

Special Meeting of Council

to be held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 21 February 2017 commencing at 7pm .

Agenda

Mark Stoermer
Acting Chief Executive Officer

Friday 17 February 2017

Distribution: Public

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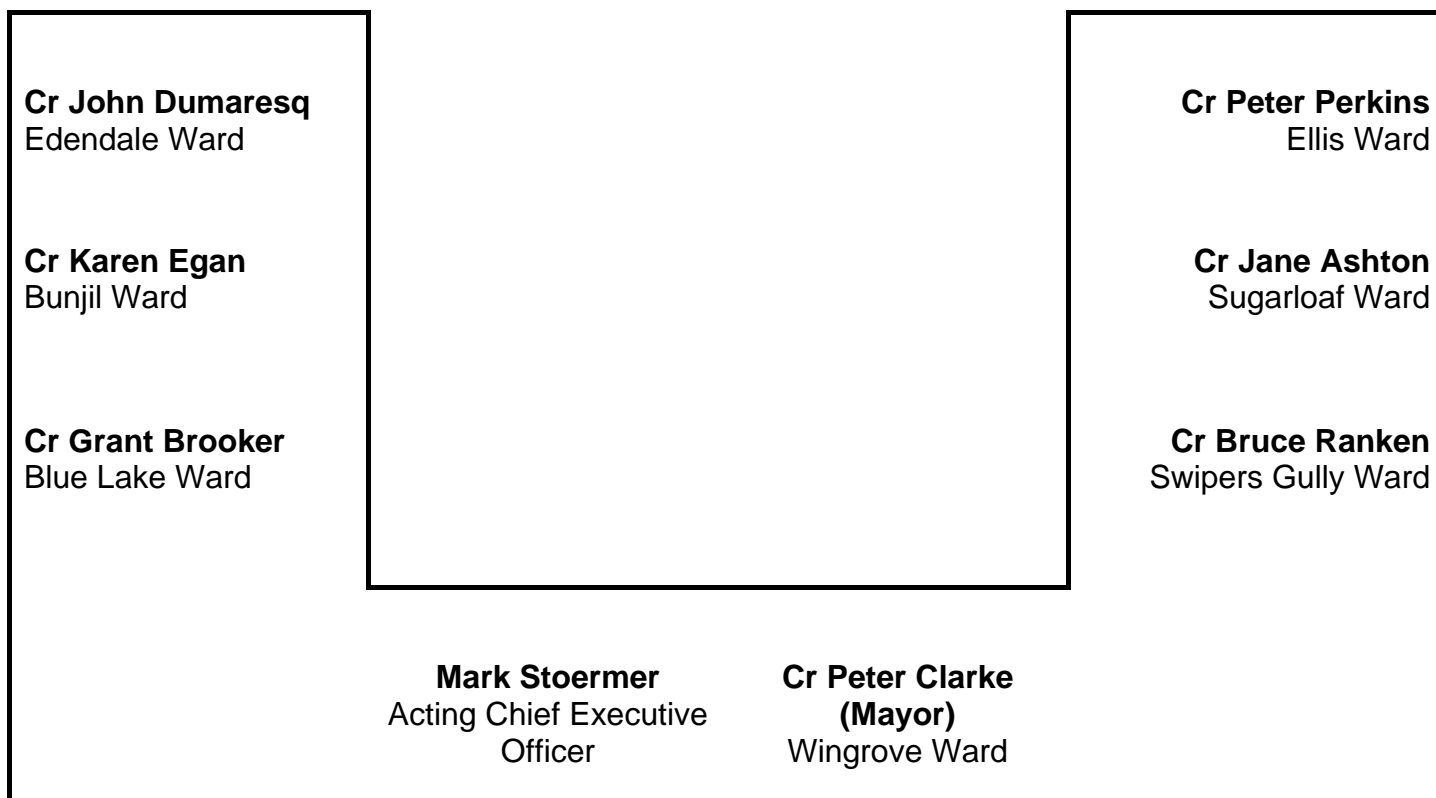
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Domin je ka

Special 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 Special Meeting of Nillumbik Shire Council to be held Tuesday 21 February 2017 commencing at 7pm.

Welcome

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. 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.

3. Apologies

Motion

That the apologies be accepted.

4. Disclosure of conflicts of interest

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

5. Officers' reports

OCM.012/17 Report of the Investigation into the Abandonment of Nillumbik Planning Scheme Amendment C101

Distribution: Public

Manager: Mark Stoermer, Acting Chief Executive Officer

Author: Mark Stoermer, Acting Chief Executive Officer

Summary

On 22 November 2016, Council resolved to undertake an internal investigation into the circumstances surrounding the failure of Council to notify the Minister for Planning of the abandonment of Planning Scheme Amendment C101 at the Special Meeting of Council's Policy and Services Committee held on 13 April 2016.

Mr Christopher Wren QC was appointed the independent investigator and was instructed by Hunt and Hunt Solicitors.

The investigation is complete and the report was received by the Mayor on Wednesday 15 February 2017 and has been provided to the Acting CEO.

The report contains a number of recommendations that will require implementation by the Acting CEO.

Recommendation

That Council:

1. **Receives the Report of Investigation into the Abandonment of Nillumbik Planning Scheme Amendment C101.**
2. **Makes the Executive Summary report publicly available to the community on Council's website once it has been adopted by Council.**
3. **Acknowledges that the full report has been designated as confidential by the Acting Chief Executive Officer under section 77(2)(c) of the *Local Government Act 1989* on the grounds that apply under section 89(2)(f) of the *Local Government Act 1989* that the report constitutes legal advice.**
4. **Requests the Acting Chief Executive Officer to:**
 - a) **Take the necessary actions to implement the findings of the issues raised.**
 - b) **Improve community engagement processes and practice at Council.**
5. **In the interests of transparency, continues to keep the community informed, where it is appropriate to do so.**

Attachments

Nil

Background

1. On 22 November 2016, Council resolved the following:

That Council:

1. Undertakes an investigation into the circumstances surrounding the failure of Council to notify the Minister for Planning of the abandonment of Planning Scheme Amendment C101 at the Special Meeting of Council's Policy and Services Committee held on 13 April 2016.
2. Appoints Mr Christopher Wren QC as independent investigator to undertake this investigation and request that he reports directly to Council via the Mayor with all contact with Mr Wren to be through the Mayor or Council's solicitors Hunt and Hunt.
3. That the terms of reference for the investigation:
 - a) Determine at a minimum answers to the following:
 - Why was the Minister for Planning not immediately notified of the decision of the Policy and Services Committee on 13 April 2016 to abandon Amendment C101?
 - Was any legal advice requested and obtained in relation to the decision of the Policy and Services Committee to abandon Planning Scheme Amendment C101 and, if so, from whom, by whom and upon what instructions was such advice sought?
 - What was the legal advice and to whom was the advice distributed?
 - What circumstances led to the Policy and Services Committee resolution of 13 April 2016, being placed on the agenda paper of the Ordinary Council Meeting of 26 April 2016, and have the requirements of the Planning and Environment Act 1987, Local Government Act 1989 or any other relevant legislation been complied with?
 - Any other matters the independent investigator deems appropriate in order to fully understand why Council did not immediately notify the Minister for Planning of the abandonment of Planning Scheme Amendment C101.
4. In order to ensure that high standards of governance are maintained, advises Council what action Council should take or procedures it should implement as a result of this investigation.
5. Requests that a report of the findings of the investigation be provided to the Mayor as soon as possible.
6. In undertaking the investigation, the independent investigator will be required to observe the rules of natural justice and procedural fairness but otherwise may conduct the enquiry in any manner he sees fit including calling for submissions, undertaking investigations and interviewing interested parties.
7. The independent investigator may conduct hearings or other meetings as necessary.
8. The independent investigator may limit the time of parties appearing before him.

9. Any submissions received by the independent investigator shall be made public at an appropriate time determined by the independent investigator unless special circumstances warrant that they be treated as confidential.
10. Parties wishing to make a submission to the independent investigator can do so in writing in respect to the matters covered in these terms of reference by providing their written submission along with their name, postal address and email address to Council's solicitors, Hunt and Hunt Lawyers by email to NillumbikC101investigation@huntvic.com.au or by post to Hunt and Hunt, GPO Box 1553N, Melbourne, VIC, 3001.
2. The investigation has concluded and the Report of Investigation into the Abandonment of Nillumbik Planning Scheme Amendment C101 was received by the Mayor on Wednesday 15 February 2017 and has been provided to the Acting CEO.
3. The report contains a number of recommendations which will require implementation by the Acting CEO.

Policy context

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

Budget implications

5. The costs of conducting the internal investigation were met within existing operational budgets.

Consultation/communication

6. The investigation received 27 submissions which were taken into account in the preparation of the report.

Issues/options

7. Council has received both the Report of the Investigation into the Abandonment of Nillumbik Planning Scheme Amendment C101, as well as a two-page executive summary.
8. Because of the sensitive nature of the content of the report, the Acting CEO has designated it as confidential under section 77(2)(c) of the *Local Government Act 1989*.
9. It contains a number of recommendations for the Acting CEO to implement including:
 - A review of Council's Instrument of Delegation
 - The provision of legal advice to Councillors
 - Improved communication and community engagement processes
 - A review of Council's vegetation offset program
 - Organisational culture and accountability
10. The executive summary will be made publicly available on Council's website and the Council will issue a media statement about the outcome of the investigation.

Conclusion

11. Council has received the report from Christopher Wren QC about the investigation into the abandonment of Nillumbik Planning Scheme Amendment C101.