

# Ordinary Meeting of Council

held at the Civic Centre, Civic Drive, Greensborough  
on Tuesday 30 July 2019 commencing at 7:00pm.

## Minutes

**Carl Cowie**  
**Chief Executive Officer**

Friday 2 August 2019

Distribution: Public

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## Nillumbik Shire Council

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## Nillumbik Shire Council

Minutes of the Ordinary Meeting of Nillumbik Shire Council held  
Tuesday 30 July 2019. The meeting commenced at 7:00pm.

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### Councillors present:

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

### Officers in attendance:

Carl Cowie	Chief Executive Officer
Vince Lombardi	Chief Financial Officer
Hjalmar Philipp	Director Operations and Infrastructure
Jeremy Livingston	Acting Director Community and Planning
Blaga Naumoski	Executive Manager Governance and Legal Services
Kelly Reaburn	Acting Executive Manager Communications and Engagement
Corrienne Nichols	Executive Manager Community Services
Kylie Lethbridge	Executive Manager Economic Development and Tourism
Melika Sukunda	Manager Finance
Heath Gillett	Manager Recreation and Leisure
Sarah Hammond	Acting Coordinator Arts and Culture
Katia Croce	Governance Lead

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### 1. Welcome by the Mayor

The Mayor, Cr Karen Egan welcomed everyone to the meeting and reminded the gallery that the next Ordinary Council Meeting in August will be a 'roadshow' to be held at Eltham Community and Reception Centre.

### 2. Reconciliation statement

The reconciliation statement was read by the Mayor, Cr Karen Egan.

### 3. Prayer

A prayer was read by Pastor Ollie Crispin of The Vine Baptist Church.

### 4. Presentations

*The Mayor, Cr Karen Egan made the following address:*

Last week I was quite saddened to hear of the passing of Sigmund Jorgensen OAM on 21 July 2019.

Sigmund, as many of you probably know, was a Nillumbik Shire Councillor from 1999 to 2002, which also included a year as Mayor from 2001 to 2002.

He was the son of Montsalvat founder Justus Jorgensen, and served as chief executive and artistic director of the historic artist colony from 1969 to 2005, quite a mammoth length of time.

He was also a prominent Arts and Heritage Advisor. Sigmund's many notable achievements included:

- The publication of *The intimate story of an Australian artists' colony* (Allen & Unwin, 2014);
- Running the award winning restaurant Clichy;
- Being a judge at the Melbourne Asian Food Festival;
- Food critic for the Melbourne Times;
- Helping to found the Montsalvat Melbourne Jazz Festival; and
- Introducing public musical performances to the Montsalvat program.

The leadership and advocacy role that Sigmund played was at the forefront of our community, where he was active in raising the profile of the arts, highlighting environmental issues, reconciliation, community development and the importance of sensitive urban design.

He leaves an enduring legacy as a passionate advocate for the arts, and we are grateful for his tireless promotion of Nillumbik and Montsalvat as significant cultural centres.

On behalf of Nillumbik Shire Council and my fellow Councillors and staff, I would like to offer our condolences to his family, friends and colleagues.

**Kate Ditcham** (Bunjil Ward) received \$150 as a contribution for being selected to represent Victoria at the Australian Junior Volleyball Championships in Canberra.

Kate thanked Council and a photo was taken of Kate and the Mayor, Cr Karen Egan.

**Ehva Gutzmit** (Blue Lake Ward) received \$150 as a contribution for being selected to represent Victoria at the School Sport Australia Soccer Championships in Canberra.

Ehva thanked Council and a photo was taken of Ehva and Cr Grant Brooker.

Nillumbik Shire Council wishes Kate and Ehva every success with their future sporting pursuits.

**5. Apologies**

Nil

**6. Confirmation of minutes**

Confirmation of minutes of the Ordinary Council Meeting held on Tuesday 25 June 2019.

**Council Resolution**

**MOVED: Cr Peter Clarke**

**SECONDED: Cr Jane Ashton**

**That** the minutes of the Ordinary Council Meeting held on Tuesday 25 June 2019 be confirmed.

**CARRIED**

**7. Disclosure of conflicts of interest**

Nil

**8. Petitions**

Nil

**9. Questions from the gallery**

*The Mayor, Cr Karen Egan made the following address in relation to questions submitted regarding confidential report OCM.113/19:*

Clause 6.9 of Council's Meeting Procedure Local Law states:

A question will only be read to the meeting if the Chairperson and/or Chief Executive Officer has determined that the question:

- e) does not relate to a matter which the Council has discussed in camera or proposes to discuss after closing the meeting to members of the public in accordance with section 89(2) of the *Local Government Act 1989*.

The Chief Executive Officer has an obligation to adhere to the Meeting Procedure Local Law and has done so in this case. The matter is designated confidential in accordance with the *Local Government Act 1989* and therefore the decision to not read out the questions is in line with the Meeting Procedure Local Law.

**Bill Lord** asked Council:

1. In late 2018 a GWMP Review progress report by Council officers said: "Council engaged Wayfarer Consulting to report on the outcome of the engagement process. Wayfarer reported that the majority of respondents like the sense of space, peace and tranquillity afforded by living in the Green Wedge and the natural environment and biodiversity were key attributes." Given this statement is also consistent with the GWMP Review Community Panel recommendations, why are these not the main priorities for the 2019 draft GWMP or are councillors going to remedy this discrepancy to bring the majority Nillumbik residents back on board?

**Response**

The very purpose of the draft GWMP is to protect, manage and support all of the key attributes valued by the Nillumbik community, and this is reiterated in the introduction 'Managing what is valuable to us'. Goal 3 "Safe and healthy environments" also addresses in more detail how we will conserve the natural environment, landscape and open space.

2. Included in the Mornington Peninsula Council GWMP is "Review the Shire's Equestrian Strategy and seek to provide for safe riding while minimising the impact of horse riding on open space and roadsides." Why is the Nillumbik draft GWMP promoting the "equine community" without any mentioned concern for the possible impact on the shire's biodiversity and natural environment as does Mornington Peninsula Council?

**Response**

The draft GWMP states that agriculture (including the keeping or breeding of horses) "needs to co-exist comfortably with nature conservation. For example, livestock should not be grazed where they might damage areas with high biodiversity values". As the draft GWMP notes, Council is preparing a plan for the equine industry and activity which will elaborate on these matters and will be made available for public feedback once a draft is available.

**John Fecondo** asked Council:

1. In response to my question that was taken on notice at the last Ordinary Meeting of Council regarding the total cost of the plans to develop the site at 895 and 903-907 Main Road Eltham, the CEO has since advised me that a total of \$382,688 of ratepayers' money was expended (considered wasted by many residents) until Council's decision to abort the project. This is \$218,188 more than the \$164,500 committed in the 2018-19 budget for this project (ref: page 6 OCM minutes 25th September 2018) which could have funded community services such as Hohnes Road Playhouse for several years.

My question is what community services or programs will be cut to address this \$218,188 deficit in this project budget?

**Response**

There will be no community services or programs affected in this year's budget.

2. I asked the CEO if his detailed written response to my question referred to above be included in either the minutes of the last meeting or in the minutes of tonight's meeting for everyone to see but was subsequently advised by the Executive Manager of Governance and Legal Services that this was not possible because (a) the minutes of the previous meeting have already been published and (b) there is no provision to allow Council to record the response to a question taken on notice from a previous Ordinary Council Meeting.

Can I ask that Council consider an amendment to its Meeting Procedure Local Law to allow written responses to questions taken on notice to be published in the minutes of the next Ordinary Meeting of Council in the interests of public transparency?

**Response**

Reviewing the Meeting Procedure Local Law is not on Council's current agenda, with the exception of the Fireworks Local Law.

**Charlie Stutchbury** asked Council:

1. Outdoor lighting is so cheap to install and run now that LED globes and 12 volt systems dominate external lighting options. Does Council have a policy to guide Nillumbik residents to ensure that their external lighting choices do not unreasonably disrupt their neighbours right to their own desires for a dark night sky? Where can this be found?
2. Given the recently updated AS/NZS 4282:2019 Control of the Obtrusive effects of Outdoor Lighting does not extend to minimise the impact of artificial light on birds, nocturnal and diurnal fauna, what policy does Council rely on to prevent unnecessary lighting impacts on animals in the RCZ areas?

**Response**

Light spill from Council property and its potential impacts on fauna and general amenity is taken into account alongside safety concerns and community activity.

Domestic lighting in rural areas is not regulated in the planning scheme nor through our local laws and Council currently does not have a specific policy which guides residents on specific lighting choices on private property.

**Tim Phillips** asked Council:

These questions relates to the 895 and 903-907 Main Road Eltham sites. One of the justifications for the cessation of the recent expressions of interest program was extremely limited market interest. Also mentioned in Council meetings was the Council's unwillingness/inability to substantially fund the development of the sites.

How then would a potential regional art gallery on that site be funded by Council?

**Response**

It is anticipated that any regional art gallery will be almost wholly funded by government and/or philanthropic grants. Council has never contemplated fully funding a regional art gallery.



10. Reports of Advisory Committees

AC.007/19 Advisory Committee Report

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**Distribution:** Public

**Manager:** Blaga Naumoski, Executive Manager Governance and Legal Services

**Author:** Alena Spry, Governance Officer

**Summary**

Council has a range of Advisory Committees which provide a formal mechanism for Council to consult with key stakeholders, seek specialist advice and enable community participation. Although they do not make any formal decisions, they provide valuable advice to Council.

In accordance with Advisory Committee Terms of Reference, the minutes of meetings are presented to Council.

**Council Resolution**

**MOVED:** Cr Grant Brooker

**SECONDED:** Cr Jane Ashton

**That** Council notes the minutes of the following meetings:

- Environment and Sustainability Advisory Committee held on 6 March 2019;
- Arts Advisory Committee held on 18 March 2019;
- Recreation Trails Advisory Committee held on 23 May 2019;
- Environment and Sustainability Advisory Committee held on 26 June 2019; and
- Positive Ageing Advisory Committee held on 5 July 2019.

**CARRIED**

**11. Reports of Special Committees**

Nil

12. Officers' reports

OCM.100/19 Bushfire Mitigation Strategy

**Distribution: Public**

**Manager: Blaga Naumoski, Executive Manager Governance and Legal Services**

**Summary**

A priority action of the Council Plan 2017-2021 is to develop a Bushfire Mitigation Strategy.

The Bushfire Mitigation Strategy (Strategy) is being designed with the overall objective to achieve the most efficient and effective means to reduce bushfire risk to the community with an emphasis on building community resilience, participation and shared responsibility.

The community has shown strong support of Council's approach in meeting its bushfire mitigation responsibilities.

Following the community consultation phase, Council received 42 submissions in response to the draft Strategy. The themes of these submissions were based on:

- Better localised community based bushfire planning.
- Reducing fuel loads.
- Promotion of biodiversity.
- Environmental concerns such as impact of climate change.
- Improved information to residents.
- Community centric approach to mitigating bushfire with a focus on shared responsibilities and shared obligations.

This report recommends that having received the written submissions and heard the verbal submissions, Council adopts of the Bushfire Mitigation Strategy 2019-2023.

<b>Council Resolution</b>
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**MOVED: Cr Peter Perkins**

**SECONDED: Cr Jane Ashton**

**That Council:**

1. Adopts the Bushfire Mitigation Strategy 2019-2023 (**Attachment 1**).
2. Acknowledges that the Nillumbik Municipal Fire Management Planning Committee (MFMPC) and Nillumbik Municipal Emergency Management Planning Committee (MEMPC) have reviewed and approved the Bushfire Mitigation Strategy 2019-2023.
3. Requests that officers provide a written response to all named submitters who provided contact details.

**CARRIED**

12. Officers' reports

OCM.101/19 Yarra Ranges Tourism Partnership

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**Distribution:** Public

**Manager:** Kylie Lethbridge, Executive Manager Economic Development and Tourism

**Author:** Danielle Phyland, Coordinator Economic Development and Tourism

**Summary**

This report provides a review a year on from the commencement of Council's Partnership Agreement with Yarra Ranges Tourism.

The positive results demonstrated are significant and clearly articulate the return on Council's investment.

The Partnership has facilitated achievements across the areas identified as a priority for the tourism industry in Nillumbik such as: visitor services, branding, product development, marketing, and integration with the broader Victorian visitor economy.

Year Two of the Partnership will see a renewed focus on Nillumbik within the broader Yarra Ranges and Dandenongs region via the development of a new strategic plan and continued focus on product development, events, visitor services, marketing and advocacy.

**Council Resolution**

**MOVED:** Cr Jane Ashton

**SECONDED:** Cr Bruce Ranken

**That Council:**

1. Acknowledges the deliverables derived from Year One of the Yarra Ranges Tourism Partnership Agreement.
2. Supports the continuation of the Partnership for Year Two.

**CARRIED**

12. Officers' reports

OCM.102/19 June Interim Financial Report

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**Distribution: Public**

**Manager: Vince Lombardi, Chief Financial Officer**

**Author: Robert Malignaggi, Business Services Lead  
Melika Sukunda, Manager Finance**

**Summary**

This report outlines Council's interim financial performance for the period ended 30 June 2019.

The June draft interim financial report is the fourth report presented to Council on the year-to-date performance against the adopted 2018-2019 Budget, which includes changes resulting from the Mid-Year Financial Review process.

Quarterly reports are presented to Council for the September, December and March quarters. However due to the timing and preparation of the Annual Report, an interim quarterly report is prepared for the June quarter. This is to comply with the provisions of the *Local Government Act 1989* which requires that a financial report be presented to Council every three months.

The interim financial report shows a draft Net Profit of \$15.485 million. This is an improvement of \$8.385 million compared to the Mid-Year Financial Review in January 2019, when a profit of \$7.099 million was forecast. This favourable variance has been achieved through a combination of increased income received and effective management of operational expenditure.

<b>Council Resolution</b>
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**MOVED: Cr Peter Clarke**  
**SECONDED: Cr Bruce Ranken**

**That** Council receives and notes the Draft Interim Financial Report for the period ended 30 June 2019 (**Attachment 1**).

**CARRIED**

**12. Officers' reports****OCM.103/19 Council's Submission to the Local Government Bill 2019**

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**Distribution: Public****Manager: Blaga Naumoski, Executive Manager Governance and Legal Services****Author: Katia Croce, Governance Lead****Summary**

The Minister for Local Government issued a media release on 17 June 2019, advising of the proposal to incorporate six new reforms in addition to the Local Government Bill 2018. The addition of these proposed reforms is intended to form part of the Local Government Bill 2019, which the State Government aims to introduce into Parliament later this year.

This report presents to Council the formal Nillumbik Shire Council submission to the Local Government Bill 2019. Council's submission notes that given the limited amount of time Council has had to consider the proposed reforms, Council's view is broad and general.

<b>Council Resolution</b>
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**MOVED: Cr Peter Clarke****SECONDED: Cr Bruce Ranken****That Council:**

1. Endorses its submission to the Local Government Bill 2019 (**Attachment 1**).
2. Notes:
  - a) Its submission is broad and general, given the lack of depth of information provided on the proposed reforms, and with minimal consultation and time given to consider the proposals.
  - b) That officers have forwarded the submission to the Municipal Association of Victoria.
  - c) With concern the significant changes proposed as part of the reforms were communicated without warning or consultation with the local government sector, and with limited time to provide feedback.
  - d) That the Mayor has written to the Minister for Local Government (**Attachment 4**), expressing Council's concerns with the lack of time given to consider the proposed reforms; advocating for an extension of time; and proposing to have introduced into Parliament the Local Government Bill 2018, with the 2019 reforms to be introduced as an amendment.
  - e) That in response to several requests from councils to extend the time for feedback to coincide with council meeting schedules, the Minister for Local Government has extended the deadline for submissions until 31 July 2019.
3. Authorises officers to forward Council's submission to Local Government Victoria by 31 July 2019.

**CARRIED**

12. Officers' reports

OCM.104/19 Election Period Policy Review

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**Distribution:** Public

**Manager:** Blaga Naumoski, Executive Manager Governance and Legal Services

**Author:** Katia Croce, Governance Lead  
Alena Spry, Governance Officer

**Summary**

The *Local Government Act 1989* (the Act) stipulates that councils must prepare, adopt and maintain an Election Period Policy (Policy) in relation to procedures to be applied by Council during the election period for a general election. The next local government elections will be held on Saturday 24 October 2020.

The Act requires councils to have a Policy to explain to their communities how they will conduct their business immediately prior to an election. This is to ensure council elections are not compromised by inappropriate electioneering by existing Councillors, and to safeguard the authority of the incoming Council.

The Policy provides guidance at an operational level to ensure compliance with legislative requirements; demonstrates Council's commitment to probity in its elections; and ensures transparency and accountability of Councillors and Council officers during the election period.

The Policy is presented to Council for formal consideration and adoption.

**Council Resolution**

**MOVED:** Cr Peter Clarke

**SECONDED:** Cr Jane Ashton

**That** Council adopts the Election Period Policy (**Attachment 1**).

**CARRIED**

12. Officers' reports

OCM.105/19 MAV Achievements 2018-2019 and Membership Renewal 2019-2020

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**Distribution:** Public

**Manager:** Blaga Naumoski, Executive Manager Governance and Legal Services

**Author:** Katia Croce, Governance Lead

**Summary**

The Municipal Association of Victoria (MAV) is the peak statutory body for Victorian local government. The MAV was established in 1879 with the view of protecting the interests and rights of local government.

Council has subscribed to the MAV membership on an annual basis. This report outlines the achievements of the MAV in the 2018-2019 financial year, and seeks endorsement for membership renewal for the 2019-2020 financial year.

**Council Resolution**

**MOVED:** Cr Peter Perkins

**SECONDED:** Cr Jane Ashton

**That** Council:

1. Notes the achievements of the MAV in the 2018-2019 financial year (**Attachment 1**).
2. Endorses the MAV membership renewal for the 2019-2020 financial year.

**CARRIED**



12. Officers' reports

**OCM.106/19 Arts Advisory Committee Recommendations - Arts and Culture Grant Stream of the 2019-2020 Nillumbik Community Fund**

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**Distribution: Public**

**Manager: Kylie Lethbridge, Executive Manager Economic Development and Tourism**

**Author: Sarah Hammond, Acting Coordinator Arts and Culture**

**Summary**

The purpose of this report is to provide Council with the Arts Advisory Committee recommendations for the Arts and Culture Grant Stream of the 2019-2020 Nillumbik Community Fund, and seek Council's endorsement of same.

**Council Resolution**

**MOVED: Cr Jane Ashton**

**SECONDED: Cr Grant Brooker**

**That** Council endorses the Arts Advisory Committee recommendations for the 2019-2020 Arts and Culture Grants (**Attachment 3**).

**CARRIED**

12. Officers' reports

OCM.107/19 Assembly of Councillors

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**Distribution:** Public

**Manager:** Blaga Naumoski, Executive Manager Governance and Legal Services

**Author:** Alena Spry, Governance Officer

**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 Council Meeting 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 25 June 2019.

An Assembly of Councillors record was kept for:

- Municipal Fire Management Planning Committee – 23 May 2019;
- Municipal Emergency Management Planning Committee – 23 May 2019;
- Arts Advisory Committee – 17 June 2019;
- Councillor Briefing – 18 June 2019;
- Pre-meeting to Ordinary Council Meeting – 25 June 2019;
- Environment and Sustainability Advisory Committee – 26 June 2019;
- Living and Learning Nillumbik Advisory Committee – 26 June 2019;
- Positive Ageing Advisory Committee – 5 July 2019; and
- Councillor Briefing – 9 July 2019.

**Council Resolution**

**MOVED:** Cr Peter Clarke

**SECONDED:** Cr Peter Perkins

**That** Council, in accordance with section 80A(2) of the *Local Government Act 1989*, receives the records of the Assemblies of Councillors held on 23 May 2019, 23 May 2019, 17 June 2019, 18 June 2019, 25 June 2019, 26 June 2019, 26 June 2019, 5 July 2019 and 9 July 2019 (**Attachment 1**).

**CARRIED**

12. Officers' reports

OCM.108/19 Laughing Waters Artist Residency

**Distribution:** Public

**Manager:** Carl Cowie, Chief Executive Officer

**Author:** Kylie Lethbridge, Executive Manager Economic Development and Tourism

**Summary**

This report is an overview of a separate report confidential report recommending that Council requests the Minister prepare an amendment to the Nillumbik Planning Scheme via section 20(4) of the *Planning and Environment Act 1987*, which will allow the site at 130 and 195 Laughing Waters Road, Eltham South be used as an Artists in Residence Program.

Laughing Waters has been an important community asset and a site of some historical significance for the area since the late 1990's having been made famous by the creation in the 1970's, of River Bend house at 130 Laughing Waters Road, by renowned architect Alistair Knox. Birrarung house at 195 Laughing Waters Road was also made famous because of its creation by landscaper Gordon Ford and builder, Graham Rose.

The use of Laughing Waters for the purposes of an artist residency is currently prohibited under the Public Conservation and Resource Zone. Previously, Council was able to run a residency program there as it had existing use rights. However, since the program was discontinued in 2015, the existing use rights provision has expired and therefore a Planning Scheme Amendment is now required for Laughing Waters to be utilised as an artists residence.

The Planning Scheme Amendment would apply a Specific Controls Overlay to the land, with a specific control contained in an Incorporated Document to allow for the use. The Incorporated Document and supporting amendment documentation must still address the relevant planning policies and controls, including bushfire risk.

This Amendment, if approved would be the final step of planning and negotiations undertaken over many years to ensure a future for the locally significant sites Councils' artist residency program.

**Recommendation**

**That** Council notes this report.

**Motion**

**MOVED:** Cr Peter Clarke

**SECONDED:** Cr Jane Ashton

**That** Council:

1. Notes this report.
2. Resolves to bring Item 112/19 designated Confidential by the CEO out into the open agenda to be resolved by Council.
3. Makes public the report redacting point 13 of the report.

12. Officers' reports

OCM.108/19 Laughing Waters Artist Residency

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THE MOTION WAS PUT TO THE VOTE AND CARRIED AND BECAME THE COUNCIL RESOLUTION AS FOLLOWS:

**Council Resolution**

**MOVED:** Cr Peter Clarke

**SECONDED:** Cr Jane Ashton

**That Council:**

1. Notes this report.
2. Resolves to bring Item 112/19 designated Confidential by the CEO out into the open agenda to be resolved by Council.
3. Makes public the report redacting point 13 of the report.

**CARRIED**

*Note: the confidential report as resolved above is included below.*

OCM.112/19 Laughing Waters Artist Residency

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**Distribution:** Confidential under Section 89(2)(d) of the *Local Government Act 1989* (contractual matters)

**Manager:** Carl Cowie, Chief Executive Officer

**Author:** Kylie Lethbridge, Executive Manager Economic Development and Tourism

Fae Ballingall, Acting Strategic Planning Lead

**Summary**

This report aims to finalise the results of work undertaken since 2015 to protect the locally significant sites at 130 and 195 Laughing Waters Road and to provide recommendations for the future state of Council's artist residency program.

**Recommendation**

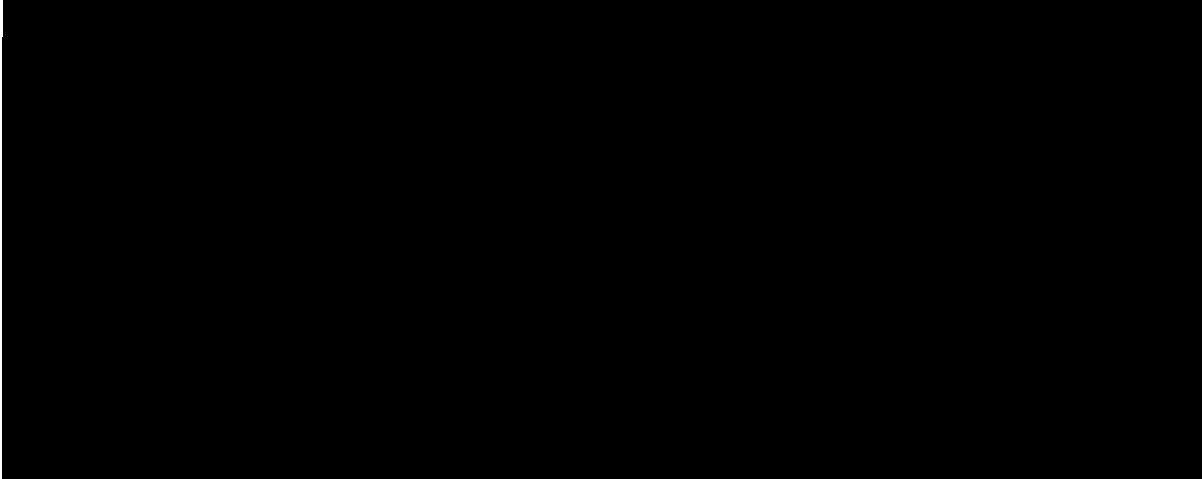
**That** Council requests the Minister prepare an amendment to the Nillumbik Planning Scheme via section 20(4) of the *Planning and Environment Act 1987* which will allow the site at 130 and 195 Laughing Waters Road, Eltham South be used as an Artists in Residence Program.

**Attachments**

Nil

**Background**

1. An artist residency is an opportunity provided by a host organisation that enables a guest artist from around the world to work in a new environment. Artist residencies are about providing the time and space for an artist to develop work and creatively explore new ideas, support cultural and artistic exchange, nurture experimentation and support research.
2. Laughing Waters has been an important community asset and a site of some historical significance for the area since the late 1990's having been made famous by the creation in the 1970's, of River Bend house at 130 Laughing Waters Road, by renowned architect Alistair Knox. Birrarung house at 195 Laughing Waters Road was also made famous as a result of its creation by landscaper Gordon Ford and builder, Graham Rose.
3. From 2001 to 2015, the Laughing Waters Artist Residency Program was run by Nillumbik Shire Council through a lease with State Government.
4. The lease was by 'peppercorn' arrangement, with Council responsible for the maintenance of the houses and Parks Victoria responsible for grounds maintenance. An annual operating budget of \$30,000 was allocated to the program, of which two-thirds were expended on utilities and maintenance as well as officer time.
5. The *Laughing Waters Artist Residency* was a longstanding signature program of Council's Arts and Cultural Development programming suite. Artists were selected through a competitive application process with a single artist or group collaborating across art forms. The length of the residencies varied from one month to four months and was active from April to November with restrictions due to bushfire considerations.
6. The program ran from 2001 until 2015 via a lease of two properties from the Victorian Government, managed by Parks Victoria, namely *Birrarung* at 195 Laughing Waters Road, Eltham (from 2001) and *River Bend* at 130 Laughing Waters Road, Eltham (from 2008).
7. The lease agreement expired on 31 May 2013 and Council was in over-hold to 2015. Parks Victoria then sought to renew the lease with Council for a further ten-year period. Both properties required a significant investment and structural upgrades to which Parks Victoria declined to contribute. At the time, estimates indicated Council would have been required to commit approximately \$220,000 for urgent repairs together with the ongoing maintenance, upgrades and operating budget.
8. In 2014 Council commissioned an independent maintenance audit which provided a five-year works program of immediate and cyclical maintenance totalling \$224,000. The audit did not address the poor roofing condition of both houses for which a further quotation was received in the order of \$55,000 raising the overall repair cost to \$279,000.
9. Since 2013 Council has been in negotiations with Parks Victoria and the Victorian Government as to the structural repair and ongoing maintenance of the Laughing Waters properties, to no avail.
10. At the Ordinary Council Meeting in June 2015, Council endorsed the following recommendations:
  - a. Notifies Parks Victoria of Council's interest to proceed with the Laughing Waters Artist Residency program at 130 and 195 Laughing Waters Road, Eltham.

- b. Notifies Parks Victoria that Council is not in a financial position to commit funds to repair identified structural defects at 130 and 195 Laughing Waters Road, Eltham.
  - c. Requests Parks Victoria, as manager of 130 and 195 Laughing Waters Road, Eltham on behalf of the Victorian Government, to fully fund repairs of the identified structural defects and make good both buildings.
  - d. Requests a further officer report for Council consideration following receipt of the Parks Victoria response.
11. As a result of many failed attempts to implement the June 2015 resolution in December 2015, the program was discontinued and the site returned to Parks Victoria. Since then the site has been left vacant and consequently the building(s) condition has deteriorated and the previous existing use rights lapsed.
  12. Between 2015 and 2018 Officers and Councillors continued to pursue all relevant avenues in order to ensure a future for Laughing Waters without success.
  13. 
  14. At this time, instructions were also given instruction to continue to pursue an artist residency program at Laughing Waters but at no cost to Council.
  15. In mid 2018 Council was approached by *Residency Projects*, an independent artist-run-initiative, which expressed an interest in running a program at Laughing Waters. As a result, in May 2018 the Mayor provided *Residency Projects* with a letter of support which outlined a Council contribution of \$30,000 per year for ten years should the proponents be able to fund and re-establish the use of Laughing Waters for an artist residency program.
  16. As a result of this commitment, further work for the Council owned facility in Diamond Creek was put on hold until the future of Laughing Waters was resolved.
  17. In September 2018, *Residency Projects* were notified that they had been awarded \$85,000 from Creative Victoria for improvements to Laughing Waters.
  18. In November 2018, Cr Clarke and Executive Manager Economic Development & Tourism, Kylie Lethbridge met with the Chief Operating Officer of Parks Victoria to ascertain whether *Residency Projects* could work directly with the state government to lease the land or whether Council needed to be involved. At that meeting Parks Victoria advised:
    - It would not lease either of the properties directly to *Residency Projects* but would be happy to continue lease arrangements with Nillumbik Shire Council.

- Existing use rights (use discontinued for more than two years) have lapsed for the site to be used as an artist residency therefore a planning scheme amendment is required to reinstate this program.
19. Parks Victoria undertook a site visit in early January 2019 at which time they confirmed that:
- a. Laughing Waters was not a priority and that they would not fund repairs to non-priority assets and;
  - b. If Council wished to pursue the opportunity it would need to access funding or fund the works as well as ongoing maintenance.

**Policy context**

20. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Provide a range of infrastructure that encourages people of all ages to participate in a variety of active and passive opportunities.

**Budget implications**

21. The Planning Scheme Amendment will cost approximately \$5,000, which can be facilitated within Council's existing operating budgets.
22. It is estimated that approximately \$280,000 will be required to bring the buildings back to minimum standard before a lease can be entered in to with Parks Victoria and it is recommended that all costs, other than liability and insurance be met by a third party through a service agreement.

**Consultation/communication**

23. Under a 20 (4) amendment the Minister may choose to advertise or notify property owners deemed to be affected by this use.
24. Approval would also be sought from Melbourne Water and the CFA.

**Issues/options**

25. The use of Laughing Waters for the purposes of an artist residency is currently prohibited under the Public Conservation and Resource Zone. Previously, Council was able to run a residency program as it had existing use rights. However, since the program was discontinued in 2015, the existing use rights provision has expired and therefore a Planning Scheme Amendment is now necessary if Laughing Waters is to be utilised for this purpose again.
26. The Planning Scheme Amendment would apply a Specific Controls Overlay to the land, with a specific control contained in an Incorporated Document to allow for the use. The Incorporated Document and supporting amendment documentation must still address the relevant planning policies and controls, including bushfire risk.
27. Council officers have sought preliminary advice from Department of Environment, Land, Water and Planning, the CFA and Melbourne Water.
28. The Minister for Planning has indicated that they would consider a request from Council to prepare the amendment under Section 20(4) of the *Planning and Environment Act 1987* (the Act).
29. Council should also be aware that although the Minister is exempt from general notice requirements, under section 20(5) of the Act, the Minister can consult further with Council, or any other person (such as a neighbouring resident, CFA or MW) before preparing the amendment.

30. Should Council support the request for a Planning Scheme Amendment it would then be required to lease the property from Parks Victoria for a period of ten years.
31. Understanding our obligations from a legal and procurement perspective Council would still need to undertake a public and transparent process to seek expressions of interest from suitably qualified arts organisations (a third party) to run the artist residency on Council's behalf, including initial repair costs to bring the buildings up to a minimum leasable standard.

**Conclusion**

32. The conclusion should logically follow the proposal as developed in the preceding sections of the report and should lead into the recommendation.
33. Laughing Waters holds an important place in the Shire's history and within its arts community.
34. A significant amount of planning, investigative and advocacy work has been undertaken over the last 4 years to ensure it has a future and to once again deliver an arts residency program from this special place.
35. Given Laughing Waters once held international renown, it is recommended that Council requests the Minister undertake this planning scheme amendment so that the site can continue to provide inspiration and quality art for decades to come

**Next Steps**

36. On receipt of approval from the Minister, Council will then undertake a public EOI procurement process to appoint a contracted party for the management and operation of the Arts in Residency Program.



12. Officers' reports

**OCM.109/19 Edendale Community Environment Farm Service Review - next steps**

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**Distribution: Public**

**Manager: Carl Cowie, Chief Executive Officer**

**Author: Kylie Lethbridge, Executive Manager Economic Development and Tourism**

**Summary**

This report is an overview of a separate confidential report recommending that Officers:

1. Commence an Expressions of Interest (EOI) process to seek a partner to provide the service of Edendale Community Environment Farm.
2. Report the results of the Expression of Interest process to Council for the purpose of broad community consultation.

The report directly relates to the Council Plan Action: Review Council's role in direct service provision and identify opportunities for improvement including: Edendale Community Environment Farm (Edendale).

In order to respond to this requirement, a comprehensive service review has been undertaken and a number of options identified.

Council has been committed to Edendale since 2000 both in the form of capital improvements and through operational expenditure.

The commitment to retain ownership and to continue to provide the service is mandatory. However, as with any of Council's ongoing subsidies in facilities and services it is incumbent on Council to ensure that the community is getting the best possible value for money. The options being investigated through the EOI process will help ensure that this is the case.

This report recommends that Council undertake an open and transparent process to seek a partner that shares the same ethos and values as Council and the community to manage the facility to its best potential to minimise Council's annual subsidy (currently averaging \$600,000 over the last three years) and to take Edendale in to a bright innovative future where the community can further enjoy this much loved facility. It will also ensure that the next evolution of Edendale is innovative and delivers on Council's objectives for the environment.

**Recommendation**

**That Council notes this report.**

**Motion**

**MOVED: Cr Peter Clarke**  
**SECONDED: Cr Bruce Ranken**

**That Council:**

1. Notes this report.
2. Makes the Captura report public excluding any Commercial in Confidence data.
3. Continues the support of Edendale Community Farm in its current structure and mission.

12. Officers' reports

OCM.109/19 Edendale Community Environment Farm Service Review - next steps

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**Amendment**

**MOVED: Cr Grant Brooker**

**SECONDED: Cr Jane Ashton**

**That Council:**

1. Notes this report.
2. Makes the Captura report public excluding any Commercial in Confidence data.
3. Continues the support of Edendale Community Farm in its current structure and mission.
4. **Design an appropriate consultation framework to inform councillors and the community on barriers, challenges, and opportunities for the future of Edendale Community Environment Farm.**

THE AMENDMENT WAS PUT TO THE VOTE AND CARRIED.

*Cr Peter Perkins called for a division*

For: Cr Grant Brooker, Cr John Dumaresq, Cr Peter Perkins and Cr Jane Ashton

Against: Cr Bruce Ranken, Cr Peter Clarke and Cr Karen Egan

*The Mayor, Cr Karen Egan declared the Amendment Carried.*

THE SUBSTANTIVE MOTION BEFORE THE CHAIR IS AS FOLLOWS:

**Substantive Motion**

**MOVED: Cr Peter Clarke**

**SECONDED: Cr Bruce Ranken**

**That Council:**

1. Notes this report.
2. Makes the Captura report public excluding any Commercial in Confidence data.
3. Continues the support of Edendale Community Farm in its current structure and mission.
4. Design an appropriate consultation framework to inform councillors and the community on barriers, challenges, and opportunities for the future of Edendale Community Environment Farm.

12. Officers' reports

OCM.109/19 Edendale Community Environment Farm Service Review - next steps

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THE SUBSTANTIVE MOTION WAS PUT TO THE VOTE AND CARRIED AND BECAME THE COUNCIL RESOLUTION AS FOLLOWS:

**Council Resolution**

**MOVED: Cr Peter Clarke**  
**SECONDED: Cr Bruce Ranken**

**That Council:**

1. Notes this report.
2. Makes the Captura report public excluding any Commercial in Confidence data.
3. Continues the support of Edendale Community Farm in its current structure and mission.
4. Design an appropriate consultation framework to inform councillors and the community on barriers, challenges, and opportunities for the future of Edendale Community Environment Farm.

**CARRIED**

*Cr Peter Perkins called for a division*

For: Cr Grant Brooker, Cr John Dumaresq, Cr Peter Perkins, Cr Jane Ashton and Cr Karen Egan

Against: Cr Bruce Ranken and Cr Peter Clarke

*The Mayor, Cr Karen Egan declared the Motion Carried.*

**ADOPTION OF SEVERAL REPORT RECOMMENDATIONS 'EN BLOC'**

**Council Resolution**

**MOVED: Cr Bruce Ranken**

**SECONDED: Cr Jane Ashton**

**That** Council agree to move 'en bloc' the reports listed below and their recommendations be adopted as printed in the agenda:

- OCM.110/19 RFT 1819-71 Graphic Design Services Panel
- OCM.111/19 RFT 1819-72 Print Services Panel

**CARRIED**

12. Officers' reports

OCM.110/19 RFT 1819-71 Graphic Design Services Panel

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**Distribution: Public**

**Manager: Mitch Grayson, Executive Manager Communications and Engagement**

**Author: Lance Clark, Senior Procurement Specialist  
Kelly Reaburn, Head of Communications and Marketing**

**Summary**

This report is an overview of a separate confidential report recommending the awarding of the contract 1819-71 to appoint three suppliers to the Graphic Design Services Panel.

The contract term is for an initial period of three (3) years, with two (2) x one (1) year options to extend the contract.

The total duration of the contract, including the exercise of any options, shall not exceed five (5) years.

The Tender Evaluation Panel has assessed all submissions.

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.

**Council Resolution**

**MOVED: Cr Bruce Ranken  
SECONDED: Cr Jane Ashton**

That Council notes this report.

**CARRIED**

*Note: This item was carried 'en bloc' earlier in the meeting.*

*The confidential report relating to this item was heard in a closed meeting and Council resolved to make the following resolution public:*

**Council Resolution**

**MOVED: Cr Bruce Ranken  
SECONDED: Cr Jane Ashton**

That Council:

1. Enters into contracts with the following suppliers:
  - M&M Printworks Pty Ltd;
  - Paoli Smith Creative; and
  - Nutshell Graphics.
2. Authorises the Chief Executive Officer to finalise and execute the contract documentation.

12. Officers' reports

OCM.110/19 RFT 1819-71 Graphic Design Services Panel

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3. Delegates the powers and authorisation to the Chief Executive Officer to review and approve the options to extend the contract term for a maximum of up to two further years.
4. Advises all tenderers accordingly.
5. Makes public the decision regarding this contract but the tender evaluation and report remain confidential.

**CARRIED**

12. Officers' reports

OCM.111/19 RFT 1819-72 Print Services Panel

**Distribution: Public**

**Manager: Mitch Grayson, Executive Manager Communications and Engagement**

**Author: Lance Clark, Senior Procurement Specialist**

**Summary**

This report is an overview of a separate confidential report recommending the awarding of the contract 1819-72 to appoint three suppliers to the Print Services Panel.

The contract term is for an initial period of three (3) years, with two (2) x one (1) year options to extend the contract.

The total duration of the contract, including the exercise of any options, shall not exceed five (5) years.

The Tender Evaluation Panel has assessed all submissions.

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.

**Council Resolution**

**MOVED: Cr Bruce Ranken**  
**SECONDED Cr Jane Ashton**

**That** Council notes this report.

**CARRIED**

*Note: This item was carried 'en bloc' earlier in the meeting.*

*The confidential report relating to this item was heard in a closed meeting and Council resolved to make the following resolution public:*

**Council Resolution**

**MOVED: Cr Bruce Ranken**  
**SECONDED: Cr Jane Ashton**

**That** Council:

1. Enters into contracts with the following suppliers:
  - M&M Printworks Pty Ltd;
  - Nadrasca; and
  - Mystique.
2. Authorises the Chief Executive Officer to finalise and execute the contract documentation.
3. Delegates the powers and authorisation to the Chief Executive Officer to review and approve the options to extend the contract term for a maximum of up to two further years.

12. Officers' reports

OCM.111/19 RFT 1819-72 Print Services Panel

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4. Advises all tenderers accordingly.
5. Makes public the decision regarding this contract but the tender evaluation and report remain confidential.

**CARRIED**



13. Notices of Motion

**NOM.004/19 – Voluntary Municipal Merger**

Cr Peter Clarke advised of his intention to move the following:

**Motion**

**MOVED:** Cr Peter Clarke

**SECONDED:** Cr Bruce Ranken

**That Council:**

1. Writes to Banyule City Council to seek its support to jointly fund an assessment of the financial, organisational, policy and political opportunities of a voluntary merger of the two municipalities.
2. Following the completion of this assessment, if it is apparent that significant advantages are identified for the Councils, a consultation commence with the communities of the Councils to determine their views.
3. Following this consultation, request the VEC co-ordinate a vote of residents to determine if a merger should proceed.
4. Advises the Victorian Local Government Minister of this proposal.

THE MOTION WAS PUT TO THE VOTE AND LOST.

*Cr Peter Perkins called for a division*

For: Cr Peter Clarke and Cr Bruce Ranken

Against: Cr Peter Perkins, Cr Jane Ashton, Cr Karen Egan, Cr John Dumaresq and Cr Grant Brooker

*The Mayor, Cr Karen Egan declared the Motion Lost.*

*Cr Jane Ashton temporarily left the meeting during discussions of the above item at 8:38pm, and returned at 8:41pm.*

**14. Delegates' reports**

Nil

**15. Supplementary and urgent business**

Nil

**16. Confidential reports**

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

**OCM.112/19 Laughing Waters Artist Residency**

This item is designated confidential because it is a contractual matter pursuant to section 89(2)(d) of the Act.

**OCM.113/19 Edendale Community Environment Farm Service Review - next steps**

This item is designated confidential because it is an industrial matter pursuant to section 89(2)(c) of the Act, and a contractual matter pursuant to section 89(2)(d) of the Act.

**OCM.114/19 RFT 1819-71 Graphic Design Services Panel**

This item is designated confidential because it is a contractual matter pursuant to section 89(2)(d) of the Act.

**OCM.115/19 RFT 1819-72 Print Services Panel**

This item is designated confidential because it is a contractual matter pursuant to section 89(2)(d) of the Act.

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

**Council Resolution**

**MOVED: Cr Bruce Ranken**

**SECONDED: Cr Grant Brooker**

**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 Chief Executive Officer.

**CARRIED**

The meeting closed to the public at 8:43pm.

The meeting re-opened at 8:50pm.

**Close of Meeting**

The meeting closed at 8:55pm.

Confirmed: \_\_\_\_\_

Cr Karen Egan, Mayor