

Council Meeting

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

Minutes

Carl Cowie
Chief Executive Officer

Friday 29 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

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Nillumbik Shire Council

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Nillumbik Shire Council

Minutes of the Meeting of Nillumbik Shire Council held Tuesday 26 March 2024.
The meeting commenced at 7.00pm.

Councillors present:

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

Officers in attendance:

Carl Cowie	Chief Executive Officer
Vince Lombardi	Chief Operating Officer
Blaga Naumoski	Director Governance, Communications and Community Safety
Corrienne Nichols	Director Communities
Renaë Ahern	Acting Director Planning, Environment and Strategy
Jeremy Livingston	Director Culture and Performance
Daniel Tarquinio	Manager Information Technology
Katia Croce	Manager Governance and Property

1. Welcome

2. Acknowledgement

Acknowledgement of Country was read by the Mayor, Cr Ben Ramcharan.

3. Good Governance Pledge

The Good Governance Pledge was ready by Cr Karen Egan.

4. Prayer

A prayer was read by Allison Footer, Family and Domestic Violence Chaplain for The Salvation Army.

After having moved from WA just before the pandemic, Allison has been living in this community for four years now and is loving the supportive and caring community in which she resides.

Allison's role in The Salvation Army supports the wider State of Victoria. She works largely supporting staff who hold other people's stories of trauma and work tirelessly with those who need to access their services. She also supports women and children who have experienced family and domestic violence, connecting them with communities who can support and nurture them.

5. Apologies\Leave of Absence

Nil

6. Declarations of conflict of interest

Cr Natalie Duffy declared a material conflict interest in Item 16. *NOM.001/24 Notice of Motion - Councillor Expenses - Legal Advice/Support in the confidential section of this meeting.*

Carl Cowie, Chief Executive Officer declared a general conflict of interest in Item 16. CM.029/24 CEO Employment Matters in the confidential section of this meeting.

7. Presentations

CONDOLENCE – Judy Lambert

We are deeply saddened to hear of the recent passing of Judy Lambert.

Judy lived and worked in Hurstbridge and Diamond Creek for many years and was the founding Director of the Occasional Childcare Centre in Diamond Creek. She was employed by Diamond Valley Shire in November 1983 operating occasional care out of the Masonic Hall.

Judy successfully steered the growth of the centre and remained in her position of leadership for 33 years. She was the driving force behind the philosophy of our community based not-for-profit childcare centre and was solely responsible for the centre's growth and evolution in response to the needs of the community.

Judy was a passionate advocate for the rights of Early Childhood Educators and all children. Her vision was to create a unique centre for families to access flexible, innovative childcare, and she was well known for her ability to think 'outside the square', which set her aside from others in the Early Childhood sector.

Judy was dedicated to advocating for those unable to defend themselves, and her compassion for those in need and experiencing hardship was unwavering. She made a truly significant positive difference to the families whose lives she touched.

Judy was also passionate about the principles of inclusion and social justice – in embracing family, she ensured that all children had further opportunities no matter what the circumstances.

Even after her retirement at the end of 2016, Judy was an active mentor for her former colleagues and a source of respected advice.

Judy's experience and wisdom was valued and often sought by others. As a respected and admired member of the community childcare sector, Judy served on a myriad of committees, networks and working groups. She was a ready support to any who crossed her path requiring help or encouragement.

Our thoughts are with Judy's family and her many friends.

8. Confirmation of Minutes

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

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

Council Resolution

MOVED: Cr Geoff Paine

SECONDED: Cr Karen Egan

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

CARRIED UNANIMOUSLY

9. Petitions

Nil

10. Questions from the gallery

Dean Hurlston (Council Watch) has submitted the following questions:

Question 1

What amount of waste enforcement costs in the current financial year 2023/24 has the Council included in its waste levies charged to residents? (if any)

Response 1

There are no enforcement costs included in the waste management charge.

Question 2

What amount of revenue has council included in the current financial year 2023/24 from waste enforcement actions?

Response 2

No revenue has been included from infringements generated from waste enforcement.

Nicholas Mitsios (Orlehope Pty Ltd) has submitted the following questions:

Question 1

Regarding the proposed Childcare at 729 Main Road – The refusal of the council to act in good faith at the compulsory conference has been poor.

Why has council not even given any guidance of what they would like?

Response 1

Officers engaged with the project team to discuss the proposal during two major pre-application meetings prior to the application being lodged. These pre-application meetings occurred in June 2022 and September 2022, and comprehensive advice from the relevant Council teams was provided during these discussions. The planning permit application was lodged in March 2023 without following the guidance provided during the pre-application meetings. The guidance provided during the course of the application was consistent with the pre-application discussions.

Officers attended the compulsory conference in February and outlined the matters previously discussed. During the course of the compulsory conference it was acknowledged that the proposed childcare centre use was not in contention, rather it was the design response required to achieve the urban design and landscaping outcomes sought for the site that remained unresolved.

Question 2

Following from the above question – Is there an ulterior motive? Council has been against this project from the beginning and have not assisted nor have helped come up with a solution. We would have thought a brand new childcare would add to the local area and the needs of the community.

Response 2

The site strategy supports a modest childcare centre use, however the design response required to achieve the urban design and landscaping outcomes for the site remained unresolved during the course of the application.

Vincent Sicari (Eltham High School) has submitted the following question:

Question 1

I would like to know from Council as to when the agreed to pedestrian crossing to be developed at the "T" intersection of Susan Street and Withers Way will come to fruition seeing that it is 4 Year so far in the making, or do we have to wait until a fatality occurs for the Council to action this? A letter providing background information was emailed on Friday 22 March to the CEO, The Mayor, The local Council Member and others.

Response 1

Officers have received the written correspondence from Eltham High emailed on Friday 22 March and are currently considering the matters raised. As the matter is currently being investigated, officers will be in touch with the school to arrange a face to face meeting.

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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.

Council Resolution

MOVED: Cr Frances Eyre

SECONDED: Cr Geoff Paine

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

CARRIED UNANIMOUSLY

11. Reports of Advisory Committees

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

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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**.

Council Resolution

MOVED: Cr Karen Egan

SECONDED: Cr Geoff Paine

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

CARRIED UNANIMOUSLY

12. Officers' reports

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

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

Distribution: Public**Manager: Blaga Naumoski, Director Governance, Communications and Community Safety****Author: Natalie Campion, 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.

Council Resolution

MOVED: Cr Geoff Paine**SECONDED: Cr Frances Eyre****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**).

12. Officers' reports

CM.014/24 Draft Leasing and Licensing Policy

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.

CARRIED UNANIMOUSLY

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.

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

Council Resolution

MOVED: Cr Natalie Duffy

SECONDED: Cr Karen Egan

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.

CARRIED UNANIMOUSLY

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.

MOVED: Cr Geoff Paine**SECONDED: Cr Karen Egan****That** Council adopts the submission (**Attachment 2**) to the Local Government Reforms 2024 Consultation Paper.**CARRIED**

For: Crs Frances Eyre, Geoff Paine, Ben Ramcharan and Richard Stockman

Against: Crs Natalie Duffy, Karen Egan and Peter Perkins

12. Officers' reports

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

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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.

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:

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

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.

Council Resolution

MOVED: Cr Frances Eyre
SECONDED: Cr Karen Egan

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.

CARRIED UNANIMOUSLY

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.

Council Resolution

MOVED: Cr Geoff Paine**SECONDED: Cr Frances Eyre****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*.

CARRIED UNANIMOUSLY

12. Officers' reports

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

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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.

Council Resolution

MOVED: Cr Karen Egan

SECONDED: Cr Geoff Paine

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.

CARRIED UNANIMOUSLY

12. Officers' reports

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

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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.

Council Resolution

MOVED: Cr Karen Egan
SECONDED: Cr Geoff Paine

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.

CARRIED UNANIMOUSLY

12. Officers' reports

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

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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.

Council Resolution

MOVED: Cr Frances Eyre

SECONDED: Cr Karen Egan

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.

CARRIED UNANIMOUSLY

12. Officers' reports

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

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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.

Council Resolution

MOVED: Cr Geoff Paine

SECONDED: Cr Karen Egan

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.

CARRIED UNANIMOUSLY

12. Officers' reports

CM.022/24 Regional Assessment System Service Extension

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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.
6. Makes public the decision regarding this contract but the Tender Evaluation Report

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

(**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.

Motion

MOVED: Cr Peter Perkins

SECONDED: Cr Natalie Duffy

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: **27 March 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. **Notes the change to the term date to 27 March 2024 to 31 October 2024 in the Tender Evaluation Report (Attachment 1).**
6. Advises all tenderers accordingly.
7. Makes public the decision regarding this contract but the Tender Evaluation Report (**Attachment 1**) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.
8. Resolves that the preferred tenderer be named.

12. Officers' reports

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

THE MOTION WAS PUT TO THE VOTE AND CARRIED AND BECAME THE COUNCIL RESOLUTION AS FOLLOWS:

Council Resolution

MOVED: Cr Peter Perkins

SECONDED: Cr Natalie Duffy

That Council:

1. Accepts the tender submitted by the **preferred tenderer Rainscapes Pty Ltd** for the sum of \$1,308,203.31 plus \$196,230.50 for contingency (inclusive of GST) and enter into the following contract:
Number: 2324-032
Title: Ryans Reserve Rejuvenation Project -Construction
Term: 27 March 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. Notes the change to the term date to 27 March 2024 to 31 October 2024 in the Tender Evaluation Report (**Attachment 1**).
6. Advises all tenderers accordingly.
7. Makes public the decision regarding this contract but the Tender Evaluation Report (**Attachment 1**) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.
8. Resolves that the preferred tenderer be named.

CARRIED UNANIMOUSLY

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

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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

Council Resolution

MOVED: Cr Natalie Duffy

SECONDED: Cr Karen Egan

That Council:

1. Accepts the tender submitted by the **preferred tenderer Data#3 Limited** 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.

CARRIED UNANIMOUSLY

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

Council Resolution

MOVED: Cr Karen Egan

SECONDED: Cr Geoff Paine

That Council:

1. Accepts the tender submitted by the **preferred tenderer Green By Nature** 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.

CARRIED UNANIMOUSLY

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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.

Council Resolution

MOVED: Cr Frances Eyre

SECONDED: Cr Geoff Paine

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*.

CARRIED UNANIMOUSLY

12. Officers' reports

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

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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*.

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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.

Council Resolution

MOVED: Cr Natalie Duffy

SECONDED: Cr Peter Perkins

That Council:

1. Accepts the tender submitted by the **preferred tenderer Comensura Pty Ltd** 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*.
6. Resolves that the preferred tenderer be named.

CARRIED UNANIMOUSLY

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.

Council Resolution

MOVED: Cr Karen Egan**SECONDED: Cr Frances Eyre**

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.

CARRIED UNANIMOUSLY

12. Officers' reports

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

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13. Notices of Motion

Nil

14. Delegates' Reports

Nil

15. Supplementary and urgent business

Nil

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).

Council Resolution

MOVED: Cr Karen Egan
SECONDED: Cr Frances Eyre

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.

CARRIED UNANIMOUSLY

The meeting closed to the public at 8:21pm.

17. Close of Meeting

The meeting closed at 8:54pm.

Confirmed: _____

Cr Ben Ramcharan, Mayor