

Ordinary Meeting of Council

held virtually on Tuesday 25 August 2020 commencing at 7:01pm.

Minutes

Carl Cowie
Chief Executive Officer

Friday 28 August 2020

Distribution: Public

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Nillumbik Shire Council

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Nillumbik Shire Council

**Minutes of the Ordinary Meeting of Nillumbik Shire Council held
Tuesday 25 August 2020. The meeting commenced at 7.01pm.**

Councillors present:

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

Officers in attendance:

Carl Cowie	Chief Executive Officer
Vince Lombardi	Chief Financial Officer
Hjalmar Philipp	Director Operations and Infrastructure
Bлага Naumoski	Executive Manager Governance, Communications and Engagement
Rosa Zouzoulas	Executive Manager Planning and Community Safety
Jeremy Livingston	Executive Manager Business Transformation and Performance
Corrienne Nichols	Executive Manager Communities
Eddie Cheng	Manager Information Technology
Nik Mistriotis	Lead Systems Architect
Katia Croce	Governance Lead

1. Welcome by the Mayor

2. Reconciliation statement

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

3. Prayer

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

4. Apologies

Nil

5. Presentations

The Mayor made the following address:

I was deeply saddened to hear of the passing of Neisha Forbes earlier this month on 4 August 2020.

Neisha was a committed supporter of local history and was the inaugural President of the Plenty Historical Society. She served as President from 2001 – 2009, becoming Secretary from 2010 – 2019.

As well as being an active member of the Plenty Historical Society for many years, Neisha was also a member of the Eltham District Historical Society and involved with the broader Yarra Plenty Heritage Group.

Neisha advocated on many local heritage issues – one of which was the preservation and restoration of the old Plenty Uniting (Methodist) Church, which was recently relocated from its former site in the path of the Yan Yean Road Stage 1 upgrade, to Plenty Heritage Park in Memorial Drive Plenty.

Neisha worked passionately to preserve the history of Plenty and was a great community person.

On behalf of Nillumbik Shire Council, I offer our condolences to Neisha's family and friends.

6. Confirmation of minutes

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

Council Resolution

MOVED: Cr Jane Ashton

SECONDED: Cr Peter Clarke

That the minutes of the Council Meeting held on Tuesday 28 July 2020 be confirmed.

CARRIED

7. Disclosure of conflicts of interest

Nil

8. Petitions

Nil

9. Questions from the gallery

Matt Mann asked Council:

Do councillors feel it is appropriate to use their official Facebook pages to attack each other and their constituents?

Response

No, Councillors are required to act in accordance with the Councillor Code of Conduct, Councils Good Governance Guide 2017, in addition to what is set out in the legislation, currently the *Local Government Act 1989*.

John Buordolone asked Council:

1. What action has Council taken against residents purposely obstructing/frustrating activities on Chapel Lane and what action has Council taken to verify the sensationalized claims made by residents/community groups in the social media and print media medium regarding Chapel Lane?

Response

Council is not aware of any physical actions by neighbours to 265 or 130 Chapel Lane to hinder truck arrivals or departures. More broadly, upon receipt of complaints about earthworks in Chapel Lane being undertaken without planning permission where planning permission is required, Council has followed the process it follows with all investigations of complaints of this nature. Specifically, Council has been undertaking its own review of existing and proposed activities

and impacts to infrastructure and the environment inclusive of on-site meetings to discuss the activities being undertaken with site operators.

2. Can Council confirm that the landowner has been cooperative to date in providing confirmation that the use of the land is agricultural and that both the landowner and ESG have sought out, worked with and been collaborative/cooperative with Council to date?

Response

Council's legal advocate has on a number of occasions requested information of both the landowner and ESG to inform itself of the use and development occurring on the land. Council can confirm that responses to its letters have been received.

Ben Ramcharan asked Council:

The Department of Transport has indicated to me that Nillumbik Council is planning on constructing footpaths along some sections of Research-Warrandyte Road.

1. Where can I find more information on how will decisions be made about where the footpaths will go and what form they'll take?

Response

Footpaths along Research-Warrandyte Road are being provided as part of the Commonwealth Government's 'Getting to School Safely' funding program, which Council is delivering. The locations have been included in the program following community engagement in March 2018, resulting in a shortlist of 17 projects, including two on Research-Warrandyte Road (from Valias Street to Danita Drive and at the intersection with Kangaroo Ground-Warrandyte Road).

2. To what extent will the community be consulted during this process?

Response

Nillumbik Shire Council undertook extensive consultation in March 2018, resulting in these 17 projects being included in the 2019 Nillumbik Shire Council Election Advocacy Statement.

Bronwyn Wilson asked Council:

1. Do you think it is fair and what is (Council) doing to protect the environment and safety of the residents in Chapel Lane, Doreen against the dumping of dirt for commercial (not agricultural) purposes?
2. Will (Council) immediately place a stop work order on 130 and 265 Chapel Lane?

Response

Council will be considering the matter at tonight's meeting and action will be undertaken in accordance with the resolutions made.

Michael Krause asked Council:

1. Regarding the Annual Financial Report 2019-20 note 5.5, why has the cost of rehabilitating Plenty & Kangaroo Ground land fill sites more than doubled to \$20.5M in the past year?

Response

The cost of rehabilitating the former Plenty and Kangaroo Ground sites in accordance with the EPA's Post Closure Pollution Abatement Notice has increased based on the actual price received to rehabilitate the landfills following a competitive tender process and the inclusion of the 30 year after care costs. Previous allocations were based on estimates attained at that point in time.

2. Regarding the Annual Financial Report 2019-20 note 5.5, why has the Land Fill restoration provision been increased to \$6.5M above the estimated remaining costs to rehabilitate?

Response

The movements in the provision recorded in the annual financial statements are in compliance with the guidance material provided to the sector by Local Government Victoria and the EPA. The provision captures the expected costs to rehabilitate the landfill sites and the 30 year after-care costs.

Luke Colistra asked Council:

1. Is there any way that you can stop these trucks and corporate companies from putting our lives in danger and ruining our way of life here in Chapel Lane?

Response

Council will be considering the matter at tonight's meeting and action will be undertaken in accordance with the resolutions made.

Jeremy Loftus-Hills asked Council:

The agreed accounting definition of asset renewal rate is 'expenditure on or replacing existing assets to their original capability divided by the amount of depreciation of all assets.' This indicator is now retired from the comparative reporting framework. Nillumbik includes it in its annual report, but redefines it in such a way that a consistent underperformance less than 40 per cent is reported as 102.11%.

1. What is the renewal rate according to the previous definition - ie without the 'upgrade' component?

Response

The renewal rate in accordance with the previous definition is 39.44%.

2. Poor renewal rates indicate a growing debt for future generations. Why has Council chosen to report upgrades as renewals when in fact substantial upgrades of, for example, recreation and leisure assets increase not decrease the renewal burden on ratepayers.

Response

This indicator is set by and forms part of the mandatory reporting required by Local Government Victoria and forms part of the Local Government Performance Reporting Framework (LGPRF). Council is calculating the indicator in compliance with the LGPRF guidelines.

Cindy Allen asked Council:

1. In light of the continuation of dumping in Chapel Lane Doreen should I have concerns that if my neighbour starts to dump fill by the multi-truckloads on his property again that Council will have no mechanism with which to stop him anymore? Refer VCAT Ref: P1962/2017 Sullivan vs NSC.

Response

If you have concerns regarding activities on your neighbour's property please contact Council with evidence to support the alleged breach of the Planning Scheme and Council officers will investigate. Each individual investigation is dependent upon the merits of the proposed use and development being undertaken.

2. In relation to the 103 Bannons Lane Yarrambat restaurant approval.

For the purposes of clarity and transparency, does the planning permit approval rely on the 400 advanced olive trees and 100 advanced lemon trees as detailed by Matt Dillon (on behalf of Professional Consulting Services) at Tuesday 18 August 2020 Future Nillumbik meeting OR: the 62 Olive trees and 16 Lemon trees as listed as being "the key feature of the Agriculture component of the application" (p441 FNC Agenda 11 August 2020)?

Response

No, the planning permit does not rely on the number of trees detailed on Tuesday 18 August 2020 Future Nillumbik Committee meeting. The conditions of the proposed permit require a land management plan that will detail the extent of planting on the site.

Sarah Hunter asked Council:

1. "Last Sunday the runoff from 265 Chapel Lane was washed directly into the Stewart's Ponds Creek. A surge of muddy water hit our property. Since the ensuing flood there has been no sign of the many frogs that lived in the "chain of ponds". They have likely been washed down the creek in muddy water containing the deposited construction site fill. They, and the muddy water, will continue until they reach the salty waters of Port Philip Bay where they will die, and the dirty water contaminates the bay. Wombat burrows were flooded. Coated in the runoff. Like damage to any flooded home this will persist..

My entire creek, on our fertile creek flats, has been washed for days with the runoff from construction site soil. The presence of healthy wildlife is essential for our farm's "story" and ecotourism plans for the future. Furthermore we rely on a healthy population of birds of prey to keep cockies away from our walnut orchard. My children's interactions with wild fauna have brought magic to their early life. These actual and potential harms are difficult to quantify financially or to assign monetary value."

How does the council propose to ensure that such losses do not continue to occur?"

2. Numerous agencies and government departments including the EPA, Melbourne Water and the Water Minister have now confirmed that a planning permit is required for the landfill at 265 Chapel Lane to operate. Given that they have increased rather than reduced their works following the advice that their activities were outside the planning scheme'

Will you tonight pursue enforcement under section 114 of the Planning and Environment Act with an interim order under section 120 of the Planning and Environment Act to ensure that works stop while consideration of the case takes place?

Response

Council will be considering the matter at tonight's meeting and action will be undertaken in accordance with the resolutions made.

Janette Colistra asked Council:

1. Councillors, As you are aware, a lot of information is now known about the environmental destruction that has occurred at 130 Chapel Lane. I am an immediate neighbour of 130 and for over the past 2 years I have watched helplessly as hundreds, and hundreds of trucks have dumped 'goodness knows what' on to this land. This illegal dumping has also filled in Middle Hut Road Gully, which has had a profound detrimental impact on the health of the waterway and its native inhabitants. It beggars belief that I am once again witnessing the same environmental destruction, this time occurring at 265 Chapel Lane. Surely as Councillors responsible for the protection and sustainability of our Green Wedge Zone it is now time to show leadership and courage to do what is right for the residents of your Shire and to send a message to these corporate entities that this sort of business is not welcome here. Your actions or inactions today will have lasting effects on both the health of the Green Wedge environment and its residents for years to come. To have to live with the constant noise of these trucks as they thunder up and down Chapel Lane 6 days a week is often unbearable. It is having a profound effect on both the physical and mental health of myself and of my children, especially now that we are all required to stay home due to the global pandemic. The simple act of taking the dog for a walk is no longer possible as it is too dangerous due to speeding trucks and at times very abusive truck drivers. Due to individual landowner's greed, our peaceful way of life has been stolen away from us. What has happened for over the past 2 years at 130 Chapel Lane should stand as an indicator to what will happen at 265 Chapel Lane if ESG are allowed to carry on operating and continue this environmental destruction. It would be completely negligent of Council not to do all that you can to stop the destruction now before no amount of money can repair the damage done. Damage, which includes environmental devastation, loss of lifestyle and the adverse mental health impacts on local residents and could potentially include fatalities due to the incredibly dangerous road conditions residents have to encounter on Chapel Lane and surrounding streets. It is perfectly clear now that taking enforcement action under section 114 of the Planning and Environment Act alone is simply not enough. If these dump sites are allowed to continue operating to accept 'fill' then resident's loss of lifestyle and mental health will be profoundly impacted while having to continue to watch helplessly as the land and adjoining waterways are destroyed.

Will Council take the only acceptable action, which is to, immediately stop the works by an application under section 120 of the Planning and Environment Act?

Response

Council will be considering the matter at tonight's meeting and action will be undertaken in accordance with the resolutions made.

Mario Colistra asked Council:

As it is clear that the road surface on Chapel Lane has required multiple repairs due to all the heavy trucks accessing the dumpsites at 130 and 265 are ratepayers paying for these repairs and if so what has been the total cost to date?

Response

The costs associated with these works have been paid for through Council's operational budget. Where Council's assets have been damaged, the general approach is to seek to recover any damage to Council assets under the appropriate mechanisms.

James Hunter asked Council:

1. Who is paying for the road grader which currently operates full time in Middle Hut Road (north)?

Response

Council does not have a grader which operates full time on Middle Hut Road. Council has in recent times had a road grader, as required perform repairs to Middle Hut Road. The costs associated with these works have been funded through Council's operational budget. Council is keeping a record of all inspections and necessary repairs being undertaken on Middle Hut Road.

2. What mitigation has been undertaken to prevent turbid and / or contaminated water from reaching the creek from the landfill site at 265 Chapel Lane?

Response

The implementation of mitigation measures is the responsibility of the respective property owner and site operators. Council and Melbourne Water are working very closely to monitor these mitigation measures to minimise potential contaminants from entering nearby water catchments.

10. Reports of Advisory Committees

AC.008/20 Advisory Committee Report

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.

Council Resolution

MOVED: Cr Grant Brooker

SECONDED: Cr Jane Ashton

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

CARRIED

11. Reports of Special Committees

Nil

Council Resolution

That Council change the order of business to consider Urgent Business Items prior to Officer Reports.

MOVED: Cr Peter Clarke

SECONDED: Cr Bruce Ranken

CARRIED

15. Supplementary and urgent business

The Mayor, Cr Karen Egan admitted the following urgent business item in accordance with section 6.15 of the Meeting Procedure Local Law 2017

OCM.166/20 265 and 130 Chapel Lane, Doreen

Distribution: Public

Manager: Carl Cowie, Chief Executive Officer

Author: Rosa Zouzoulas, Executive Manager Planning and Community Safety

Summary

This report responds to the Notice of Motion arising from the 11 August 2020 Future Nillumbik Committee Meeting.

Council officers have submitted two planning scheme amendments to the Minister for Planning, one for immediate interim provisions, that will provide a greater level of clarity in the Nillumbik Planning Scheme and indeed to our community, and to protect our Green Wedge. The second planning scheme amendment is the more substantive amendment to replace the interim amendment and will undergo the full planning scheme amendment process including public exhibition. The report recommends that Council advocate strongly for the Minister for Planning to consider the Amendments, introduce interim planning scheme provisions and allow the further Amendment to proceed on the basis that the matters will be rigorously considered and tested before an Independent Planning Panel.

This report further seeks to outline the work undertaken by Council officers to robustly consider the avenues forward and all associated risks, to better inform Councillors in resolving to proceed with enforcement action.

Council Resolution

MOVED: Cr Peter Clarke

SECONDED: Cr Jane Ashton

That Council:

1. Advocate to Minister for Planning and request a meeting at the earliest date for the immediate approval and gazettal of Council's Planning Scheme Amendment made through Section 20(4) of the *Planning and Environment Act 1987*
2. Reconfirm Council's intention to apply to the Tribunal for an enforcement order in accordance with Section 114 of the *Planning and Environment Act 1987* at the earliest opportunity.
3. Determines its position in relation to s120 interim enforcement order for 130 and 265 Chapel Lane Doreen in the confidential session on 25 August 2020.

CARRIED UNANIMOUSLY

Council Resolution

MOVED: Cr Peter Clarke

SECONDED: Cr Grant Brooker

That the urgent business item 'Interim Enforcement Order – 265 and 130 Chapel Lane Doreen be heard in confidential.

CARRIED UNANIMOUSLY

The confidential report relating to this item was heard in a closed meeting and Council resolved to make clause 1 of the resolution public.

Council Resolution

MOVED: Cr Peter Clarke

SECONDED: Cr Bruce Ranken

That Council:

1. Applies to the Tribunal for an interim enforcement order for 130 and 265 Chapel Lane Doreen in accordance with Section 120 of the *Planning and Environment Act 1987* at the earliest opportunity.

CARRIED

12. Officers' reports

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

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.
4. Notes that consistent with Section 60(8) of the *Local Government Act 2020*, that upon adoption of the Governance Rules:

12. Officers' reports

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

- 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.

Motion

MOVED: Cr Bruce Ranken

SECONDED: Cr Peter Perkins

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 (Attachments 1-5) effective 25 August 2020, with the following amendments to the Governance Rule – Meeting Procedure:**
 - a. **Include the procedural motions to the table of motions under Clause 53 relating to the 'Suspension of Standing Orders', 'Resumption of Standing Orders', 'Consideration of confidential matter(s) (Close the meeting to members of the public)' and 'Reopen the meeting' as outlined in the template governance rules by Local Government Victoria. .**
- 4. **Adopts the Public Transparency Policy (Attachments 6) with an effective date of 25 August 2020.**
- 5. 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.

12. Officers' reports

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

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

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Peter Perkins

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 (Attachments 1-5) effective 25 August 2020, with the following amendments to the Governance Rule – Meeting Procedure:
 - a. Include the procedural motions to the table of motions under Clause 53 relating to the 'Suspension of Standing Orders', 'Resumption of Standing Orders, 'Consideration of confidential matter(s) (Close the meeting to members of the public)' and 'Reopen the meeting' as outlined in the template governance rules by Local Government Victoria.
4. Adopts the Public Transparency Policy (Attachments 6) with an effective date of 25 August 2020.
5. 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.

CARRIED UNANIMOUSLY

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

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.

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Peter Clarke

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.

CARRIED

12. Officers' reports

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

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.

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Peter Clarke

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.

CARRIED

12. Officers' reports

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

Cr Bruce Ranken called for a division

For: Cr Bruce Ranken, Cr Jane Ashton, Cr Karen Egan and Cr Peter Clarke

Against: Cr Peter Perkins, Cr John Dumaresq and Cr Grant Brooker

The Mayor, Cr Karen Egan declared the Motion Carried.

Cr Peter Perkins requested that his opposition to the Council Resolution be recorded in the Minutes.

Cr Peter Perkins temporarily left the meeting at 8.11pm following the vote of the above item and returned at 8.12pm.

12. Officers' reports

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

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.

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Peter Clarke

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.

CARRIED

Cr Jane Ashton temporarily left the meeting at 8.18pm during discussion of the above item and returned at 8.19pm.

12. Officers' reports

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**).

Motion

MOVED: Cr Bruce Ranken

SECONDED: Cr Jane Ashton

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

Cr Peter Perkins moved the following procedural motion in accordance with the Meeting Procedure.

Council Resolution

MOVED: Cr Peter Perkins

SECONDED: Cr John Dumaresq

That the Motion now be put and voted on.

CARRIED

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Jane Ashton

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

CARRIED

12. Officers' reports

OCM.132/20 Council Expenses Policy

The Mayor, Cr Karen Egan called for a division

For: Cr Peter Perkins, Cr Bruce Ranken, Cr Jane Ashton, Cr Karen Egan and Cr John Dumaresq

Against: Cr Peter Clarke and Cr Grant Brooker

The Mayor, Cr Karen Egan declared the Motion Carried.

12. Officers' reports

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

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.

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Grant Brooker

That Council notes this report.

CARRIED UNANIMOUSLY

12. Officers' reports

Prior to this item being heard, the Mayor, Cr Karen Egan requested a 5 minute break, the meeting was suspended at 8.42pm and resumed at 8.49pm

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.

12. Officers' reports

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

Motion

MOVED: Cr Peter Perkins

SECONDED: Cr John Dumaresq

That Council:

1. Adopts the Diamond Creek Major Activity Centre Structure Plan (July 2020), which is provided as **Attachment 1 with the following changes:**
 - **Not propose to increase heights from existing planning controls.**
 - **Any potential public plaza in Precinct 4 to provide good access to Winter Sun.**
 - **Retain and provide additional canopy trees to the centre medium of any future widening of Main Hurstbridge Rd.**
 - **Increase the footpath width on the Southern side of Main Hurstbridge Rd in Precinct 4 and 6 to from 3m to 5m to accommodate a future outdoor cafe zone that will benefit from the winter sun.**
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.

LOST

The Mayor, Cr Karen Egan called for a division

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

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

The Mayor, Cr Karen Egan declared the Motion Lost

The Mayor, Cr Karen Egan left the meeting following the vote on the above item at 9.22pm. and did not return.

Deputy Mayor, Cr Peter Clarke assumed the Chair at 9.22.pm

The Recommendation then lapsed for want of a mover or seconder.

12. Officers' reports

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.

12. Officers' reports

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

Recommendation

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.
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.

Motion

MOVED: Cr Jane Ashton
SECONDED: Cr Bruce Ranken

That Council:

1. **Amend page 9 of the draft submission to include the following statement:**

Council fully supports and implements the recommendations of the 2009 Bushfires Royal Commission. Council also notes the recent amendment VC176 of the Victorian Planning Provisions. This amends Clause 52.12 (Bushfire Protection: Exemptions) to align the 10/30 and fence line vegetation exemptions with the Bushfire Prone Area map across all Victorian councils, make administrative updates and further clarifies the exemptions for dwellings. This amendment reduces the impact of the 10/30 rule in the Major Activity Centres of Diamond Creek and Eltham.
2. 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.
3. Thanks the Environment and Sustainability Advisory Committee for their contribution in developing the submission.
4. 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.

12. Officers' reports

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

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

Council Resolution

MOVED: Cr Jane Ashton
SECONDED: Cr Bruce Ranken

That Council:

1. Amend page 9 of the draft submission to include the following statement:

Council fully supports and implements the recommendations of the 2009 Bushfires Royal Commission. Council also notes the recent amendment VC176 of the Victorian Planning Provisions. This amends Clause 52.12 (Bushfire Protection: Exemptions) to align the 10/30 and fence line vegetation exemptions with the Bushfire Prone Area map across all Victorian councils, make administrative updates and further clarifies the exemptions for dwellings. This amendment reduces the impact of the 10/30 rule in the Major Activity Centres of Diamond Creek and Eltham.
2. Endorses the attached draft Nillumbik Shire Council submission to the Victorian Parliament's Environment and Planning Committee Inquiry into Ecosystem Decline in Victoria to be lodged prior to the 31 August 2020 deadline.
3. Thanks the Environment and Sustainability Advisory Committee for their contribution in developing the submission.
4. 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.

CARRIED UNANIMOUSLY

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.

Council Resolution

MOVED: Cr Peter Perkins

SECONDED: Cr John Dumaresq

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.

CARRIED UNANIMOUSLY

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.

Council Resolution

MOVED: Cr Jane Ashton**SECONDED: Cr John Dumaresq**

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.

CARRIED

12. Officers' reports

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

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.

Council Resolution

MOVED: Cr John Dumaresq

SECONDED: Cr Bruce Ranken

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.

12. Officers' reports

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

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

CARRIED

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

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.

Council Resolution

MOVED: Cr Grant Brooker**SECONDED: Cr John Dumaresq****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.

12. Officers' reports

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

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

CARRIED

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.

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Peter Perkins

That Council endorses the Debt Collection Policy - Rates and Charges (**Attachment 1**).

CARRIED

12. Officers' reports

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

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**.

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Jane Ashton

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

CARRIED

12. Officers' reports

OCM.142/20 Annual Financial Report 2019-2020

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.

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Grant Brooker

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.

CARRIED

Cr Peter Perkins temporarily left the meeting during discussion of the above item at 9.49pm and returned at 9.49pm

12. Officers' reports

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

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 year's 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.

Council Resolution

MOVED: Cr Jane Ashton

SECONDED: Cr Peter Perkins

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.

CARRIED

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.

Council Resolution

MOVED: Cr Grant Brooker

SECONDED: Cr Jane Ashton

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

CARRIED

12. Officers' reports

ADOPTION OF SEVERAL REPORT RECOMMENDATIONS 'EN BLOC'

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Grant Brooker

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

- OCM.145/20 Assembly of Councillors
- OCM.146/20 Quarterly Risk and Safety Report
- OCM.147/20 Extension of contract value under Contract 1819-003 Eltham Central Pavilion Redevelopment - Building Works
- OCM.148/20 Tender Report - Contract 1920-24 Diamond Creek Trail (Stage 1) Shared Path Construction Contract Variations
- OCM.149/20 Tender Report - Contract 1920-60 Diamond Valley Sport and Fitness Centre Construction Works
- OCM.150/20 Tender Report - Contract 1920-68 Eltham Sports Multi use Community Facility - Tennis Court Extension
- OCM.151/20 Tender Report - Contract 1920-77 Asset Management System Implementation
- OCM.152/20 Tender Report - Contract 1920-89
- OCM.153/20 Tender Report - Contract 1920-90
- OCM.154/20 Tender Report - Contract 1920-93

CARRIED

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.

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Grant Brooker

That Council, in accordance with section 80A(2) of the *Local Government Act 1989*, receives the records of the assemblies of Councillors held on 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**).

CARRIED

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

12. Officers' reports

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.

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Grant Brooker

That Council notes this report.

CARRIED

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

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

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr John Dumaresq

That Council:

1. Notes the summary of the confidential Quarterly Risk and Safety Report for the June 2020 quarter and financial year ending June 2020.
2. Resolves that the report remains confidential in accordance with section 66(2) of the *Local Government Act 2020*.
3. Resolves to make the resolution of Council public.

CARRIED

12. Officers' reports

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

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.

Council Resolution

MOVED: Cr Bruce Ranken
SECONDED: Cr Grant Brooker

That Council notes this report.

CARRIED

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

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

Council Resolution

MOVED: Cr Bruce Ranken
SECONDED: Cr Peter Perkins

That Council:

1. Approves increasing the current value of Contract 1819-003 Eltham Central Pavilion Redevelopment - Building Works to the amount of \$3,330,730 (exclusive of GST).
2. Authorises the Chief Executive Officer to amend and execute the corresponding variation and contract documentation.
3. Makes public the decision regarding this contract but the report remains confidential.

CARRIED

12. Officers' reports

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

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.

Council Resolution

MOVED: Cr Bruce Ranken
SECONDED: Cr Grant Brooker

That Council notes this report.

CARRIED

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

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

Council Resolution

MOVED: Cr Jane Ashton
SECONDED: Cr Peter Perkins

That Council:

1. Authorises the Chief Executive Officer to approve legitimate contract variation payments for Contract 1920-24 Construction of the Diamond Creek Shared Trail – Stage 1.
2. Makes public the decision regarding this contract but the report remains confidential.

CARRIED

12. Officers' reports

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

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.

12. Officers' reports

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

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Grant Brooker

That Council notes this report.

CARRIED

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

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

Council Resolution

MOVED: Cr Grant Brooker

SECONDED: Cr John Dumaresq

That Council:

1. Enters into a contract with McCorkell Constructions Pty Ltd for Contract 1920-60 Diamond Valley Sport and Fitness Centre Construction Works for the amount of \$12,611,440 plus \$1,823,795 for contingency (exclusive of GST).
2. Authorises the Chief Executive Officer to finalise and execute the contract documentation.
3. Authorises the Chief Executive Officer to approve additional variations related to the construction of the extension and refurbishment works of the Diamond Valley Sport and Fitness Centre and required for the completion of this project.
4. Advises all tenderers accordingly.
5. Makes public the decision regarding this contract but the tender evaluation and report remain confidential.

CARRIED

12. Officers' reports

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

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.

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Grant Brooker

That Council notes this report.

CARRIED

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

12. Officers' reports

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

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

Council Resolution

MOVED: Cr John Dumaresq

SECONDED: Cr Bruce Ranken

That Council:

1. Enters into a contract with Turf One Pty Ltd for Eltham Sports Multi use Community Facility - Tennis Court Extension for the amount of \$1,048,400 (exclusive of GST), plus \$160,867 for construction contingency (total contract value is \$1,209,267).
2. Authorises the Director, Operations and Infrastructure to finalise and execute the contract documentation.
3. Advises all tenderers accordingly.
4. Makes public the decision regarding this contract but the tender evaluation report remains confidential.

CARRIED UNANIMOUSLY

12. Officers' reports

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.

12. Officers' reports

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

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Peter Clarke

That Council notes this report.

CARRIED

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

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

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Grant Brooker

That Council:

1. Enters into a contract with Assetic Australia Pty Ltd for the Asset Management System Implementation and ongoing licencing and support.
2. Authorises the Chief Executive Officer to finalise and execute the contract documentation.
3. Delegates the powers and authorisation to the Chief Executive Officer to review and approve the options to extend the contract term for a maximum of up to three (3) further years.
4. Advises all tenderers accordingly.
5. Makes public the decision regarding this contract but the tender evaluation and report remain confidential.

CARRIED

12. Officers' reports

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

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

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Peter Clarke

That Council notes this report.

CARRIED

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

12. Officers' reports

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

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

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Peter Clarke

That Council notes this report.

CARRIED

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

12. Officers' reports

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

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.

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Peter Clarke

That Council notes this report.

CARRIED

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

12. Officers' reports

OCM.155/20 Chief Executive Officer Employment Matters Committee

Distribution: Public

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

Author: 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.

Motion

MOVED: Cr Bruce Ranken

SECONDED: Cr Grant Brooker

That Council notes this report.

CARRIED

13. Notices of Motion

NOM.008/20

Cr Grant Brooker advised of his intention to move the following:

Motion

MOVED: Cr Grant Brooker

SECONDED: Cr Peter Perkins

That Council notes that the:

1. 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. 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.

LOST

Cr Grant Brooker called for a division

For: Cr Bruce Ranken, Cr John Dumaresq and Cr Grant Brooker

Against: Cr Peter Perkins, Cr Jane Ashton and Cr Peter Clarke

The Chairperson Cr Peter Clarke used his casting vote against the Motion.

The Chairperson Cr Peter Clarke declared the Motion Lost.

Cr Peter Perkins noted his dissent to Resolution of Council.

A Motion to extend the Meeting occurred during discussion of the above item

Motion to extend meeting – 10:30pm

In accordance with item 6.1 of the Meeting Procedure, a meeting must not continue after 10:30pm unless a majority of Councillors present vote in favour of the meeting continuing.

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Peter Clarke

That the meeting be extended.

CARRIED

14. Delegates' Reports

Nil

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.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.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).

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

Council Resolution

MOVED: Cr Bruce Ranken

SECONDED: Cr Grant Brooker

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

CARRIED

The meeting closed to the public at 10:49pm.

The meeting reopened to the public at 11.33pm

Close of Meeting

The meeting closed at 11.33pm.

Confirmed: _____
Cr Karen Egan, Mayor