

## Ordinary Meeting of Council

to be held at the Civic Centre, Civic Drive, Greensborough  
on Tuesday 28 March 2017 commencing at 7pm.

### Agenda

**Mark Stoermer**  
**Acting Chief Executive Officer**

Wednesday 22 March 2017

Distribution: Executive

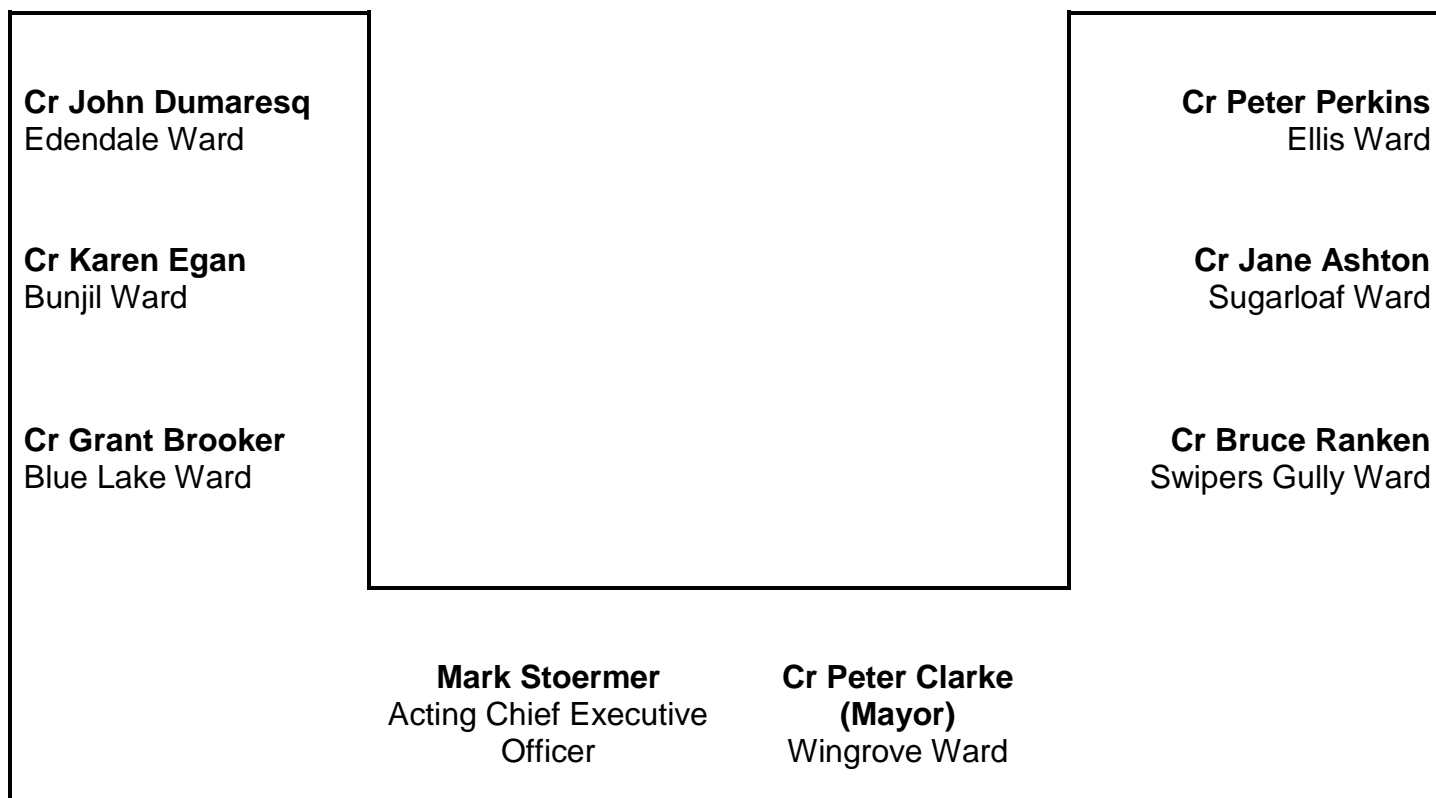
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*Domin je ka*

## Ordinary Meeting of Council seating plan



Visitors in the gallery at Council meetings are:

- Welcome to copies of the reports which will be considered by the Council at the meeting. These are on the table in the foyer.
- Welcome to the tea, coffee and water provided in the foyer.
- Requested to observe Council deliberations quietly in order for Council meetings to run smoothly.
- Advised that an audio recording of this meeting will be made for the purpose of verifying the accuracy of the minutes.

Nillumbik Shire Council

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## Nillumbik Shire Council

### Agenda of the Ordinary Meeting of Nillumbik Shire Council to be held Tuesday 28 March 2017 commencing at 7pm.

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#### Welcome by the Mayor

Members of the public are advised the meeting will be recorded for the purpose of verifying the accuracy of the minutes.

#### 1. Reconciliation statement

##### The reconciliation statement to be read by the Mayor

Nillumbik Shire Council acknowledges the Wurundjeri as the traditional custodians of the land now known as the Shire of Nillumbik and values the significance of the Wurundjeri people's history as essential to the unique character of the Shire.

#### 2. Prayer

A prayer will be read by Rev. David Sullivan of St Matthew's Church, Panton Hill.

#### 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. Apologies

**Motion**

**That the apologies be accepted.**

#### 5. Presentations

**Kaitlyn Leffley** (Edendale Ward) receives \$200 as a contribution for being selected to compete in the World Cheerleading Championships in America.

#### 6. Confirmation of minutes

Confirmation of minutes of the Council Meeting held on Tuesday 28 February 2017.

**Motion**

**That the minutes of the Council Meeting held on Tuesday 28 February 2017 be confirmed.**

#### 7. Disclosure of conflicts of interest

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

**8. Petitions**

Nil

**9. Questions from the gallery**

10. Reports of Advisory Committees

AC.002/17 Advisory Committee Report

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**Distribution:** Public

**Manager:** Andrew Port, General Manager Corporate Services

**Author:** Tracey Classon, Personal Assistant to General Manager Corporate Services

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 minutes of meetings are presented to Council. This month, the following minutes are attached for information:

- Living & Learning Nillumbik Advisory Committee meeting held 22 February 2017.

**Motion**

**That Council notes the Living & Learning Nillumbik Advisory Committee meeting minutes held 22 February 2017.**

**Attachments**

1. Living & Learning Nillumbik Advisory Committee meeting minutes held 22 February 2017

**11. Reports of Special Committees**

Nil

12. Officers' reports

OCM.028/17 Municipal Emergency Management Plan Update

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**Distribution:** Public

**Manager:** Conal Creedon, General Manager Infrastructure Services

**Author:** Justin Murray, Executive Officer Emergency Management

**Summary**

It is a requirement of the *Emergency Management Act 1986*, that each municipal council must prepare and maintain a Municipal Emergency Management Plan (MEMP).

Each MEMP is audited by the Victoria State Emergency Service every three years.

In preparation for the 2017 audit, the Municipal Emergency Management Planning Committee (MEMPC) has reviewed and updated the MEMP. The updated plan was endorsed by the MEMPC on 20 March 2017.

Included in the updated plan is a new section 'Safer More Resilient Communities.' This is a commitment to a more consultative and community focused approach to emergency management.

The updated plan is presented with this report for Council's consideration and endorsement.

**Recommendation**

**That Council endorses the Nillumbik Municipal Emergency Management Plan 2017-2020.**

**Attachments**

1. Municipal Emergency Management Plan 2017-2020

**Background**

1. Section 20 of the *Emergency Management Act 1986*, requires that each municipal council must prepare and maintain a Municipal Emergency Management Plan (MEMP).
2. The MEMP has been reviewed and updated by the MEMPC. The updated plan was endorsed by the committee at their meeting on 20 March 2017.
3. The legislation requires that the MEMPC having prepared the plan should then present it to Council for consideration.
4. The MEMPC has in recent years developed a more community focused disaster resilience strategy. This strategy has now been embedded into the MEMP.

**Policy context**

5. This report directly supports the achievement of Council Plan 2013-2017 strategy:
  - We will strive to make our Shire safe by meeting our statutory responsibilities for emergency management including the risks of natural disasters such as fire and flood.



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**OCM.028/17 Municipal Emergency Management Plan Update**

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**Budget implications**

6. Facilitating the development of the MEMP is a core role of the Emergency Management team. Associated costs are factored into the Emergency Management operational budget.
7. Grant funding of \$83 000 has been secured to assist with moving towards a more community focused approach to Emergency Management.

**Consultation/communication**

8. Council maintains close association and communication with State Government departments and emergency management agencies in developing and reviewing its emergency management plans. This includes the preparation and endorsement of the Municipal Emergency Management Plan, Municipal Fire Management Plan and specific projects to engage the community in developing understanding and resilience to emergency events.
9. The plan commits to ongoing and improved community consultation on Emergency Management issues. This will be done through the implementation of the Nillumbik Strategy for Disaster Resilience. This strategy was developed through extended consultation over a number of years. This has included public meetings, surveys and presenting the draft for consultation on Council's web site.
10. The draft MEMP containing this strategy was published on the 'Have Your Say' section of Council's website. This was advertised through Council's social media outlets.
11. There was one response: a request to make reference to the 'National Equine Database'. This is a local initiative to assist animal owners living in bushfire prone areas. This has now been incorporated into the plan.

**Issues/options**

12. A Municipal Emergency Management Planning Committee (MEMPC) has been established in pursuant of section 21 of the *Emergency Management Act 1986*.
13. The committee is made up of representatives of agencies that play a key role in preparing for, preventing, responding to and recovering from emergencies. Member agencies are:
  - Victoria Police
  - Department of Health and Human Services
  - Nillumbik Shire Council
  - Country Fire Authority
  - Metropolitan Fire Brigade
  - Victoria State Emergency Services
  - Plenty Valley FM
  - Melbourne Water
  - Australian Red Cross

12. Officers' reports

OCM.028/17 Municipal Emergency Management Plan Update

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- VicRoads
  - Ambulance Victoria.
14. Other agencies and subject matter experts also provide input to emergency planning as required.
  15. It is a function of the committee to develop a Municipal Emergency Plan. This plan must be consistent with the guidelines published in the Emergency Management Manual Victoria (EMMV).
  16. The Victoria State Emergency Service audits all MEMPs on a three yearly basis, to ensure that plans comply with the guidelines. The Nillumbik MEMP is due to be re-audited.
  17. The MEMP has undergone a comprehensive review by the MEMPC to ensure its currency and compliance with the guidelines.
  18. Changes have been made to the plan to reflect changes in emergency management arrangements that have occurred at the state level. This includes:
    - Emergency Management Victoria taking over the role of co-ordination of recovery at the State Level
    - Changes in terminology in relation to response coordination.
  19. Statistical information has been updated where more current information is available.
  20. The Community Emergency Risk assessment section of the plan has been updated following a review undertaken by the committee in late 2016.
  21. Also included in the updated plan is Part 8 Safer More Resilient Communities. This consists of a Disaster Resilience Strategy and a program to implement the strategy. These have previously been separate documents endorsed by the committee. There is no requirement to have this section. However it does better reflect a commitment to more effective community engagement and more community focused emergency planning.
  22. The implementation of the '2020 Vision' program will see the plan evolve over the next three years. Community profiles developed in partnership with the community will be incorporated in the plan. The intent is to better understand community needs and provide communities with the best information about risk and what action they can take to manage that risk.
  23. Council has been successful in securing funding (\$83,000) through the 'Bushfire Mitigation Grants Program 2016-2017.' This funding will be used to deliver and evaluate the community engagement project in St Andrews.
  24. It is anticipated that the outcomes of this project will inform Council and partner agencies about how we can best work with the community not only in St Andrews but across Nillumbik
  25. At the MEMPC meeting on the 20 March, the committee endorsed the changes to the plan. The updated plan is now presented to Council for endorsement. The plan will undergo constant monitoring review by the MEMPC.

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**OCM.028/17 Municipal Emergency Management Plan Update**

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26. The Victorian State Emergency Service will conduct an audit of the Plan in April and will report back to the Municipal Emergency Management Planning Committee. A Certificate of Audit will be issued to Council once the State Emergency Service has completed its review and any amendments are completed.

**Conclusion**

27. The Municipal Emergency Management Planning Committee has updated the Municipal Emergency Management Plan to ensure that it is current and compliant with the guidelines as published in the Emergency Management Manual Victoria.
28. The updated plan reflects a commitment to more effective community engagement and more community focused emergency planning.
29. The updated plan is presented for Council's consideration and endorsement.

**12. Officers' reports**

**OCM.029/17 Arts and Cultural Plan 2018-2022: Community Engagement and Consultation Plan**

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**Distribution: Public**

**Manager: Pauline Gordon, General Manager Community and Leisure**

**Author: Michelle Zemancheff, Coordinator Arts and Cultural Development  
Adrian Cully, Manager Community Participation**

**Purpose**

The purpose of the report is to inform Council of the proposed process to undertake Nillumbik's Arts and Cultural Plan 2018-2022.

**Summary**

A Community Engagement and Communication Plan has been developed in order to involve the local community in the development, implementation and evaluation of the Arts and Cultural Plan 2018-2022. The new Arts and Cultural Plan will ensure the people of Nillumbik have the freedom to participate in the arts and to celebrate one's culture, and inform its investment in future infrastructure program priorities, community wellbeing and social capital.

**Recommendation**

**That Council:**

- 1. Notes the Year Five Annual Review of the Cultural Plan 2011-2017.**
- 2. Endorses an increase of the membership number of the Arts Advisory Committee from six to seven in order to align with the National Arts and Culture Accord and provide diverse representation of Nillumbik's arts and cultural community.**
- 3. Endorses the Terms of Reference for the Arts Advisory Committee for public exhibition seeking expressions of interest for nomination.**
- 4. Instructs officers to report nominations for the Arts Advisory Committee to Council for endorsement.**
- 5. Endorses the Community Engagement and Communications Plan for the Arts and Cultural Plan 2018-2022.**

**Attachments**

- Cultural Plan 2011-2017 Year Five Annual Review
- Arts Advisory Committee Terms of Reference
- Arts and Cultural Plan: Community Engagement and Communication Plan

12. Officers' reports

**OCM.029/17 Arts and Cultural Plan 2018-2022: Community Engagement and Consultation Plan**

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**Background**

1. Article 27 of the Declaration of Human Rights underpins every citizen's right to participate in the cultural life of the community and to enjoy the arts.
2. In 2013 the Australian Government's Minister for the Arts, state and territory arts and cultural ministers and the Australian Local Government Association on behalf of local government agreed to a National Arts and Culture Accord. The Accord recognises the importance of the arts and the need to support strong and vibrant arts, cultural heritage and creative industries sectors. The Accord provides a framework for all tiers of government to work together to support Australian's artists, cultural institutions and creative industries, to ensure participation in the cultural life of their community and enjoy the arts.
3. The Accord defines arts and culture as follows:
  - Core arts: music, performing arts, literature and visual arts, including established and emerging art forms, and inter-arts activities, education, collections and performances; whether they be individual or collective activities; for vocational or recreational purposes; and publicly accessible via galleries, libraries, theatres, cultural venues, festivals and events, training institutions, on-line and broadcast.
  - Creative industries: Film, television production, broadcasting, electronic games, architecture, design and fashion, publishing, media and advertising; where diverse creative and business skills are harnessed for commercial production and dissemination.
  - Cultural heritage: preservation and public access to artefacts and intangible cultural heritage (particularly indigenous culture) as undertaken by museums, galleries, libraries and archives.
4. Creative Victoria, the peak statutory body for arts and culture for the State of Victoria, also recognises the investment that local government makes in the arts and culture sector which delivers important economic, social and cultural outcomes. This investment has significant impact on communities' liveability, social cohesion, education, employment and cultural tourism, and health. In its four year strategy, Creative State, local government is identified as having an important role in the planning, development and provision of creative industry infrastructure and services.
5. With the current Cultural Plan concluding in June 2017, a new Arts and Cultural Plan is due for development and adoption by Council. The new Arts and Cultural Plan will seek to be responsive to the new Council Plan goals:
  - Engaged connected communities
  - Safe and healthy environments
  - A prosperous economy
  - Active and creative people
  - Responsible leadership.

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**OCM.029/17 Arts and Cultural Plan 2018-2022: Community Engagement and Consultation Plan**

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6. Council provides for the involvement of the local community in the development, implementation and evaluation of the Arts and Cultural Plan using the Arts Advisory Committee as the Project Reference Group.
7. At its Ordinary Meeting of Council on 22 November 2016, Council appointed Cr Egan as chair of the Arts Advisory Committee. Council also made recommendations to reduce the number of community members represented on the Arts Advisory Committee to six; and instructed officers to prepare updated Terms of Reference for the Arts Advisory Committee to be reported to Council for approval.

**Policy context**

8. This report directly supports the achievement of Council Plan 2013-2017 strategy:
  - We will provide our community with opportunities for education, life-long learning and creative pursuits.

**Budget implications**

9. Council has allocated an operating budget for Arts and Culture in 2016-2017 and the 2017-2018 draft budget to undertake this work.

**Consultation/communication**

10. A comprehensive Community Engagement and Communications Plan for the Arts and Cultural Plan 2018-2022 provides a detailed map for the community engagement and consultation process.

**Issues/options**

11. An Annual Review relating to each year of implementation of the Cultural Plan is reported to Council. The Cultural Plan 2011-2017 Year Five Annual Review is complete (Attachment 1).
12. The Terms of Reference for the Arts Advisory Committee (Attachment 2). In order that the Terms of Reference align with the National Arts and Culture Accord and provide a diverse representation of Nillumbik's arts and cultural community, officers propose that Council reconsider the committee membership by increasing it to seven community members, comprising three members each representing one of the three categories of arts and culture defined by the Accord.
13. Upon Council's endorsement, the Terms of Reference will be publicly exhibited seeking expressions of interest for nomination.
14. Nominations will be reported to Council for endorsement. Following endorsement, The Arts Advisory Committee will be formed and integral to the consultation process as the Project Reference Group.

**12. Officers' reports**

**OCM.029/17 Arts and Cultural Plan 2018-2022: Community Engagement and Consultation Plan**

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15. The Community Engagement and Communication Plan (Attachment 3) provides for the involvement of the local community in the development, implementation and evaluation of the Arts and Cultural Plan 2018-2022. The consultation process will identify community needs and aspirations of the community. It will also address the requirement for other arts and cultural strategies such as percent for art and public art strategies, public access to the Nillumbik Shire Art Collection and gallery space, prioritisation of particular program needs based on creative industries and practices specific to Nillumbik.

**Conclusion**

16. Officers recommend Council endorse:
- The membership number of the Arts Advisory Committee be increased from six to seven in order to align with the National Arts and Culture Accord and ensure diverse representation of Nillumbik's arts and cultural community;
  - The public exhibition of the Terms of Reference of the Arts Advisory Committee and call for expressions of interest for membership nomination; and
  - The Community Engagement and Communications Plan for the Arts and Cultural Plan Planning process 2018-2022.
17. The development of a unique and dynamic Arts and Cultural Plan 2018-2022 will enable the celebration of local culture and participation in the arts and creativity. Furthermore, its development will provide opportunities to contribute to community health and wellbeing; enable thriving cultural tourism and an innovative creative economy; all of which will provide outcomes for the Council Plan and contribute to Nillumbik's establishment as Australia's most liveable shire.

12. Officers' reports

OCM.030/17 Review of the *Flora and Fauna Guarantee Act 1988*

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**Distribution:** Public

**Manager:** Jeremy Livingston, Acting General Manager Environment and Planning

**Author:** Pat Vaughan, Sustainability and Environment Executive Officer  
 Julia Franco, Land Management Officer-Biodiversity

**Summary**

The State Government has sought comment on their review of the *Flora and Fauna Guarantee Act 1988*. Council supports the submission of the Municipal Association of Victoria (MAV). Council will also reaffirm that bushfire and the threat to human life and property are kept at the fore when developing any new or revised legislation relevant to management of the natural environment.

**Recommendation**

**That Council:**

1. Writes a letter to the Department of Environment, Land, Water and Planning (DELWP) advising that Council endorses the Municipal Association of Victoria submission to the Review of the *Flora and Fauna Guarantee Act 1988* Consultation Paper (Attachment 1).
2. Includes a copy of Council's recent submission on the Native Vegetation Clearing Regulations (Attachment 2) as approved by Council at the February 2017 Ordinary Council Meeting.

**Attachments**

1. Draft Submission by the MAV on the Review of the *Flora and Fauna Guarantee Act 1988*
2. Nillumbik Shire Council's Submission on the Native Vegetation Clearing Regulations review.

**Background**

1. The State Government is seeking comment on the following matters relevant to the review.
  - a) Do you think the potential improvements in section 4 of the consultation paper would address the problems with the Act?
  - b) Are there potential improvements you think should be made that are not described?
  - c) Do you have any views on which potential improvements are most important?
  - d) Provide evidence or examples to support comments.



**12. Officers' reports****OCM.030/17 Review of the Flora and Fauna Guarantee Act 1988**

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**Policy context**

2. This report directly supports the achievement of Council Plan 2013-2017 strategy:
  - We will work to protect the Shire's biodiversity and ensure that ecosystems are healthy, resilient, productive and connected across the landscape.

**Budget implications**

3. There are no costs other than officer time involved in the development of this submission.

**Consultation/communication**

4. The State Government released a Consultation Paper on the Review of the *Flora and Fauna Guarantee Act 1988* and sought public comment. The closing date for submissions was extended to 28 March after requests from the MAV and various Councils. The Department of Environment, Land, Water and Planning (DELWP) have advised that they will accept a submission from Council on the following day, given approval of the submission could not be resolved until this Council meeting.

**Issues/options**

5. The Flora and Fauna Guarantee Act is one of a number of pieces of legislation that affect the protection of species in Victoria. Other legislation includes the *National Parks Act*, the *Wildlife Act*, and the *Planning and Environment Act* and its related Native Vegetation Clearing Regulations, the review of which was considered by Council last month. The latter deals with the protection of all native vegetation in Victoria, whereas the Flora and Fauna Guarantee Act concentrates on threatened flora and fauna and communities and is predominantly targeted at public land.
6. The Municipal Association of Victoria (MAV) has provided a draft submission (Attachment 1) for our consideration and input. They have made a number of very good points about the role of councils in biodiversity management, and especially in strategic and statutory land use planning, road (and roadside) management, parks and open space management and partnering and supporting local community conservation groups.
7. The MAV make the following observations which warrant the support of Council:
  - a) While the current Act establishes controls for what may happen on public land, these controls largely do not apply on private land unless a critical habitat designation or interim conservation order has been issued. The State's reluctance to use the critical habitat and interim conservation order powers means that the Act has been ineffectual in influencing or preventing actions that result in negative biodiversity impacts on privately owned land.
  - b) At present, biodiversity impacts on private land are primarily governed by Clause 52.17 (Native vegetation) of planning schemes under the *Planning and Environment Act 1987* and by the *Wildlife Act 1975*. The Wildlife Act applies harsher penalties to prohibited actions if they involve listed species, while Clause 52.17 controls the removal of native vegetation.

12. Officers' reports

OCM.030/17 Review of the Flora and Fauna Guarantee Act 1988

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- c) In reality, councils have become the predominant regulator of biodiversity impacts on private land via its powers and duties under the *Planning and Environment Act*. This leads to a range of issues, including:
  - i) An unrealistic expectation that councils can and should be the primary protectors of biodiversity on private land via the land use planning system. The native vegetation provisions are complex to administer and often the areas of land with the most valuable biodiversity assets fall under the jurisdiction of the most resource-constrained councils that have limited capacity to undertake complex assessments and to defend decisions.
  - ii) While decisions are guided by state-wide modelling, implementation at the council level can be inconsistent and therefore impair adherence to a state-wide strategy.
  - iii) Habitats that are not considered to be native vegetation essentially go unregulated on private land. Some councils use planning overlays to protect certain habitats but this approach is difficult, costly and time-consuming to achieve and is occurring inconsistently across the state.
  - iv) Regulation varies depending on the area of native vegetation being cleared on a given property, meaning in locations with small lot sizes significant native vegetation removal may occur with little to no regulation in place.
  - v) There is little scope to include site-based observations of threatened species into the decision making process.
- d) For these reasons we consider it critical that DELWP take a more prominent role outside of the land use planning framework to regulate impacts to biodiversity, regardless of tenure of land.

8. Council supports the overall direction of the MAV's submission and endorses this in its response to the review.

9. The issue of bushfire and the threat to human life and property has been highlighted in Council's previous submission to Native Vegetation Clearing Regulations (Attachment 2). It is recommended that this submission be included in Council's response.

**Conclusion**

10. Overall the potential improvements identified in the Review of the *Flora and Fauna Guarantee Act 1988* is broadly supported as detailed in the MAV submission. It is also important for Council to reaffirm that bushfire and the threat to human life and property are kept at the fore when developing any new or revised legislation relevant to management of the natural environment.

**12. Officers' reports**

**OCM.031/17 Terms of Reference for the Economic Development, Environment and Inclusion Advisory Committees**

**Distribution: Public**

**Manager: Jeremy Livingston, Acting General Manager Environment and Planning**

**Author: Jeremy Livingston, Acting General Manager Environment and Planning**

**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.

Following a recent reconfiguration of Council's Advisory Committees, this report seeks endorsement of the Terms of Reference of three of these newly configured committees for public exhibition and seeking expressions of interest for community membership nomination. The three committees are the Economic Development, Environment and Sustainability and Inclusion Advisory Committees.

**Recommendation**

**That Council:**

- 1. Endorses the Terms of Reference for the Economic Development, Environment and Sustainability, and Inclusion Advisory Committees for public exhibition seeking expressions of interest for membership nomination.**
- 2. Instructs officers to report nominations for each of these three Advisory Committees to Council for endorsement.**

**Attachments**

1. Economic Development Advisory Committee Terms of Reference
2. Environment and Sustainability Advisory Committee Terms of Reference
3. Inclusion Advisory Committee Terms of Reference

**Background**

1. Council has a range of Advisory Committees which provide an opportunity for Council to consult, engage and communicate with key stakeholders through participation by Councillors and other community members on those committees.
2. Following the resolution at the November 2016 Ordinary Meeting of Council concerning the restructuring the Advisory Committees, the overall number of committees has been reduced from 17 to 10. As a result of these changes, Terms of Reference have been developed for the Economic Development, Environment and Sustainability and Inclusion Advisory Committees.

**12. Officers' reports**

**OCM.031/17 Terms of Reference for the Economic Development, Environment and Inclusion Advisory Committees**

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3. The Economic Development Advisory Committee now has a broader role to include those matters which were previously the responsibilities of the former Agricultural Advisory Committee, the former Eltham Activity Centre Forum and the former Artisan Hills Marketing Committee.
4. The Environment and Sustainability Advisory Committee has a wider scope which now includes matters which were previously the responsibility of the former Green Wedge Management Plan Implementation Advisory Committee.
5. The Inclusion Advisory Committee has broadened its scope from disability to universal access.
6. The Arts Advisory Committee terms of reference are being considered under a separate agenda item in tonight's meeting agenda.

**Policy context**

7. This report directly supports the achievement of Council Plan 2013-2017 strategy:
  - We will involve the community in our decision-making through public participation and representation and we will keep them informed through frequent and effective communication.

**Budget implications**

8. Administrative support for all Advisory Committees is met and provided for through individual business units' operational budgets.

**Issues/options**

9. 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.
10. Upon Council's endorsement, the Terms of Reference will be publicly exhibited seeking expressions of interest for nomination for membership on these committees. Nominations will be reported to Council for endorsement, and following endorsement, these three Advisory Committees will be formed and their responsibilities and meetings commence.
11. It is proposed that the Economic Development, Environment and Sustainability, and Inclusion Advisory Committees comprise a community volunteer membership of ten, eight and six respectively.

**Conclusion**

12. Officers recommend Council endorse the public exhibition of the Terms of Reference (ToR) of the Economic Development, Environment and Sustainability, and Inclusion Advisory Committees and call for expressions of interest for nomination to the membership of these committees.

**12. Officers' reports****OCM.032/17    Review of Instrument of Delegation to Chief Executive Officer and Instrument of Delegation to Members of Council Staff**

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

Council is empowered under a number of pieces of legislation to undertake duties and functions in accordance with that legislation. To actually undertake these duties and functions, it is necessary for Council to delegate relevant powers to the Administration.

It is also necessary for Council to delegate some of its other functions to the Administration for reasons of efficiency and to prevent Council from having to make a lot of operational decisions at Council meetings. Therefore, the *Local Government Act 1989* (the Act) provides for each Council to establish a delegation of power. The Act also requires Council to review the delegations within one year of each general election.

To ensure compliance with the Act, the Instrument of Delegation to the Chief Executive Officer and Instrument of Delegation to Members of Council Staff have been reviewed and are presented to Council for consideration.

<b>Recommendation</b>
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**That Council:**

- 1. In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* and the other legislation referred to in the attached Instrument of Delegation to the Chief Executive Officer (Attachment 1), resolves that:**
  - a) There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in the Instrument of Delegation to the Chief Executive Officer, subject to the conditions and limitations specified in that Instrument.**
  - b) The Instrument comes into force immediately after the common seal of Council is affixed to the Instrument.**
  - c) On the coming into force of the Instrument, all previous delegations to the Chief Executive Officer are revoked.**
  - d) The duties and functions set out in the Instrument must be performed, and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that it may, from time to time, adopt.**
  - e) It is noted that the Instrument includes a power of delegation to members of Council staff in accordance with section 98(3) of the Act.**
- 2. In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* and the other legislation referred to in the Instrument of Delegation to Members of Council Staff (Attachment 2), resolves that:**

**12. Officers' reports**

**OCM.032/17 Review of Instrument of Delegation to Chief Executive Officer and Instrument of Delegation to Members of Council Staff**

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- a) **There be delegated to members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the Instrument of Delegation to Members of Council Staff, the powers, duties and functions set out in that Instrument, subject to the conditions and limitations specified in that Instrument.**
  - b) **The Instrument comes into force immediately after the common seal of Council is affixed to the required document.**
  - c) **On coming into force of the Instrument, all previous delegations to members of Council staff under the Instrument of Delegation to Members of Council Staff are revoked.**
  - d) **The duties and functions set out in the Instrument must be performed, and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that it may, from time to time, adopt.**
- 3. Affixes the common seal to the Instrument of Delegation to the Chief Executive Officer (Attachment 1) and the Instrument of Delegation to Members of Council Staff (Attachment 2).**

**Attachments**

- 1. Instrument of Delegation to the Chief Executive Officer, March 2017
- 2. Instrument of Delegation to Members of Council Staff, March 2017

**Background**

- 1. The power to delegate is conferred on Council by section 98(1) of the *Local Government Act 1989* (the Act) which enables Council, by instrument of delegation, to delegate to a member of Council staff any power, duty or function of Council under the Act or any other Act, other than certain specified powers.
- 2. The delegations are necessary to enable the CEO and Council staff to carry out the day-to-day management of Council's operations.
- 3. Council subscribes to a service provided by Maddocks lawyers in which half-yearly recommended updates to Instruments of Delegations are provided to reflect legislative changes.
- 4. The amendments recommended as part of this review are largely administrative in nature.
- 5. The two Instruments of Delegation to be updated are the Instrument of Delegation from Council to the CEO and the Instrument of Delegation from Council to members of Council staff.
- 6. The Instrument of Delegation to the CEO was last considered by Council in May 2015 and the Instrument of Delegation to Members of Council Staff in April 2016.

**12. Officers' reports**

**OCM.032/17 Review of Instrument of Delegation to Chief Executive Officer and Instrument of Delegation to Members of Council Staff**

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**Policy context**

7. This report directly supports the achievement of Council Plan 2013-2017 strategy:
- We will meet our legal responsibilities and manage our risks.

**Budget implications**

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

**Consultation/communication**

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

**Review of Instrument of Delegation to the Chief Executive Officer**

10. The Instrument of Delegation to the Chief Executive Officer which flows from section 98(1) is a broad, 'by exception' delegation. This means that Council's powers, duties and functions, under any legislation, are delegated by the Instrument, excepting those matters specifically excluded from delegation by the Instrument.
11. Therefore, when a new Act of Parliament is enacted or amended, the powers, duties and functions of councils that are capable of delegation under that new or amended Act are automatically conferred or imposed by the Instrument of Delegation to the Chief Executive Officer. Council is not required to update its Instrument of Delegation each time there are amendments to any relevant legislation.
12. The Instrument of Delegation to the CEO imposes financial conditions and limitations whereby the CEO cannot award a contract for goods and services exceeding \$150,000 or a contract for works exceeding \$200,000. The only exceptions to these financial limitations are in the event of an emergency where the CEO determines a contract must be entered into immediately, and insurance premium payments.
13. The review of the Instrument of Delegation to the CEO in this instance does not recommend any changes apart from minor formatting changes to recognise the most recent review date. These are highlighted in Attachment 1.

**Review of Instrument of Delegation to Members of Council Staff**

14. The Instrument of Delegation to Members of Council Staff comprises those delegations which only Council can delegate directly to staff, unlike, other matters which the CEO can sub-delegated to Council staff. They comprise powers, functions and duties that are delegated to positions such as environmental health officers, town planners and other officers authorised under certain legislation.
15. The Instrument of Delegation to Members of Council Staff covers delegations from Council to General Managers, relevant Managers and staff under a range of legislation including the:
- *Domestic Animals Act 1994*
  - *Environment Protection Act 1970*
  - *Food Act 1984*

12. Officers' reports

**OCM.032/17 Review of Instrument of Delegation to Chief Executive Officer and Instrument of Delegation to Members of Council Staff**

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- *Heritage Act 1995*
  - *Planning and Environment Act 1987*
  - *Planning and Environment Regulations 2015*
  - *Planning and Environment (Fees) Interim Regulations 2015*
  - *Rail Safety (Local Operations) Act 2006*
  - *Road Management Act 2004*
  - *Road Management (General) Regulations 2005*
  - *Road Management (Works and Infrastructure) Regulations 2015*
  - *Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2010*
16. The proposed changes to the existing Instrument of Delegation to Members of Council Staff include:
- Removing a notation from several sections of the *Planning and Environment Act 1987* that the provision is not yet in force and will commence on 1 June 2016 unless proclaimed otherwise. These provisions are now in force and there is no need for the notation.
  - The *Planning and Environment (Fees) Interim Regulations 2015* has been replaced by the *Planning and Environment (Fees) Regulations 2016*. Council powers and duties under the Regulations remain unchanged.
  - The *Road Management (General) Regulations 2005* has been replaced by the *Road Management (General) Regulations 2016*.
  - Several minor formatting changes.
17. The proposed changes are highlighted in Attachment 2.

**Conclusion**

18. It is recommended that the amended Instrument of Delegation to the Chief Executive Officer and Instrument of Delegation to Members of Council Staff be adopted by Council.



## 12. Officers' reports

### OCM.033/17 Review of Meeting Procedure Local Law

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**Distribution:** Public

**Manager:** Andrew Port, General Manager Corporate Services

**Author:** Allison Watt, Manager Governance and Communications

#### Summary

Council's Meeting Procedure Local Law was last reviewed by Council in early 2015 with the current Local Law adopted on 28 April 2015.

The purpose of the Meeting Procedure Local Law is to:

- Regulate proceedings at Council Meetings, Special Committee Meetings and other meetings conducted by or on behalf of Council where Council has resolved that the provisions of this Local Law are to apply
- Regulate proceedings for the election of the Mayor, Deputy Mayor and Chairpersons
- Facilitate community engagement by providing opportunities at meetings for community members to express their views
- Regulate the use and keeping of the common seal.

It is proposed that the following changes be made to the Meeting Procedure Local Law to reflect recent Council decisions and changes to organisational processes:

- That Council may, by resolution, accept electronic petitions received via online websites if it is satisfied that the petition is authentic and from a legitimate website
- That public questions to an Ordinary Council Meeting be submitted by 5pm on the day prior to the scheduled date of the meeting
- That the requirement of Councillors to rise when speaking at a Council Meeting be removed from the Local Law
- That a Rescission Motion must be submitted by a minimum of two Councillors
- That speakers making a submission to a Special Committee can speak for themselves for up to three minutes and for one other person for a further period of three minutes. No person may speak on behalf of more than one other person unless Council or the Committee specifically resolves to allow them to do so.

The current Meeting Procedure Local Law has been reviewed by Council officers and Council's solicitors and the draft revised version of the Local Law is submitted for Council consideration.

The Local Law review and consultation process is extensive and is regulated by Part 5 of the *Local Government Act 1989* (the Act).

Council is required to undertake a community consultation process consistent with section 223 of the Act which requires the proposed changes to the local law to be made publicly available for 28 days, that submissions from members of the public be invited and that those submitters are provided with an opportunity to be heard in respect to their submission.

**12. Officers' reports**

**OCM.033/17 Review of Meeting Procedure Local Law**

It is recommended that the attached Local Law be adopted as a draft and that the required statutory notices be published to enable the community consultation process to commence.

Following the community consultation process a further report will be provided to Council, having regard to any submissions received from the community.

<b>Recommendation</b>
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**That Council:**

- 1. Adopts, as a draft, the attached proposed Meeting Procedure Local Law for public exhibition.**
- 2. Pursuant to Section 119 of the *Local Government Act 1989*, gives notice in the Victoria Government Gazette, together with a public notice, of the proposed Meeting Procedure Local Law**
- 3. Receives a further report, having regard to any submissions received, following the conclusion of the community consultation process.**

**Attachments**

1. Draft Meeting Procedure Local Law 2017

**Background**

1. Council's Meeting Procedure Local Law was last reviewed by Council early in 2015 with the current Local Law adopted by Council on 28 April 2015.
2. The purpose of the Meeting Procedure Local Law is to:
  - Regulate proceedings at Council Meetings, Special Committee Meetings and other meetings conducted by or on behalf of Council where Council has resolved that the provisions of this Local Law are to apply
  - Regulate proceedings for election of the Mayor, Deputy Mayor and Chairpersons
  - Facilitate community engagement by providing opportunities at meetings for community members to express their views
  - Regulate the use and keeping of the common seal
3. The procedure for making or amending a Local Law is set out in the *Local Government Act 1989*. The Act allows any persons affected by the proposed Local Law to make a submission relating to that Local Law. Section 119 of the Act provides as follows:
  - 1) Before a Council makes a local law it must comply with the following procedure.
  - 2) The Council must give a notice in the *Government Gazette* and a public notice stating:
    - a) the purpose and general purport of the proposed local law

12. Officers' reports

OCM.033/17 Review of Meeting Procedure Local Law

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- b) that a copy of the proposed local law can be obtained from the Council office
    - c) that any person affected by the proposed local law may make a submission relating to the proposed local law under section 223.
  - 3) After a local law has been made the Council must give a notice in the *Government Gazette* and a public notice specifying:
    - a) the title of the local law; and
    - b) the purpose and general purport of the local law; and
    - c) that a copy of the local law may be inspected at the Council office.
  - 4) After a local law has been made the Council must send a copy to the Minister.
- 4. It is proposed that the following changes be made to the Meeting Procedure Local Law to reflect recent Council decisions and changes to organisational processes:
  - That Council may, by resolution, accept electronic petitions received via online websites if it is satisfied that the petition is authentic and from a legitimate website
  - That public questions to an Ordinary Council Meeting be submitted by 5pm on the day prior to the scheduled date of the meeting
  - That the requirement of Councillors to rise when speaking at a Council Meeting be removed from the Local Law
  - That a Rescission Motion must be submitted by a minimum of two Councillors
  - That speakers making a submission to a Special Committee can speak for themselves for up to three minutes and for one other person for a further period of three minutes. No person may speak on behalf of more than one other person unless Council or the Committee specifically resolves to allow them to do so.

**Policy context**

- 5. This report directly supports the achievement of Council Plan 2013-2017 strategy:
  - We will meet our legal responsibilities and manage our risks.

**Budget implications**

- 6. There will be some costs associated with seeking legal review and inviting public comment on the draft Meeting Procedure Local Law. These and other administrative costs will be met within existing operational budgets.

**Consultation/communication**

- 7. Changes to the Meeting Procedure Local Law will require Council to undertake a community consultation process consistent with section 223 of the Act which requires the proposed changes to the local law to be made publicly available for 28 days, that submissions from members of the public be invited and that those submitters are provided with an opportunity to be heard in respect to their submission.

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**OCM.033/17 Review of Meeting Procedure Local Law**

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**Issues/options**

**Online petitions**

8. At the Ordinary Council Meeting on 23 August 2016, the previous Council resolved, in part, that:  

Officers investigate and report back to Council a process to allow online petitions to be submitted to Council and comply with Council's Meeting Procedure Local Law.
9. An online petition (or Internet petition, or e-petition) is a form of petition which is signed online, usually through a form on a website. Visitors to the online petition sign the petition by adding their details such as name and email address
10. There are now several major web initiatives featuring online petitions, for example Change.org, Avaaz.org, and 38 Degrees The format makes it easy for people to make a petition at any time. Several websites allow anyone with computer access to protest any cause.
11. Online petitions may be abused if signers don't use real names, thus undermining its legitimacy. Verification, for example via a confirmation e-mail can prevent padding a petition with false names and e-mails. Many petition sites now have safeguards to match real world processes; such as local governments requiring protest groups to present petition signatures, plus their printed name, and a way to verify the signature (either with a phone number or identification number via a driver's licence or a passport) to ensure that the signature is legitimate and not falsified by the protestors.
12. Online petitions can also attract signatories from a broad geographic area – nationwide or worldwide – and these signatories might not necessarily have knowledge or interest in a shire-specific issue.
13. Officers have consulted other Councils about how, if at all, they deal with the increasing use and popularity of online petitions in their Meeting Procedure Local Laws.
14. Many Councils are in the process of updating their Meeting Procedure Local Laws and are grappling with this issue, however few have yet to update their local law accordingly.
15. The City of Hobsons Bay has included the following paragraph in its Local Law:
  - The Council may, by resolution, accept electronic petitions received via online websites if it is satisfied that the petition is authentic from a legitimate website.
16. Another Council has drafted its Local Law to be 'silent' about whether the petition must in written or electronic form, so as not to exclude electronic and online petitions.
17. Council officers have included in the draft Meeting Procedure Local Law the same paragraph used by the City of Hobsons Bay which allows Council, by resolution, to accept on online petition if it believes it is authentic and from a legitimate website.

**Questions from the Public**

18. Section 6.10 of the Meeting Procedure Local Law requires that:  

All such questions must be received by the Chief Executive Officer or other person authorised for this purpose by the Chief Executive Officer no later than:

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**OCM.033/17 Review of Meeting Procedure Local Law**

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- a) 10 minutes prior to the advertised commencement time of the Ordinary Meeting if questions are submitted in person; or
  - b) 5pm on the day of the Ordinary Meeting if questions are submitted electronically
19. Allowing only 10 minutes to prepare a response to a public question before the meeting starts at 7pm can be problematic, particularly if the question is a complex one and requires some research and if there are multiple questions.
20. Sometimes the question has to be taken on notice or a written response prepared after the meeting and in these cases, the resident/visitor does not get an adequate response to their question in the public forum of the meeting.
21. The change to the Local Law proposes that his deadline change to 5pm on the day prior to the scheduled date of the Ordinary Council Meeting for both hard copy written questions and those submitted electronically via Council's website.
22. This would give Council officers ample time to prepare a well-considered response.

**Addressing the meeting**

23. Section 7.1 of the Meeting Procedure Local Law states:

Except in the case of sickness or infirmity, a Councillor must rise when speaking at a Council Meeting.

The Chairperson may remain seated when speaking at a Council Meeting.

It is unnecessary to rise when speaking at a Committee meeting.

24. The draft Meeting Procedure Local Law proposes that this requirement be removed.

**Rescission motions**

25. At the Ordinary Council Meeting on 23 August 2016, the previous Council resolved to:

Refer to the incoming Council the matter of a possible amendment to the Meeting Procedure Local Law, requiring any rescission motions to be lodged by three Councillors, and that this matter be considered by the incoming Council as part of its wider consideration of governance arrangements.

26. The section on rescission motions in the previous Local Law stated that any Councillor may propose a Notice of Rescission to vary a previous resolution of Council at a subsequent meeting.
27. Rescission motions are different to other matters that are addressed through Notices of Motion. A general Notice of Motion provides an opportunity for any Councillor to list an item on the Council agenda for consideration. It does not have any effect upon Council's activities or resources unless it is then seconded, and carried by a majority at a Council meeting.

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## OCM.033/17 Review of Meeting Procedure Local Law

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28. However a rescission motion has an immediate effect upon Council's activities, even before it is considered by Council. This is because, once a rescission motion has been lodged, the administration must defer implementation of the original resolution in accordance with the Meeting Procedure Local Law. In most cases, the lodging of a rescission motion means that a previous resolution of Council cannot be acted upon until the rescission motion has been considered at the next Council Meeting, which may be up to one month later.
  29. There does need to be a mechanism for Councillors to seek rescission of prior Council resolutions. For example, given a total number of seven Councillors, there could be instances when a Council meeting is held and only five Councillors are present, and two are absent.
  30. If a resolution is made at that meeting, but the vote is three in favour, and two against, then those two Councillors who were absent (if opposed to the resolution) may seek to rescind the motion at a later meeting at which they are present. Under that scenario, a later decision (to rescind) would represent the view of the majority of all Councillors.
  31. Although there is a legitimate requirement for a rescission mechanism, the availability of this mechanism needs to be balanced with other governance considerations. This is because the action of lodging a rescission motion has an immediate effect by delaying the implementation of an earlier Council resolution. The power to lodge a rescission motion is in itself significant, even though the rescission motion will eventually succeed or fail based on the vote at the subsequent Council meeting.
  32. The key issue is therefore to consider the appropriate number of Councillors who must demonstrate support for a rescission motion at the point when it is lodged in writing, rather than when it is subsequently debated.
  33. In considering the appropriate number of Councillors required to lodge a rescission motion, there are a range of options and considerations.
  34. The argument in favour of requiring a rescission motion to be lodged by **two** Councillors is that any motion to be debated at a Council meeting (other than some procedural motions) must be seconded in order to proceed to debate and voting. A motion lapses if it is not seconded. As lodgement of a rescission motion will delay the implementation of an existing resolution, it should at least require a seconder.
  35. The argument in favour of requiring a rescission motion to be lodged by **three** Councillors is that the requirement for a rescission motion ought to be higher than the requirement for other motions (which require a seconder). This is appropriate because Council has already made a resolution on the matter, and the implementation of that decision should not be delayed unless there is evidence of substantial support from Councillors for a rescission.
  36. The fundamental issue with rescission motions is that, once lodged, they delay the implementation of existing resolutions that have been legitimately made by Council.
  37. While there does need to be a mechanism to revisit past decisions, this needs to be limited to those circumstances where a substantial level of Councillor support for rescission is evident at the lodgement stage.

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**OCM.033/17 Review of Meeting Procedure Local Law**

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38. For the reasons outlined above, it is considered that a requirement for two Councillors to submit any rescission motion would be an appropriately balanced requirement. This is reflected in the draft Local Law.

**Public submissions to Special Committees**

39. Council recently established the Future Nillumbik Committee as a special committee under Section 86 of the *Local Government Act 1989*, replacing the Policy and Services Committee and the Planning Committee.
40. Clause 13.3 of the Meeting Procedure Local Law allows Special Committees to hear submitters on any items listed on the Special Committee agenda where the person has made application to speak to an item in accordance with Council's procedures.
41. The previous Local Law stated:  
An individual can speak on behalf of themselves for up to three minutes and one other absent submitter for up to a further three minutes, unless the Council resolves otherwise.
42. The draft Local Law proposes the following paragraph to make this clearer:  
A person can speak on behalf of themselves for up to three minutes. They may also speak on behalf of one other person for a further period of up to three minutes. No person may speak on behalf of more than one other person, unless Council or the Committee specifically resolves to allow them to do so.
43. It is proposed to change the deadline to make an application to speak to an item on the Special Committee agenda from 3pm on the day of the Special Committee Meeting to 5pm on the day prior to the scheduled date of the Special Committee Meeting.

**Conclusion**

44. Council has a legislative responsibility under Part 5 of the *Local Government Act 1989* for the making of Local Laws. If Council resolves to adopt the draft Meeting Procedure Local Law, the availability of the draft Local Law for public comment, as part of the required community consultation process, will be advertised in the *Victoria Government Gazette*, local press, via the various social media options and on Council's website.
45. A further report will then be provided to Council following the conclusion of the community consultation process.

12. Officers' reports

OCM.034/17 Tender for the Management and Operation of Eltham Leisure Centre

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**Distribution: Public**

**Manager: Pauline Gordon, General Manager Community and Leisure**

**Author: Frances Duncan, Coordinator Leisure Facilities**

**Naomi Paton, Manager Leisure and Social Infrastructure**

**Summary**

This report considers the awarding of the contract for the management and operation of the Eltham Leisure Centre.

The contract will provide for a full range of leisure management services in a cost effective, competitive and responsible manner, with an expectation that high quality, customer-orientated-services that respond to the community's recreation and wellbeing needs will be delivered, with Council's assets being managed in the community's long-term interests.

Requests for Tender were advertised on 17 December 2016 for the management and operation of the Eltham Leisure Centre. Tenders closed on 31 January 2017.

The Tender Evaluation Panel has assessed all submissions in accordance with the evaluation criteria. A separate confidential report provides the tender assessment and recommendations to Council regarding the awarding of contracts.

**Recommendation**

**That Council:**

- 1. Notes the report.**
- 2. Makes public the decision to award the contract, but the tender evaluation remain confidential.**

**Attachments**

Nil



**12. Officers' reports**

**OCM.035/17 Supply and transport of bulk bins for the Recycling and Recovery Centre 1617-24**

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**Distribution: Public**

**Manager: Conal Creedon, General Manager Infrastructure Services**

**Author: Lisa Pittle, Manager Infrastructure Maintenance**

**John Smyth, Coordinator Waste Management**

**Summary**

This report considers awarding a contract for Supply and transport of bulk bins from Nillumbik Shire Council's Recycling and Recovery Centre (RRC). Presently Council has a contract with Citywide Service Solutions that concludes on 16 May 2017.

The purpose of this request for quotation is to formalise bulk haulage arrangements for the RRC for the next three years with no option for extension. The requested services include the supply of 33 cubic metre and 16 metre bins bulk bins for hard waste, green waste, cardboard with scrap metal as an option at Council's discretion and regular transport of the bulk material to a disposal or processing facility.

The tender evaluation panel has assessed all submissions and this report outlines the evaluation and recommendations to award the contract.

Pursuant to the Instrument of Delegation to the Chief Executive Officer the anticipated value of this contract exceeds financial limits and a Council resolution is required to accept the recommendation to award and use this contract.

**Recommendation**

**That Council:**

- 1. Notes the report.**
- 2. Makes public the decision regarding the contract but the tender evaluation remain confidential.**

**Attachments**

Nil

12. Officers' reports

OCM.036/17 Assemblies of Councillors

**File:** 10/30/002  
**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 28 February 2017.

**Recommendation**

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

1	<b>Date of assembly</b>	20 February 2017	
	<b>Matters considered</b>	Councillor workshop – Eltham Precincts 3 and 4	
	<b>Councillors present</b>	Cr Peter Clarke Cr Karen Egan Cr John Dumaresq Cr Peter Perkins	Cr Bruce Ranken Cr Jane Ashton Cr Grant Brooker
	<b>Staff present</b>	Paul Fyffe Chad Griffiths Ransce Salan Andrew Port	Pauline Gordon Conal Creedon Mark Stoermer
	<b>Conflict of interest</b>	None declared	

2	<b>Date of assembly</b>	22 February 2017	
	<b>Matters considered</b>	Living and Learning Nillumbik Advisory Committee	
	<b>Councillors present</b>	Cr Jane Ashton	
	<b>Staff present</b>	Maggie Clarke Leanne Wilson Cindy Geyer	Karyn Kamminga Liz Buijs Matt Campbell
	<b>Conflict of interest</b>	None declared	

12. Officers' reports

OCM.036/17 Assemblies of Councillors

<b>3</b>	<b>Date of assembly</b>	<b>28 February 2017</b>	
	<b>Matters considered</b>	<b>Pre-meeting for Ordinary Council Meeting</b>	
	<b>Councillors present</b>	Cr Peter Clarke Cr Karen Egan Cr John Dumaresq Cr Peter Perkins	Cr Bruce Ranken Cr Jane Ashton Cr Grant Brooker
	<b>Staff present</b>	Mark Stoermer Andrew Port Conal Creedon Pauline Gordon Jeremy Livingston Pat Vaughan	Phil Lovelace Naomi Paton Joanne Hammond Corrienne Nichols Narelle Hart Craig Commane
	<b>Conflict of interest</b>	None declared	

<b>4</b>	<b>Date of assembly</b>	<b>2 March 2017</b>	
	<b>Matters considered</b>	<b>CEO Recruitment Sub-Committee</b>	
	<b>Councillors present</b>	Cr Peter Clarke Cr Karen Egan	Cr Bruce Ranken
	<b>Staff present</b>	Suzy Ellingsen	
	<b>Conflict of interest</b>	None declared	

<b>5</b>	<b>Date of assembly</b>	<b>7 March 2017</b>	
	<b>Matters considered</b>	<b>Officer briefings of Councillors</b> <ul style="list-style-type: none"> <li>• Planning applications</li> <li>• Domestic Wastewater Management</li> <li>• Amendment C107 – Bridge Street</li> <li>• Yarrambat Township Plan</li> <li>• Meeting Procedure Local Law</li> <li>• Eltham Leisure Centre redevelopment</li> <li>• Operating Budget 2017-2018</li> <li>• Northlink membership</li> <li>• Councillor/CEO discussions</li> <li>• CEO recruitment update</li> </ul>	
	<b>Councillors present</b>	Cr Peter Clarke Cr Karen Egan Cr John Dumaresq Cr Peter Perkins	Cr Bruce Ranken Cr Jane Ashton Cr Grant Brooker

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OCM.036/17 Assemblies of Councillors

	<b>Staff present</b>	<b>Mark Stoermer Andrew Port Conal Creedon Pauline Gordon Jeremy Livingston Jonathan McNally Stephen Meloury Suzy Ellingsen</b>	<b>Darko Popovski Chad Griffiths Joanne Hammond Mathew Deayton Allison Watt Vince Lombardi Naomi Paton</b>
	<b>Conflict of interest</b>	<b>None declared</b>	

<b>6</b>	<b>Date of assembly</b>	<b>7 March 2017</b>	
	<b>Matters considered</b>	<b>CEO Recruitment</b>	
	<b>Councillors present</b>	<b>Cr Peter Clarke Cr Karen Egan Cr John Dumaresq Cr Peter Perkins</b>	<b>Cr Bruce Ranken Cr Jane Ashton Cr Grant Brooker</b>
	<b>Staff present</b>	<b>Suzy Ellingsen</b>	
	<b>Conflict of interest</b>	<b>None declared</b>	

<b>7</b>	<b>Date of assembly</b>	<b>14 March 2017</b>	
	<b>Matters considered</b>	<b>Officer briefings of Councillors and Pre-meeting for Future Nillumbik Committee</b> <ul style="list-style-type: none"> <li>• Major Projects Plan/Capital Works Program</li> <li>• Asset sales</li> <li>• Capital Works schedules</li> <li>• Pre-meeting for Future Nillumbik Committee</li> </ul>	
	<b>Councillors present</b>	<b>Cr Peter Clarke Cr Karen Egan Cr John Dumaresq Cr Peter Perkins</b>	<b>Cr Bruce Ranken Cr Jane Ashton Cr Grant Brooker</b>
	<b>Staff present</b>	<b>Mark Stoermer Andrew Port Conal Creedon Pauline Gordon Jeremy Livingston Jonathan Miller Natalie Campion</b>	<b>Vince Lombardi Robert Malignaggi Jonathan McNally Corrienne Nichols Lance Clark Rebecca Burton</b>
	<b>Conflict of interest</b>	<b>None declared</b>	

12. Officers' reports

OCM.036/17 Assemblies of Councillors

<b>8</b>	<b>Date of assembly</b>	<b>21 March 2017</b>	
	<b>Matters considered</b>	<b>Officer briefings of Councillors</b> <ul style="list-style-type: none"> <li>• <b>National Broadband Network</b></li> <li>• <b>Budget – new initiatives</b></li> <li>• <b>Instrument of Delegation</b></li> <li>• <b>DPO4 Purchase of public open space</b></li> <li>• <b>Eltham Leisure Centre management</b></li> <li>• <b>Roadside vegetation management</b></li> <li>• <b>Flora and Fauna Guarantee Act</b></li> <li>• <b>Health and Wellbeing profile</b></li> <li>• <b>Arts and Cultural Plan</b></li> <li>• <b>Advisory committees</b></li> </ul>	
	<b>Councillors present</b>	<b>Cr Peter Clarke</b> <b>Cr Karen Egan</b> <b>Cr John Dumaresq</b> <b>Cr Peter Perkins</b>	<b>Cr Bruce Ranken</b> <b>Cr Jane Ashton</b> <b>Cr Grant Brooker</b>
	<b>Staff present</b>	<b>Mark Stoermer</b> <b>Andrew Port</b> <b>Pauline Gordon</b> <b>Jeremy Livingston</b> <b>Lisa Pittle</b> <b>Mathew Deayton</b> <b>Vince Lombardi</b> <b>Allison Watt</b> <b>Joanne Hammond</b> <b>Jonathan Miller</b>	<b>Pat Vaughan</b> <b>Adrian Cully</b> <b>Michelle Zemancheff</b> <b>Lance Clark</b> <b>Darko Popovski</b> <b>Natalie Campion</b> <b>Neil Hordern</b> <b>Naomi Paton</b> <b>Trish Spiteri</b>
	<b>Conflict of interest</b>	<b>None declared</b>	

**Attachments**

Nil

**Background**

1. Amendments to the *Local Government Act 1989* (the Act) in October 2010 require records of assemblies of Councillors to be reported to an Ordinary Meeting of Council and recorded in the minutes of that meeting.

**Policy context**

2. This report directly supports the achievement of Council Plan 2013-2017 strategy 'we will meet our legal responsibilities and manage our risks'.

**12. Officers' reports**

**OCM.036/17 Assemblies of Councillors**

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**Budget implications**

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

**Consultation/communication**

4. None required.

**Issues/options**

5. An assembly of Councillors is defined in section 76AA of the Act. 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:
  - A planned or scheduled meeting that includes at least half the Councillors and at least one Council Officer. These assemblies do not include meetings of Councillors and Council staff that are not planned or scheduled.
  - A 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.
6. A record must be kept of an assembly 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.
7. In accordance with section 80A(2) of the Act, Council is required to report as soon as practicable to an Ordinary Meeting of Council a record of any assemblies of Councillors held.
8. The recommendation contains the list of assemblies of Councillor forms that have been submitted since the matter was last reported to Council on 28 February 2017.

**Conclusion**

9. It is recommended that Council receives the records of recent assemblies of Councillors as contained in this report, fulfilling section 80A(2) of the *Local Government Act 1989*.

**13. Notices of Motion**

Nil

**14. Delegates' reports**

**15. Supplementary and urgent business**

**16. Confidential reports**

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

<b>Motion</b>
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That Council closes the meeting to the public pursuant to section 89(2) of the *Local Government Act 1989* to consider the following items, which are confidential for the reasons indicated:

<b>Report No.</b>	<b>Title</b>	<b>Reason for confidentiality</b>
OCM.037/17	Plenty Low Density Residential Area - Purchase of Land for Public Open space	(d) contractual matters
OCM.038/17	Eltham Leisure Centre Aquatic Redevelopment - Contingency	(d) contractual matters
OCM.039/17	Tender for the Management and Operation of Eltham Leisure Centre	(d) contractual matters
OCM.040/17	Supply and Transport of Bulk Bins for the Recycling and Recovery Centre 1617-24	(d) contractual matters
OCM.041/17	CEO recruitment	(a) personnel matters