

Council Meeting

to be held at the Council Chamber, 32 Civic Drive, Greensborough
on Tuesday 26 March 2024 commencing at 7:00pm.

Agenda

Carl Cowie
Chief Executive Officer

Thursday 21 March 2024

Distribution: Public

Civic Drive, Greensborough
PO Box 476, Greensborough 3088
Telephone 9433 3111
Facsimile 9433 3777
Website www.nillumbik.vic.gov.au
Email nillumbik@nillumbik.vic.gov.au

Council Chamber Council Meeting seating plan

Cr Natalie Duffy
Edendale Ward

Cr Karen Egan
Bunjil Ward
(Deputy Mayor)

Cr Richard Stockman
Blue Lake Ward

Cr Peter Perkins
Ellis Ward

Cr Frances Eyre
Swipers Gully Ward

Cr Geoff Paine
Wingrove Ward

Katia Croce
Manager
Governance and
Property

Blaga Naumoski
Director Governance
Communications and
Community Safety

Cr Ben Ramcharan
(Mayor)
Sugarloaf Ward

Carl Cowie
Chief
Executive
Officer

Nillumbik Shire Council

Contents

1.	Welcome	1
2.	Acknowledgement of Country	1
3.	Good Governance Pledge	1
4.	Prayer	1
5.	Apologies/Leave of Absence	1
6.	Declarations of conflict of interest	1
7.	Presentations	1
8.	Confirmation of Minutes	2
COM.001/24	Confirmation of Minutes Council Meeting held Tuesday 27 February 2024	2
9.	Petitions	3
10.	Questions from the gallery	3
11.	Reports of Advisory Committees	5
AC.002/24	Advisory Committee Report - 27 February 2024	5
12.	Officers' reports	7
CM.013/24	Audit and Risk Committee Meeting February 2024	7
CM.014/24	Draft Leasing and Licensing Policy	9
CM.015/24	Draft Nillumbik Urban Tree Canopy Strategy for community consultation	15
CM.016/24	Endorsement of Nillumbik Shire Council Submission to the Local Government Reforms	25
CM.017/24	Amendment C149nill Heritage Review - Panel Report and Approval	31
CM.018/24	Quarterly Risk and Safety Report - December 2023	41
CM.019/24	Instrument of Delegation to the Chief Executive Officer	49
CM.020/24	Instrument of Delegation from Council to Council staff	53
CM.021/24	Instrument of Appointment and Authorisation (Planning and Environment Act 1987)	57
CM.022/24	Regional Assessment System Service Extension	61
CM.023/24	Tender Report - Contract 2324-032 Ryans Reserve Rejuvenation Project -Construction	67
CM.024/24	Tender Report - Contract 2324-053 Microsoft Licensing Solution Providers - MAV NPN 2.17-3	73
CM.025/24	Tender Report - Contract 2223-041 Amenity Mowing Services	79
CM.026/24	Contract Report - Contract 2324-059 Renewable Energy Supply Agreement (VECO)	85

Council Meeting Agenda**26 March 2024**

CM.027/24	Contract Report - Contract 2324-062 Provision of Temporary Labour Hire-Neutral Vendor Managed Services	89
CM.028/24	Informal Meetings of Councillors Records - 26 March 2024	95
13.	Notices of Motion	99
14.	Delegates' Reports	99
15.	Supplementary and urgent business	99
16.	Confidential reports	99
CM.029/24	CEO Employment Matters	99
NOM.001/24	Notice of Motion - Councillor Expenses - Legal Advice/Support	99
17.	Close of Meeting	99

Nillumbik Shire Council

Agenda of the Meeting of Nillumbik Shire Council to be held Tuesday 26 March 2024 commencing at 7:00pm

1. Welcome

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

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/Leave of Absence

Council to note any apologies by Councillors not in attendance and or consider requests for any leave of absence submitted.

6. Declarations of conflict of interest

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

7. Presentations

8. Confirmation of Minutes

COM.001/24 Confirmation of Minutes Council Meeting held Tuesday
27 February 2024


Summary

Confirmation of the Minutes of the Council Meeting and Confidential Council Meeting held on Tuesday 27 February 2024.

Recommendation

That Council confirms the Minutes of the Council Meeting and Confidential Council Meeting held on Tuesday 27 February 2024 (**Attachments 1 and 2**).

Attachments

- 1 Minutes of the Council Meeting held on Tuesday 27 February 2024
.
2. Minutes of the Confidential Council Meeting held on Tuesday 27 February 2024 -
CONFIDENTIAL

9. Petitions

10. Questions from the gallery

THIS PAGE WAS LEFT INTENTIONALLY BLANK

11. Reports of Advisory Committees

AC.002/24 Advisory Committee Report - 27 February 2024

Distribution: Public

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

Author: Katia Croce, Manager Governance and Property

Summary

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

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

1. Arts and Cultural Advisory Committee meeting held 20 November 2023;
2. Inclusion and Access Advisory Committee meeting held 15 December 2023;
3. Positive Aging Advisory Committee meeting held 2 February 2024;
4. Economic Development Advisory Committee meeting held 15 February 2024;
5. Living and Learning Nillumbik Advisory Committee meeting held 19 February 2024; and
6. Environment and Sustainability Advisory Committee meeting held 21 February 2024.

Attachments

- 1  Advisory Committee meeting Minutes reported 26 March 2024

Recommendation

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

THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK

12. Officers' reports

CM.013/24 Audit and Risk Committee Meeting February 2024

Distribution: Public

Manager: Vince Lombardi, Chief Operating Officer

Author: Melika Sukunda, Manager Finance, Assets and Procurement

Summary

In accordance with section 53 of the *Local Government Act 2020* and good governance principles, councils must have an Audit and Risk Committee.

As resolved at the 23 June 2020 Ordinary Council Meeting, the minutes of an Audit and Risk Committee meeting are to be reported and presented to a subsequent Council Meeting.

The Audit and Risk Committee met on 19 February 2024. The minutes for the meeting are shown in **Attachment 1**.

Recommendation

That Council notes the Minutes of the Audit and Risk Committee meeting held on 19 February 2024 (**Attachment 1**).

Attachments

1.  19 February 2024 Audit and Risk Committee Minutes

Discussion

1. The Minutes of the Audit and Risk Committee (ARC) are submitted to Council after each meeting. The Minutes are confirmed by the independent members.
2. Minutes of the ARC held on the 19 February 2024 have been adopted by the Committee, and will be presented at its next meeting.
3. The items considered by the ARC were:
 - Draft Leasing and Licencing Policy;
 - IT Risk Exposure Summary;
 - Business Continuity Policy and Business Continuity Framework;
 - Business Function Risk Assurance Map;
 - Internal Audit Plan;
 - Procurement Internal Audit Report; and
 - December 2023 Quarterly Finance Report.
4. The next ARC meeting is scheduled to take place on Monday 6 May 2024.

Related Council decisions

5. As resolved at the 23 June 2020 Ordinary Council Meeting, the minutes of an ARC meeting are to be reported and presented to a subsequent Council Meeting.

12. Officers' reports

CM.013/24 Audit and Risk Committee Meeting February 2024

Options

6. The ARC's function is to assist Council in the effective conduct of its responsibilities for financial reporting, management of risk, maintaining a reliable system of internal controls and facilitating good and ethical governance.
7. The ARC meets four times a year. The Internal Auditor, CEO and Chief Operating Officer (COO) attend all meetings. Other management representatives attend as required. The external auditors attend in May and August each year to present the Audit Plan and independent audit report.

Council plans and policies

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

Access, Equity and Inclusion

9. Where applicable, the Committee considers Gender Access, Equity and Inclusion.

Sustainability implications

10. The ARC plays a significant role in Council's governance framework. It provides external expert advice on key areas of risk. Risk in this case is interpreted broadly and covers risk to Council's sustainability, reputation, fraud control and effectiveness.

Community engagement

11. Not applicable.

Innovation and continuous improvement

12. Not applicable.

Collaboration

13. The ARC meeting on 19 February 2024 was attended by the external auditor appointed by the Victorian Auditor General's Office, the internal auditors from Pitcher Partners, as well as the COO. Mayor Cr Ben Ramcharan and Deputy Mayor Cr Karen Egan attended as the councillor representatives.

Budget implications

14. The associated costs are contained within Council's 2023-2024 Budget.

Relevant law

15. *Local Government Act 2020*, section 53 Council must establish an Audit and Risk Committee.

Regional, state and national plans and policies

16. Not applicable.

Conflicts of interest

18. 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.014/24 Draft Leasing and Licensing Policy**

Distribution: Public**Manager: Blaga Naumoski, Director Governance, Communications and Community Safety****Author: Natalie Champion, Coordinator Property
Katia Croce, Manager Governance and Property****Summary**

Council's Leasing and Licensing of Council Assets Policy, last adopted in 1999, is now obsolete and in need of revision.

Council's lease and licence portfolio comprises of 146 Council owned or managed assets, including 24 preschool/childcare facilities, 63 community based organisations and clubs, 6 other government organisations, 31 commercial/retail leases and 2 residential leases and 20 agreements where Council is the tenant of other organisations property, such as Victrack, as shown in **Attachment 1**.

These agreements relate mostly to land with buildings or vacant land owned by Council, as well as Crown land where Council is the delegated Committee of Management appointed by the State Government.

Previous audits of Council's property portfolio have resulted in a number of recommendations, which have been actioned to date. The remaining item for Council's consideration is the development of a formal leasing policy position that provides consistency and clarity to the current arrangements for managing Council assets that are utilised for a diverse range of tenants.

The draft Leasing and Licensing Policy in **Attachment 2** proposes no changes to Council's existing practice or fee structure for tenants. The intent in updating the Policy is to ensure its currency and formalise Council's current practices.

This report seeks Council's endorsement to commence public consultation from 4 April to 25 April 2024 on the draft Leasing and Licensing Policy.




Recommendation**That Council:**

1. Endorses the draft Leasing and Licensing Policy (**Attachment 2**) for the purpose of community exhibition.
2. Endorses the commencement of a community consultation process from 4 April to 25 April 2024 as outlined in the Community Engagement Overview (**Attachment 3**) to seek the views of the Nillumbik community and relevant stakeholders with respect to the draft Leasing and Licensing Policy (**Attachment 2**).
3. Following the conclusion of the community engagement period, considers and hears from submitters at the Planning and Consultation Committee meeting on 11 June 2024 with respect to the draft Leasing and Licensing Policy.

12. Officers' reports

CM.014/24 Draft Leasing and Licensing Policy

Attachments

- 1  Lease Register by Category
- 2  Draft Leasing and Licensing Policy
- 3  Community Engagement Overview

Discussion

1. Following previous internal audit recommendations, Council has improved its management of leases and licences by:
 - centralising the management of leases and licences with the Property team;
 - implementing a standard template for lease and licence agreements with a maintenance schedule to increase consistency amongst tenants (this excludes Retail Leases prepared by Council's lawyers);
 - being clear within agreements about the tenant's specific requirements for maintenance, public liability insurance and working with children;
 - implementing a process for reviewing the tenant's compliance with their agreement;
 - a review of monthly/annual rental fees being charged;
 - ensuring that lease and licence documents are stored together with all supporting and related documentation including well maintained lease register;
 - internal procedure for leasing and licensing; and
 - implementing fee structure for all new agreements.
 - The remaining audit recommendation for Council's consideration is to develop a centralised formal policy to ensure consistent approaches and practices to lease management
2. Council's current practice and fee structure has ensured ongoing compliance limiting council's risk, ensuring a fair and equitable approach across Council's property portfolio, and supporting community clubs and organisations which provide significant community benefit and service which is in demand by the Nillumbik Shire community.
3. The draft Leasing and Licensing Policy in **Attachment 2** formalises Council's current practice, which includes:
 - agreed objectives & principles for leasing and licensing;
 - types of tenure and relevant policy and legislation;
 - tenant categories which determine the fee structure and obligations;

12. Officers' reports

CM.014/24 Draft Leasing and Licensing Policy

-
- consistent terms and conditions of agreements;
 - expression of interest process for vacant Council assets;
 - set eligibility criteria for tenants;
 - formalise a Council position in relation to community tenants refusing to sign agreements (but continue to occupy Council assets); and
 - clarify responsibilities for Council and tenants including maintenance, risk and insurance.
4. Within the draft Leasing and Licensing Policy, tenants have been grouped into one of the following four categories, which determines the fee structure (set by Council through the annual budget process), and obligations that will apply to the tenant when entering into an agreement:
- **Category A – Community Service Providers**

These Tenants provide the maximum level of community benefit by providing children services, services to disadvantaged groups within the Nillumbik Community, management of a Council hall or Historical Society.

These utilise Council facilities and include Council funded services including Childcare - Long Day and Occasional Care, Playhouses and Preschools, Neighbourhood Houses, Halls managed by Committees, Historical Societies, Foodshare, and Adaptive Bike Storage Facility in Diamond Creek to organisations and residents.
 - **Category B - Community Partnerships (Not for Profit)**

Provides significant community benefit of which is in demand by the local community in the form of recreational, learning services for adults, sporting or club based activities.

These clubs and organisations promote and supports volunteerism.

The type of community benefit provided could not be delivered unless supported by Council.
 - **Category C - Other organisations 'Not for Profit'**

These organisations are in strong demand and will provide a significant community benefit and service which is in high demand by the Nillumbik Shire community.

Includes CFA, Araluen. Usually larger organisations that are 'Not for Profit'.
 - **Category D – Commercial and Private Use**

Desirable to provide community benefit. Aligns with and not detrimental to Council Plan strategic objectives.

Receives significant funding other than Council or is a profit based organisation.

Such as Telecommunications equipment, cafes, residential and a small number of residents leasing Council land.

12. Officers' reports**CM.014/24 Draft Leasing and Licensing Policy**

5. The above categories supports Council's community tenants as these volunteer run sporting, and recreational clubs require their income to cover costs including increasing cost of utilities, public liability insurance, ongoing maintenance and upgrades to the facility and grounds, playing field upgrades (bowls, tennis and hockey), training and other related costs. The draft Policy incorporates rental categories, while excluding rental fees charges as these are set at the discretion of the Council in line with one of the categorised rental categories.
6. All other operational aspects of leasing and licensing are addressed in the internal procedures to maintain consistency across Council's property portfolio.
7. This draft Policy ensures Council's ongoing support to Not for Profit organisations across the Shire that provide valuable services to the Nillumbik community.
8. The draft Policy has been developed through a process of:
 - a. Reviewing relevant Council policies and plans, along with legislative requirements;
 - b. Discussions with Council's external valuer;
 - c. Benchmarking with other similar Council's leasing and licensing policies and guidelines and Department of Energy, Environment and Climate Action (DEECA) guidelines; and
 - d. Internal consultation especially with those areas who hold relationships with existing tenants.
9. Council's Audit and Risk Committee has reviewed the draft Policy and approved the draft Policy for community consultation. The Committee has also determined that property management (leases and licenses) be included on the internal audit plan for 2024-25. The audit will assess processes and controls for Council owned properties which are leased or licensed to third parties, including:
 - Leasing/Licensing Decisions;
 - Rental Income management;
 - Lease/License Agreements; and
 - Lease/License Administration.

Related Council decisions

10. Council at its Ordinary Meeting held on 29 October 2013 adopted Guiding Principles as the basis for the development of uniform policy relating to the community use of Council assets.
11. These guiding principles focused only on community tenants not Council's entire leasing and licensing portfolio and are outdated.
12. Following benchmarking with a number of Council's Leasing and Licensing Policies, new high-level objectives have been included in the draft Policy in **Attachment 2**.

12. Officers' reports

CM.014/24 Draft Leasing and Licensing Policy

Options

13. Council endorsement to commence community consultation as outlined in the proposed Community Engagement Overview in **Attachment 3** on the draft Policy in **Attachment 2**.
14. Following the community engagement period, Council will then have the relevant information which will help inform a Council decision on the draft Policy at a future meeting of Council.

Council plans and policies

15. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
 - We act in the best interests of our community.
 - We continue to exercise sustainable and responsible financial management.
 - We maintain good governance and transparency, clearly defining and communicating the role of Councillors and Council.

Access, Equity and Inclusion

16. A Gender Impact Assessment has been completed on the draft Leasing and Licensing Policy and the recommendations have been incorporated into the draft Policy where appropriate, lease and licence templates and Leasing and Licensing Procedures including First Nations acknowledgements, simple use of language, gender inclusive facilities and language, accessibility to facilities and no discrimination by Council or Tenants.

Sustainability implications

17. The draft Policy ensures Council exercises sustainable and responsible financial management of Council assets leased and licensed; and efficient use of Council facilities that supports a diverse range of community groups to provide benefit for the Nillumbik community.
18. If requested under the standard lease conditions, the lessee in conjunction with Council's Environmental Works and/or Climate and Sustainability Units, will prepare and implement an environmental management plan (EMP) for the Premises that encompasses energy conservation, emissions reduction, water conservation, waste management, biodiversity enhancement measures and where appropriate, a ground re-instatement plan, as the Council reasonably requires.

Community engagement

19. This report seeks Council's endorsement to commence a community consultation process as outlined in the proposed Community Engagement Overview (**Attachment 3**) to seek the views of the Nillumbik community and relevant stakeholders on the draft Policy.

Innovation and continuous improvement

20. A Leasing and Licensing Policy will assist Council with delivering an equitable, transparent process for leasing and licensing of Council owned and managed properties.

12. Officers' reports

CM.014/24 Draft Leasing and Licensing Policy

21. Property officers have collaborated with Communications officers over the past 12 months to create webpages with information and forms for external applicants to submit request to lease/licence council land.
22. The draft Policy can be reviewed in five years or as legislation requires or Council determines a need has arisen.

Collaboration

23. Internal consultation on the draft Policy has occurred and all feedback has been considered and incorporated where necessary in the draft Policy.

Budget implications

24. The total rental income that is derived from all community and commercial leases and licence arrangements is approximately \$350,531 per annum excluding GST.
25. The income derived from leasing and licensing assist with ongoing maintenance of Council facilities for community use.
26. All costs associated with the adoption and implementation of a Leasing and Licensing Policy have been accounted for in the Governance and Property operational budget.

Relevant law

27. Local government leasing and licensing property transactions need to comply with the *Local Government Act 2020*, *Crown Land (Reserves) Act 1978*, *Retail Leases Act 2003* and *Residential Tenancies Act 1997*.

Regional, state and national plans and policies

28. Council should have regard to the Local Government Best Practice Guidelines for the Sale, Exchange and Transfer of Land revised August 2009, which is considered to extend to cover leasing.

Conflicts of interest

29. 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.015/24 Draft Nillumbik Urban Tree Canopy Strategy for community consultation****Distribution: Public****Manager: Renae Ahern, Acting Director Planning, Environment and Strategy****Author: Leigh Northwood, Manager Strategic Planning and Environment
 Heath Gillett, Manager Operations Centre****Summary**

This report presents the Draft Urban Tree Canopy Strategy 2024-2040 (**Attachment 1**) for endorsement for public exhibition from 28 March to 28 April 2024.

It includes three focus areas for action (leadership, growing canopy on Council land, and growing canopy on private land) to guide Council's work in supporting the achievement of its three overarching goals:

- Goal 1 – That Nillumbik's urban canopy is protected and enhanced
- Goal 2 – That the Nillumbik community value and care for our urban canopy
- Goal 3 – That a healthy urban canopy supports the wellbeing of the Nillumbik community.

It includes objectives and actions that seek to:

- Maintain Nillumbik's overall urban canopy cover at the 2021 baseline level of 39 per cent (noting Nillumbik has the second highest extent of canopy cover of all Metro Melbourne Councils).
- Prioritise increasing canopy in those suburbs that currently have less than 25 per cent canopy cover (i.e. Greensborough and Plenty).
- Increase our tree data to better inform decision making.
- Prioritise maintenance action that will help existing canopy cover to be retained and thrive into maturity at Council owned/managed locations that have the highest pedestrian use (e.g. activity centres and high-use sites such as sporting facilities).

It has strategic linkages with Council's recently adopted Neighbourhood Character Strategy 2023, particularly with regard to enhancement of tree canopy on private land.

Many key actions proposed in the Draft Strategy are not currently funded, in particular regarding proactive maintenance of existing Council managed trees (to keep them healthy and reduce the need for costly early removal when they fail), and proactive renewal and planting of new trees.

Consultation on the Draft Strategy will close on 28 April 2024. Written and verbal submissions will be considered by the Planning and Consultation Committee on 11 June 2024.

12. Officers' reports**CM.015/24 Draft Nillumbik Urban Tree Canopy Strategy for community consultation**

Recommendation**That Council:**

1. Endorses the Draft Urban Tree Canopy Strategy 2024-2040 for the purpose of community exhibition.
2. Invites written submissions on the Draft Urban Tree Canopy Strategy to Council between 28 March and 28 April 2024.
3. Considers public submissions at the Planning and Consultation Committee meeting to be held on 11 June 2024.
4. Notes that any person who requests to make a verbal submission in relation to the Draft Urban Tree Canopy Strategy be heard at the 11 June 2024 Planning and Consultation Committee meeting.

Attachments

- 1  Draft Urban Tree Canopy Strategy

Discussion

1. This report presents the Draft Nillumbik Urban Tree Canopy Strategy 2024-2040 (the draft Strategy).
2. Nillumbik's overall urban canopy cover is considered to be high (39 per cent in 2021 – which equates to approximately 1,400 hectares of canopy), and is the second highest in all of urban Melbourne. As a comparison, at the lowest end of the spectrum some municipalities such as Wyndham and Melton have an urban canopy cover of around only five per cent.
3. Within urban Nillumbik, urban canopy covers approximately:
 - 36 per cent of private land; and
 - 45 per cent of public land (i.e. land owned/managed by Council, Crown and State government agencies).
4. Numerous threats and associated challenges exist in terms of protecting and maintaining our urban canopy. These include extreme weather such as major wind events, prolonged heat waves, changing rainfall regimes, bushfires and changing average temperatures; urban development and associated public infrastructure and utilities; and a certain lack of community awareness of the benefits of trees and regulations and values around their protection.
5. Notwithstanding our high canopy cover by comparison to Metro Melbourne, there has been an overall decline in urban tree canopy cover in Nillumbik over time, not related to one threat in particular, but to the complex and numerous threats as identified above.

12. Officers' reports**CM.015/24 Draft Nillumbik Urban Tree Canopy Strategy for community consultation**

6. The draft Strategy seeks to protect and maintain the canopy that already exists, where possible; and identify opportunities to support more canopy in areas where there is less canopy, in particular where higher urban heat island effects may be present.
7. The Strategy scope:
 - a. Defines urban canopy as being any woody vegetation that is over two metres in height including those that are indigenous to Nillumbik, native to Australia and exotic species.
 - b. Encompasses all private and public land that is within the Urban Growth Boundary (UGB) of Nillumbik.
 - c. Focuses specifically on the needs of our urban canopy – Council has other strategies that plan for the extent and health of our broader natural environment (i.e. Biodiversity Strategy).
8. It has been developed through a process of:
 - a. Reviewing previous Nillumbik community engagement related to protecting and enhancing urban tree canopy (via consultation on, for example, the Biodiversity Strategy, Municipal Planning Strategy, Neighbourhood Character Strategy, Bushfire Mitigation Strategy);
 - b. Benchmarking against other Urban Forest / Urban Tree Canopy plans and strategies prepared by other local councils noting many local governments do not have the unique challenges and neighbourhood character settings that Nillumbik does (e.g. clearing for bushfire exemptions in the planning scheme, steep topography and substantive indigenous canopy trees);
 - c. Reviewing relevant Council policies and plans, along with legislative requirements relevant to tree management in urban areas, noting legislation is substantive and complex. Matters such as locations for new plantings for example, need to consider such matters as separation distances from intersections with signals, or from school crossings, or from streets intersecting a main road; electricity poles and wires clearances; underground services; not where a mature tree may block street, car park or reserve lighting (among other matters);
 - d. Analysing available data on tree canopy cover and Urban Heat Island effect in Nillumbik; and
 - e. Collaboration.
9. Nillumbik's Youth Council has also considered urban tree canopy and developed their own vision for Nillumbik's urban canopy, noting this can be considered along with broader feedback on the draft from all stakeholders with regard to the vision for the Strategy:

"Nillumbik's young people envision a healthy and resilient urban tree canopy in our suburbs and townships. Our urban canopy with its many indigenous species, is a link to the land's traditional owners and our cultural heritage.

12. Officers' reports

CM.015/24 Draft Nillumbik Urban Tree Canopy Strategy for community consultation

In this vision, our trees become integral to the fabric of our neighbourhoods, providing shade, enhancing community wellbeing, enriching biodiversity, and improving air quality.

We aspire to protect and maintain vibrant and interconnected green spaces that foster a sense of community pride and engagement, where residents actively participate in the nurturing and preservation of our urban tree canopy.

Our vision embraces the notion that a resilient urban tree canopy is essential for adapting to the challenges of a changing climate. Ensuring that Nillumbik's urban forests will continue to provide safe habitats for wildlife, provide benefits to community health and connectedness, and contribute to counteracting the effects of a changing climate."

10. The draft Strategy has three overarching goals and associated targets, which are ambitious, but important in order to retain the benefits of a healthy and resilient urban canopy:

- Goal 1 - That Nillumbik's urban canopy is protected and enhanced
Target: No overall net loss of Nillumbik's urban canopy (Baseline – 39% urban canopy over)
- Goal 2 - That the Nillumbik community value and care for our urban canopy
Target: An increase in planting of trees across all land tenures
- Goal 3 - That a healthy urban canopy supports the wellbeing of the Nillumbik community.
Target: An increase in canopy in areas experiencing higher urban heat island effects (Minimum urban canopy cover of 25% in every suburb and township)

11. The strategy is broken into three focus areas with 13 associated objectives:

- Focus Area 1 - Leadership
- Focus Area 2 - Grow Nillumbik's urban canopy on Council land
- Focus Area 3 - Grow Nillumbik's urban canopy on private land.

Action on Council land

12. Drafting of the strategy identified a number of key areas which will need to be addressed to support the targets of the strategy to be met, in relation to tree retention and growth on Council land:

- a. There is generally good canopy cover on Council land across our urban areas which provides amenity, shade and wildlife habitat; and which needs to be maintained for safety and tree health.
- b. Council's current investment into maintaining the health and preserving the canopy of these trees is minimal.

12. Officers' reports

CM.015/24 Draft Nillumbik Urban Tree Canopy Strategy for community consultation

- c. Investment into future planning is needed to identify Council trees (particularly in high pedestrian use areas) that are on a trajectory to need to be removed within the next 3-10 years; as proactive maintenance could likely save these trees and prevent their early loss and the resultant:
 - i. Cost of removal (average of \$5,500 per tree in activity centres and high use sites).
 - ii. Loss of mature canopy and associated re-investment and planting and maintenance of lost mature canopy tree. This cannot account for the substantial time involved for a mature canopy tree growing to a size that allows it to contribute, particularly to shading and cooling.
 - d. Keys to success include collecting tree data, maintaining an asset management register or tree inventory, monitoring the health of our trees (prioritised in high pedestrian-use areas), and investing in programs that will deliver tree health benefits – tree maintenance is more cost effective than replacing trees.
 - e. Council currently plants approximately 230 trees per year in our streets and parks. This is in addition to around 40 trees per annum as part of capital works projects (and additional seedlings that are planted in our bushland reserves).
 - f. This is not sufficient to replace what is lost through natural deaths and hazardous tree removal. Tree numbers on Council land are going backwards.
 - g. All street and park planting is currently re-active.
 - h. There is currently no budget for proactive works to maintain canopy health and therefore support the retention of our existing canopy. With regard to urban tree canopy, this investment should be a priority.
 - i. Council does not have a current tree inventory of trees on Council owned land (parks, reserves and streets). An inventory would help to plan renewal of our existing canopy and also plan for new sites to be planted.
 - j. To note, a complete inventory of tree health and hazard assessments would increase Council's knowledge of tree hazards. This is likely to identify more reactive works that are well beyond the current resourcing of the Council open space /arborist team.
13. An assessment of existing trees on Council owned land and streets in activity centres with high pedestrian use and higher urban heat island effects is currently being undertaken and has been partially completed as part of data collection in preparing the draft Strategy. Initial results from activity centres in Diamond Creek, Eltham, Hurstbridge, Panton Hill, St Andrews and Wattle Glen show that:
- a. We have a high number of trees in these high-use areas. In total 1,474 trees have been assessed.
 - b. Of these, 30% are indigenous, 60% are native, 6.5% are exotic and 3.5% are weeds.

12. Officers' reports

CM.015/24 Draft Nillumbik Urban Tree Canopy Strategy for community consultation

- c. Life expectancy:
 - i. 8.8% have to be removed as soon as possible, and within less than three years (130 trees);
 - ii. 28.3% (417 trees) will need to be removed within 4-10 years if no maintenance work is undertaken to save them; and
 - iii. 63% (927 trees) are healthy with a life expectancy of greater than 10 years.

Assessment Area	Number of Tree's Assessed	>10 Years	>3 to 10 Years	<3 Years
Diamond Creek	635	68.7%	26.8%	4.6%
Eltham	221	49.8%	41.2%	9.0%
Hurstbridge	74	66.2%	24.3%	9.5%
Panton Hill	160	55.0%	29.4%	15.6%
St Andrews	194	61.3%	28.9%	9.8%
Wattle Glen	190	76.8%	18.9%	4.2%
Totals	1474	63.0%	28.3%	8.8%

Table 1: Trees assessed in activity centres

- d. Assessments of these activity centres have identified that there are few existing opportunities and space to plant trees in additional locations in these activity centres (taking into account the specifications of Council’s Tree Management Guidelines), therefore our existing trees are critically important. There is space for only 36 new tree plantings across all of these areas:
 - Panton Hill – no capacity;
 - Hurstbridge - two additional trees;
 - Eltham – four additional trees;
 - Diamond Creek – nine additional trees;
 - St Andrews – 10 additional trees; and
 - Wattle Glen – 11 additional trees.

- 14. As per Council’s Notice of Motion of 2022, establishing a significant tree register has been considered by Council officers, however this is not a recommended action of the draft Strategy. Instead it is proposed that the community will be directed (and education resources provided) to nominate potentially culturally significant trees with The National Trust and with First Peoples – State Relations (where both agencies have specific processes in place to investigate such). Reasons for not recommending a Council-specific register include:

12. Officers' reports**CM.015/24 Draft Nillumbik Urban Tree Canopy Strategy for community consultation**

-
- a. The planning controls for our urban areas including Environmental Significance Overlays and Significant Landscape Overlays, already give a level of protection to our canopy species within the overlays. There are also planning considerations around bushfire given the majority of the Shire is affected by the Bushfire Prone Area mapping and the Bushfire Management Overlay, which given not only planning scheme exemptions for clearing for bushfire, but Council's own requirements to manage risks to life with regard to vegetation in public spaces, mean many trees in Nillumbik could be 'deemed lost' (i.e. we can't protect them as legislative requirements apply).
 - b. Heritage trees have been identified and are protected through Council's Heritage Overlay (and as heritage reviews are undertaken, more may be identified), or more broadly through the Victorian Heritage Register and National Trust where they are deemed to be of State or national significance.
 - c. Culturally significant trees (e.g. scar trees) are not identified in any of Council's databases/GIS as they are protected under a separate legislative framework – the Aboriginal Heritage Act, and their location is kept by First Nations Peoples – State Relations. The reason the locations are not disclosed is to avoid malicious damage that has unfortunately historically taken place where artefacts are made known.
 - d. Privacy considerations for any significant trees identified on private land.
 - e. Potential for significant trees to be removed if the owner believes they may affect future plans and may legitimately do so.
 - f. Resourcing required to form and maintain such a register balanced with other priorities as presented in this briefing (e.g. prioritising maintenance of existing trees).

Related Council decisions

15. A priority action of the 2021-2025 Council Plan is to *'Investigate measures to establish and enhance the urban tree canopy'*.
 - a. Action 16 of Council's Annual Action Plan 2023-2024 is to "Complete and adopt the new Biodiversity Strategy, including investigation into measures to establish and enhance the urban tree canopy and protect wildlife".
 - b. Action 17 of Council's Annual Action Plan 2023 -2024 is to "Review Council's tree management policy and supporting guidelines". This process commenced concurrently with the development of the draft Urban Tree Canopy Strategy.
16. Council resolution NOM.003/22 Nillumbik Urban Tree Strategy on the 25 October 2022:

That Council:

1. *Notes that Nillumbik Shire Council is a Green Wedge Shire set up to provide "Lungs for Melbourne".*

12. Officers' reports

CM.015/24 Draft Nillumbik Urban Tree Canopy Strategy for community consultation

2. *Notes and appreciates that the recently adopted Nillumbik Climate Action Plan supports the council plan action to “investigate measures to enhance Nillumbik’s urban tree canopy”.*
3. *Requests that this is considered alongside the review of the Biodiversity Strategy.*
4. *Requests that the following matters are explored and considered as part of the process:*
 1. *Creation of a Nillumbik Urban Forest Strategy to set the actions we will take as a Council to increase tree canopy in the urban areas of Nillumbik*
 2. *Creation of a Significant Tree Register*
 3. *Annual reporting of street tree & park plantings*
5. *Considers work done by other local Councils who already have adopted an Urban Tree Strategy such as Whitehorse, Banyule, Moonee Valley and others.*

Options

17. Endorse the draft Strategy for public exhibition and consultation.
18. Consideration of funding needs is required via the budget process to explore any options to increase the ongoing funding for tree data and tree maintenance and planting on Council land.

Council plans and policies

19. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
 - We understand and value biodiversity and its importance to human health and wellbeing, and take action to protect and enhance biodiversity in Nillumbik.

Access, Equity and Inclusion

20. A Gender Impact Assessment (GIA) has been applied to this project.
21. The upcoming community engagement process has been designed to be accessible to, and collect feedback from, diverse community representation – including young people and adults, day time and evening feedback opportunities, and in-person and on-line feedback opportunities.

Sustainability implications

22. The Urban Tree Canopy Strategy will provide strategic direction for Council to support positive social and environmental outcomes.
23. It considers the impacts of climate change.

12. Officers' reports**CM.015/24 Draft Nillumbik Urban Tree Canopy Strategy for community consultation**

24. The Department of Energy, Environment and Climate Action's (DEECA) Environmental-Economic Account for Greater Melbourne quantifies the significant economic benefits of addressing the urban heat island effect and thus improving productivity and reducing mortality. A conservative analysis of the cost-benefit ratio suggests that for every dollar spent on urban greening in Melbourne, around \$4 in benefits are derived (Source: Living Melbourne, Priority urban greening analysis, June 2023).

Community engagement

25. To date, the following engagement has been undertaken:

- a) Council's Youth Council has been consulted to provide their thoughts on the current state of Nillumbik's Urban Tree Canopy and actions needed to protect and enhance it. They also contributed to the development of the Strategy's vision.
- b) Representatives of Wurundjeri Woi-wurrung have been consulted on relevant sections of the draft Strategy.
- c) To support the development of the new draft Strategy, Council's Environment and Sustainability Advisory Committee has been consulted several times to date, including to:
 - i) Provide early input on matters of key importance to address within the new strategy.
 - ii) Provide input on the draft strategy and its goals and objectives.

26. Consultation on the draft Strategy is proposed to be undertaken during a public exhibition period from 28 March to 28 April 2024, subject to endorsement of the draft for the purpose of community consultation. It will include:

- a) Participate Nillumbik project page on Council's website;
- b) Media release and promotional communications including Nillumbik News, e-news, posters and postcards at public locations and social media;
- c) Direct notification to local environment/biodiversity/community groups;
- d) Promotion through Council's advisory committees and community groups;
- e) Drop in sessions to enable community members to find out more about the draft Strategy and the consultation process.
- f) Written submissions (feedback form and email submissions); and
- g) Verbal submissions at a facilitated online workshop, in-person workshop, and at the June Planning and Consultation Committee (PCC) meeting.

Innovation and continuous improvement

27. The strategy is being developed with continuous improvement as a guiding principle.

Collaboration

28. An internal working group is guiding the Strategy development process.

12. Officers' reports

CM.015/24 Draft Nillumbik Urban Tree Canopy Strategy for community consultation

Budget implications

29. There are no budget implications for the current 2023/24 financial year, however implementation of the Strategy is not budgeted for in the draft 2024/25 budget.
30. The cost of implementing the Strategy and its associated Tree Management Guidelines will need to be considered. In particular if the Strategy is adopted, there will be a need to review future budget allocations to:
- a) Collect data and input it into an asset-based tree inventory;
 - b) Proactively maintain existing trees on Council land, to reduce the need for them to removed due to poor health, noting:
 - i) It costs an average of \$5,500 to remove each tree.
 - ii) Maintenance works are considerably less expensive, and seek to retain the tree and its mature canopy which takes many years to regrow.
 - c) Develop and implement a Tree Renewal and Planting Plan;
 - d) Increase the numbers of trees planted on Council land. Each additional tree will cost approximately \$400 to plant and maintain during its two-year establishment period.
31. The future aspirational actions outlined within the Draft Urban Tree Canopy Strategy are currently not funded and their implementation will be dependent on future funding being available.

Relevant law

32. Planning and Environment Act 1987

Regional, state and national plans and policies

33. Living Melbourne: Our Metropolitan Urban Forest (2019)
34. Plan Melbourne 2017 - 2050

Conflicts of interest

35. 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.016/24 Endorsement of Nillumbik Shire Council Submission to the Local Government Reforms

Distribution: Public

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

Summary

The *Local Government Act 2020*, effective since March 2020, providing a period of reform to the local government sector, empowering integrity bodies to address governance issues.

The Minister for Local Government, starting October 2020, appointed Municipal Monitors, dismissed certain councils, and initiated the Local Government Culture Project, identifying areas for governance improvement. These integrity matters, including the Independent Broad-based Anti-Corruption Commission's Operation Sandon Special Report 2023, underscore governance challenges.

Consequently, the State Government has proposed legislative reform, detailed in the consultation paper by Local Government Victoria, (**Attachment 1**) focusing on strengthening council leadership, improving early intervention, effective dispute resolution, and enhancing oversight mechanisms (see Section 10 for details).



Council prides itself on transparent governance and good democratic processes, and therefore aims to always engage in considered discussions and resolve a formal submission through a Council meeting. Despite Councillors engaging in discussions, offering feedback, and contributing to the development of its submission, the tight timelines for feedback prevented Council from formally resolving its position on the proposed reforms before the submission deadline. The attached submission (**Attachment 2**) reflects the in principle view of Council at the time of the submission being made.

This report seeks formal Council endorsement of the submission provided to Local Government Victoria on 29 February 2024.

Recommendation

That Council adopts the submission (**Attachment 2**) to the Local Government Reforms 2024 Consultation Paper.

Attachments

1.  Local Government Reforms 2024 Consultation Paper
2.  Council Submission

Discussion

1. There are three parts to the proposed reforms made up of eight reforms.

12. Officers' reports**CM.016/24 Endorsement of Nillumbik Shire Council Submission to the Local Government Reforms**

2. Part 1 acknowledges the need to enhance the skills and leadership qualities of elected representatives through continuous mandated training programs and professional development for mayors and councillors. These initiatives will build upon the current induction training requirements for councillors.
3. The proposal is to establish and enhance councillors' understanding of their role and their leadership capabilities, by completing regular (annual) training throughout their term. Initially it is proposed that they complete induction training within three months of commencing their role, amending the current requirement of six months.
4. The proposal suggests implementing mandatory training for mayors, deputy mayors, and acting mayors within the first month of their term. This training will concentrate on developing effective leadership skills, comprehending their roles and duties, understanding meeting procedures, and learning conflict management strategies that address underlying causes and prevent escalation.
5. The provisions for mandatory training for councillors and mayors will be largely based on the existing councillor induction training provisions outlined in the Local Government Act 2020 and relevant regulations. To ensure adherence to these new training requirements, a councillor's allowance will be withheld until they fulfill the training criteria.
6. The second reform relates to the establishment of a standardised mandatory Model Councillor Code of Conduct (Model Code) to replace existing codes, applicable to all councils. This Model Code will encompass the current conduct standards expected from councillors and may also incorporate elements necessary for maintaining consistent behavioural standards, such as promoting timely and effective intervention. Councils will no longer have the authority to add additional elements to the Model Code at their discretion to ensure consistency across all councils. Instead, councils will be obligated to adhere to the Model Code as prescribed, eliminating the formal requirement for council adoption. However, councils will be mandated to publicly display the Model Code on their respective websites.
7. Part 2 is proposed to strengthen and clarify the operation of the councillor conduct framework and assist in effective dispute resolution. The first reform in this part is in relation to a person who is affected by a councillor conduct panel (CCP) decision being able to seek a review of a decision to the Victorian Supreme Court. The second reform is regarding council not indemnifying a councillor/s against legal costs incurred in initiating or defending or otherwise being a party to a proceeding in relation to:
 - a) application for an internal arbitration process (IAP) made, or
 - b) an application for a CCP process, or
 - c) an application to the Victorian Supreme Court for judicial review of a decision of an arbiter or a decision of a CCP.

12. Officers' reports**CM.016/24 Endorsement of Nillumbik Shire Council Submission to the Local Government Reforms**

8. The third reform aims to widen the range of sanctions that an arbitrator can impose on a finding of misconduct by a councillor, extending them to incorporate:
 - a) Directing that a councillor is prevented from attending and participating at the council's next council meeting or at a council meeting specified by the arbiter following the tabling of the arbiter's decision and statement of reasons;
 - b) Suspending the councillor from the office of councillor for a period specified by the arbiter not exceeding three months (instead of one month); and
 - c) Directing that a councillor be ineligible to hold the office of Mayor or Deputy Mayor for a period of up to 12 months.
9. A copy of an arbiter's decision and statement of reasons must be tabled at the next council meeting, or at a council meeting specified by the arbiter after the council received the copy of the arbiter's decision and statement of reasons. To increase transparency and public trust, an arbiter will be given power to specify a council meeting which a councillor is prevented from attending and participating in. The arbiter will also be able to specify a council meeting at which the tabling of the arbiter's decision and statement of reasons must occur.
10. Part 3 is in relation to oversight mechanisms that will strengthen direct accountability mechanisms and promote early and effective intervention at a council to prevent and address governance failures and councillor conduct.
11. Reform 1 will provide power to the Minister to suspend an individual councillor for up to 12 months if the Minister is satisfied on the advice of a Municipal Monitor or Commission appointed to the council that the councillor is creating a serious risk to the health and safety at the council or is preventing the council from performing its functions. The suspended councillor will also be ineligible to hold the office of mayor or deputy mayor, or to chair a delegated committee of the council, for the remainder of the term.
12. Further, the Governor in Council will be provided with the power to disqualify a person from standing at future council elections. This would be on the recommendation of the Minister if satisfied on the advice of a Municipal Monitor or Commission. The advice must provide that the person was a councillor during the term immediately preceding the council's dismissal, and that the person was found to have created a serious risk to health and safety at the council or prevented the council from performing its functions. The period of disqualification would be for up to eight years following the dismissal of the council.
13. Reform 2 encourages councils to provide information to assist a Municipal Monitor and adds the provision of information by a council to a Municipal Monitor that is legally privileged does not cease to be the subject of legal professional privilege only because it is given or produced to a Municipal Monitor under the LG Act. When information that is prohibited from release under another enactment, is provided to a Municipal Monitor, a person is not subject to any criminal, civil, administrative or disciplinary proceedings or actions only because the person has complied with the request and Councils must provide reasonable assistance to a Municipal Monitor.

12. Officers' reports

CM.016/24 Endorsement of Nillumbik Shire Council Submission to the Local Government Reforms

14. Reform 3 grants the Chief Municipal Inspector the authority to issue penalties for particular offenses concerning specified electoral and personal interest matters.
15. Part 4 encompasses miscellaneous amendments aimed at enhancing the effectiveness of provisions concerning councillor conduct, early intervention, dispute resolution, oversight, and other related areas. These adjustments will undergo further reforms and will be subject to consultation at a later stage.

Related Council decisions

16. Not applicable.

Options

17. Officers recommend Council adopts the submission (**Attachment 2**) to the Local Government Reforms 2024 Consultation Paper.

Council plans and policies

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

Access, Equity and Inclusion

19. Under the *Gender Equality Act 2020* gender impact assessments (GIA) are required when developing a new or reviewing any policy, program or service with a direct and significant impact on the public. A GIA was not required for this submission.

Sustainability implications

20. There are no social and environmental implications associated with this report.

Community engagement

21. Not applicable.

Innovation and continuous improvement

22. Not applicable.

Collaboration

23. LGV invited submissions to the proposed reforms by 29 February 2024. Consultation occurred with the councillors to establish the content of the submission.
24. A copy of Councils submission was also provided to the Municipal Association of Victoria (MAV).

Budget implications

25. There are no financial, resource and asset management implications in relation to making this submission.

Relevant law

26. *Local Government Act 2020*.

12. Officers' reports

CM.016/24 Endorsement of Nillumbik Shire Council Submission to the Local Government Reforms

Regional, state and national plans and policies

27. Not applicable.

Conflicts of interest

28. 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.016/24 Endorsement of Nillumbik Shire Council Submission to the Local Government Reforms

THIS PAGE WAS LEFT INTENTIONALLY BLANK

12. Officers' reports**CM.017/24 Amendment C149nill Heritage Review - Panel Report and Approval**

Distribution: Public**Manager: Renae Ahern, Acting Director Planning, Environment and Strategy****Author: Leigh Northwood, Manager Strategic Planning and Environment****Summary**

The purpose of this report is to:

- Present the Amendment C149nill Panel Report;
- Seek Council's consideration of adoption of Amendment C149nill (the Amendment) with changes in accordance with the Report as recommended by officers; and
- Subject to adoption, request officers submit the Amendment to the Minister for Planning (the Minister) for consideration of approval.

The Amendment facilitates the implementation of the recommendations of the Nillumbik Heritage Review Stage A and B, as endorsed by Council on 29 June 2021, and 26 July 2022 respectively.

Formal Authorisation was given by the Minister to prepare and exhibit the Amendment on 1 May 2023. As a consequence and subject to that Authorisation approval, the Amendment was formally notified from 22 June to 3 August 2023 for a period of six (6) weeks, noting this is 2 weeks longer than the required statutory period under the *Planning and Environment Act 1987* (the Act). Council received twenty-six (26) submissions in total and seven (7) of these submitters presented at the independent Planning Panel held at the Council chambers on 15 - 16 November 2023.

The Planning Panel Report has been made public as of 21 December 2023 in accordance with Section 26 of the Act. The Planning Authority (Council) is required under Section 27 of the Act to consider the Panel's report before deciding whether or not to adopt the amendment.

The Panel report is supportive of the amendment as a whole, noting on page 9 of the report that *"The methodologies applied to the two Heritage Reviews which underpin the Amendment are appropriately robust, apply established contemporary practice, and are consistent with the guidance contained within Planning Practice Note 1: Applying the Heritage Overlay (PPN01)."*

Key issues raised in submissions and addressed in the report included:

- Building integrity as a result of alterations, removal of fabric or building condition.
- Lack of heritage significance.
- Impacts on future development.
- Financial impacts associated with maintenance or approval processes.
- Content of citations or Statements of Significance for specific individual places.
- The Heritage Overlay curtilage of individual places.

12. Officers' reports**CM.017/24 Amendment C149nill Heritage Review - Panel Report and Approval**

The Panel through its report supports Council's post-exhibition changes to remove the Heritage Overlay from five places (one forming part of a serial listing) following further heritage expert analysis undertaken. The properties recommended to be removed are:

1. Larch Hill, 2 Hillmartin Lane, Diamond Creek (HO319)
2. 'Greet', 162 Murray Road, Diamond Creek (HO321)
3. 'Hillside' House, 23 Glen Park Road, Eltham North (HO280)
4. House, 144 Progress Road, Eltham North (HO281)
5. 191 Cherry Tree Road, Hurstbridge (HO285).

The Panel supports application of the Heritage Overlay to the remaining places it has considered in response to submissions. Based on the evidence, it considers these places meet the threshold of local significance. As such, the Panel Report supports adoption of the Amendment as exhibited subject to the recommendations outlined in the discussion of this report.

All recommendations from the Panel Report are generally supported by Council Officers with the exception of some administrative recommendations, which although may cosmetically improve the format of Citations and Statements of Significance, would require re-drafting all materials, which would be an unnecessary expense to Council. The administrative changes will in no way affect the function and intent of the Amendment.










Recommendation

That Council:

1. Notes the Planning Panel report for Amendment C149nill to the Nillumbik Planning Scheme dated 19 December 2023 and its recommendations as at **Attachment 1** to this report;
2. Notes the officer recommended changes at **Attachment 2**;
3. Adopts Amendment C149nill to the Nillumbik Planning Scheme, with the changes recommended by the Planning Panel Report (as at **Attachment 2** to this report), pursuant to Section 29(1) of the *Planning and Environment Act 1987* generally in accordance with **Attachments 3 - 9** to this report;
4. Requests that officers submit a request to the Minister for Planning for consideration of approval of adopted Amendment C149nill to the Nillumbik Planning Scheme pursuant to Section 31(1) of the *Planning and Environment Act 1987*;
5. Requests that officers notify submitters to Amendment C149nill of Council's resolution and update Participate Nillumbik accordingly with next steps in the Amendment process; and
6. Authorises the Director Planning, Environment and Strategy to make editorial and administrative changes to **Attachments 3 - 9** to this report as required in meeting any conditional approval by the Minister.

12. Officers' reports**CM.017/24 Amendment C149nill Heritage Review - Panel Report and Approval**

Attachments

- 1  Nillumbik C149nill Panel Report
- 2  Council Officer Recommended Changes
- 3  C149 Explanatory Report Approval
- 4  C149 - Instruction Sheet Approval
- 5  C149 Combined Ordinance Approval
- 6  Stage A Citations Approval-compressed
- 7  Stage B1 Citations Approval-compressed
- 8  Stage B2 Citations Approval-compressed
- 9  C149 Maps Approval

Discussion

1. One of the key objectives of the Victorian Planning Provisions is:
“to conserve and enhance those buildings, areas and other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value”. This is prescribed in the *Planning and Environment Act 1987* in Section 4(1) (d). Councils have a duty under Section 12(1) (a) of the same Act to implement this objective.
2. The Heritage Overlay (HO) is the planning tool used in Planning Schemes to protect places of heritage significance.
3. Stage A of the Nillumbik Shire Heritage Review was adopted by Council at its 29 June 2021 meeting. Heritage Stage B of the Nillumbik Shire Heritage Review was adopted by Council at its 26 July 2022 meeting, the later meeting also approving officers to seek formal Authorisation from the Minister for Planning under section 8A to prepare and exhibit an amendment to apply the Heritage Overlay to all properties in Stage A and B Heritage Reviews (interim and permanent).
4. Notification of Council's resolution to request Authorisation was sent on 28 September 2022 in the form of a courtesy letter to owners and occupiers of affected properties.

12. Officers' reports**CM.017/24 Amendment C149nill Heritage Review - Panel Report and Approval**

5. Amendment C148nill was requested to the Minister for Planning (the Minister) by Council on 7 October 2022 to ask the Minister to utilise their powers of intervention under Section 20(4) of the *Planning and Environment Act* 1987 (the Act) to implement interim controls to modify the schedule to the Heritage Overlay by inserting the heritage places. Around the same time Council sought authorisation from the Minister to undertake an amendment process for Amendment C149nill pursuant to Section 8A of the Act to prepare and exhibit a permanent control to achieve the same outcome, requested to the Minister for Planning (the Minister) by Council on 9 November 2022.
6. Formal Authorisation was received from the Minister in June 2023 and pursuant to the statutory requirements of the Act, Section 19 formal notification was made to owners and occupiers and affected authorities and Prescribed Ministers on 19 June 2023. Including advertisements in the Government Gazette and The Age.
7. The Amendment was on exhibition from 22 June to 3 August 2023. All affected properties were contacted and the amendment documents made available to the public.
8. Council received a total of twenty six (26) submissions, each one detailed and discussed in the Panel Report. Council officers allowed a period for late submissions in an attempt to as much as possible, accommodate affected parties and accepted submissions up until the date of Panel Document submission.
9. All submitters and participants have been notified via email that their submission was considered and the Panel Report has been made available to them. The Report is also available to the public and can be downloaded from Council's website.

Panel Hearing

10. The Planning Panel Hearing was held at Council on 15 - 16 November 2023 with Council, their Heritage Consultants (GML & Trethowan) and seven (7) submitters making submissions.
11. The Hearing included onsite inspections as requested by Panel members, attended by the Panel members, officers and Council's heritage consultants with submitters/owner consent where matters required further onsite confirmation.
12. In accordance with the intent of the Planning Panel, all parties were given the opportunity to question and respond to submissions and questions of the Panel members.

Observations in the Panel Report

13. On 19 December 2023 the Planning Panel Report for Amendment C149nill was delivered to Council, and accordingly on 21 December the Report was made public via Council's Amendment C149nill website and sent to all parties as required by the Act. (Refer **Attachment 1** for Panel Report).
14. Key Panel commentary as outlined in the Panel Report is noted below where it is deemed they are of note, or require officer or Council's heritage consultant clarification.

12. Officers' reports

CM.017/24 Amendment C149nill Heritage Review - Panel Report and Approval

15. Page 26 with regard to consultation on Council's Heritage reviews:

- a. *"As identified in Chapters 5 and 6, Council and its experts have revisited sites (and where in a position to, attending site inspections with landowners), proposed deletion of some places and updated many citations and statements of significance as a result. This is an appropriate and proactive approach.*

There is no obligation for Councils to undertake extensive consultation with the community to develop a heritage study. However, community consultation is often undertaken to elicit potential sites by directly engaging with historical societies or similar groups to identify potential sites or historical information. The heritage assessment of a place is however a technical exercise and requires particular expertise and cannot be determined by popular opinion".

16. Page 29, with regard to general issues:

- a. A number of general issues were raised in submissions around:

- i. *Building condition, intactness and integrity;*
- ii. *Development opportunity, building alterations and maintenance; and*
- iii. *Financial implications.*

- b. The Panel Report has addressed these issues concluding that:

- i. *Building condition is not relevant when assessing the heritage significance of an individual place.*
- ii. *The level of intactness of a place is however, a critical threshold consideration for establishing integrity and heritage significance.*
- iii. *Issues relating to loss or impact on development opportunity or undertaking building alterations and maintenance are not relevant when assessing the heritage significance of an individual place.*
- iv. *Property value and financial implications are not relevant when assessing heritage significance or when deciding whether to apply the Heritage Overlay.*

Panel Recommendations

17. The Panel Report for Amendment C149nill recommends the Amendment be adopted as exhibited subject to a number of recommended changes. These recommended changes are consistent with agreements arrived at through the Panel process and therefore have already been specifically tested/debated during the Panel hearing. Notably most of the recommendations are administrative in creating consistency, for example, agreed property removal from the Heritage Overlay and mapping changes. Some recommended changes are to create clarity in the citations of remaining properties recommended to be kept in the amendment. A detailed summary of changes is outlined in **Attachment 2**, noting properties identified for deletion are:

- a. Delete the Heritage Overlay from:
- i. Larch Hill, 2 Hillmartin Lane, Diamond Creek (HO319)
 - ii. 'Greet', 162 Murray Road, Diamond Creek (HO321)

12. Officers' reports**CM.017/24 Amendment C149nill Heritage Review - Panel Report and Approval**

- iii. 61A York Street, Eltham (HO279) – removal from 61A York Street only, the Heritage Overlay will apply to 61 York Street
 - iv. 'Hillside' House, 23 Glen Park Road, Eltham North (HO280)
 - v. House, 144 Progress Road, Eltham North (HO281)
 - vi. 191 Cherry Tree Road, Hurstbridge (HO285).
18. Page 64, with regard to 'Choong House', 10 Diosma Road, Eltham (HO275) where the Panel Report notes that Council's Heritage Consultants (GML) recommended a reduced curtilage which was consistent with the Council Officers' recommendations made at Council's 26 September Meeting. Council decided to apply the curtilage to the entire property at its 26 September Meeting, which is consistent with the Panel's view and recommendation. Council Officers support the Panel's recommendation to apply the curtilage to the whole of the property in accordance with the guidance of *Planning Practice Note 01*.
19. All the recommendations from the Panel Report are supported by Council Officers and as noted have been discussed and agreed to at the Panel Hearing, with the exception of recommendation 6.c) of the Panel Report to '*separate any combined criterion paragraphs with separate paragraphs for each criterion*' in the statements of significance (*Appendix 1*). This is purely a formatting matter, and not something that the Panel can compel Council to do, rather it's a recommendation of the way the Panel would suggest the Statements of Significance be formatted. This is subjective and no consistent approach is adopted across heritage consultants and local governments in preparation of such work. The recommendation would also burden Council with additional costs, and is not inherent or contingent to approval of the Amendment by the Minister. Officers consider the recommendation although well-intended, is not necessary nor a value proposition that Council should invest more funding into.

Related Council decisions

21. At its meeting of 29 June 2021, Council resolved that it:
- a) *Adopts the Final Draft Citations for Stage A of the Nillumbik Heritage Review.*
 - b) *Adopts the Priority Lists for Stage B of the Nillumbik Heritage Review.*
 - c) *Publishes the Final Draft Citations for Stage A of the Nillumbik.*
22. At its meeting of 26 July 2022, Council resolved that it:
- a) *Adopts the final version of the Statements of Significance and Citations for Stage B (Attachment 3) of the Nillumbik Heritage Review; and*
 - b) *Adopts the Nillumbik Shire Thematic Environmental History, as updated (Attachment 4) and post WW2 addendum to the Thematic Environmental History (Attachment 5); and*
 - c) *Requests the Minister for Planning, to exercise powers under Section 20(4) of the Planning and Environment Act 1987 to prepare and approve an amendment to the Nillumbik Planning Scheme to apply the Heritage Overlay to places (as recommended in Heritage Review Stage A and B) on an interim basis; and*

12. Officers' reports

CM.017/24 Amendment C149nill Heritage Review - Panel Report and Approval

- d) *Request the Minister for Planning, under Section 8A of the Planning and Environment Act 1987, to authorise the preparation and exhibition of an amendment to the Nillumbik Shire Planning Scheme to apply the Heritage Overlay to places (as recommended in Heritage Review Stage A and B) on a permanent basis; and*
 - e) *Publishes the final version of the Statements of Significance and Citations for Stage B (Attachment 3) of the Nillumbik Heritage Review on Council's website; and*
 - f) *Publishes the Nillumbik Shire Thematic Environmental History (as updated), (Attachment 4) and the Post WW2 addendum (Attachment 5) on Council's Website; and*
 - g) *Notifies the owners of places identified for application of the Heritage Overlay as per the recommendations of Stage A and Stage B Heritage Reviews of Council's resolution and next steps.*
23. At its 12 September 2023 Planning and Consultation Committee meeting, the Committee considered submissions received during the official exhibition period and heard from members of the public.
24. At its meeting of 26 September 2023, Council resolved that it:
- a) *Notes the submissions to Amendment C149nill to the Nillumbik Planning Scheme (Attachment 1).*
 - b) *Resolves to include new attachments to the report 'Amendment C149nill – List of properties to be removed' Attachment 3 and 'Amendment C149nill - List of properties to be amended' Attachment 4.*
 - c) *Amends Amendment C149nill in accordance with Attachments 3 and 4.*
 - d) *Requests the Minister for Transport and Planning appoint an independent planning panel to consider unresolved submissions to Amendment C149nill pursuant to Section 23(1)(b) of the Planning and Environment Act 1987.*
 - e) *Requests Council officers recommend the Heritage Overlay apply to the entire site of 10 Diosma Road, Eltham due to the pending assessment of cultural heritage significance at the state level.*
 - f) *Requests that officers notify submitters to Amendment C149nill of the Committee's resolution and update Participate Nillumbik accordingly with next steps in the Amendment process.*
 - g) *Brings the C149nill Panel report as an outcome of the Panel Hearing (once available) to a future Council briefing for Council consideration.*
 - h) *Prepare a letter of advocacy to be sent to the Minister for Consumer Affairs and the Minister for Transport and Planning, in seeking that proposed zone/overlay changes be included on the Section 32, the 'vendor statement' as required under the Sale of Land Act 1962 (VIC).*

12. Officers' reports**CM.017/24 Amendment C149nill Heritage Review - Panel Report and Approval**

Options

25. Subject to supported recommendations, the Panel report is supportive of the amendment as a whole, noting on page 9 of the report that *“The methodologies applied to the two Heritage Reviews which underpin the Amendment are appropriately robust, apply established contemporary practice, and are consistent with the guidance contained within Planning Practice Note 1: Applying the Heritage Overlay (PPN01).”*
26. After consideration of the Panel Report, in accordance with Section 23 of the Act, Council must resolve to:
- Note the C149nill Panel Report and adopt Amendment C149nill pursuant to Section 29 of the Act with Council Officer recommendations (**Attachment 2**) and submit the adopted amendment to the Minister for Planning for consideration of approval in accordance with Section 31 of the Act; or
 - Note the C149nill Panel Report and adopt Amendment C149nill pursuant to Section 29 of the Act with no changes and submit the adopted amendment to the Minister for Planning for consideration of approval in accordance with Section 31 of the Act; or
 - Abandon Amendment C149nill.

Council plans and policies

27. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
- We celebrate and prioritise the protection of our heritage, arts and culture, places and spaces by focusing on the diversity of experiences that have shaped our shared history.*

Access, Equity and Inclusion

28. The preparation and exhibition of the Amendment is a statutory requirement and function of Council pursuant to the *Planning and Environment Act 1987*. It applies to affected parties. In meeting relevant objectives of Council's Access, Equity and Inclusion Policy, and being in accordance with the requirements of the Act, Amendment C149nill, through consideration and exhibition has been notified to allow for barriers to accessing relevant material to be as effectively removed as is practicable. This includes the provision of content on Participate Nillumbik, and making officers available to meet and discuss what are quite technical matters and processes with interested parties.

Sustainability implications

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

Community engagement

30. Refer above to exhibition and notification pursuant to the *Planning and Environment Act 1987*.

12. Officers' reports

CM.017/24 Amendment C149nill Heritage Review - Panel Report and Approval

31. Note that Council Officers extended prescribed exhibition times, accepted submissions after the exhibition end date and responded to over a hundred emails and phone calls to ensure that the affected members of the community were properly informed and supported through the Amendment process.

Innovation and continuous improvement

32. Approval of Amendment C149nill would improve Council's ability to manage, preserve and protect the historical and cultural assets of the Shire through the Nillumbik Planning Scheme.

Collaboration

33. Council officers have been proactively liaising with Heritage Victoria and the Department of Planning and Transport to prepare amendment material to the department's satisfaction.

Budget implications

34. Funding has been allocated to the associated costs of preparation, exhibition, statutory fees, Panel fees and consultant inputs in the 2023/24 financial year Strategic Planning budget.

Relevant law

35. *Planning and Environment Act 1987.*

Regional, state and national plans and policies

36. Not applicable.

Conflicts of interest

37. 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.017/24 Amendment C149nill Heritage Review - Panel Report and Approval

THIS PAGE WAS LEFT INTENTIONALLY BLANK

12. Officers' reports

CM.018/24 Quarterly Risk and Safety Report - December 2023

Distribution: Public

Manager: Jeremy Livingston, Director Culture and Performance

Author: Craig Commane, Risk and Safety Lead

Summary

This report provides a summary of Council's Risk and Safety Report for the calendar year ending December 2023.

The report is presented in accordance with the *Local Government (Planning and Reporting) Regulations 2020*, which requires the presentation of a report to Council at least every six months, detailing the strategic risks, operational risks, the consequences and likelihood of occurrence, and risk mitigation strategies.

Risk and Safety reporting to Council is tabled each quarter following consideration by Council's Audit and Risk Committee, which in this quarter occurred on 19 February 2024.

The full confidential Risk and Safety Report for December 2023 is attached to this report (**Attachment 1**) and provides detailed information for Council's consideration.

Recommendation

That Council:

1. Notes the summary of the confidential Risk and Safety Report (**Attachment 1**) for the calendar year ending December 2024.
2. Resolves that the attached Risk and Safety Report (**Attachment 1**) remains confidential in accordance with section 3(1)(a) and (f) of the *Local Government Act 2020*.

Attachments

1. Risk and Safety Report December 2023 - *CONFIDENTIAL*

Discussion

1. Council's commitment to risk management is outlined in the Risk Management Policy, with the following objectives:
 - Ensure that all risks that could affect the achievement of Council's goals, strategies and actions are identified, assessed and treated to a commercially and professionally acceptable level of risk;
 - Integrate risk management into Council's decision making processes and embedding it into the organisational culture;
 - Ensure necessary resources are allocated in support of the Policy and supporting Risk Management Framework;
 - Maintain stakeholders' trust and due diligence;

12. Officers' reports

CM.018/24 Quarterly Risk and Safety Report - December 2023

-
- Align all risk practices across all systems and to promote and support a consistent corporate approach to risk that can be clearly understood; and
 - Ensure that risk management is seen as the responsibility of all staff, i.e. – *risk management is everyone's business*.
 2. In addition to the Risk Management Policy, Council's Risk Management Framework communicates and describes the risk management principles and processes that are used to identify, analyse, evaluate, treat, monitor and communicate key risks, including management reporting.
 3. The context of the Risk Management Policy and Framework takes into account that local government presents a distinct risk character and profile that needs to be taken into account when considering risk management. Many assets and services are available 24 hours a day seven days a week in an unsupervised way, some are managed or provided by volunteers or committees of management or are managed by contractors, others are regulated by compliance legislation.
 4. This Risk and Safety report broadly reports on:
 - Risk management;
 - Business continuity;
 - (Anti) Fraud and corruption control;
 - Insurance premiums;
 - Incident management and insurance claims;
 - Occupational Health and Safety;
 - Other data; and
 - Strategic risk summary report.
 5. The Quarterly Risk and Safety Report has been prepared in accordance with Council's Risk Management Policy and Framework, and is consistent with the Australian Standard AS/NZS 31000:2018 Risk Management.
 6. Highlights from the Risk and Safety Report for the calendar year ending December 2024 are as follows:
 - Strategic risk actions are on target to be completed within allocated timeframes;
 - Motor vehicle incidents continue a reducing trend and compares favourably to the benchmark of 60% of premium. It is anticipated that Council's long term improvement in motor vehicle claims will be a discussion point during the 2024 / 2025 insurance renewal process;
 - Incidents generally are now trending downwards as incidents and claims generated in the storm events in the December 2022 quarter have fallen away.
 - WorkSafe undertook an entry visit at the Civic Centre and Operations Centre in November 2023 as part of their proactive program to provide guidance and assess and enforce compliance with specific health and Safety laws. No adverse findings were noted; and

12. Officers' reports

CM.018/24 Quarterly Risk and Safety Report - December 2023

- Injury data shows a decrease in minor injuries reported and this is the second consecutive quarter of no new WorkCover claims.

7. Council's strategic risks are:

- Changing environmental conditions and climate change impacting Council's infrastructure, operations and services;
- Changes in Federal and State government policy that impact Council's strategic objectives;
- Strategic focus, infrastructure, service delivery and projects are not aligned with community expectations;
- Impacts of a disruption to Council's service delivery;
- IT disruption and cyber security attacks including data breach, fraud or theft, data loss and data privacy;
- Failure to maintain a sustainable long term financial position;
- Major failure of Council infrastructure;
- Council does not deliver on major projects, eroding reputation and influences potential future funding opportunities; and
- Good governance failure;

8. The following can be used to monitor the progress of control actions and progress of strategic risks as at the end of December 2023 through to financial year end.

Strategic Risks – Action Status	No.	%
Complete or in place	125	67%
On target	62	33%
Not on target	0	0%
Not yet due to start	0	0%
Total	187	100%

9. The following tables summarise recorded incidents by type for matters involving Council. Note that these tables show all reported incidents, rather than all claims, as not every incident results in a claim being made.

12. Officers' reports

CM.018/24 Quarterly Risk and Safety Report - December 2023

Incidents by type	Jan - Mar 23	Apr - Jun 23	Jul - Sep 23	Oct - Dec 23	Total Jan - Dec 23	Total Jan - Dec 22
Property	5	4	1	11	21	21
Motor vehicle	13	6	8	6	33	44
Professional Indemnity	2	0	0	0	2	2
Public Liability	35	23	32	27	117	162
Occupational Health & Safety	25	20	23	25	93	94
Total incidents	80	53	64	69	266	323

10. The following table summarises all incidents by directorate.

Incidents by Directorate	Jan - Mar 23	Apr - Jun 23	Jul - Sep 23	Oct - Dec 23	Total Jan - Dec 23	Total Jan - Dec 22
Culture and Performance	0	5	8	6	19	6
Governance, Communications and Community Safety	1	2	1	6	10	3
Planning, Environment and Strategy	8	5	3	2	18	31
Communities	6	9	6	6	27	25
Operations	65	32	46	49	192	258
Total incidents	80	53	64	69	266	323

11. A high proportion of reported incidents during the December 2023 quarter are generated within the normal course of business in the Operations directorate (71%), and is a decrease compared to the previous quarter (77%).
12. Overall, incidents are higher than the same period last year due to significant rain and storm events experienced during the December 2022 quarter.
13. All incidents relate to major classes of asset or maintenance type incidents for Council buildings, recreational facilities, playgrounds, trees, drainage, footpath, road damage and major plant.
14. Tree related risks are mitigated through the:
- Tree Management Policy;
 - Reactive tree maintenance program;
 - Proactive electric power line clearance program;
 - Proactive box clearance program;
 - Proactive inspections of high risk trees; and

12. Officers' reports**CM.018/24 Quarterly Risk and Safety Report - December 2023**

-
- Meeting the objectives of the Municipal Emergency Management Plan and Municipal Fire Management Plan.
15. Road, footpath, drainage and roadside related risks are mitigated through the:
 - Road Management Plan;
 - Road Asset Management Plans; and
 - Proactive and reactive maintenance programs.
 16. Property incidents typically reported are property theft, break-ins, storm damage vandalism and accidental damage to Council buildings or fixed equipment such as in playgrounds and recreational facilities. Risks are mitigated through maintenance programs and insurance.
 17. Overall, reported property incidents are consistent when compared to the same period last year (21 in each), however an increase in the December 2023 quarter was experienced. This was caused by an increase incidents of vandalism in recreation reserves and a spate of copper thefts from toilet blocks in Diamond Creek and Eltham. All incidents were reported to the Police where appropriate.
 18. Motor vehicle incidents include accidental damage involving Council's light and heavy fleet, including incidents caused by third parties. Risks are mitigated through maintenance, education and insurance.
 19. There were 6 motor vehicle incidents during the December 2023 quarter and two new motor vehicle insurance claims lodged with Council's insurer. The number of incidents and dollar value continues to be positive, showing claims have fallen when compared to the previous year.
 20. Professional indemnity relates to incidents and claims for alleged negligence or breach of duty arising from an act, error or omission in the performance of Council services. No new professional indemnity incidents occurred during this quarter.
 21. Public liability incidents are reported where the third party is seeking compensation for personal injury, property damage and economic loss. Note that compensation claims are only paid where Council has been negligent or there is a clear legal liability. Claims are managed by an external claims manager or Council's insurer. Typical incidents primarily relate to vehicle road damage, property damage, tree related or trip and fall incidents.
 22. A total of 27 incidents were notified during the December 2023 quarter. One incident related to tree or tree root issues, 14 incidents resulted in personal injuries or property damage and 10 related to vehicle damage, primarily caused by the road surface or road related infrastructure. (Note that the *Road Management Act 2004* threshold is currently \$1,480).
 23. Occupational Health and Safety incidents during the quarter (25) were noted being safety matters reported as incidents, hazards and near misses. Typical incidents are cuts and lacerations, insect and animal bites, musculoskeletal injuries and slip trips and falls. These incidents are managed through the Occupational Health and Safety Management System.

12. Officers' reports

CM.018/24 Quarterly Risk and Safety Report - December 2023

24. The overall occupational health and safety annual trend data for the year ending December 2023 incidents (93) was comparable to the same period ending December 2022 (94).
25. Incident costs, including under excess claim costs and insurance excesses, are managed within existing budgets. Where appropriate, insurance claims were made, repairs undertaken and matters reported to the Police.

Related Council decisions

26. This summary, along with the confidential Risk and Safety Report, has been provided to meet the requirements of the *Local Government (Planning and Reporting) Regulations 2020* and consolidation of management reporting.
27. Ongoing reporting to Council on risk and safety matters is presented quarterly following each meeting of Council's Audit and Risk Committee.

Council plans and policies

28. This report directly supports the achievement of the following Council Plan 2021-2025 strategies:
 - We act in the best interests of our community.
 - We are forward-thinking, data-driven and evidence-led in our decision making, always looking to identify new opportunities.
 - We make Council's programs, services, processes and information equitable, assessable and inclusive.

Access, Equity and Inclusion

29. A Gender Impact Assessment has not been applied to this report.

Sustainability implications

30. Trend data from this report is used to inform management processes for the mitigation of risks associated with property, motor vehicle, professional indemnity, public liability and safety as they relate to Council's strategic and operational risks.
31. Council's risk profile includes environmental risks and climate change, as a consequence of failure to adequately mitigate those risks.

Community engagement

32. Not applicable.

Innovation and continuous improvement

33. Trend data from this report is used to inform management processes and gap analysis to identify continuous improvement opportunities associated with property, motor vehicle, professional indemnity, public liability and occupational health and safety.

Collaboration

34. Not applicable.

12. Officers' reports

CM.018/24 Quarterly Risk and Safety Report - December 2023

Budget implications

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

Relevant law

36. Not applicable.

Regional, state and national plans and policies

37. Not applicable.

Conflicts of interest

38. 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.018/24 Quarterly Risk and Safety Report - December 2023

THIS PAGE WAS LEFT INTENTIONALLY BLANK

12. Officers' reports

CM.019/24 Instrument of Delegation to the Chief Executive Officer

File: GF/20/96
Distribution: Public
Manager: Blaga Naumoski, Director Governance, Communications and Community Safety
Author: Katia Croce, Manager Governance and Property

Summary

Council approved the current Instrument of Delegation of powers, duties and functions to the Chief Executive Officer (CEO) on 27 July 2021.

The *Local Government Act 2020* (the Act) provides for each Council to establish a delegation of power. The Act also requires Council to review the delegation within one year of each general election. This report meets Councils obligations under the Act.

The delegation of powers is considered essential to enable day-to-day decisions to be made to ensure the operations of Council are enacted efficiently and effectively. Delegations are standard practice across all Councils. Delegations should be regularly updated to reflect any legislative changes and or a more appropriate level of accountability.

The review of the Instrument of Delegation to the Chief Executive Officer in this instance does not recommend any changes apart from minor formatting changes to recognise the most recent review date.

Recommendation

That Council:

1. In the exercise of the power conferred by s 11(1)(b) of the *Local Government Act 2020* (the Act) resolves that:
 - a) There be delegated to the person holding the position, or acting in or performing the duties, of Chief Executive Officer the powers, duties and functions set out in the attached *Instrument of Delegation to the Chief Executive Officer*, **(Attachment 1)** subject to the conditions and limitations specified in that Instrument.
 - b) The instrument comes into force immediately the common seal of Council is affixed to the instrument.
 - c) On the coming into force of the instrument all previous delegations to the Chief Executive Officer are revoked.
 - d) The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

Attachments

- 1  Instrument of Delegation to the Chief Executive Officer

12. Officers' reports**CM.019/24 Instrument of Delegation to the Chief Executive Officer**

Discussion

1. The Instrument of Delegation to the CEO which flows from section 11(1) is a broad, 'by exception' delegation. This means that Council's powers, duties and functions, under any legislation, are delegated by the Instrument, excepting those matters specifically excluded from delegation by the Instrument.
2. Council subscribes to a service provided by Maddocks lawyers in which recommended delegation updates are provided.
3. The delegation of powers is considered essential to enable day-to-day decisions to be made to ensure the operations of Council are enacted efficiently and effectively. Delegations are standard practice across all Councils. Delegations should be regularly updated to reflect any legislative changes and or a more appropriate level of accountability.
4. The Council is a legal entity composed of its members (ie. the Councillors). Because it is not a "natural person", the Council can act in only one of two ways: by resolution; or through others acting on their behalf.
5. Where the latter is to occur, the authority to act needs to be formalised through written 'Instruments of Delegation'. The Act and other legislation make express provision for the appointment of delegates to act on behalf of the Council.
6. The Act requires that Council review and update the instruments of delegation to the CEO. In turn, the CEO will review and update various Instruments of Delegation by the CEO to other officers.

Related Council decisions

7. Council Meeting – 27 July 2021 (Instrument of Delegation to the CEO)

Options

8. As legislation is amended from time to time, all councils are required to update delegations conferred on various positions within the organisation by Council, to ensure officers are operating and enforcing under the current legislation.
9. The Instrument of Delegation to the Chief Executive Officer (**Attachment 1**) has been reviewed to ensure it remains consistent with current legislation and business practices.
10. The current Instrument of Delegation from Council to the Chief has been in force since 27 July 2021. No change is proposed to the level of delegation provided to the Chief Executive Officer.

Council plans and policies

11. 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.
 - We act in the best interests of our community.

12. Officers' reports

CM.019/24 Instrument of Delegation to the Chief Executive Officer

Access, Equity and Inclusion

12. The Instrument applies equally to any person undertaking the role of Chief Executive Officer and therefore a Gender Impact Assessment was not undertaken.

Sustainability implications

13. This report seeks to update the current Council to CEO delegation, therefore there would be no change to the existing sustainability impacts.

Community engagement

14. Not applicable.

Innovation and continuous improvement

15. Not applicable

Collaboration

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

Budget implications

17. The regular updates of Council's Instruments of Delegation are an administrative function, the cost of which is included within Council's operational budget.

Relevant law

18. Section 11 of the *Local Government Act 2020*, and by various Acts and regulations.
19. Consistent with Council's obligations under the *Local Government Act 2020* and Council's Public Transparency Policy, this instrument will be published on Council's website.

Regional, state and national plans and policies

20. Not applicable

Conflicts of interest

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

12. Officers' reports

CM.019/24 Instrument of Delegation to the Chief Executive Officer

THIS PAGE WAS LEFT INTENTIONALLY BLANK

12. Officers' reports**CM.020/24 Instrument of Delegation from Council to Council staff**

File: GF/20/96**Distribution: Public****Manager: Blaga Naumoski, Director Governance, Communications and Community Safety****Author: Katia Croce, Manager Governance and Property****Summary**

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

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

Directors and Officers have undertaken an extensive review of the existing Instrument of Delegation – Council to Council staff (Instrument) provisions in addition to all new and amended provisions since it was last presented to Council. This was a necessary function following the organisational realignment and the amendment of a number of position titles assigned to existing Council staff.

This report requests that Council resolves to adopt the amended Instrument of Delegation (**Attachment 1**) to reflect legislative changes and organisational requirements.

Recommendation

That Council:

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

12. Officers' reports**CM.020/24 Instrument of Delegation from Council to Council staff**

Attachments

1.  Instrument of Delegation - Council to Council Staff

Discussion

1. The power conferred by the legislation enables Council, by Instrument of Delegation, to delegate to a member of Council staff any power, duty or function of Council under the Act or any other Act, other than certain specified powers.
2. The delegations are necessary to enable the Chief Executive Officer and Council staff to carry out the day-to-day management of Council's operations.
3. Council subscribes to a service provided by Maddocks lawyers in which half-yearly recommended updates to Instruments of Delegations are provided to reflect legislative changes.
4. The Instrument of Delegation to Members of Council Staff was last considered by Council at its meeting on 22 February 2022.

Related Council decisions

5. At its Council Meeting on 22 February 2022, Council resolved:

“That Council:

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

Options

6. Under the Act, one of Council's objectives is to delegate decision-making to appropriate levels within the organisation.

12. Officers' reports**CM.020/24 Instrument of Delegation from Council to Council staff**

7. The Instrument comprises those delegations which only Council can delegate directly to staff, unlike, other matters which the Chief Executive Officer can sub-delegate to Council staff. They comprise powers, functions and duties that are delegated to positions such as environmental health officers, town planners and other officers authorised under certain legislation.
8. The Instrument covers delegations from Council to Directors, Executive Managers, relevant Managers and staff under a range of legislation including, but not limited to, the:
 - *Domestic Animals Act 1994*
 - *Food Act 1984*
 - *Heritage Act 2017*
 - *Local Government Act 1989*
 - *Local Government Act 2020*
 - *Planning and Environment Act 1987*
 - *Residential Tenancies Act 1997*
 - *Road Management Act 2004*
 - *Planning and Environment Regulations 2015*
 - *Planning and Environment (Fees) Regulations 2016*
 - *Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020*
 - *Residential Tenancies Regulations 2021*
 - *Road Management (General) Regulations 2016*
 - *Road Management (Works and Infrastructure) Regulations 2015.*
9. As legislation is amended from time to time, all councils are required to update delegations conferred on various positions within the organisation by Council, to ensure officers are operating and enforcing under the current legislation.
10. This review considers amended and new provisions to the various Acts since Council resolved the current Instrument, and it is therefore recommended that Council adopt the Instrument as shown in **Attachment 1**.

Council plans and policies

11. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
 - We continue to exercise sustainable and responsible financial management.
 - We act in the best interests of our community.

Access, Equity and Inclusion

12. The Instrument applies equally to any member of Council staff undertaking the role that is prescribed in the Schedule and therefore a Gender Impact Assessment was not undertaken.

12. Officers' reports

CM.020/24 Instrument of Delegation from Council to Council staff

Sustainability implications

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

Community engagement

14. Not applicable.

Innovation and continuous improvement

15. Not applicable.

Collaboration

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

Budget implications

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

Relevant law

18. Section 11 of the *Local Government Act 2020*.
19. As outlined in this report this effects a range of legislation under various Acts and regulations.
20. Consistent with Council's obligations under the *Local Government Act 2020* and Council's Public Transparency Policy, this instrument will be published on Council's website.

Regional, state and national plans and policies

21. Not applicable.

Conflicts of interest

22. 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.021/24 Instrument of Appointment and Authorisation (Planning and Environment Act 1987)

File: GF/20/96

Distribution: Public

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

Author: Katia Croce, Manager Governance and Property

Summary

Section 224 of the *Local Government Act 1989* provides for the appointment of Authorised Officers for the purposes of the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council.

Prior to this meeting where a new Instrument is being considered, the Chief Executive Officer has made these appointments by authority conferred by Instrument of Delegation by Council dated 27 July 2021.

Section 147(4) of the *Planning and Environment Act 1987* provides for the appointment and authorisation of Council Officers for the purpose of the *Planning and Environment Act 1987*.

To strengthen Council's decision making and enforcement processes, appointment of authorisation under the *Planning and Environment Act 1987* is being recommended by Council Resolution.

Recommendation

That Council in the exercise of the powers conferred by s147(4) of the *Planning and Environment Act 1987*, resolves that:

- a) The Nillumbik Shire Council staff referred to in the Instrument of Appointment and Authorisation (*Planning and Environment Act 1987*) (**Attachment 1**) be appointed and authorised as set out in the instrument.
- b) The common seal of Council be affixed to the Instrument.
- c) The Instrument comes into force immediately after the common seal of Council is affixed to the Instrument and remains in force until Council determines to vary or revoke it.

Attachments

- 1  Instrument of Appointment and Authorisation for Planning and Environment Act 1987

Discussion

1. The purpose of this report is for Council to consider executing an Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* (Instrument).

12. Officers' reports

CM.021/24 Instrument of Appointment and Authorisation (Planning and Environment Act 1987)

2. Instruments of Appointment and Authorisation enable Council staff to exercise powers permitted to authorised officers under legislation or Council local laws.
3. Council subscribes to the Maddocks Authorisations and Delegations service. The appointment and authorisation of officers for the purposes of enforcing the *Planning and Environment Act 1987* enables day to day statutory and operational decisions to be made in relation to this Act.
4. The proposed Instrument (**Attachment 1**) is based on the model developed by Maddocks Lawyers and available through the subscription service.
5. Maddocks recommend that Officers enforcing the *Planning and Environment Act 1987* be authorised by Council resolution and that Instruments of Appointment and Authorisation be refreshed on a regular basis. The instruments are reviewed by Governance as required to ensure they are up to date.

Related Council decisions

6. The current Instrument is dated 27 February 2024.

Options

7. It is recommended by Officers that Council resolves that the Officers referred to in the instrument (**Attachment 1**) be appointed and authorised as set out in the instrument.

Council plans and policies

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

Access, Equity and Inclusion

9. Not applicable.

Sustainability implications

10. Not applicable.

Community engagement

11. As a legislative requirement and an administrative function of Council, Community engagement is not required.

Innovation and continuous improvement

12. Council's appointments and authorisations under the *Planning and Environment Act 1987* have been signed under delegation to the CEO in accordance with legal advice. In order to strengthen Council's decision making and enforcement process it is recommended that Council make these appointments by Council Resolution.

Collaboration

13. Not applicable.

12. Officers' reports

CM.021/24 Instrument of Appointment and Authorisation (Planning and Environment Act 1987)

Budget implications

14. The appointment of authorised officers is an administrative exercise undertaken by Council Officers. There is no additional resourcing required if Council supports and resolves the officer recommendation.

Relevant law

15. Section 224 of the *Local Government Act 1989*
16. Section 147(4) of the *Planning and Environment Act 1987*

Regional, state and national plans and policies

17. Not applicable.

Conflicts of interest

18. 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.021/24 Instrument of Appointment and Authorisation (Planning and Environment Act 1987)

THIS PAGE WAS LEFT INTENTIONALLY BLANK

12. Officers' reports**CM.022/24 Regional Assessment System Service Extension**

Distribution: Public**Manager: Corrienne Nichols, Director Communities****Author: Narelle Hart, Manager Community Programs****Summary**

This reports outlines current transitional matters in relation to the Commonwealth Government's Single Assessment System for older people including:

- The possible offer of a contract extension that may become available to Council for the Regional Assessment Service pending the cessation of this service in December 2024.
- The new single assessment program for older people which will replace the existing assessment services.
- The tender for the single assessment service.

Recommendation

That Council resolves to divest of the Regional Assessment Service at the conclusion of the existing funding agreement on 30 June 2024 unless a viable extension offer is forthcoming, in which case Council will divest of the service on 31 December 2024.

Attachments

Nil

Discussion

1. In order to access the Commonwealth Government's funded Aged Care Services, an assessment is required for people aged 65 and over, and Aboriginal people aged 50 years and over. Assessments determine a person's eligibility for services and assess their care and support needs.
2. Currently there are two levels of assessment:
 - Regional Assessment Services (RAS) - conducting Home Support Assessments (non-clinical) to assess people for eligibility for entry level home help services through the Commonwealth Home Support Programme (CHSP).
 - Aged Care Assessment Services (ACAS) - conducting comprehensive (clinical) assessments to assess people for eligibility to access higher level services such as Commonwealth-funded residential aged care, residential respite care and Home Care Packages
3. The Commonwealth Government currently funds the Victorian Department of Health to manage the delivery of the RAS and ACAS in Victoria. Many Local Governments have been and still are, engaged and funded by the Victorian Department of Health under a contract to operate as a RAS outlet.
4. Nillumbik Shire Council is currently a funded RAS outlet under the Department of Health to provide non-clinical assessment services to eligible residents residing within

12. Officers' reports**CM.022/24 Regional Assessment System Service Extension**

the Nillumbik Shire. The existing contract with the Department concludes on 30 June 2024.

5. In May 2021, and in response to recommendations coming out of the 2019 Royal Commission into Aged Care Quality and Safety, the Australian Government committed to establishing a single assessment system and workforce to simplify access for people entering the aged care system. This would mean abolishing the RAS and ACAS as separate programs and merging them into a Single Assessment Service.
6. Whilst the transition to the new Single Assessment Service has been delayed numerous times, in preparation for the transition, some Victorian Councils have been exiting from their RAS contracts early and transferring these programs to other providers. Other Councils still operating as RAS outlets have been preparing to exit the service at the end of contracts on 30 June 2024.
7. On Wed 29 November 2023, the Commonwealth Government announced that the request for tender for the single assessment system was expected to be released in January 2024.
8. The tender documents were released on 31 January with a closure date of 14 March.
9. Key matters outlined in the tender include:
 - Victoria has been divided into the four Aged Care Planning Regions. Nillumbik Shire is part of Vic 1 Service Area being Western Metro and Northern Metro.
 - Tenderers are required to deliver the new service across the entire service area.
 - The Commonwealth may select more than one provider within each service area but the tenderer must deliver a minimum of 30% of assessments across the entire service area.
 - Consortium tenders will be considered however the contract with the Commonwealth will be with a single legal entity (as opposed to a group of entities or a consortium) therefore a consortium tender must ensure a Lead Tenderer is nominated. The Lead Tenderer will be responsible for all obligations under the contract.
 - The new providers will be required to commence delivery from 1 January 2025.

Related Council decisions

10. Not applicable.

OptionsParticipating in the tender process

11. Review of the Statement of Requirement, provided by the Commonwealth to guide Assessment Organisations, confirms the need to demonstrate key capacity and capability requirements as part of the response to tender. This includes:
 - Capacity to provide a minimum of 30% of all assessments across the designated Service Area, in Nillumbik's case being Vic 1 which includes all of the Northern and Western Metropolitan Aged Care planning region.

12. Officers' reports**CM.022/24 Regional Assessment System Service Extension**

- Capacity to evidence capability and experience in the delivery of Comprehensive (clinical) assessments from 1 January 2025.
- Providing the infrastructure, management models and skilled workforce to achieve the requirements from commencement of the new system.
- Meet the organisational and operating requirements of the Aged Care Assessment Quality Framework, the Aged Care Quality Standards and the end-to-end assessment model.

12. Conversations with Northern and Western Metro councils have continued since the knowledge of the upcoming tender and since the release of the tender documents on 31 January, Aged Care Managers have met to consider the viability of establishing a consortium to submit a consortium tender with other Northern and Western Metro Councils.

The outcome of these discussions has determined that given the issues outlined in (11) above, 12 of the 14 Northern and Western Metro Councils have determined not to take part in a tender submission.

Limited extension of Regional Assessment Service

13. On 10 January 2024, prior to the release of the Commonwealth tender, Council officers received correspondence from the Victorian Government providing advice that the Victorian Government did not intend to participate in the Single Assessment Tender from the Commonwealth Government.
14. The correspondence also sought feedback regarding Council's willingness to accept a further six month extension to continue as a RAS outlet for the Victorian Government until 31 December 2024. Nillumbik officer response confirmed that Nillumbik would consider the extension to ensure the community was not impacted by the transition to the new system and on the proviso there was no cost to Council to deliver the service for the extended six months.
15. Officers do support continuing the provision of the RAS service for the extension until the 31 December 2024 to ensure the community has a seamless transition to the new providers from 1 January 2025.

Council plans and policies

16. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
- We ensure people of all ages and stages have access to inclusive services that respond to their individual needs.

Access, Equity and Inclusion

17. The Regional Assessment Service has been in place since 2016 with eligibility and delivery guidelines determined by the Commonwealth Government.
18. Guidelines associated with access and equity to the new Single Assessment System will be determined and developed by the Commonwealth Government and aligned with the Aged Care Act 1997, and the Aged Care Quality Standards.

12. Officers' reports

CM.022/24 Regional Assessment System Service Extension

Sustainability implications

19. The existing delivery model for the RAS has seen Local Governments acting as an outlet to the Victorian Department of Health to deliver the RAS service to older people living within the local municipality.
20. The existing funding and contractual arrangements in place alongside the volatility of referrals to the program, result in workforce challenges and an inability for Council to flexibly respond to community needs to deliver the program.
21. The new single assessment delivery model aims to eliminate these challenges by funding multiple assessment providers who are required to deliver to the same but much larger population regions.

Community engagement

22. Throughout the process of reforming the aged care system, the Commonwealth Government has and continues to provide a range of ways that community, older people, peak bodies and the sector can be involved and provide input into the reforms including via surveys, online workshops, consultations and face to face community events.
23. Council's Community Support Services promote these opportunities through publications, data bases and in the day to day delivery of information sessions to residents, community and stakeholder groups.

Innovation and continuous improvement

24. The rationale of developing a Single Assessment System was to simplify and improve the experience of older people by providing a flexible system that can quickly adapt to their aged care needs.
25. The existing system of different assessment providers, often means that older people are moved between assessment organisations as their needs change.
26. The new system will provide a single assessment pathway that can quickly adapt to older peoples' changing needs, without having to change assessment providers.

Collaboration

27. Council is part of a number of Northern Region Council collaborative groups, working together on implementation of the National Aged Care Reforms, both in service delivery and assessment contexts.
28. The Northern Region Council Managers Group meet regularly to consider, discuss and understand each other's intentions in the area of aged care and more recently have been meeting with Council's from the Western region and Community Health Organisations to discuss the tender.
29. Officers attend sector meetings with Municipal Association of Victoria to gather information and participate in discussions with all levels of Government in relation to the Aged Care Reforms and service delivery.

Budget implications

30. Nil

12. Officers' reports

CM.022/24 Regional Assessment System Service Extension

Relevant law

31. *Aged Care Act 1997.*

Regional, state and national plans and policies

32. National Aged Care Reforms.

Conflicts of interest

33. 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.022/24 Regional Assessment System Service Extension

THIS PAGE WAS LEFT INTENTIONALLY BLANK

12. Officers' reports

CM.023/24 Tender Report - Contract 2324-032 Ryans Reserve Rejuvenation Project -Construction

Distribution: Public**Manager: Vince Lombardi, Chief Operating Officer****Author: Lance Clark, Senior Procurement Specialist****Steven Blight, Manager Capital and Infrastructure****Summary**

This report recommends the awarding of contract 2324-032 for Ryans Reserve Rejuvenation Project –Construction.

The contract works are for the construction of the upgrade work of Ryans Reserve Playground located at 85 Broad Gully Road, Diamond Creek 3085.

The contract commencement date is 28 February 2024 with completion of 31 October 2024.

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 2324-032 for Ryans Reserve Rejuvenation Project -Construction.

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

Recommendation

That Council:

1. Accepts the tender submitted by the **preferred tenderer** for the sum of **#[Redacted]** plus **#[Redacted]** for contingency (inclusive of GST) and enter into the following contract:
Number: 2324-032
Title: Ryans Reserve Rejuvenation Project -Construction
Term: 28 February 2024 to 31 October 2024
Options: Not applicable
2. Authorises the Chief Operating Officer to finalise and execute the contract documentation.
3. Authorises the Chief Operating Officer to approve additional cost variations that are a result of unknown latent site conditions or changes to requirements throughout the term of the contract with a value of no more than the total approved budget for the project.
4. Notes that any variations that exceed the agreed approved budget will require a further Council resolution.
5. Advises all tenderers accordingly.

12. Officers' reports

CM.023/24 Tender Report - Contract 2324-032 Ryans Reserve Rejuvenation Project -Construction

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

Attachments

1. Attachment 1 - Tender Evaluation Summary Report 2324-023 - *CONFIDENTIAL*

Discussion

1. The playground at Ryan's Reserve lacks diversity and has limited accessibility for older adults and people with disability to participate.
2. The Nillumbik Lifetime Play Strategy 2017 identified significant gaps in the current play network. The key issues identified current local play spaces generally do not provide significant play value and require more varied play opportunities including enhanced sensory, cognitive and emotional play.
3. The play spaces do not cater for a wide age range and focus more on traditional physical play only.
4. Rejuvenating Ryan's Reserve will cater to diverse groups and provide opportunities for all ages and abilities to participate.
5. This project will meet the growing demands of an increasing population, as well as supporting the need for more active recreation opportunities.

Council plans and policies

6. This report directly supports the achievement of the Council Plan 2021-2025 strategy
Good governance
 - We continue to exercise sustainable and responsible financial management.Open spaces
 - We carefully protect, plan, maintain and improve open spaces, streetscapes and places to ensure that they are safe, accessible and enjoyable.

Tender overview

The Tender Evaluation Panel (TEP) advises that:

7. A public tender was issued on and advertised in the Melbourne Age on Saturday 18 November 2023.
8. The period for tender submissions closed at 2pm on Thursday 14 December 2023

12. Officers' reports

CM.023/24 Tender Report - Contract 2324-032 Ryans Reserve Rejuvenation Project -Construction

9. The following tenders were received:

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

10. 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.

11. The following tenders were evaluated not sufficiently competitive and were subsequently set aside from further evaluation.

TENDERER	Reasons why tender was set aside from further evaluation
Tenderer D	The tendered pricing was the second highest and was more than \$400,000 higher than the stated indicative budget provided in the tender documents
Tenderer E	The tendered pricing was the highest and was more than \$600,000 higher than the stated indicative budget provided in the tender documents

12. 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	50%
Capability & Capacity	40%
Collaboration	5%
Economic and Social Sustainability	5%

12. Officers' reports

CM.023/24 Tender Report - Contract 2324-032 Ryans Reserve Rejuvenation Project -Construction

13. 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.
14. The members of the TEP were:

Position Title	Business Unit	Scoring Member or Advisory Member
Project Management Officer	Capital and Infrastructure	Scoring
Recreation and Community Infrastructure Project Manager	Recreation and Leisure	Scoring
Capital Works Coordinator	Capital and Infrastructure	Scoring
Manager Capital and Infrastructure	Capital and Infrastructure	Advisory
Senior Procurement Specialist	Finance, Procurement and Assets	Advisory

15. The final evaluation outcome was as follows:

TENDERER	SCORE	RANK
Tenderer A – Preferred Tender	84/100	1
Tenderer B	82/100	2
Tenderer C	79/100	3

16. The recommended tenderer was the highest ranked and is considered best value, their submission clearly evidenced capability and capacity to deliver against similar projects.
17. **Attachment 1** - Tender Evaluation Summary Report 2324-032 – Confidential, provides the tenderer names and the Evaluation Scorecard Summary.
18. The Tender Evaluation Summary Report 2324-032 **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

19. Experienced commercial landscape company with qualified and experienced staff.
20. Experience in Local Government works.
21. Works program and methodology is good.

12. Officers' reports

CM.023/24 Tender Report - Contract 2324-032 Ryans Reserve Rejuvenation Project -Construction

22. The tenderer has given a comprehensive overview of their staff, including their roles and experience.

Tender Reference checks

23. Tender reference and financial checks were undertaken.

Risks or Impacts

24. Grant timeframes – Works must be completed by October 2024. Proposed works program meet this requirement.
25. Council Project Management officer will work closely with the contractor to ensure minimal disruption to community and users of the park.
26. Clear signage and community updates will be provided to keep people informed and safe.

Collaboration

27. Not applicable for this type of contract.

Budget implications

28. Additional funds will be sourced to deliver project

Sustainability implications

29. Use of environmentally friendly products will be used for concrete requirements as part of this project.
30. Contractor will be required to provide Council with a Waste to Landfill Minimisation Report at the end of the project which needs to provide detail on the type of waste, the quantity and the destination of all recycled, re-used or repurposed waste.
31. Company is located within the Northern Council Alliance (NCA) area.

Stakeholder Consultation/communication

32. Community consultation was sought and undertaken via Participate Nillumbik platform from 31 July – 12 September 2023.

Innovation and continuous improvement

33. Not applicable.

Relevant law

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

Regional, state and national plans and policies

35. Not applicable.

12. Officers' reports

CM.023/24 Tender Report - Contract 2324-032 Ryans Reserve Rejuvenation Project -Construction

Conflicts of interest

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

12. Officers' reports**CM.024/24 Tender Report - Contract 2324-053 Microsoft Licensing Solution Providers - MAV NPN 2.17-3****Distribution: Public****Manager: Jeremy Livingston, Director Culture and Performance****Author: Lance Clark, Senior Procurement Specialist****Daniel Tarquinio, Manager Information Technology****Summary**

This report recommends the awarding of contract 2324-053 for the provision of Microsoft products in accordance with a Microsoft Enterprise Agreement (EA).

The contract term is for a period of 3 years.

This is a business as usual contract and replaces an existing contract.

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 2024-053 for Microsoft Licensing Solution Providers - MAV NPN 2.17-3.

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

Recommendation**That Council:**

1. Accepts the tender submitted by the **preferred tenderer** as per the schedule of rates disclosed in (**Attachment 1**) and enter into the following contract:
Number: 2324-053
Title: Microsoft Licensing Solution Providers - MAV NPN 2.17-3
Term: 1 April 2024 to 31 March 2027
Options: Not applicable
2. Authorises the Director Culture and Performance to finalise and execute the contract documentation.
3. Authorises the Director Culture and Performance to approve changes to operational requirements throughout the term of the contract.
4. Advises all tenderers accordingly.
5. Makes public the decision regarding this contract but the Tender Evaluation Report 2324-053 (**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*.
6. Resolves that the preferred tenderer be named.

12. Officers' reports

CM.024/24 Tender Report - Contract 2324-053 Microsoft Licensing Solution Providers - MAV NPN 2.17-3

Attachments

1. Attachment 1 - Tender Evaluation Summary Report 2324-053 - *CONFIDENTIAL*

Discussion

1. Microsoft software is critical to the functions of Council.
2. This is a business as usual contract and the requirement is to enter into a new Enterprise Agreement for Microsoft licencing for Council to maintain business functions and ensure continuity both in contractual and legislative requirements as the current agreement expires on 31 March 2024.
3. Council has a large number of Microsoft licenses associated with laptops, servers, applications and cloud infrastructure which are licensed using the Enterprise Agreement (EA).
4. This arrangement represents an effective means for Council to acquire and manage Microsoft licensing.
5. Microsoft licensing is a complex area requiring knowledge of the intricate rules and conditions of Microsoft offerings. Microsoft does not deal directly with local governments but appoints Microsoft licensing resellers that act as an intermediary to negotiate on behalf of councils.
6. The EA has proven to be the most cost effective means of licensing Microsoft products and provides the flexibility applicable to large organisations.
7. This EA and the existing EA is sourced via the Municipal Association of Victoria (MAV) Agency Agreement - NPN 2.17-3.
8. There are three authorised Microsoft Licensing Partners appointed via the MAV Agency Agreement.

Council plans and policies

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

Tender overview

10. The Tender Evaluation Panel (TEP) advises that:
 - a) MAV Procurement, on behalf of councils in Victoria, issued a Request for Tender (RFT) for the Provision of Victorian Local Government Microsoft licensing solution in April 2020. The outcome of this tender was a list of contracted suppliers that Councils can engage directly for Microsoft licensing for the period of 1 July 2020 to 30 September 2028.
 - b) Microsoft EA's run for periods of 3 years, so Council is required to obtain updated pricing on a 3 year cycle.

12. Officers' reports

CM.024/24 Tender Report - Contract 2324-053 Microsoft Licensing Solution Providers - MAV NPN 2.17-3

- c) Council issued a selective tender to request pricing against a defined schedule of rates to all three suppliers on the MAV Procurement Contract on 13 February 2024.
- d) The period for tender submissions closed at 2pm on Wednesday 28 February 2024.

11. The following tenders were received:

TENDERER
Tenderer A – Preferred Tender
Tenderer B
Tenderer C

- 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.

TENDERER	Reasons why tender was set aside from further evaluation
Tenderer C	Tendered pricing was more than \$300,000 higher than the other two tendered submissions over the full term of the proposed contract.

14. The following evaluation criteria and weightings were applied during the evaluation of the conforming and competitive tenders. These weightings were set and agreed to by the Tender Evaluation Panel members prior to the issue of the tender.

Criteria	Weighting %
Price	80%
Collaboration	20%

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

12. Officers' reports

CM.024/24 Tender Report - Contract 2324-053 Microsoft Licensing Solution Providers - MAV NPN 2.17-3

16. The members of the TEP were:

Position Title	Business Unit	Scoring Member or Advisory Member
Manager Information Technology	Information Technology	Scoring
IT Operations Lead	Information Technology	Scoring
IT Systems Administrator	Information Technology	Scoring
Senior Procurement Specialist	Finance, Assets and Procurement	Advisory

17. The final evaluation outcome was as follows:

TENDERER	SCORE	RANK
Tenderer A – Preferred Tender	95/100	1
Tenderer B	88/100	2

18. The recommended tender was the highest ranked and is considered best value due to price and their approach to customer service.

19. **Attachment 1** – Tender Evaluation Summary Report 2324-053 – Confidential, provides the tenderer names and the Evaluation Scorecard Summary.

20. The Tender Evaluation Summary Report 2324-053 (**Attachment 1**) is 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 and Collaboration

21. The preferred tenderer was approved by the MAV Procurement Contract panel as a preferred supplier and as such has the capacity and capability to provide Microsoft licensing for Council. This includes:

- Strong technical skills and capabilities with Microsoft licencing;
- Good software advisory service; and
- Has provided value add proposal which is not just the standard Microsoft options.

Tender Interviews and Reference checks

22. As the recommended tenderer is known to Council, no interviews or reference checks were required.

12. Officers' reports

CM.024/24 Tender Report - Contract 2324-053 Microsoft Licensing Solution Providers - MAV NPN 2.17-3

Collaboration

23. The MAV Procurement panel focusses on achieving better procurement outcomes for local governments in Victoria. They leverage the combined purchasing power of councils to achieve better value on products and services. The utilisation of the MAV Procurement panel for Council enables procurement of the Microsoft EA and demonstrates cross-council collaboration.

Budget implications

24. This contract for Microsoft software licensing can be accommodated in the operating budget and is included in annual budgeting review processes.

Sustainability implications

25. Not applicable for this licensing agreement.

Stakeholder Consultation/communication

26. Not applicable.

Innovation and continuous improvement

27. Not applicable for this licensing agreement.

Relevant law

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

Regional, state and national plans and policies

28. Not applicable.

Conflicts of interest

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

30. There were no disclosable conflicts of interest raised.

12. Officers' reports

CM.024/24 Tender Report - Contract 2324-053 Microsoft Licensing Solution Providers - MAV NPN 2.17-3

THIS PAGE WAS LEFT INTENTIONALLY BLANK

12. Officers' reports

CM.025/24 Tender Report - Contract 2223-041 Amenity Mowing Services

Distribution: Public

Manager: Vince Lombardi, Chief Operating Officer

Author: Lance Clark, Senior Procurement Specialist
Heath Gillett, Manager Operations Centre

Summary

This report recommends the awarding of contract 2223-041 for Amenity Mowing Services.

The contract term is for an initial period of five (5) years, with two (2) x one (1) year options to extend the contract. The total duration of the contract, including the exercise of any options, shall not exceed seven (7) years.

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 2223-041 for Amenity Mowing 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 tender submitted by the **preferred tenderer** for the schedule of rates disclosed in (**Attachment 1**) and enter into the following contract:
Number: 2223-041
Title: Amenity Mowing Services
Term: 1 May 2024 to 31 April 2029
Options: Term extensions up to 31 April 2031
2. Authorises the Chief Operating Officer to finalise and execute the contract documentation.
3. Authorises the Chief Operating Officer to approve contract term extensions.
4. Authorises the Chief Operating Officer to approve changes to operational requirements throughout the term of the contract.
5. Advises all tenderers accordingly.
6. Makes public the decision regarding this contract but the Tender Evaluation Report 2223-041 (**Attachment 1**) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.
7. Resolves that the preferred tenderer be named.

12. Officers' reports

CM.025/24 Tender Report - Contract 2223-041 Amenity Mowing Services

Attachments

1. Attachment 1 - Tender Evaluation Summary Report 2223-041 - *CONFIDENTIAL*

Discussion

1. This contract replaces Council’s previous panel contract 1714-142 for provision of Amenity Mowing Services.
2. The services proposed for this contract are critical to service delivery relating to amenity and safety within the Shire. They assist Council in meeting strategies in its Council Plan 2021-2025.
3. Council’s Amenity Mowing program includes approximately 700 priority sites and open spaces covering an area of more than 530 hectares.
4. The purpose of this program is to mow and maintain areas of open space in parks and reserves and along roadsides to maintain the visual and recreational amenity of sites.
5. More than 350 of the 700 priority sites are included in this tender (approximately 250 hectares).

Council plans and policies

6. This report directly supports the achievement of the Council Plan 2021-2025 strategy Open spaces
 - We carefully protect, plan, maintain and improve open spaces, streetscapes and places to ensure that they are safe, accessible and enjoyable.

Good governance

 - We continue to exercise sustainable and responsible financial management.

Tender overview

The Tender Evaluation Panel (TEP) advises that:

7. A public tender was issued on and advertised in the Melbourne Age on Saturday 18 November 2023.
8. The period for tender submissions closed at 2pm on Thursday 14 December 2023.
9. The following tenders were received:

TENDERER
Tenderer A – Preferred Tender
Tenderer B
Tenderer C

12. Officers' reports

CM.025/24 Tender Report - Contract 2223-041 Amenity Mowing Services

10. The following Evaluation Criteria and Weightings were applied during the evaluation of the conforming and competitive tenders. These weightings were set and agreed to by the Tender Evaluation Panel Members prior to the issue of the tender.

Criteria	Weighting %
Price	40%
Capability & Capacity	35%
Collaboration	10%
Social and Local	15%

11. 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.
12. The members of the TEP were:

Position Title	Business Unit	Scoring Member or Advisory Member
Team Leader Amenity	Operations Centre	Scoring
Senior Technical Officer	Operations Centre	Scoring
Parks and Open Space Project Officer (Acting)	Operations Centre	Scoring
Parks and Open Space Coordinator	Operations Centre	Scoring
Manager Operations Centre	Operations Centre	Advisory
Senior Procurement Specialist	Finance	Advisory

13. The final evaluation outcome was as follows:

TENDERER	SCORE	RANK
Tenderer A – Preferred Tender	85/100	1
Tenderer B	80/100	2
Tenderer C	71/100	3

12. Officers' reports**CM.025/24 Tender Report - Contract 2223-041 Amenity Mowing Services**

14. The recommended tender was the highest ranked and is considered best value due to their overall submission that has evidenced their experience and capability, as well as their tendered schedule of rates.
15. **Attachment 1** - Tender Evaluation Summary Report 2223-041 – Confidential, provides the tenderer names and the Evaluation Scorecard Summary.
16. The Tender Evaluation Summary Report 2223-041 (**Attachment 1**) to remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.

Capability and Capacity

17. The preferred tender has over thirty (30) years' experience in the horticulture industry and have more than 90 staff employed within Victoria.
18. Preferred tenderer has a reasonably new fleet of tractors, mowers and small plant and equipment, supported by agreements with a couple of manufacturers which provides them with access to loan equipment to support continuity of service in the event of breakdowns and have 24 hour turn around arrangement for spare parts and equipment with the manufacturers.
19. The preferred tenderer is committing 10 staff to the contract and further support is provided via access to numerous administration and management staff which are available in the day to day operations of their business.
20. The preferred tender has specialised staff in their team for additional services such as landscape maintenance, irrigation / water management, landscape construction, tree care and arborist and environmental crews that Council could access if needed, either in respect to this contract or for other needs by the Council.
21. The preferred tenderer has in place the necessary software systems to integrate with Councils requirements. This was checked and confirmed with Councils Senior Spatial IT Business Analyst.

Tender Interviews and checks

22. A tender interview was held with all three Tenderers.
23. Council officers undertook their own site visits and inspections of the referenced tender contracts for other local government agencies currently held by the tenderers as required.
24. A financial check was undertaken for the preferred tenderer with no concerns noted.

Contingency and risks

25. Given the company size and capacity of the preferred tenderer, disruption continuity of services in relation to staff and equipment, in the event of staff absences or equipment breakdown is minimised.

12. Officers' reports

CM.025/24 Tender Report - Contract 2223-041 Amenity Mowing Services

Collaboration

26. Not applicable for this contract.

Budget implications

27. The annual costs are planned for as part of the annual budget planning process.

28. Tenderers were requested to price each site within the program on a per cut basis.

29. Tenderers were provided with the estimated cut frequencies/timings and their pricing has been based on this. The cut frequencies are a guide, providing Council some level of flexibility to increase or decrease its level of service to manage seasons and grass growth.

30. Additional adhoc amenity mowing activities may not be possible moving forward given the cost of maintaining the specified areas.

Sustainability implications

31. The preferred tenderer has made significant investment in electrification of their fleet. This includes electric zero turn ride on mowers, Hybrid EV vehicles, battery powered tools and equipment.

32. They have a remote mowers that can be used for some of the more challenging (steep) sites throughout Nillumbik.

33. Also has e-bikes that are provided to management and supervisory teams that can be used to undertake conduct site inspections and audits along Councils network of paths and trails where associated with the amenity mowing requirements.

34. While the preferred tenderer is not a locally based supplier, they currently employ 2 full time residents from with Nillumbik Council area and have committed to employing another seven residents from within the Council area.

35. Will look to offer local traineeships and apprenticeships where possible in the delivery of the services to Nillumbik.

Stakeholder Consultation/communication

36. Not applicable.

Innovation and continuous improvement

37. Not applicable.

Relevant law

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

Regional, state and national plans and policies

39. Not applicable.

12. Officers' reports

CM.025/24 Tender Report - Contract 2223-041 Amenity Mowing Services

Conflicts of interest

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

12. Officers' reports**CM.026/24 Contract Report - Contract 2324-059 Renewable Energy Supply Agreement (VECO)****Distribution: Public****Manager: Vince Lombardi, Chief Operating Officer****Author: Lance Clark, Senior Procurement Specialist****Summary**

This report recommends entering into a Renewable Energy Supply Agreement (RSEA) via the Victorian Energy Collaboration (VECO) group.

The Renewable Energy Supply Agreement was established via a public tender in September 2020, via a collaborative Power Purchasing Agreement (PPA) project on behalf of 47 Victorian Local Government Authorities (LGAs).

There is now an opportunity for Nillumbik Shire Council to join the existing agreement referred to VECO 2.

The remaining agreement term is for a period of six years and six months with a two year extension option via mutual agreement between VECO and energy retailer.

Recommendation**That Council:**

1. Enters into a Renewable Energy Supply Agreement (RSEA) via the Victorian Energy Collaboration (VECO) group and Red Energy and enters into the following contract:
Number: 2324-059
Title: Renewable Energy Supply Agreement (VECO)
Term: 1 July 2024 to 31 December 2030
Options: 1 x 2 year extension
2. Authorises the Chief Operating Officer to sign and issue Letter of Intent to Participate in the Victorian Energy Collaboration offering.
3. Authorises the Chief Operating Officer to finalise and execute the RSEA agreement documentation.
4. Authorises the Chief Operating Officer to approve agreement extension.
5. Authorises the Chief Operating Officer to approve changes to operational requirements throughout the term of the agreement.
6. Makes public the decision regarding this contract but the Customer Offer Summary (**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*.

Attachments

1. Attachment 1 - Customer Offer Summary - *CONFIDENTIAL*

12. Officers' reports

CM.026/24 Contract Report - Contract 2324-059 Renewable Energy Supply Agreement (VECO)

Discussion

1. The VECO is a collaboration of 47 Victorian LGAs that signed up to participate in a PPA in 2020, to purchase 100% Renewable Energy via Red Energy.
2. Red Energy is owned by Snowy Hydro and is wholly Australian owned.
3. The renewable energy is provided by two wind farms in Victoria – Dundonnell wind farm near Mortlake and Murra Warra II wind farm near Horsham.
4. 51 Victorian LGAs (64% of all Victorian LGAs) are participating in the current agreement.
5. VECO is the largest emissions reduction project undertaken by the local government sector in Australia.
6. There is now an opportunity for additional LGAs to join the agreement - VECO 2.
7. Electricity procured through the VECO 2 is a 100% renewable, carbon neutral with associated emissions reductions.
8. In May 2023, Council officers submitted a formal EOI to join VECO 2. In November 2023, Council was formally invited to join.
9. Council's existing electricity supplies are not able to be claimed as carbon neutral.

Related Council decisions

10. In April 2022, Council endorsed the Nillumbik Climate Action Plan 2022 – 2032, which includes targets of; Net-zero Council emissions by 2030.
11. In July 2023, Council endorsed the Year 2 Climate Action Implementation Plan.

Council plans and policies

12. This report directly supports the achievement of the Council Plan 2021-2025 strategy Climate action
 - We work proactively to reduce Council's direct contribution to climate change, and support our community to do the same.
13. The Zero Emissions Roadmap's Pathway - Action Plan recommends Council enters a Renewable Energy Power Purchase Agreement in Years 1-3, at the beginning of 2025.
14. The VECO 2 opportunity proposed to begin 1 July 2024 aligns with Year 2 of the Zero Emissions Pathway - Action Plan.

Sustainability implications

15. The Zero-Emissions Roadmap provides guidance to Council for achieving net zero Council emissions by 2030.
16. The purchasing of 100% renewable energy by Council responds directly to the action focus of reducing Council emissions.
17. The net Zero-Emissions pathway suggest Council starts purchasing renewable electricity from 2025, this would align favourably with the timeline to reduce Council's emissions profile.

12. Officers' reports

CM.026/24 Contract Report - Contract 2324-059 Renewable Energy Supply Agreement (VECO)

Stakeholder Consultation/communication

18. The community was engaged throughout the process of developing Council's adopted Climate Action Plan.

Innovation and continuous improvement

19. This VECO 2 provides for strong improvement over 'business as usual' by committing toward the zero emissions goal.
20. The purchasing of 100% renewable electricity will reduce Council's greenhouse gas emissions at no extra cost to Council.

Transitioning from fossil fuels to renewable energy

21. The RSEA Agreement provides Council with the flexibility to roll-in (transition) Council sites that are within Council's operational control to the agreement over time.
22. When appropriate Council will transition from supply contracts using fossil fuels to renewable energy providers under the RSEA Agreement.

Collaboration

23. The VECO 2 project is a collaboration of up to eight LGA's and would be joining with the existing LGA's in the original and existing VECO.

Budget implications

24. There are no anticipated budget implications for transitioning Council's small site electricity accounts via the RSEA in the 2024/2025 financial year.

Relevant law

25. The *Planning and Environment Act 1987* as it relates to planning requirements in implementing actions of the Net-Zero Emissions Roadmap and ZEFT reports.
26. The original public tender process undertaken to establish the existing agreement, was carried out in accordance with Section 186A of the *Local Government Act 1989* (the Act).

Regional, state and national plans and policies

27. Victorian Climate Change Strategy 2050
28. Plan Melbourne 2050

Conflicts of interest

29. No known conflicts of interest exist.

12. Officers' reports

CM.026/24 Contract Report - Contract 2324-059 Renewable Energy Supply Agreement (VECO)

THIS PAGE WAS LEFT INTENTIONALLY BLANK

12. Officers' reports

CM.027/24 Contract Report - Contract 2324-062 Provision of Temporary Labour Hire-Neutral Vendor Managed Services

Distribution: Public**Manager: Jeremy Livingston, Director Culture and Performance****Author: Lance Clark, Senior Procurement Specialist****Dimitra Barnes, HR Manager Acting****Summary**

This report recommends the awarding of contract 2324-062 for the Provision of Temporary Labour Hire - Neutral Vendor Managed Services.

The contract term is for a period of twenty-one months and is sourced via an authorised agency agreement via Procurement Australia, which was established by a public tender process carried out back in 2020.

This is a business as usual contract and replaces an existing contract arrangement that was established via a public tender process undertaken by the Northern Council Alliance group of councils in 2019.

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 2324-062 for Provision of Temporary Labour Hire-Neutral Vendor Managed 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 tender submitted by the **preferred tenderer** for the schedule of rates disclosed in (**Attachment 1**) and enter into the following contract:
Number: **2324-062**
Title: Provision of Temporary Labour Hire-Neutral Vendor Managed Services
Term: 1 April 2024 to 31 December 2025
Options: Not applicable
2. Authorises the Director Culture and Performance to finalise and execute the contract documentation.
3. Authorises the Director Culture and Performance to approve changes to operational requirements throughout the term of the contract.
4. Advises all tenderers accordingly.
5. Makes public the decision regarding this contract but the Tender Evaluation Report 2324-062 (**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*.

12. Officers' reports

CM.027/24 Contract Report - Contract 2324-062 Provision of Temporary Labour Hire-Neutral Vendor Managed Services

6. Resolves that the preferred tenderer be named.

Attachments

1. Attachment 1 - Tender Evaluation Summary Report 2324-062 - *CONFIDENTIAL*

Discussion

1. This is a business as usual contract and replaces an existing contract arrangement that was established via a public tender process undertaken by the Northern Council Alliance (NCA) group of councils in 2019.
2. Councils within the NCA were asked to see if there was any interest in running another NCA public tender process.
3. The majority of the group of councils have opted to access the authorised agency contracted arrangement.
4. As such, this is a hold over contract arrangement to enable Council to continue with sourcing of temporary labour hire with no disruption to the current arrangement in place.
5. A future public tender process will be taken by Procurement Australia in 2025 to replace the current contracted arrangement, at which time Nillumbik Shire Council will participate in the tender process.
6. The agency contract arrangement enables Nillumbik Shire Council to continue using the services of the current provider that was awarded the NCA contract back in 2019.
7. There was significant change management and training involved in the engagement of the current provider back in 2019, and there is current limited internal Council resources to manage a change management process to shift to a new provider at this time.

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.

Tender overview

9. The Tender Evaluation Panel (TEP) advises that:
10. A public tender was issued on and advertised by Procurement Australia in the Sydney Morning Herald on Tuesday 26 May 2020 and in the Herald Sun on Wednesday 27 May 2020.
11. The period for tender submissions closed at 3pm on Wednesday 1 July 2020.

12. Officers' reports

CM.027/24 Contract Report - Contract 2324-062 Provision of Temporary Labour Hire-Neutral Vendor Managed Services

12. The tender was for Recruitment, Training & Associated Services with 13 different service categories as provided below. For the purposes of this report, the category for Councils requirements is Category 4: Managed Services Program (MSP) Providers for Contingent Labour.

- Category 1: Permanent Recruitment – Executive
- Category 2: Permanent Recruitment – Entry/ Middle/ Senior
- Category 3: Temporary Recruitment
- Category 4: Managed Services Program (MSP) Providers for Contingent Labour
- Category 5: Training, Learning and Professional Development Services
- Category 6: e-Learning and Training Solutions
- Category 7: Mentoring and Coaching
- Category 8: Career Transitions Programs and Human Resource Consultancy Services
- Category 9: Psychometric Testing and Skills Assessments
- Category 10: Unbundled Recruitment Services
- Category 11: Employee Satisfaction and Organisational Survey Services
- Category 12: Performance Appraisal Management Services
- Category 13: Police & Background Check/ Fit to Work Solutions.

13. There were 80 tendered submissions received.

14. For the purposes of this report, only tenderers applying for Category 4 are mentioned.

15. There were only 4 tenderers for Category 4.

TENDERER
Tenderer A
Tenderer B
Tenderer C
Tenderer D

16. 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 Procurement Australia Tender Evaluation Panel members prior to the issue of the tender.

12. Officers' reports

CM.027/24 Contract Report - Contract 2324-062 Provision of Temporary Labour Hire-Neutral Vendor Managed Services

Criteria	Weighting %
Price	40%
Technical Criteria Professional competence (80%) Corporate governance and Social responsibility (20%)	60%

17. 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.
18. The final evaluation outcome was as follows for Category 4. All three tenderers were appointed to the panel arrangement with Procurement Australia for Category 4.
19. Tenderer D did not actually submit any pricing for Category 4 services and as such was scored accordingly and was not able to be appointed to Category 4.
20. The remaining three tenderers were appointed to the panel arrangement with Procurement Australia for Category 4.
21. The basis of the evaluation scoring method undertaken by Procurement Australia relates to a total possible score of 300.

TENDERER	SCORE	RANK
Tenderer A – Preferred Tender	218/300	1
Tenderer B	212/300	2
Tenderer C	210/300	3
Tenderer D	73/300	4

22. **Attachment 1** - Tender Evaluation Summary Report 2324-062 – Confidential, provides the tenderer names and the Member Tender Evaluation Report issued by Procurement Australia.
23. The Tender Evaluation Summary Report 2324-062 (**Attachment 1**) to remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.

Capability and Capacity

24. The three tenderers appointed to Category 4 by Procurement Australia have evidenced and met the requirements of the tender and required services.
25. The highest ranked tenderer is the current provider to Council for the required services.

12. Officers' reports

CM.027/24 Contract Report - Contract 2324-062 Provision of Temporary Labour Hire-Neutral Vendor Managed Services

Tender Interviews and Reference checks

26. All required checks were undertaken by Procurement Australia as part of their procurement requirements.

Collaboration

27. This was a collaborative tender process undertaken by Procurement Australia.

Budget implications

28. Temporary labour hire costs are planned for as part of Council's annual budget planning processes.

Sustainability implications

29. Not applicable.

Stakeholder Consultation/communication

30. Not applicable.

Innovation and continuous improvement

31. Not applicable.

Relevant law

32. Not applicable as tender process was run by Procurement Australia.

Regional, state and national plans and policies

33. Not applicable.

Conflicts of interest

34. Procurement Australia have processes in place to deal with any stated conflict of interest matters.

12. Officers' reports

**CM.027/24 Contract Report - Contract 2324-062 Provision of Temporary Labour
Hire-Neutral Vendor Managed Services**

THIS PAGE WAS LEFT INTENTIONALLY BLANK

12. Officers' reports

CM.028/24 Informal Meetings of Councillors Records - 26 March 2024

Distribution: Public

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

Author: Katia Croce, Manager Governance and Property

Summary

In accordance with *Item 20 of Council's Governance Rule – Meeting Procedures*, adopted on 25 July 2023, 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 27 February 2024.

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

1. Panton Hill Bushland Reserve System User Group Advisory Committee meeting held 15 February 2024;
2. Arts and Cultural Advisory Committee meeting held 19 February 2024;
3. Living and Learning Nillumbik Advisory Committee meeting held 19 February 2024;
4. Councillor Briefing held 20 February 2024;
5. Environment and Sustainability Advisory Committee meeting held 21 February 2024;
6. Council Meeting pre-meet held 27 February 2024; and
7. Councillor Briefing held 5 March 2024.

Recommendation

That Council, in accordance with *Item 20 of Council's Governance Rule – Meeting Procedures*, receives the Informal Meetings of Councillors Records (**Attachment 1**) for the meetings held.

Attachments

1. Informal Meeting of Councillors record reported 26 March 2024

Discussion

1. *Item 20 of Council's Governance Rule – Meeting Procedures*, 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.028/24 Informal Meetings of Councillors Records - 26 March 2024

Options

3. An Informal Meetings of Councillors is defined in *Item 20 of the Governance Rule – Meeting Procedures*. 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 20 of the Governance Rule – Meeting Procedures*, 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 20 of the Governance Rule – Meeting Procedures*.

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.

Access, Equity and Inclusion

9. A Gender Impact Assessment has not been completed for this report.

Sustainability implications

10. Not applicable.

Community engagement

11. Not applicable.

Innovation and continuous improvement

12. Not applicable.

12. Officers' reports

CM.028/24 Informal Meetings of Councillors Records - 26 March 2024

Collaboration

13. Not applicable.

Budget implications

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

Relevant law

15. *Local Government Act 2020.*

Regional, state and national plans and policies

16. None applicable.

Conflicts of interest

17. 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.028/24 Informal Meetings of Councillors Records - 26 March 2024

THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK

13. Notices of Motion

NOM.001/24 Notice of Motion - Councillor Expenses - Legal Advice/Support is listed in item 16. Confidential reports.

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.029/24 CEO Employment Matters

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).

NOM.001/24 Notice of Motion - Councillor Expenses - Legal Advice/Support

This item is confidential because it is internal arbitration information, being information specified in section 145 pursuant to paragraph (i) 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