

Ordinary Meeting of Council

held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 31 January 2017.

Minutes

Mark Stoermer
Acting Chief Executive Officer

Wednesday 1 February 2017

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

Domin je ka

Nillumbik Shire Council

Contents

Welcome	1
1. Reconciliation statement	1
2. Prayer	1
3. Good governance pledge	1
4. Apologies	1
5. Presentations	1
6. Confirmation of minutes	2
7. Disclosure of conflicts of interest	2
8. Petitions	2
9. Questions from the gallery	2
10. Reports of Advisory Committees	3
11. Reports of Special Committees	3
12. Officers' reports	4
OCM.001/17 Municipal Public Health and Wellbeing Plan: Community Engagement and Annual Review	4
OCM.002/17 Proactive tree management program in high use areas	5
OCM.003/17 Future Nillumbik Committee - Instrument of Delegation	7
OCM.004/17 Submission to the Victoria Grants Commission	9
OCM.005/17 December Quarter Financial Report	10
OCM.006/17 Council Plan Quarterly Performance Report December 2016	11
OCM.007/17 Recruitment of Chief Executive Officer	12
OCM.008/17 Assemblies of Councillors	13
13. Notices of motion	15
14. Delegates' reports	15
15. Supplementary and urgent business	15
OCM.010/17 Meals on Wheels	16
16. Confidential reports	17

Nillumbik Shire Council

Minutes of the Ordinary Meeting of Nillumbik Shire Council held Tuesday 31 January 2017. The meeting commenced at 7pm.

Councillors present:

Cr Peter Clarke	Wingrove Ward (Mayor)
Cr Grant Brooker	Blue Lake Ward
Cr Karen Egan	Bunjil Ward
Cr John Dumaresq	Edendale Ward
Cr Peter Perkins	Ellis Ward
Cr Jane Ashton	Sugarloaf Ward
Cr Bruce Ranken	Swipers Gully Ward

Officers in attendance:

Mark Stoermer	Acting Chief Executive Officer
Pauline Gordon	General Manager Community and Leisure
Andrew Port	General Manager Corporate Services
Ransce Salan	General Manager Environment and Planning
Conal Creedon	General Manager Infrastructure Services
Allison Watt	Manager Governance and Communications
Suzy Ellingsen	Manager Organisational Development
Joanne Hammond	Coordinator Communications

Welcome

1. Reconciliation statement

The reconciliation statement was read by the Mayor, Cr Peter Clarke.

2. Prayer

A prayer was read by Rev. Ros McDonald of the Eltham Montmorency Uniting Church.

3. Good governance pledge

The good governance pledge was read by the Mayor, Cr Peter Clarke.

4. Apologies

Nil

5. Presentations

Nillumbik's Australia Day Award recipients

The Mayor, Cr Peter Clarke congratulated Council's 2017 Australia Day Award recipients:

- Nikki Waterfall, Citizen of the Year 2017
- Andrew Barras, Young Citizen of the Year 2017
- Peta Heywood, Senior Citizen of the Year 2017
- Diamond Valley Miniature Railway, Community Group of the Year 2017
- Paul Di Bendetto, Volunteer of the Year 2017

Australia Day Honours

The Mayor, Cr Peter Clarke congratulated Elizabeth Pender who was recognised in 2017 Australia Day Honours with a Medal of the Order of Australia (OAM) for her service to the community through social welfare organisations.

6. Confirmation of minutes

Confirmation of minutes of the Council Meeting held on Tuesday 20 December 2016.

Motion

Cr Karen Egan

Cr John Dumaresq

That the minutes of the Council Meeting held on Tuesday 20 December 2016 be confirmed.

CARRIED

7. Disclosure of conflicts of interest

Nil

8. Petitions

Nil

9. Questions from the gallery

Ben Ramcharan on behalf of Nillumbik Greens, asked Council:

'There are no recycle bins in Nillumbik's shopping areas - we have general bins but nowhere to put our recyclables. This is very surprising, given Nillumbik's excellent rubbish collection system for domestic households. Does Council have any plans to put recycle bins into our shopping areas?'

Mayor, Cr Peter Clarke responded that there have been separate recycling bins in Eltham since 2016 but not in other parts of the Shire. It is something that Council is working to rectify, and will consider funding in the 2017-2018 budget cycle.

Esther Caspi, asked Council:

'Can this new Council ensure a duty of care and protection that this does not happen in the Shire of Nillumbik and investigate that this has not been a "hidden" or "real" intent of C181, C101, Green Wedge Management plans, overlays, strategies, 2020 processes, new restructure and other new strategic directions all along since year 2000 with the adoption of the new Diamond Creek Urban Growth Review and new Nillumbik Planning Scheme on lands of Ironbark and Pioneer Roads of Diamond Creek and Yarrambat that my family and others whom have been part of continual objections to the "wrong fit zoning translation" and consequent uncorrected urban planning and infrastructure anomalies and errors (and in opinion other like impacted lands)?'

Mayor, Cr Peter Clarke responded that C101 as a result of the VCAT determination has been abandoned, so that ceases.

In terms of C81, the new Council has written to the Planning Minister requesting that planning scheme also be abandoned, and as of today a copy of that letter has been sent to residents.

9. Questions from the gallery continued

Esther Caspi, asked Council:

'Can Council ensure new Planning Bills e.g. Vic Planning Authority Bill 2016 and the Urban Renewal Authority Victoria Amendment (Development Victoria) Bill 2016 currently before debate in Parliament does not adversely impact historical urban planning and infrastructure entitlements of privately owned lands in Diamond Creek, Yarrambat and Plenty and in the future keep all its landowners informed what is proposed (local, state, federal) and what is current, and insist that there is a proper avenue to object in time if adversely impacted – thus no surprises and too late to protect both the landowner and Shire as a whole?'

Mayor, Cr Peter Clarke responded that bills before Parliament are a matter for the State Government. The Minister for Planning can enact planning scheme amendments at their discretion.

Indeed the Bushfire Management Overlay plans, will be a planning scheme amendment which we do anticipate the Minister to bring in around about May this year; without a consultation process, by way of a Ministerial Amendment. We have sought a consultation process but there is no capacity or legal remedy for us to get the Minister to change his mind; it is simply by coercion.

We continue to raise these matters with the Minister and seek a consultative process, but you should be well aware that the Minister can do as the Minister decides. I would encourage you, which I have in writing, to speak directly with the Minister's offices and I think I have provided you details of emails and phone numbers to be able to talk to that office directly, because that is where those matters will be dealt with and not at Council.

10. Reports of Advisory Committees

Nil

11. Reports of Special Committees

Nil

12. Officers' reports

OCM.001/17 Municipal Public Health and Wellbeing Plan: Community Engagement and Annual Review

Distribution: Public

Manager: Pauline Gordon, General Manager Community and Leisure

**Author: Diana Bell, Coordinator Social Development and Service Planning
Corrienne Nichols, Acting Manager Community Services and Social Development**

Summary

Compliance with *Public Health and Wellbeing Act 2008* is reported, in the matters of

- Reviewing the Municipal Public Health and Wellbeing Plan (MPHWP) annually
- Involving the local community in the development of the next MPHWP 2017-2021.

The Year 3 review of the current Nillumbik Health and Wellbeing 2013-2017 is presented to Council.

Community involvement in developing the next MPHWP is provided through the adoption of a Community Engagement and Communication Plan and by appointing the MPHWP Project Reference Group.

Motion

Cr Jane Ashton

Cr Karen Egan

That Council:

1. **Notes the Year 3 Annual Review of the Nillumbik Health and Wellbeing Plan 2013-2017.**
2. **Endorses the proposed Municipal Public Health and Wellbeing Plan: Community Engagement and Communication Plan.**
3. **Appoints the eleven nominated members to the Municipal Public Health and Wellbeing Project Reference Group 2017-2021 for a two-year term.**

CARRIED

12. Officers' reports

OCM.002/17 Proactive tree management program in high use areas

Distribution: Public

Manager: Conal Creedon, General Manager Infrastructure Services

Author: Lisa Pittle, Manager Infrastructure Maintenance

Neil Hordern, Environment and Open Space Coordinator

Summary

Trees are a vital part of Nillumbik’s urban and rural areas, underpinning the character of the Shire and its natural ecosystems. Tree management in Nillumbik is guided by the Tree Management Policy and Tree Management Guidelines adopted by Council in September 2015. The Policy and Guidelines recognise that managing trees in public areas is a potentially high risk function for Nillumbik, and for any public land management agency. It is impossible to eliminate all tree-related risks and therefore a risk management approach is used to target resources to higher risk locations.

This report provides background on Council’s existing tree management programs and a response to the Audit Committee’s consideration of the 2016 internal audit of these programs and practices. The key internal audit recommendation is that Council establish a proactive program to inspect and maintain trees in high use areas. This report provides a proposal for Council to fund a cyclic proactive program of tree maintenance in high use areas based on a risk management approach.

Recommendation

That Council

1. Notes the recommendation of the Audit Committee for Council to give early consideration to the development of a proactive tree management program in high use areas.
2. Considers additional funding of \$300,000 per annum to implement a cyclic proactive tree management program in high use areas in developing the 2017-2018 annual budget.

Motion

**Cr John Dumaresq
Cr Peter Perkins**

That Council:

1. **Notes the recommendation of the Audit Committee for Council to give early consideration to the development of a proactive tree management program in high use areas.**
2. **Considers additional funding of \$300,000 per annum to implement a cyclic proactive tree management program in high use areas in developing the 2017-2018 annual budget.**

12. Officers' reports

OCM.002/17 Proactive tree management program in high use areas

3. That Council requests a report to the March meeting cycle on a similar process for prioritising management of roadside vegetation in order to manage fire risk, risk to public safety and amenity.

CARRIED

12. Officers' reports**OCM.003/17 Future Nillumbik Committee - Instrument of Delegation**

Distribution: Public**Manager: Andrew Port, General Manager Corporate Services****Author: Andrew Port, General Manager Corporate Services****Summary**

This report seeks Council approval for an Instrument of Delegation to the new Future Nillumbik Committee.

Following the general election in October 2016, Council reviewed its committee structure. Council then resolved on 22 November 2016 to establish a single Special Committee to replace the previous two Special Committees.

Terms of Reference were drafted for the new Special Committee, which is to be known as the Future Nillumbik Committee. Council formally approved the Terms of Reference at its meeting on 20 December 2016.

The Future Nillumbik Committee has been established as a Special Committee pursuant to Section 86 of the *Local Government Act 1989*. Under the Act, Council is able to delegate powers to the Special Committee through an Instrument of Delegation. The relevant instrument of delegation has been drafted (refer Attachment 1) and is presented for formal execution by Council.

The Terms of Reference for the Future Nillumbik Committee also involve a change to the existing arrangements for members of the public to address the Committee. As noted in the report to Council on 20 December 2016, these new arrangements will require changes to Council's Meeting Procedure Local Law before they commence operation. Council may also wish to consider other changes to the Meeting Procedure Local Law. A separate report will be presented to Council on this matter.

The Act also requires Council to review all delegations within a period of 12 months after each general election. This report concludes the review of delegations to Special Committees. However Council is still required to review delegations to Council officers made under section 98 of the Act. This will be the subject of a further report to Council.

Recommendation

That Council:

1. Resolves to delegate to the Future Nillumbik Special Committee those functions, powers and duties set out in the Instrument of Delegation (Attachment 1) in accordance with section 86 of the *Local Government Act 1989*.
2. Authorises the Common Seal of Nillumbik Shire Council to be affixed to the Instrument of Delegation to the Future Nillumbik Committee.
3. Confirms the appointment of all seven Councillors to the Future Nillumbik Committee, and confirms the abolition of the former Policy and Services Committee and Planning Committee, effective from the date of this resolution.

12. Officers' reports

OCM.003/17 Future Nillumbik Committee - Instrument of Delegation

Motion

Cr Peter Perkins

Cr Bruce Ranken

That Council:

1. Resolves to delegate to the Future Nillumbik Special Committee those functions, powers and duties set out in the Instrument of Delegation (Attachment 1) in accordance with section 86 of the *Local Government Act 1989*.
2. Authorises the Common Seal of Nillumbik Shire Council to be affixed to the Instrument of Delegation to the Future Nillumbik Committee.
3. Confirms the appointment of all seven Councillors to the Future Nillumbik Committee, and confirms the abolition of the former Policy and Services Committee and Planning Committee, effective from the date of this resolution.
4. Adopts the following changes to the Planning Delegation protocol for Planning Applications under the *Planning and Environment Act 1987* by replacing the Delegation Protocol to identify the following circumstances under which an officer may not exercise delegated powers to decide an application:
 - a) If the Ward Councillor in whose ward the application is located, advises in writing that the Councillor wishes to refer the matter to the Future Nillumbik Committee for a planning decision.
 - b) If any Councillor other than the Ward Councillor in whose ward the application is located, advises in writing that the Councillor wishes the matter to be referred to the Future Nillumbik Committee for decision, and that request is supported in writing by one other Councillor.

CARRIED

12. Officers' reports

OCM.004/17 Submission to the Victoria Grants Commission

Distribution: Public

Manager: Andrew Port, General Manager Corporate Services

Author: Vince Lombardi, Manager Finance

Summary

This report considers a submission from Nillumbik Shire Council to the Victoria Grants Commission (VGC).

The VGC is responsible for distribution of Financial Assistance Grants to Victorian councils, using funding allocated by the Commonwealth Government. The Financial Assistance Grants comprise a General Purpose Grant and a Local Roads Grant. Allocations to councils are determined using a complex formula based on the respective levels of need for services, and a range of socio-economic factors.

Council received \$3.2 million in grants from the VGC during 2016-2017, and this funding is an important source of Council revenue.

Each year, councils across Victoria have the opportunity to make a submission to the VGC about the grants distribution formula and methodology. Submissions are due by February each year.

It is important that Council continues to advocate for changes to the grant formula that recognise Nillumbik's specific circumstances and needs, and which promote a fair and equitable basis for grant allocations.

Council made a submission to the VGC in February 2016 which recommended two changes to the formula, in regard to waste management and environmental expenditure. The VGC advised that it would consider these recommendations, and has sought some further information from all councils during late 2016 in relation to these matters. As a final response has not yet been received from the VGC, it is now recommended that Council seek an update.

Motion

Cr Bruce Ranken

Cr John Dumaresq

That Council writes to the Victoria Grants Commission seeking an update in relation to the recommendations made in Council's 2016 submission.

CARRIED

12. Officers' reports

OCM.005/17 December Quarter Financial Report

Distribution: Public

Manager: Andrew Port, General Manager Corporate Services

Author: Vince Lombardi, Manager Finance

Robert Malignaggi, Management Accountant

Summary

This report outlines Council's financial performance and financial position for the period ending 31 December 2016.

The Income Statement shows an overall favourable Year to Date (YTD) variance of \$590,659, representing 1.83 per cent of YTD Budget. This reflects the combined result of higher-than-budgeted operating income of \$484,541 along with lower-than-budgeted operating expenses of \$106,118.

Council's overall financial position at the end of this quarter is sound, and continues to be actively monitored to ensure achievement of mid-year financial review budget targets.

Motion

Cr Bruce Ranken

Cr Karen Egan

That Council receives and notes the Financial Report for the period ended 31 December 2016.

CARRIED

12. Officers' reports

OCM.006/17 Council Plan Quarterly Performance Report December 2016

Distribution: Public

Manager: Andrew Port, General Manager Corporate Services

Author: Naomi Ellis, Corporate Planner

Summary

This report presents the Council Plan Quarterly Performance Report to Council for consideration, documenting progress of key actions for 2016-2017 that demonstrate how Council is delivering the objectives of the Council Plan 2013-2017 for the Nillumbik community.

The attached Council Plan Quarterly Performance Report provides the second update on the progress of the Annual Plan actions for the 2016-2017 financial year.

Of the 58 actions identified in the Annual Plan, at the close of the quarter (31 December 2016) all were on target with a green light status.

Motion

Cr Karen Egan

Cr Bruce Ranken

That Council receives the Council Plan Quarterly Performance Report for the period ending 31 December 2016.

CARRIED

12. Officers' reports

OCM.007/17 Recruitment of Chief Executive Officer

Distribution: Public

Manager: Andrew Port, General Manager Corporate Services

Author: Suzy Ellingsen, Manager Organisational Development

Summary

Following the resignation of the Chief Executive Officer, Council will undertake a recruitment and selection process to appoint to the role. The process is outlined for approval in this report. It is also recommended in this report that an Advisory Committee be appointed to support the process.

Motion

**Cr Karen Egan
Cr Grant Brooker**

That Council:

- 1. Endorses the process for appointment of the CEO as attached.**
- 2. Appoints an Advisory Committee (known as the CEO Recruitment Committee) to support the recruitment and selection process.**
- 3. Appoints the following Councillors to the CEO Recruitment Committee: Mayor (Cr Peter Clarke) and Cr Bruce Ranken and Cr Karen Egan.**

CARRIED

12. Officers' reports

OCM.008/17 Assemblies of Councillors

Distribution: Public

Manager: Andrew Port, General Manager Corporate Services

Author: Naomi Ellis, Corporate Planner

Summary

In accordance with section 80A(2) of the *Local Government Act 1989* Council is required to report as soon as practicable to an Ordinary meeting of Council a record of any assemblies of Councillors held.

This report lists assemblies of Councillors forms that have been submitted since the matter was last reported to Council on 20 December 2016.

Motion

Cr Grant Brooker
Cr Peter Perkins

That Council, in accordance with section 80A(2) of the *Local Government Act 1989*, receives the records of the following assemblies of Councillors:

1	Date of assembly	20 December 2016	
	Matters considered	Pre-meeting for Ordinary Council Meeting	
	Councillors present	Cr Peter Clarke Cr Karen Egan Cr Bruce Ranken	Cr John Dumaresq Cr Jane Ashton
	Staff present	Stuart Burdack Andrew Port Ransce Salan Conal Creedon Naomi Paton Lisa Pittle John Smyth Joseph Emmanuel	Craig Commene Vince Lombardi Rob Malignaggi Justin Murray Joanne Hammond Jeremy Livingston Mathew Deayton Suzy Ellingsen
	Conflict of interest	None declared	

2	Date of assembly	24 January 2017	
	Matters considered	Officer briefings of Councillors <ul style="list-style-type: none"> • Health and Wellbeing Plan • Budget 2017-2018 • Heritage Amendment • Diamond Creek Major Activity Centre Structure Plan 	

12. Officers' reports

OCM.008/17 Assemblies of Councillors

		<ul style="list-style-type: none"> • Eltham Major Activity Centre Structure Plan • Councillor Code of Conduct • Victoria Grants Commission submission 2017 • Heritage legislation
Councillors present	Cr Peter Clarke Cr Karen Egan Cr John Dumaresq Cr Jane Ashton	Cr Grant Brooker Cr Peter Perkins Cr Bruce Ranken
Staff present	Andrew Port Conal Creedon Ransce Salan Pauline Gordon Corrienne Nichols	Diana Bell Vince Lombardi Chad Griffiths Fiona Stevens
Conflict of interest	None declared	

CARRIED

13. Notices of motion

Nil

14. Delegates' reports

Nil

15. Supplementary and urgent business

One supplementary and urgent item had arisen since the agenda was distributed and were presented for inclusion in the meeting.

In accordance with clause 6.15 of the Meeting Procedure Local Law, supplementary and urgent items may be admitted at the discretion of the Chairperson.

The Chairperson, Mayor, Cr Peter Clarke, admitted the item to the meeting.

Motion

Cr John Dumaresq

Cr Peter Perkins

That Council allows an item of supplementary and urgent business regarding the Meals on Wheels incident.

CARRIED

Summary

The Department of Health received a number of notifications of gastro cases across Melbourne's north throughout early and mid-December.

A Moreland City Council (MCC) contact said MCC had been advised by the Department that 14 people had become ill, and received further confirmation this week that a 91-year-old had died in late December.

MCC said they were awaiting a final report from the department about the cause, as they did not yet have 'conclusive evidence' linking the illness with the meal delivery service.

No further cases of illness have been identified and Council's Meals on Wheels service continues to operate as usual.

The Department is investigating the issue and all samples collected from the production kitchen have returned a negative test result.

While undercooked animal products, such as chicken and eggs, are common causes of salmonella outbreaks, the Department of Health said it is not known what was to blame.

However, the health and wellbeing of our community and clients is paramount and council is taking decisive action.

15. Supplementary and urgent business

OCM.010/17 Meals on Wheels

Motion

Cr Bruce Ranken

Cr Jane Ashton

That Council requests that officers prepare an urgent report providing full details of the Meals on Wheels incident that has occurred through Moreland Food Services (Moreland City Council) which includes identification of other food options for Nillumbik Shire Council's 50 clients.

CARRIED

16. Confidential reports

The meeting may be closed to members of the public to consider confidential matters.

Motion

Cr Bruce Ranken
Cr Karen Egan

That Council closes the meeting to the public pursuant to section 89(2) of the *Local Government Act 1989* to consider the following item, which is confidential for the reason indicated:

Report No.	Title	Reason for confidentiality
OCM.009/17	Acting Chief Executive Officer	(a) personnel matters

CARRIED

The meeting closed to the public at 7.40pm.

Ordinary Meeting of Council minutes

31 January 2017

The meeting closed at 8.40pm.

Confirmed: _____

Cr Peter Clarke, Mayor