

# Ordinary Meeting of Council

held at the Civic Centre, Civic Drive, Greensborough  
on Tuesday 28 April 2020 commencing at 7:00pm.

## Minutes

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

Friday 1 May 2020

Distribution: Public

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## Nillumbik Shire Council

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**Ordinary Meeting of Council Minutes**

**28 April 2020**

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**Nillumbik Shire Council**

**Minutes of the Ordinary Meeting of Nillumbik Shire Council held  
Tuesday 28 April 2020. The meeting commenced at 7:01pm.**

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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
Blaga Naumoski	Executive Manager Governance, Communications and Engagement
Katia Croce	Governance Lead

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**1. Welcome by the Mayor**

**2. Reconciliation statement**

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

**3. Prayer**

A prayer was read by the Mayor, Cr Karen Egan.

**4. Apologies**

Nil

**5. Presentations**

Nil

**6. Confirmation of minutes**

Confirmation of minutes of the Ordinary Council Meeting held on Tuesday 24 March 2020.

**Council Resolution**

**MOVED: Cr Peter Perkins**

**SECONDED: Cr John Dumaresq**

**That** the minutes of the Ordinary Council Meeting held on Tuesday 24 March 2020 be confirmed.

**CARRIED**

**7. Disclosure of conflicts of interest**

Nil

**8. Petitions**

Nil

**9. Questions from the gallery**

**Kay Hawkins** asked Council:

1. Has there been any consideration given to adopting a 6 bin waste system like they do overseas?

**Response**

In March this year the State Government announced a four bin system for waste and recycling to be rolled out across all Councils by 2030, commencing in 2022. For Nillumbik that would mean an extra bin for glass. That will help improve the viability of recycling by reducing contamination of recyclable products with broken glass.

2. Would reducing the schedule of rubbish collections help people realise they need to reduce their waste and therefore save the shire money?

**Response**

Council's current kerbside waste bin configuration is designed to maximise diversion of waste from landfill which reduce waste and cost.

It is considered to be best practice based on analysis undertaken by Sustainability Victoria in 2017 published as Optimising Kerbside Collection Systems.

Nillumbik's kerbside collection service consistently achieves greater than 65 per cent diversion from landfill which is significantly better than the Victorian average of about 44 per cent.

10. Reports of Advisory Committees

AC.004/20 Advisory Committee Report

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**Distribution:** Public

**Manager:** Blaga Naumoski, Executive Manager Governance, Communications and Engagement

**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 Positive Ageing Advisory Committee meeting held on 13 March 2020.

**CARRIED**

**11. Reports of Special Committees**

Nil

12. Officers' reports

OCM.054/20 Council Plan Quarterly Performance Report

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**Distribution:** Public

**Manager:** Jeremy Livingston, Executive Manager Business Transformation and Performance

**Author:** James Hartigan, Business Performance Analyst

**Summary**

The purpose of this report is to present the Council Plan Quarterly Performance Report for Council's consideration. This report (**Attachment 1**) provides the end of Quarter 3, 2019-2020 update on delivery progress and performance of the 2019-2020 Annual Plan priority actions, which aligns to delivery of the Council Plan 2017-2021.

Of the 40 actions in the 2019-2020 Annual Plan, 28 are on track, five are completed, two are now part of business as usual activities, three are experiencing minor issues, one action has been re-scoped and one action has been postponed.

The year's performance against the delivery of the Council Plan will be published in the Annual Report 2019-2020, which will be presented to the Minister for Local Government before 30 September 2020.

**Council Resolution**

**MOVED:** Cr Bruce Ranken

**SECONDED:** Cr Peter Clarke

**That** Council receives the Council Plan Quarterly Performance Report (**Attachment 1**) for the third quarter of 2019-2020, being the period ended 31 March 2020.

**CARRIED**



12. Officers' reports

OCM.055/20 Financial Hardship Policy - COVID-19 Pandemic Event

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**Distribution:** Public

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

**Author:** Melika Sukunda, Finance Manager

**Summary**

This report presents a temporarily revised Financial Hardship Policy – COVID-19 Pandemic Event for Council’s endorsement.

Council has a Financial Hardship Policy which has been endorsed by the Audit and Risk Committee in May 2016. The policy provides guidelines to assist in the assessment of applications received for the deferment of rates and charges due to financial hardship. The latest review has been conducted in response to the COVID-19 Pandemic Event (the event).

**Recommendation**

**That:**

1. Council endorses the Financial Hardship Policy (**Attachment 1**).
2. These temporary provisions be reviewed on a quarterly basis to assess when the interim measures can be lifted.

**Motion**

**MOVED:** Cr Bruce Ranken

**SECONDED:** Cr Peter Clarke

**That:**

1. Council endorses the Financial Hardship Policy (**Attachment 1**) **with an inclusion to specifically mention hardship for commercial businesses.**
2. These temporary provisions be reviewed on a quarterly basis to assess when the interim measures can be lifted.

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

**Council Resolution**

**MOVED:** Cr Bruce Ranken

**SECONDED:** Cr Peter Clarke

**That:**

1. Council endorses the Financial Hardship Policy (**Attachment 1**) with an inclusion to specifically mention hardship for commercial businesses.
2. These temporary provisions be reviewed on a quarterly basis to assess when the interim measures can be lifted.

**CARRIED**

12. Officers' reports

OCM.056/20 Municipal Emergency Management Plan 2020-2023

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**Distribution:** Public

**Manager:** Blaga Naumoski, Executive Manager Governance, Communications and Engagement

**Author:** Kim Halse, Emergency Management Lead

**Summary**

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

The Plan is audited by the Victoria State Emergency Service every three years.

In preparation for the 2020 audit, the Municipal Emergency Management Planning Committee (**MEMPC**) has reviewed and updated the MEMP. The updated plan was endorsed by the MEMPC on 27 March 2020.

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

**Council Resolution**

**MOVED:** Cr Peter Perkins

**SECONDED:** Cr Jane Ashton

**That** Council adopts the Nillumbik Municipal Emergency Management Plan 2020-2023 (**Attachment 1**).

**CARRIED**

12. Officers' reports

OCM.057/20 Submission - Integrating Environment Protection Reform into Land Use Planning

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**Distribution:** Public

**Manager:** Rosa Zouzoulas, Executive Manager Planning and Community Safety

**Author:** Leigh Northwood, Strategic Planning Lead

**Summary**

To give effect to environment protection framework changes in the Environment Protection Act, corresponding updates to the land use planning provisions are required. This includes updates to operational material including the Planning Practice Note and Ministerial Directions that accommodate newer approaches, and address known operational issues. The Department of Environment, Land, Water and Planning (DELWP) are seeking submissions to the proposed changes.

**Council Resolution**

**MOVED:** Cr Peter Clarke

**SECONDED:** Cr Grant Brooker

**That** Council endorses and submits the submission (**Attachment 1**) to the proposed reforms integrating environment protection into land use planning to DELWP by the submission deadline of 5 May 2020.

**CARRIED**

12. Officers' reports

**OCM.058/20 Update on the State Government's Hurstbridge Railway Duplication Project: Stage 2**

**Distribution: Public**

**Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety**

**Author: Paul Fyffe, Senior Strategic Planner**  
**Lawrence Seyers, Lead Transport Planner**  
**Leigh Northwood, Strategic Planning Lead**

**Summary**

This report provides an update on developments and issues regarding the State Government's Hurstbridge Line Upgrade Project – Stage 2 (rail duplication project).

The project primarily proposes to duplicate the railway line in parts of Nillumbik and Banyule and to conduct major redevelopments of the stations at Montmorency and Greensborough. The project is being managed by the Level Crossing Removal Project (LXRP) and planning for the project is well underway.

The primary developments and issues detailed in this report include:

- A continued lack of response from the LXRP to significant shortcomings, highlighted by Council, in the scope of the project.
- Two variations proposed by the LXRP in the scope of the project, one of which puts into question the capacity of the project to provide additional services to Nillumbik and the other which could potentially have impacts on properties abutting the railway corridor between Sherbourne Road and Silver Street, Eltham.
- The LXRP has advised it will seek planning approval for the project via a new fast-track process, which is available now the State Government has introduced Clause 52.03 into all planning schemes. Officers have concerns with this proposal.

The report recommends a number of actions which respond to issues regarding the above matters.

**Recommendation**

**That Council:**

1. Notes:
  - a) Its submission of 27 February 2020, provided as **Attachment 1**, to the State Government which highlights shortcomings in the scope of the Hurstbridge Line Upgrade Project – Stage 2.
  - b) A letter from the LXRP to Council's CEO, provided as **Attachment 2**, which advises that the LXRP will request planning approval from the Minister for Planning for the Hurstbridge Line Upgrade Project – Stage 2, subject to Clause 52.03 of the Nillumbik Planning Scheme.
2. Writes to the Minister for Major Transport Infrastructure, the Minister for Planning, the LXRP and local members of parliament:

12. Officers' reports

**OCM.058/20 Update on the State Government's Hurstbridge Railway Duplication Project: Stage 2**

- a) Requesting a response to the shortcomings identified by Council's submission, provided as **Attachment 1**, in the scope of the Hurstbridge Line Upgrade Project – Stage 2.
  - b) Seeking clarification as to whether the Hurstbridge Line Upgrade Project – Stage 2 will, and to what extent, deliver additional trains services within the Shire of Nillumbik.
  - c) Outlining concerns regarding Clause 52.03 of the Nillumbik Planning Scheme and the LXP's proposed use of that clause to provide planning approval for the Hurstbridge duplication project.
  - d) Seeking assurance that feedback from the Nillumbik community and Council on proposed consultation on concept plans for the Hurstbridge Line Upgrade Project – Stage 2 will be considered before the Minister provides planning approval to the project.
3. Notes LXP's proposed extension of the project area from Sherbourne Road to Silver Street, Eltham and responds by:
- a) Seeking clarification from the LXP regarding the proposed extent of buildings and works, particularly vegetation removal, in the proposed extended project area.
  - b) Requesting the LXP directly consult with owners and occupiers abutting the proposed extension regarding the intended buildings and works, including vegetation removal.
  - c) Making a submission to the LXP which advocates that it minimise the extent of vegetation removal and other potential adverse impacts of extending the project area to Silver Street.

**Motion**

**MOVED: Cr Peter Clarke**  
**SECONDED: Cr Grant Brooker**

**That Council:**

- 1. Notes:
  - a) Its submission of 27 February 2020, provided as **Attachment 1**, to the State Government which highlights shortcomings in the scope of the Hurstbridge Line Upgrade Project – Stage 2.
  - b) A letter from the LXP to Council's CEO, provided as **Attachment 2**, which advises that the LXP will request planning approval from the Minister for Planning for the Hurstbridge Line Upgrade Project – Stage 2, subject to Clause 52.03 of the Nillumbik Planning Scheme.
- 2. Writes to the Minister for Major Transport Infrastructure, the Minister for Planning, the LXP and local members of parliament:

12. Officers' reports

**OCM.058/20 Update on the State Government's Hurstbridge Railway Duplication Project: Stage 2**

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- a) Requesting a response to the shortcomings identified by Council's submission, provided as **Attachment 1**, in the scope of the Hurstbridge Line Upgrade Project – Stage 2.
- b) Seeking clarification as to whether the Hurstbridge Line Upgrade Project – Stage 2 will, and to what extent, deliver additional trains services within the Shire of Nillumbik.
- c) Outlining concerns regarding Clause 52.03 of the Nillumbik Planning Scheme and the LXP's proposed use of that clause to provide planning approval for the Hurstbridge duplication project.
- d) Seeking assurance that feedback from the Nillumbik community and Council on proposed consultation on concept plans for the Hurstbridge Line Upgrade Project – Stage 2 will be considered before the Minister provides planning approval to the project.

**3. Seeks a meeting with the Member for Yan Yean and the Member for Eltham to discuss Council's position relating to the upgrade on the State Government's Hurstbridge Railway Duplication Project: Stage 2.**

4. Notes LXP's proposed extension of the project area from Sherbourne Road to Silver Street, Eltham and responds by:

- a) Seeking clarification from the LXP regarding the proposed extent of buildings and works, particularly vegetation removal, in the proposed extended project area.
- b) Requesting the LXP directly consult with owners and occupiers abutting the proposed extension regarding the intended buildings and works, including vegetation removal.
- c) Making a submission to the LXP which advocates that it minimise the extent of vegetation removal and other potential adverse impacts of extending the project area to Silver Street.

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

**Council Resolution**

**MOVED: Cr Peter Clarke**  
**SECONDED: Cr Grant Brooker**

**That Council:**

- 1. Notes:
  - a) Its submission of 27 February 2020, provided as **Attachment 1**, to the State Government which highlights shortcomings in the scope of the Hurstbridge Line Upgrade Project – Stage 2.

12. Officers' reports

**OCM.058/20 Update on the State Government's Hurstbridge Railway Duplication Project: Stage 2**

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- b) A letter from the LXP to Council's CEO, provided as **Attachment 2**, which advises that the LXP will request planning approval from the Minister for Planning for the Hurstbridge Line Upgrade Project – Stage 2, subject to Clause 52.03 of the Nillumbik Planning Scheme.
2. Writes to the Minister for Major Transport Infrastructure, the Minister for Planning, the LXP and local members of parliament:
  - a) Requesting a response to the shortcomings identified by Council's submission, provided as **Attachment 1**, in the scope of the Hurstbridge Line Upgrade Project – Stage 2.
  - b) Seeking clarification as to whether the Hurstbridge Line Upgrade Project – Stage 2 will, and to what extent, deliver additional trains services within the Shire of Nillumbik.
  - c) Outlining concerns regarding Clause 52.03 of the Nillumbik Planning Scheme and the LXP's proposed use of that clause to provide planning approval for the Hurstbridge duplication project.
  - d) Seeking assurance that feedback from the Nillumbik community and Council on proposed consultation on concept plans for the Hurstbridge Line Upgrade Project – Stage 2 will be considered before the Minister provides planning approval to the project.
3. Seeks a meeting with the Member for Yan Yean and the Member for Eltham to discuss Council's position relating to the upgrade on the State Government's Hurstbridge Railway Duplication Project: Stage 2.
4. Notes LXP's proposed extension of the project area from Sherbourne Road to Silver Street, Eltham and responds by:
  - a) Seeking clarification from the LXP regarding the proposed extent of buildings and works, particularly vegetation removal, in the proposed extended project area.
  - b) Requesting the LXP directly consult with owners and occupiers abutting the proposed extension regarding the intended buildings and works, including vegetation removal.
  - c) Making a submission to the LXP which advocates that it minimise the extent of vegetation removal and other potential adverse impacts of extending the project area to Silver Street.

**CARRIED**

12. Officers' reports

OCM.060/20 March Quarter Financial Report

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**Distribution: Public**

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

**Author: Melika Sukunda, Finance Manager**

**Summary**

This report outlines Council's financial performance and financial position for the period ended 31 March 2020.

The Income Statement shows an overall favourable year to date (YTD) variance of \$347,564 representing 2.15 per cent of YTD Budget. This reflects the combined result of higher than budgeted operating income of \$84.952 million and higher than budgeted operating expenses of \$68.458 million.

Council's overall financial position at the end of this quarter is sound. The impacts of the state of emergency due to the coronavirus pandemic will require ongoing monitoring.

**Council Resolution**

**MOVED: Cr Bruce Ranken**

**SECONDED: Cr Peter Clarke**

**That Council receives and notes the Financial Report for the period ended 31 March 2020 (Attachment 1).**

**CARRIED**



12. Officers' reports

OCM.061/20 Assembly of Councillors

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**Distribution:** Public

**Manager:** Blaga Naumoski, Executive Manager Governance, Communications and Engagement

**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 24 March 2020.

An Assembly of Councillors record was kept for:

- Positive Ageing Advisory Committee – 13 March 2020;
- Councillor Briefing – 17 March 2020;
- Pre-meeting to Ordinary Council Meeting – 24 March 2020;
- Councillor Briefing – 7 April 2020; and
- Arts and Cultural Advisory Committee – 20 April 2020.

**Council Resolution**

**MOVED:** Cr Peter Clarke

**SECONDED:** Cr Grant Brooker

**That** Council, in accordance with section 80A(2) of the *Local Government Act 1989*, receives the records of the assemblies of Councillors held on 13 March 2020, 17 March 2020, 24 March 2020, 7 April 2020 and 20 April 2020 (**Attachment 1**).

**CARRIED**

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

**Council Resolution**

**MOVED: Cr Peter Clarke**

**SECONDED: Cr Bruce Ranken**

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

- OCM.062/20 Extension of services under Contract 1718-97 Redevelopment of the Diamond Valley Sport and Fitness Centre Architectural Services
- OCM.063/20 Tender Report - Contract 1920-25 Diamond Creek Trail - Design and Construction of Three Trail Bridges
- OCM.064/20 Extension of Design and Construction Services Under Contract 1920-3 For Diamond Creek Regional Playspace
- OCM.065/20 Chief Executive Officer Employment Matters Committee Mid-Year Review

**CARRIED**

12. Officers' reports

**OCM.062/20    Extension of services under Contract 1718-97 Redevelopment of the Diamond Valley Sport and Fitness Centre Architectural Services**

**Distribution:    Public**

**Manager:        Hjalmar Philipp, Director Operations and Infrastructure**

**Author:         Enrique Gutierrez, Manager Capital Works**

**Summary**

This report is an overview of a separate confidential report recommending increasing the amount of Contract 1718-97 Redevelopment of the Diamond Valley Sport and Fitness Centre Architectural Services executed with Henderson+Lodge Pty Ltd.

Works include variations to Henderson+Lodge designs to ensure the proposed building is fit for purpose and compliant with current building legislation.

This project is being funded through the Growing Suburbs Fund grant of \$2.5M, \$8.0M Sport and Recreation Victoria and \$6.0M Council funds.

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.

The confidential report associated with this contract contains a recommendation to make public the decision regarding this contract but the evaluation remains confidential.

**Council Resolution**

**MOVED:         Cr Peter Clarke**

**SECONDED:    Cr Bruce Ranken**

**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 Grant Brooker**

**SECONDED:    Cr Peter Clarke**

**That** Council:

1. Approves increasing the current amount of Contract 1718-97 Redevelopment of the Diamond Valley Sport and Fitness Centre Architectural Services executed with Henderson and Lodge Pty Ltd by the amount of \$175,000 (exclusive of GST).
2. Authorises the Chief Executive Officer to amend and execute the corresponding variation and contract documentation.
3. Authorises the Chief Executive Officer to approve additional variations related to the preparation of architectural and engineering information needed to support the completion of this project.

12. Officers' reports

**OCM.062/20    Extension of services under Contract 1718-97 Redevelopment of the  
Diamond Valley Sport and Fitness Centre Architectural Services**

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4.    Makes public the decision regarding this contract but the report remain confidential.

**CARRIED**

12. Officers' reports

**OCM.063/20 Tender Report - Contract 1920-25 Diamond Creek Trail - Design and Construction of Three Trail Bridges**

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**Distribution: Public**

**Manager: Hjalmar Philipp, Director Operations and Infrastructure**

**Author: Enrique Gutierrez, Manager Capital Works**

**Steven Blight, Construction Coordinator**

**Lance Clark, Senior Procurement Specialist**

**Summary**

This report is an overview of a separate confidential report recommending awarding Contract 1920-25 for the design and construction of three bridges, for Stage 1 of the Diamond Creek Trail Extension (Diamond Creek to Wattle Glen).

This contract was previously awarded at the January 2020 Ordinary Council Meeting to Brunton Engineering Pty Ltd.

During the process of contract execution, Brunton Engineering advised Council that, due to a recent influx of work, they cannot commence the design and construction of the three bridges before February 2021. As this is beyond the project timeframes, the contract offer has been withdrawn.

The scope of works remain the same, and these include the design, construction and installation of three pedestrian-style bridges capable of accommodating trail users.

Completion of the work remains on track for the fourth quarter of the 2020 calendar year.

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.

The confidential report associated with this contract contains a recommendation to make public the decision regarding this contract but the evaluation remains confidential.

**Council Resolution**

**MOVED: Cr Peter Clarke**

**SECONDED: Cr Bruce Ranken**

**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:*

12. Officers' reports

**OCM.063/20 Tender Report - Contract 1920-25 Diamond Creek Trail - Design and Construction of Three Trail Bridges**

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**Council Resolution**

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

**That Council:**

1. Awards Contract 1920-25 Diamond Creek Trail - Design and construction of three bridges to Fleetwood Urban Pty Ltd for the amount of \$1,071,800.00 (exclusive of GST) plus a 20% contingency allowance (exclusive of GST).
2. Authorises the Director Operations and Infrastructure to finalise and execute the contract documentation.
3. Advises all tenderers accordingly.
4. Makes public the decision regarding this contract but the tender evaluation and report remain confidential.

**CARRIED**

12. Officers' reports

**OCM.064/20 Extension of Design and Construction Services Under Contract 1920-3 For Diamond Creek Regional Playspace**

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**Distribution: Public**

**Manager: Hjalmar Philipp, Director Operations and Infrastructure**

**Author: Enrique Gutierrez, Manager Capital Works  
Paul Usatov, Senior Project Manager**

**Summary**

This report is an overview of a separate confidential report recommending increasing the amount of Contract 1920-3 for the Design and Construction Services for the Diamond Creek Regional Playspace Project with Ace Landscape Services Pty Ltd.

Works include variations to Ace Landscape Services Design and Construction Services to ensure the proposed playspace infrastructure and facilities are accessible, inclusive, functional, fit for purpose and compliant.

This project is being funded through the Growing Suburbs Fund grant of \$2.5M.

The variations are within the grant budget and do not impact current forecast completion of mid-2020.

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 increase the value of the existing contract.

The confidential report associated with this contract contains a recommendation to make public the decision regarding the contract with the detailed contractual financial terms and conditions remaining confidential.

**Council Resolution**

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

**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 Peter Perkins  
SECONDED: Cr John Dumaresq**

**That** Council:

1. Approves increasing the current amount of Contract 1920-3 executed with Ace Landscape Services Pty Ltd by the amount of \$288,750.00 (exclusive of GST).

12. Officers' reports

**OCM.064/20 Extension of Design and Construction Services Under Contract 1920-3 For Diamond Creek Regional Playspace**

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2. Authorises the Chief Executive Officer to amend and execute the corresponding variation and contract documentation.
3. Authorises the Chief Executive Officer to approve additional variations needed for the completion of this project, within the total grant amount of \$2,500,000.
4. Makes public the decision regarding this contract but the report remain confidential.

**CARRIED**



12. Officers' reports

OCM.065/20 Chief Executive Officer Employment Matters Committee Mid-Year Review

---

**Distribution:** Public

**Manager:** Blaga Naumoski, Executive Manager Governance, Communications and Engagement

**Author:** Katia Croce, Governance Lead

**Summary**

This report is an overview of a separate confidential report to consider the Chief Executive Officer's (CEO's) mid-year review.

**Council Resolution**

**MOVED:** Cr Peter Clarke

**SECONDED:** Cr Bruce Ranken

**That** Council notes this report.

**CARRIED**

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

**Procedural Motion**

To consider "NOM.004/20 – Notice of Rescission" listed in item 13 of the agenda prior to "OCM.066/20 – Review of Instrument of Delegation to the Chief Executive Officer" listed in item 12 of the agenda.

**Council Resolution**

**MOVED:** Cr Grant Brooker

**SECONDED:** Cr Peter Perkins

**That** Council resolves to consider "NOM.004/20 – Notice of Rescission" prior to "OCM.066/20 – Review of Instrument of Delegation to the Chief Executive Officer".

**CARRIED**

13. Notices of Motion

**NOM.004/20 Notice of Rescission**

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Cr Peter Perkins and Cr John Dumaresq advised of their intention to rescind the Council resolution made on 24 March 2020 as follows:

**Council Resolution**

**MOVED: Cr Peter Perkins**

**SECONDED: Cr John Dumaresq**

**That** Council rescind, the Council resolution made on 24 March 2020 that refers to item "OCM.053/20 Review of Instrument of Delegation to the Chief Executive Officer".

**CARRIED**

## 12. Officers' reports

## OCM.066/20 Review of Instrument of Delegation to the Chief Executive Officer

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**Distribution:** Public

**Manager:** Blaga Naumoski, Executive Manager Governance, Communications and Engagement

**Author:** Katia Croce, Governance Lead

**Summary**

Council resolved on 24 March 2020 to amend the Chief Executive Officer (CEO) delegations to increase the financial delegation to \$500,000 or for where any expenditure is approved for in the Council adopted budget.

This report seeks approval from Councillors to amend the delegations conferred upon the CEO by Council resolution on 24 March 2020, to only enable decisions to be made where a quorum of Council cannot be formed to make decisions, and where a state of emergency is declared under the *Public Health and Wellbeing Act 2008* or a state of disaster declared under the *Emergency Management Act 1986*.

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

1. In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the 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; and
  - e) It is noted that the Instrument includes a power of delegation to members of Council staff in accordance with section 98(3) of the Act.
2. Notes the delegation is limited to be exercised only in the event Council is unable to meet during the State of Emergency declared in Victoria for response to the COVID-19 pandemic.
3. Notes that the Instrument remains in force until the first meeting of Council is held following the lifting of the State of Emergency Declared by the Victorian Government for COVID-19.

12. Officers' reports

OCM.066/20 Review of Instrument of Delegation to the Chief Executive Officer

**Motion**

**MOVED: Cr Bruce Ranken**

**SECONDED: Cr Jane Ashton**

**That Council:**

1. In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the 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; and
  - e) It is noted that the Instrument includes a power of delegation to members of Council staff in accordance with section 98(3) of the Act.
2. Notes the delegation is limited to be exercised only in the event Council is unable to meet during the State of Emergency declared in Victoria for response to the COVID-19 pandemic.
3. **Amends clause 2.5 of the Instrument of Delegation to read as follows “remains in force until Council resolves to vary or until the first meeting of Council is held following the lifting of the State of Emergency Declared by the Victorian Government for COVID-19”.**

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

**Council Resolution**

**MOVED: Cr Bruce Ranken**

**SECONDED: Cr Jane Ashton**

**That Council:**

1. In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the 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

12. Officers' reports

OCM.066/20 Review of Instrument of Delegation to the Chief Executive Officer

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- 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; and
  - e) It is noted that the Instrument includes a power of delegation to members of Council staff in accordance with section 98(3) of the Act.
2. Notes the delegation is limited to be exercised only in the event Council is unable to meet during the State of Emergency declared in Victoria for response to the COVID-19 pandemic.
  3. Amends clause 2.5 of the Instrument of Delegation to read as follows “remains in force until Council resolves to vary or until the first meeting of Council is held following the lifting of the State of Emergency Declared by the Victorian Government for COVID-19”.

**CARRIED**

**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.067/20 Extension of services under Contract 1718-97 Redevelopment of the Diamond Valley Sport and Fitness Centre Architectural Services**

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

**OCM.068/20 Tender Report - Contract 1920-25 Diamond Creek Trail - Design and Construction of Three Trail Bridges**

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

**OCM.069/20 Extension of Design and Construction Services Under Contract 1920-3 For Diamond Creek Regional Playspace**

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

**OCM.070/20 Chief Executive Officer Employment Matters Committee Mid-Year Review**

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

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

**Council Resolution**

**MOVED: Cr Jane Ashton**

**SECONDED: Cr Peter Clarke**

**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 items designated confidential by the Chief Executive Officer.

**CARRIED**

The meeting closed to the public at 7:49pm.

The meeting re-opened at 8:11pm.

**Close of Meeting**

The meeting closed at 8:11pm.

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

Cr Karen Egan, Mayor