

# Ordinary Meeting of Council

to be held virtually  
on Tuesday 25 August 2020 commencing at 7:00pm.

## Agenda

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

Friday 21 August 2020

Distribution: Public

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# Ordinary Council Meeting

## **Councillors**

**Cr Karen Egan (Mayor)** – Bunjil Ward  
Economic Development and Marketing Portfolio

**Cr Jane Ashton** – Sugarloaf Ward  
Environment and Sustainability Portfolio

**Cr Grant Brooker** – Blue Lake Ward  
Community Services Portfolio

**Cr Peter Clarke** – Wingrove Ward  
Planning Portfolio

**Cr John Dumaresq** – Edendale Ward  
Infrastructure Portfolio

**Cr Peter Perkins** – Ellis Ward  
Social Infrastructure Portfolio

**Cr Bruce Ranken** – Swipers Gully Ward  
Finance and Governance Portfolio

## **Officers**

**Carl Cowie** – Chief Executive Officer

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

**Nillumbik Shire Council**

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**Nillumbik Shire Council**

**Agenda of the Ordinary Meeting of Nillumbik Shire Council to be held  
Tuesday 25 August 2020 commencing at 7:00pm.**

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**1. Welcome by the Mayor**

Members of the public are advised the meeting will be livestreamed and recorded and the livestream and video recording will be made publicly available on YouTube and Council's website.

**2. Reconciliation statement**

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

Nillumbik Shire Council acknowledges the Wurundjeri people who are the Traditional Custodians of this Land. We would also like to pay respect to the Elders both past and present and extend that respect to other Indigenous Australians present.

**3. Prayer**

A prayer will be read.

**4. Apologies**

**Recommendation**

**That** the apologies be noted.

**5. Presentations**

**6. Confirmation of minutes**

Confirmation of minutes of the Ordinary Council Meeting held on Tuesday 28 July 2020.

**Recommendation**

**That** the minutes of the Ordinary Council Meeting held on Tuesday 28 July 2020 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**

**9. Questions from the gallery**

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10. Reports of Advisory Committees

AC.008/20 Advisory Committee Report

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**Distribution:** Public

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

**Author:** Katia Croce, Governance Lead

**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.

**Attachments**

1. Positive Ageing Advisory Committee minutes - 3 July 2020

**Recommendation**

**That** Council notes the minutes of the Positive Ageing Advisory Committee meeting held on 3 July 2020.

**10. Reports of Advisory Committees**

**AC.008/20      Advisory Committee Report**

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**11. Reports of Special Committees**

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**12. Officers' reports****OCM.128/20 Update on the Local Government Act 2020 Implementation - Governance Rules and Public Transparency Policy**

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**Distribution: Public****Manager: Blaga Naumoski, Executive Manager Governance, Communications and Engagement****Author: Katia Croce, Governance Lead  
Heather Holt, Legal Advisor****Summary**

The *Local Government Act 2020* (the Act) was passed by Parliament on 17 March 2020 and received Royal Assent on 24 March 2020.

The Act will be implemented in four stages, based on proclamation dates, delivering to the five key reform themes outlined in the Act.

The first stage enacted the Overarching Governance Principles and five sets of supporting principles to be embedded by councils to underpin accountability and transparency mechanisms for local government across Victoria. These principles will drive Council's approach to engagement with the community, public transparency, financial management, strategic planning and service performance.

The second stage enacted, amongst other things, the requirements for councils to adopt Governance Rules, including an election period policy and a Public Transparency Policy by 1 September 2020.

The Act provides the minimum requirements for inclusion in these documents and sets out that Governance Rules may only be adopted following a process of community engagement.

The draft Governance Rules and draft Public Transparency Policy went out on public exhibition via Participate Nillumbik in the week commencing 22 June 2020. Public exhibition closed on 10 July 2020, two written submissions were received and are detailed in this report.

This report requests that Council adopts the Governance Rules and Public Transparency Policy to ensure compliance with the Act.

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

1. Notes all written and verbal submissions received (**Attachment 7**) in respect of the draft Governance Rules and the draft Public Transparency Policy were considered and submitters were provided with the opportunity to be heard by the Future Nillumbik Committee on 11 August 2020.
2. Considers the matters contained in the submissions and Committee's report during finalisation of the Governance Rules and Public Transparency Policy.
3. Adopts the Governance Rules and Public Transparency Policy (**Attachments 1-6**) with an effective date of 25 August 2020.

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4. Notes that consistent with Section 60(8) of the *Local Government Act 2020*, that upon adoption of the Governance Rules:
  - a. The sections of Council's existing Meeting Procedure Local Law 2017 that relate specifically to the conduct of Council and Committee meetings, namely sections 2 to 13 (inclusive), and section 14 that relates to the election of the Mayor and Deputy Mayor, cease to apply; and
  - b. The sections of Council's existing Meeting Procedure Local Law 2017 that relate specifically to the use of Council's Common Seal (section 15) and Offences and Penalties for certain matters and behaviour by meeting attendees (section 16) together with the Introductory section, section 1, remain operative.

**Attachments**

1. Governance Rule - Meeting Procedure
2. Governance Rule - Election of the Mayor and the Deputy Mayor
3. Governance Rule - Election Period Policy
4. Governance Rule - Procedure for Disclosure of Conflicts of Interest
5. Governance Rule - Decision-making Policy
6. Public Transparency Policy
7. Submissions
8. Table of issues raised

**Background**

1. The *Local Government Act 2020* (the Act) was passed into legislation on 24 March 2020 and commenced, in part, on 6 April 2020.
2. The first stage enacted the Overarching Governance Principles and five sets of supporting principles to be embedded by councils to underpin accountability and transparency mechanisms for local government across Victoria.
3. The Overarching Governance Principles set out the things that must be considered in decision-making and operations including:
  - The relevant law;
  - Best outcomes for the community, including future generations;
  - Economic, social and environmental sustainability, including mitigation and planning for climate change risks;
  - Engaging the community in strategic planning and strategic decision making;
  - Innovation and continuous improvement;

**12. Officers' reports**

**OCM.128/20 Update on the Local Government Act 2020 Implementation - Governance Rules and Public Transparency Policy**

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- Collaboration with other councils and governments;
  - Ongoing financial viability;
  - Taking into account regional, state and national plans and policies in strategic planning and decision-making; and
  - Transparency of council decisions, actions and information.
4. These principles will drive Council's approach to engagement with the community, public transparency, financial management, strategic planning and service performance.
5. The second stage enacted, amongst other things, the requirement for councils under sections 57 and 60 of the Act, to adopt a Public Transparency Policy and Governance Rules, including an Election Period Policy by 1 September 2020.
6. The establishment of the Governance Rules supports the overarching Governance Principles contained within the Act.
7. The establishment of the Public Transparency Policy supports the Public Transparency Principles and Governance Principles contained within the Act.

**Policy context**

8. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Ensure that Council meets its legal responsibilities and manages its risks.

**Budget implications**

9. Implementation of the new Act is a significant undertaking for Council and requires the involvement of officers from across the organisation. The cost associated with the implementation is included within Council's operational budget.

**Consultation/communication**

10. Local Government Victoria (LGV), through a co-design process provided draft pathway documents to assist councils in achieving the requirements of 1 September 2020. The suite of documents are in line with the pathway documents and guidance material provided by LGV, other municipalities and Maddocks Lawyers.
11. Council has followed a process of public engagement on the five draft Governance Rules and the draft Public Transparency Policy, in order to socialise them with the municipal community and obtain any feedback. This public engagement via Council's Participate Nillumbik platform concluded on Friday 10 July 2020.
12. Primarily community awareness of the consultation and engagement process was undertaken via Council's websites and social media channels. This was supported by direct email to people registered to receive alerts on Participate Nillumbik and Council officers raised awareness through their networks.
13. Two written submissions were received outside the Participate Nillumbik platform (**Attachment 7**); five comments on the Governance Rules and the Public Transparency Policy were received on that platform, of which three were general

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**OCM.128/20 Update on the Local Government Act 2020 Implementation - Governance Rules and Public Transparency Policy**

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statements of approval and two addressed specific issues. **Attachment 8** is a table of the issues raised.

14. On 11 August 2020, the community had a further opportunity to make verbal submissions to the Committee on the suite of documents. No submissions were made.

**Governance Rules**

15. The *Local Government Act 2020* now mandates in section 60 certain topics for which each Council must create Governance Rules, a new form of administrative document.

16. The Governance Rules must provide for a Council to:

- a) Consider and make decisions on any matter being considered by the Council fairly and on the merits; and
- b) Institute decision making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests considered.

17. Council has now created five Governance Rules on these topics. These include:

- Governance Rule – Meeting Procedure (**Attachment 1**);
- Governance Rule – Election of the Mayor and the Deputy Mayor (**Attachment 2**);
- Governance Rule – Election Period Policy (**Attachment 3**);
- Governance Rule – Procedure for Disclosure of Conflicts of Interest (**Attachment 4**);
- Governance Rule – Decision-making Policy (**Attachment 5**);

**Governance Rule – Meeting Procedure**

18. The Governance Rule – Meeting Procedure has been prepared based on best practice model templates provided by LGV, other municipalities and Maddocks Lawyers and incorporates Council's current Meeting Procedures Local Law 2017, with minor changes that are not substantive but which will assist clarity and consistency of approach.

19. Proposed inclusions in the Governance Rules – Meeting Procedure since the public consultation period are:

- Provision for Community Asset Committees – in the event they are established by Council;
- Joint Council Meetings – reasons for participating and guiding principles;
- Councillor Attendance Records to make available to the public records of Councillor participation at meetings and Councillor briefings.
- A strong statement to ensure that before making a decision that affects a person's rights, Council will identify whose rights may be affected and provide an opportunity for that person (or persons) to convey those views regarding the effect on their rights and consider those views.

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**OCM.128/20 Update on the Local Government Act 2020 Implementation - Governance Rules and Public Transparency Policy**

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- Minor wording changes to address the submission. Refer to **Attachment 8**.

**Governance Rule – Election Period Policy**

20. The Governance Rules must also include the Election Period Policy. An Election Period Policy primarily governs Council decision making and conduct of Councillors, Council Staff and Candidates in an election period to ensure Council resources are not used to influence the outcome of an election.
21. Council adopted its Election Period Policy in July 2019. As it has been considered recently by Council the key changes proposed to this policy for its inclusion in the Governance Rules are reflective primarily only of the changes in legislation and addresses a submission made.

**Governance Rule – Decision Making**

22. Section 60 requires Council to adopt a governance rule for decision making. Officers have included advice from Local Government Victoria regarding Advisory Committees. They play a key role connecting community views and experts with the decision-making process of Council, therefore it is incumbent on Council to include these provisions in the rules.
23. Following the consultation period, a change was only made to the section relating to the role and specific powers of the Mayor to reflect the wording of the Act in its entirety.

**Public Transparency Policy**

24. The Public Transparency Policy (**Attachment 6**) is a new policy and supports Council in its on-going drive for good and open governance. The policy is based on sector best practice examples and is consistent with existing practice with no substantive policy or procedural changes.
25. The policy gives effect to the public transparency principles outlined in section 58 of the Act and includes how Council-held information is to be made publicly available unless it is confidential by virtue of legislation or making it available would be contrary to the public interest.
26. The Public Transparency Policy is structured to include:
  - Council's Commitment
  - What is public transparency?
  - What will Council be transparent with?
  - When will Council be transparent?
  - When will Council be limited in transparency? (including the public interest test)
  - How will Council be transparent?
  - The principles for transparency.
27. No changes were required to the Public Transparency Policy following the community consultation period.

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OCM.128/20 Update on the Local Government Act 2020 Implementation - Governance Rules and Public Transparency Policy

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**Common Seal and Infringements under existing Local Law**

28. Council's current Meeting Procedure Local Law 2017 includes provisions relating to the use of the Council's Common Seal (Section 15) and Penalties for certain matters and behaviour by meeting attendees (Section 16).
29. Section 14(2)(c) of the *Local Government Act 2020* requires that the Common Seal of Council must be used in accordance with any applicable local law and that to remain enforceable, any penalty/infringement imposed by Council must be made under a local law. Accordingly, the Common Seal and Penalty provisions together with the Introductory section, section 1, in the Meeting Procedure Local Law 2017 will be retained and remain operative in conjunction with the Governance Rules as applicable.

**Legal and Risk Implications**

30. Failure to respond to the requirements of the new Act, both in terms of timeliness and content, would represent non-compliance with Council's most significant and important piece of legislation. It is important, therefore, for Council to resolve the items required for implementation by 1 September 2020 while officers continue to work toward implementation of other aspects of the new Act.

**Conclusion**

31. It is recommended that the Governance Rules and Public Transparency Policy (**Attachments 1-6**) are adopted by Council.



**12. Officers' reports****OCM.129/20 Reconstitution of Future Nillumbik Committee from a Special Committee to a Delegated Committee under the Local Government Act 2020**

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**Distribution: Public****Manager: Blaga Naumoski, Executive Manager Governance, Communications and Engagement****Author: Heather Holt, Legal Advisor****Summary**

With the introduction of the *Local Government Act 2020* (the Act), Special Committees are abolished, to be replaced by Delegated Committees which are largely similar. The powers of the committees are similar but not the same. The Future Nillumbik Committee (**the Committee**) needs to be re-constituted in accordance with the Act and its Terms of Reference renewed to accommodate any changes necessitated by the new Act.

The existing delegation to the members of the Committee is saved until 1 September 2020 but needs to be replaced before that date.

This report seeks endorsement from Council to reconstitute the Committee and approve the Terms of Reference and the Instrument of Delegation.

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

1. Resolves to reconstitute the Future Nillumbik Committee as a Delegated Committee, effective from the date of Council approval of the Instrument of Delegation to the new Future Nillumbik Committee;
2. Confirms the appointment of all seven Councillors to the Delegated Committee, Future Nillumbik Committee;
3. Approves the Terms of Reference for the Future Nillumbik Committee in this report (**Attachment 1**);
4. Approves the Instrument of Delegation for the Future Nillumbik Committee (**Attachment 2**);
5. Authorises the Common Seal of Nillumbik Council to be affixed to the Instrument of Delegation to the Delegated Committee, Future Nillumbik Committee;
- 6- Resolves to abolish the Special Committee, Future Nillumbik Committee, as a Special Committee;
- 7- Revokes the current delegation to Special Committee, the Future Nillumbik Committee, effective from the date of Council approval of the new Instrument of Delegation to the Delegated Committee, the Future Nillumbik Committee.

**Attachments**

1. Future Nillumbik Committee - Terms of Reference
2. Instrument of Delegation for the Future Nillumbik Committee

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**OCM.129/20 Reconstitution of Future Nillumbik Committee from a Special Committee to a Delegated Committee under the Local Government Act 2020**

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**Background**

1. The Future Nillumbik Committee, as a Special Committee, held its first meeting in February 2017 and replaced two previous Special Committees: the Policy and Services Committee and the Planning Committee. It is chaired by the relevant portfolio Councillor for the items within their portfolio.
2. The re-constitution of Future Nillumbik Committee as a Delegated Committee is necessary because Special Committees have been superseded with the introduction of the *Local Government Act 2020*.
3. Delegated Committees can be used by councils to enable members of the public to make oral presentations, which is an opportunity that is not generally provided at a full Council meeting.

**Policy context**

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

**Budget implications**

5. There are no significant budget implications arising from re-establishing the Future Nillumbik Committee and updating the Instrument of Delegation.

**Consultation/communication**

6. Council's committee arrangements provide opportunities for consultation and engagement with the community.
7. Special Committee meetings provide an opportunity for members of the community to address the committee about matters on the agenda. In some instances, this is a statutory right provided by legislation.

**Issues/options**

8. Delegated Committees are established under section 63 of the *Local Government Act 2020*. A delegated committee exercises the powers, duties or functions of Council. Therefore, these committees are subject to the same governance rules as Council (s.60). A resolution of a delegated committee holds the same weight as a resolution of council (provided it falls within the committee's delegated powers).

*Chair of committee*

9. The composition of a Delegated Committee varies from a Special Committee in that it specifies that a meeting of a delegated committee is to be chaired by the Councillor appointed by Council or appointed by the Mayor, or in their absence at a meeting, by a Councillor present appointed by the committee members present. That person is the Chair at the commencement of the meeting, when preliminary matters are considered, (such as apologies, confirmation of minutes, and declarations of interest).
10. In circumstances where an urgent matter requires consideration, and it is a matter that does not correspond to a particular portfolio, the matter will be included in the agenda and the Chair will chair the Committee meeting for that matter.

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**OCM.129/20 Reconstitution of Future Nillumbik Committee from a Special Committee to a Delegated Committee under the Local Government Act 2020**

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11. Council resolved to assign individual portfolio responsibilities to individual Councillors. The agenda of the Committee shall identify which items of business relates to the respective portfolios. The Chairperson for each particular item shall be the Councillor with the relevant portfolio responsibility.

*Membership*

12. The membership of a Delegated Committee must include at least two Councillors and may include any other persons appointed to the committee by the Council who are entitled to vote. The membership of the current Future Nillumbik Committee meets those requirements and so the current members may be re-appointed. As Council elections are due in October this year, Council may prefer to appoint the members for the time being (*pro tem*), rather than for a fixed term.

*Indemnity & re-imburement*

13. The Act requires that Council must indemnify members of delegated committees. Members are to be indemnified against actions and arising in "*respect of anything necessarily done or omitted to be done in good faith...*" (s.43) in the performance of their role. Members are also entitled to be reimbursed out-of-pocket expenses in accordance with s. 40.

*Terms of reference*

14. The Terms of Reference (**Attachment 1**) for the new Future Nillumbik Committee have been prepared in consultation with the Mayor and Councillors.

*Delegation*

15. In addition to the power to delegate authority to natural persons, the Act continues the practice of delegation of some powers to Delegated Committees, therefore the re-formed Future Nillumbik Committee, as a Delegated Committee will operate under delegation of Council.
16. Section 11(2) of the Act lists those powers, duties or functions that cannot be delegated by Council to a Delegated Committee. As the Committee includes all Councillors, it is not necessary to limit further the extent of the Committee's powers.
17. The only other exclusions from the Committee's delegated powers are those matters which are unable to be delegated under the Local Government Acts, the *Planning and Environment Act 1987* or any other Act.
18. Previous changes to the Planning Delegation protocol for Planning Applications under the *Planning and Environment Act 1987* are to remain. These identify the following circumstances under which an officer may not exercise delegated powers to decide an application:
- a) If the Ward Councillor in whose ward the application is located, advises in writing that the Councillor wishes to refer the matter to the Future Nillumbik Committee for a planning decision; or
  - b) If any Councillor other than the Ward Councillor in whose ward the application is located, advises in writing that the Councillor wishes the matter to be referred to

12. Officers' reports

**OCM.129/20 Reconstitution of Future Nillumbik Committee from a Special Committee to a Delegated Committee under the Local Government Act 2020**

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the Future Nillumbik Committee for decision and that request is supported in writing by one other Councillor.

19. The Instrument of Delegation for the Future Nillumbik Committee is presented to Council for adoption at **Attachment 2**. This is a policy neutral translation that will not change the delegation to or functioning of the Committee.

*Rights to address the Committee*

20. The new Governance Rule - Meeting Procedure enables any member of the public to register to address the proposed re-constituted Future Nillumbik Committee in regard to any matter listed on the Committee's agenda. This includes matters where Council has invited public submissions through a consultation process, as well as any other matter on the agenda. This means that a member of the public can attend and address the Committee on a matter, even if Council has not invited public submissions on the matter or if the person has not already lodged a written submission.
21. This conforms to section 60(2)(b) of the Act in ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered.

*Requirements*

22. Members are subject to many of the same requirements as councillors, such as conflicts of interest, personal interest returns and standards of conduct. Members must also adhere to Council's Governance Rules.
23. Of particular interest is the disclosure requirements for members of delegated committees. These were not required under the *Local Government Act 1989*, however the requirements are now the same for member of delegated committees as for councillors.

*Legal and Risk Implications*

24. Delegations made under the *Local Government Act 1989* remain in force until 1 September 2020, therefore any existing committees operating under delegation will not have the power to exercise these delegations, after this date, until new committees are established and new instruments of delegation are made.
25. It is important, therefore, for Council to resolve the items required for implementation by 1 September 2020 while officers continue to work toward implementation of other aspects of the new Act.

## 12. Officers' reports

## OCM.130/20 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

The new *Local Government Act 2020* (the Act) requires Council to review and update the Chief Executive Officer's (CEO) Instrument of delegation by 1 September 2020.

The delegation of powers is considered essential to enable day-to-day decisions to be made to ensure the operations of Council are enacted efficiently and effectively. Delegations are standard practice across all Councils. Delegations should be regularly updated to reflect any legislative changes and or a more appropriate level of accountability.

Council endorsed changes to the CEO Delegation on 28 April 2020 in anticipation of possible circumstances created by the COVID-19 pandemic. To date, this delegation has not been exercised.

This report seeks to increase the CEO financial delegation limit to \$500,000. Furthermore, it is recommended that the changes made to the Instrument of Delegation in relation to the state of emergency be removed due to the introduction of the *COVID-19 Omnibus (Emergency Measures) Act 2020* and the proposed increase to the CEO financial delegation to \$500,000.

### Recommendation

**That Council:**

1. In the exercise of the power conferred by s 11(1)(b) of the *Local Government Act 2020* (the Act), Nillumbik Shire Council (Council) resolves that:
  - a. There be delegated to the person holding the position, or acting in or performing the duties, of Chief Executive Officer the powers, duties and functions set out in the attached *Instrument of Delegation to the Chief Executive Officer*, (**Attachment 1**) subject to the conditions and limitations specified in that Instrument.
  - b. The instrument comes into force immediately 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 instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

12. Officers' reports

OCM.130/20 Review of Instrument of Delegation to the Chief Executive Officer

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**Attachments**

1. Instrument of Delegation to the Chief Executive Officer
2. Benchmarking

**Background**

1. The purpose of this report is to advise that legislative changes require the instrument of delegation to the CEO be specifically updated in response to the commencement of the *Local Government Act 2020*. This delegation needs to be adopted by Council by 1 September 2020, in line with stage two of implementation of the Act.
2. The delegation is necessary to enable the CEO to carry out the day-to-day management of Council's operations.
3. The Instrument of Delegation to the CEO was last considered by Council on 28 April 2020.

**Policy context**

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

**Budget implications**

5. The regular updates of Council's Instruments of Delegation and Authorisation are an administrative function, the cost of which is included in Council's operational budget.

**Consultation/communication**

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

**Issues/options**

7. The Instrument of Delegation to the CEO which flows from section 11(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.
8. Council subscribes to a service provided by Maddocks lawyers in which recommended delegation updates are provided. The update in **Attachment 1** is in response to the commencement of *the Local Government Act 2020* which needs to be adopted by Council by 1 September 2020.
- 9.
10. The delegation of powers is considered essential to enable day-to-day decisions to be made to ensure the operations of Council are enacted efficiently and effectively. Delegations are standard practice across all Councils. Delegations should be regularly updated to reflect any legislative changes and or a more appropriate level of accountability.

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11. The Council is a legal entity composed of its members (i.e. the Councillors). Because it is not a "natural person", the Council can act in only one of two ways: by resolution; or through others acting on their behalf.
12. Where the latter is to occur, the authority to act needs to be formalised through written 'Instruments of Delegation'. The Act and other legislation make express provision for the appointment of delegates to act on behalf of the Council.
13. The Act requires that Council review and update the instruments of delegation to the CEO. In turn, the CEO will review and update various Instruments of Delegation by the CEO to other officers.
14. Reviewing delegations is a good practice. Council will recall on 28 April 2020, Council resolved to amend the CEO delegation to enable decisions where a quorum of Council could not be formed to make decisions, and where a state of emergency is declared under the *Public Health and Wellbeing Act 2008* or state of disaster declared under the *Emergency Management Act 1986*. To date, this delegation has not been exercised.
15. The likelihood that Council will not be able to make decisions where a quorum of Council cannot be formed has been reduced significantly with the introduction of the *COVID-19 Omnibus (Emergency Measures) Act 2020*. This legislation amends the *Local Government Act 2020* to allow virtual meetings for local councils, therefore negating the requirement to meet in the Chamber.
16. Noting that the current financial delegation to the CEO of \$150,000 for goods and services and \$200,000 for the carrying out works has been in place for over 15 years, it is timely to review this delegation. Informed by benchmarking, it is proposed to permanently increase the CEO financial delegation from \$150,000 for goods and services and \$200,000 for the carrying out works to financial delegation limit of \$500,000.
17. The benchmarking (**Attachment 2**) includes all interface councils and councils with comparable population size or capex spend. This data provides Council with a clear picture of how Nillumbik compares to these councils.
18. The changes made to the Instrument of Delegation in relation to the state of emergency have been removed due to the introduction of the *COVID-19 Omnibus (Emergency Measures) Act 2020* and the proposed increase to the CEO financial delegation to \$500,000.
19. Should Council decide not to increase the financial value of the CEO Instrument of Delegation, Council may wish to retain the conditions.

**Conclusion**

14. It is recommended that the Instrument of Delegation to the CEO be adopted by Council.

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OCM.130/20 Review of Instrument of Delegation to the Chief Executive Officer

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**12. Officers' reports****OCM.131/20 Review of Instrument of Delegation to Members of Council Staff**

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

Council is empowered under various legislation to undertake duties and functions in accordance with that legislation. To 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 many operational decisions at Council meetings.

This update takes into account legislative changes which were assented to, or made, on or after 28 January 2020, which affect council's powers, duties and functions.

The *Local Government Act 2020*, requires Council to review and adopt the Instrument of Delegation to Members of Council Staff by 1 September 2020.

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

1. In the exercise of the powers conferred by the legislation referred to in the attached instrument of delegation (**Attachment 1**), Nillumbik Shire Council (Council) resolves that:
  - a. There be delegated to members of Council staff holding, acting in or performing There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached 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 the common seal of Council is affixed to the instrument.
  - c. On the coming into force of the instrument all previous delegations to members of Council staff (other than 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 instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

**Attachments**

1. s6 Instrument of Delegation to Members of Council Staff
2. Marked-up - s6 Instrument of Delegation to Members of Council Staff

**12. Officers' reports**

**OCM.131/20 Review of Instrument of Delegation to Members of Council Staff**

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**Background**

1. The power conferred by the legislation 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 Chief Executive Officer 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. Changes to staff titles have also been incorporated to reflect positional changes to Council's organisational structure.
4. The Instrument of Delegation to Members of Council Staff was last considered by Council in 28 January 2020.

**Policy context**

5. This report directly supports the achievement of Council Plan 2017-2021 strategies:
  - Ensures that Council meets its legal responsibilities and manages its risks; and
  - Maintain good governance and effective leadership.

**Budget implications**

6. The regular updates of Council's Instruments of Delegation and Authorisation are an administrative function, the cost of which is included in Council's operational budget.

**Consultation/communication**

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

**Issues/options**

8. Under the Act, one of Council's objectives is to delegate decision-making to appropriate levels within the organisation.
9. 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 Chief Executive Officer can sub-delegate 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.
10. The Instrument of Delegation to Members of Council Staff covers delegations from Council to Directors, Executive Managers, relevant Managers and staff under a range of legislation including, but not limited to, the:
  - *Domestic Animals Act 1994*
  - *Environment Protection Act 1970*
  - *Food Act 1984*
  - *Heritage Act 2017*
  - *Local Government Act 1989*

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OCM.131/20 Review of Instrument of Delegation to Members of Council Staff

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- *Planning and Environment Act 1987*
  - *Residential Tenancies Act 1997*
  - *Road Management Act 2004*
  - Planning and Environment Regulations 2015
  - Planning and Environment (Fees) Regulations 2016
  - Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020
  - Road Management (General) Regulations 2016
  - Road Management (Works and Infrastructure) Regulations 2015
11. As legislation is amended from time to time, all councils are required to update delegations conferred on various positions within the organisation by Council, to ensure officers are operating and enforcing under the current legislation.
12. A marked up copy of the Instrument of Delegation to Members of Council Staff considered by Council in January 2020 (**Attachment 2**) is presented to illustrate the changes recommended as part of this review.

**Conclusion**

13. It is recommended that the amended Instrument of Delegation to Members of Council Staff be adopted by Council.

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OCM.131/20 Review of Instrument of Delegation to Members of Council Staff

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OCM.132/20 Council Expenses Policy

**Distribution:** Public

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

**Author:** Melika Sukunda, Finance Manager

**Summary**

This report presents the Council Expenses Policy for Council's endorsement.

The policy has been reviewed to ensure compliance with the *Local Government Act 2020*, including the review of eligible reimbursements and resources available during the course of performing the duties of a councillor or delegated committee member.

The Council Expenses Policy (*Local Government Act 2020*, section 41) outlines the procedures and policy for reimbursement of out-of-pocket expenses of councillors and members of delegated committees. The policy also establishes support and resources to be made available during the Council term.

This policy replaces the Councillor Expenses and Resources Policy 2016.

The Council Expenses Policy was presented to the Audit and Risk Committee in August 2020.

**Recommendation**

**That** Council endorses the Council Expenses Policy (**Attachment 1**).

**Attachments**

1. Council Expenses Policy 2020

**Background**

1. Council is required to prepare a current Council Expenses Policy under section 41 of the *Local Government Act 2020* (the Act).
2. The Council Expenses Policy details the out-of-pocket expenses for which a reimbursement claim may be made and the resources available to assist councillors and members of delegated committees in the course of performing their duties.
3. The policy is intended to ensure that councillors and members of delegated committees are supported to perform their duties without disadvantage.

**Policy context**

4. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Ensure responsible and efficient management of Council's financial resources.

**Budget implications**

5. The costs associated with providing services and resources to councillors and delegated committee members have been budgeted for in the 2020-2021 Budget.

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**OCM.132/20 Council Expenses Policy**

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**Consultation/communication**

6. The Council Expenses Policy was presented to the Audit and Risk Committee in August 2020.

**Council Expense Policy**

7. The Council Expenses Policy (**Attachment 1**) addresses the following aspects:
- a) Definitions, who is eligible to claim
  - b) Expenses eligible for reimbursement
  - c) Resources and equipment available for councillor and delegated member use.
  - d) End of councillor services
  - e) Procedures
  - f) Monitoring, evaluation and review
  - g) Related policies and legislation
8. Expenses eligible for reimbursement include childcare and dependent related expenses, travel expenses, stationary, conferences, seminars events and training, within the guidelines outlined in the policy.
9. Quarterly reports of all councillor and delegated committee member expenses will be provided to Council, and Council's Audit and Risk Committee.
10. Expense reimbursement forms are included as attachments to the policy. The forms must be completed and submitted to Finance in order for a claim to be processed and paid.
11. A Councillor Agreement for the use of Council Information Technology equipment is included as an attachment to the policy. The agreement must be signed prior to equipment being supplied.

**Conclusion**

12. The Council Expenses Policy has been drafted in compliance with the *Local Government Act 2020* and is presented to Council for formal endorsement.

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OCM.133/20 Status Report on Council Resolutions for Electoral Term 2016-2020

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**Distribution:** Public

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

**Author:** Katia Croce, Governance Lead

**Summary**

This report provides a summary of the status of council resolutions arising from Ordinary Council Meetings and Future Nillumbik Committee meetings from the commencement of the electoral term November 2016 to the end of June 2020.

<b>Recommendation</b>
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That Council notes this report.

**Attachments**

1. Summary Graph of Council Resolutions
2. Schedule of Outstanding Resolutions

**Background**

1. The status of outstanding reports and actions requested by Committee Decisions or Council resolution are recorded to ensure delivery.

**Policy context**

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

**Budget implications**

3. Preparation of the documents is an administrative function, the cost of which is included within Council's operational budget.

**Consultation/communication**

4. All business units are responsible for actioning items.

**Issues/options**

5. A summary graph of all resolutions by directorate from the beginning of the electoral term to June 2020 is attached as **Attachment 1**.
6. A schedule of council resolutions captured from the beginning of the electoral term is attached as **Attachment 2**.
7. The schedule contains the following sections:
  - i. Section A – Outstanding resolutions / action with commentary on status
  - ii. Section B – Periodical Items with commentary on status
  - iii. Section C – Completed items

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**OCM.133/20 Status Report on Council Resolutions for Electoral Term 2016-2020**

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**Conclusion**

8. It is recommended that the next status report will be submitted to a Councillor Briefing in February 2021.



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OCM.134/20 Diamond Creek Major Activity Centre Structure Plan

**Distribution:** Public

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

**Author:** Julie Paget, Strategic Planner

Paul Fyffe, Senior Strategic Planner

Leigh Northwood, Strategic Planning Lead

**Summary**

This report presents a final draft of the Diamond Creek Major Activity Centre Structure Plan which incorporates:

1. All revisions in responding to written submissions received to the 7 week consultation period;
2. Verbal submissions made at the July Future Nillumbik Committee; and
3. Councillor changes/feedback.

It is an action in the 2017-2020 Council Plan to review the existing Diamond Creek Major Activity Centre Structure Plan (2006), which is now a highly dated document.

On considering all submissions (written and verbal) to the draft Structure Plan, a proposed final draft of the Structure Plan has been prepared, which is provided as **Attachment 1**. This final draft responds to issues raised in submissions by (but not limited to):

- Better explaining that the key policy settings supported by the document are already set as a requirement of State Planning Policy;
- Better explaining the role and limitations of a Structure Plan; and
- Incorporating changes, where appropriate, to satisfy certain concerns raised in submissions.

The next suggested steps are for Council to adopt the Structure Plan and further, to request a planning scheme amendment to articulate the document and its key planning actions through the Nillumbik Planning Scheme.

**Recommendation**

**That** Council:

1. Adopts the Diamond Creek Major Activity Centre Structure Plan (July 2020), which is provided as **Attachment 1**.
2. Requests a future Ordinary Council Meeting be presented with a planning scheme amendment which proposes to reference the adopted Structure Plan into the Nillumbik Planning Scheme and to make changes proposed by the Structure Plan to planning provisions.
3. Advises all submitters in writing of Council's decision.

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OCM.134/20 Diamond Creek Major Activity Centre Structure Plan

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**Attachments**

1. Revised Diamond Creek Major Activity Centre Structure Plan - Revisions from consultation July 2020
2. Officer response to Key Issues raised in the submissions to the draft Diamond Creek Major Activity Centre Structure Plan

**Background**

1. Since 2002, the Diamond Creek Activity Centre has been designated by State Government policy as one of approximately 120 major activity centres in Melbourne.
2. The purpose of a major activity centre (MAC) is to provide an attractive an appropriate regional hub to provide for growth, where housing is concentrated in close walking distance to jobs, services, retail, community facilities and public transport. In turn this focus on housing density aligned to the MAC reduces pressure on surrounding residential areas to take on inappropriate residential densities (e.g. smaller lot sizes), and to alleviate such matters as car dependency where dwellings located further from the centre are often wholly reliant on vehicles.
3. The State's activity centre policy aims to create an urban structure which better responds to current social and environmental challenges, such as a lack of affordable housing, high levels of car dependency, a lack of local employment and an ageing population.
4. Consistent with these requirements:
  - Council adopted the current Structure Plan for the centre in 2006 and has planned for growth of the MAC in accordance with that plan;
  - Maximum building heights of 3-5 storeys have been applied to the centre of Diamond Creek since 2014. These maximum heights, which include significant application of a mandatory 3 storey height limit, are the strongest and lowest height controls that the State Government would allow for Diamond Creek;
  - The Activity Centre Zone has been applied to the centre of Diamond Creek since 2016; and
  - Council has conducted or successfully advocated for certain key improvements recommended by the current Structure Plan. For example, the improvements to the Marngrook and Diamond Creek ovals.
5. The existing Structure Plan is now 14 years old and is highly dated. Consequently, Action 4.3.1 of the Council Plan 2017- 21 requires the Structure Plan to be reviewed.

Consultation that informed preparation of the Diamond Creek Major Activity Centre Structure Plan

*Early consultation*

6. Targeted consultation was undertaken in June 2016-2017 in gaining a better understanding of issues and options through community groups and service providers who use sites and facilities within the Structure Plan area of their experiences. This

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identified some key issues and opportunities that informed the early preparation of the draft Structure Plan.

7. Between April 2018 and February 2019 a Community Urban Design Advisory Panel comprising representatives from Diamond Creek and Eltham Major Activity Centres, 2 x Councillors and a representative from the then consultant David Lock and Associates (now known as Kinetica) to provide input on improvements that could be made to urban design settings through the review of the Diamond Creek and Eltham MAC Structure Plans. The community membership of the group was selected through a public request by Council for nominations. The group met for 6 sessions from 4 April 2018 to 6 February 2019. The findings and outcomes of the advisory panel played a key role in assisting drafting of the Structure Plan in relation to urban design matters. For example, in regards to:
  - a) Section 2.3 (What Makes Diamond Creek Distinct?)
  - b) A key urban design statement within the vision
  - c) Particular urban design guidelines, such as recommended setbacks and indents in building footprints to provide additional canopy trees.
8. ChatterBox Projects were engaged by Nillumbik Shire Council in August 2018, to undertake community engagement to inform the Draft Structure Plan. Over 500 ideas were gathered throughout the community engagement process via the online and hardcopy surveys. Just over 150 additional opinions, thoughts and ideas were gathered via other engagement tools including the online mapping tool, voting pod, chatboards and big idea drawings. When asked whether they knew of any areas in the Activity Centre needing attention, the most frequently mentioned locations included the train station/railway crossing, areas around shopping centres, various recreation and leisure spaces, and specific streets. Concerns were mainly around traffic safety and flow, parking, and the appearance of buildings and public spaces. The outcome of this survey and key matters provided further guidance in preparation of the draft Diamond Creek Structure Plan.

*Formal consultation*

9. Subject to early consultation, a draft of a new Diamond Creek Structure Plan was prepared and presented to Council's February 2020 Ordinary Council Meeting to seek Council endorsement for community consultation. Key elements of this draft were to:
  - a) Retain the current existing range of building heights from 3-5 storeys, but recommends some minor variations in the application of that range particularly around railway station 'retail core';
  - b) Propose some variations to other existing urban design requirements, such as a town plaza/square 'heart', and to require larger front setbacks in residential areas, thus allowing more deep planting;
  - c) Retain the existing boundaries of the activity centre;
  - d) Retain an emphasis on providing a safe pedestrian and cycling environment, whilst providing appropriate traffic flow and in achieving this outcome, advocating to the State Government for the removal of the level crossing and substantial improvement to amenity in and around the train station; and

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- e) Propose no substantial changes to zoning provisions in relation to land use.
10. At its February 2020 Ordinary Council Meeting Council endorsed the draft for public consultation.
11. The draft plan was put on public exhibition from 10 March 2020 to 29 April 2020 (7 weeks). It appears that, due to the timing of this consultation period and its extensive use of on-line formats, the COVID-19 situation had minimal impact on the community's capacity to consider and respond to the draft Structure Plan. In context 44 submissions were received to current draft Structure Plan and 34 submissions were received to the current Structure Plan during consultation to it as a draft in 2004.
12. A number of submitters to the draft Structure Plan took the opportunity to speak to their submission at Council's Future Nillumbik Committee meeting on 14 July 2020. Issues raised through verbal submissions were not appreciably different from those already raised in written submissions, but were considered as part of further changes to the draft Structure Plan.
13. A total of 44 submissions were received to the draft Diamond Creek Structure Plan and the following key themes were distilled by officers from submissions, including:
- The plan will detrimentally change the semi-rural, 'homely feel' of Diamond Creek, particularly by its support for growth, medium density housing and building heights of 3-5 storeys;
  - In particular the idea of apartments within the centre drew a strong negative response and there is concern that the type of density being suggested is too intense and will overwhelm the existing dwellings and those that adjoin the centre;
  - Many submitters were unaware that the current planning controls allowed heights of 3-5 storeys in the activity centre. Responses to perceived increases in heights were varied, some requesting no increases, some moderate increases and some noting a maximum of 2-3 storeys in the Major Activity Centre was adequate;
  - Proposed commercial development produced a mixed response from submitters. Commercial development was welcomed by some with the caveat that the size and type of commercial use should fit with the semi-rural nature of Diamond Creek and to avoid building commercial spaces that will not be used; and
  - The nature of existing and future business was questioned by submitters, noting there was no perceived demand for increased retail and hospitality offerings. Submitters advocated for further consultation with the community and traders prior to further development.

Traffic management flow issues:

Station Street/Elizabeth Street

- Congestion particularly at the railway crossing, in and around the railway station and the Station Street/Elizabeth Street interaction;
- The one-way traffic flow proposed was generally supported but a number of submitters suggesting it runs the other way so that traffic exists at the traffic lights on Elizabeth Street;

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- Support for the addition of footpath and additional parking along Elizabeth Street;
- Majority of submitters silent on Gipson Street bridge with minor numbers mixed in their response; and
- Concerns of potential loss of car parking if more development occurs around the station.

Main Hurstbridge Road

- Mixed response to traffic measures (including speed limit changes to Main Hurstbridge Road);
- Multiple calls for Main Hurstbridge Road to be duplicated, in particular at the level crossing;
- Existing congestion on Main Hurstbridge Road frequently cited;
- Concerns over increasing congestion generally due to proposed potential development.

Other transport issues

- Concerns over lack of car parking required in association with any increase in development, particularly in relation to Precinct 4 (retail core);
- Support for better access to railway station for both pedestrians and vehicles.
- The provision of car parking was raised by a number of submitters. There appears to be general concern that car parking can already be difficult and that any redesigning of the areas around the station and the main retail hub would need to ensure no net loss of spaces.
- The proposal to advocate for the removal of the railway level crossing by Council appears to have general community support, however the idea of a sky rail is generally not supported.

14. The measures to increase pedestrian and bicycle accessibility through the precincts was generally supported, with the exception being bike lanes on Main Hurstbridge Road which had a mixed reaction.

Other key issues raised

- The landscaping treatments in multiple precincts were mentioned and encouraged. The idea of using landscaping as a buffer was particularly encouraged.
- The concept of a civic hub was generally welcomed along with strong support for a community building (retro fit or new) and potential library.
- Particular concerns raised by residents of Gregg Street regarding the existing and proposed height limits to the rear of them which in turn front Main Hurstbridge Road.
- The level of consultation was questioned by some submitters who believe that all residents of Diamond Creek should have been notified directly.

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**OCM.134/20 Diamond Creek Major Activity Centre Structure Plan**

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15. It is emphasised that these themes do not capture all the points made in submissions to the draft Structure Plan.
16. All submitters had the opportunity to present to the July 2020 Future Nillumbik Committee and the Committee resolved to note:
  - a) The submissions received in response to community consultation on the draft Diamond Creek Major Activity Centre Structure Plan.
  - b) A report will be presented to the August Ordinary Council Meeting which will recommend changes to the draft Diamond Creek Major Activity Centre Structure Plan.
  - c) A new draft will be made available on Council's website on the 24th of July 2020.
17. Subject to a Council resolution (above) the revised final draft of the Diamond Creek Major Activity Centre Structure Plan (**Attachment 1**) with all changes captured through community consultation was made available on the Participate Nillumbik website (to view and download) from the 24<sup>th</sup> July for a period of 14 days.

**Policy context**

18. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Review existing precinct structure plans within activity centres to encourage investment and development.

**Budget implications**

19. The cost of preparing the new Structure Plan is estimated at \$40,000 and this cost is provided for in the Strategic Planning budget.

**Issues/options**

20. Officers considered all written and verbal submissions and Councillor feedback and found the following key points respond to the themes raised:
  - The key policy settings contained with the document are required by State Planning Policy.
  - A height range of 3-5 storey height limits already applies in the Diamond Creek Activity Centre and is the lowest and strictest height limits that the State Government has allowed in the centre. The draft Structure Plan provides for increases from existing heights (within the current 3-5 storey limit) in the retail core / rail station (Precinct 4) only. Heights in areas interfacing with sensitive residential areas (e.g. Precinct 5 and Precinct 6) are proposed to be decreased from the existing current draft Structure Plan.
  - The Structure Plan is a high-level strategic planning document, which cannot provide the level of detail or response to particular requests made in submissions. Many of these requests are the responsibility of State policy, or of further work by Council to implement the Structure Plan, much of which will have its own community engagement e.g. detailed landscape streetscape plans and implementation of planning controls through a planning scheme amendment.
  - Notwithstanding the above points, the document has been modified to respond to certain issues raised in submissions. For example, to:

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- Better explain certain language used, or modify that language.
- Better articulate the requirements and outcomes of State Planning Policy
- Better indicate the breadth of work to implement the Structure Plan
- Better articulate a preference for indigenous vegetation, whilst requiring the necessary flexibility to plant non-indigenous in particular instances.
- Improve the vision of the document.

21. **Attachment 2** elaborates on officers' consideration of submissions. Based on that consideration, the revised Structure Plan, provided as **Attachment 1**, incorporates the following key changes:

- A clear preference for indigenous vegetation has been articulated, concurrent with retaining the option for the selection of non-indigenous vegetation where necessary. For example, where shade trees are required to meet the increasing need for shade in public areas. (Precinct 4 and the Mangrook Oval).
- Stronger emphasis has been included on flooding as a constraint in particular parts of the centre.
- In relation to car parking, there is now content which states that large amounts of at ground car parking result in underutilisation and a less legible or walkable urban environment thereby acknowledging the impacts of existing car parking arrangements in Diamond Creek town centre.
- In relation to the heritage elements in Diamond Creek identifying that there is commentary provided at Sections 2.2 and 2.3 and also at Section 3.5.
- Cross-section diagrams have been revised to assist readers in visualising the desired frontage for development at key sites within the centre. In particular an additional cross section has been provided to show the built form outcomes across Elizabeth Street and down to the creek side.
- The description of existing conditions within certain sections of the activity centre has been improved, as has the description of the intended land use and built form outcomes.
- In Precinct 5 it has been made explicit that any existing businesses will continue alongside new start-ups and commercial enterprises.
- In Section 4.7 the text has updated to include that Council is actively engaged in applying for grant funding through the Sports Victoria Covid Grant Applications for two projects being a Pool and Filtration Upgrade to the Diamond Creek outdoor pool and to replace to Diamond Creek Netball sporting surface and improve lighting.
- A glossary of terms has been inserted to better define terms which have caused confusion, such as "night-time economy".
- A clearer and stronger explanation of the requirements of State Planning Policy for growth, economic consolidation and medium density housing has been provided.

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OCM.134/20 Diamond Creek Major Activity Centre Structure Plan

- A clearer explanation has been included that 3-5 storey height limits already exist across the Diamond Creek Activity Centre.
- A clear explanation has been included that the Structure Plan is a high-level planning strategic document and that certain additional actions requested by submitters are either the responsibility of separate policy documents, or further work to implement the Structure Plan, such as:
  - Sub-projects to improve the road network and bicycle/pedestrian connections and streetscape planting and upgrades.
  - Improvements to the Nillumbik Planning Scheme via one or more planning scheme amendments.
  - Supporting local traders to benefit from opportunities presented by the Structure Plan.

A key part of this change is the inclusion of a diagram which details the subsequent work that will be required to implement the next level of detail and to implement the broader objectives of the Structure Plan.

22. These changes are considered to adequately respond to the issues raised in submissions, either by providing a stronger explanation for the stance of the document or, where possible, changing the current position of the Structure Plan.
23. Now that the proposed Structure Plan has been tested and improved through community consultation, it is recommended that Council adopt the revised document, provided as **Attachment 1**. Further, it is recommended that Council requests a future Ordinary Council Meeting be presented with a planning scheme amendment which proposes to:
  - a) Reference the newly adopted Structure Plan in the Nillumbik Planning Scheme; and
  - b) Implement the Structure Plan's proposed changes to planning provisions.
24. In regards to point a) referencing a Structure Plan in the planning scheme is the necessary approach to providing authority to a Structure Plan through the scheme. In regards to point b), key examples of the changes referred to include:
  - a) Increasing the setbacks of buildings in key parts of the activity centre, such as at Residential Interfaces; and
  - b) Setting a higher building height limit (within existing limits available across the MAC) only for some land within proximity of the railway station.
25. It should be noted regarding any planning scheme amendment that:
  - a) It will require authorisation from the State Government to be commenced, which will require that it agrees with the modest development and land use expectations set by the Structure Plan.
  - b) It will be publically exhibited with submitters having the right to make submission and that an independent planning panel will consider all submissions to the amendment.



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OCM.134/20 Diamond Creek Major Activity Centre Structure Plan

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**Conclusion**

26. The final draft of the Diamond Creek Major Activity Centre Structure Plan has now been tested with the community and has undergone an appreciable revision in response to issues raised in submissions. The revised document, provided as **Attachment 1**, is now considered ready for adoption. Further, it is recommended that Council initiate work to prepare a planning scheme amendment that will both provide authority to the Structure Plan in the Nillumbik Planning Scheme and implement key planning outcomes proposed by the plan.

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OCM.134/20 Diamond Creek Major Activity Centre Structure Plan

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**OCM.135/20 Nillumbik Council submission to the Victorian Parliament's Environment and Planning Committee Inquiry into Ecosystem Decline in Victoria**

**Distribution: Public**

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

**Author: Kirsten Reedy, Coordinator Environment  
Lisa Pittle, Manager Environment**

**Summary**

The Victorian Parliament's Environment and Planning Committee is conducting an inquiry into the decline of Victoria's ecosystems and measures to restore habitats and populations of threatened and endangered species.

Council is committed to enhancing human health and wellbeing for residents and to enhancing ecosystems for the benefit of current and future generations of wildlife and people through its Council Plan, Green Wedge Management Plan, Municipal Public Health and Wellbeing Plan, Municipal Planning Scheme, Biodiversity Strategy and Invasive Species Action Plan.

Officers have prepared a submission to the Inquiry, with input from Council's Environment and Sustainability Advisory Committee.

The submission responds to the inquiry terms of reference and highlights that:

- Biodiversity in Nillumbik makes a significant contribution of ecosystem services to greater Melbourne.
- Council is active in this space but private landowners manage the majority of biodiversity across the shire.
- There are a multiplicity of factors and challenges impacting biodiversity in Nillumbik.
- There are many competing outcomes that are required to be managed in addition to biodiversity conservation – such as bushfire mitigation and safety of roads and electricity supply.
- Government could provide more support to Nillumbik Council and the Nillumbik community in terms of funding and legislation to help understand biodiversity values, including through threat and asset data collection; better prioritise investment; and to protect biodiversity for future generations.

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

1. Endorses the attached draft Nillumbik Shire Council submission to the Victorian Parliament's Environment and Planning Committee Inquiry into Ecosystem Decline in Victorian to be lodged prior to the 31 August 2020 deadline.
2. Thanks the Environment and Sustainability Advisory Committee for their contribution in developing the submission.

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**OCM.135/20 Nillumbik Council submission to the Victorian Parliament's Environment and Planning Committee Inquiry into Ecosystem Decline in Victoria**

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3. Continues to contribute to the protection of ecosystems through the delivery of the Council Plan, Green Wedge Management Plan, Municipal Public Health and Wellbeing Plan, Biodiversity Strategy and Invasive Species Action Plan.

**Attachments**

1. Nillumbik Council draft submission to the Victorian Parliament's Environment and Planning Committee Inquiry into Ecosystem Decline in Victoria

**Background**

1. The Victorian Parliament's Environment and Planning Committee is conducting an inquiry into ecosystem decline in Victoria and measures to restore habitats and populations of threatened and endangered species, including but not limited to:
  - a) The extent of the decline of Victoria's biodiversity and the likely impact on people (particularly First Peoples) and ecosystems, if more is not done to address this, including consideration of climate change impacts
  - b) The adequacy of the legislative framework protecting Victoria's environment, including grasslands, forests and the marine and coastal environment, and native species
  - c) The adequacy and effectiveness of government programs and funding protecting and restoring Victoria's ecosystems
  - d) Legislative, policy, program, governance and funding solutions to facilitate ecosystem and species protection, restoration and recovery in Victoria, in the context of climate change impacts
  - e) Opportunities to restore Victoria's environment while upholding First Peoples' connection to country, and increasing and diversifying employment opportunities in Victoria
  - f) Any other related matters
2. Submissions to the inquiry are due by 31 August 2020.
3. Council is committed to enhancing human health and wellbeing for residents and to enhancing ecosystems for the benefit of current and future generations of wildlife and people through its Council Plan, Green Wedge Management Plan, Municipal Public Health and Wellbeing Plan, Municipal Planning Scheme, Biodiversity Strategy and Invasive Species Action Plan.
4. Officers have prepared a submission in consultation with Council's Environment and Sustainability Advisory Committee (ESAC).
5. A copy of the submission is provided in **Attachment 1**.

**12. Officers' reports**

**OCM.135/20 Nillumbik Council submission to the Victorian Parliament's Environment and Planning Committee Inquiry into Ecosystem Decline in Victoria**

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**Policy context**

6. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Work with the local community to review and implement environmental policies to protect biodiversity and conserve natural resources.

**Budget implications**

7. There are no additional financial or resource implications for 2020-21.

**Consultation/communication**

8. Officers consulted with Council's Environment and Sustainability Advisory Committee in preparing the submission. This included distributing the Terms of Reference and the preliminary draft for comment, a 6 July 2020 Zoom feedback session, and distributing a revised draft for comment.
9. Six ESAC members provided feedback on the revised draft which was incorporated into the document.
10. The revised draft was then provided for Councillor consideration together with ESAC member feedback in full and with officer responses on resulting changes to the draft.
11. The final draft presented here was developed following a zoom Councillor feedback session which was held on 6 August 2020 and from written feedback.

**Issues/options**

12. The key issues raised within the submission have been categorised under the following headings:
- a) Challenges around how biodiversity is recorded and ecosystem health is determined.
  - b) Nillumbik's natural environment and biodiversity.
  - c) Nillumbik's ecosystem decline and biodiversity management challenges.
  - d) The main causes and associated impacts of biodiversity decline within the Shire of Nillumbik, if more is not done to address this:
    - Climate change
    - Bushfire
    - Invasive animals
    - Overabundant native animals
    - Weeds
    - Loss of complex and naturally regenerating ecosystems (change in native vegetation coverage)
    - Unsustainable land management
    - Urban development

12. Officers' reports

**OCM.135/20 Nillumbik Council submission to the Victorian Parliament's Environment and Planning Committee Inquiry into Ecosystem Decline in Victoria**

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- e) Nillumbik Council biodiversity action:
    - Biodiversity works that Council delivers with in-house resources
    - Biodiversity works that Council delivers with government grant funding
  - f) Legislative recommendations:
    - Environment Protection and Biodiversity Conservation Act
    - Planning and Environment Act 1987
    - Flora and Fauna Guarantee Act amendment
    - Catchment and Land Protection Act 1994
    - CFA Act 1958 and Emergency Management Act 2019
    - Other legislation
    - Unintended legislative consequences
  - g) Government program and funding adequacy and effectiveness.
  - h) Legislative, policy, program, governance and funding solutions to facilitate ecosystem and species protection, restoration and recovery in Victoria, in the context of climate change impacts.
  - i) Opportunities to restore Victoria's environment while upholding First Peoples' connection to country, and increasing and diversifying employment opportunities in Victoria.
13. The submission includes five case studies to help illustrate the context of the submission recommendations:
- a) Peri-urban deer management to achieve biodiversity outcomes.
  - b) South African Weed Orchid – a new threat to Nillumbik's biodiversity.
  - c) Cumulative loss of vegetation arising from major infrastructure projects.
  - d) Eltham Copper Butterfly and urban fire risk management.
  - e) Protecting local orchids from global extinction.
14. The submission includes a series of recommendations under the following sub-headings:
- a) Greater focus on local and landscape scale biodiversity monitoring and data collection is needed.
  - b) Government needs to be a leader in reducing greenhouse gas emissions and in implementing adaptation and resilience strategies to protect species from extinction.
  - c) Collaborative eradication of invasive plants and animals across all land tenures needs to be encouraged and incentivised.

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**OCM.135/20 Nillumbik Council submission to the Victorian Parliament's Environment and Planning Committee Inquiry into Ecosystem Decline in Victoria**

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- d) Emphasis on social and environmental considerations is needed for decision making, to ensure that economic considerations are not the dominant driver.
- e) Facilitation of public and private landowners, working in partnership with First Peoples, is needed to incorporate indigenous land management practices that assist with the restoration of the ecology of habitats.
- f) Adequate and long-term funds are needed to achieve landscape-scale outcomes.
- g) Greater opportunities for increasing and diversifying employment through environmental restoration are needed.
- h) Greater emphasis on public education is needed to build knowledge and expertise with the public to promote ecosystem protection.
- i) Greater emphasis on restoring ecosystems and promoting their resilience is necessary to mitigate the impacts of current actions and improve conditions for the future.
- j) Improvements to current environmental regulation are needed.
- k) Environmental offsetting should only be used as a last resort.

**Conclusion**

15. It is recommended that the submission to the Victorian Parliament's Environment and Planning Committee Inquiry into Ecosystem Decline in Victoria be endorsed and lodged, and that Council continue to support the protection of ecosystems through implementation of the Council Plan, Green Wedge Management Plan and supporting strategic documents.

12. Officers' reports

OCM.135/20 Nillumbik Council submission to the Victorian Parliament's Environment and Planning Committee Inquiry into Ecosystem Decline in Victoria

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12. Officers' reports

OCM.136/20 Committee of Management for Crown Land at Watkins Street, Diamond Creek

**Distribution: Public**

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

**Author: Natalie Campion, Coordinator Property**

**Summary**

There is a parcel of Crown Land adjacent to the Diamond Creek in Diamond Creek, on which Council intends to construct a labyrinth as part of the Diamond Creek Regional Playspace.

Whilst Council does not own the land, it has maintained it for many years given the Diamond Creek Trail runs through it.

Whilst Council has permission from the Department of Environment, Land, Water and Planning to construct the labyrinth on the land, permission was conditional upon Council being appointed Committee of Management for the land.

In order to complete the administrative tasks associated with being appointed Committee of Management for the land, this report is seeking a resolution from Council to support formal notification to the Department of Environment, Land, Water and Planning of its intentions.

**Recommendation**

**That** Council formally requests from Department of Environment, Land, Water and Planning to be appointed Committee of Management for the Crown land known as Crown Allotment 2001\PP5242, Parish of Nillumbik, Township of Diamond Creek.

**Attachments**

- 1. Watkins Street Plan of Land
- 2. Labyrinth Design Plans

**Background**

- 1. There is a parcel of Crown Land adjacent to the Diamond Creek in Diamond Creek, on which Council intends to construct a labyrinth as part of the Diamond Creek Regional Playspace
- 2. The land is identified as Crown Allotment 2001\PP5242, and is located between Crown land at 12-20 Watkins Street, Diamond Creek, which Council is already the nominated Committee of Management (CoM) for, and Council owned land at 28 Campbell Street, Diamond Creek (refer to **Attachment 1** – Plan of Land). The land has been identified as Crown unreserved land, which Council currently maintains, but does not own or formally manage.
- 3. The location for the labyrinth was considered to be the most appropriate as it is adjacent to Diamond Creek, with convenient access from the existing shared trail and is in close proximity to the new playspace.

**12. Officers' reports**

**OCM.136/20 Committee of Management for Crown Land at Watkins Street, Diamond Creek**

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4. In order to facilitate construction of the labyrinth, the Department of Environment, Land, Water and Planning (DELWP) has provided Council with formal permission via a "Land Owners Consent" process, which was conditional on Council formally requesting to be appointed CoM for the land.

**Policy context**

5. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Ensure responsible and efficient management of Council's financial resources.

**Budget implications**

6. There is no cost associated with the process of being appointed CoM.
7. Council already maintains the land as part of open space along the Diamond Creek Trail. Ongoing additional cost relates to maintenance of the new open space asset, which will be addressed through future budgets.

**Consultation/communication**

8. The labyrinth project has been developed between Council and a community group called OMNI (Older Men New Ideas) and was published on the Participate Nillumbik Web Site together with the Diamond Creek Regional Park Playspace design drawings.
9. Council's property officers liaised with DELWP to gain DELWP land owner consent for the construction of the labyrinth on Crown land at Watkins Street, Diamond Creek.

**Issues/options**

10. Council is the appointed CoM for many parcels of Crown Land across the Shire, including Eltham Lower Park, parts of Temple Ridge Reserve and the St Andrews Market site.
11. Being appointed CoM for Crown Land allows Council to formally manage the land on behalf of the Crown, and manage Council's assets located upon it.
12. It also confers formal maintenance responsibility on Council, which in this case is already being completed by mowing and controlling weeds.
13. If Council chooses not to be appointed CoM for the land, it may delay construction of the labyrinth through withdrawal of the "Land Owners Consent".
14. If Council resolves to be nominated as the CoM for the land, officers will complete the formal administrative tasks associated with the process.
15. The process to be formally appointed CoM of Crown land typically takes 4 months, with the decision requiring Gazettal by DELWP.

**Conclusion**

16. To facilitate construction of Council infrastructure on Crown Land in Diamond Creek, Council have been requested by DELWP to become the nominated CoM for the land.
17. To facilitate the administrative tasks to achieve this outcome, Council must make a formal request to DELWP.
18. Council are now in a position to consider making such a request

**12. Officers' reports****OCM.137/20 Proposed road discontinuance at 50 Kangaroo Ground-St Andrews Road, Kangaroo Ground****Distribution: Public****Manager: Hjalmar Philipp, Director Operations and Infrastructure****Author: Natalie Campion, Coordinator Property****Summary**

In 2019, Council became aware that the land currently leased by the Country Fire Authority (CFA) at 50 Kangaroo Ground-St Andrews Road, Kangaroo Ground (subject Land) incorporates unused road parcels, currently not in Council's name. This matter needs to be addressed, as the CFA have submitted a building application to construct a verandah, which is proposed to sit within the road reserve (Land), but Council is unable to approve the works due to the current status of the Land.

As this Land is not required for public use, this report proposes to discontinue the road located on the eastern and southern sides of 50 Kangaroo Ground-St Andrews Road (Road), Kangaroo Ground under clause 3 of Schedule 10, of the *Local Government Act 1989* (Act), so this Land can be transferred into Council's name and consolidated with the subject Land.

If the Road is discontinued and consolidated with the subject Land (Council's owned land) this will assist the CFA and Council with any future works to be undertaken on the subject Land, that otherwise will not be able to occur due to the existing road reserve status and certificate of titles not in Council's name.

This report requests to place on public exhibition and invite public submissions under section 207A and section 223 of the Act, the proposed discontinuance of the Road as shown in **Attachment 1** to this Report.

**Recommendation**

**That** Council acting under clause 3 of Schedule 10 of the *Local Government Act 1989* (Act):

1. Resolves that the statutory procedures be commenced to discontinue the road adjoining 50 Kangaroo-Ground St Andrews Road, Kangaroo Ground, shown outlined in red on the plan contained in **Attachment 1** to this Report (Road);
2. Resolves to give public notice of the proposed discontinuance of the Road and invite submissions, pursuant to sections 207A and 223 of the Act;
3. Writes to all landowners abutting the Road inviting submissions; and
4. In accordance with section 207A and section 223 of the Act, considers any submissions on the proposed road discontinuance at a future Nillumbik Committee meeting, prior to making any final decision on whether to proceed with the road discontinuance.

**Attachments**

1. Plan

12. Officers' reports

**OCM.137/20 Proposed road discontinuance at 50 Kangaroo Ground-St Andrews Road, Kangaroo Ground**

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**Background**

1. In 2019, Property Officers identified that Council land located at 50 St Andrews-Kangaroo Ground Road, Kangaroo Ground, includes unused road parcels, with titles still in the original landowner's name.
2. This matter has become more urgent, as the CFA submitted a building application in April 2020 to construct a verandah, which is proposed to sit within the road reserve (Land), but Council is unable to approve the works due to the existing road reserve status and certificate of titles not in Council's ownership.
3. Council's surveyor was instructed to undertake surveying of the subject Land to determine title boundaries within the vicinity of the Kangaroo Ground CFA Fire Station and the location of various features relative to these title boundaries.
4. Surveying and title searches within the vicinity of the CFA Fire Station at 50 St Andrews-Kangaroo Ground Road, identified the following:
  - a) that part of Kangaroo Ground-St Andrews Road, which is a Government Road sits within Council's title boundary of 50 St Andrews-Kangaroo Ground Road, Kangaroo Ground;
  - b) The unused Road is made up of a number of parcels of land including:
    - general law land (road);
    - the hiatus land which lies between Application No. 37033 and Application No. 11523 (for which there is currently no allocated certificate of title), which has resulted from an historical surveying error; and
    - torrens land contained in certificate of title volume 8962 folio 794, (together, the Land).
5. Council's lawyers have confirmed that all of these parcels of land were declared a public highway in the Government Gazette on 12 April 1912. This Land is not Crown land, and therefore be discontinued by Council under clause 3 of Schedule 10 of the Act.
6. The Titles Office also confirmed that the hiatus land is General Law road, and can be discontinued by Council.
7. If Council wishes to obtain unencumbered, (without road status) title to the part of the Land to the south and east of the constructed road (3 parcels of road reserve), Council will need to first discontinue the road forming this part of the Land.
8. If the part of the Road is discontinued, then Council will be able to obtained title under section 207B of the *Local Government Act 1989*.

**Policy context**

9. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Ensure responsible and efficient management of Council's financial resources.

12. Officers' reports

**OCM.137/20 Proposed road discontinuance at 50 Kangaroo Ground-St Andrews Road, Kangaroo Ground**

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**Budget implications**

10. The costs associated with this proposal are covered by the Property and Facilities Maintenance operating budget.

**Consultation/communication**

11. Following consultation with internal Council units it has been determined that the unused roads are of no strategic value to Council.
12. Consultation was undertaken with the relevant statutory authorities concerning any existing rights, powers or interests they may have in the Road in connection with any sewers, drains, pipes, wires or cables that are to remain as encumbrances over the title to the Road pursuant to section 207C of the *Local Government Act 1989*.
13. In response to this, AusNet Services requested an easement in respect of the overhead powerlines and Council's engineers provided advice on existing assets within the road reserve that require protection. The information provided by these authorities has been included in the re-establishment survey. The northern extent of Road to be discontinued has been positioned 75m north of the southern alignment of the road. Positioning the northern extent at 75m means that the open drain and other infrastructure will remain within the road reserve.
14. The discontinuance of the Road is subject to the requirements of the *Local Government Act 1989*, which requires Council to give 28 day's public notice of its intention, and invite public submissions. In accordance with section 223 of the Act, Council is further required to consider the contents of public submissions, prior to making any final decision as to whether it will proceed with the road discontinuance.
15. The community consultation has been scheduled to commence in September 2020, with submissions received considered at a Future Nillumbik Committee meeting.

**Issues/options**

16. The Road to be discontinued consists of General Law Land, Torrens Law Land, and hiatus land. All of this Land was declared a public highway in the Government Gazette on 12 April 1912. The Land is not Crown land, so if Council wishes to obtain unencumbered (i.e. without road status) title to the part of the Land to the south and east of the constructed road, Council will need to first discontinue the Road forming this part of the Land. If the part of the Land is discontinued, then Council will be able to obtain title under section 207B of the *Local Government Act 1989*.
17. Council's surveyor identified Excess Land (shown in **Attachment 1**), which has resulted from an historical surveying error between No. 355 Eltham-Yarra Glen Road and Torrens land in certificate of title 8962 folio 794, which does not form part of the Land declared a public highway in 1912. The Excess Land is currently fenced and forms part of 50 Kangaroo Ground- St Andrews Road, Kangaroo Ground.
18. Land Use Victoria have advised that the Excess Land cannot be dealt with as part of the road discontinuance process but Council has the option to make an application to the register for title to this land, supported by current survey using a section 103 *Transfer of Land Act 1958* application.

**12. Officers' reports**

**OCM.137/20 Proposed road discontinuance at 50 Kangaroo Ground-St Andrews Road, Kangaroo Ground**

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19. Council's surveyor has advised that the process to deal with the Excess Land is costly and not a high priority given that it is a small portion of land along the boundary fence. This process can be considered at a later date if necessary.
20. If the proposed discontinuance of the Road occurs, Council's surveyor can lodge a planning application to consolidate the discontinued Road with 50 Kangaroo Ground-St Andrews Road, Kangaroo Ground and create part of Kangaroo Ground-St Andrews Road that currently sits within Council's title boundary in VicRoad's name. This will essentially clean up the titles within this vicinity and assist with future planning matters.

**Conclusion**

21. As this Road is not required for public use and the land is required for future works by the CFA, it is recommended that Council proceed with the statutory procedures to discontinue the Road under clause 3 of Schedule 10 of the Act, by giving public notice and inviting public submissions, pursuant to sections 207A and 223 of the Act.
22. Any submissions received in response to the proposed discontinuance of the Road will be heard at a future a Future Nillumbik Committee meeting.

**12. Officers' reports****OCM.138/20 De Fredericks Road Special Charge Scheme, Yarrambat - Intention to Declare**

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**Distribution: Public****Manager: Hjalmar Philipp, Director Operations and Infrastructure****Author: Vladimir Mistic, Project Engineer****Summary**

Council received a petition on 26 June 2018, from property owners in De Fredericks Road requesting the road to be sealed (between Ironbark Road and Hacketts Road).

After conducting a survey and determining that 8 of 13 (61.5 per cent) property owners support road sealing, Council resolved on 30 April 2019 to proceed with the consultation process for the De Fredericks Road Special Charge Scheme, Yarrambat (Item OCM.053/19). This has now been completed.

This report commences the statutory process to levy the special charge. Council must first give notice of its intention to declare a special charge, and then hear any submissions and/or objections to the scheme. Following this, Council may resolve to declare, vary or abandon the scheme.

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

1. Gives public notice of its intention to declare a Special Charge Scheme in accordance with Part 8 of the *Local Government Act 1989*, for the construction of De Fredericks Road subject to the following conditions:
  - a) The Special Charge Scheme shall apply to the properties in De Fredericks Road, Yarrambat as shown in **Attachment 1**.
  - b) The apportionment costs to each property is based on the method shown in the report and **Attachment 2**.
  - c) The total estimated cost to each property is shown in **Attachment 3** and may be paid as a lump sum or by quarterly instalments over a 10 year period with interest as provided by section 163(1)(b) of the *Local Government Act 1989*.
  - d) The interest rate applicable to instalments paid by each due date is to be one per cent higher than the rate applying to Council in relation to funds borrowed for this project.
  - e) The Special Charge Scheme for De Fredericks Road, Yarrambat shall remain in force for 10 years.
  - f) Within 12 months of the completion of works, a final cost statement will be issued to all properties in De Fredericks Road, Yarrambat and any adjustment to liabilities will be made at that time.
  - g) The estimated total project cost is \$403,519.88 with a benefit ratio of '1' (100 per cent). The total amount to be levied under this special charge is \$403,519.88.

**12. Officers' reports**

**OCM.138/20 De Fredericks Road Special Charge Scheme, Yarrambat - Intention to Declare**

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2. Sends a copy of the public notice to each person who will be liable to pay the special charge.

**Attachments**

1. Map showing properties involved in the Scheme
2. Guidelines for apportionment of costs
3. Total estimated cost to each property

**Background**

1. On 26 June 2018, Council received a petition signed by property owners in De Fredericks Road, Yarrambat requesting that Council investigate sealing the road.
2. A survey was sent to property owners on 4 September 2019 to ascertain the level of support for Council to investigate the sealing of De Fredericks Road, via a Special Charge Scheme.
3. The initial questionnaire indicated that 8 of 13 (61.5 per cent) property owners supported further investigation into the scheme.
4. On 20 February 2019, an information session was held for all interested property owners.
5. Following the information session, a formal questionnaire was sent to all property owners on 6 March 2019. The results indicated that 8 of 13 (61.5 per cent) property owners supported the development of a scheme.
6. Council resolved on 30 April 2019 to proceed with the consultation process for the De Fredericks Road Special Charge Scheme (Item OCM.053/19).

**Policy context**

7. 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**

8. Council has incorporated costs for administering the scheme in the current services budget. The survey and other scheme development costs incurred will be recovered if the scheme proceeds and the charge is levied.

**Consultation/communication**

9. Consultation to date has involved:
  - An initial questionnaire being sent to all property owners in De Fredericks Road, on 4 September 2018, to ascertain the level of support for Council to investigate road sealing.
  - Holding an information session for all interested property owners on 20 February 2019 to discuss the proposed scheme and process.



**12. Officers' reports**

**OCM.138/20 De Fredericks Road Special Charge Scheme, Yarrambat - Intention to Declare**

- A formal questionnaire being sent to all property owners in De Fredericks Road, Yarrambat on 6 March 2019, to ascertain the level of support for Council to proceed with the development of a special charge scheme.
- An invitation for Task Group member nominations was sent on 13 May 2019 and a notification to all property owners was sent on 6 June 2019, advising as to the elected members of the Task Group.
- Task Group meetings were held on 26 September 2019, 11 March 2020 and 25 March 2020 to develop the proposed design.
- A final information session for all property owners in the scheme was held by video conference, on 30 July 2020 (due to the current restrictions on public gatherings) and was attended by property owners representing four properties.

**Issues/options**

10. The proposal for De Fredericks Road is a rural construction standard. This includes:
  - A predominantly sprayed seal road surface.
  - Asphalt pavement at the intersection of De Fredericks Road and Hacketts Road.
  - Open table drains (asphalted where required).
  - Rock end walls at driveway and road crossing culverts.
  - Asphalted vehicle crossovers up to 4m from edge of road seal.
11. The adopted 'rural' construction standard is consistent with Council's 'Special Charge Schemes for Road and Drainage Works' Policy and Guidelines.
12. The final estimated cost of the project is approximately one (1) per cent below the original upper limit estimate due to modifications to the overall project. These modifications include two speed humps, accompanying street lights and signage, asphalted table drains, rock beaching and additional asphalt at the intersection of De Fredericks Road and Hacketts Road.
13. The special benefit of the road construction is considered to be improved access and amenity to property owners and the residents in the scheme. There is no Council land, non rateable land or Crown land within the scheme and the standard of the road will not need to increase beyond the normal residential standard in the area. Considering this, it has been determined that there is no special benefit to the community and no special benefit to properties not included in the scheme. Therefore, the benefit ratio is '1' (100 per cent) and 100 per cent of the costs will be attributed to members of the scheme.
14. The next stage in the process for the De Fredericks Road Special Charge Scheme is for Council to commence the statutory process by giving notice of its intention to declare the Scheme.

**Appeal rights**

15. Property owners have two further avenues for input during the statutory process.

12. Officers' reports

**OCM.138/20 De Fredericks Road Special Charge Scheme, Yarrambat - Intention to Declare**

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16. The first is, when Council serves notice of its intention to declare a Special Charge Scheme for De Fredericks Road. At that time:
- Any person may make a submission in accordance with section 223 of the *Local Government Act 1989* in relation to Council's proposal to declare a scheme.
  - Any person required to pay the special charge may object to the proposed declaration. If objections are received from more than 50 per cent of affected properties, Council would not be able to proceed with the Scheme.
17. The second opportunity is when Council formally declares a Special Charge Scheme for De Fredericks Road, at which time property owners will have the right to appeal to the Victorian Civil and Administrative Tribunal (VCAT).

**Apportionment method**

18. The apportionment of costs for the scheme is based on 75 per cent for benefit and 25 per cent for frontage. A more detailed explanation of the apportionment method can be found in **Attachment 2**.

**Conclusion**

19. The consultation process for the De Fredericks Road Special Charge Scheme has been completed in line with Council's 'Special Charge Schemes for Road and Drainage Works' Policy and Guidelines.
20. The next stage in the scheme is for Council to commence the statutory process by resolving to issue a notice of intention to declare the scheme, publicly advertise the intention to declare the scheme and notify all affected property owners.

## 12. Officers' reports

## OCM.139/20 Rockliffe Street Special Charge Scheme - Intention to Declare

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**Distribution:** Public

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

**Author:** Patrick Wood, Design Coordinator

**Summary**

On 23 March 2018, Council received a petition signed by property owners in Rockliffe Street, Eltham requesting that Council investigate sealing the road.

After conducting a survey, it was determined that over 60 per cent of property owners support sealing the road with a combination of both an urban and rural standard of construction. Council resolved on 28 May 2019 to proceed with the consultation process for the Rockliffe Street Special Charge Scheme (Item OCM.070/19). This has now been completed.

This report commences the statutory process to levy the special charge. Council must first give notice of its intention to declare a special charge, and then hear any submissions and/or objections to the scheme. Following this, Council may resolve to declare, vary or abandon the scheme.

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

1. Gives public notice of its intention to declare a Special Charge Scheme in accordance with Part 8 of the *Local Government Act 1989*, for the construction of the full length of Rockliffe Street subject to the following conditions:
  - a) The Special Charge Scheme shall apply to the properties in Rockliffe Street, Eltham, as shown in **Attachment 1**.
  - b) The apportionment cost to each property is based on the method shown in the report and **Attachment 2**.
  - c) The total estimated cost to each property is shown in **Attachment 3** and may be paid as a lump sum or by quarterly instalments over a 10 year period with interest as provided by section 163(1)(b) of the *Local Government Act 1989*.
  - d) The interest rate applicable to instalments paid by each due date is to be one per cent higher than the rate applying to Council in relation to funds borrowed for this project.
  - e) The Special Charge Scheme for Rockliffe Street, Eltham shall remain in force for 10 years.
  - f) Within 12 months of the completion of works, a final cost statement will be issued to all properties in Rockliffe Street, Eltham and any adjustment to liabilities will be made at the time.
  - g) The estimated total project cost is \$377,821 with a benefit ratio of 1 (100 per cent). Therefore, the total amount to be levied under this special charge is \$377,821.

**12. Officers' reports**

**OCM.139/20 Rockliffe Street Special Charge Scheme - Intention to Declare**

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2. Sends a copy of the public notice to each person who will be liable to pay the special charge.

**Attachments**

1. Rockliffe Street - Special Charge Scheme Area
2. Guidelines for Apportionment of Costs for Road Construction
3. Apportionment to Affected Properties

**Background**

1. On 23 March 2018, Council received a petition signed by property owners in Rockliffe Street, Eltham requesting that Council investigate sealing the road.
2. A survey was sent to property owners on 14 November 2018 to ascertain the level of support for Council to investigate the sealing of Rockliffe Street, via a Special Charge Scheme.
3. The initial questionnaire indicated that 17 of 27 (63.0 per cent) property owners supported further investigation into a scheme.
4. On 6 March 2019, an information session was held for all interested property owners.
5. Following the information session, a formal questionnaire was sent to all property owners on 25 March 2019. The results indicated that 18 of 27 (66.7 per cent) property owners supported the development of a scheme.
6. Council resolved on 28 May 2019 to proceed with the consultation process for the Rockliffe Street Special Charge Scheme (Item OCM.070/19).

**Policy context**

7. 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**

8. Council has incorporated costs for administering the scheme in the current services budget. The survey and other scheme development costs incurred will be recovered if the scheme proceeds and the charge is levied.

**Consultation/communication**

9. Consultation to date has involved:
  - An initial questionnaire being sent to all property owners in Rockliffe Street, on 14 November 2018, to ascertain the level of support for Council to investigate road sealing.
  - An information session held for all interested property owners on 6 March 2019 to discuss the proposed scheme and process.

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**OCM.139/20 Rockliffe Street Special Charge Scheme - Intention to Declare**

- A formal questionnaires being sent to all property owners in Rockliffe Street, Eltham on 25 March 2019, to ascertain the level of support for Council to proceed with the development of a special charge scheme.
- An invitation for Task Group member nominations was sent on 6 June 2019 and a notification to all property owners was sent on 18 July 2019, advising as to the elected members of the Task Group.
- Task group meetings, held on 9 October and 12 December 2019 to develop the proposed design.
- A final information session for all property owners in the scheme, held on 16 May 2018, attended by property owners representing 10 properties.
- A final questionnaire being sent to all property owners in Rockliffe Street, on 14 May 2020, to ascertain the level of support to include traffic calming measures within the scope of works.

**Issues/options**

10. The proposal for Rockliffe Street is a combination of both rural and urban construction standards. This includes:
  - An asphalt pavement for the full length of the road.
  - Kerb and channel on the low (west) side of the road for a length of 220 metres.
  - All other table drains to be sealed with asphalt.
  - Underground stormwater drains, predominantly on the low side of the road.
11. While the adopted construction standard under Council's Special Charge Scheme Policy would typically be 'urban', the construction standard ultimately needs to be mindful of neighbourhood character, while providing a suitable solution to the issues of safety, drainage, bank erosion and dust that an unsealed road generates. In close consultation with the elected Task Group, these principles have been incorporated into the completed design to ensure it is context sensitive.
12. Throughout the task group process, the possibility of including traffic calming was discussed. Due to the large number of properties in the scheme Council officers decided that prior to the task group making a decision regarding traffic calming it would be appropriate to survey all property owners in the scheme area.
13. A final questionnaire was sent to all property owners in Rockliffe Street, on 14 May 2020, to ascertain the level of support to include traffic calming measures within the scope of the works. The results are shown in Table 1 below:

	Support for the inclusion of traffic calming			Total
	Yes	No	No Response	
<b>Votes</b>	18	6	3	27
<b>Percentage</b>	66.7%	22.2%	11.1%	100%

**12. Officers' reports**

**OCM.139/20 Rockliffe Street Special Charge Scheme - Intention to Declare**

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14. As the inclusion of traffic calming is supported by 66.7 of property owners, three speed humps have now be included in the design.
15. The final estimated cost of the project has increased 2.3 per cent due to modifications to the project. These modifications include three speed humps, accompanying streetlights and signage.
16. The special benefit of the road construction is considered to be improved access and amenity to property owners and the residents in the scheme. There is no Council land, non rateable land or Crown land within the scheme and the standard of the road will not need to increase beyond the normal residential standard in the area.
17. Considering this, it has been determined that there is no special benefit to the community and no special benefit to properties not included in the scheme. Therefore, the benefit ratio is '1' (100 per cent) and 100 per cent of the costs will be attributed to members of the scheme.
18. The next stage in the process for the Rockliffe Street Special Charge Scheme is for Council to commence the statutory process by giving notice of its intention to declare the scheme.

**Statutory Process and Appeal Rights**

19. Property owners have two further avenues for input during the statutory process.
20. The first is when Council serves notice of its intention to declare a Special Charge Scheme for Rockliffe Street. At this time:
  - Any person may make a submission in accordance with section 223 of the *Local Government Act 1989* in relation to Council's proposal to declare a scheme.
  - Any person required to pay the special charge may object to the proposed declaration. If objections are received from more than 50 per cent of affected properties, Council will not be able to proceed with the scheme.
21. The second opportunity is when Council formally declares a Special Charge Scheme for Rockliffe Street, at which time property owners will have the right to appeal to the Victorian Civil and Administrative Tribunal (VCAT).

**Apportionment method**

22. The apportionment of costs for the scheme is based on 75 per cent for benefit and 25 per cent for frontage. A more detailed explanation of the apportionment can be found in **Attachment 2**.

**Conclusion**

23. The consultation process for the Rockliffe Street Special Charge Scheme has been completed in line with Council's 'Special Charge Schemes for Road and Drainage Works' Policy and Guidelines.
24. The next stage in the scheme is for Council to commence the statutory process by resolving to issue a notice of intention to declare the scheme, publicly advertise the intention to declare the scheme and notify all affected property owners.

12. Officers' reports

OCM.140/20 Debt Collection Policy - Rates and Charges

**Distribution:** Public

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

**Author:** Melika Sukunda, Finance Manager

**Summary**

The policy has been updated in response to and compliance with the changes proposed under the *Local Government Act 2020* (the Act).

Council requires a Debt Collection Policy - Rates and Charges to facilitate and provide guidance regarding the collection of overdue rates and charges.

This report presents an updated Debt Collection Policy - Rates and Charges. The policy was presented to the Audit and Risk Committee in August 2020.

Due to COVID-19, all debt management activity has been temporarily suspended.

<b>Recommendation</b>
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**That** Council endorses the Debt Collection Policy - Rates and Charges.

**Attachments**

1. Debt Collection Policy - Rates and Charges

**Background**

1. The Debt Collection Policy - Rates and Charges provides formal guidance to the process involved in collecting overdue rates and charges owed to Council. The policy sets out timeframes respective to legal processes to be applied.

**Policy context**

2. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Ensure responsible and efficient management of Council's financial resources.

**Budget implications**

3. The facilitation and ability to collect overdue debts with respect to rates and charges is a critical aspect to the overall cash management of Council operations.
4. Rates are the primary income source for Council. This policy provides formal guidance with regard to the process involved for collecting overdue debts owed to Council.

**Consultation**

5. The Debt Collection Policy-Rates and Charges was presented to the Audit and Risk Committee in August 2020.

**Debt Collection Policy - Rates and Charges**

6. The purpose of the policy is to provide guidance regarding the procedures and steps to be undertaken in the collection of overdue rates and charges.
7. Debt Collection Policy addresses the following aspects:

**12. Officers' reports**

**OCM.140/20 Debt Collection Policy - Rates and Charges**

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- a) Overall debt collection process.
- b) Timeframe through which respective legal steps are applied.
- c) Details on the legal steps involved on the process.

8. This policy is to be read in-conjunction with other adopted Council policies.

**COVID-19 Considerations**

9. Due to COVID-19 all debt collection processes have been temporarily suspended. This includes the issuing of reminder notices.

10. A review is scheduled to take place in September 2020.

**Conclusion**

11. The Debt Collection Policy - Rates and Charges is presented to Council for formal endorsement.



12. Officers' reports

OCM.141/20 Audit and Risk Committee meeting August 2020

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**Distribution:** Public

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

**Author:** Melika Sukunda, Finance Manager

**Summary**

In accordance with section 53 of the *Local Government Act 2020* and good governance principles, councils must have an Audit and Risk Committee.

As resolved at the 26 February 2019 Ordinary Council Meeting, the minutes of an Audit and Risk Committee meeting are to be reported and presented to a subsequent Ordinary Council Meeting.

The Audit and Risk Committee met on 17 August 2020. The minutes for the meeting are shown in **Attachment 1**.

**Recommendation**

**That** Council notes the minutes of the Audit and Risk Committee meeting held on 17 August 2020.

**Attachments**

1. 2019 August Audit and Risk Committee Minutes

**Background`**

1. As resolved at the 23 June 2020 Ordinary Council Meeting, the minutes of an Audit and Risk Committee meeting are to be reported and presented to a subsequent Ordinary Council Meeting.
2. The Audit and Risk Committee meets a minimum of four times per year and has the role to assist the coordination of relevant activities of management, internal audit and the external auditor to facilitate good governance, effectiveness and efficiency.

**Policy context**

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

**Budget implications**

4. The costs associated with this matter are contained within Council's 2020-2021 Budget.

**Consultation/communication**

5. The Audit and Risk Committee meeting on 17 August 2020 was attended by the Committee members, the internal auditor from Pitcher Partners, the external auditors from HLB Mann Judd as well as the Chief Executive Officer and Chief Financial Officer. Cr Peter Clarke and Cr Bruce Ranken are the Councillor representatives.

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**OCM.141/20 Audit and Risk Committee meeting August 2020**

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**Audit and Risk Committee minutes**

6. The minutes of the Audit and Risk Committee are submitted to Council after each meeting. To provide timely feedback, these are unconfirmed minutes.
7. The Audit and Risk Committee plays a significant role in Council's governance framework. It provides external expert advice to Council on key areas of risk. Risk in this case is interpreted broadly and covers risk to Council's sustainability, reputation, fraud control and effectiveness, as well as financial risk.
8. Minutes of the Audit and Risk Committee held on the 17 August 2020 have not yet been adopted by the Committee, but will be presented at its next meeting.
9. The items considered by the Audit and Risk Committee were:
  - Interim Management Letter and Draft Final Management Letter - Victorian Auditor-General's Office, Presented by HLB Mann Judd;
  - Volunteer recruitment internal audit report, presented by Pitcher Partners;
  - Council's Risk and Insurance report;
  - The Digital Transformation Roadmap;
  - The Staff and Councilor Gift Registers; and
  - The Annual Financial Report and Performance Statement and the closing report.
10. The next Audit and Risk Committee meeting is scheduled to take place in November 2020.

**Conclusion**

13. The minutes of the Audit and Risk Committee meeting held on 17 August 2020 are presented to Council to ensure timely feedback and accurate information. This report is presented for noting by Council.

**12. Officers' reports****OCM.142/20 Annual Financial Report 2019-2020**

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**Distribution: Public****Manager: Vince Lombardi, Chief Financial Officer****Author: Melika Sukunda, Finance Manager****Summary**

Council is required to produce an audited Annual Financial Report and a Performance Statement pursuant to the requirements and process outlined in the *Local Government Act 1989* (the Act) and the Local Government (Planning and Reporting) Regulations 2014.

The draft 2019-2020 Annual Financial Report and the draft 2019-2020 Performance Statement have been reviewed by Council's external auditors on behalf of the Victorian Auditor General.

For the 2019-2020 financial year, Council has reported an operating deficit of \$14.912 million on an accrual basis.

This report recommends that Council approves 'in principle' the 2019-2020 accounts and appoints the Mayor, Deputy Mayor and Chief Executive Officer to sign the 2019-2020 Annual Financial Report and the 2019-2020 Performance Statement.

Council has produced a Performance Statement in accordance with the Local Government Performance Reporting Framework. This provides results on a range of prescribed indicators of service performance, financial performance and sustainable capacity.

The draft statements have been presented to Council's Audit and Risk Committee which has recommended that Council give 'in principle' approval for the statements pursuant to section 132 of the Act, prior to formal presentation to the Victorian Auditor General.

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

1. Approves 'in principle' the 2019-2020 Annual Financial Report (**Attachment 1**) and 2019-2020 Performance Statement (**Attachment 2**).
2. Authorises the Mayor, Deputy Mayor and the Chief Executive Officer to sign the 2019-2020 Annual Financial Report and 2019-2020 Performance Statement in their final form after any changes recommended, or agreed to, by the auditor have been made.

**Attachments**

1. 30 June 2020 Financial Report
2. 30 June 2020 Performance Statement

**Background**

1. Council is required to produce an audited Annual Financial Report and a Performance Statement pursuant to the requirements and process outlined in the *Local Government Act 1989* and the Local Government (Planning and Reporting) Regulations 2014.

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OCM.142/20 Annual Financial Report 2019-2020

2. Section 132 of the *Local Government Act 1989* and the Local Government (Planning and Reporting) Regulations 2014 require Council to:
- a) Adopt a resolution giving its approval, 'in principle', to the Annual Financial Report and Performance Statement before they are submitted to the Auditor General.
  - b) Authorise two Councillors and the Chief Executive Officer to certify the statements in their final form, after any changes recommended, or agreed to, by the auditor have been made.

**Policy context**

3. This report directly supports the achievement of the Council Plan 2017-2021 strategy:
- Ensure responsible and efficient management of Council's financial resources.

**Budget implications**

4. This is a statutory procedural matter, the associated costs for which are contained within the operating budget.

**Consultation/communication**

5. The development of the draft Annual Financial Report and Performance Statement has been undertaken in consultation with Council's external auditors on behalf of the Victorian Auditor General, and the Audit and Risk Committee.

**Approval process**

6. Audit work has been completed by Council's external auditors and officers have prepared drafts of the 2019-2020 Financial Report and Performance Statement for submission to the Auditor General. A copy of these statements, forming the 'in principle' statements, is provided in **Attachment 1 and 2**.
7. The Statements were presented to the Audit and Committee on 17 August 2020. The recommendations of the Audit and Risk Committee were:
- a) Record its approval 'in principle' to the Annual Financial Report and Performance Statement (the statements) for the year ended 30 June 2020;
  - b) That subject to the review of the final version of the Financial Report and the Performance Statement, that Council:
    - i) Authorise the Chief Executive Officer to send the statements to the Auditor General
    - ii) Authorise the Chief Executive Officer, the Mayor, and Deputy Mayor to certify the final version of the statements
    - iii) Authorise the Finance Manager to implement any non-material changes to the statements as recommended by the Auditor General, and provide a summary of such changes to the Audit and Risk Committee at its next meeting. Any material changes will be discussed with the Chair of the Audit and Risk Committee prior to being presented to Council.
8. The following process is required to ensure that Council's Financial Report and Performance Statement are submitted to the Auditor General in a timely manner,

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OCM.142/20 Annual Financial Report 2019-2020

enabling the Auditor General to officially express his opinion prior to the statutory deadline of 30 November 2020:

- a) Council must meet formally to review the draft Financial Report and Performance Statement, and resolve that Council approves the report and statements 'in principle' and authorises two Councillors and the Chief Executive Officer to sign the final report and statements on behalf of, and with the full authority of, Council. The 'in principle' report and statements and the Council resolution are given to the external auditor;
- b) The external auditor checks the 'in principle' report and statements. The report and statements, the Council resolution, and the external auditors recommended Audit Report will then be forwarded to the Auditor General for review;
- c) The Auditor General reviews the report and statements and requests any changes where appropriate;
- d) The Principal Accounting Officer (Finance Manager) then considers the Auditor General's requested changes and incorporates them into the 'in principle statements', where appropriate;
- e) The Principal Accounting Officer will identify any matters of significance, including proposed qualification issues, not previously considered by the Council and formally draw Council's attention to them prior to the formal sign off of the statements by the two designated Councillors and the Chief Executive Officer;
- f) If Council and the Auditor General are satisfied with the statements, the statements are to be signed by the delegated Councillors and the Chief Executive Officer and forwarded to the Auditor General;
- g) The Auditor General's Audit Reports will be issued to the Council once the formally signed statements have been received and checked by the Auditor General; and
- h) The organisation's 2019-2020 Annual Report, including the audited Financial Report and Performance Statement, must be forwarded to the Minister by 30 November 2020.

**Performance Statement**

9. Council has produced a Performance Statement in accordance with the Local Government Performance Reporting Framework.
10. The Performance Statement reports the audited results for 2019-2020 for the prescribed indicators of service performance, financial performance and sustainable capacity.
11. The financial performance and sustainable capacity indicators include several of the indicators used by the Victorian Auditor-General to assess the financial sustainability of local government.
12. The overall assessment of Council's financial sustainability will be confirmed by the Auditor-General in the annual report on Victorian local government in late 2020, which will also confirm the indicators to be applied for 2019-2020.

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**OCM.142/20 Annual Financial Report 2019-2020**

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13. In addition to the audited Performance Statement, the results for a range of other indicators are reported in the Report of Operations as part of the Annual Report.

**Conclusion**

14. It is recommended that Council give 'in principle' approval to the 2019-2020 Annual Financial Report and Performance Statement and authorise two Councillors and the Chief Executive Officer to sign the statements in their final form after any changes recommended, or agreed to, by the auditor have been made.

**12. Officers' reports****OCM.143/20 Yarra Ranges Tourism Partnership Report 2019/20**

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**Distribution: Public****Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author: Danielle Phyland, Economic Development and Tourism Lead****Summary**

This report provides an update of Council's annual partnership agreement with Yarra Ranges Tourism (YRT). YRT is the official regional tourism organisation for the Yarra Valley and Dandenong Ranges region, which includes Nillumbik Shire Council. This report seeks to provide an update of the past years activity.

The impact on our local businesses that rely on tourism and general visitation has been significant and will be crucial to the recovery of the local economy in the future. The report recommends that Council recognise and commit to an ongoing 3 year agreement to allow for strategic decision-making and planning, particularly in light of the impact of COVID-19 on the tourism industry.

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

1. Recognises the value of the annual Yarra Ranges Tourism Partnership and it's a benefit to the local tourism industry.
2. Commits to a 3 year agreement with Yarra Ranges Tourism based on the current annual cost.

**Attachments**

1. Yarra Ranges Tourism Annual Partnership Report June 2020

**Background**

1. This report provides an update of the annual Council partnership agreement with Yarra Ranges Tourism.
2. Yarra Ranges Tourism (YRT) is the official regional tourism organisation for the Yarra Valley and Dandenong Ranges region, which includes Nillumbik Shire Council, as recognised by State Government and Visit Victoria.
3. At an Ordinary Council Meeting on 31 July 2018 a resolution was passed that Council:
  - a) Enters into a Partnership Agreement with Yarra Ranges Tourism for 2018/19 in the amount of \$70,000.
  - b) Endorses the integration of Nillumbik within the broader regional marketing and public relations campaign and supports the development and distribution of new, traditional and online visitor servicing material.
  - c) This agreement is now established with a view to extending the partnership to a 3 year commitment as opposed to a year on year agreement to allow for strategic, long-term planning.

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OCM.143/20 Yarra Ranges Tourism Partnership Report 2019/20

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4. The priority areas that were identified for the focus of the partnership agreement in year one were:
  - a) Visitor services and information delivery in and outside the region including digital and print.
  - b) Development of specific “trails” promoting local visitor experiences and associated businesses in the Nillumbik Shire.
  - c) Dedicated marketing campaigns and access to opportunities offered by Visit Victoria.
  - d) Public relations activities to promote Nillumbik as a destination and its visitor experiences.
  - e) Assistance in accessing other resources not previously available to Nillumbik, e.g. Government funding, through advocacy and or auspicing.
  - f) Assistance with events and product development.
  - g) Support in the development of market research activities and inclusion in any regional research.
  - h) Access to industry networking and development programs.
5. The demonstrated results for the partnership are positive given that it is only year two of the partnership and half of this year has seen significant impacts on the tourism industry due to COVID-19. The Economic Development and Tourism Unit have established a strong foundation for future deliverables through the partnership. The Yarra Ranges Tourism Activity Report (**Attachment 1**) reports on the priorities identified above.

**Policy context**

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

**Budget implications**

7. The partnership cost for 2019/2020 was \$70,000 + GST.
8. Given this is a partnership approach to the re-integration of Nillumbik Shire to the broader region, Officer time has also been a contributing factor to the generation of the results achieved.
9. While it is difficult to quantify the total dollar figure generated from the marketing activity of the partnership reach and impact can be measured and is presented in (**Attachment 1**). Significant dollar value of the partnership is evident in the key infrastructure items listed below:
  - \$48,000 Digital Kiosk infrastructure (3)
  - \$6,500 Herald Sun Space Magazine insert full page advert
  - \$15,000 Visitor Carousels (5)
  - \$3,000 Print material (visitor and touring maps)



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OCM.143/20 Yarra Ranges Tourism Partnership Report 2019/20

10. The implications of COVID-19 have slowed some of the activity in 2020 but there has been a concerted effort to continue the work that is possible under the restrictions. An example of adaption is the Regional Pantry - Online Store.

**Consultation/communication**

11. On assessing the value of the partnership to local business informal discussions were held with some of the 28 partner businesses. Of those contacted there was a strong feeling that buying into the partnership was beneficial to link into a wider tourism region and to leverage off a state recognised tourism region which receives over 4.3 million day trip visitors - consistently one of the highest day trip destinations outside of Melbourne. They also identified that this linked them into Visit Victoria programs such as the visiting journalist program and the Australian Tourism Data Warehouse.

**Issues/options**

12. Key highlights from year one include:
- Twenty-eight Nillumbik businesses are now financially engaged with Yarra Ranges Tourism, 3 more than the previous year. Fifteen of these Nillumbik businesses now appear on the official Visitor Map and online resources. 150,000 visitor maps were printed and distributed both domestically and internationally through Melbourne Airport, Visitor Information services, local tourism businesses, transport hubs and international trade shows.
  - The micro-site [www.visitnillumbik.com.au](http://www.visitnillumbik.com.au) has been created and updated with new content and imagery.
  - Two dedicated illustrated trail maps feature Nillumbik partners in the 'Art Lives Here' Trail, and 'A Month of Sundays'. In addition, Yarrambat Golf Course also appears on the 'Golf Trail' map. Maps are available through the website and in print from Visitor Information Carousels located across the broader Yarra Ranges region.
  - Three digital visitor screens (\$16,000 per asset) have been installed in Eltham, Diamond Creek and installation commenced in Hurstbridge.
  - Five Visitor Information Carousels have been introduced to key visitor nodes and are regularly stocked:
    - i. Dark Horse Café, Watsons Creek
    - ii. Hurstbridge Post Office Cafe, Hurstbridge
    - iii. Montsalvat, Eltham
    - iv. Nillumbik Cellars, Diamond Creek
    - v. Nillumbik Civic Centre, Greensborough
  - The following events were postponed due to COVID-19:
    - i. **Industry Networking Event** 18 March, Massaros, Kangaroo Ground, with 80 business attendees registered
    - ii. **Inclusive Tourism Workshop**, with Joe Manton from Access Institute, 20 May, Eltham Community and Recreation Centre

12. Officers' reports

OCM.143/20 Yarra Ranges Tourism Partnership Report 2019/20

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iii. **Annual Industry Summit**, 10 June, RACV Healesville Country Club

- Nillumbik partner businesses were highlighted collectively in social media both Instagram and Facebook. The post with the highest reach was Walks in Nillumbik. It reached 7,661 consumers and gathered 308 engagements and 165 post clicks.
- Council's application to Visit Victoria's Regional Events Fund for Open Farm Day 2020 for \$10,000 was successful as a result of the Tourism Board endorsement. Unfortunately, this event was cancelled due to COVID-19.

**Conclusion**

13. In year three (2020/2021) there will be a continued focus on:

- Updating the YRT Strategic Plan (with a focus on the Nillumbik opportunities);
- Product development and package development;
- Increasing business engagement;
- Increased digital content and imagery;
- Event funding and attraction;
- Further integration of Nillumbik visitor experiences in the marketing and public relations campaign;
- Increased collaboration around industry development and networking activities; and
- Advocacy.

12. Officers' reports

OCM.144/20 Positive Ageing Advisory Committee - Terms of Reference and Membership

**Distribution:** Public

**Manager:** Corrienne Nichols, Executive Manager Communities

**Author:** Fiona Vuong, Positive Ageing Officer

**Summary**

Council's Positive Ageing Advisory Committee provides a formal mechanism through which Council can seek advice and enable the participation of older adults in the implementation of projects and initiatives in the Ageing Well in Nillumbik Action Plan (2019-2022).

In July 2020, current standing members were invited to renew their membership for a further two year term as per the Terms of Reference. A number of vacancies have arisen, and in preparing to fill the vacancies, it afforded an opportunity to review the Terms of Reference.

**Recommendation**

**That** Council:

1. Endorses the amended Positive Ageing Advisory Committee Terms of Reference (**Attachment 1**).
2. Agrees to undertake a recruitment process for new committee members.

**Attachments**

1. Terms of Reference
2. Communications Plan
3. Evaluation matrix
4. EOI form

**Background**

1. Council is committed to supporting older adults to live and age well in Nillumbik, and providing opportunities for older adults to participate in and shape planning and services is fundamental to this pursuit. In 2036, it is estimated that people over the age of 55 will comprise of 32% of the population of Nillumbik.
2. In 2016, Council committed and signed the State Government's Age-Friendly Victoria Declaration, demonstrating Nillumbik's commitment to working together to create an age-friendly Nillumbik.
3. The Positive Ageing Advisory Committee (PAAC) was formally endorsed by Council as an Advisory Committee on 30 October 2018. The PAAC played a significant role in the development of the Ageing Well in Nillumbik Action Plan 2019-2022, developing the vision and identifying seven priority areas for Council to action to ensure that all

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**OCM.144/20 Positive Ageing Advisory Committee - Terms of Reference and Membership**

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residents can live and age well in Nillumbik, and is a key partner in supporting the implementation of the Action Plan.

4. The PAAC aims to actively promote and support positive ageing across the wider Nillumbik community. The purpose of the committee is to provide a mechanism for Council to consult with community representatives in seeking advice and guidance around issues and barriers affecting people aged 55 and over.
5. In July 2020, current standing members were invited to renew their membership for a further two year term as per the Terms of Reference. A number of vacancies have arisen, and in preparing to fill the vacancies, it afforded an opportunity to review the Terms of Reference.
6. An officer's report was provided to Council outlining the above on the 4 August 2020.

**Policy context**

7. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Strengthen the focus on social inclusion, building social capital and connection within communities.

**Budget implications**

8. Nil

**Consultation/communication**

9. Calls for nominations will be broad, and the proposed communication plan is summarised below. See **Attachment 2**.
  - A recruitment approach which includes targeting certain community groups and stakeholders will be conducted - in particular, targeted invitations to clients and user groups at HealthAbility will be sent and strongly encouraged. Support for individuals to participate in committee meetings, such as transport support will be offered to individuals who require such support.
  - The use of various local media outlets throughout the Shire, including community newsletters (Warrandyte Diary, Whittlesea Town Crier), and community radio (Plenty Valley FM).
  - Council's social media, including facebook and Council's website will be used.
  - Invitations to nominate will be disseminated through community group networks, currently hosted by Community Partnerships, and will be promoted through existing contact databases, Yarra Plenty Regional Library, Living & Learning Centres and the Leisure Centres networks.
  - A call for nomination will be included in the Spring edition of the Council wide publication Nillumbik News, as well as the quarterly Council publication, 'Ageing Well in Nillumbik' Spring edition.

**Issues/options**

10. Updates to the Terms of Reference are summarised below:
  - Decrease maximum number of committee members from 20 to 16

12. Officers' reports

OCM.144/20 Positive Ageing Advisory Committee - Terms of Reference and Membership

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- Inclusion of sub-committees as well as working groups
  - Updated quorum to reflect reduced number of maximum members
  - Inclusion of additional member responsibilities related to conduct in meetings
11. Whilst the updates to the Terms of Reference are minimal, the process of consulting with the current committee indicate their ongoing relevance and significance.
12. Whilst Advisory Committees like the PAAC are unable to make formal decisions, they provide valuable advice to Council from the perspective of older adults.
13. All nominees will be individually scored by the selection panel against an evaluation matrix (**Attachment 3**) that focuses on an understanding:
- Of and interest in the issues facing older people in the Nillumbik community
  - And Commitment to improving quality of life for older people in Nillumbik
  - And a level of contribution and connection to the older adult community
14. In conjunction with the above, the selection panel will also take into account the balance of; experiences and perspectives across the Committee in making its recommendations for membership to Council.
15. The Selection Panel will consist of the Chairperson (Councillor of Community Services) and two standing members of the committee.

**Conclusion**

16. Officers recommend that Council:
- Endorse the amended Positive Ageing Advisory Committee Terms of Reference (**Attachment 1**)
  - Approve the recruitment process for new committee members.
17. By adopting the recommendations of this report, Council demonstrates that it is committed to creating an age-friendly Nillumbik for all residents.

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OCM.144/20 Positive Ageing Advisory Committee - Terms of Reference and Membership

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12. Officers' reports

OCM.145/20 Assembly of Councillors

**Distribution:** Public

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

**Author:** Katia Croce, Governance Lead

**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 28 July 2020.

An assembly of Councillors record was kept for:

- Councillor Briefing – 21 July 2020;
- Economic Development Advisory Committee – 23 July 2020;
- Pre-meeting to Ordinary Council Meeting – 28 July 2020;
- CEO Employment Matters Committee – 4 August 2020;
- Councillor Briefing – 4 August 2020;
- Biodiversity Inquiry – 5 August 2020;
- Biodiversity Inquiry – 6 August 2020;
- Community Inclusion Advisory Committee – 6 August 2020;
- Positive Ageing Advisory Committee – 7 August 2020; and
- Pre-meeting to Future Nillumbik Committee – 11 August 2020.

**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 21 July 2020, 23 July 2020, 28 July 2020, 4 August 2020, 4 August 2020, 5 August 2020, 6 August 2020, 6 August 2020, 7 August 2020 and 11 August 2020 (**Attachment 1**).

**Attachments**

1. Assembly of Councillors reported 25 August 2020

**Background**

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

**Policy context**

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

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**OCM.145/20 Assembly of Councillors**

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- Ensure that Council meets its legal responsibilities and manages its risks.

**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 Council Meeting a record of any assemblies of Councillors held.
8. The recommendation contains the list of assemblies of Councillors forms that have been submitted since the matter was last reported to Council on 28 July 2020.

**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*.



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OCM.146/20 Quarterly Risk and Safety Report

**Distribution:** Public

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

**Author:** Craig Commene, Risk and Safety Lead

**Summary**

This report provides a summary of Council’s Risk and Safety Report for the June 2020 quarter and financial year ended June 2020.

The report is presented in accordance with the Local Government Performance Reporting Framework (LGPRF). This reporting framework requires the presentation of a report to Council at least every six months, detailing the strategic risks, operational risks, the consequences and likelihood of occurrence, and risk mitigation strategies.

Risk and Safety reporting to Council is tabled each quarter following consideration by the Audit and Risk Committee.

A separate confidential report in this agenda provides detailed information for Council’s consideration. It is recommended that this detailed report remain confidential as it includes information which may prejudice the Council or another person.

**Recommendation**

**That** Council notes this report.

**Attachments**

Nil

**Background**

1. Council’s commitment to risk management is outlined in the Risk Management Policy adopted in June 2018, with the following objectives:
  - Ensure that all risks that could affect the achievement of our Council’s goals, strategies and actions are identified, assessed and treated to a commercially, professionally and politically acceptable level of risk;
  - Integrate risk management into decision making processes and embed it into the organisation culture to help make informed choices for the benefit of Council and our stakeholders;
  - Ensure that necessary resources are allocated in support of the policy outcomes;
  - Maintain stakeholders trust and due diligence;
  - Align all risk management practices across the organisation and to promote and support a consistent corporate approach to risk management that can be clearly understood and applied by everyone and provide a basis for higher standards of accountability; and
  - To ensure that risk management is seen as the responsibility of all staff, i.e.: “Risk Management is everyone’s business”.

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**OCM.146/20 Quarterly Risk and Safety Report**

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2. In addition to the Risk Management Policy, Council's Risk Management Framework communicates and describes the risk management structure and procedures that are used to identify, analyse, evaluate, treat, monitor and communicate key risks, including management reporting.
3. The context of the Risk Management Policy and Framework takes into account that local government presents a distinct risk character and profile that needs to be taken into account when considering risk management. Many assets and services are available 24 hours a day, seven days a week in an unsupervised way, some are managed or provided by volunteers or committees of management or are managed by contractors, others are regulated by compliance legislation.
4. The Local Government Performance Reporting Framework (LGPRF) requires the presentation of risk reporting processes to Council at least every six months on strategic risks to Council operations. The Risk and Safety report is a result of a consolidation of management reports, which broadly reports on:
  - Risk management;
  - Business continuity;
  - Fraud;
  - Insurance premiums;
  - Incident management and insurance claims;
  - Occupational Health and Safety;
  - Other data; and
  - Strategic risk summary report.

**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.

**Budget implications**

8. The costs for managing and reporting are covered by Council's operating budget.

**Consultation/communication**

9. The Quarterly Risk and Safety Report was considered by the Audit and Risk Committee on 17 August 2020.

**Issues/options**

10. The Quarterly Risk and Safety Report has been prepared in accordance with Council's Risk Management Policy and Framework and is consistent with the Australian Standard AS/NZS 31000:2009 Risk Management.
11. Highlights from the Quarterly Risk and Safety Report for the June 2020 quarter are:
  - Major Incident - COVID-19 pandemic – Council is observing all directives issued by the Victorian Chief Health Officer (VCHO);

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OCM.146/20 Quarterly Risk and Safety Report

- Council's insurance policies were renewed as at 30 June 2020 following a public tender for motor vehicle, property (industrial special risks), public liability and professional indemnity insurance. Council's smaller policies were placed following instructions provided to Council's Broker, JLT Australia.
- The following table summarises recorded incidents by type for matters involving Council. It should be noted that this table shows all reported incidents, rather than all claims, as not every incident results in a claim being made.

Incidents by type (excluding OHS incidents)	Jul-Sep 2019	Oct-Dec 2019	Jan-Mar 2020	Apr-Jun 2020	Total Jul 2019-Jun 2020	Last Year Jul 2018-Jun 2019
Property	6	18	17	21	62	25
Motor vehicle	15	15	24	13	67	85
Professional Indemnity	0	1	0	0	1	13
Public Liability	47	53	100	55	255	104
Occupational Health and Safety	19	21	21	21	82	95
Total all incidents	87	108	162	110	467	322

- A high proportion of reported incidents during the June 2020 quarter are generated within the normal course of operations in the Operations and Infrastructure Directorate (82%). These incidents relate to major classes of asset or maintenance type incidents for Council buildings, recreational facilities, playgrounds, trees, drainage, footpath, road damage and major plant.
- Tree related risks are mitigated through the:
  - Tree Management Policy;
  - Reactive tree maintenance program;
  - Proactive electric power line clearance program;
  - Proactive box clearance program;
  - Proactive inspections of high risk trees; and
  - Meeting the objectives of the Municipal Emergency Management Plan and Municipal Fire Management Plan.
- Road, footpath, drainage and roadside related risks are mitigated through the:

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OCM.146/20 Quarterly Risk and Safety Report

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- Road Management Plan;
- Road Asset Management Plans; and
- Proactive and reactive maintenance programs.
- Property incidents typically reported are break-ins, vandalism and accidental damage to Council buildings or fixed equipment such as in playgrounds and recreational facilities. Risks are mitigated through maintenance programs and insurance.
  - Six property theft, break-ins and vandalism were reported during the June 2020 quarter, including vandalism to three bus shelters. This vandalism has since been repaired and damages reported to the police; and
  - 15 reports of public constructed BMX or Mountain Bike jumps at various locations on Council Land. This issue is being managed by the Operations and Infrastructure directorate.
- Motor vehicle incidents include accidental damage involving Council's light and heavy fleet, including incidents caused by third parties. Risks are mitigated through maintenance, education and insurance. A total of 13 incidents were noted during the June 2020 quarter, and four claims were lodged with Council's insurer.
- Professional indemnity relates to claims for alleged negligence or breach of duty arising from an act, error or omission in the performance of Council services. There were no incidents reported during the quarter.
- Public liability incidents are reported to Council where the third party is seeking compensation for personal injury, property damage and economic loss. These claims are managed by an external claims manager or Council's insurer. Typical incidents primarily relate to vehicle road damage, property damage, tree related or trip and fall incidents.
  - 11 trip and fall incidents were reported at various locations;
  - 12 incidents related to vehicle damage, primarily these are tyre or body work damage caused by the road surface (pot holes) or road related infrastructure. Note that the Road Management Act 2004 threshold is currently \$1460;
  - Four tree root incidents related to blocked pipes and other property damage, managed through customer service requests, no claims were lodged; and
  - 14 flooding and 10 tree damage incidents causing property damage were reported during the June 2020 quarter. These incidents were related to wind and rain fall experienced during the quarter. Flooding incidents relate to the volume of water exceeding the capacity of the drainage system.
- Occupational Health and Safety incidents relates to safety matters reported as incidents, hazards and near misses. Typical incidents relate to cuts and lacerations, musculoskeletal injuries and slip trips and falls. These incidents are managed by Council's Risk and Safety Team through the Occupational Health and Safety Management System.

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**OCM.146/20 Quarterly Risk and Safety Report**

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- The annual trend data for the Financial Year ended June 2020 was higher compared to the same period ending June 2019. This increase is attributed to weather related events and it is not unusual for the number of incidents to vary from period to period.

12. Incident costs including under excess claim costs and insurance excesses are managed within existing budgets.

**Conclusion**

13. This summary, along with the confidential Risk and Safety Report June 2020 quarter, have been provided to meet the requirements of the Local Government Performance Reporting Framework (LGPRF) and consolidation of management reporting.
14. Ongoing reporting to Council is presented quarterly following each meeting of the Audit and Risk Committee.

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OCM.146/20 Quarterly Risk and Safety Report

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**OCM.147/20    Extension of contract value under Contract 1819-003 Eltham Central Pavilion Redevelopment - Building Works**

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**Distribution:    Public**

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

**Author:         Khurram Ali, Project Manager**  
**Enrique Gutierrez, Manager Capital Works**  
**Steven Blight, Construction Coordinator**

**Summary**

This report seeks approval from Council to increase the contractual amount for Contract 1819-003 Eltham Central Pavilion Redevelopment - Building Works executed with Darjelyn Construction Pty Ltd.

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 this contract but the report remains confidential.

**Recommendation**

**That** Council notes this report.

**Attachments**

Nil

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**OCM.147/20    Extension of contract value under Contract 1819-003 Eltham Central Pavilion Redevelopment - Building Works**

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**12. Officers' reports**

**OCM.148/20 Tender Report - Contract 1920-24 Diamond Creek Trail (Stage 1) Shared Path Construction Contract Variations**

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**Distribution: Public**

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

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

**Laxman De Silva, Project Management Officer**

**Lance Clark, Senior Procurement Specialist**

**Summary**

This report is an overview of a separate confidential report recommending authorising the Chief Executive Officer to approve legitimate contract variation payments for Contract 1920-24 Construction of the Diamond Creek Shared Trail – Stage 1 within total project budget.

Works involve the construction of the concrete path as part of the Stage 1 extension works for the Diamond Creek Trail.

Unstable ground conditions have been encountered requiring additional drainage and soil stabilisation works. Whilst this section is expected to be the worst in this regard, more variations are expected as the trail progresses.

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 delegate authority to approve contract variations related to this contract.

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

**Recommendation**

**That Council notes this report.**

**Attachments**

Nil

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OCM.148/20 Tender Report - Contract 1920-24 Diamond Creek Trail (Stage 1)  
Shared Path Construction Contract Variations

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**OCM.149/20 Tender Report - Contract 1920-60 Diamond Valley Sport and Fitness Centre Construction Works**

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**Distribution: Public**

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

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

**Lance Clark, Senior Procurement Specialist**

**Summary**

This report is an overview of a separate confidential report recommending the award of contract 1920-60 Diamond Valley Sport and Fitness Centre Construction Works.

The redevelopment of the Diamond Valley Sports and Fitness Centre (DVSFC) will deliver a contemporary, fully accessible, fit-for-purpose regional indoor sports stadium servicing Nillumbik, Banyule and Whittlesea local government areas in the sports of basketball, netball, squash, badminton and table tennis.

The current facility attracts over 450,000 visits per annum across a regional catchment from Nillumbik, Banyule and Whittlesea.

The largest user of this facility is the Diamond Valley Basketball Association (DVBA) with over 5,500 members. DVSFC is also used by badminton (200 members), table tennis (123 members), squash (120 members), netball (716 members) and dodgeball (20 members).

Works will involve the demolition of an existing indoor court, construction of four new indoor netball-compliant courts, a new double-storey administration building, refurbishment of the existing toilets and change rooms and refurbishment works to the existing building to ensure it complies with current *Disability Discrimination Act 1992* and Building Code of Australia standards and regulations.

Works are programmed to commence in September 2020 and to be completed by the last quarter of 2021.

The total project budget for this project is \$16,500,000. It is being funded by the following entities:

- DELWP's Growing Suburbs Fund \$2,500,000
- Sport and Recreation Victoria, Local Sports Grant: \$8,000,000
- Council \$6,000,000

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.

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**OCM.149/20 Tender Report - Contract 1920-60 Diamond Valley Sport and Fitness Centre Construction Works**

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**Recommendation**

**That** Council notes this report.

**Attachments**

Nil

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OCM.150/20 Tender Report - Contract 1920-68 Eltham Sports Multi use Community Facility - Tennis Court Extension

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**Distribution:** Public

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

**Author:** Steven Blight, Construction Coordinator

Enrique Gutierrez, Manager Capital Works

Khurram Ali, Project Manager

Lance Clark, Senior Procurement Specialist

**Summary**

This report is an overview of a separate confidential report recommending awarding of a contract for Eltham Sports Multi use Community Facility - Tennis Court Extension.

Funds allocated to this project were secured from the 2019/2020 Growing Suburbs Fund \$1.4 million grant.

Works will involve the construction of three additional new club-level courts with LED lights and fencing. The new courts will be compliant with Tennis Australia standards. One court will have a synthetic clay surface with red Hot-Shots marking (for kids); the other two courts will have Futsal line marking.

The new facility will increase participation in tennis in Eltham with more opportunities for juniors to participate in tennis more broadly across Nillumbik. The construction of multi-lined courts will provide broader community engagement and participation in sport.

Two of the new courts will be constructed using a plexi-cushioned surface. This surface, specified by Tennis Victoria, provides a low impact surface for older adult players and opportunities for the Club to accommodate wheelchair tennis in Nillumbik. Further to this, the works will include the construction of new accessible paths, BBQ area and social spaces for small gatherings.

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 notes this report.

**Attachments**

Nil

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OCM.150/20 Tender Report - Contract 1920-68 Eltham Sports Multi use Community Facility - Tennis Court Extension

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**OCM.151/20 Tender Report - Contract 1920-77 Asset Management System Implementation**

**Distribution: Public**

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

**Author: Nadine Sinclair, Asset Coordinator**

**Joseph Emmanuel, Manager Infrastructure**

**Lance Clark, Senior Procurement Specialist**

**Summary**

This report recommends the awarding of contract 1920-77 for Asset Management System Implementation. The contract is for the procurement, implementation and on-going licensing, support and maintenance services of a cloud-based Asset Management System (AMS) and associated integration with key Council operational systems.

The contract term is for an initial period of five (5) years, with an option to extend the contract up to an additional three (3) years. The total duration of the contract, including the exercise of any options, shall not exceed eight (8) years.

The AMS is a critical system used to manage Council's asset profile. The existing AMS has remained unchanged for approximately 10 years and many of the standalone systems are redundant and no longer supported products. The existing AMS can no longer be upgraded to meet current requirements and are impeding data capture/extraction.

The risk in continuing to operate the current systems are:

- a) not able to appropriately forecast community infrastructure needs
- b) not be able to meet legislative obligations
- c) limited ability to effectively forecast asset management plans
- d) manual processing/intervention
- e) higher margin of error relating to capital and operational expenditure

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.

**Recommendation**

**That** Council notes this report.

**Attachments**

Nil

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OCM.151/20 Tender Report - Contract 1920-77 Asset Management System Implementation

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OCM.152/20 Tender Report - Contract 1920-89

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**Distribution:** Public

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

**Author:** Steven Blight, Construction Coordinator

Laxman De Silva, Project Management Officer

Enrique Gutierrez, Manager Capital Works

Lance Clark, Senior Procurement Specialist

**Summary**

This report is an overview of a separate confidential report recommending awarding of a contract for civil works.

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 following State Government announcements but the evaluation remains confidential

**Recommendation**

**That** Council notes this report.

**Attachments**

Nil

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OCM.152/20 Tender Report - Contract 1920-89

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OCM.153/20 Tender Report - Contract 1920-90

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**Distribution:** Public

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

**Author:** Steven Blight, Construction Coordinator

Laxman De Silva, Project Management Officer

Enrique Gutierrez, Manager Capital Works

Lance Clark, Senior Procurement Specialist

**Summary**

This report is an overview of a separate confidential report recommending awarding of a contract for civil works.

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 following State Government announcements but the evaluation remains confidential.

**Recommendation**

**That** Council notes this report.

**Attachments**

Nil

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OCM.153/20 Tender Report - Contract 1920-90

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**OCM.154/20 Tender Report - Contract 1920-93**

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**Distribution: Public**

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

**Author: Steven Blight, Construction Coordinator**

**Laxman De Silva, Project Management Officer**

**Enrique Gutierrez, Manager Capital Works**

**Lance Clark, Senior Procurement Specialist**

**Summary**

This report is an overview of a separate confidential report recommending awarding of a contract for civil works.

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 notes this report.

**Attachments**

Nil

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OCM.154/20 Tender Report - Contract 1920-93

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OCM.155/20 Chief Executive Officer Employment Matters Committee

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**Distribution:** Public

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

**Summary**

This report is an overview of a separate confidential report to consider the Chief Executive Officer's (CEO's) annual performance plan 2019/2020.

In accordance with the CEO's contract, performance is reviewed on an annual basis, and the Performance Plan for 2020/2021 is established.

**Recommendation**

**That** Council notes this report.

**Attachments**

Nil

12. Officers' reports

OCM.155/20 Chief Executive Officer Employment Matters Committee

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**13. Notices of Motion**

**NOM.008/20 Lexus 2020 Melbourne Cup Tour**

Cr Grant Brooker advised of his intention to move the following Notice of Motion at the Ordinary Council Meeting on 25 August 2020:

<b>Motion</b>
---------------

**That Council:**

1. Notes that the Lexus Melbourne Cup Tour is sponsored by Lexus and supported by ABC Bullion and the TAB.
2. Condemns participation in a sweepstake that is not consistent with the Nillumbik Shire Council Health and Wellbeing Plan 2017-2021  
specifically p33 clause 15 - "Implement strategic approaches that change alcohol, drugs & gambling culture".
3. Condemns participation in a sweepstake that is not consistent with the Nillumbik Shire Gambling Harm Minimisation Policy 2106-2021  
specifically the policy statement that reads in part "12.Council will maintain independence from the gambling industry".
4. Notes that the Nillumbik Shire Council Gambling Harm Minimisation Policy advocates for a public health approach to gambling thru examining  
"-social risk factors {e.g the normalisation of gambling as entertainment; the impact on community cohesion".
5. Requests a report at the September FNC on the process for selecting a Charity where \$50,000 will be awarded for a local community initiative should the Nillumbik entry win the event noting the deadline for this selection is September 1st.
6. Reviews its decision to participate from the Lexus 2020 Melbourne Cup Tour.

**14. Delegates' reports**

**15. Supplementary and urgent business**

**16. Confidential reports**

Pursuant to section 66(2) of the *Local Government Act 2020* (the Act), the meeting of the Council be closed to members of the public for the consideration of the following confidential items:

**OCM.156/20 Quarterly Risk and Safety Report**

This item is confidential because it is any other matter which the Council or special committee considers would prejudice the Council or any person pursuant to paragraph (h) of the definition of confidential information under section 3(1) of the *Local Government Act 2020*. This ground is applied because it is information that, if publicly released at the time, is likely to be inappropriately detrimental to the Council or any person (natural or corporate).

**OCM.157/20 Extension of contract value under Contract 1819-003 Eltham Central Pavilion Redevelopment - Building Works**

This item is confidential because it is private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage pursuant to paragraph g(ii) of the definition of confidential information under section 3(1) of the *Local Government Act 2020*. This ground is applied because it is information that, if publicly released at the time, is likely to be inappropriately detrimental to the Council or any person (natural or corporate).

**OCM.158/20 Tender Report - Contract 1920-24 Diamond Creek Trail (Stage 1) Shared Path Construction Contract Variations**

This item is confidential because it is private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage pursuant to paragraph g(ii) of the definition of confidential information under section 3(1) of the *Local Government Act 2020*. This ground is applied because it is information that, if publicly released at the time, is likely to be inappropriately detrimental to the Council or any person (natural or corporate).

**OCM.159/20 Tender Report - Contract 1920-60 Diamond Valley Sport and Fitness Centre Construction Works**

This item is confidential because it is private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage pursuant to paragraph g(ii) of the definition of confidential information under section 3(1) of the *Local Government Act 2020*. This ground is applied because it is information that, if publicly released at the time, is likely to be inappropriately detrimental to the Council or any person (natural or corporate).

**OCM.160/20 Tender Report - Contract 1920-68 Eltham Sports Multi use Community Facility - Tennis Court Extension**

This item is confidential because it is private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage pursuant to paragraph g(ii) of the definition of confidential information under section 3(1) of the *Local Government Act 2020*. This ground is applied because it is information that, if publicly released at the time, is likely to be inappropriately detrimental to the Council or any person (natural or corporate).

**OCM.161/20 Tender Report - Contract 1920-77 Asset Management System Implementation**

This item is confidential because it is private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage pursuant to paragraph g(ii) of the definition of confidential information under section 3(1) of the *Local Government Act 2020*. This ground is applied because it is information that, if publicly released at the time, is likely to be inappropriately detrimental to the Council or any person (natural or corporate).

**OCM.162/20 Tender Report - Contract 1920-89**

This item is confidential because it is private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage pursuant to paragraph g(ii) of the definition of confidential information under section 3(1) of the *Local Government Act 2020*. This ground is applied because it is information that, if publicly released at the time, is likely to be inappropriately detrimental to the Council or any person (natural or corporate).

**OCM.163/20 Tender Report - Contract 1920-90**

This item is confidential because it is private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage pursuant to paragraph g(ii) of the definition of confidential information under section 3(1) of the *Local Government Act 2020*. This ground is applied because it is information that, if publicly released at the time, is likely to be inappropriately detrimental to the Council or any person (natural or corporate).

**OCM.164/20 Tender Report - Contract 1920-93**

This item is confidential because it is private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage pursuant to paragraph g(ii) of the definition of confidential information under section 3(1) of the *Local Government Act 2020*. This ground is applied because it is information that, if publicly released at the time, is likely to be inappropriately detrimental to the Council or any person (natural or corporate).

**OCM.165/20 Chief Executive Officer Employment Matters Committee**

This item is confidential because it is personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs pursuant to paragraph (f) of the definition of confidential information under section 3(1) of the *Local Government Act 2020*. This ground is applied because it is information that, if publicly released at the time, is likely to be inappropriately detrimental to the Council or any person (natural or corporate).

**Recommendation**

**That** in accordance with section 66(2) of the *Local Government Act 2020*, Council resolves to close the meeting to members of the public to consider confidential items.