

## Ordinary Meeting of Council

to be held at the Civic Centre, Civic Drive, Greensborough  
on Tuesday 20 December 2016 commencing at 7pm.

### Agenda

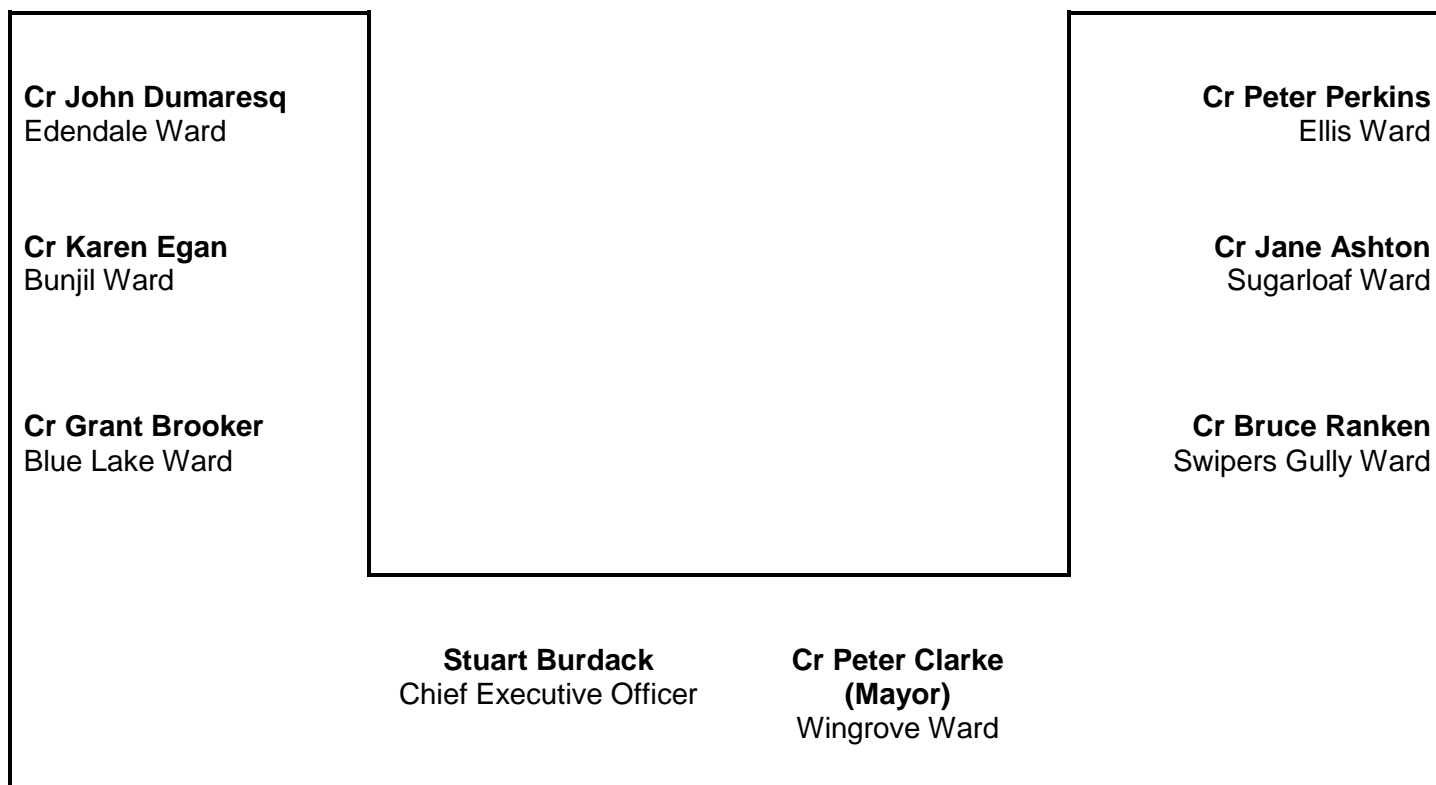
**Stuart Burdack**  
**Chief Executive Officer**

Wednesday 14 December 2016

Civic Drive, Greensborough  
PO Box 476, Greensborough 3088  
Telephone 9433 3111  
Facsimile 9433 3777  
Website [www.nillumbik.vic.gov.au](http://www.nillumbik.vic.gov.au)  
Email [nillumbik@nillumbik.vic.gov.au](mailto:nillumbik@nillumbik.vic.gov.au)

*Domin je ka*

## Ordinary Meeting of Council seating plan



Visitors in the gallery at Council meetings are:

- Welcome to copies of the reports which will be considered by the Council at the meeting. These are on the table in the foyer.
- Welcome to the tea, coffee and water provided in the foyer.
- Requested to observe Council deliberations quietly in order for Council meetings to run smoothly.
- Advised that an audio recording of this meeting will be made for the purpose of verifying the accuracy of the minutes.

Nillumbik Shire Council

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## Nillumbik Shire Council

### Agenda of the Ordinary Meeting of Nillumbik Shire Council to be held Tuesday 20 December 2016 commencing at 7pm.

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#### Welcome by the Mayor

Members of the public are advised the meeting will be recorded for the purpose of verifying the accuracy of the minutes.

#### 1. Reconciliation statement

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

Nillumbik Shire Council acknowledges the Wurundjeri as the traditional custodians of the land now known as the Shire of Nillumbik and values the significance of the Wurundjeri people's history as essential to the unique character of the Shire.

#### 2. Prayer

A prayer will be read Lead Pastor Stewart Hunt of the Eltham Baptist Church.

#### 3. Good governance pledge

As Councillors, we are mindful of our civic responsibilities and obligations. We pledge to take them seriously, and to carry them out with diligence and integrity.

We know the decisions we take will affect the people and environment of Nillumbik, now and in the future. We undertake, therefore, to make sound and principled decisions of lasting value, in a spirit of fairness and for the good of all.

We also pledge to serve the needs and wellbeing of the community and the environment, in an open and honest manner and to the best of our abilities.

#### 4. Apologies

**Motion**

**That the apologies be accepted.**

#### 5. Presentations

Nil

#### 6. Confirmation of minutes

Confirmation of minutes of the Council Meeting held on Tuesday 22 November 2016.

**Motion**

**That the minutes of the Council Meeting held on Tuesday 22 November 2016 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

Nil

#### 9. Questions from the gallery

**10. Reports of Advisory Committees**

Nil

**11. Reports of Special Committees**

Nil

12. Officers' reports

OCM.177/16 Fire management information and actions

**Distribution: Public**

**Manager: Conal Creedon, General Manager Infrastructure Services**

**Author: Conal Creedon, General Manager Infrastructure Services**

**Summary**

The Mayor and some Councillors met with local CFA Captains on Thursday 8 December 2016 to discuss current preparations for the fire danger period and related fire management issues. The topics that were discussed included:

- Permits for planned burns
- The definition and application of the exemption for Burgan removal under the planning scheme
- Roadside vegetation management
- Understanding of permitted vegetation removal on roadsides and private property under current controls

There are a number of established procedures for conducting controlled burns by CFA brigades which require a strategic objective and detailed planning. These are spelled out in more detail in the body of the report. With the appropriate pre-planning there are opportunities for more controlled burns to be conducted and these can be facilitated through the Municipal Fire Management Planning Committee.

The provision of information to the community on current permitted actions to reduce fuel and prepare against fire threat has been ongoing over each summer period with CFA, Council and Emergency Management Victoria providing a range of advice in varying formats. It is acknowledged that this effort needs to be continuous and sustained and make greater use of social media.

Council can also provide greater clarity to brigades and the public on the issues of roadside vegetation management as well as the exemption on removal of Burgan from private land. This information can be disseminated through all available channels.

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

1. **Writes to the Municipal Fire Management Planning Committee and CFA District 14 advising of the difficulties captains identify with planning for controlled burns and request that the Committee recommend any further improvements and/or support required to expedite plans in each brigade area.**
2. **Writes to the Minister for Planning requesting the preparation of a ministerial amendment to amend the amend the species of Burgan referred to in the Nillumbik Planning Scheme from *Kunzea ericoides* to *Kunzea leptospermoides* or, failing that, seek authorisation from the Minister for Planning to commence Planning Scheme Amendment C114 to amend the species identification and to place the amendment on public exhibition.**

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3. **Reviews and develop a consolidated suite of key information in relation to fire management on private land and permitted activity on adjacent roadsides for distribution through all available media channels.**
4. **Advises each Brigade Captain of these actions.**

**Attachments**

1. CFA Standard Operating Procedure - Planning and conducting a planned burn or burn off
2. Nillumbik Shire Council annual Fire Mitigation Works Plan 2016-2017
3. Fact Sheets

**Background**

1. The Mayor and some Councillors met with local CFA captains on 8 December 2016. In the discussion with captains a number of issues were identified and suggestions made on improvements to community information with regard to their obligations as well as their ability to manage their land and for CFA actions to plan and conduct fuel reduction burns on public and/or private land.
2. The issues discussed included:
  - Permits for planned burns
  - The definition and application of the exemption for Burgan removal under the planning scheme
  - Roadside vegetation management
  - Understanding of permitted vegetation removal on roadsides and private property under current controls
3. A number of the issues discussed have been the subject of previous consideration and debate at a local, regional and state level with protocols in place that deal with these. There has also been ongoing communications and information provision to the community to assist with managing their properties and preparing for fire threat.
4. Some of the communication actions that Council has undertaken consistently over the past several years have been an annual pre-fire season focus in Nillumbik News, preparation of a range of information bulletins and 'can I, can't I' type fact sheets. These have supported or mirrored information from other agencies such as CFA, EMV, etc. It is acknowledged that information of this nature to the community needs to be consistent and ongoing.

**Policy context**

5. This report directly supports the achievement of Council Plan 2013-2017 strategy:
  - We will strive to make our Shire safe by meeting our statutory responsibilities for emergency management including the risks of natural disasters such as fire and flood.

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**Budget implications**

6. The budget for specific fire prevention works is \$670,000 in the 2016-2017 financial year. This covers works on roadsides, reserves, tree removal and re-growth management in the fire affected areas.

**Consultation/communication**

7. The views of local CFA captains have been sought on current issues in relation to fire risk planning and management.

**Issues/options**

8. Planned burns are the controlled use of fire to reduce fine fuels and must be conducted under carefully planned conditions. The CFA has a Standard Operating Procedure (attachment 1) for planning and conducting planned burns. Each burn plan must address the strategic purpose of the burn, any environmental and community impacts and also requires the consent of the land owner. A permit is required if a burn is to be conducted during the declared Fire Danger Period.
9. Any brigade intending to conduct a planned burn in its operational area during the Fire Danger period is required to advise the Municipal Fire Management Committee and have the plan included in the annual Fire Management Plan.
10. Council's role in authorising planned burns on land under its control was discussed at the meeting. A review of recent permit requests indicates that only Hurstbridge Fire Brigade has submitted a burn plan for approval in the last three years and had this included in the Annual Fire Management Plan. A small number of other burns have been conducted with a permit but were not included in the annual plan. There has only been one instance in recent years when a brigade request for a permit during the fire danger period has been refused due to the weather conditions at the time.
11. There is a recognition that planned burns could play a more significant role in fuel reduction, particularly on roadsides, but this requires the strategic locations to be identified and the impacts of fire to be assessed. This includes the post-fire management of the land to ensure that any weeds or vegetation re-growth is appropriately managed. The CFA, at a regional level, provides assistance in the preparation of burn plans through the Vegetation Management Officer and must also sign off on each plan. This includes resources to prepare burn plans and to assist in conducting them to establish the skills at a local level. The matter can be raised again for more detailed discussion at the Municipal Fire Management Planning Committee to consider any additional support required to plan for controlled burns.
12. In the period following the 2009 bushfires there was considerable discussion on how best to manage vegetation on roadsides for emergency access and egress. This has led to the identification of 'Primary' and 'Secondary' roads and an understanding of the function they are expected to serve in a fire emergency. Annual fuel management works are identified for these roads.
13. The annual Fire Mitigation Works plan which Council adopts identifies works on these Primary and Secondary roads as well as works on Council reserves. The 2016-2017 Plan was adopted by Council in September and is reproduced at Attachment 2. The works under this Plan are well advanced.



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14. One of the other issues raised in the discussion with CFA captains was the understanding of the exemption on the removal of Burgan (*Kunzea ericoides*). An amendment to the Nillumbik Planning Scheme in 2011 gave effect to the removal of Burgan without a planning permit. The exemption was applied to the whole Shire. Prior to this, there was no State provision for an exemption for Burgan.
15. In Victoria, the scientific name *Kunzea ericoides* has been misapplied as this name refers to a species that occurs in New Zealand and not in Australia. The recent revision of this species has resulted in *Kunzea* being separated into different species. The species that occurs more commonly in Nillumbik is *Kunzea leptospermoides* (Yarra Burgan). Consequently the current exemption has no effect and the requirements of the Planning Scheme for a permit for the removal of native vegetation stands. This situation causes confusion and has not been corrected or clarified by the Department of Environment, Land, Water and Planning.
16. Given that the incorrect species name is included in the planning scheme it would be appropriate write to the Minister for Planning requesting that the Scheme be corrected or, failing that, to undertake a planning scheme amendment to amend the species of Burgan referred to in the Scheme. As this amendment is to correct an error in the planning scheme it would be appropriate for the amendment to be authorised, prepared and exhibited within an expedited timeframe utilising the provisions of section 20(2) of the *Planning and Environment Act 1987*, whereby notice of the amendment will be given to prescribed Ministers and in the Government Gazette. The Department of Environment, Land, Water and Planning Advisory Note 'A Protocol for fast tracking amendments' states that a translation of existing provisions where the effect of the provisions is unchanged, is suitable to be progressed in this way. Such a change does not materially affect owners and occupiers.
17. The information available to residents on permitted burning on private land and/or vegetation management on adjacent roadsides was also raised in the meeting with CFA captains. These are covered in the Planning Scheme and Council's Amenity Local Law and include the 10/30 and 10/50 rule for properties constructed before 2009, permitted burning for fire hazard reduction on certain sized properties outside of the fire danger period and limited vegetation management on roadsides depending on the classification of the vegetation.
18. Properties in the Bushfire Management Overlay which have been approved under its controls will have a Bushfire Management Statement setting out the actions permitted and required to maintain the safety of the property.
19. Fact sheets have been prepared in the past for each of these circumstances but require land owners to have an understanding of which apply to their property and what may vary depending on the time of year. Some of these fact sheets are attached for reference and information (Attachment 3). A consolidation of this information into one document can be prepared for regular dissemination across all media channels. This process will be undertaken with input from the CFA and local captains.

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**Conclusion**

20. Local CFA captains have raised a number of concerns about the clarity of rules and conditions that govern the use of controlled burns, particularly on roadsides under Council control. This can be addressed directly with brigades through the Municipal Fire Management Planning Committee and with the assistance of CFA District. The captains have also identified the understanding of the variety of controls and exemptions on private land management as a limitation on land owners maximising the amount of fire management they conduct on their properties. In the first instance the communication messages can be consolidated into key points to be used for consistent and ongoing communication.
21. It is also proposed to write to the Minister for Planning requesting a ministerial amendment to the Planning Scheme or, failing that, authorisation from the Minister to commence a Planning Scheme Amendment C114 to amend the species of Burgan referred to in the planning scheme from *Kunzea ericoides* to *Kunzea leptospermoides* and to place the amendment on public exhibition.

12. Officers' reports

**OCM.178/16 Construction of nine dwellings, removal of a substantial tree and a reduction in visitor parking requirements at 28 Arthur Street, Eltham**

**File:** A043/00/028P  
**Distribution:** Public  
**Manager:** Ransce Salan, General Manager Environment and Planning  
**Author:** Renae Ahern, Coordinator Statutory Planning

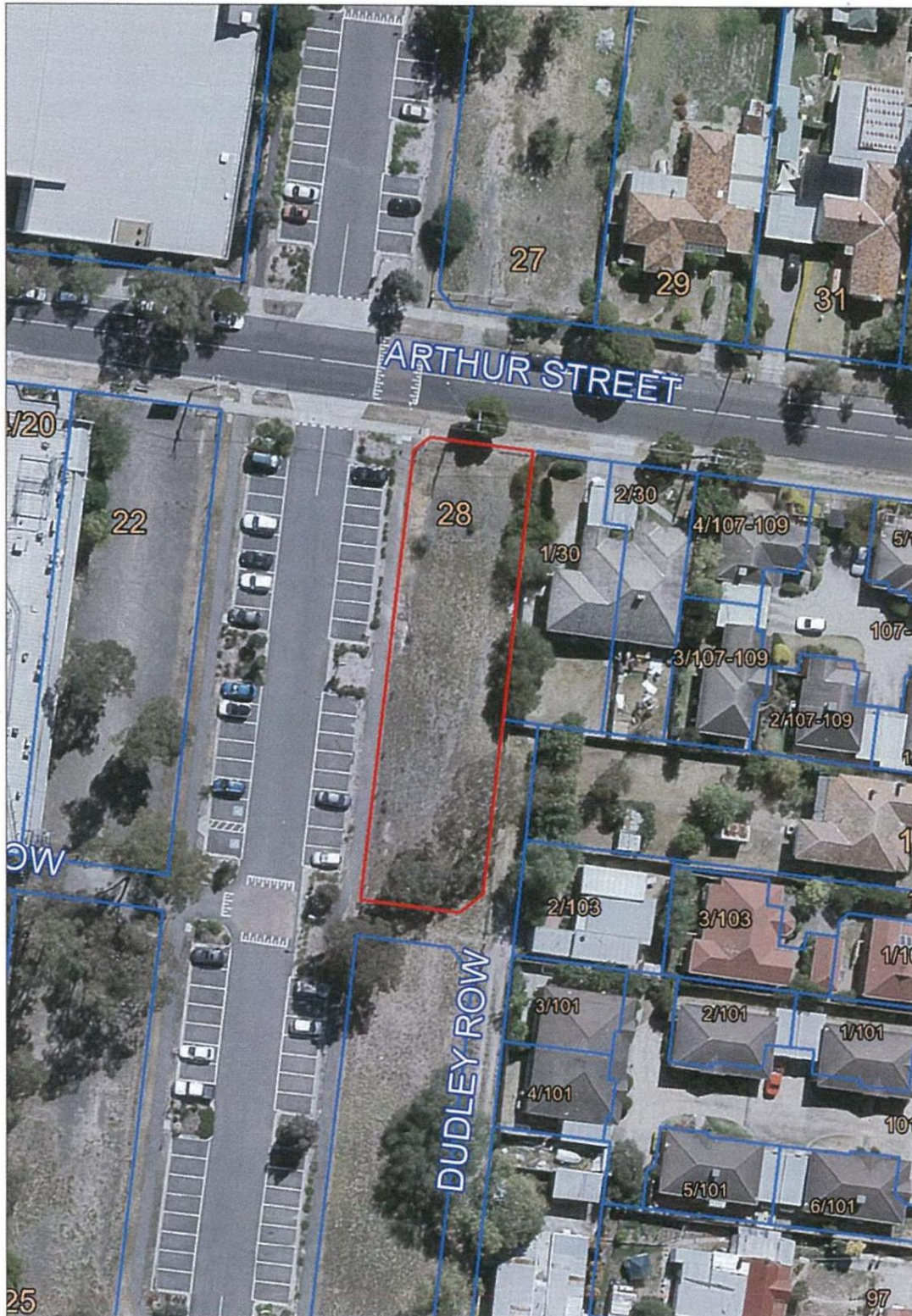
**Application summary**

Address of the land	28 Arthur Street, Eltham
Site area	962 square metres
Proposal	Construction of nine dwellings, removal of a substantial tree and a reduction in visitor parking requirements
Application number	386/2014/03P
Date lodged	23 July 2014
Applicant	Time Architect
Zoning	Activity Centre Zone (Schedule 1)
Overlay(s)	Significant Landscape Overlay (Schedule1)
Reason for being reported	More than five dwellings
Number of objections	Two
Key issues	<ul style="list-style-type: none"> <li>• Strategic merit for higher density development</li> <li>• Car parking and traffic impacts</li> <li>• Compliance with Clause 55 (ResCode)</li> <li>• Built form and neighbourhood character</li> <li>• Vegetation impacts and landscaping</li> </ul>
Officer recommendation	That Council supports the amended plans and the recommended permit conditions at the forthcoming VCAT hearing

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<b>Recommendation</b>
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That Council:

1. Supports the amended plans and their substitution at the forthcoming VCAT hearing, and advise VCAT and the registered parties of this position.
2. Circulates to VCAT (and the registered parties to the VCAT proceeding) the following draft permit conditions:
  1. Before the development commences, three copies of amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be generally in accordance with the plans received on 2 December 2016 and prepared by Time Architects, but modified to show:
    - a) The full extent of excavation setback a minimum distance of 1.5 metres from the eastern property boundary, in order to avoid the Structural Root Zone of third party trees on the abutting property.
    - b) The crossover and at least the first 12 metres of the access way inside the property boundary increased to a width of 5 metres. The remainder of the access way must maintain a minimum width of 4.5 metres. Building setbacks to the north, south and west title boundaries must not be reduced.
    - c) The ground floor of each dwelling setback from the eastern boundary as determined by Condition 1a) and 1b). Building setbacks to the north, south and west title boundaries must not be reduced.
    - d) The cantilevered first floor of Dwelling 1 setback a minimum distance of 3 metres from the outside edge of the retaining wall on the eastern edge of the driveway, so as to allow clearance for delivery trucks and vans to the site. This distance will be determined by Condition 1a) and 1b). Building setbacks to the north, south and west title boundaries must not be reduced.
    - e) The reversing area for Dwelling 9 reduced in length and the communal compost area setback an additional 1.5 metres off the southern boundary, so as to provide additional private open space for Dwelling 9. This will facilitate the provision of stairs from the first floor dining area into the area of private open space.
    - f) The inclusion of external stairs from the first floor dining area of Dwelling 9 so as to provide direct access to the area of private open space. The stairs and any associated footings must be located outside of the tree protection zone of Tree No.5, or alternatively arboricultural advice must be provided demonstrating that the tree will not be adversely impacted.

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- g) The area of private open space for Dwelling 9 to be shown consistently on all plans.**
- h) The removal of the bollard light from the private open space of Dwelling 9 as a result of Condition 1d).**
- i) The internal ground floor layout of Dwelling 1 modified so that the study cannot reasonably be used as a third bedroom.**
- j) The removal of Tree No. 1 to facilitate a wider crossover if necessary.**
- k) Clear delineation of future common property areas.**
- l) Tree protection zones drawn to scale on the site plan and ground floor plan.**
- m) Any trees proposed to be pruned.**
- n) Written demonstration from the project arborist that any pruning of third party trees for box clearance along the driveway will not adversely impact neighbouring trees.**
- o) The location of all trenched services.**
- p) A full schedule of external colours and materials, generally in accordance with the plans by Time Architects.**
- q) The Tree Protection Zone (TPZ) and associated tree protection fencing for all trees shown on the plans to be retained, including trees on adjoining properties and within the road reserve as required by condition 6 of this permit.**
- r) An amended landscape plan in accordance with condition 5 of this permit.**
- s) A Tree Management Plan in accordance with condition 9 of this permit.**
- t) A Construction Management Plan in accordance with condition 10 of this permit.**
- u) An amended Waste Management Plan to address the following:**
  - i. Waste and recycling collection to be carried out by a private contractor (and not Council).**
  - ii. Waste and recycling collection is to be carried out within the subject site and not from the kerbside.**
  - iii. Time and frequency of collection.**
  - iv. Method of collection.**
  - v. Location of bin storage areas.**
  - vi. Provision of both waste and recycling storage and collection.**

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2. The development (including tree removal) as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
3. The tree(s) nominated for pruning as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
4. Only trees marked 'tree to be removed' on the endorsed plans are permitted to be removed, to the satisfaction of the Responsible Authority.
5. Before the development commences, three copies of a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The landscaping plan must be generally in accordance with the landscape concept plan prepared by John Patrick Architects Pty Ltd (Drawing no. VCAT01 Revision). The plan must show:
  - a) A survey of all existing vegetation and natural features.
  - b) The area or areas set aside for landscaping.
  - c) A schedule of all proposed trees, shrubs/small trees and ground cover. This schedule shall include plants selected from the Council document 'Live Local Plant Local' showing the botanical and common name of each plant, the quantity to be planted, the pot size and spacing.
  - d) The location of each species to be planted and the location of all areas to be covered by grass, lawn or other surface material.
  - e) Paving, retaining walls, fence design details, lighting and other landscape works including areas of cut and fill.
  - f) Appropriate irrigation systems.
  - g) The quantities of all shrubs, groundcovers, and climbers to be shown.
6. Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the trees marked on the endorsed plans as being retained must have a Tree Protection Zone (TPZ) to the satisfaction of the Responsible Authority. The fencing associated with this TPZ must meet the following requirements:
  - a) Extent  
The tree protection fencing (TPF) is to be provided to the extent of the identified TPZ. If works are shown on any endorsed plan of this permit within the confines of the calculated TPZ, then the TPF must be taken in to only the minimum amount necessary to allow the works to be completed.

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**b) Fencing**

All tree protection fencing required by this permit must be erected in accordance with the approved TPZ.

The TPF must be erected to form a visual and physical barrier, be a minimum height of 1.5 metres above ground level and of chain mesh or similar material. A top line of high visibility plastic tape must be erected around the perimeter of the fence.

**c) Signage**

Fixed signs are to be provided on all visible sides of the TPF clearly stating 'Tree Protection Zone – No Entry', to the satisfaction of the Responsible Authority.

**d) Irrigation**

The area within the TPZ and TPF must be irrigated during the summer months with 1 litre of clean water for every 1cm of trunk girth measured at the soil/trunk interface on a weekly basis.

**e) Provision of Services**

Unless with the prior written consent of the Responsible Authority, all services (including water, electricity, gas and telephone) must be installed underground, and located outside of any TPZ, to the satisfaction of the Responsible Authority.

**f) Access to TPZ**

Should temporary access be necessary within the Tree Protection Zone during the period of construction, the Responsible Authority must be informed prior to relocating the fence (as it may be necessary to undertake additional root protection measures such as bridging over with timber).

7. Prior to the commencement of the approved works (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the erected tree protection fences must be inspected and approved by the Responsible Authority.

Once erected to the required standard, the tree protection fencing shall be maintained in good condition and may only be removed upon completion of all development works, to the satisfaction of the Responsible Authority.

8. The following actions must not be undertaken in any tree protection zone as identified in this permit, to the satisfaction of the Responsible Authority:

- a) Materials or equipment stored within the zone.
- b) Servicing and refuelling of equipment and vehicles.
- c) Storage of fuel, oil dumps or chemicals.



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- d) Attachment of any device to any tree (including temporary service wires, nails, screws or any other fixing device).
  - e) Open cut trenching or excavation works (whether or not for laying of services).
  - f) Changes to the soil grade level.
  - g) Temporary buildings and works.
  - h) Unauthorised entry by any person, vehicle or machinery.
9. Before the development commences, three copies of a Tree Management Plan (TMP) with measures to protect Tree No. 5 on the subject site and trees on abutting properties and in the adjacent road / public areas to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit.
10. Before the development commences, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The management plan must show:
- a) Measures to control erosion and sediment and sediment laden water runoff including the design details of structures.
  - b) Dust control.
  - c) Where any construction wastes, equipment, machinery and/or earth is to be stored/stockpiled during construction.
  - d) Where access to the site for construction vehicle traffic will occur.
  - e) The location and details of a sign to be erected at the entrance(s) of the site advising contractors that they are entering a „sensitive site“ with prescribed tree protection zones and fences.
  - f) The location of any temporary buildings or yards.

Development works on the land must be undertaken in accordance with the endorsed Construction Management Plan to the satisfaction of the Responsible Authority.

11. Any tree that is shown on the endorsed plans as being pruned, must be pruned in accordance with Australian Standard 4373/2007 Pruning for Amenity Trees, under the supervision of a qualified arborist, to the satisfaction of the Responsible Authority.
12. Unless with the prior written consent of the Responsible Authority, before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out, completed and maintained to the satisfaction of the Responsible Authority.

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13. All external lighting must be designed, baffled and located so as to prevent adverse effect on adjoining land, to the satisfaction of the Responsible Authority.
14. Vehicular access and egress to the development site from the roadway must be by way of a vehicle crossing constructed to the requirements of the Nillumbik Shire Council, to suit the proposed driveway and the vehicles that will use the crossing. The Responsible Authority must approve the location, design and construction of the crossing. Any existing unused crossing must be removed and the disturbed area reinstated to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council supervision under an Infrastructure Works permit.
15. Driveways, access lanes, and areas set aside for the parking of vehicles must be properly formed to such levels to ensure they can be utilised at all times and in accordance with the endorsed plans. All must be drained and constructed in concrete, asphalt or similar surface, and must be carried out and maintained to the satisfaction of the Responsible Authority.
16. The development, including any new paved areas, must be drained so as to prevent the uncontrolled discharge of stormwater from the subject site across any road or footpath or onto any adjoining land. The drainage system within the subject site must be designed to the requirements and satisfaction of the relevant building surveyor. Any connection to Council's underground drainage system within road reserves or drainage easements must be carried out under Council supervision and a Minor Works within the Municipal Road Reserves permit.
17. Stormwater from the roof of each dwelling hereby approved must be directed to a holding tank with sufficient storage capacity in relation to the roof area. Each dwelling must have an independent holding tank with a minimum storage capacity of 2000 litres. The overflow from the tanks must be directed via independent internal drainage system to the on-site detention system.

Water in the holding tank/s may be used for one or more of the following purposes: toilet flushing; property irrigation; vehicle washing and any other purpose approved by the Responsible Authority.

Stormwater from the driveway must be collected using 225mm wide trench-grates across the driveway and/or grating pits positioned in the driveway at a maximum spacing of 15 metres and connected to the on-site detention device.

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**An on-site detention device must be installed, at no cost to Council, to restrict the property discharge to a flow equivalent to the pre-development design flow rate as approved by the Responsible Authority unless with the prior written consent of the Responsible Authority. The on-site detention system outlet must be connected to the Council nominated point of stormwater discharge.**

**The on-site detention device shall be designed by a qualified engineer and plans submitted to the Responsible Authority for approval prior to the commencement of the development. The engineer that is designing on site detention unit must contact Council's Development Engineer for tc and tso figures. For calculation of the onsite detention unit adopt for pre development 1 in 5 years and post development 1 in 10 years average occurrence interval and for vacant block adopt 60 per cent impervious area.**

**Construction of the on-site detention device must be carried out under Council supervision, in accordance with the approved plans and Council's specifications. An AutoCAD electronic copy of the approved plans must be submitted to Council for record purposes.**

- 18. The nominated point of stormwater discharge requires the construction of drainage works outside the boundaries of the site. These works are to be constructed at no cost to Council and under Council supervision. Such drainage works shall be designed by a qualified engineer and plans submitted to the Responsible Authority for approval prior to the commencement of the development. An AutoCAD electronic copy of the approved plans must be submitted to Council for record purposes.**
- 19. No polluted, effluent and/or sediment laden runoff from the development site is to be discharged directly or indirectly into Council's drains, Melbourne Water's drains or watercourses or adjoining private property. In this regard, pollution or litter traps must be installed on site and serviced accordingly, all to the satisfaction of the Responsible Authority.**
- 20. This permit will expire if one of the following circumstances applies:**
  - a) The development is not commenced within 2 years of the date of this permit.**
  - b) The development is not completed within 4 years of the date of this permit.**

**The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within 6 months afterwards if the development has not commenced, or 12 months after if the development has commenced but is not yet completed.**

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**NOTES:**

**During the course of the approved construction work, including tree removal, a copy of this permit and the endorsed plan(s) must be kept on-site and made available for inspection by Council officers.**

**The removal of vegetation is often found by Council to generate concern amongst other community members who may not be aware that a permit has been obtained. Council therefore strongly recommends that the permit holder advise any nearby neighbours of their intention to remove the vegetation and that they have obtained permission to do so before they proceed to remove the vegetation. Failure to do so may result in Council officers being obliged to visit the land, and also potentially delay the vegetation removal process while compliance with the permit is checked.**

**Failure to undertake the requisite tree protection fencing in accordance with the conditions of this permit will result in the issuing of Planning Infringement Notices to the land owner, occupant (if this is a different person), and the person or company undertaking the works on-site. The minimum penalty on the Planning Infringement Notice for land owners and occupants will be \$777 for the land owner and occupant, and \$1,555 for any company which may be undertaking works on-site.**

**For any clarification or enquiries concerning the drainage or stormwater conditions contained in this permit, please contact Council's Development Engineer on 9433 3234.**

**Attachments**

1. Committee report 10 May 2016
2. Subject site and surrounds
3. Amended Plans 1 to 11 (December 2016)
4. Original Plans 1 to 11 (July 2015)

**Introduction**

1. Application for Planning Permit 386/2014/03P was reported to Council's Planning Committee meeting on 8 September 2015 and again on 10 May 2016. At the September 2015 meeting, the property owner who attended the meeting appealed to the Committee to defer the application so that the permit applicant could work with Council officers to address officer concerns outlined in the planning assessment. The application was subsequently put 'on hold' for eight months. Due to lack of contact and responsiveness from the permit applicant during this period, the application was subsequently reported back to the Planning Committee in May 2016. A copy of the officer report from this meeting is attached (Attachment 1).

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2. The application sought approval for the construction of 10 dwellings, removal of substantial trees and a reduction in visitor parking requirements. The application was not supported by Council officers and the Planning Committee due to the development's failure to respond to planning policy and specifically concerns relating to the detailed design, as well as the removal of two high retention value trees, inadequate opportunities for meaningful landscaping and the inability of the development to satisfy many of the standards of Clause 55 (ResCode).
3. The Committee resolved to refuse the application for the construction of 10 dwellings, the removal of substantial trees and a reduction in visitor car spaces. The applicant subsequently appealed Council's decision to the Victorian Civil and Administrative Tribunal (VCAT), and the VCAT hearing for this matter has been set for 12 January 2017. In preparation for the upcoming VCAT hearing, the applicant for review has circulated a Notice of an Amendment of an Application and given notice of their intention to substitute amended plans at the hearing.
4. The purpose of this report is to allow Council to form a position on the amended plans that will be formally substituted at the VCAT hearing on 12 January 2017. An assessment of the amended plans has been undertaken and it is recommended that Council support the amended plans and their substitution at the forthcoming VCAT hearing.

**Details of proposal**

5. Refer to the attached plans.
6. Features of the substituted plans include:
  - The number of dwellings has been reduced from 10 to nine.
  - A high retention value Yellow Box tree has been retained.

**Subject site and surrounds**

- The front setback to Arthur Street has been increased to a minimum of 4.79 metres at ground level (previously 1.99 metres), 4.98 metres at the first floor (previously 2.1 metres) and 7.9 metres at the second floor (previously 5.2 metres).
- The set back from the southern (rear boundary) has been increased to 6.72 metres at ground level (previously 4.57 metres), 7.08 metres at the first floor (previously 4.9 metres) and 7.39 metres at the second floor (previously 5.2 metres).
- Minor changes to setbacks from the eastern and western boundaries.
- Changes to the detailed design, including greater articulation and punctuation of the eastern and western elevations and amendments to the skillion roof form of Dwelling 1.

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- The nine three-storey attached dwellings are orientated along a north-south axis and each dwelling contains two bedrooms. Dwellings 2 to 9 will orientate to the western boundary (Circulatory Road) and Dwelling 1 will orientate to Arthur Street. Vehicular access is provided to ground floor level garages via a proposed new crossover and driveway from Arthur Street along the eastern boundary.
- The internal configuration of each dwelling is as follows:

**Ground floor level**

- Front entries for dwellings 2 to 9 (inclusive) are accessed from the existing pedestrian pathway along Circulatory Road via landscaped front gardens. The entrance to dwelling 1 is from Arthur Street. For Dwellings 2 to 9, the entry foyer leads to a study, with entry to a single car garage and European-style laundry. A staircase leads to the first floor. For Dwelling 1 access is obtained via the front porch fronting Arthur Street. A large study faces out to Arthur Street and a separate laundry and bathroom orientate to Circulatory Road. Entry is provided to the single car garage and storage area, and a staircase provides access to the first floor.

**First floor level**

- Each dwelling contains an open plan kitchen, dining and living area orientated in an east-west direction. Dwelling 1 also includes a separate bathroom.

**Second floor level**

- Each dwelling contains two bedrooms. Dwellings 2, 3, 4 and 5 each contain a single bathroom, whereas the remaining dwellings contain two bathrooms on this level.

**Other features**

- The development will have a maximum overall height of 11.11 metres, measured from natural ground level to the top of the skillion roof profile. This maximum height applies to Dwelling 3. The proposed site coverage is 43 per cent, and the proposed permeable area is 30 per cent.
- The proposed dwellings range in size from 133 square metres to 192 square metres. Details are as shown in the table below (all areas are in square metres).

Dwelling	Bedrooms	Car spaces	Total floor area	Balcony area
1	2	1	192	11
2	2	1	136	10
3	2	1	133	8
4	2	1	135	9
5	2	1	135	9

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Dwelling	Bedrooms	Car spaces	Total floor area	Balcony area
6	2	1	141	8
7	2	1	159	8
8	2	1	143	9
9	2	1	152	10

- The proposed building is a modern architectural design, and will include a colour and materials palette consisting of stone cladding, concrete render in two muted tones, vertical and horizontal timber cladding, face brickwork, powder coated window and sliding door frames and tinted glazed balustrading.
- It is proposed to remove one of the high retention value Yellow Box trees on-site. The Prickly Leaf Paperbark located within the nature strip will remain.

**Planning policy update**

7. Amendment C106 was gazetted by the Minister for Planning on 11 August 2016 which introduced the Activity Centre Zone (Schedule 1) and replaced the previous Residential Growth Zone and Design and Development Overlay (Schedule 6), which applied to the site. The new Activity Centre Zone applies to the assessment of these substituted plans and will be the planning control considered in the VCAT hearing on 12 January 2017. Amendment C106 is 'policy neutral' in its translation from the previous corresponding planning scheme provisions. As such, planning policy in the planning scheme has not materially changed between now and Council's earlier consideration of the planning application.

**Public consultation**

8. The original application was advertised and two written objections were received. In accordance with the VCAT practice note and protocol, the amended plans currently being considered were also required to be circulated to all affected properties and objectors.
9. One of the objector parties has registered to be a party to the upcoming VCAT proceedings.

**Referrals**

**Internal**

10. The application was referred to various business units or individuals within Council for advice on particular matters. The following is a summary of the relevant advice:

Council Unit	Comments
Consulting Arborist	The trees and associated tree protection zones identified within the permit applicant's arborist report are correct.

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	<p>Trees on the abutting property at No. 30 Arthur Street have been incorrectly located on the plans and will be adversely impacted by the proposed driveway works. The driveway works will need to be either offset from the eastern boundary or alternatively constructed at or above existing grade using a porous surface.</p>
<p>Infrastructure Development Unit</p>	<p>Concerns regarding the width of the driveway and truck clearance under the cantilevered second floor have been raised. These concerns can be addressed through permit conditions if the plans are supported.</p> <p>Conditions regarding stormwater management; quality and detention; vehicle crossover; and driveway construction have been provided in the event that a planning permit is issued.</p>

**External**

11. There are no external referral authorities relevant to the amended plans currently being considered.

**Planning assessment**

**Introduction**

12. The following have been identified as the key planning issues in relation to the assessment of this planning application:
- Strategic merit for high density development
  - Car parking and traffic impacts
  - Compliance with Clause 55 (ResCode)
  - Built form and neighbourhood character
  - Vegetation impacts and landscaping.
13. Assessment of these issues will be discussed in the remainder of this report.

**Strategic merit for high density development**

14. The officer position on this issue has not changed since the previous report. The development of this land for higher density residential purposes (including apartments or townhouses) is strongly supported by the Activity centre Zone (Schedule 1) and State and local planning policy.



**12. Officers' reports****OCM.178/16 Construction of nine dwellings, removal of a substantial tree and a reduction in visitor parking requirements at 28 Arthur Street, Eltham**

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**Car parking and traffic impacts**

15. Although the officer support on these considerations has not changed, the amended plans now show reduced crossover and access way widths, which may cause traffic implications for vehicles waiting to turn in and out of the subject site. Council's Infrastructure Development Unit has identified that the proposed access way layout is less convenient and efficient to what was shown on previous versions of the development plans and may have some safety implications. Previous versions of the plans were amended so as to allow truck clearance adjacent to the cantilevered second floor of Dwelling 1. In the event that Council is supportive of the substituted plans, it is recommended that a condition requiring that the access way width be increased to 5 metres for the first 12 metres and the first floor of Dwelling 1 be setback a minimum distance of 3 metres from the retaining wall on the eastern boundary be suggested to the Tribunal.

**Compliance with Clause 55 (ResCode)**

16. The proposed development generally complies with all of the standards and objectives of Clause 55 (ResCode), except for the accessibility objective at Standard B25. Previous concerns regarding setbacks from side boundaries have been addressed, as have overlooking concerns. The design detail objectives at Standard B31 (Design detail) are considered to be better addressed through the amended plans. Although a skillion roof form, the pop cube feature and a cantilevered second floor is still proposed, the increased boundary setbacks, better articulation of the built form and increased areas for landscaping have improved the development's response to the preferred neighbourhood character and are now considered to be acceptable.
17. The amended plans now indicate that the open space at the rear of the development be dedicated private open space for Dwelling 9 (this was unclear on previous versions of the plans). This area is accessed via a side gate which in turn is accessed from the front garden area of the dwelling. This arrangement is not considered to have convenient access from a living area, as is sought at Standard B28 (Private open space), and is a lost opportunity to improve the amenity of Dwelling 9. There is an opportunity to reduce the vehicle reversing area for Dwelling 9 and to move the communal compost area further away from the southern boundary. This change would increase the area of private open space for Dwelling 9 and provide an opportunity to incorporate stairs into the southern elevation from the dining area, without impacting the tree protection zone area of Tree No.5. These changes are recommended to be included as suggested permit conditions to the Tribunal.
18. Although the amended plans are still unclear about the open space arrangement in the front setback to Arthur Street, this is something that can be clarified via a permit condition at the forthcoming VCAT hearing.

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**OCM.178/16 Construction of nine dwellings, removal of a substantial tree and a reduction in visitor parking requirements at 28 Arthur Street, Eltham**

**Built form and neighbourhood character**

19. The amended plans have deleted a dwelling and provide a sufficient setback from high retention value Tree No. 5. Boundary setbacks have significantly increased from the north and south boundaries and some setbacks have also increased from the western and eastern boundaries. The increased boundary setbacks to the north and south, as well as the relocation of the stormwater detention unit and services from the front garden area facing Arthur Street to the driveway, improve opportunities for meaningful landscaping and assist in satisfying neighbourhood character objectives.
20. Although the first floor setback of Dwellings 6 to 9 have been reduced along the eastern elevation, the amended design has incorporated windows which have an outlook along the driveway for passive surveillance, while still satisfying overlooking requirements. The design also creates an interesting architectural element, as the first floor wall of these dwellings is now angled and not parallel to the boundary. The amended plans now also incorporate greater articulation and punctuation along the eastern and western elevations, which helps to break up the continuous built form.
21. Although the pop cube feature and cantilevered second floor are still proposed, the increased boundary setbacks and greater articulation and breakup of the balcony areas have assisted to better break up the built form. The skillion roof on Dwelling 1 has also been increased to 10 degrees, which reduces the boxy appearance of this dwelling when viewed from Arthur Street. All of the above changes achieve a greater level of compliance with the Eltham Activity Centre Design Guidelines. The significantly increased areas for landscaping within the Arthur Street front setback, as well as at the rear of the site, provide for setbacks more in keeping with the residential character and will aid in softening the built form once landscaping is established.
22. The Activity Centre Zone (Schedule 1) requires a front setback of 5.5 metres from the kerb, with the third and fourth storey setback 3 metres from the first floor frontage. The setback of Dwelling 1 from the Arthur Street kerb has been increased to 8.62 metres and the third floor is setback 11.03 metres from the Arthur Street kerb. Although the third floor is not setback 3 metres from the first floor façade as recommended by the zone, the 2.41 metre setback is considered to be appropriate in light of the other generous setbacks proposed on the amended plans.
23. The following is a summary of how the amended plans respond to the design guidelines contained within the Activity Centre Zone (Schedule 1).

<b>Design Guideline</b>	<b>Complies?</b>	<b>Comment</b>
Maximum building height must not exceed 14 metres (four storeys).	Complies	The maximum building height is 11.11 metres.
The fourth storey should be contained in the roof space.	Complies	There is no fourth storey proposed.
The building's front setback should be a minimum of 5.5 metres from roadside kerb.	Complies	The building line is setback 8.62 metres from the kerb of Arthur Street.

12. Officers' reports

**OCM.178/16 Construction of nine dwellings, removal of a substantial tree and a reduction in visitor parking requirements at 28 Arthur Street, Eltham**

Design Guideline	Complies?	Comment
A third storey (and above) should be setback a minimum of three metres from the first floor frontage.	Does not comply	The third storey is not quite set back a minimum of three metres from the first floor frontage of Arthur Street. It is noted that the third floor is setback 11.03 metres from the kerb of Arthur Street, falling short by 0.59 metres.
Buildings must be designed to preserve views from adjoining residential properties to the treed hilltops to the west.	Partially complies	The properties to the east are currently single storey and some with solid fences which have existing limited views of the treed hilltops.
Buildings with larger footprints should be designed with split levels to respond to the natural topography.	Does not comply	The site has a four metres fall from front to rear and does not utilise a split level design to follow the landform.
Main pedestrian entrances should be clearly legible from the street and demarcated with strong architectural and landscape features.	Complies	The pedestrian access to the townhouses is from Arthur Street and the footpath located on Circulatory Road. The entrances are demarcated by entry steps and landscaping.
New development should appear to have a domestic quality and respond to the residential character of the area.	Partially complies	Although the pop cube feature and cantilevered second floor fronting Arthur Street are still proposed, the increased front setback to Arthur Street greatly improves the landscaping potential for the site and improves the design's residential character.
Non-residential development should appear to have a domestic quality and respond to the residential character of the area.	Not applicable	The development is residential use only.
Developments sited alongside boundaries should be massed in a staggered manner to avoid overlooking of adjacent properties and reduce overshadowing impacts.	Complies	The eastern boundary of the property partially abuts an existing road reserve. Where it does abut residential properties, overlooking and overshadowing comply with Clause 55 (ResCode).
Building siting should provide the opportunity for open space areas and allow for canopy tree landscaping to be integrated with the total development.	Complies	The amended plans have moved the stormwater detention unit and services out of the front landscaping area. Increased boundary setbacks also allow for improved landscaping opportunities and the retention of Tree no. 5.

12. Officers' reports

**OCM.178/16 Construction of nine dwellings, removal of a substantial tree and a reduction in visitor parking requirements at 28 Arthur Street, Eltham**

Design Guideline	Complies?	Comment
On-site car parking should be sited to the side and rear of dwellings behind the front façade.	Complies	Car parking will be located in single car garages that form part of the ground floor level of the dwellings.
New development should provide for open landscaped front yards and avoid high solid fencing.	Complies	No front fencing is proposed and landscaping will be provided along both the Arthur Street and Circulatory Road street frontages.
Signage on non-residential uses should be subdued in colour, positioned below the eave line and integrated with the surroundings	Not applicable	There are no non-residential uses proposed as part of this application.

24. The amended plans utilise a range of materials and colours that are in keeping with the Eltham Activity Centre Design Guidelines. In particular, the development proposes the significant use of natural timber and rock work, which are complemented by face brickwork and rendered textures in muted and earthy tones.

**Vegetation impacts and landscaping**

25. The amended plans seek to retain high retention value Tree No. 5, provide increased setbacks from boundaries (particularly at the front and rear of the site, which is the northern and southern ends), and provide adequate space and opportunities for meaningful landscaping. Council’s consulting arborist has reviewed the amended plans and has advised that the proposed design will have a major encroachment on Tree No. 5, with a Tree Protection Zone area encroachment of approximately 15 per cent. The tree is a *Eucalyptus melliodora* (Yellow Box) and in this particular circumstance, this encroachment is likely to be within the tolerable range of disturbance for the species. As such, no further change to the southern setback of the development is required.
26. The proposed crossover is setback approximately 3.5 metres from Tree No. 1, which is a street tree. The crossover will have a minor encroachment of approximately 5 per cent within the Tree Protection Zone area and the tree is expected to remain viable with standard tree protection measures during construction. Recommended conditions, as recommended by Council’s Infrastructure Development Unit, to increase the width of the crossover and access way for an improved safety and efficiency outcome, will adversely impact on this tree. In response to this, Council’s consulting arborist has advised that this tree is an acceptable loss with replacement planting. Replacement planting is proposed as part of the development and includes tree planting within the front setback of the development. If necessary, the loss of Tree No.1 is considered acceptable in order to facilitate an improved access arrangement and facilitate an appropriate development on the land.

12. Officers' reports

**OCM.178/16 Construction of nine dwellings, removal of a substantial tree and a reduction in visitor parking requirements at 28 Arthur Street, Eltham**

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27. In considering the amended plans, the neighbouring trees located along the western boundary of 30 Arthur Street are not expected to remain viable. This includes Tree Nos. 2 and 3 (a row of five trees) identified in the arborist report submitted with the original application, as well as a *Pittosporum undulatum* and a *Cotoneaster glaucophyllus*, which have not been assessed in the arborist report.
28. The proposed excavation and retaining wall for the driveway will have a major encroachment on the trees, including encroachment into the Structural Root Zone. These neighbouring trees will also require canopy pruning to allow clearance for vehicles. In some instances the amount of pruning required is likely to be excessive and may impact tree health and structure.
29. In order to avoid impacts to these third party trees, the excavation and retaining wall for the driveway need to be offset from the eastern boundary to ensure that all works are outside of the Structural Root Zone of these trees. A minimum offset of 1.5 metres for all works from the boundary fence will provide adequate root protection for the third party trees and will negate the need to undertake excessive canopy pruning of the neighbouring trees to provide box clearance for vehicles. It is recommended that Council suggests a permit condition requiring this change in setback be circulated at the forthcoming VCAT hearing.

**Conclusion**

30. The amended plans substituted in preparation for the forthcoming VCAT hearing have responded to previous identified concerns regarding built form, detailed design, responsiveness to Clause 55 (ResCode), tree removal and opportunities for meaningful landscaping. A dwelling has been deleted from the proposed development to help address these concerns.
31. Based on the above assessment, it is recommended that Council should support the amended plans and their substitution at the forthcoming VCAT hearing, as reflected in the officer recommendation which follows.

12. Officers' reports

**OCM.179/16 Recreation Trails Advisory Committee appointing of Committee vacancies and updated Terms of Reference**

**Distribution: Public**

**Manager: Naomi Paton, Acting General Manager Community and Leisure**

**Author: Alison Hickey, Leisure Services Project Officer**

**Summary**

The Recreation Trails Advisory Committee (RTAC) provides advice to Council on the planning, development and use of trails across the Shire. The Committee consists of three Councillors and twelve community representatives.

There are currently three community representative vacancies in the RTAC.

These vacancies were recently advertised and eleven expressions of interest received. The applications have been assessed by officers and three candidates are recommended in this report for Council's consideration.

The Terms of Reference have also been updated.

**Recommendation**

**That Council:**

1. **Endorses the recommended candidates to fill the three community representative vacancies in the Recreation Trails Advisory Committee.**
2. **Endorses the updated Recreation Trails Advisory Committee Terms of Reference (Attachment 1).**

**Attachments**

1. Recreation Trails Advisory Committee Terms of Reference 2016

**Background**

1. The Recreation Trails Advisory Committee (RTAC) was established in 2001 during the development of the *Recreation Trails Strategy 2001*.
2. The RTAC's role is 'to provide a formal mechanism for Council to consult with key stakeholders, seek specialist advice and enable community participation in the development and review of new and existing recreation trails within the Shire of Nillumbik.
3. The current membership of the RTAC was appointed in July 2013. The term of community representatives as outlined in the Terms of Reference (Attachment 1) is two years or until otherwise resolved by Council.
4. At the Ordinary Meeting of Council on November 24, 2015, Council re-appointed the current community representatives for an extended term to July 2017. Council also approved advertising for the vacancies. The positions were advertised in early 2016 but no nominations were received.

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**OCM.179/16 Recreation Trails Advisory Committee appointing of Committee vacancies and updated Terms of Reference**

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5. In March 2016 one other community representative resigned from the RTAC, so in August 2016 the three vacancies were advertised.
6. At the November 2016 Ordinary Meeting of Council, it was resolved to appoint Crs Dumaresq (Chair), Egan and Perkins to the RTAC.

**Policy context**

7. This report directly supports the achievement of Council Plan 2013-2017 strategies:
  - We will provide recreation and sports facilities and services to enhance social participation and to help our community be active and healthy.

**Budget implications**

8. Administrative support for the RTAC is provided within the Community and Leisure Department budget.
9. Investment in the construction, upgrade, renewal and maintenance of trails is guided by the Nillumbik Trails Strategy 2011 and is outlined in the Capital Works 5 Year Program.

**Consultation/communication**

10. The three RTAC vacancies were advertised via social media, in the local paper and on Council's website.
11. Applicants submitted their Expressions of Interest via an online form. Eleven Expressions of Interest were received.
12. The Terms of Reference of RTAC have been reviewed and updated in consultation with Committee Chair Cr John Dumaresq.

**Issues/options**

13. The RTAC's membership is diverse and includes representatives under categories outlined in the Terms of Reference:
  - One or more councillor representatives appointed by Council, one to act as Chairperson (Cr Dumaresq (Chair), Cr Egan and Cr Perkins)
  - Two Friends of or Landcare representatives (Bill Lord and Mike Pelling)
  - Two community horse riding representatives (Cathy Giles and Kay Cruse)
  - Two cycling representatives (David Nicholls and Kevin Gregg-Rowan)
  - Two walking group representatives (Rex Niven and Robin Gardner)
  - Two general community representatives, one urban (Stephen Hadley) and one rural (currently vacant)
  - One tourism representative (currently vacant)
  - One person with a disability or advocate on behalf of people with a disability (currently vacant).

**12. Officers' reports**

**OCM.179/16 Recreation Trails Advisory Committee appointing of Committee vacancies and updated Terms of Reference**

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14. Eleven Expressions of Interest were received. Of these, seven nominated for the 'accessibility and inclusion' vacancy, three people nominated for the rural general community' vacancy, and one nominated for the 'tourism' vacancy.
15. Officers assessed the applications with the aim of filling key knowledge gaps and broadening the demographics of the Committee's membership.
16. Based on this assessment, the preferred candidates for membership of the RTAC is as follows:
  - a) General community representative, rural: Stephanie Langton  
As a local resident and regular trail user, Stephanie has a strong familiarity with our rural areas and a strong interest in trails as a support to alternative modes of transport.  
Stephanie enjoys cycling the rural trails of Nillumbik with her family and wishes to give back to the community through her contribution on the RTAC.  
Stephanie also has professional experience, skills and industry expertise as a recreation planner.
  - b) Tourism representative: Damian Barber  
Damian wishes to make a contribution to his local community as a member of the RTAC. Damian has some tourism and major sporting event experience in his professional background, and regularly uses Council's trails with his young family.  
Damian has been involved in the design and construction of mountain bike trails in the past, a key knowledge gap in the current committee.  
Damian was the only candidate for this category.
  - c) Accessibility and inclusion (person with a disability or advocate on behalf of people with a disability): Anne-Marie King  
Anne-Marie and her young family are regular users of Nillumbik's trails. Through experience of trails with people using wheelchairs, she is keen to ensure that more of our trails are inviting and available for use by those with impaired mobility.  
Anne-Marie is also a strong advocate for improving the way we communicate and promote our trail network to the community through maps and other information.  
Anne-Marie wishes to support Council through her membership on the RTAC to share knowledge about our trails with the community.
17. Officers believe that these candidates will contribute to and extend the diverse and comprehensive knowledge base of the RTAC.

**Conclusion**

18. The three preferred candidates will contribute to the diversity and local trails knowledge of the current community representative members.



**12. Officers' reports**

**OCM.179/16 Recreation Trails Advisory Committee appointing of Committee vacancies and updated Terms of Reference**

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19. Once endorsed, the candidates will be informed that they have been successful in their application.
20. The RTAC meetings will be held quarterly in accordance with the updated Terms of Reference.

12. Officers' reports

OCM.180/16 Plenty Tennis Club loan guarantee request

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**Distribution:** Public

**Manager:** Naomi Paton, Acting General Manager Community and Leisure

**Author:** Joanne Massoud, Leisure Services Development Officer

**Summary**

This report considers a request from the Plenty Tennis Club operating under a lease from Council-owned facilities at Plenty War Memorial Park, Plenty.

The Club has approached Council requesting Council act as a loan guarantor for \$15,000 to retrospectively fund the upgrade of tennis court lighting from metal halide to the more energy efficient and financially sustainable light-emitting diode (LED).

The Bendigo Bank has agreed to provide a loan of \$15,000, subject to a Council guarantee of the loan. The Club proposes to repay the loan over five years.

**Recommendation**

**That Council:**

1. **Acts as loan guarantor for the Plenty Tennis Club for \$15,000 for a period of five years for the Club to reimburse Council for contributions towards the recent upgrade of tennis court lighting, on the proviso that the Club provides over the life of the loan:**
  - a) **Quarterly loan statements from the Bank to demonstrate that the loan repayment has been made as scheduled.**
  - b) **Annual cash flow reports and projections to ensure the Council is informed of any possible adverse financial projections.**
  - c) **Current Business Plan forecasting memberships, programs and services.**
2. **Affixes the common seal of Nillumbik Shire Council to the necessary loan guarantee documentation.**

**Attachments**

Nil

**Background**

1. The Plenty Tennis Club occupies the Council-owned property located at Plenty War Memorial Park at 109-115 Yan Yean Road, Plenty under a three year lease expiring on 30 September 2019.
2. The Club was established in 1932 with two courts and a tin shed. Over the 84 years of operation the Club contributed funds towards six additional courts, new clubrooms and playground and shelter area within their leased area.

**12. Officers' reports**

**OCM.180/16 Plenty Tennis Club loan guarantee request**

3. The Club has a membership of 400 and offers tennis programs including social tennis, school clinics, professional coaching and ladies, men's and junior competitions.
4. In 2007 the Club constructed courts 7 and 8, funded through borrowings, with Council acting as a loan guarantor for a term of ten years. The loan was repaid in its entirety by 2015. Earlier this year, Council acted as a guarantor on a loan of \$38,000 for a five year term, enabling the Club to resurface courts 3 and 4.
5. In April Council undertook Structural Condition Audits of outdoor sporting facilities. Severe corrosion around the base of the floodlight towers on courts 1, 2, 3 and 4 was identified. Council removed the light towers immediately to manage risk.
6. Council officers have worked with Club representatives to develop a funding model to replace the light towers and upgrade the lamps from metal halide to LED; technology which maintains illumination over a longer period, and requires less maintenance and lower electricity consumption.

**Policy context**

7. This report directly supports the achievement of Council Plan 2013-2017 strategy:
  - We will provide recreation and sports facilities and services to enhance social participation and to help our community be active and healthy.
8. Council's Capital Works Funding Policy for Community Based Sports Facilities 2003 states:
  - Section 10 – Council may be able to act as a loan guarantor for a sporting club or a community organisation for the development of a capital works project. Council's ability to offer such assistance is dependent on Council's global financial position in the particular time frame.
9. Nillumbik Shire Council Budget 2015-2016 – Financial Sustainability Plan:
  - Council will provide well-maintained infrastructure assets that are fit for purpose and provide the required level of service to the community.

**Budget implications**

10. Council is currently guaranteeing \$1.39 million in loans for 11 sporting clubs in Nillumbik. This includes a current loan by Plenty Tennis Club for \$38,000 to resurface two courts. There is no current known default risk applying to any of these existing loans.
11. The total cost to replace the floodlights was \$71,900. \$56,900 to replace the light towers was funded by Council via savings in the capital works program identified at the 2016-2017 Mid-Year Financial Review. The remaining \$15,000 to upgrade the lamps from metal halide to LED was the responsibility of the Club.
12. Council completed the works in early spring 2016 under one contract, with the Club agreeing to reimburse Council for their contribution.
13. Plenty Tennis Club has secured a loan, in principle, from the Bendigo Bank to fund their contribution for the floodlight upgrade.

**12. Officers' reports**

**OCM.180/16 Plenty Tennis Club loan guarantee request**

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14. There is a contingent liability exposure for Council should the Club be unable to meet the instalments under the terms and conditions of the loan agreement. Officers have completed assessments of the Club's financial data to assess the risk exposure to Council, which is considered low.

**Consultation/communication**

15. Council officers have communicated regularly with the Club to firstly undertake the audit of facilities and the subsequent emergency works to remove the light towers.
16. In order to minimise disruption to the Club's operations, Council funded the immediate replacement of affected light towers with the Club agreeing to fund the fittings upgrade to LED.
17. The Club has consulted with members on the replacement and upgrade of the floodlights on courts 1, 2, 3 and 4. The members have supported this proposal.
18. Negotiations between Council, the Club and Bendigo Bank have occurred in setting the proposed loan terms and conditions for the loan.

**Issues/options**

19. The floodlights towers on courts 1, 2, 3 and 4 were identified in need of urgent removal through Council's Structural Condition Audits of outdoor sporting facilities.
20. To enable tennis to continue to utilise the courts during the evening, new floodlight towers and lights were installed immediately. Costs were fully met by Council.
21. The Club negotiated with officers to reimburse Council to fund the upgrade of the lights to LED; a responsibility of the Club.
22. The Club's contribution is funded through a loan, to which they've approach Council to act as guarantor.

**Proposed loan and guarantee**

23. The Club has undertaken preliminary discussions with Bendigo Bank for a new loan to replace the floodlighting with the following terms:
- a) Loan amount - \$15,000
  - b) Term – five years
  - c) Monthly principle and interest payments – \$308
  - d) Interest rate – 7.05 per cent
  - e) Requirement for loan guarantee from Council
  - f) No redraw capacity – loan can only be used for stated project
24. The Club has provided evidence that it will be able to meet the required repayments on the new loan.
25. Prior to granting formal approval, the Bendigo Bank has requested confirmation from Council that it will guarantee the Club's loan application, by executing under seal a Guarantee and Indemnity document. This means that Council would be liable for the loan if the Club defaulted.

**12. Officers' reports**

**OCM.180/16 Plenty Tennis Club loan guarantee request**

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26. The Club has provided Council with the following documents to demonstrate the Club's capacity to service the loan:
- a) Committee meeting minutes confirming the Club's intention of applying for a loan to contribute to the lighting upgrade
  - b) Financial statements for the last three years
  - c) Forecast cash flow for the next five years, including the Club's ability to meet all current expenses and loan liabilities based on a zero growth model.

**Conclusion**

27. The Club provides important social and recreational opportunities for the community, and operates from a Council-owned facility.
28. In the unlikely event that the Club defaulted on the loan, or dissolved, and Council inherited responsibility for the loan, the facility would remain in Council ownership for the benefit of the community.
29. The installation of LED lighting on four courts will improve a Council asset whilst reducing maintenance costs and electricity consumption. Given the low risk for Council, it is recommended that the loan guarantee be provided by Council.

**12. Officers' reports****OCM.181/16 Terms of Reference - Future Nillumbik Committee**

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**Distribution: Public****Manager: Andrew Port, General Manager Corporate Services****Author: Andrew Port, General Manager Corporate Services****Summary**

This report presents the draft Terms of Reference for the new Future Nillumbik Committee.

At the Council Meeting on 22 November 2016, Council resolved to establish portfolio responsibilities for Councillors. Council also resolved to establish a single Special Committee to replace the previous Policy and Services Committee and Planning Committee. This single Special Committee will be chaired by the relevant portfolio Councillor for those items within their portfolio. It is proposed that the committee be named the Future Nillumbik Committee.

In order to implement Council's resolution, several steps are required, as was noted in the report to Council on 22 November. The first step is to confirm the Terms of Reference for the Special Committee, which is considered in this report. It is also necessary for Council to formally appoint Councillors to the new Committee.

The second step is the preparation of a new Instrument of Delegation, which provides the formal authority for the Special Committee to make certain decisions on behalf of Council.

In order to make changes to the existing arrangements for members of the public to address the Committee, Council will also need to modify the existing Meeting Procedure Local Law. This involves a statutory process of public exhibition and submissions.

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

- 1. Approves the Terms of Reference for the Future Nillumbik Committee (Attachment 1).**
- 2. Appoints all seven Councillors to the Future Nillumbik Committee.**
- 3. Receives a further report with a draft Instrument of Delegation for the Future Nillumbik Committee, for approval by Council.**
- 4. Receives a further report with a draft version of a modified Meeting Procedure Local Law, for approval by Council in order to commence the statutory process of public consultation.**
- 5. Confirms that the Future Nillumbik Committee meeting dates for 2017 will be the same as the meeting dates previously approved by Council for the former Policy and Services Committee and Planning Committee.**
- 6. Resolves to abolish the Policy and Services Committee and the Planning Committee, effective from the date of Council approval of the new Instrument of Delegation to the new Future Nillumbik Committee.**

**12. Officers' reports**

**OCM.181/16 Terms of Reference - Future Nillumbik Committee**

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**Attachments**

1. Terms of Reference for Future Nillumbik Committee

**Background**

1. Special Committees are established under section 86 of the *Local Government Act 1989*. The Act provides that Special Committees are able to be delegated powers to make formal decisions on behalf of Council (subject to some statutory exclusions).
2. The use of Special Committees provides an opportunity for a less formal meeting process than a Council meeting, although some formality is still required. Special Committees are often used by councils to enable members of the public to make verbal presentations, which is an opportunity that is not generally provided at a full Council meeting.
3. In addition to hearing public presentations, a Special Committee can also consider other matters. The Special Committee may make a final decision on matters, or may on occasions refer some matters through to the full Council meeting for decision.
4. At Nillumbik, in recent years there have been two Special Committees. The Planning Committee has dealt with town planning permit applications. The Policy and Services Committee has dealt with any other matters.
5. Council has now resolved to establish a single Special Committee. Terms of Reference have been drafted and are attached.

**Policy context**

6. This report directly supports the achievement of Council Plan 2013-2017 strategy:
  - We will involve the community in our decision-making through public participation and representation and we will keep them informed through frequent and effective communication.

**Budget implications**

7. There are no significant budget implications arising from this report. Costs associated with modification of the Meeting Procedure Local Law can be accommodated within existing operating budgets.

**Consultation/communication**

8. The draft Terms of Reference have been prepared in consultation with the Mayor and Councillors.
9. Subject to Council's consideration and approval of the Terms of Reference, a change to the Meeting Procedure Local Law will be required to give effect to the new arrangements in regard to the rights of members of the public to address the Future Nillumbik Committee.
10. This change to the local law will require a statutory process of public exhibition and consideration of public submissions, prior to final approval of changes to the local law.

**12. Officers' reports**

**OCM.181/16 Terms of Reference - Future Nillumbik Committee**

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**Terms of Reference**

11. It is proposed that the Special Committee be named the 'Future Nillumbik Committee'.
12. All Councillors will be members of the Future Nillumbik Committee.
13. The Chairperson role will be performed by Councillors according to their portfolio. This means that the Chairperson will change during each meeting, according to the particular agenda items and the corresponding portfolio. A list of matters within each portfolio is included in Appendix 1 of the Terms of Reference.
14. It is proposed that Council delegates to the Future Nillumbik Committee all matters which are legally able to be delegated. As the Committee includes all Councillors, it is not necessary to further limit the extent of the Committee's powers.
15. The only exclusions from the Committee's delegated powers are those matters which are unable to be delegated under the Local Government Act, the Planning and Environment Act, or any other Act. These exclusions will be confirmed when the Instrument of Delegation is prepared and presented to Council for approval.

**Rights to address the Committee**

16. Apart from the introduction of portfolios and the consequential change to the Chairperson arrangements, the only other significant change proposed is in relation to public presentations at the Committee's meetings.
17. The current Meeting Procedure Local Law enables any member of the public to register to address the existing Special Committees in regard to any matter listed on the Committee's agenda. This includes matters where Council has invited public submissions through a consultation process, as well as any other matter on the agenda. This means that a member of the public can attend and address the Committee on a matter, even if Council has not invited public submissions on the matter, or if the person has not already lodged a written submission.
18. It is now proposed to modify this arrangement, so that the opportunity to address the Committee is limited to those matters where Council has invited public submissions, and the presenter has lodged a written submission and wishes to speak in support of that submission.
19. For planning permit applications, this includes the applicant and those who have lodged written objections or submissions.
20. In some cases, the Local Government Act provides a statutory right to speak in support of a written submission. The proposed arrangement will satisfy this statutory requirement.
21. The Committee will also retain the right to resolve in any particular instance to allow a person to address the Committee, even if that person did not satisfy the proposed automatic entitlement in the Terms of Reference.
22. A change to the entitlement to address the Committee will require a change to Council's Meeting Procedure Local Law. This involves a statutory process of public exhibition and consideration of submissions. This process can be initiated through a Council resolution.



**12. Officers' reports**

**OCM.181/16 Terms of Reference - Future Nillumbik Committee**

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23. Council can still adopt the Terms of Reference for the Future Nillumbik Committee in the meantime, and proceed to formalise the Instrument of Delegation.
24. However, until the changes to the Meeting Procedure Local Law are made, the Committee will need to allow any person who registers to speak to an item to do so, in accordance with the existing Meeting Procedure Local Law. This can be achieved by the Committee passing an appropriate resolution in accordance with the Terms of Reference.

**Conclusion**

25. Subject to Council approval, an Instrument of Delegation will be prepared and presented for Council approval at the 31 January 2017 Council Meeting. It should be noted that no Committee meetings have been scheduled in January due to the holiday period.
26. Subject to the Instrument of Delegation being approved in January 2017, the new Future Nillumbik Committee can hold its first meeting in February 2017.
27. Changes to the Meeting Procedure Local Law can be initiated following the approval of the Terms of Reference however these will take several months due to the requirement for 28 days public exhibition followed by Council's consideration of submissions.

**12. Officers' reports**

**OCM.182/16 Mid-Year Financial Review 2016-2017**

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**Distribution: Public**

**Manager: Andrew Port, General Manager Corporate Services**

**Author: Vince Lombardi, Manager Finance**

**Robert Malignaggi, Management Accountant**

**Summary**

This report presents the outcomes of the Mid-Year Financial Review.

The revised forecast on a cash (rate-determination) basis is for Council to achieve a surplus of \$681,504 for the financial year 2016-2017, which is an improvement on the \$150,200 forecast in the original budget.

**Recommendation**

**That Council:**

- 1. Approves the changes detailed in the Mid-Year Financial Review (Attachment 1).**
- 2. Notes the revised forecast on a cash (rate-determination) basis of \$681,504 for financial year 2016-2017.**

**Attachments**

1. Mid-Year Financial Review 2016-2017

**Background**

1. The purpose of this report is to present the Mid-Year Financial Review.
2. In June 2016, Council adopted the 2016-2017 Budget, which projects a surplus of \$150,200 on a cash (rate-determination) basis.
3. Officers have completed a Mid-Year Financial Review for 2016-2017 as at November 2016 to identify major changes that have occurred since the budget adoption, and to consider how these may be accommodated and addressed.
4. The review includes both operational and capital items.
5. The outcome of the review is a revised forecast for a surplus of \$681,504 on a cash (rate-determination) basis.

**Operating Budget**

6. The Mid-Year Financial Review identified a number of favourable and unfavourable movements in operational income or expenditure as detailed in Attachment 1.
7. Net favourable changes to the Operating Budget are \$846,536.

**12. Officers' reports**

**OCM.182/16 Mid-Year Financial Review 2016-2017**

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**Capital works**

8. Capital works has a net unfavourable change of \$315,232 due to a number of adjustments across the program as detailed in Attachment 1.
9. There have also been a number of other changes in capital works projects that have been funded from reserves or the receipt of additional grant/external income that have a net zero effect on the budget surplus due to the expenditure being matched by income or reserve transfers. These changes are included in Attachment 1.

**Conclusion**

10. The overall net change for operating and capital items is a favourable variance of \$531,304.
11. The original projected cash-basis surplus was \$150,200. All known adjustments at mid-year have been accommodated as at the time of preparation of the review in mid-November.
12. Subsequent to this, Council at its meeting on 22 November 2016 passed a resolution in regard to the land at Lot 1, Graysharps Road, Hurstbridge. Council's resolution provides that this site is not to be sold, and is instead to be retained for recreation and public open space purposes. As part of this resolution, Council resolved that a further report be presented to consider funding arrangements arising from that decision. A separate report on this matter will be prepared.
13. Council also resolved on 22 November to undertake an independent investigation into Amendment C101. The final costs associated with this investigation are yet to be confirmed, and will need to be accommodated within the budget over the remainder of the financial year.
14. Following the Mid-Year Financial Review, it is now projected that the forecast surplus on a cash (rate-determination) basis for 2016-2017 will increase from \$150,200 to \$681,504.

12. Officers' reports

OCM.183/16 Audit Committee - Minutes December 2016

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**Distribution:** Public

**Manager:** Andrew Port, General Manager Corporate Services

**Author:** Vince Lombardi, Manager Finance

Melika Sukunda, Financial Accountant

**Summary**

In accordance with the *Local Government Act 1989* section 139 and good governance principles, councils must have an Audit Committee.

As resolved at the Ordinary Meeting of Council on 16 August 2005 the Audit Committee minutes are to be reported and presented at an Ordinary Meeting of Council following the Audit Committee meeting.

The Audit Committee met on 12 December 2016. The minutes for the meeting are attached.

**Recommendation**

**That Council:**

1. **Notes the minutes of the Audit Committee meeting for 12 December 2016.**
2. **Approves the Audit Committee's recommendation that a report to Council arising from the internal audit of Open Space/Tree Management be fast tracked and be provided to Council in early 2017 and considered as part of the 2017-2018 budget process.**

**Attachments**

1. Audit Committee Minutes of Meeting

**Background**

1. As resolved at the Ordinary Meeting of Council on 16 August 2005 the Audit Committee minutes are to be reported and presented at an Ordinary Meeting of Council following the Audit Committee meeting.
2. The Audit Committee meets a minimum of four times a year and has the role to assist the coordination of relevant activities of management, internal audit and the external auditor to facilitate good governance, effectiveness and efficiency.

**Policy context**

3. This report directly supports the achievement of Council Plan 2013-2017 strategies:
  - We will ensure our services are efficient and deliver good value for money for our residents and we will invest in training and technology to enhance productivity.
  - We will meet our legal responsibilities and manage our risks.

**12. Officers' reports**

**OCM.183/16 Audit Committee - Minutes December 2016**

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**Budget implications**

4. The costs associated with this matter are contained within Council's 2016-2017 Budget.

**Consultation/communication**

5. The Audit Committee meeting on 12 December 2016 was attended by the Committee members, Chief Executive Officer, General Manager Corporate Services, Manager Finance. Cr Peter Clarke was the Councillor representative in attendance, and an apology was received from Cr Bruce Ranken.

**Issues/options**

6. The minutes of the Audit Committee are submitted to Council after each meeting. To provide timely feedback, these are unconfirmed minutes.
7. The Audit Committee plays a significant role in Council's governance framework. It provides external expert advice to Council on key areas of risk. Risk in this case is interpreted broadly and covers risk to Council's sustainability, reputation, fraud control and effectiveness, as well as financial risk.
8. The 12 December 2016 Audit Committee minutes have not yet been adopted by the Committee, but will be presented at its next meeting.
9. Among the items considered by the Audit Committee at the meeting held on 12 December 2016 were:
  - Internal Audit of Open Space/Tree Management
  - Internal Audit of Leisure Centre Management
  - The Internal Audit progress report
  - The Risk and Insurance report
  - The September quarter financial report
  - The Victorian Auditor-General's Office snap shot report for 2015-2016

**Next meeting**

10. The next Audit Committee meeting is scheduled to take place on Monday 13 February 2017.

**Conclusion**

11. The Audit Committee minutes from 12 December 2016 are presented to Council to ensure timely feedback, accurate information and for noting by Council.

12. Officers' reports

OCM.184/16 Risk and Insurance Report September 2016

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**Distribution: Public**

**Manager: Andrew Port, General Manager Corporate Services**

**Author: Craig Commene, Risk Advisor  
Vince Lombardi, Manager Finance**

**Summary**

This report provides a summary of Council’s Risk and Insurance Report for the quarter ending September 2016.

The report is presented in accordance with the Local Government Performance Reporting Framework that commenced on 1 July 2014. This reporting framework requires the presentation of a report to Council at least every six months, detailing the strategic risks, operational risks, the consequences and likelihood of occurrence, and risk mitigation strategies.

Risk and insurance reporting to Council will be tabled each quarter following consideration by the Audit Committee.

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

**Recommendation**

**That Council:**

1. **Notes this summary of the Risk and Insurance Report for the quarter ending September 2016.**
2. **Confirms that the confidential Risk and Insurance Report for the September quarter 2016 is to remain confidential in accordance with sections 77 and 89(2)(h) of the *Local Government Act 1989*.**

**Attachments**

Nil

**Background**

1. Council’s commitment to risk management is outlined in the Risk Management Policy adopted by Council on 16 December 2014, with the following objectives:
  - Promote and support a consistent corporate approach to risk management.
  - Ensure that all risks that could affect the achievement of our Council’s goals, strategies and actions are identified, assessed and treated to a commercially and politically acceptable level of risk.
  - To manage risks to an acceptance level in the low/medium risk range as far as practicable.

**12. Officers' reports**

**OCM.184/16 Risk and Insurance Report September 2016**

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- Integrate risk management into decision making process and embed risk into the organisation culture to help make informed choices to ensure resources and operational capabilities are identified and deployed responsibly and effectively for the benefit of Council and our stakeholders.
  - To ensure that risk management is seen as the responsibility of all staff, i.e.: 'Risk Management is everyone's business'.
  - Provide a basis for higher standards of accountability.
2. In addition to the risk management policy, Council's Risk Management Framework communicates and describes the risk management structure and procedures that are used to identify, analyse, evaluate, treat, monitor and communicate key risks, including management reporting.
  3. The context of the Risk Management Policy and Framework takes into account that local government presents a distinct risk character and profile that needs to be taken into account when considering risk management. Many assets and services are available 24 hours a day seven days a week in an unsupervised way, some are managed or provided by volunteers or committees of management or are managed by contractors, others are regulated by compliance legislation.
  4. Prior to the introduction of the Local Government Performance Reporting Framework, risk reporting was referred to Councils' Audit Committee and the information included for consideration by Council through the adoption of the Audit Committee's minutes.
  5. Commencing 1 July 2014, the State Government introduced the Local Government Performance Reporting Framework. This framework requires the presentation of risk reporting processes to Council at least every six months on strategic risks to Council operations.
  6. The Risk and Insurance report is a result of consolidation of these management reports, which broadly reports on:
    - Risk Management
    - Insurance premiums
    - Claims and Incident Management
    - Safety Health and Wellbeing
    - Statistical reports relating to strategic risks and accident and injury data

**Policy context**

7. This report directly supports the achievement of Council Plan 2013-2017 strategy:
  - We will meet our legal responsibilities and manage our risks.

**Budget implications**

8. The costs for managing and reporting are covered by the operating budget for the Corporate Services Department.

12. Officers' reports

OCM.184/16 Risk and Insurance Report September 2016

**Consultation/communication**

9. The Risk and Insurance Report was considered by the General Management Team on 30 November 2016 and the Audit Committee on 12 December 2016.

**Issues/options**

10. The Risk and Insurance report has been prepared in accordance with Council's risk management policy and framework and is consistent with industry standards, using the Australian Standard AS/NZS 31000:2009 Risk Management.

11. Highlights from the report are:

- Council Risk status reporting – 88 per cent of all risk control actions have been completed or are on target to be completed in accordance with their time lines and 12 per cent are not yet due to commence.
- The following table summarises recorded incidents by type for matters involving Council. It should be noted that this table shows all reported incidents, rather than all claims, as not every incident results in a claim being made.

<b>Incidents by type (excluding OHS incidents)</b>	<b>Oct - Dec 2015</b>	<b>Jan – Mar 2016</b>	<b>Apr– Jun 2016</b>	<b>Jul– Sep 2016</b>	<b>Total year to Sep 2016</b>	<b>Total prior year to Sep 2015</b>	<b>Year to year trend</b>
Property	13	7	10	7	37	27	▲
Motor vehicle	35	33	30	18	116	112	▲
Professional Indemnity	0	1	2	0	3	4	▼
Public Liability	27	29	29	26	111	86	▲
<b>Total all incidents</b>	<b>75</b>	<b>70</b>	<b>71</b>	<b>51</b>	<b>267</b>	<b>229</b>	<b>▲</b>

- A high proportion of reported incidents are generated within the normal course of operations of the Infrastructure Services Department, 68 per cent. These incidents relate to major classes of asset or maintenance type incidents for Council buildings, trees, footpath, road damage, and major plant.
- Property incidents typically are reported break-ins, vandalism and accidental damage to Council buildings or fixed equipment such as in playgrounds.
  - One major incident resulting in an insurance claim when persons unknown rammed a vehicle into the entrance door after hours at the Eltham Leisure



**12. Officers' reports**

**OCM.184/16 Risk and Insurance Report September 2016**

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Centre to gain access. No injuries or stock losses occurred and the police were notified. The entrance door has been repaired and the insurance claim settled.

- Motor vehicle incidents include accidental damage involving Council's light and heavy fleet, including incidents caused by third parties.
  - One major incident resulted in an insurance claim when a Council vehicle was stolen. No injuries occurred and the police were notified. Police recovered the vehicle five days later and a person has been charged with several offences. The vehicle has been repaired and the insurance claim settled.
- Public liability relates to incidents reported to Council where the third party is seeking compensation. These claims are managed by an external claims manager or Council's insurer. Typical incidents primarily relate to vehicle road damage, property damage, tree related or trip and fall incidents.
- Annual trend data for year ending September 2016 highlights a 14 per cent increase in reported incidents over the same period for 2015. This increase is attributed to increased numbers of public liability and property related claims and it is not unusual for the number of incidents to vary from period to period.

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

**Conclusion**

13. This summary, along with the Confidential Risk and Insurance Report, have been provided to meet the requirements of the Local Government Performance Reporting Framework and consolidation of management reporting.
14. Ongoing reporting to Council will be presented quarterly following each meeting of the Audit Committee.

12. Officers' reports

OCM.185/16 Supply and delivery of quarry products

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**Distribution:** Public

**Manager:** Conal Creedon, General Manager Infrastructure Services

**Author:** Joseph Emmanuel, Coordinator Road and Drainage Maintenance

**Summary**

This report considers the awarding of a panel contract for the Supply and delivery of quarry products for a period of three years, commencing on 1 February 2017 (Contract 1617-19). The term of the contract is three years with a two year extension option.

The materials that will be supplied under this contract will be utilised mainly in the maintenance of unsealed roads but includes use for other minor works. The tender evaluation panel has assessed all submissions and a separate confidential report outlines the evaluation and recommendations to award the panel contract.

Pursuant to the Instrument of Delegation to the Chief Executive Officer the anticipated value of this contract exceeds financial limits and a Council resolution is required to accept the recommendation to award and use this contract.

**Recommendation**

**That Council:**

1. Notes the report.
2. Makes public the decision regarding the contract but the tender evaluation remain confidential.

**Attachments**

Nil

**12. Officers' reports**

**OCM.186/16 Tender report - Contract 1617-26 - Hillmartin Lane Area Special Charge Scheme**

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**Distribution: Public**

**Manager: Conal Creedon, General Manager Infrastructure Services**

**Author: Steven Blight, Coordinator Construction**

**Summary**

This report considers the awarding of the contract for the construction of the Hillmartin Lane Area Special Charge Scheme, Diamond Creek. The contract involves the road sealing of Hillmartin Lane, Larch Crescent, Starling Road, Fielding Road and the eastern section of Sutherland Road, Diamond Creek. These works will include the provision and construction of some underground drainage, small sections of kerb and channel, sealed table drains, road pavement and primer sealing of the road surface as well as driveway works, signs, associated line marking and other miscellaneous items.

The Tender Evaluation panel have assessed all submissions and a separate confidential report outlines their evaluation in recommending the awarding of the contract for the construction of the Hillmartin Lane Area Special Charge Scheme, Diamond Creek.

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/s.

**Recommendation**

**That Council:**

- 1. Notes the report.**
- 2. Makes public the decision regarding the contract but the tender evaluation remain confidential.**

**Attachments**

Nil

12. Officers' reports

OCM.187/16 Environment and Planning Monthly Activity Report

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**Distribution:** Public  
**Manager:** Ransce Salan, General Manager Environment and Planning  
**Author:** Jeremy Livingston, Manager Planning and Health Services  
Chad Griffiths, Manager Strategic and Economic Planning  
Phil Lovelace, Manager Regulatory Services  
Pat Vaughan, Sustainability and Environment Executive Officer

**Summary**

This report provides a status update on planning, regulatory and policy activities in Council's Environment and Planning Department for the month of November 2016.

**Recommendation**

**That Council receives the Environment and Planning Department Activity Report for November 2016 and notes the following items:**

1. Eighty per cent of planning applications were determined within 60 statutory days.
2. One VCAT decision was handed down.
3. The large scale solar systems at the Civic Centre (124kW) was approved by Ausnet and the Building Permit application has been lodged.
4. The project with Beyond Zero Emissions to develop a strategy for the Shire of Nillumbik to become powered by 100% renewable energy has commenced.

**Attachments**

1. Information on statutory planning matters and subdivisions
2. Information Building Dispensations Approved
3. Information on Planning Scheme Amendments

**Background**

1. Council's Environment and Planning Department consists of the Planning and Health Services Unit; Regulatory Services Unit; Strategic and Economic Planning Unit; and Sustainability and Environment Unit. The following report consolidates and documents the key activities for each of these service units for the month of November 2016. A summary of the key activities within each of these service units follows.

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OCM.187/16 Environment and Planning Monthly Activity Report

**Policy context**

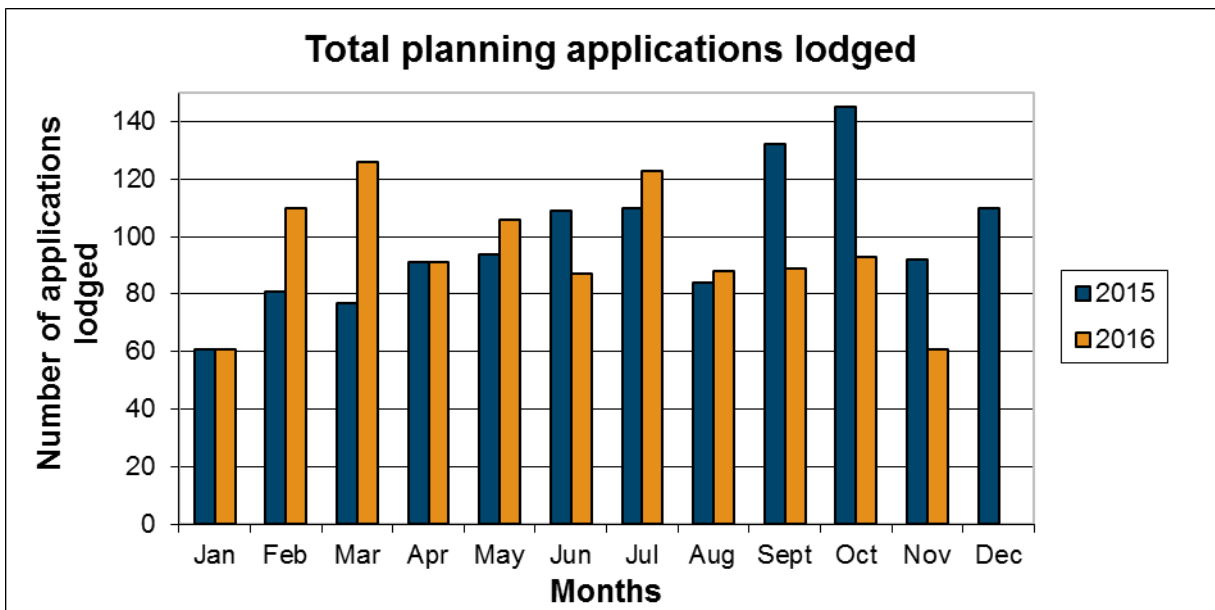
2. This report directly supports the achievement of Council Plan 2013-2017 strategy:

- We will work to protect the Shire’s biodiversity and ensure that ecosystems are healthy, resilient, productive and connected across the landscape.

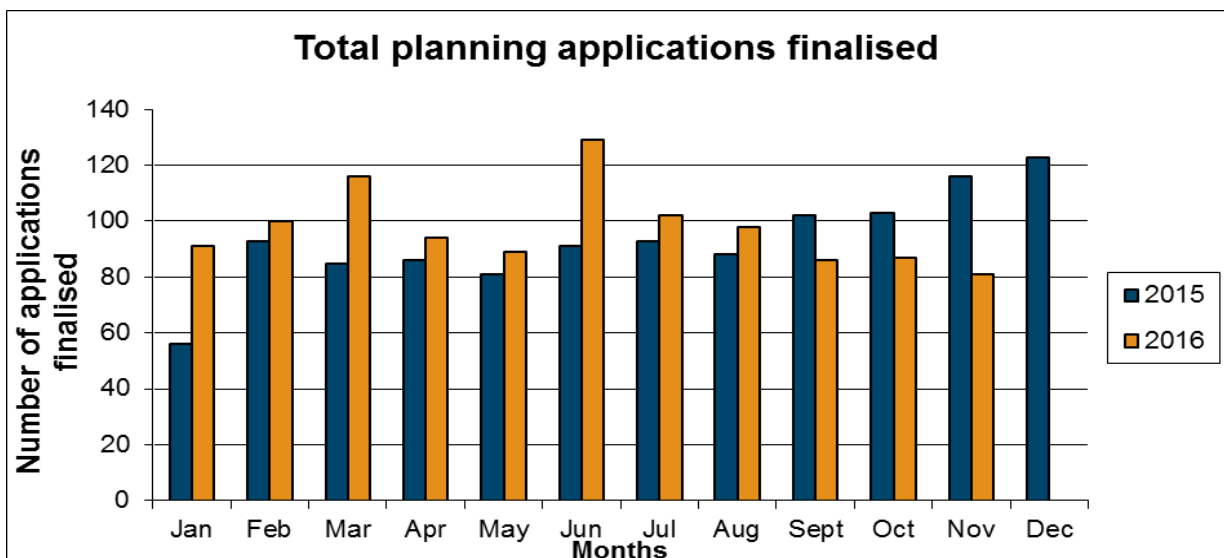
**Planning and Health Services Unit**

Planning applications lodged and finalised

3. Applications lodged include new planning applications; requests for amendments; plans required by permit conditions and miscellaneous consents (under Section 173 Agreements). A total of 61 new applications were lodged in November 2016.



4. The applications finalised total includes those applications that have been both withdrawn and those for which no permit were required. A total of 81 applications were finalised in November 2016.



12. Officers' reports

OCM.187/16 Environment and Planning Monthly Activity Report

5. A breakdown of the determined planning applications is as follows:

Application type:	Percentage determined
Residential development (new dwellings or additions)	51%
Miscellaneous consent under Section 173 Agreement	22%
Multi-dwelling development	9%
VicSmart	4%
Vegetation removal	4%
Non-residential building and works	4%
Use	4%
Subdivision	2%

6. Council has received 49 fewer year to date planning applications than for the same period in 2015:

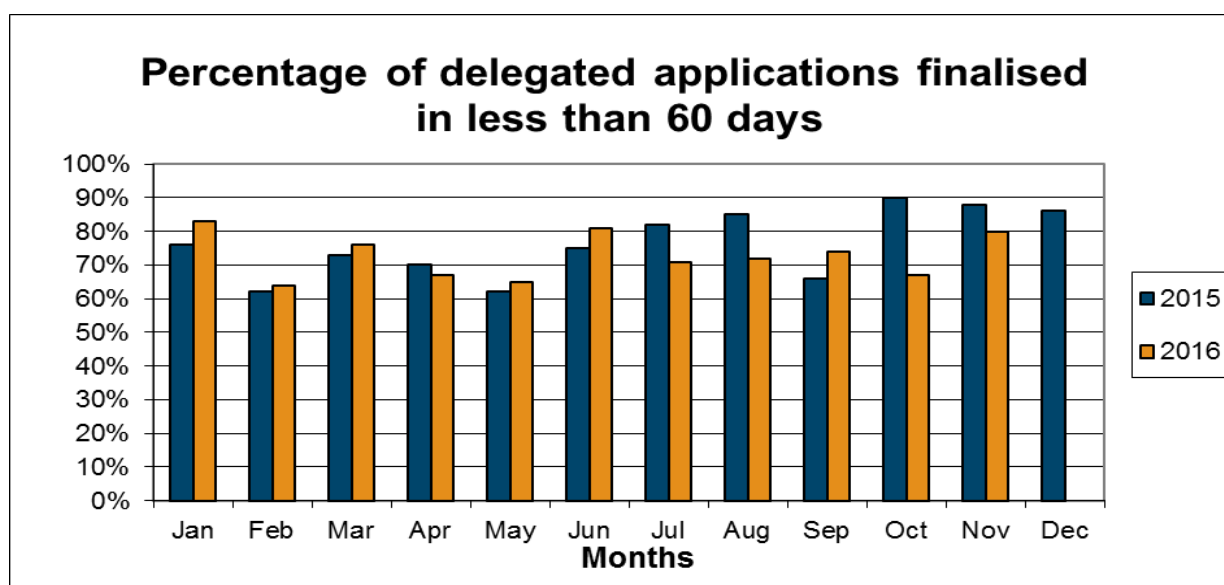
Year	30 November 2015	30 November 2016
Year to date	1,090	1,041

7. At the end of November, 312 planning applications remain outstanding, 50 fewer than for the same period last year:

Year	30 November 2015	30 November 2016
Outstanding applications	362	312

**Planning applications decision timelines**

8. The following graph outlines the statutory timelines for all planning decisions, with the exception of 'VicSmart' planning applications. In November, 80 per cent of planning applications were decided within 60 statutory days.



**12. Officers' reports****OCM.187/16 Environment and Planning Monthly Activity Report**

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**Victorian Civil and Administrative Tribunal (VCAT) decisions**

9. A total of fifteen planning matters are currently before VCAT. One VCAT decision was handed down in November 2016.
10. **98 Pitt Street, Eltham** – Construction of three dwellings (Council approval, VCAT approval)
11. The application sought the construction of three double storey dwellings on a 866 square metre property. The land is zoned General Residential and affected by a Significant Landscape Overlay (Schedule 3). The application attracted two written objections and Council determined to issue a Notice of Decision to Grant a Permit. One objector party (to the immediate south of the property) subsequently sought an application for review at VCAT.
12. Having reviewed the proposal, the Tribunal directed that a permit be granted. The main concerns raised by the objector related to the proposal's inconsistency with medium density housing and neighbourhood character policy, and unreasonable off-site amenity impacts. With respect to policy, the Tribunal commented that 'given the strategic support for medium density developments of land and the existing development pattern, the proposal is an acceptable response to the policy and physical context of the site'. With respect to neighbourhood character, the Tribunal observed that 'as a streetscape presentation, the proposal presents a single double storey dwelling, which is consistent with the single building rhythm of Pitt Street. The proposal's double storey scale of development is typically suburban, and is not out of scale for a site well located – such a scale is comparable to existing developments in the area'. However, to reduce the elevated appearance of the rear proposed dwelling from the objector's property, the Tribunal recommended an additional permit condition requiring one upper level bedroom to be setback the same distance as the other rear-facing bedroom to provide a more recessed upper level elevation.
13. The Tribunal was satisfied that the proposed development complies with ResCode, and that no unreasonable amenity impacts would be presented to adjoining properties. The Tribunal also addressed the objector party's principle issue: 'as for the review applicant's recommendation that the site be developed for two single storey dwellings, that would be a scenario well below what is contemplated in the General Residential Zone. In fact this recommendation would also be below the expectation of the more restrictive Neighbourhood Residential Zone, which limits development to two dwellings but allows a two storey height. There is no planning basis to adopt [this] recommendation'.

**Food and Health premises inspections**

14. Council is required to inspect all registered food premises under the Food Act and each prescribed health premises under the Public Health and Wellbeing Act each year. There are 425 registered premises that require inspecting.
15. A total of 47 inspections of registered Food and Health Premises were conducted during November. These included 32 mandatory Food Act inspections, which included nine Follow Up inspections to re-assess issues identified in previous visits. The remaining were six Public Health and Wellbeing Act inspections.

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16. The following definitions describe the types of inspection:

- Mandatory Inspection – Inspection of a food business that is registered with Council to sell food. This could include annual business inspections, a business registration transfer inspection, new premises inspections or other inspections undertaken as part of Councils risk management plan. These inspections could be for either commercial operations or community groups.
- Public Health and Wellbeing Act Inspection – Inspection of a business required to be registered with Council. This includes hairdressers, beauty therapy, prescribed accommodation and skin penetration (tattooing or other procedures that involve equipment penetrating skin).
- Follow up – A secondary inspection required as a result of identifying non-compliances with an initial Mandatory or Health and Wellbeing Act inspection.
- Food Sampling – Mandatory annual sampling to ensure foods sold and/or manufactured in Nillumbik are safe

**Onsite domestic wastewater (septic tanks)**

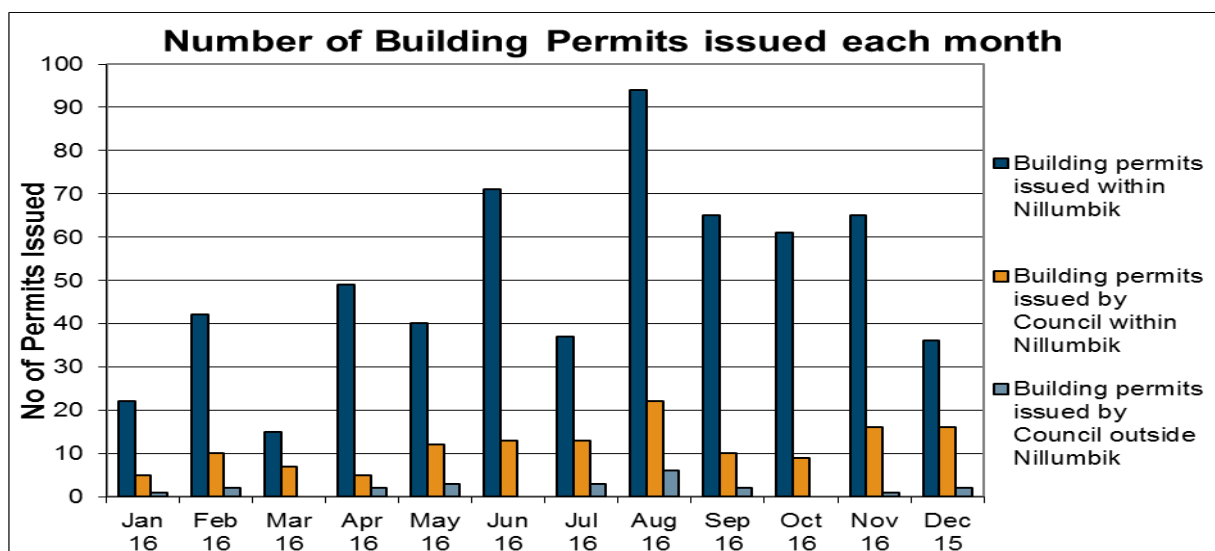
17. A total of nine applications were received to install new septic tank systems in November, with 20 inspections undertaken of septic systems (eight site inspections and 12 final inspections). The following definitions describes the types of inspections:

- Site inspection – An initial inspection to ensure the installation of a septic tank system is appropriate for the site.
- Final inspection – An inspection during construction to verify the septic tank system is installed in accordance with permit conditions.

**Regulatory Services Unit**

Building permits issued

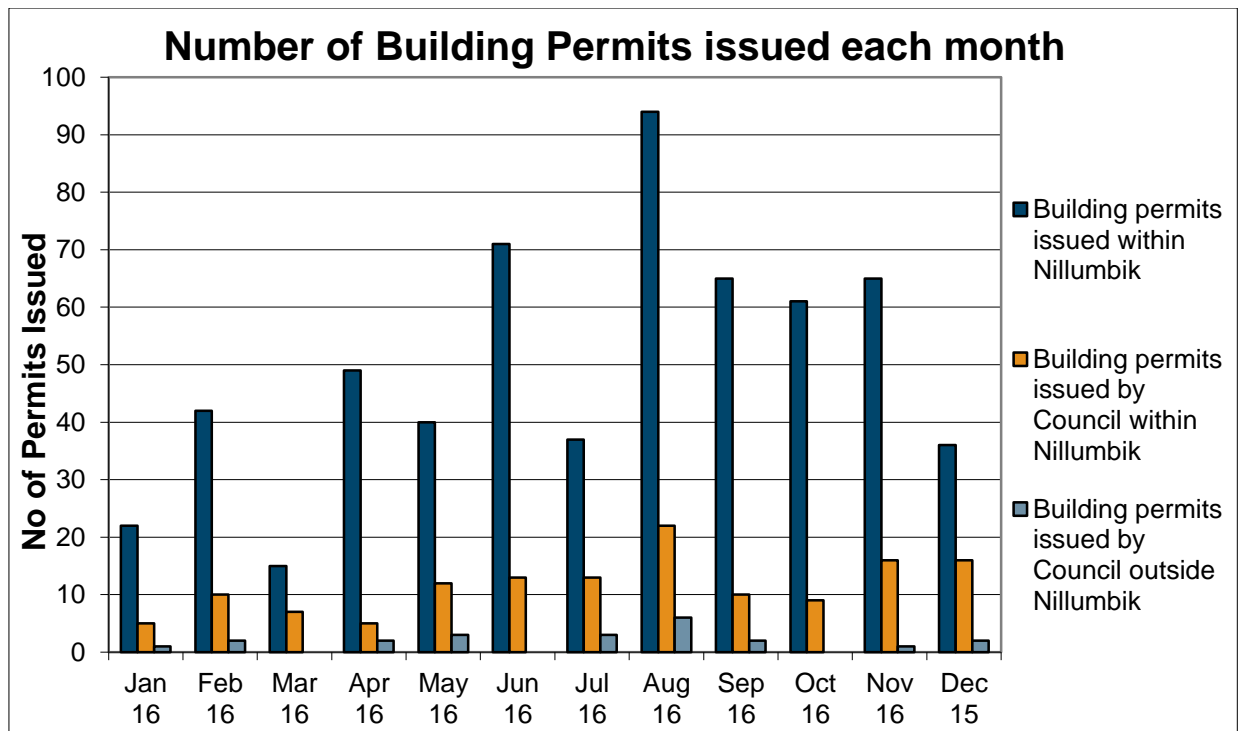
18. The following graph shows the total number of building permits issued within the Shire of Nillumbik and the number issued by Council’s Building Team. The third component of the graph shows the number of building approvals Council’s Building Team has issued outside the Shire of Nillumbik.



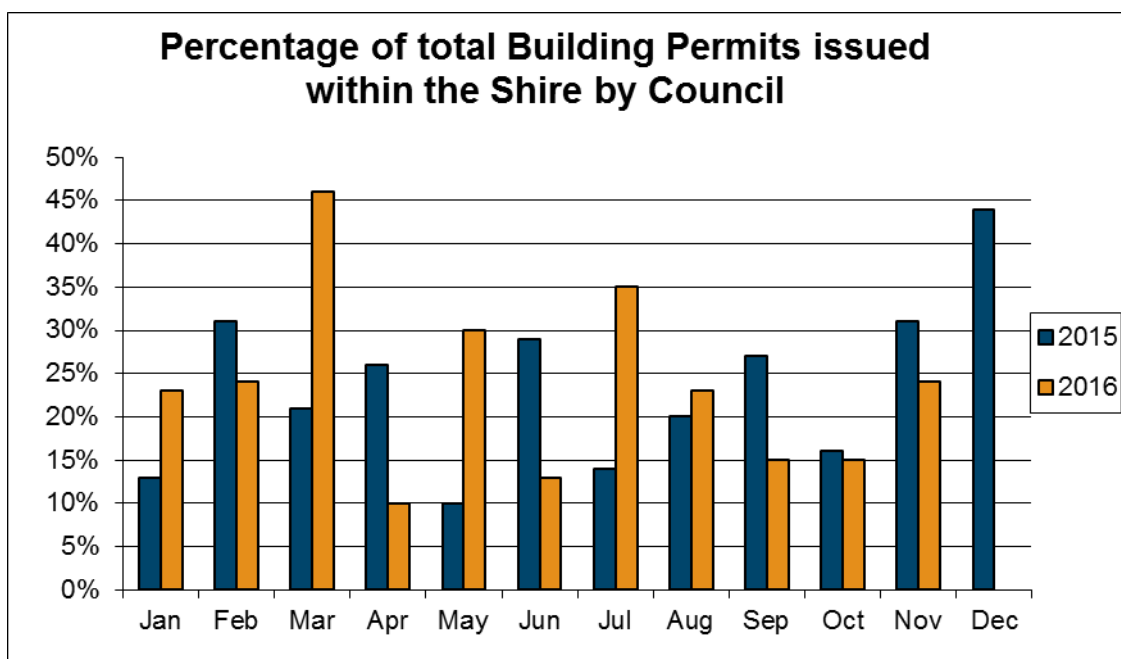


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19. The following graph illustrates the percentage of building permits issued within the municipality. Permits issued by Council’s Building Team during November were 24 per cent of the overall total.

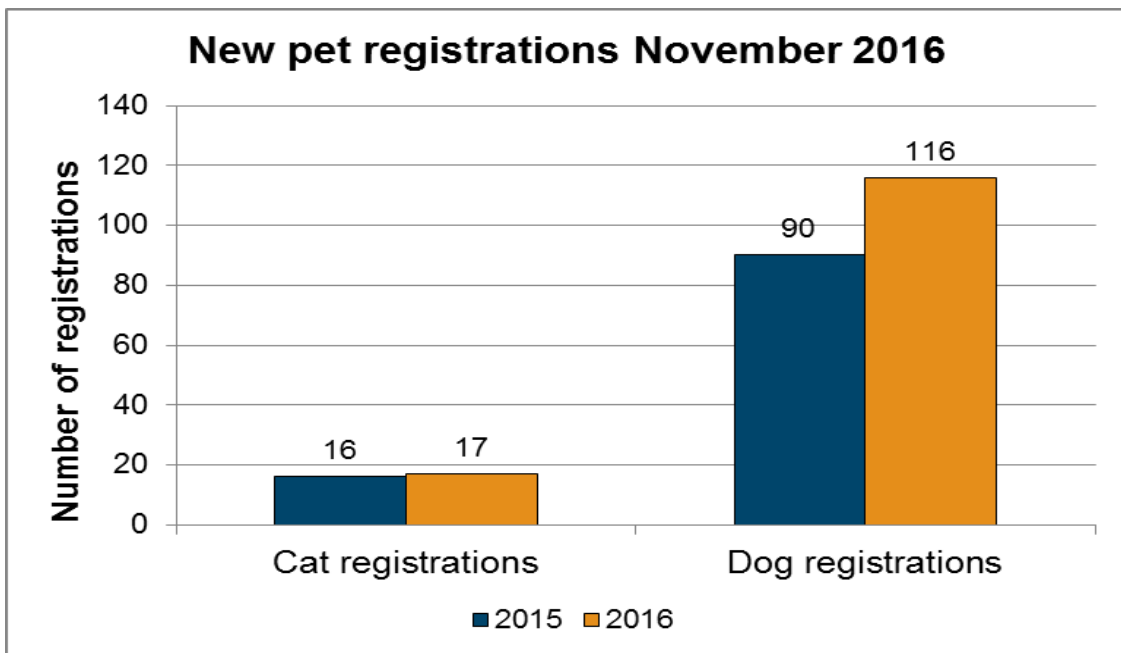


**Animal management**

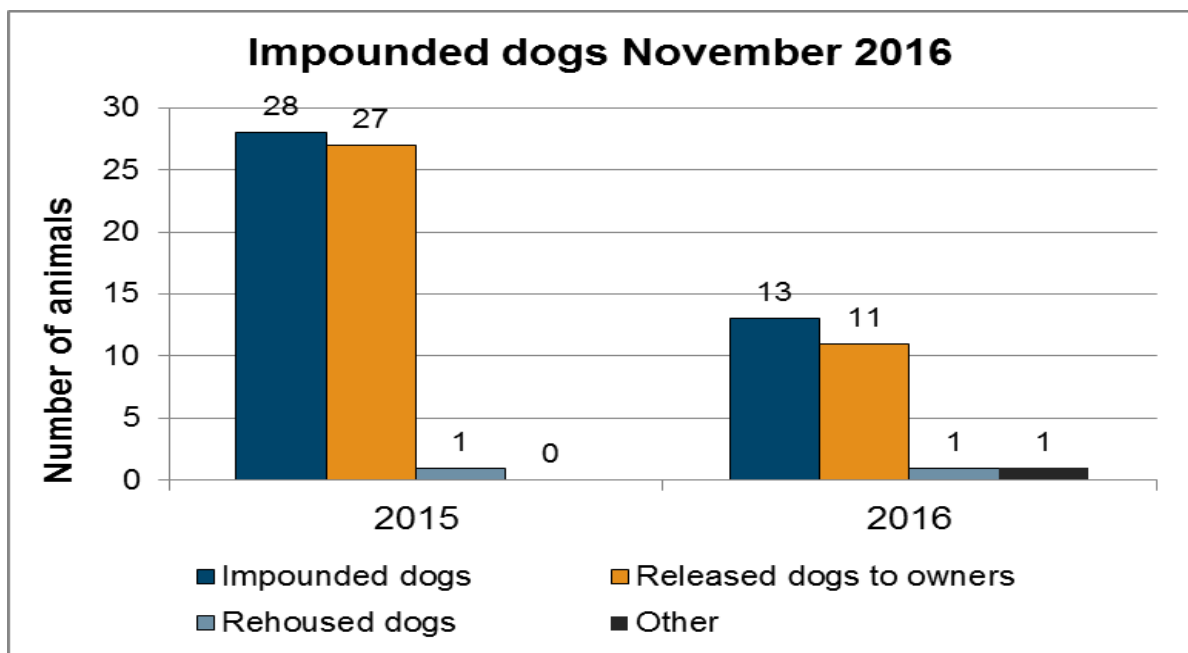
20. The following graph illustrates the number of new dogs and cats registered during November.

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21. The following graph illustrates the number of dogs impounded during November.



**Sustainability and Environment Team**

- 22. Under Council’s Over-the-Counter Offsets program, two quotes were given in November with no resultant sale, bringing the total for the year to \$13,302.
- 23. The Biodiversity Officer contributed to the State Biodiversity Strategy Reference Group workshop. The officer also contributed to the Biodiversity Planners special interest meeting to discuss Interface Council’s Biodiversity Values. This information and report will feed into the Interface Council’s CEO’s report on the collective values of the Green Wedge.

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**OCM.187/16 Environment and Planning Monthly Activity Report**

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24. The Biodiversity Officer also provided mapping and information to Port Phillip and Westernport CMA and DELWP for the Biodiversity On Ground Proposed Regional Partnerships funding opportunity.
25. Annual monitoring of the Council reserve being utilised for Over-the Counter offsets was completed and the required annual report submitted to DELWP for approval. An explanation of the OTC offset program was provided to Councillors.
26. A number of requests were responded to from the new Council including vegetation clearance data and a report of the Practically Green Festival and Sustainability Awards.
27. Environmental assessments of 23 planning referrals were completed.
28. Officers responded to 65 phone and email enquiries and performed five site visits to give support and technical advice for sustainable property management.
29. Noxious weed notices were sent to 16 properties where substantial infestations of Chilean Needle Grass, Paterson's Curse and Blackberries have been noted. Contractors were engaged to investigate and control Chilean Needle Grass on 31 properties.
30. Seeds of federally listed threatened orchids were delivered to the Royal Botanic Gardens Cranbourne for storage and future propagation (*Caladenia amoena* and *Caladenia concolor*). Four vegetation surveys undertaken at threatened orchid reintroduction sites to determine suitability.
31. Community workshops were held with residents to develop a climate adaptation toolkit. The project with Beyond Zero Emissions to develop a strategy for the Shire of Nillumbik to become powered by 100% renewable energy has commenced.
32. The large scale solar systems at the Civic Centre (124kW) was approved by Ausnet and the Building Permit application has been lodged. The Community Bank Stadium system (100kW) is awaiting pre-approval from Ausnet Services prior to installation commencing.
33. The Environment pages on the Nillumbik website received 1374 page views with the Natural Environment pages viewed the most. There were 157 page views of the Environment pages shared on the Edendale website.
34. Planning is underway for the Environmental Volunteers Appreciation Night on Wednesday 7 Dec, and for the Open Farm Day 2017.

**Conclusion**

35. It is recommended that Council receives and notes the Environment and Planning Department Activity Report for November 2016.

12. Officers' reports

OCM.188/16 Assemblies of Councillors

**Distribution:** Public

**Manager:** Andrew Port, General Manager Corporate Services

**Author:** Naomi Ellis, Corporate Planner

**Summary**

In accordance with section 80A(2) of the *Local Government Act 1989* Council is required to report as soon as practicable to an Ordinary meeting of Council a record of any assemblies of Councillors held.

This report lists assemblies of Councillors forms that have been submitted since the matter was last reported to Council on 22 November 2016.

<b>Recommendation</b>
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That Council, in accordance with section 80A(2) of the *Local Government Act 1989*, receives the records of the following assemblies of Councillors:

1	<b>Date of assembly</b>	22 November 2016	
	<b>Matters considered</b>	Pre-meeting for Ordinary Council Meeting	
	<b>Councillors present</b>	Cr Peter Clarke Cr John Dumaresq Cr Bruce Ranken Cr Peter Perkins	Cr Grant Brooker Cr Jane Ashton Cr Karen Egan
	<b>Staff present</b>	Stuart Burdack Andrew Port Conal Creedon Pauline Gordon Ransce Salan Chad Griffiths Naomi Paton	Michelle DePasquale Phil Lovelace Vince Lombardi Mathew Deayton Nichole Johnson Joanne Hammond
	<b>Conflict of interest</b>	None declared	

2	<b>Date of assembly</b>	29 November 2016	
	<b>Matters considered</b>	Officer briefings of Councillors <ul style="list-style-type: none"> <li>• Diamond Creek Trail</li> <li>• Potential sale of 22 Luck Street, Eltham</li> <li>• Mid-Year Financial Review</li> <li>• Eltham North Reserve sports pavilion</li> <li>• Plenty Tennis Club loan guarantee</li> <li>• Municipal Public Health and Wellbeing Plan</li> </ul>	

12. Officers' reports

OCM.188/16 Assemblies of Councillors

	<b>Councillors present</b>	<b>Cr Peter Clarke Cr John Dumaresq Cr Bruce Ranken Cr Peter Perkins</b>	<b>Cr Grant Brooker Cr Jane Ashton Cr Karen Egan</b>
	<b>Staff present</b>	<b>Stuart Burdack Andrew Port Conal Creedon Ransce Salan Naomi Paton Jon Miller</b>	<b>Natalie Campion Vince Lombardi Rob Malignaggi Jonathan Risby Diana Bell Corrienne Nichols</b>
	<b>Conflict of interest</b>	<b>None declared</b>	

<b>3</b>	<b>Date of assembly</b>	<b>6 December 2016</b>	
	<b>Matters considered</b>	<b>Pre-meeting for Policy and Services Committee</b>	
	<b>Councillors present</b>	<b>Cr Peter Clarke Cr John Dumaresq Cr Bruce Ranken Cr Peter Perkins</b>	<b>Cr Grant Brooker Cr Jane Ashton Cr Karen Egan</b>
	<b>Staff present</b>	<b>Stuart Burdack Andrew Port Ransce Salan Naomi Paton Lisa Pittle John Smyth</b>	<b>Jon Miller Natalie Campion Diana Bell Corrienne Nichols Mathew Deayton</b>
	<b>Conflict of interest</b>	<b>None declared</b>	

<b>4</b>	<b>Date of assembly</b>	<b>12 December 2016</b>	
	<b>Matters considered</b>	<b>Audit Committee</b>	
	<b>Councillors present</b>	<b>Cr Peter Clarke</b>	
	<b>Staff present</b>	<b>Stuart Burdack Andrew Port Vince Lombardi Melika Sukunda</b>	<b>Conal Creedon Lisa Pittle Craig Commene</b>
	<b>Conflict of interest</b>	<b>None declared</b>	

12. Officers' reports

OCM.188/16 Assemblies of Councillors

<b>5</b>	<b>Date of assembly</b>	<b>13 December 2016</b>	
	<b>Matters considered</b>	<b>Officer briefings of Councillors</b> <ul style="list-style-type: none"> <li>• <b>VicRoads projects</b></li> <li>• <b>Councillor priorities</b></li> <li>• <b>Special Committee terms of reference</b></li> <li>• <b>Councillor Code of Conduct review</b></li> <li>• <b>Town Planning system and Council's role</b></li> <li>• <b>Emergency Management arrangements</b></li> <li>• <b>Planning application 28 Arthur Street, Eltham</b></li> <li>• <b>Annual Budget process</b></li> <li>• <b>Recreation Trails Advisory Committee</b></li> </ul>	
	<b>Councillors present</b>	<b>Cr Peter Clarke</b> <b>Cr John Dumaresq</b> <b>Cr Bruce Ranken</b> <b>Cr Peter Perkins</b>	<b>Cr Grant Brooker</b> <b>Cr Jane Ashton</b> <b>Cr Karen Egan</b>
	<b>Staff present</b>	<b>Stuart Burdack</b> <b>Andrew Port</b> <b>Conal Creedon</b> <b>Ransce Salan</b>	<b>Mathew Deayton</b> <b>Jonathan Risby</b> <b>Jeremy Livingston</b>
	<b>Conflict of interest</b>	<b>None declared</b>	

**Attachments**

Nil

**Background**

1. Amendments to the *Local Government Act 1989* (the Act) in October 2010 require records of assemblies of Councillors to be reported to an Ordinary Meeting of Council and recorded in the minutes of that meeting.

**Policy context**

2. This report directly supports the achievement of Council Plan 2013-2017 strategy 'we will meet our legal responsibilities and manage our risks'.

**Budget implications**

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

**Consultation/communication**

4. None required.

12. Officers' reports

OCM.188/16 Assemblies of Councillors

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**Issues/options**

5. An assembly of Councillors is defined in section 76AA of the Act. It is a meeting at which matters are considered that are intended or likely to be the subject of a Council decision or the exercise of delegated authority and which is either of the following:
  - A planned or scheduled meeting that includes at least half the Councillors and at least one Council Officer. These assemblies do not include meetings of Councillors and Council staff that are not planned or scheduled.
  - A meeting of an advisory committee where at least one Councillor is present. An advisory committee is any committee established by the Council, other than a special committee, that provides advice to the Council or to a special committee or to a member of Council staff who has been delegated a power or duty or function of the Council.
6. A record must be kept of an assembly of Councillors and include the names of all Councillors and Council staff attending, the matters considered, disclosures of conflict of interest and whether a Councillor left the meeting after making a disclosure.
7. In accordance with section 80A(2) of the Act, Council is required to report as soon as practicable to an Ordinary Meeting of Council a record of any assemblies of Councillors held.
8. The recommendation contains the list of assemblies of Councillor forms that have been submitted since the matter was last reported to Council on 22 November 2016.

**Conclusion**

9. It is recommended that Council receives the records of recent assemblies of Councillors as contained in this report, fulfilling section 80A(2) of the *Local Government Act 1989*.

## 12. Officers' reports

### OCM.189/16 Tree removal at 23 Diamond Street, Eltham

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**Distribution:** Public

**Manager:** Ransce Salan General Manager Environment and Planning

**Author:** Jeremy Livingston, Manager Planning and Health Services

#### Summary

On and around 1 December 2016, tree removal activity occurred on the land at 23 Diamond Street, Eltham. This activity was brought to the attention of Council following the receipt of complaints from concerned residents.

Council officers have been investigating the activity on the land to establish whether or not the tree removal has contravened the *Planning and Environment Act 1987*. As a result of this investigation, it has been identified that the tree removal which occurred was an unauthorised activity, as it has contravened a planning permit previously issued for the land. Council has now referred to the matter to its solicitors to commence formal enforcement action against the landowner.

The purpose of this report is to update Council on this matter and Council's future action given that the unauthorised activity has been the subject of significant concern to the nearby residents and the wider community.

#### Recommendation

**That Council notes the contents of this report, acknowledging that the evidence and supporting documentation gathered during the planning investigation has been referred to Council's solicitors to commence formal enforcement action through the Magistrates Court.**

#### Attachments

Nil

#### Background

1. As the responsible authority, Council has a statutory responsibility under the *Planning and Environment Act 1987* (the Act) to enforce the Nillumbik Planning Scheme. In carrying out this statutory function, it is important that Council takes compliance with planning permits and the Nillumbik Planning Scheme very seriously, and takes appropriate action to enforce compliance.
2. On and around 1 December 2016, Council officers received numerous complaints from nearby residents that numerous trees on the land at 23 Diamond Street have been removed. In response to these complaints, Council officers conducted a number of inspections of the site and commenced an investigation to establish whether the tree removal was either permitted or not permitted under the Act (in other words, whether the activity had contravened the Nillumbik Planning Scheme, an issued planning permit or a Section 173 Agreement).
3. As a result of this investigation, it has been identified that by removing the 12 trees from the land there is a possible contravention of the Act. Those trees removed are shown as trees required to be retained on plans endorsed under Planning Permit 375/2011/03P (issued in July 2013) which allows for the development of three dwellings on the land.



**12. Officers' reports****OCM.189/16 Tree removal at 23 Diamond Street, Eltham**

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4. In support of this position, condition 3 of the permit provides that '*the development, subdivision and tree removal as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority*'. In addition, condition 4 of the permit provides that '*only those trees marked 'trees to be removed' on the endorsed plans are to be removed or destroyed*'.
5. One large tree remains on the land, and it is feared by concerned residents that this tree will also be removed. Following advice from Council's solicitors, they have written directly to the landowner directing that he must cease and desist from further vegetation removal occurring on the land unless it is authorised by the planning permit. Council officers are also continuing to monitor any activity that occurs on the land.
6. This matter has been referred to Council's solicitors for appropriate enforcement action, with the intention to lodge a proceeding for prosecution in the Magistrates' Court. Section 126 of the *Planning and Environment Act 1987* establishes an offence for a person responsible or the owner or occupier of land to fail to comply with a planning permit. The maximum penalty for each offence is 1200 penalty units, currently valued at \$186,552. Although a Magistrate has wide ranging levels of discretion in terms of applying a penalty, a Magistrate may also impose a criminal conviction.
7. On 25 November 2016, Council received a new planning application for a planning permit from the landowner to construct four dwellings on the land.
8. When assessing this new planning application for four dwellings, Council will need to assess the proposal for four dwellings on the land in accordance with the Nillumbik Planning Scheme. Although ultimately the planning application will need to be assessed on its own planning merit, the complicating factor will be whether the proposal takes advantage of the actions which allegedly contravened the existing planning permit for the land.

**Policy context**

9. This report directly supports the achievement of Council Plan 2013-2017 strategy:
  - We will meet our legal responsibilities and manage our risks.

**Budget implications**

10. Council's statutory responsibilities as the responsible authority to enforce the *Planning and Environment Act 1987*, including the undertaking of formal enforcement action against offenders, forms part of the Planning and Health Services operating budget.

**Conclusion**

11. As reported above, this matter has been referred to Council's solicitors for appropriate enforcement action, with the intention to lodge a proceeding for prosecution in the Magistrates Court.
12. The outcome of Council's enforcement actions in response to this planning contravention will be reported back to Council at a future meeting.

**13. Notices of Motion**

Nil

**14. Delegates' reports**

**15. Supplementary and urgent business**

**16. Confidential reports**

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

<b>Motion</b>
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That Council closes the meeting to the public pursuant to section 89(2) of the *Local Government Act 1989* to consider the following items, which are confidential for the reasons indicated:

<b>Report No.</b>	<b>Title</b>	<b>Reason for confidentiality</b>
OCM.190/16	Strategic land purchases and activity centre developments	(e) proposed developments
OCM.191/16	Landfill disposal contract extension	(d) contractual matters
OCM.192/16	Supply and Delivery of quarry products	(d) contractual matters
OCM.193/16	Tender report - Contract 1617-26 - Hillmartin Lane Area Special Charge Scheme	(d) contractual matters
OCM.194/16	Confidential attachment to the Risk and Insurance Report	(h) any other matter which the Council or special committee considers would prejudice the Council or any person