

# Ordinary Meeting of Council

to be held virtually  
on Tuesday 15 September 2020 commencing at 7:00pm.

## Agenda

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

Wednesday 9 September 2020

Distribution: Public

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# Ordinary Meeting of Council seating plan

## **Councillors**

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

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

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

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

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

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

Nillumbik Shire Council notes the resignation of Swipers Gully Ward Councillor Bruce Ranken effective 28 August 2020.

## **Officers**

**Carl Cowie** – Chief Executive Officer

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

**Nillumbik Shire Council**

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**Contents**

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<b>1. Welcome by the Mayor</b>	<b>1</b>
<b>2. Reconciliation statement</b>	<b>1</b>
<b>3. Prayer</b>	<b>1</b>
<b>4. Apologies</b>	<b>1</b>
<b>5. Presentations</b>	<b>1</b>
<b>6. Confirmation of minutes</b>	<b>1</b>
<b>7. Disclosure of conflicts of interest</b>	<b>1</b>
<b>8. Petitions</b>	<b>1</b>
<b>9. Questions from the gallery</b>	<b>1</b>
<b>10. Reports of Advisory Committees</b>	<b>2</b>
AC.009/20 Advisory Committee Report	2
<b>11. Reports of Special Committees</b>	<b>20</b>
<b>12. Officers' reports</b>	<b>22</b>
OCM.168/20 State Government Yan Yean Road Stage 2 Upgrade Project - Draft Environmental Effects Statement Submission	22
OCM.169/20 Hurstbridge Line Upgrade - Stage 2 'offset parking' and boundary extension	62
OCM.170/20 Bushfire Mitigation (Fire Prevention) Works Program 2020-2021	68
OCM.171/20 Whittingham Circuit, Greensborough - Public Notification on Proposed Sale	80
OCM.172/20 Financial Hardship Policy - COVID-19 Pandemic Event	88
OCM.173/20 Temporary and Community Advertising Signage Policy	96
OCM.174/20 Kangaroo Ground War Memorial Park Master Plan - Concept	176
OCM.175/20 Gazettal of Amendment VC176 - changes Clause 52.12 Bushfire Protection: Exemptions	244
OCM.176/20 Annual Report 2019-2020	268
OCM.177/20 Laughing Waters Arts Program	494
OCM.178/20 Diamond Valley Library Refurbishment Works	522
OCM.179/20 Information Meetings of Councillors Record	526
OCM.180/20 Hardship Request	540
OCM.181/20 Tender Report - Contract 1920-72 Solar Farm	542
<b>13. Notices of Motion</b>	<b>558</b>
NOM.009/20 Protocols for Councillors - Land Use Planning	558
NOM.010/20 Councillor Expenses Policy - Mayoral Vehicle	559

**Ordinary Meeting of Council Agenda****15 September 2020**

NOM.011/20	Councillor Expenses Policy - Meals and Beverages	560
NOM.012/20	Eltham Library Community Gallery Redesign	561
NOM.013/20	Councillor Expenses Policy	562
<b>14.</b>	<b>Delegates' Reports</b>	<b>564</b>
<b>15.</b>	<b>Supplementary and urgent business</b>	<b>564</b>
<b>16.</b>	<b>Confidential reports</b>	<b>564</b>
OCM.182/20	Hardship Request	564
OCM.183/20	Submission to DELWP Green Wedge Provisions Review Consultation Paper	564
OCM.184/20	Tender Report - Contract 1920-72 Solar Farm	564

**Nillumbik Shire Council**

**Agenda of the Ordinary Meeting of Nillumbik Shire Council to be held  
Tuesday 15 September 2020 commencing at 7:00pm.**

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**1. Welcome by the Mayor**

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

**2. Reconciliation statement**

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

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

**3. Prayer**

A prayer will be read.

**4. Apologies**

**Recommendation**

**That** the apologies be noted.

**5. Presentations**

**6. Confirmation of minutes**

Confirmation of minutes of the Council Meeting held on Tuesday 25 August 2020.

**Recommendation**

**That** the minutes of the Council Meeting held on Tuesday 25 August 2020 be confirmed.

**7. Disclosure of conflicts of interest**

Councillors should note that any conflicts of interest should also be disclosed immediately before the relevant item.

**8. Petitions**

**9. Questions from the gallery**

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10. Reports of Advisory Committees

AC.009/20 Advisory Committee Report

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**Distribution:** Public

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

**Author:** Janet Taylor, Governance Officer

**Summary**

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

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

**Attachments**

1. Advisory Committee Minutes Recorded 15 September 2020

**Recommendation**

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

- Arts and Cultural Advisory Committee – 15 June 2020
- Environment and Sustainability Advisory Committee – 17 June 2020

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12. Officers' reports

**OCM.168/20 State Government Yan Yean Road Stage 2 Upgrade Project - Draft Environmental Effects Statement Submission**

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**Distribution: Public**

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

**Author: Lawrence Seyers, Lead Transport Planner**

**Summary**

This report provides Council with a draft submission to the State Government's Yan Yean Road Stage 2 Environmental Effects Statement public consultation process.

**Recommendation**

**That** Council notes the Chief Executive Officer will prepare and lodge a submission to the Yan Yean Road Stage 2 Environmental Effects Statement public consultation process.

**Attachments**

1. Draft Nillumbik Shire Council Environmental Effects Statement submission

**Background**

1. Major Road Projects Victoria (MRPV) are preparing an Environmental Effects Statement (EES) for the Yan Yean Road Stage 2 Upgrade, that will duplicate Yan Yean Road between Kurrak Road, Yarrambat and Bridge Inn Road, Doreen.
2. On 5 May 2020, MRPV provided Councillors with a briefing from about the Yan Yean Road Stage 2 Upgrade, specifically consultation on Yan Yean Road/Bridge Inn Road intersection options.
3. On 26 May 2020, Council considered report (refer OCM.079/20) and passed a resolution that Council:
  - a) Notes the community consultation completed for the State Government's Yan Yean Road Stage 2 Project.
  - b) Notes the expected public exhibition of an Environmental Effects Statement process in August 2020 will be approaching Council caretaker period.
  - c) Notes its support of the Yan Yean Road Stage 2 project notwithstanding Council's concerns which will be formally tabled as part of the Environmental Effects Statement submission.
  - d) Authorises the Chief Executive Officer to prepare and lodge a submission to the Environmental Effects Statement process on behalf of Council, with a draft of the submission to come to a Councillor Briefing prior to the Council caretaker period.
4. On 17 August 2020, MRPV commenced advertisements in metropolitan newspapers and online advising the "Environmental Effects Statement is coming soon".

**12. Officers' reports**

**OCM.168/20 State Government Yan Yean Road Stage 2 Upgrade Project - Draft Environmental Effects Statement Submission**

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5. On 31 August 2020, MRPV released the EES documents for public review and comments until 5pm, 9 October 2020; and
6. On 1 September 2020, MRPV provided Councillors with a briefing about the Yan Yean Road Stage 2 Upgrade and EES process.

**Policy context**

7. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Advocate effectively for Nillumbik's interests at a state and national level.

**Budget implications**

8. There are no budget implications.

**Consultation/communication**

9. Council officers have received technical reports and draft EES chapters over the last 18 months via regular consultation with MRPV during the development of the EES.
10. Councillors have been made aware of the key issues, through briefings with MRPV on 5 May 2020 and 1 September 2020.
11. The public release the EES and associated Planning Scheme Amendment provides Council and the community with an opportunity to lodge a submission to the Planning Panel and be heard at a public hearing.

**Issues/options**

12. Council officers have developed a draft Nillumbik Shire Council submission to the EES (refer **Attachment 1**). The timing of EES release immediately prior to caretaker period has meant Council officers will continue to review the draft submission and lodge a final submission to the Yan Yean Road Stage 2 EES public consultation process prior to the close of submissions.
13. Council's draft submission has expressed the following concerns:
  - Traffic and transport impacts, particularly the modelled traffic impacts on Yan Yean Road and Diamond Creek Road following North East Link and Yan Yean Road Stages 1 and Stage 2.
  - Property accessibility and road safety impacts, particularly the potential for crashes in the southbound traffic lanes between Bannons Lane to Laurie Street.
  - Environmental impacts, particularly on the Swift Parrot and Matted Flax Lilly, both species listed under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).
  - Vegetation impacts, particularly the clearance of 4,777 trees and landscape and environmental values of Yan Yean Road.
  - Bridge Inn Road/Doctors Gully Road and Yan Yean Road intersection options, particularly the impacts of the preferred option and creation of surplus landholdings within Green Wedge Zone.

**12. Officers' reports**

**OCM.168/20 State Government Yan Yean Road Stage 2 Upgrade Project - Draft Environmental Effects Statement Submission**

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- Land acquisition impacts on Yarrambat Park, particularly Yarrambat Golf Course and proposed mitigation measures of a possible 360m long / 30-36m high fence.
  - Sewer provision to unserviced properties along Yan Yean Road, particularly 722-758 Yan Yean Road.
  - Construction impacts, particularly rat running vehicles and resident/business disruption.
14. Council's draft submission contains recommended Environmental Performance Requirements (EPRs) which are planning conditions referenced in the Incorporated Document and are approved with the Planning Scheme Amendment.
15. The Planning Panel established to consider public submissions will determine the appropriate EPRs to establish standards for the project and mitigate any adverse local effects.

**Conclusion**

16. Council's resolution (refer OCM.079/20) authorises the Chief Executive Officer to prepare and lodge a submission to the Environmental Effects Statement process on behalf of Council.
17. This is necessary given the timing of the EES release is in close proximity to Council caretaker period (commencing 22 September 2020).
18. Council officers will continue to review the draft submission and lodge a final submission to the Yan Yean Road Stage 2 EES public consultation process prior to the close of submissions at 5pm, 9 October 2020.

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12. Officers' reports

**OCM.169/20 Hurstbridge Line Upgrade - Stage 2 'offset parking' and boundary extension**

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**Distribution: Public**

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

**Author: Lawrence Seyers, Lead Transport Planner**

**Summary**

The Level Crossing Removal Project has requested Council support to access additional land to deliver the Hurstbridge Line Upgrade - Stage 2.

This additional land is outside the approved project boundary and is required for:

- Temporary commuter car parking at Eltham Central Park and Library Place, Eltham to offset parking at Montmorency Station which will be disrupted by project works.
- Temporary commuter car parking at Main Hurstbridge Road, Diamond Creek to offset car parking at Diamond Creek Station which will be disrupted by project works.
- Additional roads for access to the rail corridor, and
- Rail system upgrades at the corner of Fyffe Street and Main Hurstbridge Road, Diamond Creek.

Council is asked to respond to the Level Crossing Removal Project request for additional land to deliver the Hurstbridge Line Upgrade - Stage 2.

**Recommendation**

**That Council:**

1. Notes the request from the Level Crossing Removal Project seeking to access additional land to deliver the Hurstbridge Line Upgrade - Stage 2; and
2. Writes to the Level Crossing Removal Project advising:
  - a) Council does not support temporary commuter parking at Library Place Eltham (former Eltham Shire Office);
  - b) Council does not support temporary commuter car parking within the road reserve at Main Hurstbridge Road, Diamond Creek;
  - c) Council would support temporary commuter parking at Eltham Central Park, Eltham and Coventry Oval, Diamond Creek locations on the satisfactory resolution of the following conditions;
    - i) Council's lawyer to prepare a Licence Agreement
    - ii) Council's valuer to determine a rental valuation
    - iii) Licence Agreement to have a maximum expiry of 24 months
    - iv) Licence Agreement to require upgrade of these parking areas with new bitumen hardstand, stormwater drainage, line marking, parking signage, lighting and footpaths
    - v) All costs to be met by Level Crossing Removal Project

**12. Officers' reports**

**OCM.169/20 Hurstbridge Line Upgrade - Stage 2 'offset parking' and boundary extension**

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- d) Council has no objection to the addition of roads for access to the rail corridor (George Street Diamond Creek) and rail system upgrades at the corner of Fyffe Street and Main Hurstbridge Road, Diamond Creek.

**Attachments**

1. Eltham Central and Coventry Oval car park areas

**Background**

1. The Hurstbridge Line Upgrade Stage 2 involves:
- Building a new railway station at Greensborough;
  - A major upgrade to Montmorency Station;
  - The duplication of three kilometres of track between Greensborough and Montmorency (from Greensborough to Sherbourne Road just east of Montmorency station); and
  - The duplication of 1.5 kilometres of track between Diamond Creek and Wattle Glen (from the east end of Diamond Creek Station to just before Wattle Glen).
2. Council has received briefings on Hurstbridge Line Upgrade - Stage 2 (refer 17 December 2019, 28 January 2020 and 28 April 2020).
3. The Level Crossing Removal Project has requested Council support to access additional land to deliver the Hurstbridge Line Upgrade - Stage 2. Councillors were briefed on the specific issue of potential temporary 'offset' parking on 7 July 2020 and 1 September 2020.
4. This additional land is outside the approved project boundary and is required for:
- a) Temporary commuter car parking at Eltham Central Park and Library Place, Eltham to offset parking at Montmorency Station which will be disrupted by project works.
  - b) Temporary commuter car parking at Main Hurstbridge Road, Diamond Creek to offset car parking at Diamond Creek Station which will be disrupted by project works.
  - c) Additional roads for access to the rail corridor, and
  - d) Rail system upgrades at the corner of Fyffe Street and Main Hurstbridge Road, Diamond Creek.
5. Council is asked to respond to the Level Crossing Removal Project request for additional land to deliver the Hurstbridge Line Upgrade - Stage 2.

**12. Officers' reports**

**OCM.169/20 Hurstbridge Line Upgrade - Stage 2 'offset parking' and boundary extension**

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**Policy context**

6. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Advocate effectively for Nillumbik's interests at a state and national level.

**Budget implications**

7. There are no budget implications for Council with this matter.

**Consultation/communication**

8. The Level Crossing Removal Project undertook community consultation in the Shire of Nillumbik in January 2020. 176 submissions were received by the Level Crossing Removal Project to this consultation. Council's submission identified a number of shortcomings which have not yet been addressed. These shortcomings included:
- a) Diamond Creek level crossing removal not in scope
  - b) Diamond Creek pedestrian crossing of railway line in the vicinity of Diamond Valley Secondary College and Diamond Creek East Primary School not in scope
  - c) A shared trail along the line between the Greensborough station and Sherbourne Road East is not in scope (which is identified by the State Government as a Strategic Cycling Corridor)
  - d) A shared trail along the Diamond Creek to Wattle Glen duplication works is not in scope
  - e) Improvements at Diamond Creek Railway Station, such as widened Platform 2, improved accessibility and shelter is not in scope
9. Council does not support the project in its current form. There are major safety implications, particularly for the community of Diamond Creek of the current project scope. This was considered by Council on 28 January 2020 Ordinary Council Meeting and included in Council's February 2020 submission.
10. On 29 June 2020, the Minister for Planning approved the Project Boundary under Clause 52.03 - Level Crossing Removal Project. The 148 page Consultation Report for Hurstbridge Line Upgrade – Stage 2 resulted in no changes to address any of the shortcomings identified by Council's submission.
11. Officers are advised that LXR is proposing targeted consultation with stakeholders for potential ancillary areas that will be mailed via Australian Post in the week commencing 7 September 2020, with submissions open until Friday 2 October 2020.
12. Construction is expected to begin late 2020 and be completed late 2022.

12. Officers' reports

**OCM.169/20 Hurstbridge Line Upgrade - Stage 2 'offset parking' and boundary extension**

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**Issues/options**

13. The Level Crossing Removal Project requires Council consent for a Licence Agreement for two possible sites in Eltham and two possible sites in Diamond Creek for 'offset' commuter car parking:
  - a) Library Place Eltham. Officers consider the former Civic Centre would be a controversial location, having previously had a commercial development proposed and later withdrawn, of significant historical connection to Eltham as the former Shire Office, at a very prominent 'gateway' location, and is currently being considered by DHHS as a potential community hospital location.
  - b) Eltham Central Park (shown in Attachment 1). Officers consider the Eltham Central Oval has a number of competing user groups including a new U3A facility, child care, recreation and sporting (which can be managed through appropriate signage and parking enforcement that provides for short term parking for the Child Care Cooperative and other community groups in the south-east corner). Council's 5-year Capital Works program has identified reconstruction of the circulatory road, drainage improvements and sealed car parking.
  - c) Two locations within the road reserve at Main Hurstbridge Road, Diamond Creek. Officers do not support these two locations as they form part of the landscaped gateway to Diamond Creek or are currently parking spaces used by the schools. Despite being within the road reserve and under the Department of Transport (formerly VicRoads) control, LXRP may still require Council permission under the Road Management Act to use these sites on Main Hurstbridge Road, Diamond Creek.
14. The Level Crossing Removal Project propose to use these parking locations to 'offset' approximately 80 car parking lost when the Level Crossings Removal Project close Montmorency station for the duration of the project (18-24 months).
15. In earlier discussions with Officers, the Level Crossing Removal Project also considered Coventry Oval as a possible 'offset' parking location (shown in **Attachment 1**), however this was not included in the Level Crossing Removal Project request received by Council.
16. Officers would support the use of Coventry Oval as an 'offset' parking location on similar terms to the proposed Eltham Central Licence Agreement. Plans for the Coventry Oval are not as developed as Eltham Central Oval but could be produced under agreement with the LXRP. A report prepared by GTA Consultants for Nillumbik Shire Council in July 2013 identified 250 carparks are available around Coventry Oval but works are required to formalise them.

**Conclusion**

17. Council is asked to respond to the Level Crossing Removal Project request for additional land to deliver the Hurstbridge Line Upgrade - Stage 2.



**12. Officers' reports****OCM.170/20 Bushfire Mitigation (Fire Prevention) Works Program 2020-2021**

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**Distribution:** Internal use only**Manager:** Blaga Naumoski, Executive Manager Governance, Communications and Engagement**Author:** Kim Halse, Emergency Management Lead**Summary**

Council makes an annual allocation of funding towards works on Council owned and managed land to prepare for the Fire Danger Period. The annual Bushfire Mitigation Works Program has been developed in consultation with the Municipal Fire Management Planning Committee and includes planned work on roadsides and in Council reserves. The planned works are well underway and are planned to be completed by the end of December 2020 depending on weather conditions.

All Neighbourhood Safer Places (Bushfire Places of Last Resort) are required to be assessed each year by the Country Fire Authority (CFA) and Council is required to record the outcome of these assessments. All sites have been reassessed as being compliant.

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

1. Notes the Bushfire Mitigation Works Program 2020-2021 (**Attachment 1**).
2. Notes, that as part of the annual review process, the Neighbourhood Safer Places (Bushfire Places of Last Resort) located at:
  - a) Diamond Hills Reserve Oval, Greensborough
  - b) The Outdoor Performance Centre, Greensborough
  - c) Diamond Creek Community Centre, Diamond Creek
  - d) Yarrambat Park Golf Course Clubrooms, Yarrambat
  - e) Hurstbridge Basketball Stadium, Hurstbridge
  - f) Car park between Arthur and Dudley Streets, Eltham
  - g) Collendina Reserve, Greensborough

have been reassessed by the Country Fire Authority and have been found to still meet the criteria for designation as a Neighbourhood Safer Place (Bushfire Place of Last Resort).

**Attachments**

1. Bushfire Mitigation Works Program 2020-2021

**12. Officers' reports**

**OCM.170/20 Bushfire Mitigation (Fire Prevention) Works Program 2020-2021**

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**Background**

1. Section 43 of the *Country Fire Authority Act 1958* (CFA Act) requires municipal councils to take all reasonable steps to prevent fire starting and spreading from land under their control. To meet this requirement, Council works with the Municipal Fire Management Planning Committee to develop an annual Works Program.
2. The 2020-2021 Works Program forms part of the 2020-2023 Municipal Fire Management Plan (MFMP). The MFMP has an agreed process for the identification of priority roads and treatments that need to be applied to these roads.
3. Section 50 of the CFA Act requires municipal councils to undertake an annual review of all Neighbourhood Safer Places to determine if they are still suitable to be designated as such.

**Policy context**

4. This report directly supports the achievement of Council Plan 2017-2021 strategic objectives:
  - a) Engaged, connected communities; and
  - b) Safe and healthy environments.

**Budget implications**

5. Implementation of the Bushfire Mitigation Works Program is funded through the operational budgets of Emergency Management, Open Space and the Environmental Works units.

**Consultation/communication**

6. The development of the Bushfire Mitigation (Fire Prevention) Works Program 2020-2021 has been established through assessments conducted by officers and is based on feedback and the strategic intent provided through the Municipal Fire Management Planning Committee.
7. The program is based on the MFMP and will be published on Council's website.
8. Updates on the status of the Bushfire Mitigation Works Program will be provided to Councillors encouraging visibility of the program status.

**Issues/options**

9. The Municipal Fire Management Planning Committee is currently reviewing the MFMP. The MFMP informs Council as to where the most effective works can be carried out to mitigate bushfire risk.
10. The priority for works on Council reserves have also been developed using a risk based approach. This has considered possible ignition sources such as power lines, history of ignitions within the reserves, the ability for fire to spread from the reserve combined with the proximity of assets such as houses and schools, and the size of the reserve to give a relative rating of risk and priorities for works.

12. Officers' reports

OCM.170/20 Bushfire Mitigation (Fire Prevention) Works Program 2020-2021

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11. Qualitative and quantitative data (if available) is used to determine which roads are primary roads. Factors considered for determining primary roads include:
  - Lack of alternative routes
  - Location of vulnerable groups e.g. aged care facilities
  - Number of roads feeding into the road
  - Number of residents likely to be isolated
  - Road being cited in Community Information Guides
  - Access to Neighbourhood Safer Places (Bushfire Places of Last Resort)
  - Roads listed in Local Response Plans (CFA)
12. Secondary roads that are less important and/or could provide alternative access and egress if a primary road fails will also be treated.
13. A range of treatments will be applied where practical to primary and secondary roads as follows:
  - Slashing
  - Box clearance
  - Proactive tree assessment
  - Woody weed removal
14. Other treatments undertaken on roadsides include:
  - Managing regrowth in the fire affected area
  - In collaboration with local CFA brigades, undertaking planned burns to complement other vegetation management works.
15. Numerous other initiatives have been put in place after the Black Saturday fires, one being the Neighbourhood Safer Places (Bushfire Place of Last Resort) (NSPs).
16. NSPs are identified buildings or spaces within the community that may afford some protection from radiant heat, the biggest killer during bushfire. They are a place of last resort in bushfire emergencies only.
17. NSPs are assessed by council committees and formally designated by Council. They will also be assessed by CFA against standards in the NSP Assessment Guideline.
18. The CFA Act requires that each designated NSP is assessed each year before 31 August for compliance with the CFA criteria.
19. Nillumbik has seven sites designated as NSPs. All sites within Nillumbik have been reassessed have been deemed to continue to comply.

**12. Officers' reports**

**OCM.170/20 Bushfire Mitigation (Fire Prevention) Works Program 2020-2021**

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**Conclusion**

20. The development of the Bushfire Mitigation Works Program 2020-2021 has taken a strategic and risk based approach to aligning the works planned with clear fire management objectives. This has included continued input at the local level from the CFA and the Municipal Fire Management Planning Committee. It is recommended that Council endorses the program.
22. A review of the Neighbourhood Safer Places (Bushfire Places of Last Resort) has also been conducted with all sites remaining compliant.

12. Officers' reports

**OCM.171/20 Whittingham Circuit, Greensborough - Public Notification on Proposed Sale**

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**Distribution: Public**

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

**Author: Natalie Campion, Coordinator Property**

**Jonathon Miller, Manager Property and Facilities Maintenance**

**Summary**

Council owns a substantial parcel of land (the land), located at Whittingham Circuit, Greensborough. Depicted in **Attachment 1 & 2**, the land has a total area of approximately 4,733 square metres, and has been subdivided into 14 individual lots, ranging in size from 266 – 493 square metres.

Following a Council decision in 2012, the land has been developed as a residential subdivision, and is within the General Residential Zone – Schedule 1 (GRZ1) of the Nillumbik Planning Scheme.

Works completed to the development include installation of water, gas, electric and sewerage services to the 14 lots, as well as construction/installation of roads, drainage, crossovers, street lighting and approved landscaping.

In order for Council to sell, transfer or exchange its land, it must comply with sections 189 and 223 of the *Local Government Act (1989)* (the Act).

Section 189 (2a) requires Councils to give at least four weeks public notice of its intention to sell the land, and under section 189(3), allow interested parties to make a submission under section 223; on the proposed sale. In essence, section 189 requires councils to consult with the public on the proposed sale of the land and give ratepayers and residents an opportunity to have their views heard, prior to Council making a final decision to proceed (or otherwise) with the sale.

This report provides a technical description of the land Council is proposing to sell and the proposed transaction strategy. It also seeks a Council resolution to allow officers to implement the administrative tasks Council is required to complete in order to make a final decision to proceed with the proposed sale.

12. Officers' reports

OCM.171/20 Whittingham Circuit, Greensborough - Public Notification on Proposed Sale

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**Recommendation**

**That Council:**

1. Resolves to commence the necessary process under sections 189 and 223 of the *Local Government Act 1989* (the Act) to consider the sale, as a single parcel, of the land located at Whittingham Circuit, Greensborough (the Land), comprising the 14 lots described as:
  - a) Lot 13 on Plan of Subdivision 719931S, Vol 11955/Folio 109;
  - b) Lot 14 on Plan of Subdivision 719931S, Vol 11955/Folio 110;
  - c) Lot 15 on Plan of Subdivision 719931S, Vol 11955/Folio 111;
  - d) Lot 16 on Plan of Subdivision 719931S, Vol 11955/Folio 112;
  - e) Lot 17 on Plan of Subdivision 719931S, Vol 11955/Folio 113;
  - f) Lot 18 on Plan of Subdivision 719931S, Vol 11955/Folio 114;
  - g) Lot 19 on Plan of Subdivision 719931S, Vol 11955/Folio 115;
  - h) Lot 20 on Plan of Subdivision 719931S, Vol 11955/Folio 116;
  - i) Lot 21 on Plan of Subdivision 719931S, Vol 11955/Folio 117;
  - j) Lot 22 on Plan of Subdivision 719931S, Vol 11955/Folio 118;
  - k) Lot 23 on Plan of Subdivision 719931S, Vol 11955/Folio 119;
  - l) Lot 24 on Plan of Subdivision 719931S, Vol 11955/Folio 120;
  - m) Lot 25 on Plan of Subdivision 719931S, Vol 11955/Folio 121; and
  - n) Lot 26 on Plan of Subdivision 719931S, Vol 11955/Folio 122;
2. Directs that the public notice must state that Council's intention is to sell the Land as a single parcel through a public Expression of Interest process (but, if the Land is not sold, by private treaty), on the following terms:
  - a) the price shall be not less than the valuation held by Council; the purchaser and future landowners must not consolidate or subdivide any of the lots comprising the Land for a period of at least 10 years after settlement of the contract of sale; and
  - b) such other terms as reasonably required by Council;
3. Authorises the Manager Property and Facilities Maintenance to undertake the administrative procedures necessary to enable Council to carry out its functions under sections 189 and 223 of the Act in relation to this matter; and
4. In accordance with section 223 of the Act, considers any submissions on the proposed sale of the Land at a Future Nillumbik Committee meeting, prior to making any final decision on whether to proceed with the sale of the Land.

**12. Officers' reports**

**OCM.171/20 Whittingham Circuit, Greensborough - Public Notification on Proposed Sale**

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**Attachments**

1. Lots 13-26 Whittingham Circuit, Greensborough
2. Extract of Plan of Subdivision lots 13-26 Whittingham Circuit, Greensborough

**Background**

1. Council prepared a concept plan for the Civic Drive precinct in November 2010.
2. The concept plan identified two parcels of Council owned land with a total area of approximately 1 hectare that was considered surplus to Council requirements, and could potentially be developed as a residential subdivision and sold.
3. Council completed public consultation on the proposed sale of the land, and confirmed its intention to sell the land in May 2012.
4. Since that time, the land has been rezoned from Public Use Zone (6), to General Residential Zone – Schedule 1 (GRZ1) and subdivided into 26 individual lots. A planning permit was obtained for the development, and included designs for dwellings on each lot.
5. Lots 1-12 were offered as a “super lot” and sold to a single purchaser in 2017, with a Section 173 Agreement (Planning and Environment Act 1987) being attached to the Certificate of Title of each lot, to require the purchaser to construct the dwellings as per the approved plans.
6. Lots 13-26 have been offered to the market on two separate occasions through Expression of Interest processes. On both occasions settlement was not achieved.
7. Given the time that has passed over the development and sale process, it is prudent to undertake a new Section 189 and 223 public consultation process prior to considering placing the land on the market again.

**Policy context**

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

**Budget implications**

9. The costs of complying with the statutory requirements for Council to consider the sale of the land will be sourced from operational budgets within the Property and Facilities Maintenance Department.

**Consultation/communication**

10. The sale of Council land is subject to the requirements of section 189 of the Local Government Act 1989, which requires Council to give a minimum four weeks public notice of its intention to sell land and invite public submissions on the matter. Council is further required, in accordance with section 223 of the Act, to consider the contents of public submissions, prior to making any decision to proceed with the proposed sale.

**12. Officers' reports**

**OCM.171/20 Whittingham Circuit, Greensborough - Public Notification on Proposed Sale**

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**Issues/options**

11. On the basis of two failed settlements and changes in the property market since 2012, Council officers sought independent professional advice on an appropriate strategy to sell the land (a transaction strategy).
12. Balancing the objectives of attracting interest in the land in the current market, realising a sale, and timely development, the independent advice recommended to sell the land to a single purchaser, without a requirement to construct the dwellings as designed in the current approved plans.
13. This means design controls over the land would be those that apply to the land under the Nillumbik Planning Scheme. Eight of the fourteen lots are below 300m<sup>2</sup> and are subject to planning permit approval. The remaining 6 lots are subject to ResCode requirements.
14. This approach reflects market expectations for comparable sites.
15. Council officers consider it prudent, on balance, to introduce two additional points of risk mitigation in the transaction strategy:
  - a) The first relates to a potential purchaser consolidating or further subdividing titles and increasing built form density on the site, which was a key concern reflected in public consultation conducted as a part of the project. Therefore the potential sale of the land should be subject to a control to limit any future consolidation or subdivision of titles.
  - b) The second relates to settlement. The approach where settlement on the sale is subject to planning approval, introduces additional timeframes and uncertainty in concluding a sale. For example, a purchaser would have the right to terminate the Contract of Sale if planning approval is withheld. Therefore a settlement period should be included in the Contract of Sale. The set settlement period can be by negotiation and longer than the standard 30, 60 or 90 day period, to provide a reasonable time for a purchaser to be free of holding costs.

**Conclusion**

16. The Council owned land located at Whittingham Circuit, Greensborough (Lots 13-26 on Plan of Subdivision 7199315) was developed by Council as a residential subdivision. All services installation, civil construction and landscaping associated with development of the 14 lots has been completed.
17. In order to consider its future sale, Council must undertake a public consultation process in accordance with section 189 and 223 of the *Local Government Act (1989)*, by notifying the public of its intention to sell the land, inviting, hearing and considering the contents of public submissions prior to any final decision being made by Council to sell the land.
18. In order for officers to initiate administrative tasks associated with these statutory requirements, Council must resolve to commence the required process.





12. Officers' reports

OCM.172/20 Financial Hardship Policy - COVID-19 Pandemic Event

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**Distribution:** Public

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

**Author:** Melika Sukunda, Finance Manager

**Summary**

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

Council has a Financial Hardship Policy – COVID-19 Pandemic Event which was endorsed by Council in April 2020. The temporary policy provides guidelines to assist in the assessment of applications received for the deferment of rates and charges due to financial hardship.

The latest review has been conducted in response to the continuing COVID-19 Pandemic Event (the event) and staged restrictions.

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

1. Endorses the Financial Hardship Policy – COVID-19 Pandemic Event (**Attachment 1**).
2. Notes that these temporary provisions will be reviewed at the March 2021 Council Meeting..

**Attachments**

1. Financial Hardship Policy - COVID-19 Pandemic Event

**Background**

1. Council has a Financial Hardship Policy to provide guidance regarding the deferment of rates and charges and the waiving of penalty interest charges in line with *Local Government Act 1989* and the *Penalty Interest Rates Act 1983*.
2. This temporarily revised policy seeks to balance equity and equality across all ratepayers within the Shire.
3. The previous version of this policy were presented to Council in April 2020 and to the Audit and Risk Committee in May 2020.
4. This version of the policy is due for review in September 2020 as part of Council’s ongoing COVID-19 response.

**Policy context**

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

**12. Officers' reports**

**OCM.172/20 Financial Hardship Policy - COVID-19 Pandemic Event**

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- Maintain good governance and effective leadership.

**Budget implications**

6. Council may experience a reduction in cash-flow during the event resulting from the non-payment of rates instalments.
7. Penalty interest forms part of the budget and under the temporary measures there may be an impact as a result.

**Consultation/communication**

8. The previous version of the policy was presented to the Audit and Risk Committee in May 2020.

**Policy**

Revision

9. The policy has been revised to extend existing COVID-19 related provisions to 31 March 2021, in response to the ongoing pandemic event.
10. Extending the policy ensures consistency with provisions of other levels of government.
11. The temporary provisions are being accessed by ratepayers across the Shire.

Considerations during the COVID-19 Pandemic Event

12. Allows the relaxing of provisions within the policy to expedite the granting of rates and charges deferral or interest free period(s).
13. Financial counselling requirements prior to the acceptance of a financial hardship application have been temporarily suspended.
14. A secondary interest free period to 31 March 2021 has been set, to be reviewed at that time.
15. Payment arrangements will not be mandatory to receive the interest free period for the property owner's primary residence.
16. The property owner or the named agent on the rates instalment notice may make an application. Tenants must contact their property owner or the named agent to apply.
17. Owners of investment or holiday property will be able to apply for hardship consideration during the event, provided they enter into a payment arrangement.

**Conclusion**

18. Council's Financial Hardship Policy has been updated and is presented to Council for formal endorsement.
19. The temporary provisions will be reviewed and assessed when the interim measures can be lifted.

**12. Officers' reports****OCM.173/20 Temporary and Community Advertising Signage Policy**

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**Distribution: Public****Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author: Jonathan McNally, Manager Community Safety and Amenity****Summary**

Council receives requests throughout the year for the display of temporary community event signage on Council land. The display of temporary signage is considered to be vital for communicating upcoming events to the community. Under Council's Amenity Local Law, signage cannot be displayed on Council Land without a permit.

The revised draft Temporary and Community Advertising Signage Policy (**Attachment 1**) has been developed to create a framework for the control of all temporary signage throughout the Shire, establishing fixed locations for the display of temporary event signage, and provides greater clarity for community groups seeking to advertise upcoming events.

At the 24 March 2020 Ordinary Council Meeting, Council endorsed the draft Temporary and Community Advertising Signage Policy for public consultation. The public consultation period was held between 26 March 2020 and 29 April 2020, and Council received 23 written submissions. An overview of the feedback received in the submissions and an officer response to the feedback is attached to this report (**Attachment 2**). All submissions were considered at the Future Nillumbik Committee meeting on 12 May 2020. In response to the submissions received, a revised Temporary and Community Advertising Signage Policy has been developed.

Council considered the draft policy at the 23 June 2020 OCM and resolved to defer the adoption of the policy pending further community and stakeholder feedback, with the draft policy to be reported back to Council in July 2020.

The draft policy was further deferred at the July OCM, to allow this additional consultation to occur. In total, 83 community groups, sporting clubs and private organisations were contacted directly in July, and 12 groups were represented over 4 forums with Councillors and Council Officers.

This report summarises the feedback in the written and verbal submissions received on the draft Temporary and Community Advertising Signage Policy, as well as providing a response to the submissions and revisions to the revised draft policy.

This report recommends that Council, having considered all submissions, resolves to adopt the revised draft Temporary and Community Advertising Signage Policy.

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

1. Adopts the Temporary and Community Advertising Signage Policy (**Attachment 1**).
2. Instructs officers to commence implementation of the Policy.

**12. Officers' reports**

**OCM.173/20 Temporary and Community Advertising Signage Policy**

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3. Instructs officers to commence a review of roadside signage along Main Road Eltham and Main Hurstbridge Road Diamond Creek and liaise with the Department of Transport to have signage removed where appropriate.

**Attachments**

1. Temporary and Community Advertising Signage Policy
2. Temporary Signage Policy Submissions and Responses

**Background**

1. An existing Council policy, the *Erection of Temporary Advertising Signs for Community Events on Road Reserves and Council Property Policy*, guides decision making under a local law for community event signage on Council land and road reserves.
2. A review of the current policy has been undertaken by Officers, and has resulted in the development of a draft Temporary and Community Advertising Signage Policy which sought to respond the abovementioned Council resolutions as outlined at paragraphs 2 and 3 of this section.
3. Following the exhibition process, Council officers have considered the submissions received, and have now prepared a revised draft Temporary and Community Advertising Signage Policy. In order to address shortcomings in the current policy, improve customer experience, and provide a streamlined approach to temporary signage, the revised draft Temporary and Community Advertising Signage Policy aims to provide consistent policy to guide the erection of temporary signage, and to provide a variety of signage locations better suited to events of varying sizes.
4. Council considered the draft policy at the 23 June 2020 OCM and resolved to defer the adoption of the policy pending further community and stakeholder feedback, with the draft policy to be reported back to Council in July 2020.
5. The draft policy was further deferred at the July OCM, to allow this additional consultation to occur. In total, 83 community groups, sporting clubs and private organisations were contacted directly in July, and 12 were represented over 4 facilitated discussions with Councillors and Council Officers.
6. Submissions received through both rounds of consultation have now been considered, and have informed the development of the revised draft Temporary and Community Advertising Signage Policy.

**Policy context**

7. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Improve the appearance of public spaces..

**12. Officers' reports**

**OCM.173/20 Temporary and Community Advertising Signage Policy**

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**Budget implications**

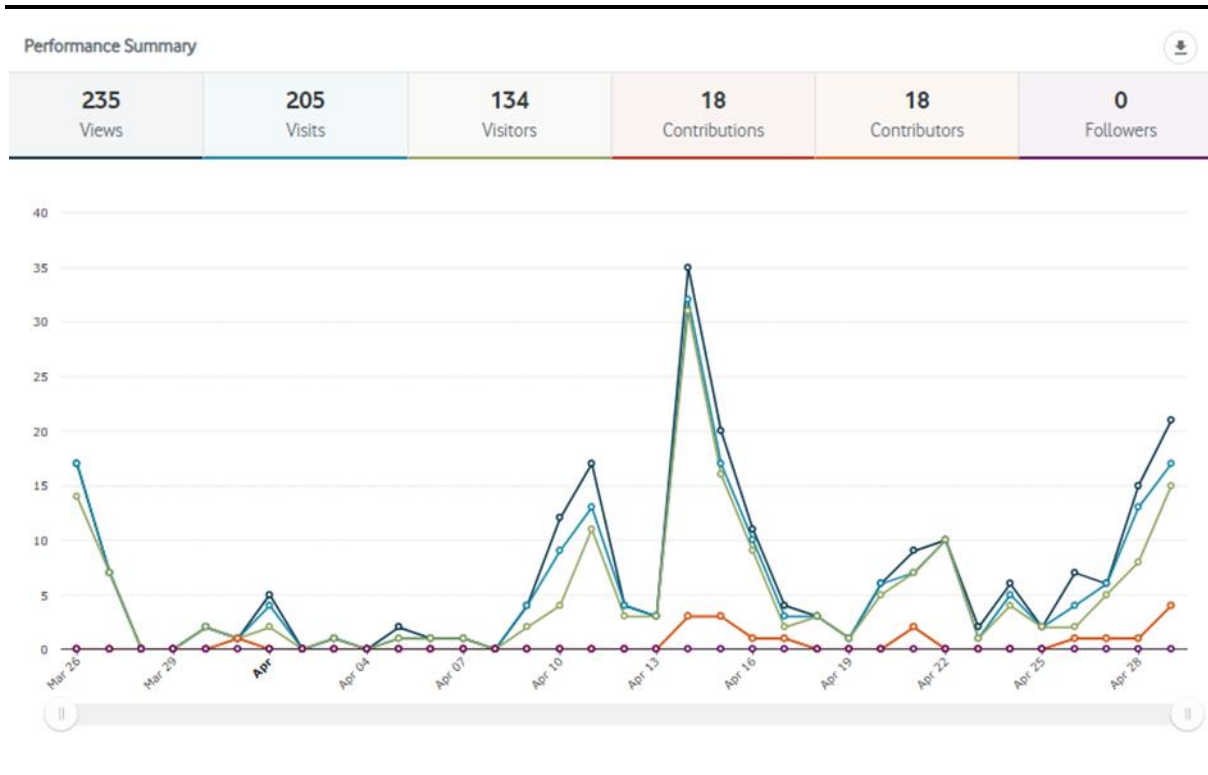
8. The development of the draft Temporary and Community Advertising Signage Policy has been carried out by Council staff with no budget implications.
9. Installation of all infrastructure will be accounted for within the 2020/2021 Community Safety budget. No additional budget is sought as a result.

**Consultation/communication**

10. A total of 23 submissions have been received during the initial consultation period from 26 March 2020 to 29 April 2020. Following the June OCM, a further 83 community groups, sporting clubs and private organisations were invited to attend a number of facilitated discussions with Councillors and Council Officers with regards the draft policy. In total the four sessions hosted 12 groups as detailed below:
  - Rotary Eltham Festival
  - Eltham & District Woodworkers
  - Hurstbridge Wattle Festival
  - Diamond Creek Traders Association
  - Montsalvat
  - Eltham Chamber of Commerce
  - Eltham Farmers Market
  - Diamond Valley Lions Club
  - Diamond Creek Baseball Club
  - Eltham Little Theatre
  - Diamond Creek Carols
  - Eltham North Wanderers Cricket Club
11. The chart below illustrates participation data recorded through the Participate Nillumbik portal during the first round of consultation.

12. Officers' reports

OCM.173/20 Temporary and Community Advertising Signage Policy



12. Of the first round submissions received, 76% have identified that they do not agree with some of the guidelines set out in the draft policy. A detailed analysis of responses indicates that there are diametrically opposed reasons for this level of opposition to the draft policy. An example of this is equal numbers of submitters stating that the policy is either overly restrictive or not restrictive enough.
13. Commentary within the submissions is diverse, with no single strong themes that can easily be identified with the exception of strong opposition to the Nillumbik Banner Program. The key themes identified in the submissions received are as follows:
  - Support for limitations on signage to mitigate the impact to the character of the area. In particular protection of the Eltham Gateway is seen as crucial.
  - Most submitters identified visual clutter caused by signage as their key concern inclusive of all types of signage.
  - Strong opposition to the Nillumbik Banner program including poles located in the Eltham and Diamond Creek town centres. 11 submitters were directly opposed to the banners, with a further two (2) stating concerns with this program.
  - Considerable support for the introduction of controls relating to the display of real estate signage.
  - Two (2) submissions raise concern with Council’s ability to enforce existing, let alone proposed, temporary signage controls.
14. Following verbal submissions made at the 12 May 2020 Future Nillumbik Committee meeting, additional themes raised included:

12. Officers' reports

OCM.173/20 Temporary and Community Advertising Signage Policy

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- a) The Diamond Creek Banner Poles are currently managed by the Diamond Creek Traders Associated, with installation funded by Diamond Creek Traders. The proposed policy should not apply to this existing infrastructure.
  - b) There is an excessive level of signage along main roads within the Shire. Existing signage should be rationalised and reduced wherever possible.
15. Key feedback from the groups represented during the second round facilitated discussions included:
- Groups were generally supportive of the locations selected for the display of signage, and understood the need to balance advertising events and setting aside certain locations for emergency management signage.
  - There was concern that the difference between a 'major' event and 'minor' event was not clear.
  - Concern that smaller events or groups would not have access to the larger 'major event signage' locations.
  - Concern that many groups had existing banner signs that they would no longer be able to use as a result of the policy.
  - Concern that there was a lack of ability to display signage on the site of events. The Diamond Creek Carols was an example of an event unable to advertise on the reserve where the event takes place.
  - Confusion over the types of banners that could be displayed through the banner program in Eltham. Greater clarity was requested in relation to the purpose of banners displayed through this program.
  - The size of the banners to be displayed was queried.
  - Clarification was sought in relation to the need for public liability insurance.
  - Council needs to provide detail of controls for temporary signage on private properties.
  - The policy does not allow sufficient advertising opportunity for sporting clubs when advertising club registration days.
16. Following the second round of consultation, submissions received were considered at the 9 September Future Nillumbik Committee, and the revised draft Temporary and Community Advertising Policy has been prepared to address the submissions received through both rounds of consultation.



**12. Officers' reports****OCM.173/20 Temporary and Community Advertising Signage Policy**

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**Issues/options**

17. Officers have prepared a revised draft Temporary and Community Advertising Signage Policy in response to submissions received and advocacy from Councillors. Specific responses to each submission have also been developed and are attached to this report. Specific amendments to the revised draft policy in response to the first round submissions include:
- Inclusion of Real Estate Agents as a key group to which the policy applies;
  - Greater clarification of existing controls relating to advertising signage at sporting grounds;
  - Revised objectives including the need to provide sufficient opportunity for the display of approved signage in order to reduce the display of non-approved temporary signage throughout the Shire;
  - Simplified compliance requirements;
  - Deletion of the existing Diamond Creek banner poles from the policy; and
  - Additional controls in relation to Real Estate pointer boards.
18. The intention of the revised draft policy is to introduce controls to prevent the current ad hoc and excessive display of temporary signage throughout the Shire. The establishment of permanent locations throughout the Shire for the display of temporary signage is intended to provide opportunity for community events to be advertised, whilst providing a framework to prevent the display of signage outside of the established locations. The policy would work in tandem with Council's existing Amenity Local Law, and will provide Council officers with additional powers to prevent the illegal display of signage throughout the Shire. In turn, this will allow Council to further protect the unique character and amenity of the Shire by reducing opportunity to display signage outside of the locations established within this policy.
19. Although submitters have indicated strong opposition to the Nillumbik Banner program, particularly the installation of banners poles located in the Eltham town centre, it important to note that this policy is intended to establish a framework for the use of this infrastructure, and has never been intended as justification for the installation of the banner poles themselves. The installation of the banner poles has already been processed through a public planning application process, and the banner poles themselves were installed in May 2020. The intention of this policy is to place controls over the size, type and nature of the information to be displayed on the banners, in accordance with documentation attached to the planning approval.
20. With regard the enforcement of temporary signage, the draft policy in conjunction with Nillumbik Shire Council Amenity Local Law provides the necessary provisions to review erected signage and take appropriate action as required on each individual unapproved temporary sign erected.

12. Officers' reports

OCM.173/20 Temporary and Community Advertising Signage Policy

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21. Specific concern has also been raised with the volume of signage, primarily along main roads throughout the Shire. In particular, there are examples of signage that are out of date or confusing. Existing signage should be rationalised and reduced wherever possible. Traffic, direction or wayfinding signage along main roads is controlled by the Department of Transport. It is appropriate that Council advocate for a review of signage along major arterial roads (such as Main Road Eltham and Diamond Creek), and seek rationalisation of signage, and removal of signage where it is no longer relevant.
22. The purpose of the second round of consultation was to road test the draft policy with core users. By and large, the feedback received from participants during the second round of consultation was positive, with participants generally supportive of the intent of the policy and the need to control the proliferation of temporary signage throughout the Shire.
23. It was however evident that the draft policy required some refinement to better suit the needs of users of the policy, and to clarify the intent and mechanisms for the implementation of the policy.
24. As a result of the feedback received through both rounds of consultation, the policy has been revised to incorporate the following key changes:
  - Signage to be displayed to be of 'direct benefit to the community' to allow for some events outside the shire (such as ANZAC Day celebrations to access signage sites;
  - Insertion of a new section relating to event hierarchy, which provides a revised definition of what is a 'Major' event and what is a 'Minor' event, including the ability for all events to access both large and small 'What's on' signage locations;
  - Revised terminology used to describe signage locations from 'major' and 'minor' to 'large' and 'small – What's On' locations;
  - Additional detail provided in relation to insurance requirements;
  - Additional detail provided in relation to the display of tethered signs;
  - Introduced the ability for events to display one sign on the location where the event is being held;
  - Regularised signage booking times from Monday to Monday; and
  - Revised guidelines for the Nillumbik Banner Program (changes to the dimensions of the banners will require an amendment to the planning permit).
25. Following consideration of the revised draft policy and submissions at the Future Nillumbik Committee meeting on 8 September 2020, a final number of changes made with respect the following points:
  - Deletion of reference to no events of a commercial nature in the policy scope section. This reference was deleted to remove confusion around markets and similar events which are generally of a commercial nature.
  - Additional clarification added to the compliance section where it relates to the need for liability insurance for signage applications.

**12. Officers' reports**

**OCM.173/20 Temporary and Community Advertising Signage Policy**

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- A small change to the description of the Nillumbik Banner Program to remove confusion regarding guidelines for the design of the banners.
26. The revisions to the draft policy are aimed at ensuring the policy satisfies its intended aims of the policy to control the proliferation of temporary signage throughout the Shire, and also meets the needs of regular users of the policy. The revised draft policy intends to achieve a fine balance between these two core objectives.

**Conclusion**

27. The revised draft Temporary and Community Advertising Signage Policy will provide the necessary direction and guidelines for the management of the temporary and community advertising signs erected in the Shire.
28. This report summarises the responses to submissions received and highlights the key themes received. Submissions received have been considered, and the revised draft Temporary and Community Advertising Signage Policy has been amended accordingly.
29. After extensive review and consultation, the revised draft Temporary and Community Advertising Signage Policy is ready for adoption by Council. Officers recommend that the Policy be adopted and communicated with the community, and implementation of the Policy commence as of July 2020.

**12. Officers' reports****OCM.174/20 Kangaroo Ground War Memorial Park Master Plan - Concept**

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**Distribution: Public****Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author: Andrew Feeney, Senior Urban Designer****Summary**

A Concept has been prepared for the Kangaroo Ground War Memorial Park (**Attachment 1**). The Concept is as a key product achieving a critical project milestone in the Kangaroo Ground War Memorial Park Master Plan project, and an expected Council project deliverable for the 2019/20 year. Council's endorsement of the Concept is being sought, along with Council's endorsement for its Officers to proceed to the master plan phase of the project to project completion.

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

1. Endorses the Concept (**Attachment 1**) as a formative product of the Master Plan project.
2. Endorses the Concept (**Attachment 1**) being made available on Council's Participate Nillumbik website, for information only (along with information about the project's next steps including public consultation to obtain feedback on a Draft Master Plan).
3. Endorses Officers to proceed with the Master Plan phase of the project, based on the Concept (**Attachment 1**), including:
  - a) Preparing a Draft Master Plan for public review, and
  - b) Completing the Master Plan for adoption at a future Council Meeting.

**Attachments**

1. Kangaroo Ground War Memorial Park Concept
2. CFA letter 19 August 2020

**Background**

1. The Concept (**Attachment 1**) is a key component and milestone product of the long term master plan project for the Kangaroo Ground War Memorial Park.
2. The master plan project has set out to provide a long-term framework for guiding change, in a coordinated way, toward a future desired state that has the greatest net community benefit.

12. Officers' reports

OCM.174/20 Kangaroo Ground War Memorial Park Master Plan - Concept

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3. The Concept, as an interim product of the master plan project, captures the essential ideas in relation to park access, circulation, spaces and features in a way that maintains and enhances the war memorial park's public value.
  4. The Concept provides the conceptual basis for the subsequent preparation of the long term master plan that will further outline capital works, maintenance, costs, priorities, governance and implementation timeframes.
  5. The design intent and scope of the Concept is consistent with the design and intent of the Draft Concept presented to Council at the Councillor Briefing on 1 September, 2020 (OB. 132/20) and to stakeholders at the stakeholder review meeting held 20 August 2020.

**Policy context**

6. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Develop policies, strategies, projects and partnerships to enhance the health and wellbeing of the community.

**The Concept**

7. The Concept is founded on the following principles:
  - Providing a new vehicle entry where sight lines along Eltham Yarra Glen Road are best and where the park is at a similar level to the Eltham-Yarra Glen Road, to address road safety issues at the existing park entry.
  - Providing a new car park of increased capacity and with bus turn-around at the location of the existing Caretaker's Residence that is in a dilapidated condition, where the existing grade is flattest for accessibility, and from where visitors can look toward the whole of the park and what it has to offer including the front and entrance of the war memorial tower.
  - Providing a threshold at the carpark for visitors to appreciate the whole of the park on arrival. Included in this arrival experience are:
    - new arrival views to the war memorial tower front and entry;
    - a renovated stone caretaker's cottage and new public toilet and store building that is complimentary to the memorial character of the park and is welcoming with improved environmental design for crime prevention; and
    - a new Belvedere that serves as a visual and physical link between the original park and the western park area acquired in 1973 that are currently disassociated.
  - Enhancing the experience and understanding of the memorial nature of the original park and enhancing the pre-settlement landscape and cultural values of the western hillside, and improving interpretation of both through coordinated signage and memorials.

12. Officers' reports

OCM.174/20 Kangaroo Ground War Memorial Park Master Plan - Concept

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8. The Concept proposes functions, spaces and features listed below.
- New two-way park vehicle access road, car and bus parking, with demolition of the existing Caretaker's Residence.
  - Restoration of stone Caretaker's Cottage for public interpretation.
  - New Toilet and store building complimentary in form to the war memorial tower and stone Caretaker's Cottage.
  - Reinstatement of rock plinth at tower base, to original form.
  - Memorial Gardens featuring new/ replacement memorials that are curated and coordinated for improved interpretation.
  - Memorial Walk, comprising a retained, reduced-width existing park road for Memorial Garden interpretation and pedestrian and horse riding circulation.
  - Cypress tree replacement planting.
  - Amenity tree planting.
  - Retained pedestrian access to the existing Police telecommunications tower compound, and retained vehicle access gates used by Police for maintenance of tower.
  - New Belvedere and Pavilion integrating original and expanded parkland in a form complimentary to the war memorial tower and enabling appreciation of landscape and views.
  - Picnic and viewing area of indigenous grass lawn to western hill slope.
  - Moor-rul grassland expansion and tree planting to enable interpretation of pre-settlement landscape and cultural values, and to create an emphatic landscape entry.
  - New, curated and coordinated interpretative signage at key locations such as the location of the removed Caretaker's Residence to mark that history, stone Caretaker's Cottage, war memorial tower, Belvedere and Moor-rul grasslands.

**Budget implications**

9. The CAPEX Cost Plan 01 (Appendix to **Attachment 1**) estimates the total project cost of the Concept at \$3,560,157.
10. The OPEX costs for park maintenance (landscape) is estimated at \$61,603.50 p.a., calculated as 2% of the CAPEX total construction costs (\$3,080,175). This estimate is based on providing an improved standard of maintenance ('Priority Sites') in recognition of the park's heritage significance and cultural value, compared to the current maintenance standard of the park ('Amenity Standard') that costs \$16,160 p.a., representing an increase of \$45,443.50 p.a. (an additional \$987.90 per week over 46 weeks).

12. Officers' reports

OCM.174/20 Kangaroo Ground War Memorial Park Master Plan - Concept

11. The estimated CAPEX Cost Plan 01 has been based directly on the Concept and its level of detail provided for costing (costing was prepared on a Draft Concept that is essentially unchanged in finalisation as the Concept), and includes allowances where detail is as yet unknown; a revised CAPEX cost plan and OPEX maintenance (landscape) budget will be prepared on further design refinement and review in the master plan phase.

12. Additional budget is required to complete the scope of the master plan project based on the Concept and the site issues that have become apparent in the production of the Concept. Council will need to allocate an estimated additional \$37,370 to the project budget following adoption of the Concept, for the master plan phase of the project to commence. The additional budget is required to secure the services of the expertise listed below.

• Drafting and illustration:	\$9,000
• Heritage Architect: \$390	
• Architect (sketch-level: Belvedere Pavilion, Toilets):	\$6,000
• Surveyor:	\$500
• Arborist:	\$5,105
• Grasses expert:	\$1,000
• Memorial Gardens plant expert:	\$1,000
• Underground services investigation:	\$7,500
• DDA accessibility review:	\$2,000
Subtotal	\$32,495
Contingency (15%):	\$4,874.25
Subtotal	\$37,369.25
<b>Total rounded:</b>	<b>\$37,370</b>

**Consultation/communication**

13. The Concept has evolved from wide and intensive community engagement. In addition to being informed by a public user survey conducted on Participate Nillumbik from 28 April – 14 May, 2020, the Concept has been prepared with the input of a diverse group of stakeholders over multiple on-line meetings, including:

- Friends of Kangaroo Ground War Memorial Park Incorporated (FKGWMPI);
- Montmorency Eltham RSL Sub Branch;
- Mick Woiwod (deceased), author and member of FKGWMPI;
- Nillumbik Reconciliation Group, including Friends of Moor-rul Grasslands;
- Andrew Ross Museum;
- Yarra Plenty Heritage Group;
- Yarra Plenty Regional Library;

**12. Officers' reports**

**OCM.174/20 Kangaroo Ground War Memorial Park Master Plan - Concept**

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- Eltham District Historical Society;
- Yarra Ranges Tourism;
- Park caretaker resident, and
- Victoria Police (leaseholder).

Future consultation

14. An endorsed Concept will be made available on Council's Participate Nillumbik project website for information only, as stated on the Participate Nillumbik project website. The public will be notified about the availability of the Concept on the Participate Nillumbik project website through Council's normal media channels.
15. Further engagement of stakeholders who have participated to date is planned in the next master plan phase of the project, leading to a Draft Master Plan that will be prepared for broad engagement and feedback prior to endorsement of the Master Plan.

**Stakeholder issues**

16. The Concept, in the main, has had broad support from most of the stakeholders who have participated in the project. A spokesperson for the Montmorency-Eltham RSL Sub-Branch has expressed strong support for all of the Concept and has thanked a Council Officer for the respectful response to the park that is represented in the Concept. There is broad agreement among stakeholders for the components of the Concept listed below.
  - Removal of the existing Caretaker's Residence.
  - Renovation of the existing stone Caretaker's Cottage.
  - New Toilet and storage building.
  - New Memorial Gardens.
  - Replacement of existing dying cypress trees (with species to be determined in master plan phase).
  - Additional tree planting.
  - Part-retention of existing Moor-rul grasslands plot, and expansion of grasslands with tree planting to the west of the park.
17. Some stakeholders who have participated in the project to date have strong objection to some aspects of the concept, including:
  - Proposed removal (and relocation to another park within Nillumbik Shire) of the existing Moor-rul Viewing Platform;
  - The size, scope and (perceived) cost of the proposal (costings have not been shared with stakeholders), and
  - The proposed new park entrance and road compared to improving the existing park entry.



12. Officers' reports

OCM.174/20 Kangaroo Ground War Memorial Park Master Plan - Concept

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Stakeholders who have participated in the project to date who have expressed this concern, include:

- FKGWMPI;
- Nillumbik Reconciliation Group, and
- Andrew Ross Museum.

18. With regard to some stakeholder's concern about the removal of the existing Moor-rul viewing platform, it is proposed to be relocated to another suitable park in Nillumbik, as:

- the location of the structure is without a sense of place within the park, being situated down the existing slope of the hill, peripheral and without any visual connection to the original park, and with unfavourable views onto, and noise from, the Eltham-Yarra Glen arterial road which is in close proximity;
- the scale of the structure is out of scale with the park, especially the whole of the park and its expansive views, and appears introverted;
- the highly stylised form of the structure is overtly self-referential and alien within the park, especially within the whole of the park, confusing the essential memorial identity of the park and detracting from the simplicity and richness of the central tower war memorial and its vertical pre-eminence;
- access to the structure is not welcoming nor explicitly public in scale and invitation, and does not comply with DDA requirements with the narrow path being too steep leading toward the platform;
- retention of the structure would compromise the ability to integrate all of the park and establish one clear overall park identity that is essential for the appreciation of the memorial nature of the park and its greater landscape context;
- the form and scale of the structure would be better suited in a park, within the shire, where expansive views and memorial heritage are not defining elements of its context, and where it can be celebrated as an object in space, and
- the social significance of the installation of the structure, and the interpretive information about the locality that the structure was designed to articulate, is proposed in the Concept to be acknowledged and communicated in interpretative signage at the proposed Belvedere that will provide expansive views from a more elevated location and a more legible public space that is directly connected to, integrated with, and complimentary to the original memorial park and war memorial tower.

19. With regard to some stakeholder's concerns about the size, scope and cost of the proposal represented in the Concept, these are factors of the project, namely, the strategic nature of a master plan. The Concept is intentionally visionary, as a necessary responsibility to imagine possible futures that have the greatest net community benefit. Its scope is holistic to ensure reconciliation of multiple and complex issues. Its implementation would be long term and can be staged over time, and multiple benefactors could be sought for its funding.

12. Officers' reports

OCM.174/20 Kangaroo Ground War Memorial Park Master Plan - Concept

20. With regard to some stakeholder's concerns about the proposed new entrance road, it overcomes the safety issues that are inherent to the existing entry location on Eltham-Yarra Glen Road, as well as the vertical and horizontal alignment constraints of the site at the existing entry. The proposed new entry utilises the land to the west of the original rectangular park that was acquired by Council in 1974 for such expressed purpose.

**Issues for further investigation/ coordination in master plan phase of project**

21. In addition to undertaking further design development that is required in the preparation of a master plan from concept, a number of specific issues have been identified in the development of the Concept that will require further investigation/ coordination in the master plan phase of the project, as listed below.

- Endorsement of the Concept with regard to the proposed new park vehicle road entry and discontinuance of the existing park vehicle entry and road for vehicle use by Department of Transport (DOT). (A response from DOT was promised by the time of the last Councillor Briefing on 1<sup>st</sup> September 2020 and has not been received at the time of writing of this briefing agenda; it is expected that a response from DOT will be received by the time of the Ordinary Council Meeting on 15 September 2020.)
- Investigation into type, number and depth of existing power and Telstra services located at the proposed park entry, and the costing of same. Cost Plan 01 (Appendix to Attachment 1) makes provisional allowances to lower existing power cables and relocate an existing power pole, and to lower existing Telstra services.
- Detailed arboriculture investigation of existing Cypress tree (T47 on Concept Plan) to confirm retention of tree/ setback of proposed park road.
- Consultation with Montmorency-Eltham RSL Sub Branch and FKGWMPI to determine storage capacity needs for ceremonies and services within proposed new toilet and store building, to confirm design brief for, and cost estimate of, proposed building.
- Research into the establishment of the expanded Moor-rul grasslands and their management, including fire management and costing of same.
- Design optimisation of Belvedere to maintain as much of existing Moor-rul grasslands plot as possible. (North-west corner of Belvedere juts into existing grassland plot and may be able to be adjusted to preserve more of the existing grassland providing the essential integrating objectives of the Belvedere can be achieved.)
- Design optimisation of car parking configuration for improved bus/ car manoeuvres.

12. Officers' reports

OCM.174/20 Kangaroo Ground War Memorial Park Master Plan - Concept

- Including the CFA (North West Region District 14 Headquarters) letter of 19 August 2020 (**Attachment 2**) advising that their initial position on the future of the fire-spotter's cabin is that it is intended to be decommissioned and removed from the war memorial tower (subject to their further engagement of their stakeholders and an official decision in 2021) in the Draft Master Plan that is to be prepared for public review and comment, as agreed with the CFA. This is so a recommendation could be made in the Draft Master Plan for the potential long-term removal of the existing fire-spotter's cabin, to restore heritage values of the tower noted in the existing and revised (see item 22) heritage citations as being compromised by the cabin, and enhance the public's experience of the lookout, and for appropriate interpretative signage to be provided to remember the important role the fire-spotter's cabin has had in the shire and beyond.
- Governance of park, especially concerning decision-making among Council and stakeholders, stakeholder roles and their agency, and hosting of war memorial services, for example.

**Related work outside scope of master plan project**

22. A number of issues have been identified in the development of the Concept that are of consequence to the park but will require further investigation/ coordination outside the scope of the master plan project and are listed below.
- Any naming of the park, in accordance with state government policy, noting the park is not registered in name by Geographic Names Victoria. The name of the park has been a point of interest and contention among stakeholder groups.
  - Any renaming of the Kangaroo Ground War Memorial Tower, in accordance with state government policy, noting the tower is registered in that name by Geographic Names Victoria. The name of the tower has been a point of interest contention among stakeholder groups.
  - Updating Council's existing heritage citation that is out of date. A Final Draft of a *Revised Citation H049 Former Shire of Eltham Memorial Park* (**Attachment 2**) has been prepared as part of the master plan project in order to update the existing citation and inform the Concept. The revised citation is to be separately reviewed as part of Council's broader heritage citation review process currently being undertaken.

**Conclusion**

23. The Kangaroo Ground War Memorial Park Master Plan project seeks to provide a framework for managing change in the park in an integrated way that will enable the park to have the greatest net community benefit for present and future generations.
24. The Concept proposed is a key product and formative step towards realising this project objective. It has been prepared from the inputs of community and select stakeholders, and, once endorsed, can be further developed, refined and reviewed as a Draft Master Plan, and tested with the broader public for whom the Kangaroo Ground War Memorial Park is, ultimately, for.

**12. Officers' reports**

**OCM.174/20 Kangaroo Ground War Memorial Park Master Plan - Concept**

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**Next steps**

25. Subject to securing additional funding to complete the master plan project, it is anticipated that a Draft Master Plan would be made available for public feedback mid-2021, and the Master Plan completed and endorsed by end 2021. Key project stages include:

- Briefing of new Council in December 2020/ January 2021;
- Additional project budget funding application and securement in January 2021;
- Draft Master Plan preparation, stakeholder and internal reviews;
- Draft Master Plan public review and feedback mid-2021, and
- Master Plan finalisation and endorsement at an OCM by end 2021.

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**12. Officers' reports****OCM.175/20 Gazettal of Amendment VC176 - changes Clause 52.12 Bushfire Protection: Exemptions****Distribution: Public****Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety****Author: Leigh Northwood, Strategic Planning Lead****Summary**

Pursuant to amendment VC176, changes to the particular provision at clause 52.12 of all Victorian Planning Schemes have been made to align the application of vegetation clearing exemptions with the Bushfire Prone Area (BPA) mapping across all Victorian councils.

The changes also provide clarity to previous issues raised with the exemptions, particularly in regard to the dwellings and defensible space considered under the Bushfire Management Overlay. This comes via continued advocacy by Councils including Nillumbik Shire and the Municipal Association of Victoria (MAV) in regard to the impacts that the exemptions are having on neighbourhood character and biodiversity.

The purpose of this report is to outline recent changes and seek adoption of a position specific to application of the exemption and BPA mapping.

**Recommendation**

**That** Council adopts the following advocacy positions in relation to bushfire planning:

1. At its annual review of Bushfire Prone Area Mapping Council request DELWP undertake a broad review of the Shire's MAC's (Diamond Creek and Eltham) and the alignment of the BPA mapping in the context of these areas and historic subdivision that has changed the landscape in these urban areas;
2. Continue to advocate to the State Government to review and dramatically increase infringement fees to ensure serious deterrent to unauthorised vegetation clearance;
3. Continue to advocate to State Government to change the *Planning and Environment Act 1987* provisions to provide greater powers to authorised officers to cause cessation of unauthorised activity; and
4. Continue advocacy requesting the Municipal Association of Victoria (MAV) support to advocate for amendments to legislative framework with regard to increase in fines for unauthorised illegal clearing of vegetation.

**Attachments**

1. BPA Mapping Entire Nillumbik Shire
2. BPA Mapping Greensborough, Eltham and Diamond Creek
3. Clause 52.12 Bushfire Protections Exemptions

**12. Officers' reports**

**OCM.175/20 Gazettal of Amendment VC176 - changes Clause 52.12 Bushfire Protection: Exemptions**

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4. BMO Mapping Nillumbik Shire
5. Eltham MAC Development 5 Years
6. Diamond Creek MAC Development 5 Years

**Background**

1. Council resolved at its OCM of 23 June 2020 that Council:
  - a) *Request the State Government dramatically increases in infringement fees to ensure serious deterrent to unauthorised activities.*
  - b) *Lobby the Minister for Planning to review the 10/30 rule in urban areas as outlined in Council's advocacy letter to the Minister for Planning, dated 26 May, 2020.*
  - c) *Advocate to State Government for a review of and amendment to the Planning and Environment Act 1987 provisions to provide greater powers to authorised officers to cause cessation of unauthorised activity.*
  - d) *Request Municipal Association of Victoria (MAV) support to advocate for amendments to legislative framework with regard to increase in fines for unauthorised activities illegally clearing trees and a review of the 10/30 exemption regarding the removal of significant vegetation in urban areas.*
2. Subject to the above resolution Council officers wrote to the Minister seeking his review. Council have demonstrated ongoing advocacy, specifically seeking a review of exemptions – known as the 10/30 and 10/50 rules – that allow vegetation removal to occur without the need for a planning permit. The investigation was requested due to concern that these exemptions are having a detrimental impact on local vegetation, biodiversity and neighbourhood character in particularly Nillumbik's urban areas.

**Policy context**

3. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Prepare and develop an improved and holistic approach to strategic planning.

**Budget implications**

4. There are no immediate budget implications relevant to this amendment or matter.

## 12. Officers' reports

### OCM.175/20 Gazettal of Amendment VC176 - changes Clause 52.12 Bushfire Protection: Exemptions

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#### Consultation/communication

5. A page has been created on Participate Nillumbik which identifies the changes made via amendment VC176. It also directs the community the Department of Environment, Land, Water and Planning (DELWP) website, where further information and tools can be found that provide clarification around the exemptions. DELWP specifically created a number of fact sheets with gazettal of Amendment VC176 to provide this advice and clarity. Council's pre app service will be using these tools/fact sheets in assisting the community with their queries.

#### Issues/options

6. Specific exemptions apply in all Victorian planning schemes including Nillumbik's planning scheme, that allow for clearing of vegetation on property to create or maintain defensible space for bushfire protection without the need for a planning permit subject to certain requirements. These exemptions are located at [clause 52.12 Bushfire Protection Exemptions](#) - refer **Attachment 3**.

#### Bushfire Prone Areas

7. Bushfire Prone Areas (BPA) are areas which have been identified within the Building System (not the planning scheme) as subject to, or likely to be subject to bushfires. The BPA only maps an existing bushfire hazard, including grassland. As it represents a bushfire hazard, it follows the hazard, not property boundaries. This is often problematic in urban area.
8. If no part of the building envelope or footprint falls within the BPA area, the BPA construction requirements do not apply. If part of the building footprint falls within the BPA, construction of the whole building must meet the BPA requirements to build to the minimum standard for improved bushfire protection.
9. The level of bushfire risk assigned to BPA locations is lower than that of BMO areas. The BPA triggers specific construction requirements via the building permit process, aimed at improving bushfire protection for residential buildings. It is important to note that the BPA does not address vegetation removal and was not intended to identify locations where as-of-right vegetation removal should occur.

#### 10/30 and 10/50 Rules

10. The 10/30 and 10/50 rules are planning permit exemptions specified in Clause 52.12. The rules allow landowners to remove vegetation as-of-right so residents can make their properties safer in the event of a bushfire. The rules were introduced following the 2009 ('Black Saturday') Victorian Bushfires Royal Commission and only apply to buildings used for accommodation that were constructed or approved before 10 September 2009.
11. The 10/30 rule allows residents to clear any vegetation within 10 metres of a residential building and any vegetation (except trees) within 30 metres of a residential building.



**12. Officers' reports****OCM.175/20 Gazettal of Amendment VC176 - changes Clause 52.12 Bushfire Protection: Exemptions**

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12. The 10/50 rule allows landowners to clear any vegetation within 10 metres of a residential building plus any vegetation (except trees) within 50 metres. An additional exemption – the ‘fence line exemption’ – allows removal of any vegetation either side of a fence for a combined width of four metres.
13. As well as allowing landowners to remove vegetation without a planning permit, the exemptions also override any existing planning permit that otherwise requires the retention of vegetation.
14. The 10/50 rule is confined to land covered by the Bushfire Management Overlay (BMO), which is land identified as being significantly at risk of bushfire. The 10/30 rule and fence line exemption, apply to all areas located within the BPA mapping. The extent of the BMO mapping across the Shire is identified in **Attachment 4**.
15. It is important to note that the exemptions do not require landowners to remove vegetation rather, the exemptions give landowners the legal right to remove vegetation should they wish to do so.
16. It is also important to note that if a landowner elects to remove vegetation under the exemptions, the landowner is not required to demonstrate that they are in fact removing vegetation for the purposes of bushfire protection.

Amendment VC176 - changes

17. Amendment [VC176](#) has introduced changes to clause 52.12. The key changes that this amendment brings are to:
  - a) *Align the application of the vegetation exemptions with the Bushfire Prone Area mapping across all Victorian councils. Before this change the BPA applied Shire-wide as declared area.*
  - b) Update the wording under the fence line exemption, specifically the 4 metre rule, to match that in *Clause 52.17 Native Vegetation*.
18. Most of Nillumbik is a Bushfire Prone Area (BPA) and the BPA mapping applies. See **Attachments 1 and 2** that denote the application of the BPA mapping, noting that the mapping covers the entire Shire, apart from urban pockets of Eltham, Greensborough and Diamond Creek. Therefore the clause 52.12 exemptions no longer apply to these areas.
19. This change goes some way to protecting urban parts of mainly Eltham (and small areas of Diamond Creek and Greensborough) from the removal of vegetation where the exemption can no longer apply.
20. However, the BPA mapping applies throughout the balance of particularly the MAC's. Continued application of the BPA mapping to these areas will continue to have a significant impact on neighbourhood character and biodiversity.

12. Officers' reports

**OCM.175/20 Gazettal of Amendment VC176 - changes Clause 52.12 Bushfire Protection: Exemptions**

Future Advocacy

21. Given application of the BPA mapping any further advocacy to change bushfire planning provisions needs to complement the operations of Council's adopted *Bushfire Mitigation Strategy 2019 – 2023* and comply with the legislated part of Council's role under the Country Fire Authority Act 1958, the Emergency Management Act 2013, and the Emergency Management Legislation Amendment Act 2018 in prioritising life-safety over all other considerations.
22. Any further changes to the provisions would also need to be suitable for State-wide application and supported by a comprehensive and credible evidence base. This is considered why the Minister is best placed to undertake this strategic work.
23. For Council to convince the Minister to further change vegetation management exemptions, evidence (and support from DELWP and the CFA) would be required to demonstrate that there are alternative measures worth pursuing that would result in enhanced bushfire management.
24. With respect to effecting change to the 10/30 rule and fence line exemptions, it considered unlikely that further review will be undertaken by DELWP to facilitate further changes. The reason for this is changes would require demonstrative evidence of the impact that the 10/30 rule and fence line exemption are having on vegetation in all local government areas, relative to other factors (such as the impact of urbanisation currently facilitated by other provisions of all planning schemes – which are varied). This evidence base would need to investigate whether:
  - The 10/30 rule and fence line exemption as currently applied are being used for reasons other than bushfire protection (such as to obtain a development advantage);
  - Misuse of the rule and/or exemption is causing significantly detrimental impacts (and what those impacts are);
  - The rule and/or exemption are contributing to enhanced bushfire resilience as originally intended; and
  - The proposed alternative of removing the 10/30 rule and fence line exemption from areas of low-to no-risk is a credible response that will not create unacceptable bushfire risk.
25. Council could provide its own arguments to changes to the provision (as identified above), however key to any changes would be an emphasis on building an evidenced-based case in close collaboration with DELWP and the Country Fire Authority (CFA). Securing endorsement from these key stakeholders is critical to achieving favorable outcomes. It is considered other Councils have not adopted this position given the funding implications in providing such evidence, and the fact that changes would be unlikely to be supported, as they would need to be applied (as identified above) across all local government areas (given amendment proposed is to a particular provision).

12. Officers' reports

OCM.175/20 Gazettal of Amendment VC176 - changes Clause 52.12 Bushfire Protection: Exemptions

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26. Notwithstanding this, it is considered that Council should continue to advocate for increase in infringement fees to ensure serious deterrent to unauthorised vegetation clearance, and for review of the *Planning and Environment Act 1987* provisions to provide greater powers to authorised officers to cause cessation of unauthorised vegetation clearance.

BPA mapping review

27. **Attachments 5 and 6** identify the location of development within the past 5 years within the Major Activity Centres of Eltham and Diamond Creek (with reference to the location of BPA mapping).
28. Criteria agreed with fire service agencies is applied to the mapping of the BPA. A 60-metre buffer from the edge of the identified bushfire hazard is included in the BPA. This provides some protection from ember attack. If the bushfire hazard has been removed enough to meet the criteria, the BPA can be removed. Often a subdivision is developed in stages and the BPA is removed once the hazard is cleared for the next stage of development, however a title being issued for a property or intentions to build do not affect the mapping of the BPA.
29. The BPA map is only changed if a review of the site and mapping has been undertaken, the bushfire hazard has been sufficiently removed to meet agreed criteria, and council and the relevant fire authority agree.
30. DELWP reviews the BPA mapping twice a year. Each review takes about six months to complete. Changes to the BPA mapping therefore occur at only two dates in the year, approximately six months apart.
31. A recommendation will be made to the Minister for Planning to remove the BPA from an area if it is demonstrated that the bushfire hazard has been removed to meet agreed criteria and is to the satisfaction of the relevant fire authority and council.
32. While the BPA mapping is reviewed every six months, it is not possible to review every BPA area in Victoria in that time. DELWP reviews sites as requested by developers and councils where development is about to commence.
33. The last review of Nillumbik Shire's BPA mapping (LEGL/14-55) that resulted in updates to the extent of BPA mapping was undertaken in October 2014.
34. As Nillumbik is not a growth Council, and does not have significant Greenfield developments, large scale subdivisions are not referred to DELWP for consideration of changes to the BPA mapping (unlike other Councils). Any changes occurring (as demonstrated in **Attachments 5 & 6**) are considered of a 'piece-meal' nature, and are much more difficult, therefore to argue for changes to the BPA in regard to. They do not of themselves considerably change the landscape in a broader sense – it is rather a 'death by a thousand cuts' scenario.

12. Officers' reports

**OCM.175/20 Gazettal of Amendment VC176 - changes Clause 52.12 Bushfire Protection: Exemptions**

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35. It is considered that Council at the next mapping review could request a broad review of its MAC's (Diamond Creek and Eltham) and the alignment of the BPA mapping in the context of these areas and historic subdivision – rather than a single development. If DELWP did undertake this broader review, then it would need to be in association with CFA and the assessment of bushfire hazard.

**Conclusion**

36. Aligned to continued advocacy by Nillumbik Shire and other responsible authorities (including MAV), changes to the particular provision at clause 52.12 Bushfire Protection Exemption, brought about via Amendment VC176 go some way to protecting urban parts of mainly Eltham (and small areas of Diamond Creek and Greensborough) from the removal of vegetation where the bushfire clearance exemption can no longer apply.
37. However much of Nillumbik's urban areas remain affected by the clearance exemptions given the application of BPA mapping across most of Nillumbik Shire.
38. Given any further changes to the bushfire clearance provisions would need to be suitable for State-wide application and supported by a comprehensive and credible evidence base, it is considered the Minister is best placed to undertake this strategic work and therefore Council may only continue to advocate for a review of these provisions.
39. Council should also continue to advocate for increase in infringement fees to ensure serious deterrent to unauthorised vegetation clearance, and for review of the *Planning and Environment Act 1987* provisions to provide greater powers to authorised officers to cause cessation of unauthorised vegetation clearance.
40. Council should request DELWP at the next BPA mapping review undertake a broad review of the Shire's MAC's (Diamond Creek and Eltham) and the alignment of the BPA mapping in the context of these areas and historic subdivision that has changed the landscape in these urban areas.

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## 12. Officers' reports

## OCM.176/20 Annual Report 2019-2020

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**Distribution:** Public

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

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

### Summary

The *Local Government Act 1989* (the Act) and the *Local Government (Planning and Reporting) Regulations 2014* (the Regulations) require each Council in Victoria to prepare an Annual Report for each financial year.

The Annual Report is Council's highest level reporting document to the State Government and the community. While Council has a statutory obligation to produce an Annual Report, it is also an opportunity to demonstrate Council's service delivery and performance to the community regarding Council activities over the past financial year. The 2019-2020 Annual Report also reports on progress and delivery of key strategies and actions for the third year of the *Council Plan 2017-2021*.

Council's Annual Report 2019-2020 (including audited financial and performance statements) (Annual Report) is hereby presented for noting. As required by the Act, the Minister for Local Government has already been provided with a copy of the report.

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

1. Notes the Annual Report 2019-2020 (**Attachment 1**).
2. Notes that the Annual Report has been submitted to the Minister for Local Government, and it is presented to Council within one month of providing the Annual Report to the Minister for Local Government, satisfying section 134(2)(a) of the *Local Government Act 1989* and section 22(1) of the *Local Government (Planning and Reporting) Regulations 2014*.
3. Notes a copy of the Annual Report was made available for public inspection on Council's website two weeks prior to this meeting, compliant with section 133(2) of the Act.
4. Notes a public notice featured in *The Age* newspaper on 1 September 2020 advising the Annual Report will be considered at the Ordinary Council Meeting on 15 September 2020, and where a copy of the report can be obtained, compliant with section 134(2)(b) of the Act.

### Attachments

1. Nillumbik Shire Council Annual Report 2019-2020

**12. Officers' reports**

**OCM.176/20 Annual Report 2019-2020**

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**Background**

1. This report presents Council's Annual Report 2019-2020 (including audited financial and performance statements) for noting.
2. The Annual Report 2019-2020 has been prepared by Council officers and has been formally submitted to the Minister for Local Government on 9 September 2020, in accordance with the *Local Government Act 1989* (the Act).

**Policy context**

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

**Budget implications**

4. The cost of producing the Annual Report is accommodated within existing operational budgets.

**Consultation/communication**

5. Pursuant to section 134 of the Act, notice of the meeting to consider the Annual Report was advertised in *The Age* newspaper on 1 September 2020. The Annual Report 2019-2020 was also made available on Council's website from this date.
6. The Financial and Performance Statements were presented to the August 2020 Ordinary Meeting of Council.

**Discussion**

7. The Annual Report 2019-2020 is being presented for noting. It includes a Report of Operations; Financial Statements; Performance Statement; and the Auditor General's Report on the Financial Statements and the Performance Statement.
8. The Auditor-General has approved the Financial Statements and Performance Statement without any qualifications.
9. As well as meeting statutory requirements, the Annual Report outlines to the community the Council's key milestones and achievements throughout the financial year. These included:
  - Rate increases maintained at under the rate cap for the third consecutive year;
  - Council's customer service ranked second out of 44 participating councils, and tenth overall out of a total of 185 participating organisations, in the Mystery Shopping Program conducted by CSBA;
  - Increased, strategic and innovative use of social media and communication channels to support Council operations and community engagement through the COVID-19 pandemic;
  - The provision of over \$560,000 in grants to support local community projects and activities;

12. Officers' reports

OCM.176/20 Annual Report 2019-2020

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- Delivery of key projects and works under the *Capital Works Program*; including the Marngrook Oval Pavilion in Diamond Creek, Research Park Pavilion in Research, Eltham North Reserve Pavilion and Eltham Lower Park Change Rooms;
  - Appointment of Aligned Leisure as the new management contractor of Council's five major sporting facilities;
  - Development and adoption of the *Shire Plan 2040 – Towards a Community Vision for Nillumbik* Background Paper, to support a community visioning process to be undertaken in 2021;
  - Adoption of the *Nillumbik Early Years Infrastructure Plan 2020-2026*;
  - A total of 5,995 recorded student contact hours across Nillumbik's three Living and Learning Nillumbik centres;
  - Successful delivery and implementation of the Gender Equity Advocates Project;
  - Ongoing implementation of the *Arts and Cultural Plan 2018-2022* resulting in a total of 83,192 individuals participating in arts and cultural activities and support of over 700 artists;
  - The opening of a new nine and 18-hole mini-golf course at Yarrambat Park Golf Course;
  - Adoption of the *Green Wedge Management Plan*;
  - The appointment of JJ's Waste and Recycling as Council's new waste management provider;
  - Implementation of key actions in the adopted *Domestic Wastewater Management Plan*;
  - The introduction of a new Prohibition of Fireworks Local Law which applies to all properties outside the Urban Growth Boundary (UGB) and prohibits the display of fireworks from any private property outside of the UGB at any time;
  - Adoption of the *Economic Development Strategy 2020-2030* and *Equine in Nillumbik*;
  - Completion of the *Better Business Approvals* program;
  - Implementation of online lodgement functions for planning and building service requests and applications;
  - Since the survey began in 2011, recorded highest ever satisfaction ratings for customer service and services and facilities in the Annual Community Survey; and
  - A variety of responses to the COVID-19 pandemic, including a 0% rates increase in 2020-2021 in recognition of the increased hardship faced by many, and holding livestreamed Council meetings virtually.



12. Officers' reports

OCM.176/20 Annual Report 2019-2020

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**Conclusion**

10. The Annual Report outlines the activities undertaken for the 2019-2020 financial year. It reports to the Nillumbik community and other stakeholders on a wide range of activities that were undertaken to meet the directions in the *Council Plan 2017-2021* and the expectations of the Nillumbik community. While it is a statutory document, the Annual Report is also a valuable tool for communicating the Council's activities and service delivery performance to the local community.

12. Officers' reports

OCM.177/20 Laughing Waters Arts Program

**Distribution: Public**

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

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

**Summary**

Council has an opportunity to re-establish an Artist Residency Program at “Garambi Baan” (Laughing Waters), two State Government owned properties managed by Parks Victoria, located at 130 and 195 Laughing Waters Road, Eltham

On 25 June 2020, Council received formal notification that Amendment C125 has been approved by the Minister for Planning which allows re-use of these buildings for the purpose of an Artist Residency program.

C125 requires the development of a bushfire management plan, which has since been developed with Parks Victoria and CFA input and is now awaiting formal approval by the CFA.

This report recommends Council approve a lease between Council and Parks Victoria for use of the Laughing Waters properties, along with approval for Council to engage Residency Projects to operate an artist residency program in accordance with all requirements under the Planning Scheme from the properties.

**Recommendation**

**That Council:**

1. Enters into a lease with Parks Victoria for the purpose of establishing an Artists Residency Program at 130 and 195 Laughing Waters Road, Eltham.
2. Authorises the Chief Executive Officer to finalise and execute the lease agreement with Parks Victoria.
3. Enters into an agreement with Residency Projects to establish an Artists Residency Program at 130 and 195 Laughing Waters Road, Eltham. The agreement:
  - a) Shall be in accordance with any requirements of a lease between Parks Victoria and Nillumbik Shire Council.
  - b) Shall include financial support of \$30,000 per annum from Nillumbik Shire Council to Residency Projects to contribute to the Artists Residency program and building maintenance, subject to annual reporting and a review after five years.
  - c) Term of the agreement between Council and Residency Projects shall align with the term of the lease between Council and Parks Victoria.
4. Authorises the Chief Executive Officer to finalise and execute the agreement with Residency Projects.

**12. Officers' reports****OCM.177/20 Laughing Waters Arts Program**

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**Attachments**

1. Strategic Plan 2020-2024 Garambi Baan Laughing Waters by Residency Project

**Background**

1. The Laughing Waters Artist Residency was a longstanding signature program of Council's Arts and Cultural Development programming suite, with an international reach.
2. The program ran from 2001 until 2015 via a lease of two properties from the Victorian Government, managed by Parks Victoria; Birrarung at 195 Laughing Waters Road, Eltham (from 2001) and River Bend at 130 Laughing Waters Road, Eltham (from 2008).
3. In 2015, the program was discontinued, whilst Council and Parks Victoria were negotiating new lease conditions and maintenance costs. However, these matters were not resolved and the program has remained in hiatus.
4. In mid-2018, Council was approached by Residency Projects to re-establish the Artist Residency program.
5. Residency Projects are an independent artist-run-initiative, with interest in arts and cultural activities. They have previous experience in organising artist residency programs and have developed close ties with noted industry partners. Attachment 1 provides an overview of Residency Projects and strategic plan.
6. The initial cost of works required to make the two buildings safe for occupation has been independently estimated to be \$72,000 by Loft Architects.
7. These works will be funded by Residency Projects, through an \$86,000 grant received by them from Creative Victoria. Funding for any additional major works would need to be considered through Council's annual budget planning processes, or through additional grants sourced by Residency Projects.
8. At the 24 March 2020 OCM, Council resolved to "*Request the Minister for Planning prepare, consider and approve a planning scheme amendment to the Nillumbik Planning Scheme to insert an incorporated document at Clause 45.12*".
9. The Planning Scheme Amendment (C125) was required to facilitate the re-use of existing buildings located at 130 and 195 Laughing Waters Road, Eltham for the purpose of an Artist Residency program.
10. On 25 June 2020, Council received formal notification that Amendment C125 has been approved by the Minister for Planning.
11. A condition of approval of C125 is the preparation of a Bushfire and Emergency Management plan in consultation with the responsible authority, Parks Victoria and approved by the Country Fire Authority. This is required to include limitations on occupation of the buildings during times of high fire danger and must be completed prior to any use commencing.
12. Officers engaged an independent specialist to develop a Bushfire Management Plan (BMP) in collaboration with Parks Victoria and CFA.

**12. Officers' reports**

**OCM.177/20 Laughing Waters Arts Program**

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13. This BMP has now been completed and formal endorsement of the BMP by Parks Victoria will now be referred by Council officers to CFA for formal approval.
14. The BMP forms a key part of a lease between Council and Parks Victoria (the land manager).

**Policy context**

15. This report directly supports the achievement of Council Plan 2017-2021 strategy:
  - Ensure that community services, programs and facilities are inclusive and respond to current and emerging needs.
  - Recognise and support opportunities which develop and grow creative and cultural industries in Nillumbik, positioning the shire as a key destination

**Budget implications**

16. Minor ongoing maintenance works to the buildings in the vicinity of \$5,000 to \$10,000 per year will need to be funded through Council's Building Maintenance operating budget.
17. Grant funding of \$30,000 a year for a period of 5 years. The amount for 2020/2021 will be referred to mid- year budget review.

**Consultation/communication**

18. Consultation on the lease and bushfire management plan has occurred with both Parks Victoria and the CFA.

**Issues/options**

19. Key conditions of a lease between Parks Victoria and Council have been developed in parallel with work on the BMP. The lease requires formal approval by the Parks Victoria Board, which officers understand will be considered at Parks Victoria's Board Meeting on 29 September.
20. Key conditions of the lease are likely to include:
  - a) A 5+ 5 term
  - b) No consideration – rental fee (requested).
  - c) Council will be responsible for outgoing costs associated with services supply.
  - d) Leased area to include the two residences and immediate surrounds only.
  - e) Use is to be in accordance with a Class 1a building as defined by the Building Code of Australia (residential).
  - f) Conditions of the CFA approved Bushfire Management Plan to be complied with (including no use in the declared fire danger period).
  - g) Council will be responsible for ongoing maintenance works.
  - h) A requirement that Council works with a heritage advisor when undertaking any maintenance works.

**12. Officers' reports**

**OCM.177/20 Laughing Waters Arts Program**

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21. Residency Projects are seeking Council support in the form of \$30,000 per annum. This will support programming for residency activities, artist fees, professional development and programming administration.
22. A service agreement between Council and Residency Projects is proposed to manage requirements arising from Council's lease with Parks Victoria as well as conditions attached to the financial support from Council.
23. Key conditions of the service agreement being discussed with Residency Projects are:
  - a) Commitment to working intrinsically with Nillumbik Shire's traditional owners via a best practise approach. This includes a letter of support or partnership agreement from the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation in support of the Garambi Baan (Laughing Waters) program.
  - b) Commitment from Residency Projects for direct community outcomes with and for the Nillumbik community from residents of the program.
  - c) The ability for local artists to work with residents of the program through a professional development framework managed and delivered by Residency Projects.
  - d) A permanent seat on the selection panel of artist in residents for a member of Council's Arts and Cultural Advisory Committee.
  - e) Term to align with the lease offered to Council by Parks Victoria.
  - f) Use of the buildings to align with the lease offered to Council by Parks Victoria, including compliance with the conditions of the Bushfire Management Plan and any other requirements from Parks Victoria.
  - g) Residency Projects will be responsible for maintaining and replacement of furnishings (chattels) and undertaking minor maintenance works.
  - h) Residency Projects are responsible for payment of all outgoings.
  - i) All activity must have appropriate approvals and permits from relevant agencies and/or regulators.
  - j) Appropriate levels of public liability insurance coverage.
  - k) Residency Projects to submit to Council reports regarding all components to the service agreement, including itemisation of funding, in-kind support and income generated; together with measurable cultural outcomes and participation data responsive to the Arts & Cultural Plan 2018-2022.
  - l) The establishment of a working group between Council and Residency Projects to manage the governance of the program via quarterly meetings.

**12. Officers' reports**

**OCM.177/20 Laughing Waters Arts Program**

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**Conclusion**

24. A re-established Artists Residency Program at “Garambi Baan” (Laughing Waters) provides Council the opportunity to re-establish its links to two culturally and locally significant heritage sites, whilst being able to leverage previously unavailable funds from the State Government (through the grant provided to Residency Projects) for works to maintain them.
25. The service agreement with Residency Projects is proposed to include finite financial support. Moreover, the agreement will contribute to a number of goals in the 2018-2022 Nillumbik Arts and Cultural Plan.

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12. Officers' reports

OCM.178/20 Diamond Valley Library Refurbishment Works

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**Distribution:** Public

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

**Author:** Corrienne Nichols, Executive Manager Communities  
Steven Blight, Construction Coordinator

**Summary**

Preliminary inspection of the Diamond Valley Library building found two key elements of the existing building structure in disrepair and likely to need replacement within the next 2-3 years being:

- Celestial Ceiling / Skylight, as unique feature of the library ceiling
- Southern Glass Wall/Windows, a key component of the indoor/outdoor connection

Whilst not within the original project scope, it is recommended these works should be incorporated within the project to ensure the best possible outcome, and not compromise the Library Upgrade.

**Recommendation**

**That Council:**

1. Includes the maintenance works in this project and not compromise the Library Upgrade outcome,
2. Approves an additional \$324,000 to be allocated to this project and referred to the mid-year budget review for funding.

**Attachments**

Nil

**Background**

1. This report aims to inform Council of the additional works identified following the engagement of Content Studio Architects for the project at the Diamond Valley Library.
2. Concept plans have been developed, reviewed by Council and Library officers and circulated through various forums to seek community feedback on the proposal.
3. Community feedback has indicated strong support for the proposal.
4. Nillumbik's library service is delivered on behalf of Council by the Yarra Plenty Regional Library Service (YPRL). On 14 December 1995, Council entered into an Agreement with Banyule and Whittlesea Councils to form a regional library.
5. Diamond Valley Library is one of the YPRL sites and is located to the rear of the Council offices.



**12. Officers' reports**

**OCM.178/20 Diamond Valley Library Refurbishment Works**

6. The Diamond Valley Library was originally constructed in 1984 and although it has had a few minor face lifts since that time, it has never had a major upgrade to meet current expectation levels of a municipal library facility.
7. In general, the building size and shape provides a good foundation to build on, although a couple of areas need major works to bring them up to current legislative standards and community expectation.
8. In particular the public amenities, parents facilities and accessibility of the whole facility.
9. At the November 2019 Ordinary Meeting Council resolved to allocate the required \$260,000 across the 2019/2020 and 2020/2021 financial years, Council's Capital Works team had estimated a Total Project Cost (TPC) of \$850,000. This amount included, amongst others, design consultants, additional QS estimates, DDA assessment, building surveyors fees and construction contingency.
10. Based on this TPC and taking into account LLIP grant dollar-matching criteria, Council's contribution was to be \$340,000 across two financial years (2019/2020 and 2020/2021) capital works budgets.
11. YPRL agreed to contribute \$80,000 towards the project across the two financial years, and Council reduced its contribution to \$270,000 in 2021/22.
12. In partnership with the Yarra Plenty Regional Library Service (YPRLS) and Nillumbik Shire Council has secured a grant under the Living Libraries Infrastructure Program for \$500,000.

**Policy context**

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

**Budget implications**

14. An additional \$324,000 is required to complete this project.
15. The budget shortfall would be referred to the mid-year budget review for funding.

**Consultation/communication**

16. Community feedback has indicated strong support for the proposal.

**Issues/options**

17. YPRL has agreed to contribute an additional \$50,000 this year to help accommodate any shortfall in funding.
18. NSC Building Maintenance can contribute \$45,000 this year to the maintenance works. All other funding has been allocated for 2020/21.
19. The original construction budget was a total of \$750,000 the new total with additional contribution of \$95,000 is included as a total construction budget of \$845,000, leaving a shortfall of \$324,000.
20. Allowing for overheads, consulting services, project management and price escalation, this provided a project construction budget of approximately \$845,000.

12. Officers' reports

OCM.178/20 Diamond Valley Library Refurbishment Works

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21. The project brief was looking for, but not limited to:
- Extension of the children's area to accommodate the increase in young families using the library.
  - A new DDA compliant toilet.
  - Provision of a Tech Area for the delivery of STEAM (Science, Technology, Environment, Arts and Maths) / Maker activity and for young people to connect with new technology.
  - New Community Meeting room with kitchen facilities. This links well with the Garden Makerspace and healthy eating initiatives.
  - New Co-working space for micro-businesses with a specific programming space to deliver training & workshops.
  - Refurbished quiet study area.
  - New outdoor deck area and Café area.
22. Preliminary inspection of the building found two key elements of the existing building structure in disrepair and likely to need replacement within the next 2-3 years being:
- Celestial Ceiling / Skylight, as unique feature of the library ceiling
  - Southern Glass Wall/Windows, a key component of the indoor/outdoor connection
23. Whilst not within the original project scope, it is recommended these works should be incorporated within the project to ensure the best possible outcome.
24. This will minimise further interruption to the library service to replace them at a future period (within 2 – 3 years).

**Conclusion**

25. To include the maintenance works in this project and not compromise the Library Upgrade outcome, officers are requesting Council to approve an additional \$324,000.

12. Officers' reports

OCM.179/20 Information Meetings of Councillors Record

**Distribution:** Public

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

**Author:** Janet Taylor, Governance Officer

**Summary**

In accordance with *Item 19 of Council’s Governance Rule – Meeting Procedure*, adopted on 25 August 2020, Council is required to report as soon as practicable to a Council Meeting a record of each Information Meetings of Councillors held.

This report lists Information Meetings of Councillors records that have been submitted since the matter was last reported to Council on 25 August 2020.

An Information Meetings of Councillors Record was kept for:

- Councillor Briefing held 18 August 2020;
- Environment & Sustainability Advisory Committee held 19 August 2020;
- Pre-meeting to Ordinary Council Meeting held 25 August 2020;
- Arts and Cultural Advisory Committee held 31 August 2020;
- Councillor Briefing held 1 September 2020;
- Positive Ageing Advisory Committee held 4 September 2020; and
- Pre-meeting to Future Nillumbik Committee held 8 September 2020.

**Recommendation**

**That** Council, in accordance with *Item 19 of Council’s Governance Rule – Meeting Procedure*, receives the Information Meetings of Councillors records held on (**Attachment 1**).

**Attachments**

1. Information Meetings of Council Recorded 15 September 2020

**Background**

1. The *Item 19 of Council’s Governance Rule – Meeting Procedure*, requires records of Information Meetings of Councillors be reported to a Council Meeting and recorded in the minutes of that meeting.

**Policy context**

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

12. Officers' reports

OCM.179/20 Information Meetings of Councillors Record

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**Budget implications**

3. This is a routine reporting item, the resources for which are contained in Council's current operating budget.

**Consultation/communication**

4. None required.

**Issues/options**

5. An Information Meetings of Councillors is defined in *Item 19 of the Governance Rule – Meeting Procedure*. It is a meeting at which matters are considered that are intended or likely to be the subject of a Council decision or the exercise of delegated authority and which is either of the following:
  - A planned or scheduled meeting that includes at least half the Councillors and at least one Council officer. These meetings do not include meetings of Councillors and Council staff that are not planned or scheduled.
  - A meeting of an advisory committee where at least one Councillor is present. An advisory committee is any committee established by the Council, other than a special committee, that provides advice to the Council or to a special committee or to a member of Council staff who has been delegated a power or duty or function of the Council.
6. A record must be kept of any Information Meeting of Councillors and include the names of all Councillors and Council staff attending, the matters considered, disclosures of conflict of interest and whether a Councillor left the meeting after making a disclosure.
7. In accordance with *Item 19 of the Governance Rule – Meeting Procedure*, Council is required to report as soon as practicable to a Council Meeting, a record of any Information Meetings of Councillors held.
8. The recommendation contains the list of Information Meetings of Councillors records that have been submitted since the matter was last reported to Council on 25 August 2020.

**Conclusion**

9. It is recommended that Council receives the records of recent records of Information Meetings of Councillors as contained in this report, fulfilling *Item 19 of the Governance Rule – Meeting Procedure*.

12. Officers' reports

OCM.180/20 Hardship Request

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**Distribution:** Public

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

**Author:** Simon Doyle, Coordinator Arts and Cultural Development  
Melanie Holt, Manager Community Partnerships

**Summary**

On Friday 17 August 2020 Council received a confidential request for assistance due to extreme financial hardship relating to the second round of COVID-19 lock down.

**Recommendation**

**That** Council note the report.

**Attachments**

Nil

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12. Officers' reports

OCM.181/20 Tender Report - Contract 1920-72 Solar Farm

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**Distribution: Public**

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

**Author: Paul Usatov, Senior Project Manager**

**Lance Clark, Senior Procurement Specialist**

**Summary**

1. This report is an overview of the separate confidential report recommending the award of Contract Number 1920-72 for the development of a solar farm and associated Power Purchase Agreement (PPA) located at the former land fill site at 290 Yan Yean Road Plenty.

**Background**

2. At its Ordinary Meeting of Council (OCM) on 28 August 2018, Council resolved to undertake a feasibility study into the development of a solar farm focussing on Council land within the Shire.
3. External advisors were then engaged to examine opportunities with developing a solar farm at the former Plenty and Kangaroo Ground landfill sites.
4. The extensive feasibility study work involved understanding the planning, geotechnical and structural engineering conditions, indicative development costs, potential grid connection issues, and business models to demonstrate a feasible and viable project.
5. The work indicated that there were no fundamental impediments to developing a solar farm at either site, with Plenty being the most feasible and preferred site.
6. A solar farm development project would not conflict with any other objectives to reduce Council's electricity consumption and greenhouse gas emissions, for example through continued improved building efficiency, or installation of 'behind the meter' solar on Council buildings.
7. At its OCM on 26 November 2019, Council considered the feasibility study report and resolved to proceed to seek market offers from the solar farm development industry to develop a solar farm at the former Plenty land fill site. Council also resolved to continue to explore opportunities to incorporate a community investor element in the solar farm development.
8. Council officers proceeded to engage with the solar farm development industry and external advisors were engaged to assist Council with producing the necessary documentation to seek market offers to develop a solar farm at the former Plenty land fill site.

**Tender Specification Objectives**

9. The project scope in the Request for Tender (RFT) specifications, seeking market offers to develop a Solar Farm at the former Plenty land fill site, specified the following:
  - Council seeks to appoint a single developer to the project, whether in its own right or acting as lead for a consortium, through specific contracts.

12. Officers' reports

OCM.181/20 Tender Report - Contract 1920-72 Solar Farm

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- Developers competitively bid to provide all required financing, community consultation, design, permits, approvals, construction, commissioning, ownership, maintenance, facility management and land management responsibilities and associated costs for the proposed Solar Farm at the site.
  - Developers competitively bid to deliver value for money reliable electricity supply services, and from other sources when the solar farm does not generate sufficient electricity, through a long term PPA and REFA in collaboration with a licensed electricity retailer.
  - Developers competitively bid to supply approximately 2,000MWh from the solar farm to meet Council's annual electricity consumption requirements comprised of corporate facilities and street lighting.
  - Developers competitively bid to deliver value for money LGCs from the solar farm through the PPA in collaboration with a licensed retailer.
  - Developers competitively bid to lease or licence the use of the land for a period of up to twenty (25) years with a five (5) year extension option. Council would always remain the owner of the land. At the end of the twenty-five (25) year (plus five (5) year extension option) asset life cycle of the Solar Farm, the developer is required to remove all Solar Farm assets and associated infrastructure and manage according to best practice materials management of the day, and making good the land to the same condition as it was on commencement of the contract.
  - Developers competitively bid based on the forecasted timelines of the land becoming available for the solar farm development following completion of the landfill rehabilitation and capping works under separate contract inclusive of contractual defects liability period and EPA approval.
  - Developers competitively bid on the development of a Solar Farm with technology that does not compromise, damage or penetrate the landfill capping
10. The RFT also sought responses from the market with respect to community benefit and investment opportunities, such as:
- establishing opportunities for community offtake, for example tenants, local businesses and potentially whole neighbourhoods to also purchase electrical power from the solar farm through their own PPA's.
  - opportunities for local businesses / community to own part of the solar farm directly or offer benefits from its earnings.
  - • leveraging the market for innovation, additional business activities, energy technology investment,
  - opportunities to incorporate community information and educational school programs onsite.
  - offering economic and social procurement commitments for the design, construction, ownership, management, maintenance educational tools, etc.



12. Officers' reports

OCM.181/20 Tender Report - Contract 1920-72 Solar Farm

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11. Developers competitively bid based on the tender evaluation criteria including the following:
  - qualifications and experience
  - capability, capacity and resources
  - collaborative approach with Council and community
  - solar farm facility management, asset management, land management and
  - environmental management
  - community investment opportunities
  - local economic and social development opportunities and support
12. The Solar Farm development project is to be governed by four (4) contracts to manage quality, timelines and risks. Contracts were developed with specialist renewable energy development and advice.
13. Early Contractor Involvement (ECI). The purpose of the ECI Contract is to manage the risks for Council through approval gateways. During this phase, the appointed tenderer will work with Council and the community to:
  - design and obtain key approvals for the Solar Farm including the planning permit application process, EPA and AusNet connection.
  - complete detailed site investigations and engineering
  - undertake community consultation and engagement on the design.
  - progress a potential community investment model.
  - complete all applicable operational and management plans, including but not limited to, landscaping, noise, visual amenity, traffic, emergency management (including fire), environment, methane gas.
  - finalise the EPCM, PPA and REFA for the volume of energy to be supplied by the solar Farm and confirming the required size of the Solar Farm to meet contracted demand.
14. The Engineer, Procure, Construct and Maintain (EPCM) contract manages the substantial physical works related to the project from engineering, through to construction and operation
15. The Power Purchase Agreement (PPA) is a contract between Council, electricity retailer, and developer to purchase electrical power supply and LGCs from the solar farm to achieve the following objectives:
  - provide a secure revenue stream for the solar farm developer as it guarantees a pre-determined volume of energy and LGCs to be purchased by Council, based on historic and future energy consumption forecasts.

**12. Officers' reports**

**OCM.181/20 Tender Report - Contract 1920-72 Solar Farm**

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- in exchange, Council secures value for money fixed electricity and LGC pricing from a renewable source for the duration of the PPA term of 15 years.
  - the electricity retailer acts as intermediary providing administrative billing services, and security of energy supply, when the solar farm does not generate sufficient electricity to meet Council's annual electricity consumption requirements.
  - maintain flexibility with regular PPA reviews and allowances to lower or increase electricity consumption loads throughout the PPA term.
16. The Retail Electricity Firming Agreement (REFA) is a contract between the Council and retailer that defines how the retailer supplies electricity to Council. It includes measuring, billing and reporting activities and services including energy consumption, conduct of performance audits as required, administration of the PPA, and administration of electricity meters and billing processes across multiple Council sites. It will match the PPA, and is for a similar term to the PPA, and also includes regular review points.

**Consultation/Communication**

17. Notification of Council's investigations into a potential solar farm and associated Council decisions have occurred over the last two years and published in media.
18. Information about the Solar Farm development proposal was published on the Participate Nillumbik web site page on 07 July 20 2020 and closed on 31 July 2020.
19. There were 366 views of the web site page and 50 feedback comments received from the community. The feedback was mostly positive and supportive of the project.
20. The community's feedback was collated and is attached to this report as Attachment 1.
21. All received community feedback will be considered during the design and development of the project, subject to Council's approval to proceed with the project.
22. Further community engagement will be undertaken during the design process with the appointed developer. Consideration will be given to any COVID-19 restrictions and may include organising on line community engagement sessions.
23. The solar farm contract documents stipulate that the community engagement process was to be a critical component to the successful planning and delivery of the project, not only during the design process, but throughout the project, with the appointed developer.
24. The community may continue to submit their feedback throughout the project's development through the contact details on the Participate Nillumbik web site page.

**Timelines**

25. The key project delivery milestones are as follows:
- Subject to Council consideration and acceptance of the recommended tender, proceed to issue the letter of intent to the tenderer in late September 2020 and sign the contract under delegated authority in October 2020.

12. Officers' reports

OCM.181/20 Tender Report - Contract 1920-72 Solar Farm

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- Commence the community consultation and engagement process with the solar farm developer to inform the design phase of the project within the restrictions of COVID-19 from late October 2020.
  - Commence the planning permit application process and detailed engineering design process following completion of the community consultation and engagement process and design phase. This phase is expected to take approximately 20 months from October 2020 to July 2022.
  - Commence the construction phase following completion of the planning permit application process, detailed engineering design process and completion of the landfill capping works inclusive of the contractual defects liability period. The construction phase is expected to be approximately 11 months from August 2022 to June 2023. The solar farm construction phase cannot commence until after the landfill capping works are completed
26. The solar farm operation and maintenance phase is expected to be up to 30 years commencing from July 2023.
27. The generation of Solar Farm electricity and LGCs to Council through the PPA is expected to commence in July 2023, after construction is completed.

**Tenders**

28. Tenders were advertised on 13 June 2020 and closed on 16 July 2020.
29. The Tender Evaluation Panel (TEP) assessed all received tender submissions.
30. 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.
31. The confidential report associated with this contract contains a recommendation to make public the decision regarding this contract but the evaluation remains confidential.

**Recommendation**

**That** Council notes this report.

**Attachments**

1. Attachment A - Solar Farm Community Engagement Report and Submissions

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13. Notices of Motion

13. Notices of Motion

**NOM.009/20**

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

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

1. Requests officers commence policy and training development in relation to Protocols for Councillors - Land Use Planning in broad accordance with the following City of Casey document titled "Protocols for Councillors - Land Use Planning" and the MAV "Land Use Planning in Victoria Councillor Guide 2016" appropriately amended for the Shire of Nillumbik.
2. Requests officers prepare a report and recommendations for the first Council meeting of the new Council specifically in relation to the appropriateness of the following section as guidance for all Nillumbik Councillors in relation to land use planning...

*"4. Policy*

*In considering any land use planning matters Councillors should:*

*4.2. Requests for meetings, correspondence and phone calls*

- *Consider whether there is merit in meeting with a party over and above the consideration of written or presented submissions as part of the decision making process.*
- *Refer meeting requests to the Council Support Officer for coordination and these will be held in the presence of a senior member of the Planning and Building Department or Growth and Investment Department and the Director City Planning and Infrastructure.*
- *Not compromise themselves by having meetings, phone calls or other correspondence with parties without council officers or other parties being present.*
- *Where communication does occur, a record of the discussion is required. If this occurs in absence of a council officer then a copy of any record of any interaction must be provided to the Council Support Officer to be placed on file. This is in the interests of transparency and places the active onus on the Councillor to maintain the integrity during the course of any planning process.*
- *Do not express a view that demonstrates a bias or pre-conceived view".*

13. Notices of Motion

**NOM.010/20**

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

**Motion**

**That** Council amends the Councillor Expenses Policy by deleting Clause 5.11 Mayoral Vehicle.

13. Notices of Motion

**NOM.011/20**

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

**Motion**

**That** Council amends the Councillor Expenses Policy by the inclusion of new clause under Section 5 Resources:

Meals and Beverages at Council Meetings and Briefings

- i) Council will meet the cost of the provision of meals for Councillors at Councils expense for all onsite Briefings, Committee and Ordinary Council meetings
- ii) Council will meet the cost of the provision of beverages of tea, coffee and non-alcoholic beverages at all meetings where meals are served.

13. Notices of Motion

**NOM.012/20**

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

**Motion**

**That** Council resolves to cease work on the proposed redesign of the Eltham Library Gallery Space and not revisit these redesign options.



13. Notices of Motion

**NOM.013/20**

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

**Motion**

**That:**

1. Council amends the Councillor Expenses Policy at sections 4.4 and 6 of the policy as follows:
  - a. Under the heading Conferences and Seminars at section 4.4 add words 'approval by the CEO' to the second paragraph.
  - b. Under the heading Formal Training at section 4.4 add the words 'from the CEO' to the first paragraph and add a new paragraph  
'Councillors are required to complete the assessment requirements of the AICD Course:
    - i. The assessment consists of
      - A multiple choice exam
      - A 105 minute written exam
      - A 3000 word Assignment'

Councillors that enrol in the AICD course and fail to submit all three parts of the assessment will refund Nillumbik Council the \$7929.90 - Course Fee'.

- c. Under the section 6 - End of Councillor's Service in paragraph 5 replace written down value with 'the market value as determined by reference to some online auction sites'.

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

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

**OCM.182/20 Hardship Request**

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.183/20 Submission to DELWP Green Wedge Provisions Review Consultation Paper**

This item is confidential because it is confidential meeting information, being the records of meetings closed to the public under section 66(2)(a) pursuant to paragraph (h) of the definition of confidential information under section 3(1) of the *Local Government Act 2020*. This ground is applied because it is information that, if publicly released at the time, is likely to be inappropriately detrimental to the Council or any person (natural or corporate).

**OCM.184/20 Tender Report - Contract 1920-72 Solar Farm**

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).

<b>Recommendation</b>
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**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.