

Future Nillumbik Committee

to be held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 18 July 2017 commencing at 7pm.

Agenda

Mark Stoermer
Chief Executive Officer

Wednesday 12 July 2017

Distribution: Public

Civic Drive, Greensborough

PO Box 476, Greensborough 3088

Telephone 9433 3111

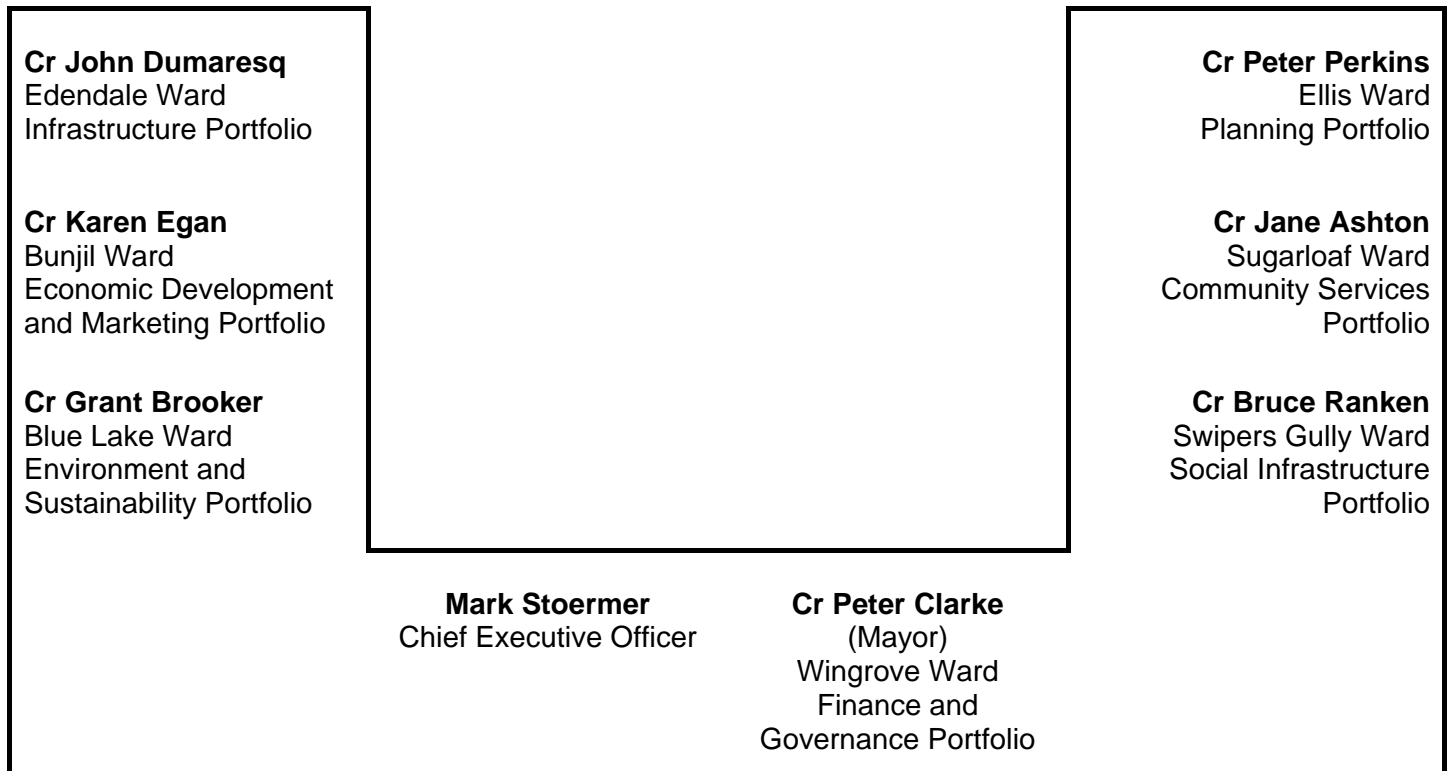
Facsimile 9433 3777

Website www.nillumbik.vic.gov.au

Email nillumbik@nillumbik.vic.gov.au

Wominje ka

Future Nillumbik Committee seating plan



Visitors in the gallery at Committee meetings are:

- Welcome to copies of the various reports which will be considered by this Committee at the meeting. These are on the table in the foyer.
- Welcome to tea, coffee and water. These are on the table in the foyer near the Council Chamber entry.
- Requested to observe deliberations quietly in order for Committee meetings to run smoothly.
- Advised that the meeting will be recorded and the recording may be made publicly available.

Nillumbik Shire Council

Contents

1. Welcome and apologies	1
2. Disclosure of conflicts of interest	1
3. Confirmation of minutes	1
4. Officers' report	2
Finance and Governance Portfolio	
FN.033/17 Review of motorised toy vehicles arrangements	2
Planning Portfolio	
FN.034/17 St Andrews Township Plan Implementation Program	7
5. Supplementary and urgent business	11
6. Confidential reports	11

Nillumbik Shire Council

Agenda of the Future Nillumbik Committee Meeting to be held Tuesday 18 July 2017 commencing at 7pm.

1. Welcome and apologies

Welcome by the Chair

Members of the public are advised the meeting will be recorded and the recording may be made publicly available.

Apologies

Motion

That the apologies be accepted.

2. Disclosure of conflicts of interest

Committee members should note that any disclosure of conflict of interest must be disclosed immediately before the item in which they have an interest.

3. Confirmation of minutes

Confirmation of minutes of the Future Nillumbik Committee Meeting held on Tuesday 13 June 2017.

Motion

That the minutes of the Future Nillumbik Committee Meeting held on Tuesday 13 June 2017 be confirmed.

4. Officers' report**FN.033/17 Review of motorised toy vehicles arrangements**

Portfolio: Finance and Governance**Distribution:** Public**Manager:** Jeremy Livingston, Acting Director Services and Planning**Author:** Phil Lovelace, Manager Community Safety**Summary**

At the Ordinary Meeting of Council on 28 February 2017, Council resolved to alter the Amenity Local Law Administrative Policy Guidelines concerning motorised toy vehicles (MTVs). The change exempted the need for a local law permit for any person using a MTV on private land between the hours of 7am and 8pm Monday to Friday; and 9am and 8pm weekends and public holidays. Since the implementation of this change, feedback has been received both in support of and in opposition to the altered exemption. Opposition to the change has specifically come from neighbours of three properties which have been the subject of noise and activity complaints from neighbours. Based on the feedback following the changes made in February, it is appropriate for Council to review the current arrangements.

In undertaking this review, it is recommended that the permit trigger for a MTV permit be further amended. Specifically, it is recommended to set permit triggers for properties which do not contain a dwelling/residence, and introduce a property size threshold. This would enable Council to assess amenity impacts of MTVs on land where the users do not reside, as well as assess amenity impacts of MTV activity in higher density, residential/rural-residential locations. These changes can be readily made through a further amendment to Council's Amenity Local Law Administrative Policy Guidelines.

Recommendation

That the Committee (acting under delegation from Council):

- 1. Amends the Amenity Local Law Administrative Policy Guidelines to include the following two additional permit triggers for use of a motorised toy vehicle on private land:**
 - a) Use/activity on land which is below one hectare in size**
 - b) Use/activity on land which does not contain a dwelling/residence.**
- 2. Where this new permit trigger does not apply, maintains the existing arrangement in the Amenity Local Law Administrative Policy Guidelines to exempt any person using a motorised toy vehicle on private land if the vehicle is used between the hours of 7am and 8pm Monday to Friday; and 9am and 8pm weekends and public holidays.**
- 3. Sets the local law permit fee for a motorised toy vehicles at \$95 for the 2017-2018 financial year and may make the necessary budget adjustments at the mid-year budget review.**
- 4. In accordance with section 112 of the *Local Government Act 1989*, publishes a notice of this resolution in the *Government Gazette*.**

4. Officers' report

FN.033/17 Review of motorised toy vehicles arrangements

Attachments

Nil

Background

1. Historically, the use of motorised toy vehicles (MTV) on private property within the municipality has been regulated through Council's Amenity Local Law and supporting administrative policy guidelines. These were last adopted by Council at its Ordinary Council Meeting in November 2013.
2. At the Ordinary Meeting of Council on 21 June 2016, Council resolved the following:
 - A report be prepared for Council's consideration on alternative options for controlling the use of motorised toy vehicles on private property through Council's Amenity Local Law (which defines 'motorised toy vehicle' as any mini bike, trail bike, motor bike, motor scooter, go-cart and any other vehicle propelled or operated by a motor and which is normally used for recreational purposes but excludes a motorised wheelchair or scooter designed to transport a person of limited mobility).
 - The report addresses alternative standards that may be applicable for controlling noise emissions. The arguments for and against changing Council's existing delegations to designate Council as the determining authority under Council's Amenity Local Law and associated Guidelines in order to meet the objectives of the Local Law, in particular, to provide for the fair and reasonable use and enjoyment of private land in a uniform and fair manner.
3. A report which addressed the above resolution was presented to Council at the Ordinary Meeting of Council on 28 February 2017 (OCM.017/17). Based on this report, Council moved the following motion:
 - That Council Amends the Amenity Local Law Administrative Policy Guidelines to exempt any person using a motorised toy vehicle on private land if the vehicle is used between the hours of 7am and 8pm Monday to Friday; and 9am and 8pm weekends and public holidays.
 - In accordance with section 112 of the *Local Government Act 1989*, publish a notice of this resolution in the *Government Gazette*.
4. Since the implementation of the above amendment, both officers and Councillors have received feedback both in support of and in opposition to the altered exemptions.
5. Opposition to the removal of the former permit arrangements relate directly to three properties which have been the subject of complaints from neighbouring property owners. These properties have the following characteristics:
 - A property in Plenty with a dwelling/residence on it, measuring 4,005 square metres in area
 - A property in Yarrambat with no dwelling/residence accommodated on the land, measuring 71,049 square metres in area
 - A property in Eltham with a dwelling/residence on it, measuring 13,481 square metres in area.

4. Officers' report

FN.033/17 Review of motorised toy vehicles arrangements

6. Based on the feedback in opposition to the recent alterations to the Amenity Local Law Administrative Policy Guidelines with respect to MTVs, it is appropriate for Council to reassess the current arrangements.

Policy context

7. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Develop policies, strategies, projects and partnerships to enhance the health and wellbeing of the community.

Budget implications

8. The cost of administering local law permits under Council's Local Law No. 5 and assessing nuisance complaints under *Public Health and Wellbeing Act 2008* are contained within Council's operating budget.

Consultation/communication

9. As identified above, since the implementation of changes to MTV arrangements in February of this year, both officers and Councillors have received feedback both in support of and in opposition to the altered exemptions. Opposition to the removal of the permit system relates directly to three properties. The stakeholders of MTV activity on these three properties have been advised that MTV arrangements will be reviewed by Council at this Future Nillumbik Committee Meeting.

Issues/options

10. Clause 41 of Council's Amenity Local Law No 5 requires a property owner to obtain a permit to use a Motorised Toy Vehicle (MTV) on any property within the municipality, as follows:

Motorised Toy Vehicles

- a) Without a permit a person must not use or allow the use of a motorised toy vehicle on any land.
 - b) Without a permit a person must not use or allow the use of a motorised toy vehicle on any Council land other than a road.
11. Council's Amenity Local Law Administrative Policy Guidelines were adopted by Council at the same time as the Amenity Local Law (in November 2013). These guidelines are able to be amended at any time by resolution of Council, without the lengthy statutory processes required for the making of a local law.
12. There are also provisions within the guidelines to exempt persons or activities. Provided that the objectives of the Local Law are protected, additional exemptions can be added from time to time by Council.

Short term/immediate options

13. There are a number of immediate options available to Council to reassess the arrangements to use MTVs on private property. These include:
- a) Revert to the previous arrangements where a permit is required for the use of any MTV on private property (a 'catch all' permit trigger approach)
 - b) Maintain the current arrangement but include additional permit trigger(s)

4. Officers' report**FN.033/17 Review of motorised toy vehicles arrangements**

- c) Continue with the current arrangement which allows the use of MTVs on any property without a permit during nominated times, and any issues potentially investigated under the 'nuisance' provisions under the *Public Health and Wellbeing Act 2008*.
14. Based on the merit of some of the complaints received by Council since February, there appears to be some genuine amenity concerns raised by neighbours with respect to amenity impacts from MTVs on smaller properties. Generally on these smaller properties, MTV activities are occurring closer to property boundaries and therefore closer to adjoining dwellings/residences. The smaller properties are generally located within either the residential or rural-residential locations within the Shire.
15. Having considered this, officers would recommend a lot size local law permit trigger of below one hectare (10,000 square metres). This would enable Council to undertake an amenity assessment, including consulting neighbours, through a local law permit process.
16. There is also the potential for MTVs to adversely affect the amenity of the area in circumstances where there is no dwelling/residence on the property in question. This can either be as a result of the activity occurring on the property without the knowledge of the landowner, or in circumstances where the landowner (who does not live within the neighbourhood) may not have existing relationships/social investment with their neighbours compared to landowners who live within the area. It would be appropriate to also include a local law permit trigger to undertake MTV activities on private land which do not accommodate a dwelling/residence. This would both enable an amenity assessment to be undertaken (as above), as well as enforce any such activity where it has not obtained the requisite permit (which would particularly assist in situations where the landowner is not aware of the MTV activity occurring on the land).
17. In summary, it is recommended that 'option b' above would be appropriate to address the concerns of those in opposition to the current arrangements, with the following permit triggers for use of MTVs:
- Private land below a minimum lot size
 - On private land not currently accommodated by a dwelling/residence.
18. It is also required to re-set a local law permit fee for MTVs for the 2017-2018 financial year (as no adopted fee has been set for this financial year regarding these permits) and make the necessary budget adjustments at the mid-year budget review. As the corresponding permit fee for the 2016-2017 financial year was \$92, it would be appropriate to set this at \$95 for this financial year.

Longer term considerations

19. Should consideration and adoption of the above recommendation not fully resolve some of these existing neighbour disputes, or new noise issues arise as a result of the use of MTVs, Council could further explore the use of a sound level meter. This device could enable Council staff to take and assess acoustic measurements.

4. Officers' report

FN.033/17 Review of motorised toy vehicles arrangements

20. However, this option only considers noise as a nuisance, and not necessarily other externalities around nuisance, such as dust and general enjoyment of semi-rural or rural amenity. In addition, unlike other more stable noise sources, MTV activities can be highly variable that could make noise measurements an unreasonable indicator to determine nuisance. These variables would include, location of the MTVs being ridden to adjoining properties, the type of riding (i.e. jumps, revs-per-minute range of MTV, etc).

Conclusion

21. It is appropriate for Council to reassess MTV arrangements in light of some recent feedback following changes made to the Amenity Local Law Administrative Policy Guidelines in February 2017. It is recommended that Council make two changes to the permit trigger for a MTV permit. Specifically, it would be prudent to set a permit trigger with respect to property size in order to assess amenity impacts of MTVs in higher density, residential/rural-residential locations. It would also be appropriate to introduce a permit trigger for MTVs on properties which do not contain a dwelling/residence. These changes can be readily made through a further amendment to Council's Amenity Local Law Administrative Policy Guidelines.

4. Officers' report**FN.034/17 St Andrews Township Plan Implementation Program**

Portfolio: Planning**Distribution: Public****Manager: Naomi Paton, Acting Director Business and Strategy****Author: Fiona Stevens, Senior Strategic Planner****Summary**

The St Andrews Township Plan (Attachment 1) was produced, with community consultation, between June 2011 and August 2013. The Plan identifies key issues such as the absence of reticulated sewerage, a small population and distance from services. It highlights the strategic opportunity to harness the town's popularity for its Saturday market, while acknowledging the need to improve the town's liveability for its residents. The Plan articulates a community vision for the town which includes the desire to contain development, expand its commercial offerings and improve public infrastructure. Parallel to the Plan's development and informed by the consultation, design guidelines for development in the town have also been produced.

The Plan's strategies and actions are designed to achieve the vision, resolve issues, harness the opportunities and deliver much needed public infrastructure. The cornerstone action is the development and delivery of a Traffic, Infrastructure and Landscape Works Plan which includes the construction of a connected pedestrian path network, a safe pedestrian pathway or bridge across the gully which may include artistic elements and improved wayfinding and signage for residents and visitors alike.

The Township Plan was adopted at the Policy and Services Committee Meeting on 13 August 2013, noting that an Implementation Program was being developed for adoption at a later date. An Implementation Program, reflecting work undertaken since 2013, has now been prepared. The Plan's adoption enables funding allocations to be referred for consideration in the preparation of future Council budgets. Many of the Plan's actions will require detailed planning and, in most cases, further community consultation.

Recommendation**That the Committee (acting under delegation from Council):**

- 1. Adopts the St Andrews Township Plan Implementation Program.**
- 2. Refers required financial allocations for consideration in the preparation of future Council budgets.**
- 3. Seeks to secure external funding to assist with implementation.**
- 4. Monitors the Plan's implementation biannually.**

Attachments

1. St Andrews Township Plan 2013
2. St Andrews Township Implementation Program

4. Officers' report

FN.034/17 St Andrews Township Plan Implementation Program

Background

1. The St Andrews Township Plan was produced, with community consultation, between June 2011 and August 2013.
2. At its Policy and Services Committee Meeting on 13 August 2013, the Committee (acting under delegation from Council) carried a motion to:
 - Note the results of consultation on the Draft St Andrews Township Plan.
 - Adopt the St Andrews Township Plan, July 2013.
 - Note that a draft St Andrews Implementation Plan is being prepared and once completed, will be reported to Council for their consideration.
 - Endorse the St Andrews Township Design Guidelines for the purpose of public exhibition, with consideration given to revising the recommended materials and treatments for footpaths and surfaces.
 - Request the Minister for Planning authorise an amendment to the Nillumbik Planning Scheme to give effect to the St Andrews Township Plan to:
 - a) Introduce planning provisions to include relevant Township Plan strategies
 - b) Introduce an overlay to give effect to the St Andrews Township Design Guidelines and protect the neighbourhood character of the township
 - c) Rezone the Community Centre land at 35 Caledonia Street to Public Use Zone 6 – Local Government.
 - Write to the members of the Community Advisory Group, thanking them for their participation.
 - Advise all residents and community groups within St Andrews of the Committee's decision.
3. Amendment C93 was subsequently authorised by the Minister for Planning to give effect to the Township Plan by introducing a number of planning provisions, including a Design and Development Overlay to the township. The amendment was approved on 23 July 2015.
4. An action of the Township Plan is to have an approved Implementation Program and to review it every two years. Due to other Council priorities, the Program has only recently been finalised, however a number of actions have progressed since 2013.
5. An updated Implementation Program (Attachment 2) has now been prepared with consideration given to changes and progress that has occurred since 2013. It is essential that the Program is adopted to ensure provision is made within the capital works budget. Commitment of Council funding is also crucial for any grant applications which typically require confirmation of co-funding.

Policy context

6. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Ensure that the provision of community infrastructure responds to community needs.

4. Officers' report**FN.034/17 St Andrews Township Plan Implementation Program**

Budget implications

7. The costs associated with the various actions are detailed in the attached Implementation Program.
8. In 2017-2018, \$55,000 has been allocated from the capital streetscape upgrade budget to begin implementation of the Pedestrian Path Plan.
9. Funding for implementation of future actions including the Pedestrian Path Plan, wayfinding and heritage signage; installation of the footbridge; planning for and construction of a trail between Mittons Bridge Road and the Recreational Reserve; a Masterplan for the Recreational Reserve and investigation of play spaces identified in the Township Plan will be costed and referred to future budgets for consideration.
10. A number of these actions will be eligible for funding through the Commonwealth Government *Building Better Regions* program.

Consultation/communication

11. The Township Plan and its actions were considered and debated by the community and community representatives during the Plan's development.
12. A small community meeting held at the Wadambuk Community Centre on 6 February 2017, providing an opportunity for Sugarloaf Ward Councillor Jane Ashton to meet residents that were involved in or have a particular interest in the Township Plan and other activities such as the St Andrews Market.
13. The meeting provided an opportunity for Council officers to remind residents of the proposed actions in the Township Plan and check whether the main actions and infrastructure proposals remain necessary and important. It was generally agreed at the meeting the identified priority actions of pedestrian connections, a dedicated pedestrian crossing over the gully (either via the road or a boardwalk) and improved signage throughout the town remain a current and high priority.
14. Following Council's adoption of the Implementation Program, officers will work alongside the community to deliver each project, with further community engagement to be undertaken where required.

Actions and progress since 2013

15. A planning scheme amendment to introduce a local planning policy, Design and Development Overlay and rezoning of the Community Centre land to Public Use Zone 6 (Local Government) was actioned almost immediately following the Township Plan adoption and approved by the Minister for Planning in July 2015.
16. The action to investigate the introduction of a schedule to the Bushfire Management Overlay in St Andrews has been completed. The CFA have confirmed that due to the linear development of the township, no properties can meet the criterion of distance from bushfire-prone areas.
17. On 22 March 2015 the Wadambuk St Andrews Community Centre was officially opened. The Centre includes an art exhibition space, community meeting spaces and outdoor play space.

4. Officers' report**FN.034/17 St Andrews Township Plan Implementation Program**

18. In 2015 Council created a new community bus stop to the west and south side of the bridge, at the entrance to the market driveway. The original position of the bus stop outside the tennis courts was problematic both in terms of adherence to accessibility standards and generally being located too far from the market, meaning users had to double back to the market across and beside parked cars and traffic along Caledonia Street. The new stop features a concrete slab and gutter, but erosion of the soft surface between the slab and road is an ongoing issue.

Priority actions within the Implementation Program

19. Consistent with the Township Plan and the February 2017 meeting with residents, two actions are considered to be of critical importance to the town and its ability to entice visitors to explore beyond the Saturday market:
- Construction of pedestrian path connections generally between School Road and Proctor Street that is located off-road where possible and integrated with existing informal pathways; and
 - Construction of a pedestrian pathway on the south side of the road bridge on Caledonia Street, either in the form of a protected and dedicated footpath on the road bridge or as a freestanding foot bridge adjacent to the road, to improve movement and functionality around the township.
20. In light of the new community centre and public arts space at one end of town and new bus stop at the visitor-centric Saturday market and St Andrews pub at the other, the third critical action is the development of new wayfinding and heritage signage throughout the township, noting this infrastructure is dependent on the delivery of the above two priorities.
21. The first two actions require significant capital works funding to proceed. The *Building Better Regions* program has been identified as a likely funding source provided the project/s have co-funding confirmed. The fund provides grants of between \$20,000 and \$1million on a dollar for dollar basis. The next round of applications is due to be assessed in December 2017. Leading up to the application stage, Council needs to commit to the design and development stages of the project to demonstrate robust planning and investment commitment.
22. The third priority action being Wayfinding and Heritage Signage is likely to benefit from some limited Artisan Hills funding with the inclusion of the brand logo on the signage.

Conclusion

23. The St Andrews Township Plan, after substantial research and consultation, was adopted on 13 August 2013. The Township Plan includes an action to produce and adopt an Implementation Program.
24. Adoption of the Implementation Program is essential to ensure delivery of the actions in the Township Plan, particularly those involving capital works.
25. The priority actions of pathways, a footbridge and wayfinding require committed funding, design and development.
26. It is therefore recommended that the Committee adopt the Implementation Program.

Future Nillumbik Committee agenda

18 July 2017

- 5. Supplementary and urgent business**
- 6. Confidential reports**