

## Future Nillumbik Committee

to be held at the Civic Centre, Civic Drive, Greensborough  
on Tuesday 12 September 2017 commencing at 7pm.

## Agenda

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

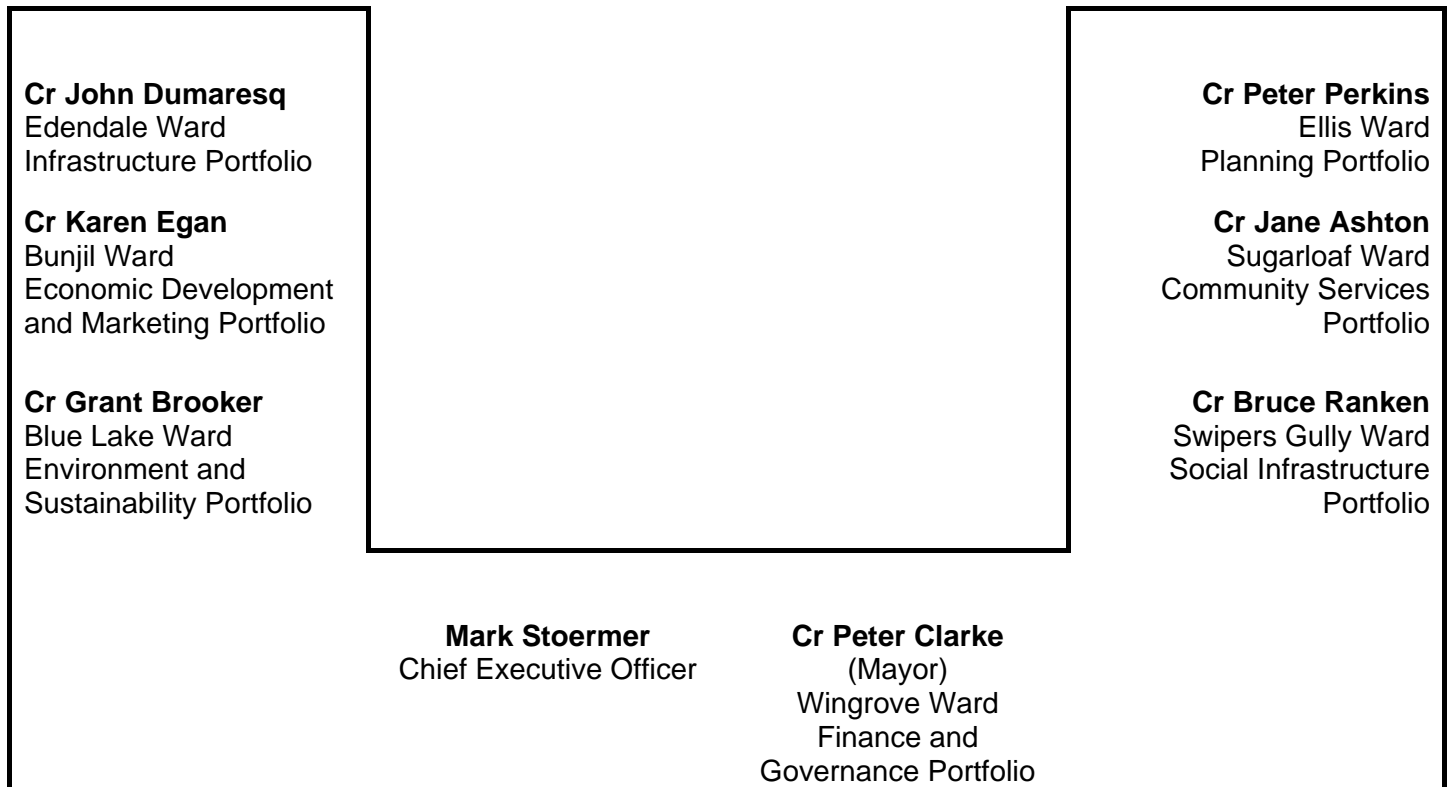
Thursday 7 September 2017

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*Domin je 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 audio recording of the meeting will be made publicly available on Council's website.

Nillumbik Shire Council

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**Nillumbik Shire Council**

**Agenda of the Future Nillumbik Committee Meeting to be held Tuesday 12 September 2017 commencing at 7pm.**

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**1. Welcome and apologies**

**Welcome by the Chair**

Members of the public are advised the meeting will be recorded. The audio recording of the meeting will be made publicly available on Council's website.

**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 15 August 2017.

**Motion**

**That the minutes of the Future Nillumbik Committee Meeting held on Tuesday 15 August 2017 be confirmed.**

4. Officers' reports

**FN.039/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

**Portfolio: Planning**  
**Distribution: Public**  
**Manager: Matt Kelleher, Director Services and Planning**  
**Author: Jonathan McNally, Acting Manager Planning and Health Services**

**Application summary**

Address of the land	14 Barreenong Road, Cottles Bridge
Ward	Bunjil
Site area	7,590 square metres
Proposal	Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation
Application number	412/2016/05P
Date lodged	26 July 2016
Applicant	BT Walsh
Zoning	Rural Conservation Zone (Schedule 3)
Overlay(s)	Environmental Significance Overlay (Schedule 1) Bushfire Management Overlay
Reason for being reported	Called in by Ward Councillor
Number of objections	36 and one letter of support
Key issues	<ul style="list-style-type: none"> <li>• Consistency of use and development within policy framework and the purposes and design guidelines of the Rural Conservation Zone (Schedule 3)</li> <li>• Appropriate management of the bushfire risk</li> <li>• Extent of native vegetation removal and modification</li> <li>• Dwelling design</li> </ul>
Recommendation	That the application be delegated to officers for a final determination



4. Officers' reports

**FN.039/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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#### 4. Officers' reports

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#### Recommendation

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

- 1. Notes that the 'call in' for this item to be determined by the Committee has been withdrawn.**
- 2. Under Council's Planning Delegation Protocol, refers this item back to Council officers to form a position on the planning application prior to the VCAT proceeding on 10 October 2017, in accordance with the officer assessment outlined in this report.**

#### Attachments

- ⇒1. Future Nillumbik Committee agenda report FN.005/17, 14 March 2017 for 14 Barreenong Road, Cottles Bridge
- ⇒2. Site and surrounds
- ⇒3. Plans 1 to 7

#### Site and application history

1. The title for the subject site was created in 2009 when the property was first placed on the market. The land had previously formed one of two lots on a single title and no planning permit was required in order to have the lots separated into two separate titles. Since this time, Council has received seven separate pre-application requests to discuss the future development of this site and in excess of 40 recorded planning information requests whereby advice has been sought on the development potential of the land. Throughout this period, Council has generally advised that the subject site is highly constrained due to the steep topography, extensive vegetation, likely bushfire threat and lack of strategic support in the planning scheme, and that development of the site would be problematic. The current planning application was lodged with Council in July 2016, and is the only formal planning application that has been assessed for this site.
2. This planning application has twice previously been reported to the Future Nillumbik Committee, first in March 2017 whereby a decision on the application was deferred to a later date, and a second time in April 2017. The planning application is being reported to this meeting as there was no formal resolution reached when the matter was last reported to the Future Nillumbik Committee on 18 April 2017. As the permit applicant lodged an appeal at the Victorian Civil and Administrative Tribunal (VCAT) against Council's failure to determine the application within the statutory timeframe, Council is unable to formally determine the planning application. However, Council is required by VCAT to advocate a position at the appeal hearing which is scheduled for 10 October 2017. Council must then communicate its position on the application to the Tribunal and all involved parties prior to the commencement of the hearing.

**4. Officers' reports**

**FN.039/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

3. At the time of preparing the report for the March Future Nillumbik Committee meeting, there were two registered objections to the application. This number has since increased to 36, along with one letter of support. Despite the increased volume of written objections, the substantive issues raised in the objector submissions have not changed with the exception of some new concerns relating to biodiversity impacts, fauna movement, inadequate native vegetation offsetting and the impact on a number of existing pine trees. These new objections do not alter the officer assessment and recommendation contained within the attached report. Concern has also been raised in relation to the accounting of tree loss as a result of the proposal. A response to the additional grounds of objection and accounting of tree loss follows.

**Impact on local biodiversity, fauna movement, and inadequate native vegetation offsetting**

4. A detailed assessment of the environmental impact of the proposal is contained in the original officer's assessment.

**Impact on existing pine trees**

5. The proposed development would result in the loss of four pine trees located along the frontage of the site which were distributed by Melbourne's Royal Botanical Gardens. These trees are native to Gaudalupe Island, which is located off the coast of Mexico and are considered an endangered species, however there are no planning controls which protect these trees in this location.

**Accounting of tree loss**

6. The original officer assessment of this proposal identifies that in total, the proposal requires the removal of 0.384 hectares of remnant native vegetation from both the construction and domestic zone, and the effluent area. This vegetation is identified in the submitted Flora and Fauna Assessment as a number of remnant patches, including:

- Removal of 70 trees (out of a total 107 trees considered lost)
- Removal of trees and vegetation associated with providing defendable space with a minimum depth of 40 metres, extending up to the north-western property boundary (maximum distance of 36 metres from the edge of the proposed dwelling) and a five metre canopy separation.

7. The submitted report assessed a total of 149 trees. The following table provides a summary of the tree impacts from the proposed development:

Total Trees assessed on site	Trees considered lost under Clause 52.17	Trees physically removed from site	Trees to be retained within the construction and domestic envelopes and defendable space	Trees outside the construction and domestic envelopes and defendable space to be retained
149	107	70	40	39



**4. Officers' reports****FN.039/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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8. The submitted Flora and Fauna Assessment included 69 trees considered lost in the defendable space, 37 trees considered lost in the Construction and Domestic Zone and one roadside tree to be removed, a total of 107 trees. Of these trees considered lost under the native vegetation framework and requiring offsetting, 40 would be physically retained on site within the defendable space and the effluent zone. Although these trees would be retained on site for amenity purposes, because they are located within the defendable space or construction and domestic zone, they must still be offset as required by the State Government's Native Vegetation Assessment Guidelines. Further, it should be noted that there are two areas of remnant vegetation onsite, in the northern and southwestern corners of the site respectively, which have not been included in the tree assessment as these areas are proposed to be set aside for conservation purposes and not tree loss would occur in these areas.
9. The tree assessment has identified a total of 22 trees to be removed which are dead and have a Diameter at Breast Height (DBH) of less than 40cm. On their own, these trees would be exempt from requiring a permit, however these trees all sit within a patch of remnant vegetation and have been assessed under Clause 52.17 (Native vegetation) of the planning scheme as a patch, and therefore a permit is required for the removal or loss of the patch of vegetation they sit within.
10. In summary, of the 149 trees identified in the tree census, 107 are to be removed or impacted (considered lost) and require a planning permit. However, not all of the trees considered lost will be physically removed. A total of 40 trees within the defendable space and construction and domestic zone are proposed to be retained. For planning purposes these must be considered lost as the long-term likelihood of survival is low. However the retention of these trees in the short term can reduce the overall amenity impacts of the proposed development.

**Conclusion**

11. This application is being reported to the Future Nillumbik Committee to allow the committee to formally acknowledge that the Councillor call-in for this item has now been withdrawn, and the planning permit application will be decided by Council officers under delegation.
12. The planning controls which affect this site are highly complex when factoring in the environmental impact from development, the requirements for bushfire protection, and a policy setting that generally discourages development on sites of this nature. The application seeks to use the site for the purposes of a dwelling, and undertake buildings and works associated with the construction of a dwelling, garage, and driveway, including removal of vegetation and earthworks. The application was advertised and 36 written objections have been received. The key planning issues to consider relate to response to State and Local planning policy, extent of vegetation removal, bushfire management and dwelling design.

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13. Although the proposed development has gained conditional support from the relevant authorities dealing with bushfire and native vegetation, the cumulative impact from the proposed development and associated vegetation management, when weighed against the expectations of both the state and local planning framework would indicate that the proposal does not warrant support. In forming this position, consideration has been given to Clause 10.04 (Integrated Decision Making) of the planning scheme which requires decision makers to endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. A full assessment of the proposal is contained in the attachments to this report.
14. On balance however, the proposal fails to adequately respond to the policy expectations of the Rural Conservation Zone. While the granting of a planning permit for a dwelling would benefit the landowners, in the context of the relevant planning policy considerations and the broader community there would be a cost. State and Local planning policies consistently discourage residential development on small lots on non-urban land within the Green Wedge.
15. In light of the above planning assessment, the application warrants refusal, as reflected in the officer assessment and recommendation attached to this report.

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

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

**Motion**

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

<b>Report no.</b>	<b>Title</b>	<b>Reason for confidentiality</b>
FN.040/17	Inclusion Advisory Committee	(h) any other matter which the Council or special committee considers would prejudice the Council or any person