11	No
Tenderer 12	48	12	No
Tenderer 13	44	13	No

\* A local tenderer is defined as one that has an operational business premises within the Council's municipal boundaries or within the boundaries of the Northern Region Group of Councils.

**12. Officers' reports****CM.091/22      Tender Report - Contract 2021-081 Roadside Weed Management Services**

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23. The recommended tenders are considered best value due to their evidenced capability and overall value for money outcomes.
24. **Attachment 1** - Tender Evaluation Summary Report – Confidential, provides the tenderer names and the Evaluation Scorecard Summary.
25. The Tender Evaluation Summary Report (**Attachment 1**) to remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.

**Capability & Capacity**

26. The preferred tenderers are either known to Council (contractor on the previous contract or have referenced Nillumbik Council for other related contracts) or have clearly evidenced in their tendered submissions, their ability to deliver against the requirements of the tendered services requirements.

**Use of chemicals for weed control**

27. All of the preferred tenderers are holders of an Agriculture Chemical User Permit (ACUP). Contractors are legally required to record all selective herbicide use on a daily record sheet which must be presented on request by Council officers or a State Government representative.
28. All herbicides used are chosen for their selective targeted use. As example - specific broad leaf weeds are targeted with selective herbicides in accordance with the manufacture label. The delivery, timing, machinery selection and application methodology is discussed with Parks and Open Space team prior to a roadside weed spray run to ensure that roadside operations are completed in appropriate weather conditions, limiting damage prevention through spray drift or overspray.

**Tender Interviews and Reference checks**

29. As the preferred tenderers are known and current contractors to Council, there were no tender interviews or reference checks required.

**Contingency and risks**

30. All tenderers were required to provide a COVID Safe Work plan along with an outline of their Business Continuity capability.
31. There is a limited volume of work available (is dependent on budget) but due to the nature of the service, the volume of work can be seasonal.
32. By appointing a panel of suitably qualified and experienced contractors, during peak service time requirements, Council will be able to meet their obligations in relation to management of the roadside reserves.

**Collaboration**

33. Not applicable.

**12. Officers' reports****CM.091/22      Tender Report - Contract 2021-081 Roadside Weed Management Services**

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**Budget implications**

34. Funding for the management of the roadside reserves is managed within the annual budget planning process.

**Sustainable Procurement (Social, Local and Environmental)**

35. Of the four preferred tenderers, three are local based suppliers, which by effect provide significant employment to residents within the Northern Council Alliance (NCA) areas.
36. These three local based suppliers, currently provide employment to residents as below:
- 39 Full time
  - 10 Part time
  - 65 Casual
37. The other preferred tenderer, while not a local based business, does provide employment to 6 residents of Nillumbik.
38. All the preferred tenderers are engaged with or directly contribute to social outcomes via not for profit groups, indigenous organisations and educational services.
39. Locally based suppliers shop and source from local suppliers where available.
40. All four preferred tenderers have in place an environmental management policy or system.

**Stakeholder Consultation/communication**

41. Not applicable

**Innovation and continuous improvement**

42. Not applicable.

**Relevant law**

43. Sections 108 and 109 of the *Local Government Act 2020*.

**Regional, state and national plans and policies**

44. Council manages Roadside Reserves in response to a variety of legislative and local policy drivers.

The most relevant State and Federal legislation includes:

- *Environment Protection and Biodiversity Conservation Act 1999*
- *Flora and Fauna Guarantee Act 1988*
- *Catchment and Land Protection Act 1994*
- *Country Fire Authority Act 1958*.

**12. Officers' reports**

**CM.091/22      Tender Report - Contract 2021-081 Roadside Weed Management Services**

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Key Council local policy drivers include:

- Council Plan 2021-2025
- Green Wedge Management Plan 2019
- Biodiversity Strategy 2012
- Bushfire Mitigation Strategy 2019
- Nillumbik Invasive Species Action Plan 2015.

**Conflicts of interest**

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

**12. Officers' reports****CM.092/22      Tender Report - Contract 2122-019 Deer Control Contractor Panel****Distribution:** Public**Manager:** Hjalmar Philipp, Director Operations and Infrastructure**Author:** Lisa Pittle, Manager Environment**Summary**

This report recommends the awarding of contract 2122-019 to appoint a Deer Control Contractor Panel.

This contract is to deliver on-going deer control services as required, and replaces a previous contract for deer control.

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

Funding for the initial two year contract and future extensions will be provided predominantly through Victorian government grants.

There is no guarantee of work provided by the contract as any work issued is dependent on funding via Victorian Government grants.

The contract is to appoint a panel of up to a maximum of 4 providers to a Deer Control Panel to deliver the Services. Council may nominate to appoint a single or multiple contractors to the panel at any time during the (up to five year) life of the panel, so long as there are up-to a maximum of 4 providers on the panel.

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 2122-019 for Deer Control Contractor Panel.

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 tenders submitted by the **preferred tenderers** for the schedule of rates disclosed in (**Attachment 1**) and enter into the following contract:

Number: 2122-019

Title: Deer Control Contractor Panel

Term: 1 September 2022 to 31 August 2024

Options: Term extensions up to 31 August 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.

**12. Officers' reports****CM.092/22      Tender Report - Contract 2122-019 Deer Control Contractor Panel**

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4. Authorises the Director Operations and Infrastructure to approve changes to operational requirements throughout the term of the contract.
  5. Authorises the Director Operations and Infrastructure to appoint new contractors to the panel throughout the term of the contract.
  6. Advises all tenderers accordingly.
  7. 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*.
  8. Resolves that the preferred tenderers be named.

**Attachments**

1. Attachment 1 - Tender 2122-019 Evaluation Summary Report - **CONFIDENTIAL**

**Discussion**

1. This new Deer Control Contractor Panel will replace Council's first 3-year Deer Control Panel which ceased in early 2022.
2. A Deer Control Contractor Panel is required to enable Council to have pre-vetted experienced, licensed deer control professionals that can be engaged as and when required to deliver deer control programs.
3. Deer are a threat to biodiversity, agricultural production, residential amenity and road safety in Nillumbik.
4. Deer control is an ongoing exercise.
5. The *Peri-urban Deer Control Plan 2021-26* is the Victorian government's response and plan to reduce deer impacts across the peri-urban region east and north of Melbourne, including in Nillumbik.
  - a. It has prevention, eradication, containment and asset protection objectives.
  - b. It identifies large areas of Nillumbik as being high priority areas for deer control investment and collaborative action.
6. Council will continue to apply for grants from state and federal government as opportunities arise, to help support attainment of the objectives of the Peri-urban Deer Control Plan, and to help support a reduction of deer impacts in Nillumbik.
7. Council currently has a grant application lodged with the Victorian government for funding to deliver a new Council-delivered 12-month ground-based deer shooting program in Nillumbik. Members of the new Deer Control Contractor Panel would be engaged to deliver this, and potentially future programs.
8. The contractors appointed for deer control works will be responsible for:
  - a) Engagement with landholders
  - b) Property surveys to determine feasibility of works, note risks, access, presence of stock and any other local risk.

**12. Officers' reports****CM.092/22      Tender Report - Contract 2122-019 Deer Control Contractor Panel**

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- c) Preparation of Tactical Deer Control Plans – an outline of the approach to annual works, including seasonal timings, area of operations, carcass removal processes, and thorough risk assessment plans.
  - d) Preparation of Property Shoot Plans – these are required for any property where the land is regarded as ‘populated’ and must be approved by Victoria Police. For this project, we are requiring that these plans are completed for all properties.
  - e) Obtaining Public Place Permits and signed Landholder Authorisation Form for all deer shooting on private property.
  - f) Notifications to advise Council, participating and neighbouring landholders of all shoot dates planned, including signage at properties or along roadsides leading to properties where operations are underway or planned.
  - g) Regular, organised on-ground shooting operations to maximise the number of deer killed. All deer are to be humanely shot.
  - h) Reports to Council on estimated deer numbers, works undertaken, properties visited, number of deer seen and culled, with details on carcass removal and disposal methods within agreed timeframes.
  - i) On-going communication with Council, including a log of contacts with property owners.

**Related Council decisions**

- 9. The previous deer contractor panel (*RFT 1819-94 Sugarloaf Link Deer Control*) appointment was endorsed by Council on 27 August 2019.

**Council plans and policies**

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

**Tender overview**

The Tender Evaluation Panel (TEP) advises that:

- 11. A public tender was issued on and advertised in the Melbourne Age on Saturday 21 May 2022.
- 12. A Tender information session was held at the Council office on 3 June 2022. The session was only attended by one prospective tenderer representative.
- 13. Tenderers were required to submit a schedule of rates for services.

**12. Officers' reports****CM.092/22      Tender Report - Contract 2122-019 Deer Control Contractor Panel**

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- 14. There is no guarantee of volume of work provided under the terms of the contract.
  - 15. As and when Council requires the services of a professional deer controller(s) to plan and deliver deer control works, the contractors appointed to the Panel will have the opportunity to indicate availability and quote a price for the works.
  - 16. The period for tender submissions closed at 2pm on Thursday 30 June 2022.
  - 17. The following tenders were received:

TENDERER
Tenderer 1 – Preferred Tenderer
Tenderer 2 – Preferred Tenderer
Tenderer 3 – Preferred Tenderer
Tenderer 4
Tenderer 5
Tenderer 6
Tenderer 7
Tenderer 8
Tenderer 9

- 18. All nine received submissions proceeded to evaluation stage.
- 19. The following Evaluation Criteria and Weightings were applied during the evaluation of the conforming and competitive tenders. These weightings were set and agreed to by the Tender Evaluation Panel Members prior to the issue of the tender.

Criteria	Weighting %
Price	15%
Capability and Experience	20%
Capacity (Available appropriate personnel and resources)	10%
Methodology (Process)	25%
Stakeholder engagement	20%
Environmental Management and Supporting Local Economic and Social Development	10%

## 12. Officers' reports

## CM.092/22 Tender Report - Contract 2122-019 Deer Control Contractor Panel

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

21. The members of the TEP were:

Position Title	Business Unit	Scoring Member or Advisory Member
Coordinator Environment	Environment Services	Scoring
Land Management Officer	Environment Services	Scoring
Manager Environment	Environment Services	Advisory
Senior Procurement Specialist	Corporate Services	Advisory

22. The final evaluation outcome was as follows:

TENDERER	SCORE	RANK
<b>Tenderer 1 – Preferred Tender</b>	96/100	1
<b>Tenderer 2 – Preferred Tender</b>	93/100	2
<b>Tenderer 3 – Preferred Tender</b>	79/100	3
Tenderer 4	73/100	4
Tenderer 5	69/100	5
Tenderer 6	65/100	6
Tenderer 7	55/100	7
Tenderer 8	52/100	8
Tenderer 9	43/100	9

- 23. Three tenderers (out of a potential maximum of four) are recommended at this time.
- 24. Should the amount of future government funding increase, Council may then appoint another contractor to the panel to meet demands if needed.
- 25. The recommended tenderers are considered best value because of evidenced capabilities, experienced resources and outlined methodology in delivering against the requirements of the Deer Control program.
- 26. **Attachment 1** - Tender Evaluation Summary Report – Confidential, provides the tenderer names and the Evaluation Scorecard Summary.

**12. Officers' reports****CM.092/22      Tender Report - Contract 2122-019 Deer Control Contractor Panel**

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

**Capability / Experience**

28. Two of the three preferred tenderers have delivered Deer Control services to Council on the previous contract and as they have referenced the contract with Council in their submission, they are known to have successfully delivered services with no concerns raised by the internal Council contract manager.
29. The third recommended tender has delivered Deer Control services to a neighbouring Council as well as delivering same services to Parks Victoria.
30. All three preferred tenderers have the required permits, licenses and insurance in place.

**Capacity (Available appropriate personnel and resources)**

31. All of the three preferred tenderers have suitably qualified and trained staff to support the requirements of the service.
32. All three preferred tenderers have suitable plant and equipment to deliver against the requirements of the service.

**Methodology (Process)**

33. All three preferred tenderers clearly outlined and evidenced in their submissions, their approach, safety procedures and planning activities in relation to the delivery of the service as well as their ability to engage and build relationships with private landholders as well as other key stakeholders.

**Tender Interviews and Reference checks**

34. As two of the preferred tenderers (1 & 2) are known to Council and are currently delivering services for Council, tender interviews and reference checks were not required.
35. Tender reference checks were undertaken for preferred tenderer 3 with no concerns or issues raised as part of the reference check.

**Contingency and risks**

36. The ability to engage the contractors to conduct deer control will be contingent on obtaining grants to fund works.
37. The regional Victoria Police District Firearms Officer will review and approve all Shoot Plans.

**12. Officers' reports****CM.092/22      Tender Report - Contract 2122-019 Deer Control Contractor Panel****Collaboration**

38. Not applicable.

**Budget implications**

39. There are no 22/23 budget implications

**Sustainability implications**

40. The impact of deer on Nillumbik's natural environment, agricultural industry, home gardens and road safety is highly detrimental. Programs that Council can collaborate on and deliver that help to reduce the negative impacts of deer are valuable.
41. One of the preferred tenderers is a locally based business that provides employment to 15 residents within the Northern Council Alliance (NCA) areas.
42. The three preferred tenderers have in place appropriate controls for minimising environmental footprint in the delivery of the required services.

**Stakeholder Consultation/communication**

43. Council has seen overwhelming support for the need for deer control and management. Nillumbik residents were surveyed between February 2020 and July 2021 about deer and their impacts in Nillumbik. Of 285 respondents, the survey found that:
  - a) 85% of respondents stated that deer are a problem
  - b) 82% have seen damage caused by deer in Nillumbik
  - c) 73% want deer populations controlled locally
  - d) 7% like deer and want them to stay
  - e) 72% have seen deer on their own property, yet only 15% have undertaken deer control (shooting) on their property.
44. Officers have delivered five community webinars and two field days on deer monitoring and deer management and control, attended by 480 people; and continue to respond to regular individual deer related queries.
45. Council has delivered two prior grant-funded, landscape-scale deer control programs via the previous Deer Control Contractor Panel - Sugarloaf Link project and Kangaroo Ground project - which involved extensive stakeholder consultation and communication that contributed to successful project outcomes and which evidenced the benefits of coordinated, collaborative deer control.
46. Officers continue to encourage the Nillumbik community to record their deer sightings, damage and control in an online tool called *Deerscan*. Council and DELWP have access to this community data which can be used to help inform priority areas that would benefit from deer control.

**12. Officers' reports**

**CM.092/22      Tender Report - Contract 2122-019 Deer Control Contractor Panel**

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**Innovation and continuous improvement**

47. The threat and impacts of deer are a growing problem for the Victorian and Nillumbik environment, community and economy. As such, the Victorian Government, Council and other stakeholders are involved in regular and ongoing collaboration to keep abreast of and encourage innovation and continuous improvement in management options.

**Relevant law**

48. *Section 108 and Section 109 of the Local Government Act 2020*
49. *Environment, Protection and Biodiversity Conservation Act 1999*
50. *Flora and Fauna Guarantee Act 1988*

**Regional, state and national plans and policies**

51. Biodiversity 2037
52. Victorian Deer Control Strategy 2020
53. Peri-urban Deer Control Plan 2021-26
54. Eastern Region Pest Animal Strategy 2020-2030

**Conflicts of interest**

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

**12. Officers' reports****CM.093/22      Informal Meetings of Councillors Records - 23 August 2022****Distribution:** Public**Manager:** Sally Johnson, Acting Executive Manager Governance, Communications and Engagement**Author:** Katia Croce, Governance Lead**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 Meeting of Councillors held.

This report lists Informal Meetings of Councillors Records submitted since the matter was last reported to Council on 26 July 2022.

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

1. Youth Council meeting held 11 July 2022;
2. Councillor Briefing held 19 July 2022;
3. Council Meeting Pre-Meet held 26 July 2022;
4. Youth Council meeting held 1 August 2022;
5. Councillor Briefing held 2 August 2022;
6. Positive Ageing Advisory Committee meeting held 5 August 2022;
7. CEO Employment Matters Advisory Committee meeting held 8 August 2022; and
8. Planning and Consultation Committee meeting Pre-Meet held 9 August 2022.

**Recommendation**

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

**Attachments**

- 1 Informal Meeting of Councillors Record - 23 August 2022

**Discussion**

1. *Item 19 of Council's Governance Rule – Meeting Procedure*, requires records of Informal Meetings of Councillors be reported to a Council Meeting and recorded in the minutes of that meeting.

**Related Council decisions**

2. Not applicable.

**12. Officers' reports****CM.093/22      Informal Meetings of Councillors Records - 23 August 2022**

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**Options**

3. An Informal Meetings of Councillors is defined in *Item 19 of the Governance Rule – Meeting Procedure*. It is a meeting at which matters are considered that are intended or likely to be the subject of a Council decision or the exercise of delegated authority and which is either of the following:
  - Planned or scheduled meeting that includes at least half the Councillors and at least one Council officer. These meetings do not include meetings of Councillors and Council staff that are not planned or scheduled.
  - Meeting of an Advisory Committee where at least one Councillor is present. An Advisory Committee is any committee established by the Council, other than a special committee, that provides advice to the Council or to a special committee or to a member of Council staff who has been delegated a power or duty or function of the Council.
4. A record must be kept of any Informal Meeting of Councillors and include the names of all Councillors and Council staff attending, the matters considered, disclosures of conflict of interest and whether a Councillor left the meeting after making a disclosure.
5. In accordance with *Item 19 of the Governance Rule – Meeting Procedure*, Council is required to report as soon as practicable to a Council Meeting, a record of any Informal Meetings of Councillors held.
6. The recommendation contains the list of Informal Meetings of Councillors records submitted since the matter was last reported to Council at the last Council Meeting.

**Conclusion**

7. It is recommended that Council receives the records of recent records of Informal Meetings of Councillors as contained in this report, fulfilling *Item 19 of the Governance Rule – Meeting Procedure*.

**Council plans and policies**

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

**Sustainability implications**

9. None required.

**Community engagement**

10. Not applicable.

**Innovation and continuous improvement**

11. Not applicable.

**Collaboration**

12. None required.

**12. Officers' reports**

**CM.093/22      Informal Meetings of Councillors Records - 23 August 2022**

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**Budget implications**

13. This is a routine reporting item, the resources for which are contained in Council's current operating budget.

**Relevant law**

14. *Local Government Act 2020.*

**Regional, state and national plans and policies**

15. None applicable.

**Conflicts of interest**

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

**12. Officers' reports**

**CM.093/22      Informal Meetings of Councillors Records - 23 August 2022**

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

Pursuant to section 66(2) of the *Local Government Act 2020* (the Act), the meeting of the Council be closed to members of the public for the consideration of the following confidential items:

**CM.094/22      CEO Employment Matters Committee**

This item is confidential because it is personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs pursuant to paragraph (f) of the definition of confidential information under section 3(1) of the *Local Government Act 2020*. This ground is applied because it is information that, if publicly released at the time, is likely to be inappropriately detrimental to the Council or any person (natural or corporate).

**Recommendation**

**That** in accordance with section 66(2) of the *Local Government Act 2020*, Council resolves to close the meeting to members of the public to consider confidential items.

**17. Close of Meeting**