

## Ordinary Meeting of Council

to be held at the Civic Centre, Civic Drive, Greensborough  
on Tuesday 25 September 2018 commencing at 7.30pm.

### Agenda

**Hjalmar Philipp**  
**Acting Chief Executive Officer**

Thursday 20 September 2018

Distribution: Public

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*Domin je ka*

# Ordinary Meeting of Council seating plan

**Cr John Dumaesq**  
Edendale Ward

**Cr Karen Egan**  
Bunjil Ward

**Cr Grant Brooker**  
Blue Lake Ward

**Cr Peter Perkins**  
Ellis Ward

**Cr Jane Ashton**  
Sugarloaf Ward

**Cr Bruce Ranken**  
Swipers Gully Ward

**Katia Croce**  
Governance Lead

**Blaga Naumoski**  
Executive Manager  
Governance

**Cr Peter Clarke**  
**(Mayor)**  
Wingrove Ward

**Hjalmar Philipp**  
Acting Chief  
Executive Officer

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 the meeting will be recorded and an 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 Ordinary Meeting of Nillumbik Shire Council to be held  
Tuesday 25 September 2018 commencing at 7.30pm**

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**1. Welcome by the Mayor**

Members of the public are advised the meeting will be recorded.

**2. 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.

**3. Prayer**

A prayer will be read.

**4. Apologies**

Cr Ashton is on an approved leave of absence.

**Recommendation**

**That** Cr Aston's approved leave of absence and any apologies be accepted.

**5. Presentations**

**Jayden Grey** (Swipers Gully Ward) receives \$200 as a contribution for being selected to represent Australia at the World University Championships in China.

Nillumbik Shire Council wishes Jayden every success with his future sporting pursuits.

**6. Confirmation of minutes**

Confirmation of minutes of the Council Meeting held on Tuesday 28 August 2018 and the Special Council Meeting held on Tuesday 11 September 2018.

**Recommendation**

**That** the minutes of the Council Meeting held on Tuesday 28 August 2018 and the Special Council Meeting held on Tuesday 11 September 2018 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**

**Petition No. 2018-04**

A petition containing 23 signatures from residents urging Council to re-consider their proposal to have “No Standing” signs on both sides of the proposed area at Dering Street, Diamond Creek.

**Recommendation**

**That Council:**

1. Receives and notes the petition regarding Council to re-consider their proposal for ‘No Stopping’ Signs in Dering Street, Diamond Creek.
2. Refers this matter to Director Sustainability and Place for investigation and response.
3. Advises the petition organiser accordingly.

**Petition No. 2018-05**

A petition containing 20 signatures requesting Council seal Silvan Road Wattle Glen.

**Recommendation**

**That Council:**

1. Receives and notes the petition requesting Council to seal Silvan Road, Wattle Glen.
2. Refers this matter to Director Sustainability and Place for investigation and response.
3. Advises the petition organiser accordingly.

**Petition No. 2018-06**

A petition contain 20 signatures regarding a permanent fixture at the end of Dingley Dell Road, Blooms Road end.

**Recommendation**

**That Council:**

1. Receives and notes the petition regarding a permanent fixture at the end of Dingley Dell Road, Blooms Road end.
  2. Refers this matter to Director Sustainability and Place for investigation and response.
- Advises the petition organiser accordingly.

**9. Questions from the gallery**

10. Reports of Advisory Committees

AC.008/18 Advisory Committee Report

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**Distribution:** Public

**Manager:** Katia Croce, Governance Lead

**Author:** Emma Christensen, Governance Officer

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:

- Urban Design Review Project Reference Group – 30 May 2018
- Environment and Sustainability Advisory Committee minutes and attachment - 18 July 2018
- Economic Development Advisory Committee minutes - 8 August 2018

**Attachments**

1. Urban Design Review Project Reference Group minutes - 30 May 2018
2. Environment and Sustainability Advisory Committee minutes and attachment - 18 July 2018
3. Economic Development Advisory Committee minutes - 8 August 2018

**Recommendation**

**That** Council notes the:

- Urban Design Review Project Reference Group meeting minutes held on 30 May 2018;
- Environment and Sustainability Advisory Committee meeting minutes and attachment held on 18 July 2018; and
- Economic Development Advisory Committee meeting minutes held on 8 August 2018.



**12. Officers' reports****OCM.146/18 Aged Care Reforms**

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**Distribution: Public****Manager: Matt Kelleher, Director Services and Planning****Author: Corrienne Nichols, Manager Community Programs****Summary**

The Commonwealth Government has implemented a new system of aged care. This includes the introduction of the MyAgedCare gateway and the progressive introduction of a market driven, Consumer Directed Care (CDC) model across community based, packaged and residential aged care services.

Council currently subsidises the service to approx. 20 per cent or \$430,000 p.a. with services delivered via a contract arrangement with MECWACare. In addition, the move to a market-based aged care system in 2020 will require councils to implement full-cost reflective pricing to comply with the Commonwealth Competitive Neutrality Policy.

The proposal that Council remain in some services, and exit from those direct care services where there are other suitable providers was considered at the Future Nillumbik Committee meeting of 11 September 2018. The proposal provides an opportunity for Council to strengthen its support for older residents by reinvesting funds currently subsidising Commonwealth Home Support services.

In particular, it will enable Council to increase its response to the three most common concerns and aspirations raised by older residents for their positive ageing:

- Social isolation and loneliness - by increasing social support programs.
- Difficulty navigating the new Commonwealth service system - by creating an information, advocacy and navigation service to assist residents to access the services and activities that enable them to age well.
- Physical isolation – by providing accessible community transport, particularly for residents in the rural hinterland.

**Recommendation**

**That** Council confirms the following recommendations of the Future Nillumbik Committee held 11 September 2018 to:

1. Endorses the transition from the delivery of highly subsidised services (Domestic Assistance, Personal Care, Respite Care and Property Maintenance) which can be offered by other providers in the market based aged care system by June 2020.
2. Endorses the realignment of Council's role in supporting older people toward achieving the Positive Ageing Strategy's primary outcome of improved opportunities and choices for older residents to live and age well in Nillumbik by:
  - a) Establishing an information, advocacy and navigation service which supports older residents and carers to navigate a significantly changed service system and a diverse range of positive ageing programs.



**12. Officers' reports**

**OCM.146/18 Aged Care Reforms**

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- b) Continuing to provide community transport and conduct a service delivery review to ensure the service delivery model responds to the new service system and achieves best value.
  - c) Developing business model for social connection and social participation including the continuation of Nillumbik Neighbours Social Support group for Council consideration.
  - d) Undertaking a service delivery review for community based social meals in place of delivered meals for Council consideration.
3. Continues to deliver Regional Assessment Services (RAS) until such point that the Commonwealth and State Governments determine the future operating and funding model and then review Council's role.
  4. Continues to engage with Council's Positive Ageing Reference Group (PARG) as part of the transition process and service delivery reviews.
  5. Develops and resource a transition plan to effectively implement these changes.

**Attachments**

1. FNC 11.9.2018 - Aged Care Reforms Report

**Background**

1. Key issues for Council to take into consideration in this reformed Commonwealth service system include:
  - Probable discontinuation of block funding from July 2020.
  - Uncertainty in future funding levels due to increased competition for CHSP funding.
  - Client choice in selecting from an increasing range of available service providers, many of whom can offer a broader range of services including from entry level to high needs.
  - The move to a market-based aged care system in 2020 will require councils to implement full-cost reflective pricing to comply with the Commonwealth Competitive Neutrality Policy, with Council currently subsidising the service by approximately \$430,000 or 20 per cent per annum which is no longer possible.

**Policy context**

2. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Ensure that community services, programs and facilities are inclusive and respond to current and emerging needs.

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**Budget implications**

3. Continuation of providing and sub-contracting Nillumbik Shire Council's CHSP and Home and Community Care Program for Younger People (HACCPYP) services through to June 2020 will have no impact on budget. This is Business as usual and has been budgeted for.
4. The exploration of opportunities for reinvestment will be funded through existing transition budget allocation, funded by the Commonwealth.

**Consultation/communication**

5. Council has communicated and engaged with clients and the broader Nillumbik community regarding the reforms and the introduction of service and pathway changes over the past two years. Most recently, consultation with community, through the "What do you need to Live and Age Well in Nillumbik" research survey provided insight into the priorities of older people, their carers and families to improve the quality of life for older people living in Nillumbik. The outcomes from this consultation reflected the priority needs of people living across the Northern Metropolitan Region (NMR) as captured in the 2018 regional consultation and engagement process, known locally as the "Ideas Hack". Officers have also engaged with Council's Positive Ageing Reference Group (PARG) in relation to the reforms, the research and future service options.
6. Findings from Council's community consultation process identified four priorities. These resonated with the priorities captured through the 2017 Nillumbik Annual Community Satisfaction Survey, Health and Wellbeing Plan and related 2017 Health and Wellbeing Survey and reflected in the NMR "Ideas Hack" consultation with sixty service providers. These are:
  - Support and assistance to get the right services and information to be able to make independent decisions and access services.
  - Access to transport options to assist me to maintain my independence and reduce my isolation.
  - Reduce social isolation and loneliness through service programs and initiatives that maintain and improve social connection and assist to address related health and wellbeing concerns including activities for mobility.
  - Access to health services, retail precincts, facilities and places.

**Issues/options**

Strategic Options

7. Five strategic options were developed for analysis through the Northern Metro Region Aged Care Reform Project, with these options including:
  - **Option 1:** Remain in service delivery (business as usual)
  - **Option 2:** Council to continue to deliver all current services through either:
    - **2A:** an optimised business model; or
    - **2B:** sub-contracting (Council's current business model).

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- **Option 3:** Establish a new entity to deliver services.
  - **Option 4:** Council exit service delivery through either:
    - **4A:** winding down slowly; or
    - **4B:** transfer to another provider.
  - **Option 5:** Continue to deliver some services while exiting others.
8. It is proposed that **Option 5: Continue delivering some services while exiting others** provides the most beneficial outcome for Council, clients, staff and the community. Option 5 is a blended model that has been developed considering the relative strengths and weaknesses of individual service types for each option.
9. Option 5 has been informed by opportunities to strengthen the linkage between service delivery and Council's commitment to improved opportunities and choices for older residents to live and age well, including reducing social isolation and increasing access. Exiting some service types will create opportunities for reinvestment consistent with Council's commitment to older residents.
10. The proposed future role results in Council ceasing to deliver CHSP Domestic Assistance, Personal Care, Respite and Home Maintenance and Modifications services beyond June 2020. Transitioning these Commonwealth services to an alternate service provider(s) reduces Council's significant annual subsidy and allows for reinvestment in addressing issues for older people that are not currently being met.

**Conclusion**

11. The Future Nillumbik Committee met on 11 September 2018 and have considered the report submitted by officers, the committee has recommended to Council they accept the full recommendations.

**12. Officers' reports****OCM.148/18 Assessment Criteria to Evaluate Proposals to Develop 895 and 903-907 Main Road, Eltham****Distribution: Public****Manager: Adrian Cully, Director Business and Strategy****Author: Poul Tvermoes, Senior Project Manager  
Naomi Paton, Manager Integrated Strategy  
Jon Miller, Manager Assets and Property****Summary**

At the Ordinary Meeting of Council on 28 August 2018, Council resolved to commence an urban renewal process at no cost to Council for the Council owned land at 895 and 903-907 Main Road, Eltham, to deliver enhanced social, economic and public realm outcomes in a built form reflective of Eltham's preferred character.

The community's vision for the precinct, which highlights a highly accessible, convenient and attractive location to access public transport, information, arts and cultural services and range of social, community and every day business activities, was established through the 2004 Eltham Structure Plan. The 2017-2021 Council Plan commits to implementing this outcome by developing a visionary plan for the precinct.

Council is now exploring the commercial realities of the development of the two sites through a two-phase market testing process. This will provide Council with a proposed development, in keeping with the community's vision and objectives for the Eltham Activity Centre enabling Council to then undertake broad community engagement. Expressions of Interest (EOI) have been invited. Those proponents with the strongest credentials will be shortlisted to submit a detailed proposal at the formal Request for Proposal (RFP) phase.

This report recommends the assessment criteria (**Attachment 1**) against which the RFP submissions will be assessed. One of the criteria includes how the developer proposes to engage with the community. The assessment criteria will form part of the RFP brief. Subject to sufficient interest at the EOI phase, it is expected the RFP process will take place over October and November 2018. Officers would then recommend to Council a preferred development partner at the December 2018 Ordinary Meeting of Council.

The community will be engaged on Council's preferred development proposal in early 2019, to determine the uses and design aesthetics of the community building.

**Recommendation****That Council**

1. Endorses the Request for Proposal assessment criteria, as presented in **Attachment 1**, to inform the selection of a development partner in a joint venture to renew Council land at 895 and 903-907 Main Road, Eltham.
2. Subject to progressing past the Expression of Interest phase, release the Request for Proposal brief detailing the assessment panel membership, assessment criteria and evaluation measurements.

12. Officers' reports

**OCM.148/18 Assessment Criteria to Evaluate Proposals to Develop 895 and 903-907 Main Road, Eltham**

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**Attachments**

1. 895 and 903-907 Main Road Eltham Request for Proposal assessment criteria

**Background**

1. The Council Plan 2017-2021 commits to finding a visionary use for the former Eltham Shire Offices site at 895 Main Road, Eltham, located within Precinct 4 of the Eltham Major Activity Centre (MAC).
2. The vision for Precincts 3 and 4 of the Eltham MAC highlights that they should be locally cherished as a highly accessible, convenient and attractive location in the Eltham town centre to catch public transport, access information, art and civic services and conduct a range of social, community and every day business activities.
3. Since becoming vacant in 1996, the community has advocated for Council to develop the former Shire Offices site. The Eltham Library and adjacent recreation facilities and open space continue to remain somewhat isolated from the Eltham town centre.
4. At the 30 January 2018 Ordinary Meeting of Council, Council considered a range of uses and development potential for both 895 and 903-907 Main Road. Potential uses including tourism accommodation, gallery, tourist information centre, civic promenade incorporating the cenotaph, community uses, offices and associated car parking were identified. Council also committed to any development needing to contribute strongly to the preferred character of the Eltham town centre.
5. At the 28 August 2018 Ordinary Meeting of Council, Council committed to progressing the urban renewal project for the sites at no cost to Council, and undertaking a two-stage market-testing process to identify a preferred development partner through an initial EOI and then a more formal RFP process involving shortlisted proponents.
6. The EOI closed on 21 September 2018 with proponents' credentials currently undergoing evaluation. A shortlist of developers will be invited to lodge proposals at the RFP phase, with the RFP brief seeking further and more detailed information on how the proposal responds to the assessment criteria (**Attachment 1**).

**Policy context**

7. This project directly supports the achievement of Council Plan 2017-2021 strategies:
  - Create and activate places and spaces that have good connectivity, provide needed infrastructure and promote social interaction.
  - Ensure that the provision of community infrastructure responds to community needs.
  - Encourage investment and development within the Shire to increase economic development and local employment, and broaden the rate base while at the same time preserving the Green Wedge.
  - Develop a visionary plan for Precincts 3 and 4 in the Eltham Activity Centre, including the former Shire Office site and transport modal interchange.

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**OCM.148/18 Assessment Criteria to Evaluate Proposals to Develop 895 and 903-907 Main Road, Eltham**

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**Budget implications**

8. Planning for the potential development of these sites is funded in the 2018-2019 Council budget. Subject to the professional fees associated with the RFP phase, additional funding may need to be referred for consideration at the Mid-Year Budget Review.

**Consultation/communication**

9. The community has provided extensive input in shaping the vision for the Eltham MAC. The community continues to advocate to Council that greater community value be realised from the vacant land of the former Eltham Shire Officers site.
10. Earlier this year, Council undertook initial engagement with site tenants and stakeholders to seek feedback on Council's proposal. Provided existing uses be retained on or adjacent the precinct, investigating options to develop the site was supported by the tenants. The community's heritage and historic values associated with the site has been incorporated in the assessment criteria.
11. If a developer can be identified through the RFP phase, Council will engage with the community on the community building brief which will identify the preferred community uses and built form. The RFP assessment criteria includes evaluation of the proposed community engagement process.

**Issues/options**

12. Developing the sites in accordance with the vision for Precincts 3 and 4 of the Eltham MAC has the potential to make a significant social and economic contribution to Eltham and the wider Nillumbik community, consistent with Council's vision of being Australia's Most Liveable Shire.
13. The RFP brief calls for:
  - a) Concept plans identifying the uses, services, circulation, car parking and outdoor spaces.
  - b) 3D block views to describe the building envelopes.
  - c) Development area summary, an estimate of costs and revenues.
  - d) Replacement of existing on-grade car parks.
  - e) Community building (stand alone, and retained in Council ownership) of minimum 1500sqm gross floor area.
    - i) Note: The brief for the building will be agreed after the appointment of the developer and following community engagement in early 2019
  - f) Proposals which:
    - i) respects the history of the site
    - ii) generates local employment
    - iii) details environmentally sustainable design principles
  - g) A civic style gathering space around the Cenotaph.

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**OCM.148/18 Assessment Criteria to Evaluate Proposals to Develop 895 and 903-907 Main Road, Eltham**

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- h) The proposed team's capability and experience including the following:
    - i) Developer
    - ii) Development Manager
    - iii) Project Manager
    - iv) Architect or Architects
    - v) Financier / Equity Partner
    - vi) Any other key consultants
  - i) A statement on proposed community engagement on the brief for the community building uses and design, noting Council will lead the process.
  - j) \$1.5M for Council for the relocation of the preschool and Maternal and Child Health Centre.
14. Council is not seeking renders illustrating the proposed aesthetic from proponents. The reason for this is that the brief for the community building will not be set until after the community is consulted.
15. The RFP brief will also detail the assessment criteria detailed in **Attachment 1** in which proposals will be evaluated. The proposed assessment criteria will set out Council's minimum outcomes for the sites, including the proponents' demonstrated ability to achieve a planning permit.

**Conclusion**

16. The assessment criteria outlines Council's minimum requirements all proposals must address during the RFP phase, to ensure community, economic and place making outcomes are achieved in developing the sites. The highest scoring proposal which reflects the precinct's vision will be selected to proceed to the next phase.
17. Council requires proponents to identify their approach to community engagement on the community building brief. Wider engagement will guide Council's future decision on the desired uses and built form of the community building retained in Council ownership.

**12. Officers' reports**

**OCM.149/18 Expression of Interest for the Management and Operation of the Hurstbridge Farmers' Market**

**Distribution: Public**

**Manager: Adrian Cully, Director Business and Strategy**

**Author: Christine Gibbins, Business Development and Tourism Officer  
Kylie Lethbridge, Manager Business, Tourism and Marketing**

**Summary**

The Hurstbridge Farmers' Market (HFM) has been operated by Nillumbik Shire Council since 2009. In response to declining visitor and stallholder numbers at the market, Nillumbik Shire Council engaged Urban Enterprise in 2017 to review the current operation of the HFM. This review suggested transferring management of the market to an external organisation as the best way to revitalise and grow the market.

In June, Council commenced an Expression of Interest (EOI) process to ascertain options for outsourcing the operation of the HFM. A panel, made up of stallholder and community representatives, together with Council officers, assessed the application received and determined that the submission from Diamond Valley Community Support met the selection criteria and would be a good option for the market and the community.

**Recommendation**

**That Council:**

1. Enters into a three (3) year contract with Diamond Valley Community Support for the operation and management of the Hurstbridge Farmers' Market.
2. Council agrees to contribute \$21,000 in year one, \$12,000 in year two and \$9,000 in year three via an official three year agreement to Diamond Valley Community Support for the operation and management of the Hurstbridge Farmers Market from November 2018.
3. Council receives annual reviews and a recommendation made for the future of the Market at the completion of the three year agreement.

**Attachments**

Nil

**Background**

1. The Hurstbridge Farmers' Market (HFM) has been operated by Nillumbik Shire Council since 2009. The first market was held in March, a month after the devastating Black Saturday fires that occurred throughout the region.
2. The market is managed by Council's Business, Tourism & Marketing Department, who have run 12 market days annually since its inception in 2009. Council also receives advice on the running of the market from a Community Reference Group that currently consists of five members.
3. The market is an important local program, which delivers a wide range of benefits – economic, environmental and social - to the Hurstbridge community.



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**OCM.149/18 Expression of Interest for the Management and Operation of the Hurstbridge Farmers' Market**

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4. According to visitor surveys conducted in 2015, a large number of visitors to the HFM come from Hurstbridge and surrounding suburbs including Arthurs Creek and Doreen. Smaller numbers of patrons also come from outside the region including inner eastern and northern suburbs of Melbourne.
5. The economic impact of the market is estimated as \$466,327 per annum.
6. From a social perspective, the market engages many aspects of the Hurstbridge community - including the local CFA, preschools and sporting clubs by offering opportunities to fundraise via gold coin gate donations, sausage sizzles and community information stalls.
7. Visitor and stallholder numbers have been declining and in 2017 visitor numbers were down 10% on 2016 and this year, they are following the same downward trend.
8. In response, Council engaged *Urban Enterprise* to review the current operation of the HFM. This review suggested transferring management of the market to an external organisation as the way to revitalise and grow the market.
9. Recommendations also included seeking an operator that was well placed to:
  - a) Have proven track record in achieving good community buy-in, involvement and support;
  - b) Rejuvenate a declining market and able to expand and grow stallholders and visitors;
  - c) Ensure the Farmers Market Accreditation was maintained;
  - d) Considered music and entertainment and other event that support community participation.
  - e) The report also recommended supporting the transition through marketing and promotion; signage, waiving or a reduction in fees and seed funding.

**Policy context**

10. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Develop and market the tourism industry in Nillumbik.

**Budget implications**

11. Current situation:
  - a) Income from stallholder fees is estimated at \$20,000 per year (includes site fees of \$60 or \$90 and \$5.50 electricity charges).
  - b) The net cost to Council in 2017/18 was approximately \$37,264 per year which includes:
    - i) Fees payable to a Market Coordinator (which will no longer be warranted once the transfer is complete).
    - ii) Operations Centre officers to erect corflute event signs during the week prior to the market.

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- iii) Marketing activities including paid social media advertising and photography.
- iv) Victorian Farmers' Market Association member fees.
- v) This cost does not include officer time estimated to be one day per month.

12. Given the decline in stallholders, the \$20,000 income target has not been met.
13. Stallholders are also not seeing a return on their investment due to the decline in visitation. The DVCS response to the EOI process requested a sliding scale of a direct financial contribution from Council should their submission be successful. The details of which are as follows:

Year	Council Contribution	Estimated annual saving to Council
Year 1	\$21,000	\$16,000
Year 2	\$12,000	\$25,000
Year 3	\$9,000	\$28,000
<b>TOTAL</b>	<b>\$42,000</b>	<b>\$69,000</b>

14. This request would still allow Council to realise \$69,000 in savings over a three-year period and \$37,264 annually after the three-year contract. This management structure would also ensure that any profits realised continue to be reinvested in the community.
15. Officers are recommending that this is a good option considering the current annual cost as well as the fact that it would allow staff time to be directed to core business.
16. As part of the new arrangements, officers would also recommend providing the following support:
- a) Free use of Fergusons Paddock once a month for the event.
  - b) Use of the domain name [www.hurstbridgefarmersmarket.com.au](http://www.hurstbridgefarmersmarket.com.au) and Facebook page [www.facebook/hurstbridgefarmersmarket](http://www.facebook/hurstbridgefarmersmarket).
  - c) Provision of existing HFM event advertising signage with installation subject to a new application under Council's 'Erection of Temporary Advertising Signs for Community Events on Road Reserves and Council Property' Policy.
  - d) Remaining Hurstbridge Farmers Market branded shopping bags.
  - e) In kind assistance to the market to help promote it in the region as per other markets and visitor experiences.
  - f) Attend quarterly meetings with the new manager to discuss operations of the market.
  - g) Assistance in obtaining any necessary permits for the operation of the market.

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17. DVCS would also continue the relationship with the CFA which allows them to collect gold coin donations at the gate and are willing to offer free stalls to other local community groups for fundraising.
18. DVCS would be expected to run the market independent of Council funding after the initial three year period.

**Consultation/communication**

19. In June, Council commenced an Expression of Interest (EOI) process to ascertain options for outsourcing the operation of the HFM.
20. The EOI process opened on 9 June 2018 and ran for a period of four weeks, closing on 6 July 2018.
21. The EOI was advertised in The Age newspaper and via the Victorian Farmers' Market Association. A number of community groups were also directly invited to respond including:
  - Nillumbik Business and Tourism
  - Hurstbridge CFA
  - Allwood House
  - Hurstbridge Football/Netball Club
  - Local Food Connect
  - Craft Markets Victoria
  - Melbourne Farmers' Markets
22. Although several enquiries were made only one response was received to this EOI process.
23. The response was from the Diamond Valley Community Support Inc. (DVCS). DVCS have successfully managed and operated the weekly Kingsbury Drive Community Market (previously the Greensborough Market and Diamond Valley Community Market) for almost 40 years.
24. DVCS are a social enterprise with all funds raised going back into emergency relief and ancillary support services for vulnerable individuals and families.
25. The organisation is supported by four part time staff, four casual staff and 90 volunteers and has put forward a clear vision to revitalise and grow the HFM including community engagement, doubling the Victoria Farmers Market Association (VFMA) accredited stallholders numbers and incorporating an art and craft market.
26. A panel, made up of stallholder and community representatives, together with Council officers, assessed the application and determined that the DVCS submission met the selection criteria and would be a good option for the market and the community.

**12. Officers' reports**

**OCM.149/18 Expression of Interest for the Management and Operation of the Hurstbridge Farmers' Market**

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**Issues/options**

27. Should Council agree to the proposal, the contract would commence on 1 December 2018 and end on 31 December 2021.
28. At a minimum, DVCS would be required to:
  - a) Operate the Hurstbridge Farmers' Market once a month within the township of Hurstbridge.
  - b) Retain the market's VFMA Accreditation.
  - c) Offer a site to all current accredited stallholders for as long as they wish to participate in the market.
  - d) Increase stall holders by encouraging and prioritising producers located within the Shire of Nillumbik to participate in the market.
  - e) Engage with the local community and provide opportunities for participation, including allowing the CFA to fundraise.
29. Annual assessments would be made with a formal review and evaluation undertaken on completion of the three-year agreement.
30. At the satisfactory completion of the contract period, officers would recommend transferring ownership of the Hurstbridge Farmers' Market permanently to DVCS.

**Conclusion**

31. In light of the importance of the HFM to the local community it is recommended that Council endorse Diamond Valley Community Support Inc. EOI for the operation and management of the Hurstbridge Farmers' Market and provide an assistance package as outlined above to support its revitalisation.

**12. Officers' reports**

**OCM.150/18 Provision of Computer Hardware, Peripherals and Deployment services for the Replacement of the Existing Fleet of Desktops and Laptops**

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**Distribution: Public**

**Manager: Suzy Ellingsen, Executive Manager People, Culture and Innovation**

**Author: Eddie Cheng, Systems Analyst  
Lance Clark, Senior Procurement Specialist**

**Summary**

This report recommends the awarding of the lease contract for the provision of Hewlett Packard laptops/tablets, associated peripherals and deployment services for the replacement of the existing desktop and laptop fleet of machines.

Currently, Council has a mixed fleet of desktops and laptops that are between 7 – 10 years old and they are not meeting with the digital requirements of our staff and in turn are not able to deliver up to date digital services to our community.

The awarding of this lease contract will enable to acquisition of laptop/tablet hardware and associated peripherals. It will also enable the deployment of new Hewlett Packard tablets to the organisation and remove, wipe and recycle the existing machines.

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

**Recommendation**

**That Council:**

1. Resolves to accept the proposal to enter into a lease contract with for the provision Hewlett Packard tablet hardware, peripherals and deployment services for the lease term of four years with Hewlett Packard Financial Services up to the value of \$785,966 excluding GST.
2. Authorises the Chief Executive Officer to finalise and execute the contract documents.

**Attachments**

Nil

**Background**

1. In line with the Technology Strategy objective of having 'integrated contemporary systems that provide responsive, efficient, easy to use and mobile access to information and services', the Technology Services team aims to replace existing non mobile enabled PC hardware with portable windows tablets to provide the organisation with a platform that enables staff to work efficiently and effectively in how we deliver services to the community.
2. Council currently has a mixed fleet of desktops and laptops that aged between 7-10 years old and are not meeting the digital requirements of the organisation.

**12. Officers' reports**

**OCM.150/18 Provision of Computer Hardware, Peripherals and Deployment Services for the Replacement of the Existing Fleet of Desktops and Laptops**

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3. Council staff are currently only able to work at their designated desks and are reliant on paper and notebooks for a large number of functions within Council.
4. The approval of this contract will allow the deployment of portable devices that allow staff to be more mobile, efficient and productive in the way they work and deliver services to the community.

**Policy context**

5. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Ensure seamless service delivery and an open and responsive approach to our customers.

**Tender process**

6. HP PPS is an appointed supplier via the End User Computing Goods and Services (EUC) Panel put in place by the Victorian State Purchasing Board back in November 2014 and as such Council was not required to issue a public tender for the procurement of the hardware and associated services.

**Budget implications**

7. Based on lease proposals received the table shows comparative costs over the lease contract period.
8. Over the term of the four year contract, the overall cost is not expected to exceed \$785,966 excluding GST.
9. This lease contract for the provision of laptop and tablet hardware, associated peripherals and deployment services will be accommodated within Technology Services' annual operating budget.

**Consultation/communication**

10. The Technology Services team conducted research into the device options available that best aligned with Nillumbik's technology requirements.
11. Demonstration units of the shortlisted device options were assessed by Technology Services staff as well as the wider organisation to provide feedback on which devices are best suited for Council's requirements.
12. A decision was made to proceed with rolling out the Hewlett Packard devices.
13. An internal group made up of managers, coordinators and officers across the organisation were chosen to pilot two types of Hewlett Packard tablet devices to ensure they are meet the organisation's requirements and expectations.
14. An issues and feedback log was setup for the pilots to document and log any issues and feedback relating to their tablets.
15. Regular meetings were held with the pilot staff to ensure they are able to conduct their daily work and are able to be more efficient and productive as an outcome.

**12. Officers' reports**

**OCM.150/18 Provision of Computer Hardware, Peripherals and Deployment Services for the Replacement of the Existing Fleet of Desktops and Laptops**

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16. The pilot group, project sponsor, project control group and the project reference group have all been consulted and have all agreed to proceed with the chosen devices.

**Issues/options**

17. Financial options between an outright purchase arrangement against a termed leasing arrangement to acquire the Hewlett Packard computer hardware, associated peripherals and deployment services were analysed and considered.
18. Taking into consideration Technology Services' operating budget structure and the flexible options offered by a lease arrangement at the end of the lease term (e.g. option to return or purchase the equipment), it is recommended that we proceed with the lease option.
19. Hewlett Packard Financial services and one other leasing services provider were given the opportunity to provide a quote on repayments over a four year term. While Hewlett Packard Financial services' quote is ~\$600 more expensive over the term of the contract, it is recommended that we proceed with Hewlett Packard Financial services quote as it would reduce the administrative overhead and vendor relationship management within Council.

**Conclusion**

20. After analysis and consideration of the above, it is recommended that Council approves the awarding of the contract with Hewlett Packard Financial services to progress with the procurement of the Hewlett Packard tablets, associated peripherals and deployments services.

**Tender certification/disclosure with conflict of interest**

21. The tender process described in the this report is in accordance with Council's Procurement Policy and Guidelines (2015), the relevant provision of the *Local Government Act 1989* – section 186 (Restriction on power to enter into contracts), section 3C (Council Objectives) and section 20B (Best Value Principles).
22. In accordance with Council's Employee Code of Conduct Policy this report has been prepared by the officers of the Tender Evaluation Panel and all officers have declared no conflict of interest in the evaluation process and in determining the recommendations contained in this report.

**12. Officers' reports****OCM.151/18 Hillmartin Lane Area Special Charge Scheme - Reconciliation**

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**Distribution: Public****Manager: Jeremy Livingston, Acting Director Sustainability and Place and Executive Manager Organisational Performance****Author: Patrick Wood, Coordinator Design  
Matthew Theuma, Engineer****Summary**

The special charge scheme outlined in this report has been completed and the final costs have been calculated. At this stage, property owners have been invoiced for the estimated cost, which was the amount at the time of declaration by Council. Property owners who elected to pay the full cost of the scheme up-front would have paid the total estimated cost and for those who chose to pay by instalments, the instalments that have been invoiced to date were calculated on the estimated amount.

Council may now vary these schemes under section 166 of the *Local Government Act 1989*, so that property owners pay the actual cost. The amount of the refund or additional charge to each property will be proportionate with the original contribution.

In the case of the Hillmartin Lane Area Special Charge Scheme, property owners will receive an average refund of \$392.75. The affected properties are shown in **Attachment 1**.

**Recommendation****That Council:**

1. Varies the following Hillmartin Lane Area Road Special Charge Scheme under section 166 of the *Local Government Act 1989*, in line with the revised liabilities set out in Attachment 2.
2. Advises property owners of the applicable variation and provide a refund for the required amount.

**Attachments**

1. Scheme Area
2. Declared Cost and Actual Cost
3. Revised Apportionment and Refunds

**Background**

1. On 13 September 2016, Council resolved to declare a Special Charge for the construction of Larch Crescent, Sutherland (between Larch Crescent and Diamond Creek Road), Hillmartin Lane, Fielding Road and Starling Road.
2. In accordance with Council's Special Charge Scheme Policy, invoices were sent to property owners following the commencement of construction in early 2017. These invoices were based on the estimated cost of works.



**12. Officers' reports**

**OCM.151/18 Hillmartin Lane Area Special Charge Scheme - Reconciliation**

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3. All construction works for the Hillmartin Lane Area Special Charge Scheme have now been completed.

**Policy context**

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

**Budget implications**

5. The scheme outlined in this report has been completed and in accordance with previous Council resolutions, property owners have been invoiced for the estimated cost. As the actual costs were less than the estimated cost (refer to **Attachment 2**), Council is holding money that needs to be refunded to property owners.

**Consultation/communication**

6. Consultation with property owners was undertaken during the development of the scheme. During this consultation, property owners were advised that they would ultimately pay their share of the actual cost, rather than the estimated cost which was used in the declaration of the scheme. They were advised that reconciliation would be undertaken when the final cost was known, which may involve either a refund or an additional invoice.

**Issues/options**

7. When a Special Charge Scheme is declared the liability of each property is calculated based on the estimated cost of the scheme. When construction commences for a scheme, property owners are sent an invoice for the amount that was apportioned to their property at the time of declaration. This is the amount that Council had resolved to charge property owners, which cannot be changed without a further Council resolution.
8. Under section 165 of the *Local Government Act 1989* (the Act), Council must not receive excess money for a special charge scheme. If a scheme is completed for less than the estimated cost, Council must refund the balance proportionate to the original contributions received by Council. The refund would be made to the current owners of the relevant land.
9. Furthermore, under section 166 of the Act, Council may resolve to vary the scheme in relation to the amount to be paid, the persons on whom it is levied and the land to which it applies. Therefore, Council may resolve to vary a scheme under this section in order to adjust the amount of the charge to match the actual cost. This can mean a refund or an additional charge, which in either case would be proportionate to the original contributions. This refund or additional charge is receivable or payable by the current land owner.
10. The affected properties are shown on **Attachment 1**.
11. The table in **Attachment 2** shows when the scheme reached the stage of practical completion.

12. Officers' reports

OCM.151/18 Hillmartin Lane Area Special Charge Scheme - Reconciliation

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12. The table also shows the estimated amount for the scheme at the time of declaration and the actual cost of the scheme that is attributable to property owners, as well as the cost difference and percentage difference.
13. Due to the inherent variations in the tendering process, variations in the order of 10 per cent are to be expected.
14. The costs for the Hillmartin Lane Area Road Special Charge Scheme are 1.93 per cent below the declared costs for this scheme and residents will receive a refund as shown in **Attachment 3**.

**Conclusion**

15. For the Hillmartin Lane Area Special Charge Scheme listed in, where final costs have been established, Council is now in a position to vary the apportionment so that each property's liability is amended to reflect its share of the final cost.
16. The revised apportionment spreadsheet for the scheme is shown in **Attachment 2** and a plan showing the properties affected by the scheme are shown in **Attachment 1**.

12. Officers' reports

OCM.152/18 Audit Committee Reappointment

**Distribution:** Public

**Manager:** Vince Lombardi, Manager Finance

**Author:** Melika Sukunda, Financial Accountant

**Summary**

The three year term of independent member, Mr John Watson has recently expired. Mr Watson was recently appointed as Chair of the audit committee in August 2018.

The *Local Government Act 1989* requires each Council to have an Audit Committee to oversee Council's management of risk, internal controls and financial reporting.

The Committee meets four times each year and the minutes are presented at a subsequent Council meeting.

The Audit Committee comprises of three positions for independent members, and two positions for Councillors (currently Cr Clarke and Cr Ranken). The position of Chairperson is held by one of the independent members.

It is recommended to extend Mr Watson's term for a further three years.

**Recommendation**

**That** Council reappoints Mr John Watson as an independent member of the Audit Committee for a three year term concluding 30 June 2021 and advises Mr Watson accordingly.

**Attachments**

Nil

**Background**

1. Council is required by the *Local Government Act 1989* to have an Audit Committee to oversee Council's financial reporting, risk management and internal controls.
2. At Nillumbik, the audit committee has five members. Two members are Councillors, currently Cr Clarke and Cr Ranken.
3. The other three positions are held by independent members with one of the independent members acting as Chairperson.
4. The independent members are each appointed for a three year term, and may be reappointed by Council once that term concludes.
5. Mr John Watson has served an initial term of three years with the audit committee.
6. At the August audit committee meeting it was resolved to appoint Mr Watson as the Chairperson.
7. Mr Watson has extensive experience across the sector which adds significant value to the audit committee.

**12. Officers' reports**

**OCM.152/18 Audit Committee Reappointment**

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8. The contribution and insight offered by Mr Watson as an independent member to the audit committee provides a balance of experience and background between the current independent members which greatly benefits' Council.

**Policy context**

9. This report directly supports the achievement of Council Plan 2017-2020 strategy:
- Maintain good governance and effective leadership.

**Budget implications**

10. Council pays a fee to each independent member, being \$8,000 per annum to the Chairperson, and \$5,000 per annum to each of the other independent members.

**Consultation/communication**

11. Consultation was conducted upon the initial appointment of Mr John Watson to the position.

**Recommended reappointment**

12. Mr Watson is a very experienced and well-credentialed independent member and it is recommended that Council accept his reappointment.

**Conclusion**

13. The Audit Committee performs a crucial role in overseeing Council's risk management, internal control and financial reporting framework.
14. The appointment of well-qualified and experienced independent members to the audit committee is an important decision by Council in ensuring that the Committee has the necessary skills and capabilities to undertake this role.

12. Officers' reports

OCM.153/18 Rescheduling Special (Statutory) Meeting in October 2018

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**Distribution:** Public

**Manager:** Blaga Naumoski, Executive Manager Governance

**Author:** Katia Croce, Governance Lead

**Summary**

This report recommends rescheduling the 30 October 2018 Special (Statutory) Meeting to 31 October 2018 and extending the term of the Mayor and Deputy Mayor for 1 day to allow continuity of their role until a new Mayor and Deputy Mayor are elected.

**Recommendation**

**That Council:**

1. Reschedule the 30 October 2018 Special (Statutory) Meeting to 31 October 2018 to be held in the Council Chamber at Civic Drive, Greensborough at 7pm.
2. Resolves to extend the term of the mayor for 1 day until 31 October 2018 at 6am.
3. Requests that in accordance with section 89(4) of the *Local Government Act 1989*, the Chief Executive Officer advertises the date in the local newspaper and on Council's website.

**Attachments**

Nil

**Background**

At its meeting held on 26 June 2018, Council resolved:

*'That Council:*

1. *Resolves to list in the schedule of meetings a Special (Statutory) Meeting for the election of the Mayor on 30 October 2018 to be held in the Council Chamber at Civic Drive, Greensborough at 6.00pm.*
2. *Requests that in accordance with section 89(4) of the Local Government Act 1989, the Chief Executive Officer advertises the revised schedule of Council meetings in the local newspaper and on Council's website.'*

**Policy context**

1. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Maintain good governance and effective leadership.

**Issues/options**

2. In terms of the timing of the Special (Statutory) Meeting of Council, the *Local Government Act 1989 (the Act)* stipulates that it must be held after the fourth Saturday in October and before 30 November.

**12. Officers' reports**

**OCM.153/18 Rescheduling Special (Statutory) Meeting in October 2018**

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3. At its meeting held on 30 October 2017, Council resolved to elect a Mayor for a 1 year term; this effectively renders the office of the Mayor vacant at 6am on 30 October 2018.
4. At its Ordinary Council Meeting on 26 June 2018, Council resolved to hold a Special (Statutory) Meeting for the election of the Mayor on 30 October 2018 at 6.30pm. Council also has an Ordinary Council Meeting scheduled for the 30 October 2018 at 7.30pm. This schedule will cause limitations to the programming of the Special (Statutory) Meeting and diminish the significance of the Mayoral event.
5. Ordinarily, the Mayoral election is a stand-alone event, showing respect for the occasion, respect to the family members, friends and supporters, who attend to acknowledge the outgoing Mayor and Deputy Mayor and congratulate the incoming Mayor and Deputy Mayor. Rescheduling the date from 30 October 2018 to 31 October 2018 will help facilitate this.
6. An extension of the Mayor and Deputy Mayor term by 1 day will enable Council to reschedule the Special (Statutory) Meeting to the 31 October 2018 and allow the Mayor and Deputy Mayor to continue to fulfil their roles.
7. The amendment to the meeting schedule to include the Special (Statutory) Meeting date is recommended as it conforms to Nillumbik Shire Council's Meeting Procedures Local Law 2017, whereby Councillors must elect a Councillor to be a Mayor at a Special Meeting specifically convened for the purpose and held in accordance with the Act.
8. In accordance with section 89(4) of the Act, Council must at least 7 days before the holding of a special council meeting give public notice of the meeting. Council will advertise the meeting and list the business to be transacted closer to the proposed meeting date.

**Consultation/communication**

9. Councillors were consulted via a verbal updated at a Briefing of Councillors on Tuesday 11 September 2018.
10. Should Council resolve to reschedule the Statutory Meeting, the public will be notified by officers by updating the 2018 schedule of meetings and Council website with the revised Council dates.

**Budget implications**

11. The advertising of the rescheduled date will be incorporated into the advertising cost of the Special Council meeting date advertised in mid-October 2018.

**12. Officers' reports**

**OCM.153/18 Rescheduling Special (Statutory) Meeting in October 2018**

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**Conclusion**

12. In order to show respect for the Mayoral event, respect to the family members, friends and supporters, who attend to acknowledge the outgoing Mayor and Deputy Mayor and congratulate the incoming Mayor and Deputy Mayor, it is recommended for Council to endorse the amendment of the 2018 meeting schedule to include the amended Statutory Meeting for the 31 October 2018 to the meeting schedule and advertise the change in accordance with the Act.
13. It is further recommended that an extension of 1 day to the Mayor and Deputy Mayor term is permitted to allow for continuity of Council business.

12. Officers' reports

OCM.155/18 Confidential Information Policy

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**Distribution:** Public

**Manager:** Blaga Naumoski, Executive Manager Governance

**Author:** Katia Croce, Governance Lead

**Summary**

The *Local Government Act 1989* (the Act) currently empowers Council to determine that a matter is confidential and closed to the public to discuss certain matters.

When Council determines a matter to be confidential:

- it considers the matter in a part of a council meeting closed to the public;
- it records its discussions in separate, confidential minutes; and
- Councillors who disclose confidential information can be prosecuted or referred to a Councillor Conduct Panel.

At the same time, Council is conscious of the need to handle Council information in a way that promotes and maintains the public's trust and confidence in the integrity of the local government.

Whilst endeavouring in the interests of public accountability to limit the number of matters which are considered in confidential sessions, Council also acknowledges that it is appropriate to consider certain matters in closed meetings.

This report seeks Council endorsement of the Confidential Information Policy which:

- Ensures that Councillors, staff, volunteers and contractors are made aware of their obligations, responsibilities and duties concerning access to and disclosure of, Confidential Information associated with any Council business or activities; and
- Provides guidance to Councillors and staff in identifying, assessing, managing and reporting on the use and/or misuse of Confidential Information.

**Recommendation**

**That** Council endorses the Confidential Information Policy (**Attachment 1**).

**Attachments**

1. Confidential Information Policy

**Background**

1. Council operates in an environment of public accountability in which it seeks to inform the public of issues under consideration and the nature of decisions made by Council. Therefore, information should ordinarily be released to the public unless there are compelling reasons which indicate that this is not in the public interest.
2. At the same time, Council is conscious of the need to handle Council information in a way that promotes and maintains the public's trust and confidence in the integrity of the local government.



**12. Officers' reports**

**OCM.155/18 Confidential Information Policy**

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3. It is accepted that Councillors and Council staff will be in receipt of confidential information acquired during the normal conduct of their duties with Council. It is Council's responsibility to ensure that such information is treated confidentially, so as not to harm, prejudice or compromise the interests of Council or any individual or organisation, or enable any individual or organisation to gain a financial advantage.
4. Whilst endeavouring in the interests of public accountability to limit the number of matters which are considered in confidential sessions, Council acknowledges that it is appropriate to consider certain matters in closed meetings.
5. The Inspectorate is a strong advocate for open and transparent local government to ensure the community is provided with visibility on council actions and decisions. It also recognises that in circumstances where discussions of commercial matters or those with personal privacy implications are conducted, it is necessary for Council to maintain confidentiality.
6. The lawmakers considered these circumstances and provided a mechanism in the legislation for Councils to protect Council or individual interests through confidentiality. Equally as important as the mechanism to declare matters confidential, are the consequences under the legislation for breaching confidentiality.
7. It is important to ensure that the release of any Council information occurs in accordance with established Council policies and procedures and in compliance with relevant legislation. Councillors and members of staff have an obligation to ensure that Confidential Information is managed appropriately.
8. The Local Government Act 1989 (the Act) currently empowers Council to determine that a matter is confidential and closed to the public if the meeting is discussing any of the following:
  - personnel matters
  - the personal hardship of any resident or ratepayer
  - industrial matters
  - contractual matters
  - proposed developments
  - legal advice
  - matters affecting the security of Council property
  - any other matter which the Council or special committee considers would prejudice the Council or any person.

When Council determines a matter to be confidential:

- it considers the matter in a part of a council meeting closed to the public;
  - it records its discussions in separate, confidential minutes; and
9. Councillors who disclose confidential information can be prosecuted or referred to a Councillor Conduct Panel.

**12. Officers' reports**

**OCM.155/18 Confidential Information Policy**

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**Policy context**

10. This report directly supports the achievement of Council Plan 2017-2021 strategy:

- Ensure that Council meets its legal responsibilities and manages its risks.
- Maintain good governance and effective leadership.

**Budget implications**

11. There are no financial and resource implications.

**Consultation/communication**

12. Consultation has occurred with Procurement, Integrated Strategy, Councillors and the Executive Management Team.

**Issues/options**

13. Currently, Council does not have an approved policy that establishes the:

- types of confidential information that Councillors or Council staff will have access to;
- processes to be adopted by Council when Councillors and Council staff are given access to confidential information; and
- expectations of a Councillor or Council officer who is given access to confidential information.

14. Demonstrating Council's commitment to transparency in decision-making and aligning good governance principles and community expectations, Council staff recommend the implementation of a Confidential Information Policy.

15. The Governance team will undertake training of Councillors and Council staff to reinforce their understanding of their obligations under the Local Government Act 1989 and this policy.

**Conclusion**

16. The decision to adopt and apply this new policy will show support for general public transparency principles and for the overarching governance principles.

**12. Officers' reports****OCM.156/18 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: Blaga Naumoski, Executive Manager Governance****Author: Katia Croce, Governance Lead****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 of the Council.

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.

**Recommendation****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.

12. Officers' reports

**OCM.156/18 Review of Instrument of Delegation to Chief Executive Officer and Instrument of Delegation to Members of Council Staff**

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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:
  - 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 CEO
2. Instrument of Delegation to Members of Council Staff

**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.

**12. Officers' reports**

**OCM.156/18 Review of Instrument of Delegation to Chief Executive Officer and Instrument of Delegation to Members of Council Staff**

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6. The Instrument of Delegation to the CEO was last considered by Council in March 2017 and the Instrument of Delegation to Members of Council Staff in November 2017.

**Policy context**

7. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Ensure that Council meets its legal responsibilities and manages its risks.
  - Maintain good governance and effective leadership.

**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 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.

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

13. Under the *Local Government Act 1989* (Act), one of Council's objectives is to delegate decision making to appropriate levels within the organisation.
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 Directors, relevant Managers and staff under a range of legislation including but not limited to the:
- *Domestic Animals Act 1994*
  - *Environment Protection Act 1970*

**12. Officers' reports**

**OCM.156/18 Review of Instrument of Delegation to Chief Executive Officer and Instrument of Delegation to Members of Council Staff**

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- *Food Act 1984*
- *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. Amendments to legislation are made from time to time, therefore to ensure officers are operating and enforcing under the current legislation, all Councils are required to update delegations conferred on various positions within the organisation by Council.

**Conclusion**

17. 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.157/18 Assemblies of Councillors

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**Distribution:** Public

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#### 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 August 2018.

An Assembly of Councillors record was kept for:

- Economic Development Advisory Committee - 8 August 2018
- Officer Briefing - 21 August 2018
- CEO Employment Matters Committee - 23 August 2018
- Pre-meet discussions - 28 August 2018
- Officer Briefing - 4 September 2018
- Environment and Sustainability Advisory Committee – 5 September 2018
- Councillor Briefing - 11 September 2018
- Activity Centres Project Reference Group - 12 September 2018
- Recreation Trails Advisory Committee - 13 September 2018

#### **Recommendation**

**That** Council, in accordance with section 80A(2) of the *Local Government Act 1989*, receives the records of the Assemblies of Councillors held on 8 August 2018, 21 August 2018, 23 August 2018, 28 August 2018, 4 September 2018, 5 September 2018, 11 September 2018, 12 September 2018 and 13 September 2018 (**Attachment 1**).

#### Attachments

1. Assembly of Councillors reported 25 September 2018

#### Background

1. The *Local Government Act 1989* (the Act) requires records of assemblies of Councillors 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 2017-2021 strategy:
  - Ensure that Council meets its legal responsibilities and manages its risks.

**12. Officers' reports**

**OCM.157/18 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 August 2018.

**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
14. Delegates' Reports
15. Supplementary and urgent business
16. Confidential reports

The Acting Chief Executive Officer, pursuant to section 77(2)(c) of the *Local Government Act 1989* (the Act), has designated the following item to be confidential:

- **OCM.158/18 Eltham Lacrosse Club Load Guarantee Report Request**

This item is designated confidential because it is a contractual and matters affecting the security of Council property matter pursuant to section 89(2)(d) and (g) of the Act.

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

**Recommendation**

**That** in accordance with section 89(2) of the *Local Government Act 1989*, Council resolves to close the meeting to members of the public to consider the items designated confidential by the Acting Chief Executive Officer.