

Council Meeting

to be held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 24 May 2022 commencing at 7:00pm.

Agenda

Carl Cowie
Chief Executive Officer

Thursday 19 May 2022

Distribution: Public

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Council ChamberCouncil Meeting seating plan

Cr Natalie Duffy Edendale Ward				Cr Peter Perkins Ellis Ward
Cr Karen Egan Bunjil Ward				Cr Ben Ramcharan (Deputy Mayor) Sugarloaf Ward
Cr Richard Stockman Blue Lake Ward				Cr Geoff Paine Wingrove Ward
Emma Christensen Acting Governance Lead	Blaga Naumoski Executive Manager Governance, Communications and Engagement	Cr Frances Eyre (Mayor) Swipers Gully Ward	Carl Cowie Chief Executive Officer	

Nillumbik Shire Council

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Nillumbik Shire Council

**Agenda of the Meeting of Nillumbik Shire Council to be held
Tuesday 24 May 2022 commencing at 7:00pm**

1. Welcome by the Mayor

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

2. Acknowledgement of Country by the Mayor

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

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

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

3. Good Governance Pledge

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

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

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

4. Prayer

A prayer will be read.

5. Apologies

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

Recommendation

That the apologies be noted.

6. Presentations

7. Confirmation of Minutes

Summary

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

Recommendation

That Council confirms the minutes of the Council Meeting held on Tuesday 26 April 2022 (**Attachment 1**) subject to the following amendment:

1. The outcome of the vote on item CM.031/22 – Climate Action Plan 2022-2032 on page 19 of the attached Minutes (**Attachment 1**) to read **CARRIED** in lieu of CARRIED UNANIMOUSLY.

Attachments

- [!\[\]\(c33cb967c8fc4f5e27188a389b621c8e_img.jpg\)](#)1. Minutes of Council Meeting held 26 April 2022

8. Disclosure of conflicts of interest

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

9. Petitions

Nil

10. Questions from the gallery

11. Reports of Advisory Committees

AC.004/22 Advisory Committee Report - 26 April 2022

Distribution: Public

Manager: Blaga Naumoski, Executive Manager Governance, Communications and Engagement

Author: Katia Croce, Governance Lead

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. Inclusion and Access Advisory Committee Meeting held 25 February 2022;
2. Positive Ageing Advisory Committee 4 March 2022;
3. Positive Ageing Advisory Committee 1 April 2022; and
4. Youth Council Formal Advisory Committee 4 April 2022.

Attachments

- ⇒1. Advisory Committee Meeting Minutes reported 24 May 2022

Recommendation

That the minutes of the Advisory Committee meetings (**Attachment 1**) reported be noted.

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12. Officers' reports

CM.043/22 Adoption of Budget 2022-2023, declaration of Rates and Charges and Council Plan - Annual Action Plan 2022-2023

Distribution: Public

Manager: Vince Lombardi, Chief Financial Officer

Jeremy Livingston, Executive Manager Business Transformation and Performance

Author: Melika Sukunda, Finance Manager

Summary

This report recommends that Council formally adopts the annual Budget, declare the rates and charges for the 2022-2023 financial year and adopts the (Council Plan) Annual Action Plan for 2022-2023.

Council commenced preparation of the 2022-2023 Budget in late 2021 in order to meet all legislative requirements.

The draft Budget was exhibited and the community invited to comment. Written submissions were received and considered by a meeting of the Planning and Consultation Committee on 10 May 2022.

Rates and charges for 2022-2023

The 2022-2023 Budget has been prepared in compliance with the rate capping legislation introduced by the Victorian Government.

The draft Budget proposes a 1.75 percent increase in rates per property, the maximum allowable set by the Minister under the Fair Go Rates System.

Capital Works

The Budget proposes a number of significant capital works projects that have been identified through planning and community consultation.

A full list of capital works projects is included in the draft Budget document (**Attachment 1**).

Policy, planning and services initiatives

The Budget also includes resources for a range of initiatives regarding policy, planning and services.

Strategic Resource Plan

The Strategic Resource Plan has also been reviewed and updated.

The Strategic Resource Plan shows that Council can maintain a balanced Budget within the rate cap, provided that the assumptions in the Plan are met.

Council Plan - Annual Action Plan 2022-2023

The action plan comprises 46 key actions which will support the second year delivery of the Council Plan 2021-2025. The Annual Action Plan has been developed in line with the annual budget process.

12. Officers' reports

CM.043/22 Adoption of Budget 2022-2023, declaration of Rates and Charges and Council Plan - Annual Action Plan 2022-2023**Recommendation**

That Council having advertised the Proposed Annual Budget 2022-2023 and having considered all submissions received in respect of such Budget resolves:

1. To adopt as presented the 2022-2023 Budget (**Attachment 1**).
2. To authorise the Chief Executive Officer to submit a copy of the adopted Budget to the Minister for Local Government.
3. The amount of rates and charges intended to be raised are:

- a) An amount of \$73.364,755 million (or such greater amount as is lawfully levied as a consequence of this recommendation being adopted) be declared as the amount which Council intends to raise by general rates and annual service charge (described later in this recommendation). The amount declared is calculated as follows:

General Rates \$60,196,396

Annual Service Charge \$13,167,359

General Rates

4. That general rates be declared in respect of the 2022-2023 Financial Year.
5. That it be further declared that the general rates be raised by the application of differential rates.
6. That a differential rate be respectively declared for rateable land having the respective characteristics specified below, which characteristics will form the criteria for each differential rate so declared.

I. Farm Land

Any land which is 'farm land' within the meaning of section 2(1) of the *Valuation of Land Act 1960*.

II. Commercial/Industrial Land

Any land which is used or adapted to be used primarily for commercial or industrial purposes.

III. Vacant Land – General Residential / Activity Centre Zone / Neighbourhood Residential Zone and Specified Low Density Residential Zones.

Any land located in a General Residential / Activity Centre Zone / Neighbourhood Residential Zone, or in the Low Density Residential Zone (LDRZ) to which DPO4 applies, on which no habitable dwelling is erected.

IV. Other Land

Any land which is not:

- Farm Land
- Commercial/Industrial Land or

12. Officers' reports

CM.043/22 Adoption of Budget 2022-2023, declaration of Rates and Charges and Council Plan - Annual Action Plan 2022-2023

- Vacant Land – General Residential / Activity Centre Zone / Neighbourhood Residential Zone and Specified Low Density Residential Zones.

7. That the quantum of rates payable in respect of each rateable land will be determined by multiplying the Capital Improved Value of such land (categorised by the characteristics described in point 6. above) by the relevant rates indicated in the following table:

Category	Rate in Dollar
Farm Land	0.002075 (or 0.2075 cents in the dollar of Capital Improved Value)
Commercial / Industrial Land	0.002832 (or 0.2832 cents in the dollar of Capital Improved Value)
Vacant land – General Residential / Activity Centre Zone / Neighbourhood Residential Zone and Specified Low Density Residential Zones	0.003662 (or 0.3662 cents in the dollar of Capital Improved Value)
General Rate / Other Land	0.002441 (or 0.2441 cents in the dollar of Capital Improved Value)

8. That it be recorded that Council considers that each differential rate will contribute to the equitable and efficient carrying out of Council functions, and that the:
- I. respective objectives, uses and levels of each differential rate be those specified in section 4.1.1 of the draft Budget document (**Attachment 1**).
 - II. respective types or classes of land which are subject to each differential rate be those defined in part 7. above.
9. That it be confirmed that no amount is fixed as the minimum amount payable by way of general rate in respect of each rateable land within the municipal district.
10. That in accordance with section 4(4) of the *Cultural and Recreational Lands Act 1963*, the amount of rates payable in respect of each of the rateable lands to which that Act applies be determined by multiplying the Capital Improved Value of that rateable land by 0.000952 (or 0.0952 cents in the dollar of Capital Improved Value).

Annual Service Charge

11. That an annual service charge be declared in respect of the 2022-2023 Financial Year.
12. That the annual service charge be declared for the collection and disposal of residential refuse and other waste.

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CM.043/22 Adoption of Budget 2022-2023, declaration of Rates and Charges and Council Plan - Annual Action Plan 2022-2023

- 13 That except in the case of elderly persons units, the amount of the annual service charge so declared is dependent upon the option chosen by the owner of the land.

The options are:

Option 1: \$582.73 per service in respect of the following three bins:

- 120 litre green waste bin
- 240 litre recycling bin
- 120 litre landfill bin.

Option 2: \$466.18 per service in respect of the following three bins:

- 120 litre green waste bin
- 240 litre recycling bin
- 80 litre landfill bin.

Option 3: \$815.82 per service in respect of the following four bins:

- 120 litre green waste bin
- 240 litre recycling bin
- 2 x 120 litre landfill bins.

Option 4: \$641.00 per service in respect of the following three bins:

- 120 litre green waste bin
- 240 litre recycling bin
- 140 litre landfill bin.

Option 5: \$1,048.91 per service in respect of the following three bins:

- 120 litre green waste bin
- 240 litre recycling bin
- 120 litre landfill bin – weekly collection.

14. That the amount of the annual service charge so declared in respect of elderly persons units, being units occupied by elderly persons or persons with a disability where the applicable form of declaration has been received by Council, is \$145.68.
15. That for each rateable land or non-rateable land in respect of which an annual service charge may be levied, the annual service charge will apply irrespective of whether the owner or occupier of the land avails himself, herself or itself of the service.
16. That the annual service charge is not declared in respect of, and is not be levied on, any land on which no habitable dwelling is erected.

12. Officers' reports**CM.043/22 Adoption of Budget 2022-2023, declaration of Rates and Charges and Council Plan - Annual Action Plan 2022-2023**

Rebates – Sustainable Agricultural Land

- 17 That it be recorded that subject to point 6. of this recommendation, Council may grant a rebate to each owner (or, where applicable, occupier) of land which:
- i) is not less than 30 hectares in area.
 - ii) is otherwise 'farm land' under section 2(1) of the *Valuation of Land Act 1960*.
- 18 That the rebate be granted to:
- i) assist the proper development of the municipal district.
 - ii) preserve places within the municipal district which are of environmental interest.
 - iii) restore or maintain places of environmental importance within the municipal district.
 - iv) more generally achieve the objectives outlined in the Sustainable Agricultural Rebate (SAR) Guidelines.
19. That the grant of the rebate be:
- i) subject to the criteria detailed in the SAR Guidelines.
 - ii) set at a level based on the following two components:
 - Component A - a single fixed amount of \$100 per eligible property (or per single aggregate of 'continuous' properties, as defined in section 13 DC (6) of the *Valuation of Land Act 1960*).
 - Component B - \$15 per hectare of 'productive agricultural land' across each eligible property. The area of productive agricultural land is calculated for each property by subtracting the apparent area of bushland and domestic use from the total property area. Landowners will be given a single opportunity to challenge this area calculation, after which that figure will be set and documented within the relevant Property Management Plan. Any future change in bushland area will not change the set figure for productive agricultural land.
 - iii) subject to development of an approved Property Management Plan (PMP) for each eligible property. The development of a PMP will replace the need for an annual SAR application form, yet each Plan must satisfy the following conditions:
 - PMP Condition A - The PMP must be submitted for approval to the Environment Department of Council. The approval date for each ratified PMP will be noted and a copy of the document will be retained for Council records.
 - PMP Condition B - A separate PMP will be required for each property or aggregate of properties where the owner receives the \$100 fixed payment component of the SAR.

12. Officers' reports

CM.043/22 Adoption of Budget 2022-2023, declaration of Rates and Charges and Council Plan - Annual Action Plan 2022-2023

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- PMP Condition C - Landowners who have previously received the SAR must return their PMP by the date indicated in correspondence that has been sent to the recipient (further detail regarding this point can be obtained from the Sustainability and Environment Unit of Council).
 - PMP Condition D - All SAR applicants who have not previously received the SAR will require an approved PMP prior to being eligible for the rebate.
 - PMP Condition E - All PMPs will need to be revised by the owner and submitted for re-approval every four years (approximately). Council's Environment Team will notify landholders when PMP revision is required and will allow ample time and assistance to facilitate this process.

Payment:

20. That in accordance with section 167 of the *Local Government Act 1989*, Council determines that rates and charges may be paid by four equal quarterly instalments due on:

30 September 2022

30 November 2022

28 February 2023

31 May 2023.

Consequential further actions:

21. That the Finance Manager be authorised to levy and recover the general rates and annual service charge in accordance with the *Local Government Act 1989 and the Local Government Act 2020*.
22. That pursuant to section 172(1) of the *Local Government Act 1989*, Council records that it will require the payment of interest on any amounts of rates and charges which have not been paid by the date specified under section 167 of the said Act for their payment.
23. To authorise the Finance Manager to write to all those who have made a submission on the 2022-2023 Budget, thanking them for their input and advising them of Council's decision and reasons for the decision.
24. To adopt the Annual Action Plan 2022-2023 (**Attachment 2**), including its 46 actions which will support the second year delivery of the Council Plan 2021-2025, and receives quarterly updates on the progress of this plan.

Attachments

⇒1. 2022-2023 Budget

⇒2. (Council Plan) Annual Action Plan 2022-2023

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CM.043/22 Adoption of Budget 2022-2023, declaration of Rates and Charges and Council Plan - Annual Action Plan 2022-2023

Discussion

1. Council is required by the *Local Government Act 2020* to prepare a Budget for each financial year. The Budget has been prepared in accordance with statutory requirements.
2. Adoption of the Budget is an important policy decision by Council in terms of resource allocation for services and projects in the coming year.
3. The Annual Action plan has been developed alongside the budget to deliver actions from the Council Plan.

Budget 2022-2023

4. This report is presented to enable Council to formally adopt the Budget and declare the rates and charges for the 2022-2023 Financial Year.
5. This report outlines the key elements of the Budget. Details are provided in the full 2022-2023 Budget document (**Attachment 1**).

Capital works

6. The draft Budget includes \$14.25 million of capital works projects, of which \$2.24 million will be externally funded by grants. The balance will be funded by Council from rates and reserve funds.
7. A full list of capital works projects is included in the draft Budget document (**Attachment 1**).

Strategic projects and service improvements

8. The Budget provides resources for policy development, as well as policy implementation and service improvements. A full list is provided in the 2022-2023 Budget document (**Attachment 1**).

Services (Operating Budget)

9. Recurrent operating budgets for Council services have been adjusted to reflect changes in unit costs, including inflationary impacts and contracted prices.

Rates, charges and other revenue

10. The Budget proposes a 1.75 percent increase per property in rates and a 21.98 per cent increase to the standard Waste Management Charge.
11. Other fees and charges increases are reflective of cost increases, regulatory requirements and market considerations.

Differential rating

12. At present, Council levies a General Rate, a Farm Rate (15 per cent below the General Rate), a Commercial/Industrial Rate (16 per cent above the General Rate), a Vacant Land Rate (50 per cent above the General Rate) and a Cultural and Recreational Land Rate (61 per cent below the General Rate).

12. Officers' reports**CM.043/22 Adoption of Budget 2022-2023, declaration of Rates and Charges and Council Plan - Annual Action Plan 2022-2023**

Borrowings

13. No additional loan borrowings are proposed in 2022-2023.
14. The Strategic Resource Plan provides a ten year forecast of Council's finances, using projections of expenditure and revenue which are based on a series of assumptions about Council's services and infrastructure. This information is then used to assess Council's long-term financial sustainability.
15. Council is forecast to remain within the Auditor-General's low-risk range on the Indebtedness measure of financial sustainability.

Strategic Resource Plan

16. Council adopts the Strategic Resource Plan in conjunction with the Budget.
17. The Strategic Resource Plan is the financial plan which is required to enable Council to achieve its Council Plan goals over the coming years.
18. The updated version of the Strategic Resource Plan is included in the 2022-2023 Budget (**Attachment 1**). It incorporates the financial projections in expenditure and revenue which are based on a series of assumptions about the community's needs and how Council plans to continue to address these needs for services and infrastructure.
19. The Strategic Resource Plan incorporates the 2022-2023 Budget and projections for the next 10 years based on the assumptions.

Financial Sustainability Measures

20. These measures include all those used by the Auditor-General to assess financial sustainability for local government across Victoria.
21. The 2022-2023 Budget includes details of Council's projected performance over the next ten years, based on the Strategic Resource Plan.

Annual Action Plan 2022-2023

22. Each year, Council operationalises the Council Plan through an Annual Action Plan, which aligns with the annual budget process and details the specific actions committed to delivering for the year to achieve the objectives and strategies of the Council Plan.
23. The Annual Action Plan 2022-2023 (**Attachment 2**) has been developed, identifying how the organisation will work towards achieving the intent of the Council Plan in the second year of the plan. In line with the annual budget process, this action plan includes 46 actions, and has been informed by:
 - Initiatives outlined in the Budget 2022-2023 informed by the Council Plan 2021-2025;
 - Two incomplete actions from the 2021-2022 Annual Action Plan, including:
 - Developing the Wattle Glen Public Realm Framework
 - Developing a Performing Arts Policy; and

12. Officers' reports

CM.043/22 Adoption of Budget 2022-2023, declaration of Rates and Charges and Council Plan - Annual Action Plan 2022-2023

- Opportunities to report quarterly on deliverables under key strategy and planning documents adopted by Council.

24. Reporting updates will be received by Council on a quarterly basis that will demonstrate in a practicable and tangible way how the Council Plan 2021-2025 is being delivered to the community.

Related Council decisions

25. Not applicable.

Options

26. Having considered the Budget submissions, Council is now able to formally adopt the Budget 2022-2023 and resolve to declare the rates and charges. It can also adopt the differential rates applied to the classes of land which are listed in the recommendation.

27. Preparation of the Annual Budget is a major decision for Council in allocating resources to services and projects for the coming year.

28. The Budget has been prepared with regard to the strategic context provided through the Council Plan and various individual policies, strategies and plans.

29. The Budget and the Strategic Resource Plan are recommended for Council approval.

Council plans and policies

30. This Budget has been developed in the context of the Council Plan 2021-2025. It is also developed in the context of the Strategic Resource Plan which demonstrates how the outcomes of the Council Plan can be resourced in a way which ensures Nillumbik's ongoing sustainability.

31. In developing the Budget, Council has also considered the key priorities emerging from the master-plans for Council's major recreation facilities and reserves, the structure plans for Nillumbik's activity centres, and other Council policies and strategies.

32. The development and adoption of a 2022-2023 Annual Action Plan to support the delivery of the second year of the Council Plan 2021-2025, and its alignment to the Budget, directly supports the achievement of Council Plan 2021-2025 strategy:

- We continue to exercise sustainable and responsible financial management.

Sustainability implications

33. Council's financial sustainability is informed by the indicators set by the Victorian Auditor General's Office (VAGO).

34. These indicators comprise of both short term and longer term measures. The indicators are calculated and considered as part of the budget process.

Community engagement

35. Council adopted the draft Budget 2022-2023 at the 22 March 2022 Council Meeting for the purpose of community consultation. The draft Budget was made available to the public for a period of 28 days.

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CM.043/22 Adoption of Budget 2022-2023, declaration of Rates and Charges and Council Plan - Annual Action Plan 2022-2023

- 36. Submissions in relation to the draft Budget have been sought from the public. Submissions were received and considered at the meeting of the Planning and Consultation Committee on 10 May 2022.
- 37. The draft Budget was made available on Council's website, at the Civic Centre and at the Eltham and Diamond Valley libraries.
- 38. At the meeting of the Planning and Consultation Committee on 10 May 2022, the Committee, acting under delegation from Council, received and considered the submissions on the draft Budget.
- 39. There is no legislative requirement for Council to consult publicly on the (Council Plan) Annual Action Plan. The key inputs into this plan are the Council Plan and the Annual Budget.

Innovation and continuous improvement

- 40. Continuous improvement and innovation opportunities identified have been considered as part of the budget process.

Collaboration

- 41. The drafting of budget is conducted in consultation with managers and EMT across the organisation.
- 42. The draft Budget 2022-2023 will be presented to the Audit and Risk Committee at the 31 May 2022 meeting.

Budget implications

- 43. The costs of preparing the Budget and annual action plan are funded from operating budget allocations.

Relevant law

- 44. *Local Government Act 1989 and Local Government Act 2020.*
- 45. The approach to the budget and the composition of the financial statements are prepared reflective of the overall compliance with the Australian Accounting Standards.

Regional, state and national plans and policies

- 46. Not applicable.

Conflicts of interest

- 47. No officer involved in the preparation of this report has declared a conflict of interest.

12. Officers' reports**CM.044/22 Council Plan Quarterly Performance Report - 2021-2022 - Quarter 3**

Distribution: Public**Manager: Jeremy Livingston, Executive Manager Business Transformation and Performance****Author: James Hartigan, Business Performance Analyst****Summary**

The purpose of this report is to present the Council Plan Quarterly Performance Report (**Attachment 1**) for noting. These reporting updates are received by Council on a quarterly basis to demonstrate in a practicable and tangible way how the Council Plan 2021-2025 is being delivered to the community.

The Council Plan Quarterly Performance Report provides the third update on delivery progress and performance of the 2021-2022 Annual Action Plan actions, which align to delivery of the first year of the Council Plan 2021-2025.

Of the 23 actions in the 2021-2022 Annual Action Plan designated for quarterly reporting, 20 actions are currently 'on track', two actions have been completed and one is experiencing minor issues.

The overall position reflected in the report suggests that Council continues to make a solid start in delivering on key actions of the Council Plan and significant outcomes for the community.

All 54 actions identified in the Annual Action Plan 2021-2022 will have final updates provided in the corresponding report for the fourth quarter. This will also be published in the Annual Report 2021-2022 when presented to the community later in 2022.

Recommendation

That Council notes and receives the Council Plan Quarterly Performance Report (**Attachment 1**) for the third quarter of 2021-2022.

Attachments

[⇒](#)1. Quarter 3, 2021-2022 Council Plan Performance Report

Discussion

1. The Council Plan 2021-2025 was developed throughout 2021 and adopted by Council in October 2021. The Council Plan 2021-2025 has four high-level strategic themes:
 - Community and Connection – to encourage inclusion and participation to support health and wellbeing and ensure that all our residents have equitable access to services, programs, events and initiatives.
 - Place and Space – to protect, enhance, maintain, plan and design places and spaces that strengthen identity, reinforce character, improve accessibility, encourage social connection and enjoyment, support biodiversity and respect the environment.

12. Officers' reports**CM.044/22 Council Plan Quarterly Performance Report - 2021-2022 - Quarter 3**

- Sustainable and Resilient – to manage and adapt to changing circumstances that affect our community to ensure it remains sustainable and resilient, both now and into the future.
 - Responsible and Accountable – to facilitate the best possible outcomes for our community, by demonstrating strong leadership and working actively to achieve the community's objectives.
2. The Annual Action Plan 2021-2022, also adopted by Council in October 2021, contains 54 actions contributing to delivery of the Council Plan within the corresponding financial year. Of those 54 actions, 23 are identified for quarterly reporting, while the remainder of the actions will be subject to an update in the corresponding report in the final quarter of this financial year.
 3. Of the 23 actions that are identified for quarterly reporting in the 2021-2022 Annual Action Plan, 20 actions are currently 'on track', two actions have been completed and one is experiencing minor issues.
 4. Some of the highlights of activities and deliverables achieved during the reporting period (January to March 2022) include:
 - a) The Nillumbik Health and Wellbeing Plan 2021-2025 continues to be implemented. Achievements to date include the development of the draft Access, Equity and Inclusion Policy, draft Climate Action Plan, Volunteering in Nillumbik Framework; the draft Recreation and Leisure Strategy; LGBTIQ+ consultations, background paper and IDAHOBIT working group meetings; delivery of the 16 Days of Activism and International Women's Day activities; and development of the Gender Equality Action Plan;
 - b) Implementation of the Nillumbik Youth Strategy has progressed. Key strategy actions to date include hosting a Nillumbik Youth Summit and exploring opportunities for a Youth Hub in the Shire. The Youth Development team will continue to work with internal and external stakeholders to deliver other key actions, including improving access to mental health services, providing opportunities for volunteering, work experience and employment, as well as delivering live music and youth events across Nillumbik;
 - c) A draft review (with recommendations and citations) of Stage 2 potential sites of significance has been finalised. The draft review will be presented to a Councillor briefing in May 2022, with the final review scheduled for adoption at the June 2022 Council Meeting;
 - d) The Kangaroo Ground War Memorial Park Management Plan has been adopted and completed, with implementation now subject to budget;
 - e) Approval for consultation (Phase 3) of the draft Municipal Planning Strategy will be sought at the June 2022 Council Meeting. Phase 3 will consist of a six-week consultation/community engagement process in June-July;
 - f) A community engagement process has been completed for the Neighbourhood Character Strategy, with a background report currently in development;

12. Officers' reports**CM.044/22 Council Plan Quarterly Performance Report - 2021-2022 - Quarter 3**

- g) Council was presented with the outcome of community consultation on the draft Climate Action Plan at the Planning and Consultation Committee Meeting in February 2022. The finalised Climate Action Plan was presented and adopted at the April 2022 Council Meeting. The supporting 2022-2023 implementation plan will be presented to Council for endorsement at the June 2022 Council Meeting;
 - h) Actions and meetings have continued to deliver works and projects under the Pandemic Recovery Plan, with achievements to date including a review of organisational governance to support COVID-19 response, a pop-up vaccination clinic in Panton Hill, a vaccination information session for parents/carers of children under 11, continuation of the COVID-19 relief program, and the COVID-19 Business Support Officer position was extended until June 2022;
 - i) Actions completed under the Economic Development Strategy included four networking events, the Northern Business Achievement Award breakfast, and receipt of \$10,000 funding for two retail precinct projects - Hurstbridge Cycle Friendly Village and Research Retail Precinct Amenity Improvements;
 - j) Following (phase 2) consultation on the draft local laws last quarter, the hearing of public submissions took place at the April 2022 Planning and Consultation Committee Meeting. This feedback will be used to consider changes to the draft local laws to be put on public exhibition later in 2022;
 - k) The Nillumbik Customer First Strategy is nearing its completion, and its key actions are now operational. A report outlining the final year implementation of this strategy was presented to the April 2022 Council Meeting; and
 - l) The 2021-2022 Capital Works Program is on track to achieve an expenditure of 50-75%. Main projects delivered include the Diamond Valley Sports and Fitness Centre (\$16.89 million), Diamond Creek Trail (\$9.67 million) and Diamond Creek Netball Courts (\$800k), with 26 recurrent programs also commenced.
5. The one item experiencing minor issues is the development of Wattle Glen Public Realm Framework, due to resource allocation availability. This action is programmed to re-start by the end of May 2022, with community engagement likely scheduled for August/September 2022. This item is also identified in the draft 2022-2023 Annual Action Plan.
6. The overall position as reflected in the report suggests that Council continues to make a solid start in delivering on the key actions supporting the Council Plan.
7. Reporting updates will continue to be received by Council on a quarterly basis that demonstrates in a practicable and tangible way how the Council Plan 2021-2025 is being delivered to the community.

Related Council decisions

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

12. Officers' reports

CM.044/22 Council Plan Quarterly Performance Report - 2021-2022 - Quarter 3

Council plans and policies

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

Sustainability implications

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

Community engagement

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

Innovation and continuous improvement

14. Not applicable.

Collaboration

15. Not applicable.

Budget implications

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

Relevant law

17. Not applicable.

Regional, state and national plans and policies

18. Not applicable.

Conflicts of interest

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

12. Officers' reports**CM.045/22 2022 Annual Community Survey Results**

Distribution: Public**Manager: Jeremy Livingston, Executive Manager Business Transformation and Performance****Author: James Hartigan, Business Performance Analyst****Summary**

The results of the 2022 Annual Community Survey have been received, which was conducted by Metropolis Research in February 2022. This annual survey is designed to measure community satisfaction with a range of Council services, facilities and activities, and to measure community sentiment on key issues affecting the community.

The survey also assists Council in meeting the Victorian Government's mandatory performance reporting requirements for councils by measuring community satisfaction in a number of areas covered by this survey.

The 2022 survey findings are variable, including a decline in satisfaction in a number of core areas, with results influenced by a change in survey methodology (from face-to-face to telephone) and also the impact of COVID-19 restrictions and closures on resident activity and Council service availability and access.

Among the key results, community satisfaction with Council's overall performance is rated at 6.41 out of 10 (categorised as 'solid'), a slight decrease of 2.7% compared to the 6.59 result in 2021. This decline is not as significant compared to the 4.6% decline observed across all Melbourne metropolitan councils. Nillumbik's result is higher than the northern region councils average (6.36 out of 10), however is below the Melbourne metropolitan average (6.60).

Beyond this headline statistic, the survey provides a rich amount of data on community sentiment. However, as the impact of COVID-19 is influencing some of the results, an element of caution needs to be exercised when analysing these results.

With the level of data and information provided in this survey, Council will be able to analyse the results as they apply to individual areas and activities, and identify service improvement opportunities. The survey's findings can also be used by Council when undertaking future planning and making budgetary decisions.

Recommendation

That Council:

1. Receives and notes the results of the 2022 Annual Community Survey Final Report (**Attachment 1**).
2. Makes the report's findings available to the public on Council's website.

Attachments

- [⇒](#)1. 2022 Annual Community Survey - Final Report

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CM.045/22 2022 Annual Community Survey Results

Discussion

1. Council commissioned Metropolis Research to undertake the eleventh Annual Community Survey in February 2022. The survey is designed to measure community satisfaction with a range of Council services, facilities and activities, and to measure community sentiment on key issues affecting the community. The survey also assists Council in meeting the Victorian Government's performance reporting requirements by measuring community satisfaction in a number of areas covered by this survey.
2. Due to COVID-19 restrictions, for the second consecutive year the survey was conducted over the telephone, as opposed to the traditional face-to-face, door-to-door interviews throughout the Shire.
3. The survey involved phone interviews with 508 randomly selected community members. The results are weighted to ensure the results are representative of the Nillumbik population and the diversity of the entire Nillumbik community.
4. It is our intention to return to the more effective, door-to-door methodology in the future as Metropolis Research advises that the telephone interview methodology does not engender the same level of confidence in the process by the community as the more interactive and personal face-to-face interview methodology. This is reflected in this year's lower survey respondent rate of 21.2%, compared to the 2020 survey's respondent rate of 45.0% when face-to-face interviews were last undertaken.
5. The 2022 survey covers a range of aspects, including:
 - Satisfaction with Council's overall performance;
 - Community issues, behaviours and attitudes on various Council activities;
 - Satisfaction with planning and housing development;
 - Satisfaction with key aspects of governance and leadership;
 - Customer service;
 - Satisfaction with Council's communications tools and preferred methods of receiving information from Council;
 - Importance and satisfaction ratings of a range of Council services and facilities;
 - COVID-19 impacts.
6. **Attachment 1** outlines all results from the survey as undertaken by Metropolis Research.
7. Key results and findings from the 2022 survey are:
 - a) *Overall satisfaction in Council's performance* is rated at 6.41 out of 10, a slight decrease of 2.7% compared to the 6.59 result in 2021. This drops Council's overall performance from 'solid' to 'good', and is now below the long-term average of 6.51 achieved since the first survey was conducted in 2011.
 - b) Of note, the 2.7% decline in *overall satisfaction of Council's performance* compared to last year is not as significant as the 4.6% decline observed across all Melbourne metropolitan councils. Nillumbik's result is higher than the northern region councils average (6.36 out of 10), however is below the Melbourne metropolitan average (6.60).

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CM.045/22 2022 Annual Community Survey Results

- c) Respondents have identified that the *top five important issues in Nillumbik* are:
- (1) Road maintenance and repairs
 - (2) Traffic management
 - (3) Environment, conservation and climate change
 - (4) Bushfire management and prevention
 - (5) Council rates.
- d) While Traffic management was previously identified as the top issue, this has now swapped positions with Road maintenance and repairs. Environment, conservation and climate change (identified by 10% of respondents) is a new entry into the top 5 issues for Nillumbik (previously ranked seventh). Meanwhile, Building, planning and development has dropped from the fourth most important issue to seventh.
- e) Metropolis Research notes that the most common issues that appear to exert a negative influence on overall satisfaction with Council include traffic management; Council rates; roads; bushfire management; trees; building, planning and development; and the perceived level of communication between Council and the community.
- f) Respondents were asked whether *Council's performance had improved, stayed the same or deteriorated* over the past year. There is an increase in the proportion of respondents who considered performance had improved (up from 11.2% to 12.8%). These results suggest that there is a substantial group of respondents who believe that Council's performance is 'very good'. However, there is also an increase in the proportion of respondents who considered performance has deteriorated (from 8.4% to 10.4%).
- g) When specifically asking respondents who reported a deterioration of performance what the reasons for this dissatisfaction is, many of the comments relate to perceived poor communication or engagement by Council, with a particular emphasis by some respondents on perceived lack of performance due to COVID-19, including staff working from home impacting on performance.
- h) Decreases in satisfaction with *Council's overall performance* were recorded in all five geographical precincts. Eltham North and Diamond Creek respondents are most satisfied, while Eltham and Rural precinct respondents are less satisfied than the Shire-wide average.
- i) Satisfaction with Council's performance is notably higher in female respondents (6.61) than compared to male respondents (6.21). This is consistent with recent survey trends.
- j) There is an under-representation of new residents of Nillumbik in the sample this year's survey (less than one year living in the Shire) as the COVID-19 lockdowns has significantly reduced the ability of people to move residence. Metropolis Research notes that this change in the profile of respondents will have had a negative impact on satisfaction with Council, as this group historically is significantly more satisfied than average.

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CM.045/22 2022 Annual Community Survey Results

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- k) Satisfaction in all aspects of *governance and leadership* decreased from 6.39 to 6.33 out of 10, the second consecutive decrease for this measure. This represents a 0.9% decrease and remains in the 'solid' range. This result is a reversal from the recent trend of increases in satisfaction with Council governance and leadership since the low point recorded in 2017 and prior to COVID-19. In general, Council's performance in the various surveyed aspects of governance and leadership is marginally lower than the corresponding result for Melbourne metropolitan councils and northern region councils.
 - l) Satisfaction with *consultation and engagement* has increased slightly from 6.14 to 6.21, translating to a 'solid' rating. Metropolis Research notes a measurable decline in satisfaction with community consultation and engagement throughout the COVID-19 pandemic, across the local government sector.
 - m) There is a marked shift in *preferred communication method* in 2022, with decreases in email and direct mail, and increases in phone, social media and SMS/App contact as the most preferred form of communication.
 - n) 34% of survey respondents identified that they contacted Council in the last 12 months. *Customer service* has recorded a sizeable 12.6% decrease in overall satisfaction with performance, and dropped below the Melbourne metropolitan councils' average. This indicates that respondent's limited ability to interact and engage with Council as a result of COVID-19 lockdowns and restrictions has impacted on satisfaction levels. The aspects of customer service to report the largest declines this year are 'speed and efficiency of service' (down 16.2%) and 'access to relevant officer or area' (down 16.1%).
 - o) After achieving its best result and first increase in 3 years in 2021, satisfaction with all aspects of the *planning approvals process* has decreased significantly in 2022, dropping to 4.85 (a 13.2% decrease). The service ranks particularly low for 'timeliness of decision-making', while 'access to information' is identified as the strongest aspect.
 - p) Satisfaction for two aspects of *development outcomes* has decreased marginally, being 'design of public spaces' (rated 'very good') and 'protection of local heritage' (rated 'good'), while there is an increase in satisfaction for 'appearance and quality of new developments' (rated 'good'). All three aspects of development outcomes still rate favourably compared to the average satisfaction for Melbourne metropolitan and northern region councils.
 - q) Respondents rate the importance of Council *addressing the needs of LGBTIQA+* residents at a strong level again this year, increasing from 7.10 to 7.18 out of 10. 54.5% of respondents rate this issue as 'very important'.
 - r) *Average satisfaction across the 33 surveyed services* is slightly up from 2021, from 7.30 to 7.34 out of 10. There is a strong response in terms of satisfaction for key services including local libraries, services for children, sports ovals, waste and recycling and aquatic and leisure centres. The lowest rated services are maintenance and repair of local sealed roads, grading of unsealed roads, fire prevention works and parking enforcement.

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CM.045/22 2022 Annual Community Survey Results

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- s) The average *importance of the same 33 services* has decreased significantly this year from 9.09 to 8.56 out of 10 – a 6.2% decline. Similarly, the average importance of selected services for all Melbourne metropolitan councils declined significantly from 9.09 to 8.65. All 33 surveyed services at Nillumbik decreased in importance, a reversal on the 2021 result where all services increased in importance. The services most valued by respondents include kerbside waste collection services, fire prevention works, community services across multiple age demographics, and support for local business.
 - t) Respondents were asked to rate their satisfaction with the volume of *traffic*, the availability of parking, and the perception of safety on or beside roads and streets. Attention is drawn to the fact that almost one-third (29.2%) of respondents are dissatisfied with the volume of traffic on main roads, and approximately one-sixth of respondents were dissatisfied with the availability of parking on main roads and shopping strips / major commercial areas. There is some significant concern about the volume of traffic, particularly on main roads, and there is some concern around the availability of parking.
 - u) *Perception of safety* in public areas is again very high and continues to rank higher than the overall average of Melbourne metropolitan and northern region councils. The lowest level of perceived safety is at night. The main reasons identified are issues with people ('gangs, youths, louts'), lighting and general safety. Locations where respondents feel unsafe include Eltham Train Station and train precincts in general. Female residents (7.40) feel measurably and significantly less safe at night compared to male (8.09) respondents.
 - v) New questions concerning *climate change* were introduced this year, supporting Council's draft Climate Action Plan. Respondent's rated Council leadership in delivering climate action at 6.33 out of 10 (rated as 'solid'). 18.2% of respondents are dissatisfied with Council's performance in delivering climate change leadership; this suggests a notable proportion of the community are dissatisfied with this area of policy.
 - w) 44.5% of respondents rated their household's ability to cope with *climate related risks* and impacts as 'high'. A little less than two-thirds (64.7%) of the 397 respondents who provided a response to the question reported that they had made changes to their home or lifestyle to *help reduce climate change* and its impacts.
 - x) While respondents identified a slight improvement this year in how they felt *COVID-19 has affected their overall health and wellbeing*, they reported a marginally lower perception of how well they and their household are coping with the impacts of COVID-19. Financial wellbeing again rates higher than physical health and wellbeing, with mental health and wellbeing rating the lowest.
8. The survey report and results will be published on the Council website. The survey results will also be published in Council's 2021-2022 Annual Report, and the State Government "Know Your Council" website.
9. Information gained from the survey will be used by Council to inform future planning and decision-making, as well as budgetary decisions.

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CM.045/22 2022 Annual Community Survey Results

Related Council decisions

10. Not applicable.

Council plans and policies

11. This report directly supports the achievement of Council Plan 2021-2025 strategies:
- We are forward-thinking, data-driven and evidence-led in our decision making, always looking to identify new opportunities.

Sustainability implications

12. Not applicable.

Community engagement

13. The Annual Community Survey involved phone interviews with 508 randomly selected residents from across five precincts in the Shire. The data collection methodology for this survey meets the mandatory Victorian Government reporting requirements.
14. Fieldwork was undertaken in February 2022. To provide some community awareness of this fieldwork, Council placed posts through its social media channels shortly before the survey interviews were conducted.

Innovation and continuous improvement

15. With the level of data and information provided in this survey, there are opportunities to analyse the results as they apply to individual service areas, and identify service improvement opportunities. The survey's findings can also be used by Council when undertaking future Council and service planning, and making budgetary decisions.

Collaboration

16. Not applicable.

Budget implications

17. The cost of undertaking the 2022 Annual Community Survey is met within the existing operational budget.

Relevant law

18. The data collection methodology for this survey, as well as a number of survey outputs, meets State Government reporting requirements for councils.

Regional, state and national plans and policies

19. Not applicable.

Conflicts of interest

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

12. Officers' reports**CM.046/22 Draft Municipal Planning Strategy (MPS) Phase 3 Engagement**

Distribution: Public**Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author: Leigh Northwood, Strategic Planning Lead****Summary**

The purpose of this report is to seek Councils endorsement in regard to the Draft Municipal Planning Strategy (MPS) and the next phase of engagement (Phase 3) which will seek feedback to the Draft MPS for a 6 week period through June/July.

Phase 2 consultation reviewed the existing MPS and identified key 'themes' that have informed drafting a new MPS, therefore Phase 3 engagement represents the first time the community will be presented with a draft of the new MPS.

There are specific requirements and format that the MPS must follow. The MPS must succinctly explain the context for a municipality and provide the overarching strategic directions for the major land use and development matters that affect it. The content of the MPS should be easily read, expressed in a logical sequence and grouped by related land use and development themes. The draft MPS must also be structured to meet the drafting requirements of DELWP.

Through the months of September and October 2021, officers conducted an extensive program of consultation on MPS themes. Submitters were invited to attend the February 2022 Planning & Consultation Committee Meeting (PCC) to speak to their submission.

All submissions and feedback (including community, Councillor and officer feedback) were considered and were used in drafting the new MPS where appropriate and relevant. It is important to note that some matters coming out of consultation in Phase 2 cannot be incorporated into consideration of drafting of the new MPS, predominantly as the matters raised are not within the mandate of land use and development, are too specific for the MPS where it sets 'higher order' principles rather than detailed outcomes, are seeking a specific land use outcome for personal gain which does not meet the principle of 'net community benefit' or do not meet the requirements ('rules') for drafting the MPS.

Upon collation of submissions to Phase 3 engagement in regard to the MPS a report will be presented to an upcoming meeting of Council's Planning and Consultation Committee which will consider the response to this round of engagement.

Subject to consideration of submissions, further changes can be made to the draft MPS prior to seeking Councils endorsement and approval to seek authorisation from the Minister for Planning to prepare and exhibit an amendment to the Planning Scheme to implement the new MPS, noting the amendment process represents another round of consultation including the ability for the community to make submissions to such.

12. Officers' reports**CM.046/22 Draft Municipal Planning Strategy (MPS) Phase 3 Engagement**

Recommendation

That Council:

1. Notes the Draft Municipal Planning Strategy (MPS) **Attachment 2** and Draft Clause 74.02 Further Strategic Work **Attachment 3**.
2. Endorses a third round of engagement for the MPS, which will exhibit the draft MPS **Attachment 2** and draft Clause 74.02 **Attachment 3** which is scheduled to be conducted from early June to mid July 2022 for a period of 6 weeks.
3. Notes a report will be presented to an upcoming meeting of Council's Planning and Consultation Committee which will consider the response to this round of engagement.

Attachments

- ⇒1. MPS Phase 2 Summary of Feedback
- ⇒2. Draft Consolidated Municipal Planning Strategy for Phase 3 Engagement (including Maps)
- ⇒3. Draft Clause 74.02 Further Strategic Work for Phase 3 Engagement

Discussion

1. The Municipal Planning Strategy (MPS) is a concise expression of the overarching strategic policy directions of a municipality. It provides for the planning scheme's policy foundation, based on the municipality's location and regional context, history, assets, strengths, key attributes and influences. The MPS supports, but does not form part of, the Planning Policy Framework (PPF). The PPF and MPS work together to form the strategic basis of a planning scheme.
2. Amendment VC148, gazetted in July 2018, introduced new structure to the Victorian Planning Provisions (VPP) within all Victorian Planning Schemes, including Nillumbik. This included introduction of a new PPF and the introduction of the MPS (to replace the Municipal Strategic Statement).
3. Amendment VC148 did not translate the current Local Planning Policy (LPP) or Municipal Strategic Statement (MSS) into the new framework.
4. The Minister undertook a policy neutral amendment of the Nillumbik Planning Scheme to translate the current LPP and the MSS into the new format through Amendment C135 in mid-2021. Consequently, the MPS currently in the Scheme, has the same content as the existing MSS and given a full scale review has not been undertaken since its introduction into the Scheme some 20 years ago, needs to be updated to reflect a modern vision for Nillumbik. For Council, preparation of an updated MPS represents the best opportunity to capture the community's views and to set the vision for the Nillumbik Planning Scheme and future strategic work to inform local planning policy.

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CM.046/22 Draft Municipal Planning Strategy (MPS) Phase 3 Engagement

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5. Refer to 'community engagement' section below in regard to community engagement noting all submissions and feedback (including community, Councillor and officer feedback) were considered and were used in drafting the new MPS where appropriate and relevant. **Attachment 1** identifies the summary of feedback to the current MPS themes out of Phase 2 engagement, and identifies how this feedback has been captured and incorporated in the draft MPS (or if not - why). It is important to note that some matters coming out of consultation in Phase 2 cannot be incorporated into consideration of drafting of the new MPS, predominantly as the matters raised:
- Are not within the mandate of land use and development (e.g. encourage more sustainable practices at home and private vehicle use);
 - Are too specific for the MPS where it sets 'higher order' principles rather than detailed outcomes (e.g. more dog friendly spaces);
 - Are seeking a specific land use outcome for personal gain which is not the mandate of the MPS, which is about 'net community benefit' – some of the written submissions fell into this area; or
 - Do not meet the requirements for drafting the MPS (as identified below).

What must the MPS address and how must it be formatted?

- The MPS must succinctly explain the context for a municipality and provide the overarching strategies for the major land use and development matters that affect it. It does not include detailed policy which belongs in Clauses 10 to 19 of the planning scheme.
- The allowable word limit for the MPS is 5000 words (excluding plans).
- The word count in the current draft sits at 4945 words, which is within the word limit for the MPS. Specifically, Clause 02.01 has 404 words, Clause 02.02 has 193 words and Clause 02.03 has 4348 words.
- Subject to feedback to Phase 2 community engagement in regard to themes informing preparation of a new MPS, a new MPS has been drafted (refer **Attachment 2**).
- Generally many of the themes and matters addressed in the current MPS have been brought across into the new draft as they are still relevant, support current planning and development themes unique to the Shire and/or support existing local policy context located within the planning scheme.
- The content of the MPS should be easily read, expressed in a logical sequence and grouped by related land use and development themes. The preferred approach is to follow the Planning Policy Framework (PPF) headings. This reinforces the strategic linkages between the PPF and the MPS, helps navigation and improves the ease of use of the planning scheme.
- Information that is likely to become out of date before the next review cycle (about 4 years) should not be included.
- The draft MPS is structured to meet the drafting requirements of DELWP including *A Practitioners Guide to Victorian Planning Schemes*, *Planning Practice Note 04*; and *Ministerial Direction: The Form and Content of Planning Schemes*.

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CM.046/22 Draft Municipal Planning Strategy (MPS) Phase 3 Engagement

14. Consistent with the requirements (above) the following parts make up the MPS:

a. Clause 2.01 Context:

- The context is a concise ½ to one page description of the municipality in its regional setting providing a very brief description of the geographic, economic, environmental and demographic qualities of the municipality. These should represent both the opportunities and challenges that establish the key land use and development issues to be addressed in the municipal vision and strategic directions.
- The context should set the scene for what issues are important to the municipality and need to be addressed by the planning scheme. There is no need to provide extensive detail or state how the issue will be addressed in the context statement because this is the role of the strategic directions.

b. Clause 2.02 Vision:

- The vision is an overarching statement of intent that describes the type of municipality a council seeks to create. It should be concise, typically ½ to one page, and can comprise one consolidated statement or a set of statements.
- Importantly - the vision must focus on land use and development issues capable of being influenced by the planning scheme. If the vision is derived from a vision statement sourced outside the planning scheme (such as from a council plan that addresses broader issues), that wider vision statement will need to be distilled into a vision for the MPS that focuses on land use and development.
- The vision together with the strategic directions and strategic framework plan provide an opportunity to set out the local directions of the planning scheme, consistent with state policy in Clauses 10 to 19.

c. Clause 2.03 Strategic Directions:

- The strategic directions outline how a municipality will implement its vision and manage key issues relevant to the municipality. Strategic directions are the high-level policy intentions for the municipality that provide the basis for matters that are implemented through more detailed policy at Clauses 10 to 19 or a planning scheme control.
- The strategic directions must be supported by background strategic work that has already been undertaken by a council. If the work to support the strategic directions has not been undertaken, then that matter may be identified as further strategic work in Clause 74.02 or elsewhere in a council work or business plan, not in the MPS.
- The strategic directions need to be evidence-based so that they can be reasonably implemented through the planning scheme.

12. Officers' reports**CM.046/22 Draft Municipal Planning Strategy (MPS) Phase 3 Engagement**

- The strategic directions should articulate what is most important to the municipality from a land use and development perspective and provide an understanding of why those issues are important. In particular, they may set out:
 - How state and regional policy will be implemented at the municipal level;
 - Articulate how identified issues will be addressed and how the vision will be implemented;
 - Contain direction on matters such as opportunities for growth, a township or activity centre hierarchy, areas of environmental significance or any other topic that is relevant to land use and development within the municipality provide the policy basis for the application of controls and the local policies in Clauses 10 to 19.
 - Strategic directions should be grouped by theme and identified by sub-headings. The themes should follow those of the PPF for consistency and navigability. The strategic directions for each theme may be supplemented with a brief context (generally 1 or 2 paragraphs) to help explain the basis of the strategic directions. While this contextual information is written in the narrative form, strategic directions must be in bullet point form, so they are clearly identified. Each strategic direction should only express one idea.
- d. Clause 2.04 Strategic Framework Plans:
 - Is a spatial representation of the key strategic directions for the municipality. The vision, strategic directions and strategic framework plan together provide the 'big picture' response to the opportunities and challenges facing a municipality. The strategic framework plan:
 - Should show spatially how the municipality is expected to change as a result of the implementation of the planning scheme
 - Compliments the policy in the MPS and where relevant, PPF.
 - It cannot replace policy text. For example, a strategic direction must be in the text of the MPS and not solely on a framework plan.
 - Should have a clear link with the strategic directions in the MPS and can be annotated to express the strategic directions on the plan.
 - May show matters such as directions for growth and development, housing frameworks, industrial land supply, productive agricultural land, strategic redevelopment sites, significant infrastructure, areas of environmental significance or areas where environmental risk must be managed or any other matter that the MPS identifies.

12. Officers' reports**CM.046/22 Draft Municipal Planning Strategy (MPS) Phase 3 Engagement**

15. Although not part of the MPS, Clause 74.02 Further Strategic Work is included in this package of information with proposed changes (refer **Attachment 3**). The reason for this is that some of the issues raised through consultation and in other Council strategies e.g. the adopted Green Wedge Management Plan 2019, require further strategic work in order for their consideration in changing/adding content to the planning scheme. As identified above, if the work to support the strategic directions has not been undertaken, then that matter may be identified as further strategic work in Clause 74.02 or elsewhere in a council work or business plan, not in the MPS. In regard to Clause 74.02:
- It identifies further strategic work by council to set strategic priorities and obtain funding for a project. However, as these strategic intentions are not fully formed and have not had the benefit of strategic work to underpin them, there is a risk that they can be used as speculative policy and lead to decisions being made that are not based on adopted policy.
 - Further strategic work is not a requirement of the Act and does not form part of the MPS or PPF.
 - A responsible authority is not required to take this clause into account when making a decision. Where a list of further strategic work is provided in a planning scheme, it should comprise a concise list of work the council intends to undertake in the next review cycle (about 4 years). The work must have a land use and development focus and must relate to matters that can be implemented through a planning scheme. It should be noted that this list of further work may not be budgeted for and will require funds to be appointed in future budget cycles to undertake and complete projects.

Related Council decisions

16. The 'Our People, Our Place, Our Future' community engagement program approach which included the MPS was endorsed by Council at the Future Nillumbik Committee on 9 February 2021.
17. At its 27 July 2021 Council Meeting, Council resolved to:
- a. *Endorses Phase 2 of public consultation to occur over 4 weeks from 23 August to 19 September 2021, as outlined in this report for the Municipal Planning Strategy of the Nillumbik Planning Scheme.*
 - b. *Notes that, following Phase 2 of public consultation, the next scheduled milestones for the project include:*
 - *The November 2021 meeting of Council's Planning and Consultation Committee will consider the outcomes of the Phase 2 of public consultation.*
 - *The February 2022 Council Meeting will consider a draft of the Municipal Planning Strategy and a recommendation that it be endorsed for Phase 3 community consultation.*

12. Officers' reports

CM.046/22 Draft Municipal Planning Strategy (MPS) Phase 3 Engagement

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18. At its 8 February Planning and Consultation Committee Meeting, the Committee (acting under delegation from Council) resolved to:
- Notes the public response, as outlined in this report, to the second phase of consultation for the Municipal Planning Strategy (MPS) Project.*
 - Resolves that the confidential un-redacted copies of written submissions and survey responses to the exhibition of the public engagement for the MPS Phase 2 consultation (at Attachments 3 and 4) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g)(ii) of the Local Government Act 2020.*
 - Notes that a first draft of the new MPS is scheduled to be presented to the May Council meeting with a recommendation for Council to endorse it for public engagement.*
 - Writes to all respondents to the community engagement to express Council's gratitude for their contribution and to advise them of the Committee's resolution and the next steps in the project.*

Options

- Officers are seeking Councillors endorsement of the draft MPS and draft Clause 74.02, to take them out for exhibition to seek community feedback for a 6 week period through June/July.
- The timing of the consultation takes account for the close first Phase engagement for the Neighbourhood Character Strategy (NCS) so as not to 'cross-over' with that strategic work.
- Officers would use the feedback to the draft MPS to identify further recommended changes to a final draft of the MPS, noting a councillor workshop is also being programmed in September (after engagement has been finalised) to agree on final changes to the draft MPS.
- Final changes will then be made prior to seeking approval from Council at a meeting to seek authorisation under Section 8A of the Act, from the Minister, to prepare and exhibit an amendment to the Nillumbik Planning Scheme to implement the new MPS into the scheme.

Council plans and policies

- This report directly supports the achievement of the Council Plan 2021-2025 strategy:
 - We act in the best interests of our community.*
 - We respect and enhance the unique neighbourhood character in our communities to ensure a considered approach to planning and development.*
 - 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.*
 - We value, appreciate and enjoy our Green Wedge Shire, including our rural areas and leafy urban areas, which we work hard to protect and enhance.*

12. Officers' reports

CM.046/22 Draft Municipal Planning Strategy (MPS) Phase 3 Engagement

- *We are committed to protecting and enhancing the environmental integrity of our community's unique surroundings, Aboriginal heritage, natural environment and diverse wildlife.*
- *We effectively uphold the planning scheme, including fill dumping and unauthorised removal of vegetation.*

Sustainability implications

24. The project is expected to have positive environmental, social and economic effects for Victorian businesses, industry and the community by improving the clarity and transparency of local policy content in the MPS which results in greater certainty for users of the system.
25. The application of updated and improved local policy content in the MPS will provide certainty to the users of the planning system by ensuring land use and development outcomes are consistent with environmental, social and economic land use objectives of planning in Nillumbik and Victoria.
26. The new MPS is also predicted to address issues and key influences such as climate change which is not addressed in the current MPS.

Community engagementWhat community engagement has been undertaken in regard to preparation of the new MPS?

27. The following community engagement program approach was endorsed by Council on 9 February 2021 in regard to consultation around the Our People Our Place Our Future consultation to inform preparation of the Council Plan, Health & Wellbeing Plan, Nillumbik Vision 2040 and the MPS. The program includes the following phases:
 - **Phase 1** – Our People, Our Place, Our Future (OPOPOF) Community engagement program including Shire-wide survey being used to inform the themes within the MPS (February to April 2021). The Climate Action Plan survey was also used to inform the MPS themes **(completed)**.
 - **Phase 2** – MPS Themes community engagement on the current MPS and potential themes including four-week survey, four virtual community workshops and associated communications (August to September 2021). This Phase included extensive internal consultation (see below) **(completed)**.
 - **Phase 3** – drafting MPS. Feedback to Phase 2 used to draft a new MPS. The draft MPS will be brought to Council for its consideration and subject to approval to seek community input, the draft MPS will be put out for community feedback. Feedback received would be incorporated and brought to Council again for adoption **(current)**.
 - **Phase 4** - Subject to Council's adoption of a final draft of the MPS, officers will seek Council's approval to seek authorisation from the Minister to prepare and exhibit an amendment to the Nillumbik Planning Scheme to insert the updated MPS. It should be noted that as part of the amendment process, the proposed MPS would be exhibited to the community with submissions called as part of the formal notification period pursuant to the *Planning & Environment Act 1987* **(yet to commence)**.

12. Officers' reports

CM.046/22 Draft Municipal Planning Strategy (MPS) Phase 3 Engagement

-
28. Through the months of September and October 2021, Council conducted an extensive program of consultation sessions in regard to testing the existing MPS and potential themes to inform a new MPS.
29. During Phase 2, officers consulted on eleven (11) themes of which were identified from a variety of sources including:
- Current State and Regional planning policy (to ensure alignment);
 - The existing Municipal Planning Strategy (to maintain support for existing local policy context);
 - Our People, Our Place, Our Future survey outcomes;
 - Climate Action Plan (survey) community engagement outcomes;
 - Draft Community Vision – Nillumbik 2040;
 - Draft Council Plan; and
 - Draft Health & Wellbeing Plan.

What were the outcomes of Phase 2 Consultation and how has this has been integrated into the drafting of the MPS?

30. A total of 458 submissions were received, with 424 survey responses to themes to the MPS through Participate Nillumbik and 34 written submissions.
31. Submitters to Phase 2 spoke to the 8 February 2022 Planning & Consultation Committee Meeting (PCC).
32. Key sentiments that drafting of the MPS can have regard to as identified in the Summary of Phase 2 consultation include among other matters:
- a. The importance of the urban tree canopy and impacts of development on such;
 - b. The importance of protecting Nillumbik's unique neighbourhood character;
 - c. Focus on walkability, accessibility, active transport and improved accessibility to Major Activity Centres;
 - d. Protection of the current Urban Growth Boundary;
 - e. The importance of protecting biodiversity and the particular importance of wildlife corridors;
 - f. Ongoing management of fire risk;
 - g. Implementing ESD outcomes into the built environment; and
 - h. Protecting Nillumbik's heritage buildings and places.
33. All submissions and feedback (including community, Councillor and officer feedback) were considered and were used in drafting the new MPS where appropriate and relevant.

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CM.046/22 Draft Municipal Planning Strategy (MPS) Phase 3 Engagement

What community engagement methods are proposed as part of Phase 3?

34. Phase 3 engagement is proposed to run for 6 weeks from early June to mid-July 2022.
35. There is no budget allocated to Phase 3 engagement and therefore methods are limited to available officer resourcing (e.g. no collateral such as postcards or paid Facebook posts).
36. Engagement on the draft MPS (which includes ordinances and mapping) and draft Clause 74.02 Further Strategic Work will involve:
 - Update to Participate Nillumbik including online survey & FAQ's.
 - FAQ's to include **Attachment 1** identifying how feedback to Phase 2 engagement has been captured into the draft MPS and if not why.
 - Survey made available in hardcopy.
 - Update email to all Phase 2 submitters (458 submissions) identifying draft is available for review and feedback.
 - Email to Advisory Committees to provide feedback and – ad-hoc follow up meetings for any Advisory Committees that would like to discuss/Q&A.
 - Email to internal teams to provide feedback and – ad-hoc follow up meetings for any teams that require discussion/Q&A.
 - Social media posts (unpaid).
 - Nillumbik News/eNews.
 - Media Release (TBC).
37. Upon collation of submissions received to Phase 3 engagement, a report will be presented to an upcoming meeting of Council's Planning and Consultation Committee which will consider the response to this round of engagement and any verbal submissions from interested stakeholders.

Innovation and continuous improvement

38. The project provides certainty to users of the scheme and provides clear strategic direction that will inform decision making regarding use and development in the municipality, consistent with these objectives.

Collaboration

39. The project requires significant collaboration across relevant Council units.

Budget implications

40. The project is being prepared predominantly in-house and has no budget allocation. A future amendment to insert the new MPS into the Planning Scheme will be subject to budget allocation for the 2023/2024 financial year.

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CM.046/22 Draft Municipal Planning Strategy (MPS) Phase 3 Engagement

Relevant law

41. *The Planning and Environment Act (1987) (the Act).*

Regional, state and national plans and policies

42. By updating the MPS with input from the community this will clarify and modernise the Nillumbik Planning Scheme, implementing the objectives of planning in Victoria set out in section 4(1) of the Act:
- a. *To provide for the fair, orderly, economic and suitable use, and development of the land.*
 - b. *To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.*
 - c. *To facilitate development in accordance with the objectives of planning in Victoria.*

Conflicts of interest

43. 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.

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CM.046/22 Draft Municipal Planning Strategy (MPS) Phase 3 Engagement

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12. Officers' reports**CM.047/22 Future of Agriculture in Nillumbik Action Plan**

Distribution: Public**Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author:****Danielle Phyland, Economic Development and Tourism Lead****Summary**

Nillumbik's Economic Development Strategy 2020-2030 (NEDS) identifies four objectives. One of the four objectives of this strategy is Objective 3: Facilitate economically and environmentally sustainable use of land within the Shire's Green Wedge.

An action of this objective was to conduct a research project to understand the current agricultural activity in Nillumbik with land assessment and to create an Action Plan to be delivered by Council for a sustainable future for agriculture in the Shire.

The Future of Agriculture in Nillumbik Action Plan (**Attachment 1**) (Action Plan) is derived from the research project procured by the Economic Development and Tourism team and undertaken and produced by external consultants Plan-it Rural in partnership with Deakin University and planning initiatives identified by Strategic Planning team having regard to State and Regional Planning Policy.

Recommendation

That Council:

1. Endorses the Future of Agriculture in Nillumbik Action Plan (Action Plan) (**Attachment 1**).
2. Requests Officers to begin implementation of the Action Plan from July 2022.
3. Requests that Officers provide a copy of the Action Plan on Council's website.
4. Requests that Officers provide an annual update on the Action Plan as part of the Economic Development Strategy.
5. Requests that Officers notify submitters to Future of Agriculture project of Council's resolution.

Attachments

- ⇒1. Future of Agriculture in Nillumbik Action Plan

12. Officers' reports

CM.047/22 Future of Agriculture in Nillumbik Action Plan

Discussion

1. In June 2020, Council adopted the Nillumbik Economic Development Strategy 2020 - 2030 (NEDS). One of the four objectives of this strategy is Objective 3: Facilitate economically and environmentally sustainable use of land within the Shire's Green Wedge.

Objective 3: Facilitate economically and environmentally sustainable use of land within the Shire's green wedge.	
Action	Measurement
Facilitate an assessment of the quality of agricultural land.	<p>Investigate through the Conversations program of the adopted Green Wedge Management Plan new and emerging opportunities for agricultural land in the Shire. A minimum of 2 targeted conversations on the quality and opportunities of agricultural land.</p> <p>Land Assessment completed and an Action Plan put in place to respond to the results. This may include activities such as regenerative farming and land management programs for land holders.</p>

A research brief was developed to gain an understanding of the current status of land in the Shire. The successful consultant, Plan-it Rural worked in partnership with Deakin University and the Economic Development Unit to complete the project.

Extensive community consultation was undertaken as part of this project via multiple channels which received over 750 responses.

2. The tangible outcome of the project is a realistic and achievable Future of Agriculture in Nillumbik Action Plan (Action Plan) (**Attachment 1**) to be delivered by Council to retain, sustain and improve the future of agriculture in Nillumbik, taking into consideration planning policy, geographic, environmental, economic and social trends and demands.
3. This project also aligns with the implementation of the Nillumbik Green Wedge Management Plan, particularly to Objective 4.3: Encourage sustainable and regenerative agriculture; and Objective 4.4: Recognise the contribution of hobby or small-scale farming in the green wedge with supportive policy in place.
4. Additional alignment is considered with Council's recently endorsed Climate Action Plan 2022-2032, Focus Area 3.2: To have climate resilient food systems – Encouraging Sustainable Agriculture and to identify opportunities to enhance the local food system and Focus Area 7: Achieving a zero waste and circular economy.
5. Further alignment with Council's Biodiversity Strategy about to be reviewed and Council's Invasive Species Plan & Roadside Management Plan to achieve nutrient management, soil conservation and mitigating functions, prevention of nutrient loss in the environment, sustainable land practices that support soil health and biodiversity conservation / enhancement (managing run-off & erosion examples).

12. Officers' reports**CM.047/22 Future of Agriculture in Nillumbik Action Plan**

6. The Action Plan generated from this report focus on three objective areas:
7. Protect, promote and support sustainable, regenerative agriculture and local food systems in the Shire for greater climate resilience and adaptation in the broader community;
8. Investigate and advocate for diverse, innovative farming systems that foster ecological responsible economic development, local employment, circular resource use and local food systems and security;
9. Support a vibrant, connected local agricultural community through peer to peer networks, targeted education programs, market access, innovative and active open communication between Council and the agricultural community.

Related Council decisions

10. The related Council decision in regard to endorsement of the NEDS took place on Tuesday 23 June 2020 that Council;
 - Adopts the Nillumbik Economic Development Strategy 2020-2030
 - Requests officers begin work immediately on delivering the short term actions identified in the Action Plan.
 - Receives annual briefings on the achievements from the Strategy.

11. Council plans and policies

12. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
 - We support sustainable agricultural pursuits and their contribution to Nillumbik and the broader community.

Sustainability implications

13. The scope of the research project was to investigate the Shire's agricultural strengths, weaknesses, opportunities and threats through research conducted by the successful consultants. This took into consideration the economic, social and environmental implications of agriculture in Nillumbik. In the survey specific reference was made to Climate Change through questioning. This information will be shared widely and in particular with the Environmental team and resulting projects will be delivered collaboratively.

Community engagement

14. In conjunction with the project consultants, a survey was developed to gather relevant information relating to land-holders and residents in Nillumbik. The survey related to both current agricultural use, potential future intention relating to agricultural use as well as dominant non-agricultural land use.

Councillors were provided with a draft of the survey and invited to provide feedback. Prior to opening the survey, the project was communicated through the following channels.

- Article published in a variety of relevant Council led newsletters
- Project promoted through Councils' social media channels – LinkedIn, Facebook, Instagram

12. Officers' reports**CM.047/22 Future of Agriculture in Nillumbik Action Plan**

- Article published in Local Food Connect newsletter
- Presentations to relevant Council advisory committees and stakeholder groups including opportunity for Q&A
 - Economic Development Advisory Committee
 - Environment and Sustainability Advisory Committee
 - Health and Wellbeing Plan Advisory Committee
 - Positive Ageing Advisory Committee
 - Nillumbik Landcare Network
 - Wurundjeri Woi-wurrung Cultural Consultation

Once published online via Participate, the survey was also distributed through these same channels.

Communication directly to rural landholders and residents via;

- Distribution of hard-copy surveys, including return postage-paid envelopes to:
 - Rural township Post Offices (Kangaroo Ground, St Andrews, Smiths Gully, Panton Hill, Hurstbridge, Research and Yarrambat) (1950 recipients)
 - Postal deliveries to all of Nillumbik Shire Councils' landowners currently in receipt of Councils' Sustainable Agriculture Rate Rebate and/or Farm rebates (120 recipients)
 - Distribution to landowners and residents on properties classified as rural properties – these properties are identified largely through Zoning, Rural Conservation Zone, Green Wedge Zone and some larger low density residential zoned properties as identified by the rates department. (3236 recipients)
- Online survey available on Councils' Participate portal for 5 week duration.

15. Community Consultation 'drop-in' sessions – virtual Zoom sessions x 5 (including 2 evening sessions).

Innovation and continuous improvement

16. The adaption of delivering consultation to a very traditional audience due to the restrictions of COVID-19 included Zoom virtual drop in sessions, direct mail, content available on website and direct access to Officers. Despite the diversity of communication methods, traditional methods of mail outs were preferred, as can be seen in the responses - 756 total, 159 completed via online survey, 589 completing hard copy survey.
17. With the overwhelming numbers of respondents, an engaged audience has been identified making delivery of actions more consultative and achievable. However, traditional methods of communication such as mail out have a higher cost than digital communications so this will need to be considered in budgeting for future activities.

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CM.047/22 Future of Agriculture in Nillumbik Action Plan

Collaboration

18. Internal collaboration was extensive with relevant departments such as Environment, Community Partnerships, Strategic Planning, Statutory Planning and Communications teams.
19. Benchmarked against Green Wedge Management Planning of Neighbouring municipalities.
20. Moving forward the delivery of the Action Plan will be undertaken with significant internal collaboration - sharing costs and resources.

Budget implications

21. The budget for this project was a major initiative of 2021 and there is currently no operational budget this financial year to undertake any of the recommended actions.
22. Once endorsed, Officers will seek funding to deliver specific actions through the annual budget process of 2023/2024 and external grants if available.

Relevant law

23. All survey activity was conducted in line with Councils' privacy requirements.

Regional, state and national plans and policies

- Melbourne 2030: Planning for sustainable growth, namely direction 3.1 – Control development in rural areas to protect agriculture and avoid inappropriate rural residential development and direction; 4.1 – Maintain access to productive natural resources and an adequate supply of well-located land for energy generation, infrastructure and industry; direction 7.7 - Protect native habitat and areas of important biodiversity through appropriate land-use planning.
- Northlink Regional Investment Strategy and The Future of Work
- Food and Beverage Growth plan – Melbourne's North
- The Future Workforce: Melbourne's north (research paper)

Conflicts of interest

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

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CM.047/22 Future of Agriculture in Nillumbik Action Plan

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CM.048/22 Living & Learning Nillumbik Neighbourhood House Advisory Committee Endorsement of Terms of Reference

Distribution: Public

Manager: Corrienne Nichols, Executive Manager Community Services

Author: Cobie Vermeulen, Coordinator Living & Learning Nillumbik

Summary

The purpose of this report is to seek Council endorsement on the new Terms of Reference for the Living & Learning Nillumbik (L&LN) Neighbourhood House Advisory Committee (**Attachment 1**) and the call for Expressions of Interests from community members from 6 June 2022 (for a 3 week period) with applications closing on Friday 24 June 2022.

Recommendation

That Council:

1. Endorses the new Living & Learning Nillumbik (L&LN) Neighbourhood House Advisory Committee Terms of Reference (**Attachment 1**).
2. Endorses the commencement of the Expression of Interest process for a period of 3 weeks seeking community members for the L&LN Neighbourhood House Advisory Committee \
3. Notes that Council appointment of new community members to the L&LN Neighbourhood House Advisory Committee will be sought at the 26 July Council Meeting.

Attachments

- ⇒ 1. Draft Terms of Reference for the Living & Learning Nillumbik Neighbourhood House Advisory Committee

Discussion

1. The L&LN Neighbourhood House Advisory Committee (the Committee) provides a formal mechanism for Council to fulfil the requirements of the Neighbourhood House Coordination Program (NHCP) through which L&LN's three neighbourhood houses receive funding. This includes:
 - a. support the provision of community development programs and activities that lead to community-strengthening outcomes by:
 - supporting diversity and promoting community participation and inclusion
 - facilitating community development and capacity building in support of individuals and groups within communities
 - supporting lifelong learning opportunities for people to improve their access to training and employment pathways.
 - b. undertake community development processes to address locally identified priorities and needs through:

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- community consultation
 - development of agreed community responses to identified priorities and needs
 - identification of partners and funding sources
 - facilitating and evaluating responses to identified needs and priorities.
2. In previous years L&LN has had a Committee of Management who have overseen the RTO, Learn Local and Neighbourhood Houses. In preparation for the RTO's 2021 re-registration audit, L&LN engaged a RTO compliance consultant who has advised that this committee does not meet the strict governance requirements as per the Federal register of legislation (RTO Standards). This resulted in the RTO and Learn Local being regarded as separate business units, with its own governance structure.
3. The L&LN Neighbourhood House Advisory Committee will be responsible to provide advice and support to the three Neighbourhood Houses and will have a community focus with equal representation from the Diamond Creek, Eltham and Panton Hill Communities. Community representatives from each neighbourhood house will establish three sub-committees which will meet bimonthly with the dedicated neighbourhood house coordinator to provide advice, explore new opportunities and support community engagement. The overall Committee will meet bimonthly (on the alternate month) to support the overall strategic direction of L&LN's Neighbourhood Houses.

Related Council decisions

4. Not applicable.

Options

5. Officers are presenting the draft Terms of Reference (**Attachment 1**) for Council endorsement.

Council plans and policies

6. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
- We actively engage people of all ages and stages in decisions that affect them, ensuring that initiatives meet current and emerging needs.

Sustainability implications

7. It is proposed that the L&LN Neighbourhood House Advisory Committee will consist of three sub-committees which each represent the unique community in which the Neighbourhood House is located. This will ensure true community representation to support decision-making around strategic direction associated with each house to ultimately ensure social as well as financial sustainability of programs.

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**CM.048/22 Living & Learning Nillumbik Neighbourhood House Advisory
Committee Endorsement of Terms of Reference**

Community engagement

8. Expression of Interest for new committee members will be invited through Council communication avenues from 6 June 2022 (for a 3 week period) with applications closing on Friday 24 June 2022. Invitations will also be circulated through relevant Council Committees and L&LN networks.

Innovation and continuous improvement

9. The three Neighbourhood House coordinators will actively engage their respective sub-committee to explore opportunities for innovation and continuous improvement.

Collaboration

10. The Committee supports ongoing and new partnerships, information sharing and alignment of strategy and practice across Neighbourhood Houses.

Budget implications

11. Administration support for L&LN Neighbourhood House Advisory Committee is provided within Council's operating budget.

Relevant law

12. Not applicable.

Regional, state and national plans and policies

13. Neighbourhood House Coordination Program guidelines.

Conflicts of interest

14. 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.

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**CM.048/22 Living & Learning Nillumbik Neighbourhood House Advisory
Committee Endorsement of Terms of Reference**

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**CM.049/22 Environment and Sustainability Advisory Committee 2022-2024
membership recommendation**

Distribution: Public**Manager: Hjalmar Philipp, Director Operations and Infrastructure****Author: Lisa Pittle, Manager Environment****Summary**

This report provides a recommendation for membership of the 2022-2024 term of Council's Environment and Sustainability Advisory Committee (ESAC).

The ESAC terms of reference are provided in **Attachment 1**.

Nominations were sought from 28 February to 20 March 2022 and assessed against selection criteria (see confidential **Attachment 2**).

Council endorsement of the recommended Youth Council together with eleven general community members is sought.

Recommendation

That Council:

1. Endorses the twelve recommended applicants listed for membership of the Nillumbik Environment and Sustainability Advisory Committee (refer confidential **Attachment 2**):
 - (a) Applicant 1 _____ as Youth Committee representative
 - (b) Applicant 2 _____
 - (c) Applicant 3 _____
 - (d) Applicant 4 _____
 - (e) Applicant 5 _____
 - (f) Applicant 6 _____
 - (g) Applicant 7 _____
 - (h) Applicant 8 _____
 - (i) Applicant 9 _____
 - (j) Applicant 10 _____
 - (k) Applicant 11 _____
 - (l) Applicant 12 _____
2. Acknowledges and thanks all community members who submitted applications for membership of the Environment and Sustainability Advisory Committee.
3. Resolves that the Panel Assessment (**Attachment 2**) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(f) of the *Local Government Act 2020*.
4. Resolves that the successful applicants be named.

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CM.049/22 Environment and Sustainability Advisory Committee 2022-2024 membership recommendation

Attachments

- ⇒1. ESAC Terms of Reference February 2022
- 2. ESAC applications evaluation summary - *CONFIDENTIAL*

Discussion

1. The Environment and Sustainability Advisory Committee (ESAC) provides a formal opportunity for Council to work with representatives of the community in developing and implementing environment and sustainability policies, strategies and plans. Committee members can also influence Council's direction on environment and sustainability matters by recommending action for Council consideration.
2. The endorsed ESAC Terms of Reference (**Attachment 1**) outline that membership will consist of up to 14 members and will include up to:
 - a) Eleven individual members representing the community
 - b) One representative of the Nillumbik Youth Council
 - c) Two representatives of the Nillumbik Shire Council (Councillors) – one as Chair and one as alternate Chair.
3. Collaboratively, the membership is required to comprise a diverse mix of urban and rural representatives who provide a breadth of knowledge and expertise across environment and sustainability matters including:
 - a) climate action
 - b) biodiversity and land management
 - c) sustainable water management
 - d) waste management, pollution and circular economy.
4. The final meeting of the current ESAC was on 20 April 2022. All positions were then vacated.
5. Expressions of interest for membership of the new (two-year) term of the committee were sought from community members over a period of three weeks from 28 February to 20 March 2022.
6. The following questions were asked:
 - a) What are your areas of interest and expertise?
 - b) Why are you interested in joining the committee?
 - c) Describe your links to the local community, any community groups you may be involved in, and how you would represent the views and needs of environment and sustainability stakeholder groups within Nillumbik.
 - d) What committees are you currently (or previously) a member of, at Council or elsewhere?

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CM.049/22 Environment and Sustainability Advisory Committee 2022-2024 membership recommendation

- e) Please provide information (or a statement) to help demonstrate your:
 - i) Ability to constructively participate in an advisory capacity.
 - ii) Willingness to contribute positively to meetings in a fair and unbiased manner.
 - iii) Ability to look beyond personal interests for the benefit of the community and residents in the Shire.
 - iv) Willingness to celebrate the success and achievements of the issue(s).
- 7. Twenty-one applications were received and assessed against the selection criteria by an internal assessment panel (see confidential **Attachment 2**).
- 8. They were assessed against the following selection criteria in the following phases:
 - a) Phase one assessment (pass/fail)
 - i) Ability to constructively participate in an advisory capacity.
 - ii) Willingness to contribute positively to meetings in a fair and unbiased manner.
 - iii) Ability to look beyond personal interests for the benefit of the community and residents in the Shire.
 - iv) Willingness to celebrate the success and achievements of the issue(s).
 - b) Phase two assessment (scored) against these selection criteria:
 - i) Qualifications, skills and/or expertise in the focus areas of the advisory committee.
 - ii) Strong understanding of the local community and its social, environmental and economic influences.
 - iii) Good knowledge and understanding of the local issues that are relevant to the subject matter.
 - iv) Current involvement in the community, in the interest area that relates to the purpose of the Advisory Committee.
 - v) An ability to represent a broad range of views that reflect the diversity of the community.
 - vi) Strong community networks and linkages.
 - c) Phase three assessment – considered to achieve a committee membership that has the ability to represent a broad range of views that reflect the diversity of the community. The following were considered:
 - i) Geographic location (seeking to achieve representation from across the Shire).
 - ii) Gender (seeking to achieve balanced gender representation).
 - iii) Age (seeking to enable younger as well as more mature representation).

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CM.049/22 Environment and Sustainability Advisory Committee 2022-2024 membership recommendation

- iv) Area of interest and expertise (seeking to achieve a committee membership that is balanced in terms of the four key focus areas of the committee).
- 9. The outcome of the panel's assessment is twelve recommended applicants (including one Youth Committee representative) for the 2022-2024 committee term to achieve a well-balanced diverse committee membership.

Related Council decisions

- 10. At the 22 February 2022 Council Meeting, Council:
 - a) Acknowledged and thanked members of the Environment and Sustainability Advisory Committee for their advice and practical contribution to environment and sustainability outcomes for the Shire over the term of the committee.
 - b) Endorsed the revised terms of reference for the Environment and Sustainability Advisory Committee for public exhibition in March 2022 seeking expressions of interest for membership nomination to renew the committee by July 2022.
 - c) Instructed officers to report nominations to the Environment and Sustainability Advisory Committee to Council for endorsement.

Options

- 11. A copy of the assessment outcomes against the 21 applications is attached (see confidential **Attachment 2**).
- 12. Based on scoring and suitability 11 applicants have been recommended to Council for endorsement (see confidential **Attachment 2**).
- 13. In addition, as per the Terms of Reference, a position on ESAC is reserved for a Youth Council representative and one application was received from a current Youth Council member.
- 14. Officers recognise the high standard of applications received and recommend Council formally acknowledge and thank all community members who submitted applications for vacant positions.
- 15. Environment and Sustainability Advisory Committee meetings are held bi-monthly in accordance with the Terms of Reference, with the first meeting of the new committee to take place on 15 June 2022.

Council plans and policies

- 16. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
 - We encourage and support volunteering to enable community participation opportunities and actively celebrate these contributions.

Sustainability implications

- 17. The function of ESAC includes provision of advice to Council on environmental and climate change matters.

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**CM.049/22 Environment and Sustainability Advisory Committee 2022-2024
membership recommendation**

Community engagement

18. Expressions of interest for community members to apply to join ESAC were invited through Council communication avenues including e-newsletters, social media posts and a media release. Invitations were also circulated through relevant Council committees and networks.

Innovation and continuous improvement

19. A purpose of ESAC is to support Council in identifying opportunities for continuous improvement in environment and sustainability matters.

Collaboration

20. Not applicable.

Budget implications

21. Administrative support for ESAC is provided within Council's operating budget.

Relevant law

22. The *Local Government Act 2020*.

Regional, state and national plans and policies

23. Not applicable.

Conflicts of interest

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

12. Officers' reports

**CM.049/22 Environment and Sustainability Advisory Committee 2022-2024
membership recommendation**

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CM.050/22 Endorsement of Motions to the Municipal Association of Victoria State Council Meeting

File: FOL/20/2708**Distribution:** Public**Manager:** Blaga Naumoski, Executive Manager Governance, Communications and Engagement**Author:** Katia Croce, Governance Lead**Summary**

The Municipal Association of Victoria (MAV) State Council meets to consider matters of state-wide significance. The deadline for motions to be submitted for consideration at the 24 June 2022 State Council Meeting is 27 May 2022.

Motions must have state-wide significance or relevance across the Victorian Local Government sector and be related to issues and initiatives that affect the livelihood and wellbeing of the Nillumbik community.

This report is seeking Council endorsement to lodge five motions to the MAV State Council Meeting to be held on 24 June 2022.

Recommendation

That Council:

1. Resolves to adopt the following five motions to the Municipal Association of Victoria's State Council Meeting to be held on 24 June 2022:
 - a) *'That the Municipal Association of Victoria to advocate to the State Government for increased mental health support'.*
 - b) *'That the Municipal Association of Victoria to advocate to the Commonwealth Government on behalf of all councils to recognise the significant role that local government has in the delivery of age care services'.*
 - c) *'That the Municipal Association of Victoria to advocate for increase in the State Government contribution to Maternal and Child Health Programs'.*
 - d) *'That the Municipal Association of Victoria to advocate for increased financial and support from State and Commonwealth Governments to ensure that 3-year-old kindergarten reforms are successfully implemented'.*
 - e) *'That the Municipal Association of Victoria expands the focus of environmental, economic and social responsibility parameters as part of the criteria in awarding public tenders'.*
2. Resolves to lodge the motions and rationale (**Attachment 2**) to the Municipal Association of Victoria's State Council Meeting to be held on 24 June 2022.

12. Officers' reports**CM.050/22 Endorsement of Motions to the Municipal Association of Victoria State Council Meeting**

Attachments

- ⇒1. MAV Strategy 2021-25
- ⇒2. Nillumbik Shire Council Motions to the MAV State Council - 24 June 2022

Discussion

1. The MAV State Council Meeting provides the opportunity for councils to submit motions on matters of state-wide significance to the Victorian Local Government sector. MAV State Council Meetings are convened twice a year, in May and October.
2. Council has until 27 May 2022 to submit motions to the MAV. The MAV Strategy 2021-25 (**Attachment 1**), adopted at the May 2021 State Council meeting, identifies six MAV Strategic outcomes:
 - Economically sound councils;
 - Healthy, diverse and thriving communities;
 - Well-planned, connected and resilient built environment;
 - Changing climate and a circular economy;
 - Sector capability and good governance; and
 - Effective and responsive MAV.
3. The MAV Rules require motions be of state-wide significance to local government. Motions received and initially assessed as 'not of state-wide significance' will be the subject of follow-up communication with the submitting council's designated representative, then reviewed by the MAV CEO, and finally by the MAV Board, who will determine whether the motion is submitted for State Council consideration. The Board will also determine whether motions received after the due date but prior to the circulation of Business Papers, will be included as 'late motions'.
4. The resolutions of the MAV State Council Meeting enable issues of significance and strategic importance for the local government sector to be acted upon through a peak organisation. Endorsement at the State Council indicates an issue has state-wide support and strengthens the profile of these issues, which facilitates stronger advocacy with other levels of government.
5. Under the Rules all motions are due to be submitted by no later than midnight on Friday 27 May 2022. Early motions, received by midnight on Thursday 19 May 2022, will be distributed to MAV representatives on Friday 20 May 2022.
6. The State Council Agenda and Business Paper will be available on Friday 10 June 2022.

Related Council decisions

7. Not applicable.

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Options

8. Five (5) critical areas local government needs to consider now and into the future have been identified. Each of which have state-wide significance to the sector that will influence the future direction of many Councils and their communities. These are as follows:
- Motion 1: Increased mental health support, specifically support for the delivery of flexible and dynamic youth outreach and support services for young people aged 12-25 years in Nillumbik Shire.
 - Motion 2: Advocate to recognise the role that Local Government has in the delivery of age care services through increased funding, changes to policy and other supports.
 - Motion 3: Increased State Government contribution to Maternal and Child Health Programs.
 - Motion 4: Increased financial support from State and Commonwealth Governments to ensure 3-year-old Kindergarten reforms are successfully implemented.
 - Motion 5: Request the MAV expand the focus of environmental, economic and social responsibility parameters as part of their criteria in awarding public tenders.
9. **Attachment 2** provides the details of the five (5) proposed motions being put forward on behalf of Council.

Council plans and policies

10. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
- We partner with state and federal governments to advocate in our community's best interests.
 - We ensure people of all ages and stages have access to inclusive services that respond to their individual needs.
 - We address the social, environmental and economic factors of health to improve health and wellbeing outcomes for our communities.
 - We work with our local partners, government and non-government agencies to respond to health and wellbeing priorities in Nillumbik.

Sustainability implications

11. The motions being considered at State Council cover a range of matters.
12. The subject matters of this report relates to economic, climate change and associated environmental, social and economic implications.
13. The motions sponsored by Council have the potential to achieve worthwhile results for the Nillumbik community and the broader Victorian community.

Community engagement

14. Not applicable.

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Innovation and continuous improvement

15. The proposed motions represent continuous improvement by increasing opportunities for council to innovate, work together and share resources.

Collaboration

16. Not applicable.

Budget implications

17. There are no budget implications associated with submitting motions to the MAV.

Relevant law

18. Not applicable.

Regional, state and national plans and policies

19. The MAV State Council is an important opportunity for council to influence actions that support key priorities of the sector that are of state-wide significance.

Conflicts of interest

20. 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.

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CM.051/22 **67 lot (reduced to 56 lot) subdivision, removal and creation of an easement, removal of native vegetation and buildings and works to construct retaining walls and earthworks at 32-46 and 48-58 Collard Drive, Diamond Creek**

File: **53/2020/14P**

Distribution: **Public**

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Application summary

Address of the land	32-46 and 48-58 Collard Drive, Diamond Creek, CT-8680/624, CT-8680/625
Site area	4.7 hectares
Proposal	67 lot (reduced to 56 lot) subdivision, removal and creation of an easement, removal of native vegetation and buildings and works to construct retaining walls and earthworks at 32-46 and 48-58 Collard Drive, Diamond Creek
Application number	53/2020/14P
Date lodged	20 February 2020
Applicant	Connect Town Planning
Zoning	General Residential (GRZ1)
Overlay(s)	Environmental Significance Overlay (Schedule 1), Bushfire Management Overlay (BMO), Development Plan Overlay (Schedule 2), Development Contributions Plan Overlay (Schedule 2)
Reason for being reported	Officers seeking to change their recommendation ahead of the VCAT merits hearing
Number of objections	One (1) written submission has been received
Key issues	<ul style="list-style-type: none"> • Strategic Justification • Compliance with Diamond Creek North Area B Development Plan • Native vegetation impacts • Bushfire Risk • Res Code Compliance • Development Contributions • Potentially contaminated land

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Attachments

- ⇒1. Aerial Map
- ⇒2. Site and Surrounds
- ⇒3. Plans

Recommendation

That Council consent to the issue of a planning permit at the Victorian Civil and Administrative Tribunal (VCAT), for the land located at the contiguous 32-46 and 48-58 Collard Drive Diamond Creek, for the 56 lot subdivision, removal and creation of easements, removal of native vegetation and building and works to construct retaining walls and earthworks, in accordance with the submitted plans and subject to the following conditions:

1. Before the plan of subdivision is certified under the *Subdivision Act 1988* and before any subdivisional works commence, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must but modified to show:
 - a) A Landscape Plan in accordance with Condition 3e;
 - b) A Construction Management Plan in accordance with Condition 3f;
 - c) A Tree Management Plan in accordance with condition 3i;
 - d) The location of Tree Protection Fencing for all trees to be retained
 - e) Any revisions as a result of Melbourne Water conditions 6-21;
 - f) Any revisions as a result of Country Fire Authority (CFA) Conditions 27-30;
 - g) Approximate heights and details of proposed retaining walls to be shown;
 - h) Vegetation offsets in accordance with condition 3 j-k;
 - i) The provision of Building Exclusion Zones to all trees to be retained on lots 49-54;
 - j) A proposed plan of subdivision prepared by a land surveyor showing all lot boundaries, lot sizes, roads, easements and reserves;
 - k) An Environmental Site Assessment in accordance with Condition 3 m-o;
2. The subdivision, vegetation removal and buildings and works allowed by this permit and shown on the plans endorsed to accompany the permit shall not be amended for any reason unless with the prior written consent of the Responsible Authority.
3. Prior to the subdivisional works commencing, including the removal of native vegetation, the requirements of the following conditions must be met to the satisfaction of the Responsible Authority:

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- a) Construction plans must be submitted to and approved by the Responsible Authority for drainage works, full road construction, vehicle crossings, and provision of service conduits, street signs, footpaths and street lighting. The construction plans must be prepared in accordance with Nillumbik Shire Council's Subdivisional Design and Construction Standards, Austroads design guidelines and relevant Australian Standards to the satisfaction of the Responsible Authority.
- b) Such plans must be designed to minimise damage to existing vegetation required to be retained on-site, and the construction work must be carried out in accordance with the approved plans under Council supervision. The construction works must be completed to the satisfaction of the Responsible Authority, prior to issuing a Statement of Compliance.
- c) Prior to the construction plans being endorsed, an independent road safety audit must be provided for the design to the Responsible Authority.

The construction plans must address the recommendations of the road safety audit to the satisfaction of the Responsible Authority.

- d) Construction plans and computations must be submitted to and be approved by the Responsible Authority detailing underground drains, types and sizes of drainage pits, house drain connections, drainage longitudinal sections, pit schedule, retaining walls etc. The construction plans and computations are to be prepared in accordance with Nillumbik Shire Council's Subdivisional Design and Construction Standards and Drainage Design Guidelines and must meet the following requirements.

Such plans must be designed to minimise damaged to existing vegetation required to be retained on site, and the construction work must be carried out in accordance with the approved plans. Each lot shown on the plan of subdivision shall be drained in accordance with the plans and specifications endorsed by the Responsible Authority. Such drainage works must be designed by a qualified engineer and submitted to the Responsible Authority for approval.

Construction of the drainage works must be carried out in accordance with Council's specifications and under Council supervision and be completed to the satisfaction of the Responsible Authority prior to issuing a Statement of Compliance.

- e) A landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must show (but not be limited to):
 - i. Details of all landscaping and planting to be carried out within the road reserves;

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- ii. A schedule of all proposed trees, shrubs/small trees and ground cover. This schedule shall include plants selected from the Council document "Live Local Plant Local" showing the botanical and common name of each plant, the quantity to be planted, the pot size and spacing;
 - iii. The location of each species to be planted and the location of all areas to be covered by grass;
 - iv. Details of landscaping to the west of the proposed retaining wall to the western end of the site;
 - v. Planting must be in accordance with Council's Live Local Plant Local document; and
 - vi. Landscaping to be compliant with the requirements of the Bushfire Management Overlay (BMO).
- f) A Construction Management Plan must be submitted to and approved by the Responsible Authority. The construction management plan must show:
- i) Measures to control erosion and sediment and sediment laden water runoff including the design details of structures;
 - ii) Where any construction wastes, equipment, machinery and/or earth is to be stored/stockpiled during construction;
 - iii) Where access to the site for construction vehicle traffic will occur;
 - iv) The location and details of a sign to be erected at the entrance(s) of the site advising contractors that they are entering a „sensitive site" with prescribed tree protection zones and fences; and
 - v) The location of any temporary buildings or yards.
- g) The trees marked on the endorsed plans as being retained must have a Tree Protection Zone (TPZ) in accordance with the requirements of Australian Standard AS4970 (2009) to the satisfaction of the Responsible Authority. Additionally, the fencing associated with this TPZ must meet the following requirements:
- i. Extent
- The tree protection fencing is to be provided to the extent of the identified Tree Protection Zone, calculated as being a radius of 12 x Diameter at Breast Height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009).
- If works are shown on any endorsed plan of this permit within the confines of the calculated Tree Protection Zone, then the Tree Protection Fencing must be taken in to only the minimum amount necessary to allow the works to be completed.

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ii. Fencing

All tree protection fencing required by this permit must be erected in accordance with the approved Tree Protection Zone.

The Tree Protection Fencing must be erected to form a visual and physical barrier and must be a minimum height of 1.5 metres and of chain mesh or similar fence with 1.8 metre support posts (e.g. treated pine or similar) every 3-4 metres, including a top line of high visibility plastic hazard tape erected around the perimeter of the fence.

iii. Signage

Fixed signs are to be provided on all visible sides of the Tree Protection Fence clearly stating "Tree Protection Zone – No Entry", to the satisfaction of the Responsible Authority.

iv. Provision of Services

All services (including water, electricity, gas and telephone) should be installed underground, and located outside of any Tree Protection Zone, wherever practically possible. If underground services are to be routed within an established Tree Protection Zone, they must be installed by directional boring with the top of the bore to be a minimum depth of 600 millimetres below the existing grade, to the satisfaction of the Responsible Authority.

Bore pits must be located outside the Tree Protection Zone or manually excavated without damage to roots, to the satisfaction of the responsible authority.

v. Access to Tree Protection Zone

Should temporary access be necessary within the Tree Protection Zone during the period of construction, the Responsible Authority must be informed prior to relocating the fence (as it may be necessary to undertake additional root protection measures such as bridging over with timber).

vi. Supervision of Works

All works within Tree Protection Zones must be supervised by a suitably qualified arborist. Any roots <40mm in diameter uncovered are pruned with shar/sterile hand tools and wrapped in damp hessian by a qualified arborist.

Mulch (organic/composted type) is laid to a depth of 75-100 millimetres within the Tree Protection Zones of retained trees.

h) The following actions must not be undertaken in any tree protection zone as identified in this permit, to the satisfaction of the Responsible Authority:

i. Materials or equipment stored within the zone;

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- ii. Servicing and refuelling of equipment and vehicles;
 - iii. Storage of fuel, oil dumps or chemicals;
 - iv. Attachment of any device to any tree (including temporary service wires, nails, screws or any other fixing device);
 - v. Open cut trenching or excavation works (whether or not for laying of services);
 - vi. Changes to the soil grade level;
 - vii. Temporary buildings and works; and
 - viii. Unauthorised entry by any person, vehicle or machinery.
- i) Before the commencement of any subdivisional works, including demolition or removal of vegetation, a Tree Protection Plan (drawing) and Tree Management Plan (report) must be submitted to and be endorsed by the Responsible Authority. The Tree Management and Protection Plan must include all trees proposed to be retained on site. The Tree Management and Protection Plan must be in accordance with AS4970-2009, prepared by a suitably qualified arborist and provide details of tree protection measures that will be utilised to ensure all trees within the proposed reserve and trees to be retained on lots 49-54 are to be protected remain viable post-construction. The Tree Protection and Management Plan must consist of:
- i. The Tree Management plan (report) must be prepared by a suitably qualified arborist, reference the Tree Protection Plan (drawing) and provide details of:
 - ii. Any non-destructive root investigation previously undertaken or as directed as a condition of this permit in accordance with AS4970-2009 to determine the location and distribution of roots of trees nominated on the Tree Protection Plan.
 - iii. Proposed footings and construction methods for any buildings or structures (including but not limited to, driveways, paths retaining walls or other hard infrastructure) within the Tree Protection Zones nominated on the Tree Protection Plan.
 - iv. Details of suitable driveway materials and construction methods (i.e. permeable paving above grade) and the timing of works within the tree protection zones.
 - v. How excavation impacts, including soil level changes, within the Tree Protection Zones of trees to be retained will be managed or minimised.
 - vi. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.

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- vii. Appropriate methods of certification by a suitably qualified Arborist of the required tree protection measures during the development including details of site visits, actions and photographic evidence.
- j) To offset the removal of 3.648 hectares of native vegetation and 6 large trees as shown in the approved native vegetation removal report (report ECL-2021-018) the permit holder must secure a native vegetation offset, in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) as specified below:
 - i. A general offset of 0.178 general habitat units:
 - ii. located within the Port Phillip & Westernport Catchment Management Authority boundary or Shire of Nillumbik municipal district with a minimum strategic biodiversity value of at least 0.507.
 - iii. The offset(s) secured must provide protection of at least 1 large tree.
 - iv. A species offset of 1.298 species habitat units for Little Pink Spider-Orchid (*Caladenia rosella*) and protection of 5 large trees.
 - v. Total Number of Large trees to be protected is 6.

The offset provided must be to the satisfaction of the Responsible Authority.
- k) Prior to the issue of the Statement of Compliance, evidence that the required offset has been secured must be provided to the satisfaction of Council. This evidence is the following:
 - i. An established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10 year management actions and ongoing management of the site and/or
 - ii. Credit extract(s) allocated to the permit from the Native Vegetation Credit Register.

A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence by the responsible authority, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning.

In the event that a security agreement is entered into, the applicant must provide the annual offset site report to the Responsible Authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of the Responsible Authority.
- l) A suitably qualified wildlife handler or zoologist is to be present when felling trees/removing native vegetation to ensure affected wildlife is not harmed. If displaced wildlife that cannot be relocated on site to an appropriate location away from the construction footprint, or injured wildlife is captured, DELWP must be contacted for advice and direction.

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Development works on the land must be undertaken in accordance with the endorsed Construction Management Plan to the satisfaction of the Responsible Authority.

- m) A site contamination assessment must be prepared by a suitably qualified environmental professional and submitted to the Responsible Authority. The site contamination assessment must determine the level, distribution and nature of contamination of the land (if any).
- n) The site contamination assessment must indicate whether the land is suitable for use for residential purposes (being a sensitive use).
- o) If the site contamination assessment indicates that the land is not suitable for use for residential purposes:
 - i. The site contamination assessment must detail recommendations for any clean-up, construction, ongoing maintenance, monitoring, mitigation or other measures (recommended measures) in order to effectively manage and remediate the contamination to make the land suitable for use for residential purposes, and;
 - ii. The recommended measures must be completed or otherwise secured to the satisfaction of the Responsible Authority.

The EPA or the Australian Contaminated Land Consultants Association (ACLCA) Victorian Branch are able to provide details of suitably qualified environmental professionals.

- 4. Prior to the issuing of a Statement of Compliance, the requirements of the following conditions must be met to the satisfaction of the Responsible Authority:
 - a) The owner must enter into an agreement with the Responsible Authority in accordance with Section 173 of the *Planning and Environment Act 1987*. The agreement must provide for, without the prior written consent of Council:
 - i. The Bushfire Management Plan prepared by Keystone Alliance, Bushfire Assessments, Ref 2858/5.2 dated 30th March 2022 must be endorsed by the Responsible Authority, be included as an annexure to the Section 173 agreement prepared to give effect to clause 44.06-5 of the Planning Scheme and must not be altered unless agreed to in writing by CFA and the Responsible Authority.
 - ii. Note that the subdivision includes areas of shared defensible space. These are areas where a lot owner maintains the defensible space on their land for the benefit of themselves and the owners of other lots.
 - iii. Require that the defensible space shown on the endorsed Bushfire Management Plan must be implemented and maintained on an ongoing basis to the satisfaction of the Responsible Authority, regardless of whether there is a dwelling constructed on that land or not.

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- iv. Only trees marked "tree to be removed" on the endorsed plans are permitted to be removed, to the satisfaction of the Responsible Authority.
- v. No vegetation on lots 49-54 (unless specified on the endorsed plans) shall be removed, destroyed, felled, lopped, ringbarked, uprooted or otherwise damaged except with the prior written consent of the Responsible Authority.
- vi. No works are to occur within the Building Exclusion Zones on lots 49-54 unless with the prior written consent of Council.
- vii. All boundary fencing to the proposed reserves and walkways must be at least 80% transparent and installed prior to the issue of a Statement of Compliance for the subdivision.
- viii. This fencing to the reserves and walkways must be maintained with at least 80% transparency unless with the prior written consent of Council.
- ix. Fencing with an interface to Bellbird Road is of open 'rural' nature unless with the prior written consent of Council.
- x. Fencing with an interface to a secondary frontage must be at least 80% transparent or of another alternate design to the satisfaction of Council.
- xi. No front fencing unless with the prior written consent of Council.
- xii. No boundary fencing is permitted to extend to within 3 metres of the site frontage unless with the prior written consent of Council.

Application must be made to the Registrar of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the same Act.

The owner must pay all costs (including Council's costs) associated with the preparation, execution, registration and (if later sought) cancellation of the Section 173 Agreement.

- b) All boundary fencing must be installed and completed in accordance with conditions 4a vi – xi and be completed to the following areas:
 - i. Reserve between lots 39, 41 & 42.
 - ii. Reserve adjacent to lots 42, 43, 44 & 56.
 - iii. Reserve between lots 49, 55 & 56.
- c) All retaining walls must be designed and then certified once constructed by a qualified structural engineer, and built from appropriate materials for longevity and to ensure structural integrity.
- d) The owner must pay to Council a 5% cash-in-lieu open space contribution and/or a land contribution to the satisfaction of the Responsible Authority with respect to all of the land in the subdivision or any stage pursuant to Section 18 of the *Subdivision Act 1988*.

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- e) The owner must pay to Council the development contribution in accordance with Development Contributions Plan Overlay Schedule 2. Development contributions as adjusted to CPI on June 30 of each year until paid.
- f) Each lot in the subdivision shall be provided with a vehicle crossing constructed to the requirements of the Nillumbik Shire Council to suit vehicles that will use the crossings. The Responsible Authority must approve the location, design and construction of the crossings. Any existing unused crossing must be removed and replaced with kerb and channel, nature strip and reinstated to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out under Council supervision with an *Infrastructure Works* permit.
- g) The construction works, landscaping of public areas and any associated infrastructure associated with the subdivision and required by this permit must be completed to the satisfaction of the Responsible Authority.
- h) Unless with the prior written consent of the Responsible Authority, the landscaping works shown on the endorsed plans must be carried out, completed and maintained to the satisfaction of the Responsible Authority.
- i) All works are to be undertaken to the satisfaction of the Responsible Authority, including any requirements resulting from the reconfiguration of the lots in the subdivision and must be designed and constructed in accordance with AustRoads Guide to Traffic Engineering Practice, Part 5.
- j) The plan must be updated to place any drainage infrastructure, land or associated development which is to be handed over to Council for maintenance of the drainage system as approved by the Melbourne Water Works Offer into easements and/or reserves in favour of Nillumbik Shire Council.
- k) The agreement entered into with Melbourne Water Corporation (Melbourne Water Works Offer) must be approved by Council for the acceptance of surface and stormwater from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
- l) Any agreement by Melbourne Water to defer incomplete works that are required as part of the Melbourne Water Works Offer, must be also be approved by the Responsible Authority.
- m) Before the handover of the drainage asset to Council, as approved by the Melbourne Water Works Offer, Council must inspect and be satisfied that the works have been satisfactory completed and agree to handover of the asset.
- n) Stormwater gross pollutant trap/s must be installed at the approved point/s of discharge to prevent litter from entering Council's stormwater drainage system. The design of the trap/s must be to the satisfaction of the Responsible Authority.
- o) Fire hydrant to be provided to comply with Standard 56.09-3.

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- p) A CCTV assessment and report of all underground drainage system of the subdivision must be provided to the Responsible Authority at the conclusion of drainage works.
- q) Public lighting within the subdivision must be provided to the satisfaction of the Responsible Authority.
- r) No polluted, effluent and/or sediment laden runoff from the development site is to be discharged directly or indirectly into Council's drains, Melbourne Water's drains or watercourses or adjoining private property during the construction of the development.

In this regard, sediment fencing and / or pollution/litter traps must be installed on site and services accordingly, all to the satisfaction of the Responsible Authority.

5. This permit will expire if one of the following circumstances applies:

- a) A plan of subdivision is not certified within two years of the issue date of this permit;
- b) A plan of subdivision is not registered at Land Victoria within five years of the original certification date.

The Responsible Authority may extend the time for certification if a request is made in writing before the expiry of the permit or within 6 months afterwards.

Melbourne Water Conditions:

- 6. Prior to the issue of a Statement of Compliance, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
- 7. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
- 8. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the *Subdivision Act 1988*.
- 9. Prior to Certification of any Plan of Subdivision associated with the application, an updated stormwater management strategy must be submitted and approved by Melbourne Water and Council.
- 10. Stormwater runoff from the subdivision must achieve State Environment Protection Policy (Waters of Victoria) objectives for environmental management of stormwater asset out in the 'Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) 1999'.

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11. Prior to the issue of a Statement of Compliance for the subdivision, engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for our records. These plans must show road and drainage details and any overland flow paths for the 100 year ARI storm event.
12. All new lots are to be filled to a minimum of 300mm above the 1 in 100 year flood levels associated with any existing or proposed Melbourne Water pipeline and/or all new lots are to be filled to a minimum of 600mm above the 1 in 100 year flood level associated with any existing or proposed Melbourne Water wetland, retarding basin or waterway.
13. Prior to the issue of a Statement of Compliance for the subdivision, a certified survey plan prepared by or under the supervision of a licensed land surveyor, showing finished lot levels reduced to the Australian Height Datum, must be submitted to Melbourne Water for our records.
14. Prior to the issue of a Statement of Compliance for the subdivision, a Site Management Plan detailing pollution and sediment control measures must be submitted to Melbourne Water.
15. Alignment of roads and reserves with any adjoining estates must ensure continuity and provide uninterrupted conveyance of overland flows.
16. The subdivision is to make provision for overland flows from the upstream catchment utilising roads and/or reserves.
17. Any road or access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water's Land Development Manual.
18. Easements or reserves shall be created over existing and proposed Melbourne Water assets on the Plan of Subdivision to the satisfaction of Melbourne Water.
19. The developer is to negotiate with the downstream landowners to obtain a free draining outfall through their property. Approval is to be forwarded to Melbourne Water for our records prior to construction commencing.
20. Any temporary outfall is to be arranged to the satisfaction of Melbourne Water, Council and the affected downstream property owner(s).
21. Prior to the issue of a Statement of Compliance for the subdivision, a separate application direct to Melbourne Water must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses.

AusNet Services

22. The Plan of Subdivision submitted for certification must be referred to AusNet Electricity Services Pty Ltd in accordance with Section 8 of the *Subdivision Act 1988*. The applicant must:
 - a) Enter in an agreement with AusNet Electricity Services Pty Ltd for supply of electricity to each lot on the endorsed plan.

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- b) Enter into an agreement with AusNet Electricity Services Pty Ltd for the rearrangement of the existing electricity supply system.

Yarra Valley Water Conditions:

- 23. The owner of the subject land must enter into an agreement with Yarra Valley Water for the provision of water services.
- 24. The owner of the land must enter into an agreement with Yarra Valley Water for the provision of sewerage services.

Telecommunications Conditions

- 25. The owner of the land must enter into an agreement with:
 - a) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
- 26. Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:
 - a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

CFA Conditions

- 27. The Bushfire Management Plan prepared by Keystone Alliance, Ref 2858/5.2 dated 30 March 2022 must be endorsed by the Responsible Authority, be included as an annexure to the section 173 agreement prepared to give effect to clause 44.06-5 of the Planning Scheme and must not be altered unless agreed to in writing by CFA and the Responsible Authority.
- 28. Before the Statement of Compliance is issued under the *Subdivision Act 1988*, the defendable space on every lot in the subdivision must be implemented and maintained as specified on the endorsed Bushfire Management Plan, unless otherwise agreed in writing by the CFA and the Responsible Authority.

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29. Prior to the issue of a Statement of Compliance under the *Subdivision Act 1988* the following requirements must be met to the satisfaction of the CFA:
- a) Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
 - b) The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.
- Note - CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' available under publications on the CFA web site (www.cfa.vic.gov.au).
30. The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority and the relevant fire authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

DELWP Conditions:

- 31. Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.
- 32. A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning Approvals at the Department of Environment, Land, Water and Planning Port Phillip regional office.
- 33. Where the offset includes a first party offset(s), the permit holder must provide an annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.
- 34. Within 6 months of the conclusion of the permitted clearing of native vegetation under this permit, the offset requirements can be reconciled with the written agreement of the responsible authority and the Department of Environment, Land, Water and Planning.
- 35. A suitably qualified wildlife handler or zoologist is to be present when felling trees/removing native vegetation, to ensure affected wildlife is not harmed. If displaced wildlife that cannot be relocated on site to an appropriate location away from the construction footprint, or injured wildlife is captured, please contact DELWP on 136 186 for further advice.

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36. Within the area of native vegetation to be retained and any tree protection zone associated with the permitted use and/or development, the following is prohibited:
 - i. Any vehicle or pedestrian access, trenching or soil excavation, and
 - ii. Storage or dumping of any soils, materials, equipment, vehicles, machinery, or waste products, and
 - iii. Entry or exit pits for underground services, and
 - iv. Any other actions or activities that may result in adverse impacts to retained native vegetation.
37. That a Construction Environment Management Plan is developed and implemented to the satisfaction of the Responsible Authority. This plan should specify (as a minimum):
 - a) measures to address the site management requirements under Clause 56.08-1 and Condition 38.
 - b) Strategies to manage wildlife that may be impacted during construction (including Eastern Grey Kangaroos) and requirements that apply under Condition 37 and any authority required under the *Wildlife Act 1975*.
 - c) Measures required to meet conditions on a permit under the *Flora and Fauna Guarantee Act 1988* relating to the 'take' of protected flora on public land.
 - d) Measures to address obligations under the *Catchment and Land Protection Act 1994* regarding the management of noxious weeds.
38. That an Integrated Management Plan is developed and implemented to the satisfaction of the Responsible Authority. This plan should specify:
 - a) Measures to protect and enhance the native vegetation on the site to ensure the site continues to provide faunal and habitat value as part of a regional and strategic habitat link.

Subject site and surrounds

1. The key features of the subject land and surrounds are as follows:
 - The subject site is particularly described as Lot 3 LP 77365 PSH Nillumbik, Lot 4 LP 77365 PSH Nillumbik, CT-8680/624, CT-8680/625.
 - The subject site is located on the corner of Collard Drive and Panorama Drive and comprises two separate allotments, 32-46 Collard Drive and 48-58 Collard Drive.
 - The land known as 32-46 Collard Drive is an irregular shaped allotment which has a 142 metre frontage to Collard Drive, an eastern boundary length of 231 metres, a rear boundary length of 60 metres, and a 279 metre frontage to the unmade Bellbird Road reserve, giving the site an overall area of 2.5 hectares.

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- The site contains a dwelling located to the north-west corner of the site and slopes significantly from Collard Drive down to the rear boundary which borders Aspiration Rise to the south. An easement runs through the center of the site.
 - A gully runs through the site which generally follows the line of the easement. The rear section of the site is well vegetated. There is also an existing dam located to this area
 - The land known as 48-58 Collard Drive is a rectangular shaped lot which has a frontage of 101 meters to Collard Drive, 215 meters of frontage to Panorama Drive to the east, a western boundary measuring 232 metres and a rear boundary measuring 103 metres, giving the site an overall area of 2.2 hectares. The site was previously occupied by a dwelling located to the north-west corner of the site and the site slopes down from Collard Drive to the rear boundary which borders Gossamer Place.
 - The submitted Ecology assessment has indicated that the site contains a total of 81 plant and tree species. This comprises 42 indigenous species and 38 exotic plant species. Tree canopy on the site is made up of Red Box, Red Stringybark and occasional Yellow Box.
 - The Ecological Vegetation Class (EVC) identified on the site is mainly Grassy Dry Forest with a small patch of Herb-Rich Foothill Forest to the centre of the site.

2. The key features of the surrounds are as follows:

- The site is located in proximity to the 'Bellbird Estate' north of the site;
- The south-east of the site includes recently subdivided areas in Herberts Lane and Collard Drive;
- Broad Gully Road to the west of the site provides vehicle access to the Diamond Creek Township to the south.

Details of proposal**3. Refer to the attached plans.****4. The application originally considered by Council sought approval for:**

- A 67 lot subdivision to be completed in two stages;
- Stage 1 comprising lots 1-19 to be located along Collard Drive;
- Stage 2 comprising lots 20-67 located to the rear of the lots with proposed frontage to Collard Drive;
- Lots 1-19 to be accessed from Collard Drive;
- Lots 20-67 to be accessed from two access points, one being a new access point to the south of the site on Panorama Drive and the second access point from the west off Bellbird Road. Neither of these access points are currently constructed;
- The removal of the existing easement from the site;and

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- All vegetation to be removed from the site. The Native Vegetation Removal Report indicated this would result in the loss of 3.417ha of vegetation.
5. The application was refused by Council officers under delegation on 5 January 2021 on the following grounds:
- The proposed subdivision layout is not respectful of the desired neighbourhood character sought in this location and is contrary to the requirements of Clause 32.08 – General Residential Zone of the Nillumbik Planning Scheme;
 - The proposed subdivision and removal of native vegetation from the site fails to protect and enhance the faunal and habitat significance of the site as required by Clause 42.01 - Environmental Significance Overlay (Schedule 1) of the Nillumbik Planning Scheme;
 - The proposed subdivisional work including the extensive earthworks and retaining walls are not responsive to the landform and will have a significant and irreparable impact on the identified environmental values of the site inconsistent with Clause 42.01 - Environmental Significance Overlay (Schedule 1) of the Nillumbik Planning Scheme;
 - The proposed removal of native vegetation from the site has failed to avoid or minimise the loss of native vegetation as required by the three step approach in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017) and Clause 52.17 – Native Vegetation of the Nillumbik Planning Scheme;
 - The proposed subdivision has not addressed the requirement of Clause 44.06 – Bushfire Management Overlay and Clause 53.02 – Bushfire Planning and has not obtained consent from the Country Fire Authority;
 - The proposed subdivision is not in accordance with the requirements and objectives of the approved development plan for the site as required by Clause 43.04 – Development Plan Overlay of the Nillumbik Planning Scheme;
 - The proposal has not ensured the layout and design of the proposal is consistent with the outcomes sought within the approved development plan and is therefore contrary to Clause 56.02-1 C1 of the Nillumbik Planning Scheme;
 - The proposal is not consistent with the subdivisional pattern of the locality as the proposed subdivision layout and lot size is not reflective of that of the locality required by Clause 65.02 (Approval of an Application to Subdivide Land) of the Nillumbik Planning Scheme.
6. The permit applicant subsequently sought a review of Council's decision at the Victorian Civil and Administrative Tribunal (VCAT) and an application for appeal was lodged.

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7. During the course of the past 15 months, Council officers and the permit applicant have engaged in discussions resulting in amended plans to address officer, CFA and DELWP concerns. The applicant has now formally substituted plans and amended the proposal through the VCAT process, with the view of gaining Council and referral authority support through a Consent Order to gain a conditional planning permit.
8. The below table provides a brief summary of the proposed changes between the two proposals:

Previous proposal	Amended proposal
Two existing lots totalling 4.7ha	Two existing lots totalling 4.7ha
67 lots proposed	56 lots proposed
Existing drainage easement/s removed	Existing drainage easement/s removed
New drainage easement/s created	New drainage easement/s created
All vegetation to be removed	Has identified significant vegetation (trees) to be retained within the drainage reserve and some larger lots. Removal of other trees to comply with the Bushfire Management Overlay and CFA requirements. Vegetation removal will be offset.
The northern section of the proposed subdivision will not retain any existing vegetation and the lot sizes are generally reflective of those within Collard Drive, Discovery Drive and Serenity Place to the east.	The northern section of the proposed subdivision remains fairly similar.
Southern section of the application comprised battle axe lots to be accessed from the southern internal road.	The southern section of the proposed subdivision has undergone significant change from the original proposal and has been redesigned around the more significant areas of native vegetation.

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Previous proposal	Amended proposal
Lot sizes between 300 and 1,000sqm. It is noted that only 23 of the lots exceeded 700sqm in size.	Lot sizes: Lots 33-56 are in excess of 800sqm Lots 49-54 are in excess of 1,000sqm in order to retain vegetation on the site and allow for the ongoing management of defensible space in accordance with the Bushfire Management Overlay.
Subdivision refused by Council officers under delegation.	Applicant lodged an appeal for review of Council's refusal with the Victorian Civil and Administrative Tribunal (VCAT)
	Discussions about changes to the proposal with Council officers, DELWP and CFA have occurred over several months.
	The proposal is now considered to be compliant with the requirements of the Area B Diamond Creek Development Plan.
	Amended Plans submitted to Council prior to hearing the appeal at VCAT.
Council officers cannot approve any substituted plans at VCAT without direction from Council as the application was reported to Councillors as being refused and officers wish to change their recommendation for the VCAT process.	Amended plans have now been formally substituted for review at VCAT, in accordance with VCAT processes.
	This report to Council seeks a direction to support the substituted plans prior to the impending VCAT hearing.
	The applicant seeks to gain Council and referral authority support through a Consent Order to gain a conditional planning permit via VCAT.

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9. In support of this, the application has been formally amended and plans have been substituted to now include:

Subdivision:

- Reduction in the number of lots from 67 to 56;
- Lots 1-20 are proposed to be accessed off Collard Drive. These lots will be 372 square metres in area with the exception of Lot 12, which will be 472 square metres in area;
- Lots 21-32 will be located to the south of lots 1-20 and will be accessed via an internal road gaining access from Bellbird Road. These lots range in size from 596 square metres to 717 square metres;
- Lots 33-35 will be located to the south-eastern side of the site and will be accessed from Panorama Drive. These lots will be 860 square metres in area;
- Lots 36-39 will be located to the west of Panorama Drive and will be accessed via an internal road, which will also provide access to lots 49-54. These lots range in size from 740 square metres to 1,170 square metres;
- Lots 40-45 are to be located to the south side of the internal access road off Bellbird Road. These lots will provide lot sizes ranging in size from 541 square metres to 1,007 square metres;
- Lots 46-48 will have direct frontage to Bellbird Road, with lot sizes ranging from 706 square metres to 814 square metres;
- Lots 49-54 are to be located to the southern section of the site with lot sizes ranging from 1,000 square metres to 1845 square metres;
- Lots 55 and 56 will be located to the north of lot 49 and will be accessed from Bellbird Road. These lots are 476 square metres and 840 square metres in size;
- Retaining walls are proposed throughout the site in order to achieve appropriate road levels and gradients;
- A reserve is proposed around the existing dam immediately north of the proposed bottom internal road off Panorama Drive. This reserve will include a floodway drainage reserve between lots 41 and 42 and a walking access track to meet up with Bellbird Road;
- The proposed reserve also includes retaining walls and a levee bank, and is a component of the overall drainage strategy for the site. The new proposed lot configuration is also reflective of the amended drainage strategy.

Vegetation Removal:

10. The proposal will require the removal of native vegetation from the site. The submitted Native Vegetation Removal Report and Biodiversity Assessment indicate the following vegetation losses from the site:

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- The site is assessed as being under the 'detailed' pathway assessment;
 - The proposal will result in the removal of 3.468 habitat hectares of vegetation;
 - Six large trees are proposed for removal;
 - The proposal will result in the loss of five patches of vegetation, four of these being Grassy Dry Forest and the fifth being Herb-Rich Foothill Forest. All understory vegetation and grasses on the site will be lost.
11. To offset the loss of the above vegetation, the following vegetation offsets are applicable:
- 0.178 general habitat units to be located within the Port Phillip and Westernport Catchment Management Authority;
 - A minimum strategic biodiversity value score of at least 0.507;
 - One large tree;
 - A specific offset of 1.298 species units of habitat for Little Pink Spider-orchid. This includes five large trees;
 - The offset must also protect six large trees;
 - The amended subdivision proposal to be considered by VCAT proposes to retain high retention value trees around the dam and scattered trees throughout the southern half of the subdivision.

Removal of easement:

- The proposal seeks removal of the existing easement which runs in an east-west direction to the bottom of the site. There are no services located within this easement;
- Two new drainage reserves will be created on the site.

Buildings and works:

- The proposal will include the construction of retaining walls throughout the site as identified on the attached plans;
- Earthworks are proposed to fill the existing dam located in the proposed drainage reserve to match the land form contours in the vicinity.

Planning history

12. There is no relevant planning history with respect to the subject site.

Planning controls

Zoning

13. The subject land is zoned General Residential Zone. Under this zone, a permit is required to subdivide the land.

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Overlays

14. The site is located within the Development Plan Overlay (Schedule 2). Under the Development Plan Overlay (Schedule 2), a permit must not be granted until a Development Plan has been approved by Council. A Development Plan for this area was approved in September 2003.
15. The following conditions apply for the grant of a permit within the Development Plan Overlay (Schedule 2):
 - Any application for subdivision of land within the Development Plan Overlay (Schedule 2) must be generally in accordance with the requirements of the approved Development Plan;
 - All new lots must be serviced with reticulated sewerage and water supply;
 - All new roads shall be constructed to the satisfaction of the responsible authority and incorporate footpaths, drainage and underground services.
16. The site is located within the Environmental Significance Overlay (Schedule 1). A planning permit is required for subdivision, to remove vegetation and to carry out buildings and works.
17. The site is located within the Bushfire Management Overlay and a planning permit is required for subdivision.
18. The site is located within the Development Contributions Plan Overlay (Schedule 2). Any permit granted within the Development Contributions Plan Overlay (Schedule 2) must be consistent with the provisions of the relevant development contributions plan, and may contain conditions required to give effect to any contributions or levies imposed, and conditions or requirements set out in the relevant schedule to this overlay.

Particular provisions

19. Clause 53.02 (Bushfire) seeks to ensure that development of land prioritises the protection of human life and strengthens community resilience to bushfire and to ensure that the location, design and construction of development appropriate responds to bushfire hazard.
20. Clause 53.01 (Public Open Space Contribution and Subdivision) requires any application to subdivide land be accompanied by a public open space contribution.
21. Under the provisions of Clause 52.17 (Native Vegetation), a permit is required to remove, destroy or lop native vegetation on land which, together with all contiguous land in one ownership has an area greater than 0.4 hectares. The purpose of this provision is to ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. This is achieved through the following approach:
 - Avoid the removal of native vegetation that makes a significant contribution to Victoria's biodiversity;

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- Minimise impacts on Victoria's biodiversity from the removal of native vegetation;
- Where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation to be removed;
- To manage native vegetation to minimise land and water degradation;
- To manage native vegetation near buildings to reduce the threat to life and property from bushfire.

General Decision Guidelines

22. Clause 65 (Decision Guidelines) outlines general decision guidelines that must be considered when assessing an application. These guidelines include the purpose of the zone or other provision, the orderly planning of the area, and the effect on the amenity of the area.

Relevant planning policies

23. State Planning Policies which are relevant to this application include:

- Clause 11 – Settlement
- Clause 12– Environmental and Landscape Values
- Clause 13.02-1S Bushfire Planning
- Clause 16 – Housing
- Clause 18 – Transport.

24. The Local Planning Policies which are relevant to this application include:

- Clause 13.02-1L Bushfire management in Nillumbik
- Clause 15.01-3S – Subdivision Design
- Clause 21.05-1 – Settlement and Housing.

Advertising

25. The application is exempt from public notice and third party appeal rights. This is because the subject site is within a Development Plan Overlay area. Specifically, Clause 43.04-4 exempts the proposal from notice and appeal rights of third parties.

26. Clause 43.04-4-3 states that if a development plan has been prepared to the satisfaction of the Responsible Authority, an application under any provision of the planning scheme is exempt from the notice requirements of Section 52(1), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and review rights of Section 82(1) of the *Planning and Environment Act 1987*.

27. Diamond Creek Area B Development Plan was approved in 2003 and the notice and review requirements above are applicable to this application.

28. Council received one petition raising concerns with the original application.

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Planning application conference

29. No planning application conference was held for this application as the application was exempt from public notification.

Referrals**Internal**

30. The application was referred to various business units or individuals within Council for advice on particular matters. The following is a summary of the relevant advice:

Council Unit	Comments
Infrastructure Development Department	The Infrastructure Development Department have been involved in extensive discussions with the Planning team and applicant around the redesign of the subdivision proposal. The Department is supportive of the proposal subject to conditions being placed on any planning permit issued.
Environmental Planning	Council's Environmental Planner has been involved in extensive discussions during the process. It is noted that the approval of a subdivision in this location will result in the loss of all habitat value from the site. The site has conflicting planning controls regarding the protection of biodiversity. The proposal has satisfied the requirements of Clause 52.17 (Native Vegetation).
Environmental Health Team	Comments provided in relation to one of the dwellings which has since been demolished.
Open Space Team	The permit applicant will need to demonstrate that the proposed reserves can be maintained in the future by Council in terms of access and mowing.

External

31. The application was referred to the following statutory referral authority/authorities for advice on particular matters. The following is a summary of the relevant advice:

Authority	Comments
Melbourne Water	No objection subject to conditions

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Authority	Comments
Department of Environment, Land, Water and Planning (DELWP)	No objection subject to conditions. Some of these conditions relate to the offsets required for native vegetation removal and are required, these requirements will not be repeated within the DELWP conditions.
Yarra Valley Water	No objection subject to conditions
SP Ausnet	No objection
Country Fire Authority (CFA)	No objection subject to conditions
APA	No objection

Planning assessment**Introduction**

32. The following have been identified as the key planning issues in relation to the assessment of this planning application:

- Strategic justification
- Compliance with the Development Plan
- Native vegetation impacts
- Bushfire Risk
- Clause 56 – Residential subdivision (ResCode) Compliance
- Development Contributions
- Potentially contaminated land.

33. Assessment of these issues will be discussed in the remainder of this report.

Strategic justification:

34. The subject site is located within the General Residential Zone and the Development Plan Overlay (Schedule 2), or commonly known as the Diamond Creek North Area B development plan area. The development plan which applies to this site sets out a series of guidelines in directing the future subdivision and development of this part of the Shire. In particular, the development plan sets out requirements for infrastructure (circulation networks), potential lot layouts, the protection of vegetation, the provision of services and the preferred future character of the area. The future development of the area must be generally in accordance with the development plan or it is prohibited.

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35. Strategically, given the location of the site to the north of the Diamond Creek Activity Centre, and the existence of the development plan, the subdivision of this land for residential purposes benefits from strong strategic justification and policy support.
36. Whilst the site is identified as being appropriate for future residential development, this is balanced against the need for an application to provide an appropriate response to the existing conditions of the site, any existing environmental feature and achieving the preferred neighbourhood character as identified in the development plan.
37. In relation to this specifically, the Diamond Creek North Area B development plan identifies it as being appropriate for development based on the 'semi bush' neighbourhood character statement.

Compliance with Development Plan:

38. The Diamond Creek North Area 'B' development plan provides guidance regarding the future subdivision and development of the subject site and surrounding land. In particular, it sets out a proposed neighbourhood character that is in line with the character categories used in the Neighbourhood Character Policy within the Planning Scheme.

Neighbourhood Character

39. The subject site is identified as aiming to achieve a "Semi bush" character. Specifically, the proposed character aims to achieve a range of lot size with larger lots in areas of significant vegetation or slope; minimal earthworks and development that follows the slope; minimal hard standing and driveways; open front boundaries and native landscaping.
40. The 'semi bush' character statement seeks:
- A range of lot sizes, larger lots may be required to give flexibility for siting and design in areas with remnant vegetation or steeper slopes;
 - Earthworks for roads and building minimised, stormwater managed and reused;
 - Buildings to follow slope, located generally below tree canopy height and utilising textures and materials;
 - Driveways and parking areas confined to a small part of each site; and
 - Mainly indigenous landscaping to front gardens.
41. The site is located within an Environmental Significance Overlay (ES01), which means that all fencing, aside from post and wire fencing, is required to obtain planning permission.
42. No details about fencing have been provided with the application. It is appropriate to include future parameters around this through a Section 173 Agreement. This will require that, without the prior written consent of the Responsible Authority:
- All boundary fencing to the proposed reserves and walkways is completed prior to the issue of a Statement of Compliance for the subdivision.

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- This fencing be of an open and transparent nature.
- Fencing with an interface to Bellbird Road is of open and transparent nature.
- Fencing with an interface to a secondary frontage must be at least 80% transparent to the satisfaction of the Responsible Authority.
- No fencing is permitted along primary front boundaries or within 3 metres of the same site frontage.

Environmental Issues

43. The Development Plan identifies the southern portion of the sites as being of high biological value and seeks the following actions in relation to flora, fauna and habitat:
 - Encourage where possible the retention of vegetation in areas identified as having sufficient conservation significance;
 - Where it is not practical to retain native vegetation, apply the net gain principle;
 - Protect and where possible enhance the habitat, stormwater management and recreation values of Diamond Creek and Scrubby Creek; and
 - Protect roadside remnants.
44. The Development Plan also contains guidance around movement networks, stormwater management, fire prevention and safety.
45. In determining to refuse the original application, the proposal was deficient in meeting the requirements of the development plan, as the proposal resulted in the loss of all vegetation from the site and the proposed lot configuration, particularly to the south of the site, and was not responsive to the neighbourhood character sought by the development plan.
46. During the past months, the permit applicant has undertaken extensive consultation with Council officers, the Department of Environment Land Water & Planning (DELWP) and the Country Fire Authority (CFA) in order to provide an appropriate balance with regards to retaining the more significant native vegetation on the site, complying with the Bushfire Management Overlay requirements and achieving other elements of the Development Plan.
47. The northern section of the proposed subdivision will not retain any existing vegetation and the lot sizes are generally reflective of those within Collard Drive, Discovery Drive and Serenity Place to the east.
48. The south section of the proposed subdivision has undergone significant change from the original proposal and has been redesigned around the more significant area of native vegetation. This section of the subdivision now proposes:
 - The creation of a reserve and drainage reserves which will also serve as pedestrian connections throughout the subdivision;

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- The retention of 'high value' significant vegetation within the proposed reserve and lots 49-54;
 - The location of the land within a Bushfire Management Overlay has impacted the ability retain more vegetation within this area.
49. The proposal is now considered to be compliant with the requirements of the Area B Diamond Creek development plan as:
- The proposed lot layout to the north of the site is in keeping with the layout of existing subdivisions in Collard Drive, Discovery Drive and Serenity Place to the west of the site;
 - The southern section of the subdivision has been amended to show lots of a larger lot size to minimise vegetation impacts, incorporating a reserve around the area of highest conservation significance, and the inclusion of pedestrian links through the site;
 - Roadside vegetation in Bellbird Road has been retained by locating the site entrance road on the western side to the north of lot 49;
 - Recently completed subdivisions to the south of the site including Aspiration Rise and Union Gold Crescent have similarly not utilised the Bellbird Road reserve, which has enabled a significant tract of native vegetation within this road reserve to be retained;
 - The permit applicant has undertaken significant consultation with Council's Infrastructure Development Department to ensure that the proposed stormwater management plan is acceptable;
 - The site is also located within the Melbourne Water Collard Drive Drainage Scheme and will utilise the system approved under that. The drainage scheme provides for water quality treatment on a regional basis and it will not be necessary to provide for water quality treatment on the subject site;
 - The proposed layout will integrate with the existing road network into Collard Drive and Panorama Drive. A small section of Bellbird Road will be required to be constructed which in accordance with the intent of the development plan;
 - The proposed subdivision layout is now acceptable from a bushfire risk perspective. All future dwellings on the subject site within the Bushfire Management Overlay will require planning permission, which will ensure that each dwelling is constructed to the appropriate bushfire attack level and provides adequate defensible space;
 - Emergency vehicles will be able to access the site from Collard Drive, Panorama Drive and Bellbird Road;

12. Officers' reports**CM.051/22 67 lot (reduced to 56 lot) subdivision, removal and creation of an easement, removal of native vegetation and buildings and works to construct retaining walls and earthworks at 32-46 and 48-58 Collard Drive, Diamond Creek**

-
- The current subdivision layout ensures that the existing vegetation to be retained through the subdivision can be managed and incorporated into future applications and that there is no further vegetation removal required beyond what this permit allows;
 - The subdivision can be provided with all reticulated services;
 - Through the creation of the reserve and the creation of pedestrian links throughout the site, a pedestrian access will exist from Bellbird Road through to Panorama Drive; and
 - The site is not identified within the development plan as having any site specific requirements.

Native vegetation impacts

50. The proposed vegetation removal on the site must be considered in relation to the objectives of the Environmental Significance Overlay (Schedule 1); and the three step approach outlined in Clause 52.17 (Native Vegetation) and further described in *DELWP Guidelines for the removal, destruction or lopping of native vegetation*.
51. When the application was originally considered by Council officers, there was insufficient information provided with the application to demonstrate that the three step approach to vegetation removal had been adequately considered.
52. As with other issues around the application, the permit applicant has been working in consultation with Council officers and DELWP in order to provide an appropriate response to Clause 52.17 (Native Vegetation) and the Environmental Significance Overlay (Schedule 1).
53. It is also noted that for these sites an appropriate balance must be sought between the preservation of native vegetation, biodiversity and landscape values; and the presence of the Bushfire Management Overlay where the protection of human life is an overarching policy outcome sought above all others.
54. The submitted Ecological Assessment has identified that much of the ecological and biological significance of the subject site lies in the southern section of the site.
55. In responding to the initial concerns raised by Council officers around impacts to the ecological and biological values of the site, the revised subdivision layout has:
 - Retained the most significant trees on the site which will be located in the proposed reserve;
 - Where possible, vegetation has been retained within the southern lots, while still being able to meet the requirements of the Bushfire Management Overlay;
 - Retained vegetation located in the Bellbird Road reserve.

12. Officers' reports

CM.051/22 67 lot (reduced to 56 lot) subdivision, removal and creation of an easement, removal of native vegetation and buildings and works to construct retaining walls and earthworks at 32-46 and 48-58 Collard Drive, Diamond Creek

56. Overall, the site has conflicting planning controls regarding biodiversity protection. Clause 52.17 (Native Vegetation) and the Environmental Significance Overlay (Schedule 1) aim to retain and protect native vegetation, while the zone and location within the Development Plan Overlay encourage development within set parameters. The presence of the Bushfire Management Overlay further reduces the capacity to retain native vegetation onsite.
57. On balance, the revised proposal has provided a subdivision proposal which retains the vegetation identified as being of highest significance, this being the proposed reserve area and the provision of larger lots to the south of the subject land with vegetation to be retained, albeit in a sparser manner so as to accord with the stringent requirements of the Bushfire Management Overlay.
58. In the event a permit is issued, this vegetation will be protected *in-perpetuity* through a Section 173 Agreement which will require the retention and protection of the vegetation identified to be retained on private lots throughout the subdivision.

Bushfire Risk:

59. The site is located within a Bushfire Management Overlay. The purpose of the overlay is to:
- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire;
 - To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented; and
 - To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.
60. The permit applicant has prepared an amended Bushfire Management Statement which has demonstrated that:
- All lots can contain a dwelling with the requisite defensible space.
 - A majority of the dwellings can be constructed to a Bushfire Attack Level (BAL) of BAL 12.5; while lot 48 will need to be constructed to BAL 19, and lots 46-48 and 55 will need to be constructed to BAL 29.
61. The CFA has provided consent to the proposed Bushfire Management Statement subject to provided conditions being included on any planning permit issued.
62. Provided future dwellings on the site are constructed in accordance with the approved Bushfire Management Plan, a planning permit will not be required under the Bushfire Management Overlay (BMO).
63. These requirements will be entrenched within a Section 173 Agreement.
64. The proposal has provided an appropriate response to the requirements of the Bushfire Management Overlay and Clause 13.02 1S (Bushfire Planning).

12. Officers' reports

CM.051/22 67 lot (reduced to 56 lot) subdivision, removal and creation of an easement, removal of native vegetation and buildings and works to construct retaining walls and earthworks at 32-46 and 48-58 Collard Drive, Diamond Creek

ResCode Compliance:

- 65. The proposal generally complies with the requirements of Clause 56 – Residential Subdivision (ResCode).
- 66. Clause 56 contains requirements relating to lot design, urban landscape, access and mobility management, integrated water management, site management and the provision of utilities.
- 67. The proposal is compliant with the objectives and standards of Clause 56. The proposed subdivision is able to provide lots at a range of densities, all lots can be connected to reticulated services and all lots can be accessed in a safe and efficient manner.

Development Contributions

- 68. The proposal is subject to two separate development contribution requirements as per the planning scheme.
- 69. Clause 53.01 (Public Open Space Contribution and Subdivision) states that “*A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause*”.
- 70. The schedule to Clause 53.01 requires a “*5% of site value contribution except where the Responsible Authority is satisfied that part or all of the contribution can be made as an equivalent land contribution if it is in accordance with the approved Development Plan*”. The development plan does not identify any public open space requirements for the subject site, and therefore would generally require a 5% monetary contribution to be paid to Council in-lei of providing the public open space.
- 71. The site is also affected by the Development Contributions Plan Overlay (Schedule 2). The Development Contributions Plan Overlay (Schedule 2) sets out a list of public asset upgrades that are required in order to enable the subdivision of land within the Development Contributions Plan Overlay (Schedule 2) and Development Plan Overlay (Schedule 2) areas. Costs for these works are recovered in the form of a levy imposed on each new lot created within the overlay. The schedule sets the amount of the levy per lot subject to indexation commencing from 2004.
- 72. The application proposes the creation of a reserve which will become a Council asset and will contain the re-contoured filled dam and high value retained trees. The proposal also includes pedestrian areas and a steep drainage ‘laneway’ linking uphill to the reserve area.
- 73. The reserve itself will not be large enough for the installation of play equipment or the like; but being in excess of 2,000 square metres in area, will become a valuable area for passive recreation and the preservation of notable significant vegetation on the reserve area.

12. Officers' reports

CM.051/22 67 lot (reduced to 56 lot) subdivision, removal and creation of an easement, removal of native vegetation and buildings and works to construct retaining walls and earthworks at 32-46 and 48-58 Collard Drive, Diamond Creek

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- 74. At this stage, the details of future ownership of the reserve has not been determined. The final resolution of the provision of the open space provision (by either divesting the land or payment of a financial contribution) will be deferred via a permit condition to a time prior to the Statement of Compliance being sought.
 - 75. In addition to this small reserve, it will be necessary to require payment of the levies identified in Clause 53.02 and the Development Contributions Plan Overlay. This will be achieved via a planning permit condition.

Potentially contaminated land:

- 76. It has been identified that the dwelling site at 48 Collard Drive may be potentially contaminated due to past activities on the site.
- 77. It is also commonly known that past gold mining activities historically occurred in the wider area, creating the potential for associated land contamination. It is therefore deemed best practice and appropriate to require a preliminary Environmental Site Assessment for the subdivision proposal as part of Council's own due diligence assessments.
- 78. Prior to certification of the subdivision, it will be necessary for an Environmental Site Assessment to be submitted to demonstrate that the land is suitable for future residential use.

Conclusion:

- 79. Overall the substituted plans and amended subdivision layout have provided a sufficient response to Council's initial grounds for refusal. As noted in the report, the zoning and location of the site within a Development Plan area is somewhat contradictory to the Environmental Significance (Schedule 1) and the requirements of Clause 52.17 (Native Vegetation).
- 80. The substituted plans have provided for an amended subdivisional layout which is in keeping with that of the immediate locality and also responds to the outcomes sought in the Diamond Creek North Area B development plan.
- 81. The lots to the south of the site have provided for the retention of significant vegetation and also allows for this space to be managed in accordance with the Bushfire Management Overlay.
- 82. The addition of a reserve and walking connections through the south area of the site is also an important element of the revised proposal.
- 83. On balance, the amended proposal is considered appropriate.

12. Officers' reports

CM.052/22 Informal Meetings of Councillors Records - 24 May 2022

Distribution: Public

Manager: Blaga Naumoski, Executive Manager Governance, Communications and Engagement

Author: Katia Croce, Governance Lead

Summary

In accordance with *Item 19 of Council's Governance Rule – Meeting Procedure*, adopted on 25 August 2020, Council is required to report as soon as practicable to a Council Meeting a record of each Informal Meeting of Councillors held.

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

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

1. Environment & Sustainability Advisory Committee meeting held 20 March 2022;
2. Positive Ageing Advisory Committee meeting held 1 April 2022;
3. Councillor Briefing held 19 April 2022;
4. Environment & Sustainability Advisory Committee meeting held 20 April 2022;
5. Inclusion and Access Advisory Committee meeting held 22 April 2022;
6. Council Meeting pre-meet held 26 April 2022;
7. Youth Council Advisory Committee meeting held 2 May 2022;
8. Councillor Briefing held 3 May 2022;
9. Positive Ageing Advisory Committee meeting held 6 May 2022;
10. Planning and Consultation Committee Pre-Meeting held 10 May 2022; and
11. Australia Day | January 26 Councillor workshop held 11 May 2022.

Recommendation

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

Attachments

- [⇒](#)1. Informal Records of Councillors Records reported 24 May 2022

12. Officers' reports

CM.052/22 Informal Meetings of Councillors Records - 24 May 2022

Discussion

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

Related Council decisions

2. Not applicable.

Options

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

Conclusion

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

Council plans and policies

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

Sustainability implications

9. None required.

Community engagement

10. Not applicable.

12. Officers' reports

CM.052/22 Informal Meetings of Councillors Records - 24 May 2022

Innovation and continuous improvement

11. Not applicable.

Collaboration

12. None required.

Budget implications

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

Relevant law

14. *Local Government Act 2020.*

Regional, state and national plans and policies

15. None applicable.

Conflicts of interest

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

12. Officers' reports

CM.052/22 Informal Meetings of Councillors Records - 24 May 2022

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12. Officers' reports**CM.053/22 Tender Report - Contract 2122-059 Loan Borrowings 2021/2022**

Distribution: Public**Manager: Vince Lombardi, Chief Financial Officer****Author: Melika Sukunda, Finance Manager
 Lance Clark, Senior Procurement Specialist****Summary**

As per the adopted 2021-2022 Budget, Council resolved to take out \$7 million in new borrowings for a number of significant capital projects and to allow Council to respond to Federal Government stimulus opportunities.

The total amount to be borrowed is (Australian) Seven Million dollars (AU\$7,000,000) and the required loan period is for a seven (7) year term.

There was only one submission received from the market via the Public Tender process and the tendered interest rate was deemed to be unacceptable.

The public tender process was subsequently cancelled and the Council will now seek to obtain the required borrowings via the Treasury Corporation of Victoria (TCV).

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

Recommendation

That Council:

1. Notes that the public tender process undertaken to establish the following contract has subsequently been cancelled due to lack of competitive offers from the market and that the required borrowings will now be obtained via the Treasury Corporation of Victoria (TCV).
Number: 2122-059
Title: Loan Borrowings 2021/2022
Term: Seven (7) years
2. Notes that the Finance Manager will commence negotiations with TCV to establish the required borrowings as per the adopted 2021-2022 budget.
3. Authorises the Chief Financial Officer to finalise and execute the resulting contract documentation with TCV.
4. Advises all tenderers accordingly.

Attachments

Nil

12. Officers' reports**CM.053/22 Tender Report - Contract 2122-059 Loan Borrowings 2021/2022**

Discussion

1. As per the adopted 2021-2022 Budget, Council resolved to take out \$7 million in new borrowings for a number of significant capital projects and to allow Council to respond to Federal Government stimulus opportunities.
2. Council issued a public tender for the required loan financing.

Related Council decisions

3. On 25 May 2021 Council adopted the 2021-2022 Budget, in which Council resolved to take out borrowings of \$7 million.

Council plans and policies

4. 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

The Tender Evaluation Panel (TEP) advises that:

5. A public tender was issued on and advertised in the Melbourne Age on Saturday 26 March 2022.
6. The period for tender submissions closed at 2pm on Thursday 28 April 2022.
7. The following tenders were received:
Tenderer A
8. As there was only 1 tendered submission received via the public tender process and the resulting tendered interest rate was deemed to be unacceptable, the tender process was subsequently cancelled.
9. The ability to cancel a tender process is within the written Conditions of Tendering issued with the tender documents if the tender process does not result in a value for money outcome to Council.
10. As the public tender process resulted in no outcome, Council will now seek to establish the required borrowings via TCV.
11. The members of the TEP were:

Position Title	Business Unit	Scoring Member or Advisory Member
Finance Manager	Corporate Services	Scoring
Business Services Lead	Corporate Services	Scoring
Chief Financial Officer	Corporate Services	Scoring
Senior Procurement Specialist	Corporate Services	Advisory

12. Officers' reports

CM.053/22 Tender Report - Contract 2122-059 Loan Borrowings 2021/2022

Treasury Corporation of Victoria (TCV) overview

12. Treasury Corporation of Victoria (TCV) is the central financing authority and adviser to the State of Victoria.
13. The relationship between a client and TCV is subject to the Treasury Corporation of Victoria Act 1992 (TCV Act). A client is able to obtain borrowing and advisory services from TCV by virtue of being a 'participating authority' under the TCV Act.
14. Local councils can be accepted as a Participating Authority if an application to TCV is made by Council.
15. The functions of TCV under the TCV Act include, amongst other things the provision of financial accommodation (borrowings) to participating authorities.
16. As a participating authority, Council can access borrowings at lower than market interest rates.
17. The loan is anticipated to remain within the original parameters, being \$7 million, fixed interest, over seven years.
18. As part of being able to access loans through the TCV the following criteria will need to be satisfied by Council:
 - a. Interest Cover Ratio not to be less than 2:1.
 - b. Interest bearing loans and borrowings not exceeding 60 per cent of own source revenue.
 - c. Approval of the TCV borrowing limit by the Treasurer will be premised on no variation to the adopted budget. If there is a revision to the budget it is the responsibility of the council to advise TCV.
19. Council has received provisional approval to apply for a loan through this facility.

Collaboration

20. Not applicable.

Budget implications

21. The required borrowings are part of the adopted 2021-2022 Budget.

Sustainability implications

22. Not applicable.

Stakeholder Consultation/communication

23. Not applicable.

Innovation and continuous improvement

24. Not applicable.

Relevant law

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

12. Officers' reports

CM.053/22 Tender Report - Contract 2122-059 Loan Borrowings 2021/2022

Regional, state and national plans and policies

26. Not applicable.

Conflicts of interest

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

28. There were no disclosable conflicts of interest raised.

12. Officers' reports

CM.054/22 Tender Report - Contract 2021-007 Landfill Environmental Monitoring and Maintenance and Environmental Auditor for Closed Landfill

Distribution: Public

Manager: Hjalmar Philipp, Director Operations and Infrastructure

**Author: Lisa Pittle, Manager Environment
 Lance Clark, Senior Procurement Specialist**

Summary

This report recommends the awarding of contract 2021-007 for Landfill Environmental Monitoring and Maintenance and Environmental Auditor for Closed Landfill.

There are two distinct services in relation to the contract:

- a) Service 1: Landfill Environmental Monitoring and Maintenance.
- b) Service 2: Environmental Auditor.

There is a single contractor to be appointed for Service 1.

There are two contractors to be appointed for Service 2.

The contract term is for an initial period of 5 years, with 3 + 2-year options to extend the contract. The total duration of the contract, including the exercise of any options, shall not exceed 10 years.

This Contract is for business as usual supply of services to support Councils operational requirements and replaces previously contracted services.

The Tender Evaluation Panel (TEP) has assessed all submissions and this report provides a summary of their evaluation in recommending the awarding of the contract for 2021-007 for Landfill Environmental Monitoring and Maintenance and Environmental Auditor for Closed Landfill.

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

Recommendation

That Council:

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

Number: 2021-007

Title: Landfill Environmental Monitoring and Maintenance and
 Environmental Auditor for Closed Landfill

Term: 1 July 2022 to 30 June 2027

Options: Term extensions up to 30 June 2032

2. Authorises the Director Operations and Infrastructure to finalise and execute the contract documentation.

12. Officers' reports**CM.054/22 Tender Report - Contract 2021-007 Landfill Environmental Monitoring and Maintenance and Environmental Auditor for Closed Landfill**

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3. Authorises the Director Operations and Infrastructure to approve contract term extensions.
 4. Authorises the Director Operations and Infrastructure to approve changes to operational requirements throughout the term of the contract.
 5. Advises all tenderers accordingly.
 6. Makes public the decision regarding this contract but the Tender Evaluation Report (**Attachment A**) 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 tenderers be named.

Attachments

1. Attachment A - Tender 2021-007 Evaluation Summary Report - *CONFIDENTIAL*

Discussion

1. Nillumbik has two closed landfills at Yan Yean Rd, Plenty and Graham Road, Kangaroo Ground.
2. Following their closure, the Environment Protection Authority (EPA) has issued Post Closure Pollution Abatement Notices (PCPAN) for the Kangaroo Ground and Plenty landfills. The PCPAN is a legislative tool under the EPA framework to ensure that the risk posed by closed landfills to the community is mitigated.
3. Council has developed aftercare management plans for the landfills to respond to the requirements of the PCPANs.
4. Works to cap the landfills are a significant step in meeting the requirements of the PCPANs. Capping at Plenty is virtually complete and works to cap Kangaroo Ground will commence following the decision to award the contract at the February 2022 Council meeting.
5. In addition to capping, ongoing monitoring and maintenance of the landfills is a requirement of the PCPANs.
6. The aim of *Contract 2021-007 Landfill environmental monitoring and maintenance and Environmental Auditor Closed Landfill* is seeking to appoint separate specialist consultants for:
 - a) Environmental monitoring and maintenance of closed landfills
 - b) Annual auditing of Council's closed landfill management and other audit services as required including financial assurance.
 - c) To ensure compliance with EPA requirements – there are two consultants to be appointed for the Annual Auditing requirements. The EPA requirements state that 'An environmental auditor cannot do more than three consecutive audits of a closed landfill'.
7. This new contract replaces previous contracted arrangements for the same services.
8. The tendered rates are provided for planned Annual requirements with additional rates for ancillary (as requested) services for Year 1 of the contract arrangements.

12. Officers' reports

CM.054/22 Tender Report - Contract 2021-007 Landfill Environmental Monitoring and Maintenance and Environmental Auditor for Closed Landfill

9. 1Subsequent annualised rate adjustments will be based on CPI – All Groups Melbourne results for the period immediately preceding the contract anniversary date.

Landfill Environmental Monitoring and Maintenance

10. Environmental monitoring is undertaken quarterly and includes ground water, gas, leachate bores, nearby building/structures within 100 metres from the landfills. An annual report, summarising the whole year's monitoring results must be submitted to the EPA.
11. In addition, the scope also includes the potential for on-ground works and ancillary services:
- a) Leachate management including monitoring leachate levels with action to reduce to compliance level and logging of volume; inspection and maintenance of the telemetric leachate level metering system (Plenty only); disposal of leachate as required.
 - b) Vegetation management - grass cutting to reduce fuel load.
 - c) Bore (ground water and gas) management including repair of damaged or blocked bores, installation of new bores, survey of new bores or current bores (as required).
 - d) Ancillary services may include updating aftercare management plans, responding to EPA queries and development/review of financial assurance estimates.

Environmental auditing

12. Environment auditing (53V 'risk of harm') for the landfills is a regular assessment of the risk profiles of the two landfills to the environment and/or potential risk to nearby receptors which include nearby residences/residents and the Operations Centre. At this stage, the EPA requires landfill audits to be undertaken and reported annually.
13. Outcomes of audits may require updates to aftercare management plans and additional actions for the environmental monitoring and maintenance program.
14. Additional audit services may be required following a review of financial assurance estimates. The EPA requires Council to maintain a financial assurance that outlines the cost of managing the landfills for a 30-year period which is reviewed from time to time.
15. The contract seeks to appoint two environmental auditor consultancies to conform to the EPA's requirement that an environmental auditor cannot do more than three consecutive audits of a closed landfill. The auditor determines the frequency or timing of the next audit which is documented in the audit report. Audit frequency is typically 1 to 3 years or up to 5 years depending on the environmental stability of the closed landfill. The audit frequency for Nillumbik landfills may be annual for the next few years, particularly at Plenty as the understanding of the new conditions created by the capping work develops.

12. Officers' reports**CM.054/22 Tender Report - Contract 2021-007 Landfill Environmental Monitoring and Maintenance and Environmental Auditor for Closed Landfill****Council plans and policies**

16. This report directly supports the achievement of the Council Plan 2021-2025 strategy Sustainability
- We develop clear and effective initiatives designed to reduce the impact of waste and materials from procurement to disposal.

Tender overview

The Tender Evaluation Panel (TEP) advises that:

17. A public tender was issued on 15 January 2022 and advertised in the Melbourne Age on Saturday.
18. The period for tender submissions closed at 2pm on Thursday, 17 February 2022.
19. Two services were sought for via this tender. They are:
- Service 1: Landfill Environmental Monitoring and Maintenance.
 - Service 2: Environmental Auditor.
20. Tenderers were asked to provide pricing based on two different contract options to test the market to see if there was any financial benefit with a longer initial contract term;
- Initial 5 year contract with 3 + 2-year options to extend the contract; and
 - Initial 7 year contract with a 3 year option to extend the contract
21. There was no financial benefit provided by tenderers for a longer initial contract term of 7 years.
22. For the purposes of the report and Attachment A, the outcome of the tender is based on an initial 5 year contract with 3 + 2-year options to extend the contract
23. A single preferred tenderer will be appointed to carry out the environmental monitoring program and a panel of two environmental auditors will be appointed to carry out the audit activity of the landfills.
24. In appointing the preferred tenderer for environmental monitoring and a panel of tenderers for environmental auditor, the evaluation panel is required to ensure that there shall be no conflict of interest. This is to ensure that the environmental monitoring activities are independent from the environmental auditing activity.
25. Twelve tenders were received. The table below indicates the services that each tenderer submitted for.

TENDERER	Service 1 Landfill Environmental Monitoring and Maintenance	Service 2 Environmental Auditor
Tenderer A	X	
Tenderer B		X
Tenderer C	X	X
Tenderer D	X	

12. Officers' reports

CM.054/22 Tender Report - Contract 2021-007 Landfill Environmental Monitoring and Maintenance and Environmental Auditor for Closed Landfill

TENDERER	Service 1 Landfill Environmental Monitoring and Maintenance	Service 2 Environmental Auditor
Tenderer E	X	
Tenderer F		X
Tenderer G	X	
Tenderer H	X	
Tenderer I	X	
Tenderer J	X	
Tenderer K	X	
Tenderer L	X	

26. Only tendered submissions that were complete and competitive were fully scored. Tenderer submissions (indicated by shading in the table above) that were incomplete or not sufficiently competitive were set aside from further evaluation.
27. The following tenders were evaluated as incomplete, or not sufficiently competitive and were subsequently set aside from further evaluation.

Tenderer Name	Reason
Service 1 - Landfill Environmental Monitoring and Maintenance	
Tenderer A	Tendered costs were not competitive
Tenderer H	There were no prices offered for all key maintenance aspects of Service 1. This tender was therefore deemed incomplete.
Tenderer I	There were no prices offered for all key maintenance aspects of Service 1. This tender was therefore deemed incomplete.
Tenderer K	Tender Response Form not provided. This tender was therefore deemed incomplete.
Service 2 – Environmental Auditor	
Tenderer C	<p>Tendered for both Service 1 and 2. Was not considered for Service 2 as there is an existing conflict of interest with one of the nominated key resource that would be involved in the Audit requirements.</p> <p>The conflict of interest is due to prior involvement in the auditor's assessment of cap design for both landfills.</p>

12. Officers' reports

CM.054/22 Tender Report - Contract 2021-007 Landfill Environmental Monitoring and Maintenance and Environmental Auditor for Closed Landfill

28. 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 %
Capability	50%
Historical Performance	15%
Quality System	10%
Environment	20%
Economic and Social Sustainability	5%

29. 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.
30. Tendered rates were assessed based on the qualitative scores of the shortlisted tenderers to understand which shortlisted tenderers provided best value to Council.
31. The members of the TEP were:

Position Title	Business Unit	Scoring Member or Advisory Member
Manager Environment	Environment	Scoring Member
Waste Management Coordinator	Environment	Scoring Member
Waste Team Leader	Environment	Scoring Member
Senior Procurement Specialist	Corporate Services	Advisory Member

32. The final evaluation outcome was as follows:

Tenderer	Score	Ranking
Service 1 - Landfill Environmental Monitoring and Maintenance		
Tenderer J - preferred tenderer	87	1
Tenderer G	78	2
Tenderer E	76	3
Tenderer D	73	4
Tenderer C	60	5

12. Officers' reports

CM.054/22 Tender Report - Contract 2021-007 Landfill Environmental Monitoring and Maintenance and Environmental Auditor for Closed Landfill

Service 2 – Environmental Auditor		
Tenderer B - preferred tenderer	77	1
Tenderer L - preferred tenderer	73	2
Tenderer F	50	3

33. The preferred tenders were selected as they provided best value for money overall.
34. **Attachment A** - Tender Evaluation Summary Report – Confidential, provides the tenderer names and the Evaluation Scorecard Summary.
35. The Tender Evaluation Summary Report (**Attachment A**) to remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.

Service 1 - Landfill Environmental Monitoring and Maintenance - Tenderer J

Capability
<ul style="list-style-type: none"> Submission demonstrates strong capability to deliver the services. Tenderer is a large Australian multinational with 15 offices and 1500 employees in Australia. Currently engaged by 10 Victorian councils for landfill monitoring and reporting. The tender submission demonstrates: <ul style="list-style-type: none"> Appropriate resources with depth across the business and has relationships with some relevant service providers including accredited laboratories and equipment suppliers. Sufficient staff resource with professional environmental skill and clear organisational roles Strong technical capability with good exposition of monitoring methodology. Cited EPA monitoring guidelines. Submission demonstrates a good customer service approach including transition in and out planning. The business has a structured, continuous improvement approach. Experience in landfill design, construction and operation provides further knowledge and opportunities to improve the on-going maintenance requirements.
Historical Performance
<ul style="list-style-type: none"> Currently engaged by 10 Victorian councils for landfill monitoring services. Sufficient staff resource with professional environmental skill nominated to complete monitoring program and nominated staff have experience with Nillumbik landfills through previous employer.
Quality management
<ul style="list-style-type: none"> AS/NZS ISO 9001-2016: Quality Management Systems accredited. AS/NZS 4801:2001 Occupational Health and Safety Management System accredited.

12. Officers' reports

CM.054/22 Tender Report - Contract 2021-007 Landfill Environmental Monitoring and Maintenance and Environmental Auditor for Closed Landfill

<ul style="list-style-type: none"> • Subcontractors - ISO certified NATA certified. • Good quality benchmarking.
Environmental Management/Economic & Social Sustainability
<ul style="list-style-type: none"> • AS/NZS ISO 14001-2016: Environmental Management Systems accredited and certification sighted. • Policy targets sustainability in procurement, waste generation, electricity, transport and water with targets, timelines and responsibilities. • 10 employees from northern council area. • Graduate training program and internal cadetship. • Good corporate social responsibility programs • Reconciliation Action Plan

Service 2 - Environmental Auditor Panel – Tenderer B

Capability
<ul style="list-style-type: none"> • Small business with 25 employees across Australia. Strong focus on environmental auditing with 5 Victorian EPA appointed auditors. Strong expertise in landfill gas management. • Good understanding of EPA Guidelines and best practices. Excellent relationship with EPA. • Nominated staff are highly experienced in delivering landfill environmental audits. Dedicated auditor assigned with other in-house personnel expertise support available. • Good customer service approach based on quality systems. Limited response on continuous improvement.
Historical Performance
<ul style="list-style-type: none"> • Submission demonstrates a strong track record and expertise in delivering the required services. • Competency in environmental auditing is good with 910 audits conducted. • Good understanding of EPA Guidelines and best practices.
Quality management
<ul style="list-style-type: none"> • Accredited to Quality Management Standard ISO 9001:2015 and ISO 45001:2018 OH&S. • Adequate quality benchmarking - benchmark is based on nominated project manager ensuring delivery of services is transparent and of a high quality, maintaining a register of customer feedback, team approach to auditing.

12. Officers' reports

CM.054/22 Tender Report - Contract 2021-007 Landfill Environmental Monitoring and Maintenance and Environmental Auditor for Closed Landfill

Environmental Management/Economic & Social Sustainability
<ul style="list-style-type: none"> • ISO 14001:2015 Environmental Management System accredited. • 3 employees in the northern councils' area. • Discretionary staff charity efforts

Service 2 - Environmental Auditor Panel – Tenderer L

Capability
<ul style="list-style-type: none"> • Environmental consultancy with 60+ year's operation. Demonstrated relationship with the Victorian EPA. • Strong experience in landfill auditing. • Good understanding of EPA Guidelines and best practices. • Nominated staff are highly experienced operating in the context of a proprietary project management system. • Adequate customer service plan. • Examples of continuous improvement provided.
Historical Performance
<ul style="list-style-type: none"> • Submission demonstrates a strong track record in landfill environmental auditing. • Current environmental auditing projects demonstrate competency supported by feedback from reference check. • Good understanding of EPA Guidelines and best practices.
Quality management
<ul style="list-style-type: none"> • ISO 9001 2015 certified Quality Management System and ISO 45001:2018 certified OHS Management System accredited. • Demonstrated ability to meet project KPIs and submission outlines additional quality assurance processes. Benchmark is the continuation of EPA certified auditor; technical peer review prior to any submission; Seeking feedback from the EPA
Environmental Management/Economic & Social Sustainability
<ul style="list-style-type: none"> • In process of developing an Environmental Management System aligned with ISO14001:2015. Good examples of business environmental management provided including offsetting carbon emissions from 2020 and addressing historical emissions. • Evidence of corporate social responsibility program

Tender Interviews and Reference checks

36. Tendered information and responses to requests for further information as part of the evaluation process were adequate for the evaluation panel to recommend the preferred tenderer.
37. Reference checks were conducted for Tenderers G and L to further investigate the capability, quality and reliability of the tenderers.

12. Officers' reports

CM.054/22 Tender Report - Contract 2021-007 Landfill Environmental Monitoring and Maintenance and Environmental Auditor for Closed Landfill

Contingency and risks

38. COVID-19

- A significant outbreak of COVID within the contractor's work force could impact on delivery of required services, but given that the services are planned and programed the risk is low.

Collaboration

39. Not applicable.

Budget implications

40. A 30 year budget for long term management of the former Plenty and Kangaroo Ground landfills has been developed in compliance with the EPA's Financial Assurance requirement.
41. Council budgets annually to support former landfill management.

Sustainability implications

42. Proper management of Council's former landfills at Plenty and Kangaroo Ground mitigates the risk of pollution to air, land and water.

Stakeholder Consultation/communication

43. Not applicable.

Innovation and continuous improvement

44. Not applicable.

Relevant law

45. *Environment Protection Act 2017.*
46. Sections 108 and 109 of the *Local Government Act 2020.*

Regional, state and national plans and policies

47. Not applicable.

Conflicts of interest

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

12. Officers' reports

CM.055/22 Tender Report - Contract 2122-052 Bible Street Traffic Improvements

Distribution: Public

Manager: Hjalmar Philipp, Director Operations and Infrastructure

Author: Enrique Gutierrez, Manager Assets and Capital Works
Lance Clark, Senior Procurement Specialist

Summary

This report recommends the awarding of contract 2122-052 for Bible Street Traffic Improvements.

Works will involve the construction of various traffic treatments/improvements along Bible Street, Eltham.

The Tender Evaluation Panel (TEP) has assessed all submissions and this report provides a summary of their evaluation in recommending the awarding of the contract for 2122-052 for Bible Street Traffic Improvements.

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: 2122-052
Title: Bible Street Traffic Improvements
Term: 30 May 2022 to 30 September 2022
2. Authorises the Director Operations and Infrastructure to finalise and execute the contract documentation.
3. Authorises the Director Operations and Infrastructure to approve additional cost variations that are a result of unknown latent site conditions or changes to operational requirements throughout the term of the contract with a total value of no more than the approved budget for the project.
4. Notes that any variations that exceed the agreed approved budget will require a further Council resolution.
5. Any variations that exceed the agreed approved budget will require a further Council resolution.
6. Advises all tenderers accordingly.
7. Makes public the decision regarding this contract but the Tender Evaluation Report (**Attachment A**) 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 sum awarded and preferred tenderer be named.

12. Officers' reports

CM.055/22 Tender Report - Contract 2122-052 Bible Street Traffic Improvements

Attachments

1. Attachment A - Tender 2122-052 Evaluation Summary Report - *CONFIDENTIAL*
- ⇒2. Attachment B – Funding and Program Background

Discussion

1. Nillumbik Shire Council is the recipient of \$5 million from the Commonwealth Government's Urban Congestion Fund. The initial instalment \$3,500,000 (ex. GST) was paid to Council on approval of the Road Project Proposal in May 2020. The final instalment \$1,500,000 (ex. GST) is payable to Council on completion of works.
2. There are six phased projects within this program. Further background information is provided in Attachment B – Funding and Program Background.
3. The Bible Street works are the first component of the program of works.
4. Works will involve the construction of various traffic treatments/improvements along Bible Street, Eltham. That is;
 - Bible Street and Luck Street Intersection – Installation of Raised Intersection Treatment, including pedestrian crossings, kerb works, line marking, signage and minor drainage improvements.
 - Bible Street and Pryor Street Intersection - Installation of Raised Intersection Treatment, including kerb works, line marking, signage and minor drainage improvements.
 - Bible Street and Arthur Street - Installation of Raised Pedestrian Crossing Treatment, Kerb works, footpaths, line marking, signage and minor drainage improvements.
 - Bible Street, just north of Henry Street - Installation of Raised Pedestrian Crossing Treatment, Kerb works, footpaths, line marking, signage and minor drainage improvements.
 - Bible Street, just south of Henry Street - Installation of Raised Road Platform Treatment, Kerb works, line marking and signage.
 - Upgrade of delineation line marking for Bible Street, between Cecil and Henry Streets.

Council plans and policies

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

12. Officers' reports

CM.055/22 Tender Report - Contract 2122-052 Bible Street Traffic Improvements

Tender overview

The Tender Evaluation Panel (TEP) advises that:

6. A public tender was issued on 26 March 2022.
7. The period for tender submissions closed at 2pm on Thursday 26 April 2022.
8. The following tenders were received:

TENDERER
Tenderer A – Preferred Tender
Tenderer B
Tenderer C

9. 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.
10. 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 B	Did not proceed any further due to tendered costs. Tendered cost was double that of Tenderer A.
Tenderer C	Did not proceed any further as was not a valid tender submission. Submission was promoting the tenderers products.

11. 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	20%
Capacity	20%
Collaboration	10%
Social and Local	10%

12. 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.055/22 Tender Report - Contract 2122-052 Bible Street Traffic Improvements

13. The members of the TEP were:

Position Title	Business Unit	Scoring Member or Advisory Member
Construction Coordinator	Capital Works	Scoring
Contract Works Supervisor	Capital Works	Scoring
Project Engineer	Infrastructure	Scoring
Manager Assets and Capital Works	Capital Works	Advisory
Senior Procurement Specialist	Corporate Services	Advisory

14. The final evaluation outcome was as follows:

TENDERER	SCORE
Tenderer A – Preferred Tender	91/100

15. The recommended tender is known to Council and is more than capable of delivering the required works.
16. **Attachment 1** - Tender Evaluation Summary Report – Confidential, provides the tenderer names and the Evaluation Scorecard Summary.
17. The Tender Evaluation Summary Report (**Attachment A**) 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

18. The preferred tender:

- Has certified Quality Management, Environmental and Occupational Health and Safety systems and processes.
- Has in place the required insurances.
- Demonstrable experience with similar works in surrounding local government areas.
- Has provided ECO sustainable product options for concrete works.

Capacity

19. The preferred tender:

- Is well-resourced and experienced in this type of works.
- Uses same sub-contractors on all jobs.
- Has the technical knowledge, experience and resources to complete these works.
- Has provided an acceptable works program chart.

12. Officers' reports

CM.055/22 Tender Report - Contract 2122-052 Bible Street Traffic Improvements

- e) Has a works program and methodology which demonstrate capacity to complete these works.
- f) Is a local contractor, that understands the local community, understands our expectations regarding communication and customer service.

Tender Interviews and Reference checks

20. As the preferred tenderer is well known to Council, tenderer interviews and reference checks were not required.

Contingency and risks

21. A contingency has been allocated to this project due to following risks COVID 19 related delays impacting construction works and/or supply chain. To mitigate risks, the preferred tenderer has a COVID management plan in place and precautions, detection and management will be raised at the contractor's daily tool box and all OH&S meetings. The contractor has a broad sub-contractor network to support coverage in the event of COVID outbreaks.

Collaboration

22. Not applicable

Stakeholder Consultation/communication

23. The Main Road Corridor Eltham Urban Congestion Fund project was subject to 'deliberative engagement' practices to firstly identify the projects for consultation in consultation with a Transport Working Group (TWG) with members drawn from the Level Crossing Removal Project and several areas of the Department of Transport; and secondly a six week program of community consultation via Participate Nillumbik webpage.

Budget implications

24. The costs for this project are fully funded via the grant received via the Commonwealth Government's Urban Congestion Fund.

Sustainability implications

25. As part of the tender specification and requirements is the need for the use of materials with reduced environmental impact for the works.
26. Tenderers were required to provide manufacturers information on the products they would use.
27. The outcome of this is:
- Recycled crushed concrete instead of crushed rock – for use as the base for all concrete works.
 - Use of eco-friendly concrete product.

12. Officers' reports

CM.055/22 Tender Report - Contract 2122-052 Bible Street Traffic Improvements

28. The preferred tenderer is a supplier that is located within the Northern Council Alliance area (NCA) and is providing full time employment to more than 10 residents from within the NCA.

Stakeholder Consultation/communication

29. Not applicable

Innovation and continuous improvement

30. Not applicable

Relevant law

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

Regional, state and national plans and policies

32. Not applicable

Conflicts of interest

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

13. Notices of Motion

Nil

14. Delegates' Reports

15. Supplementary and urgent business

16. Confidential reports

Nil

17. Close of Meeting