

Future Nillumbik Committee

to be held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 13 August 2019 commencing at 7:00pm.

Agenda

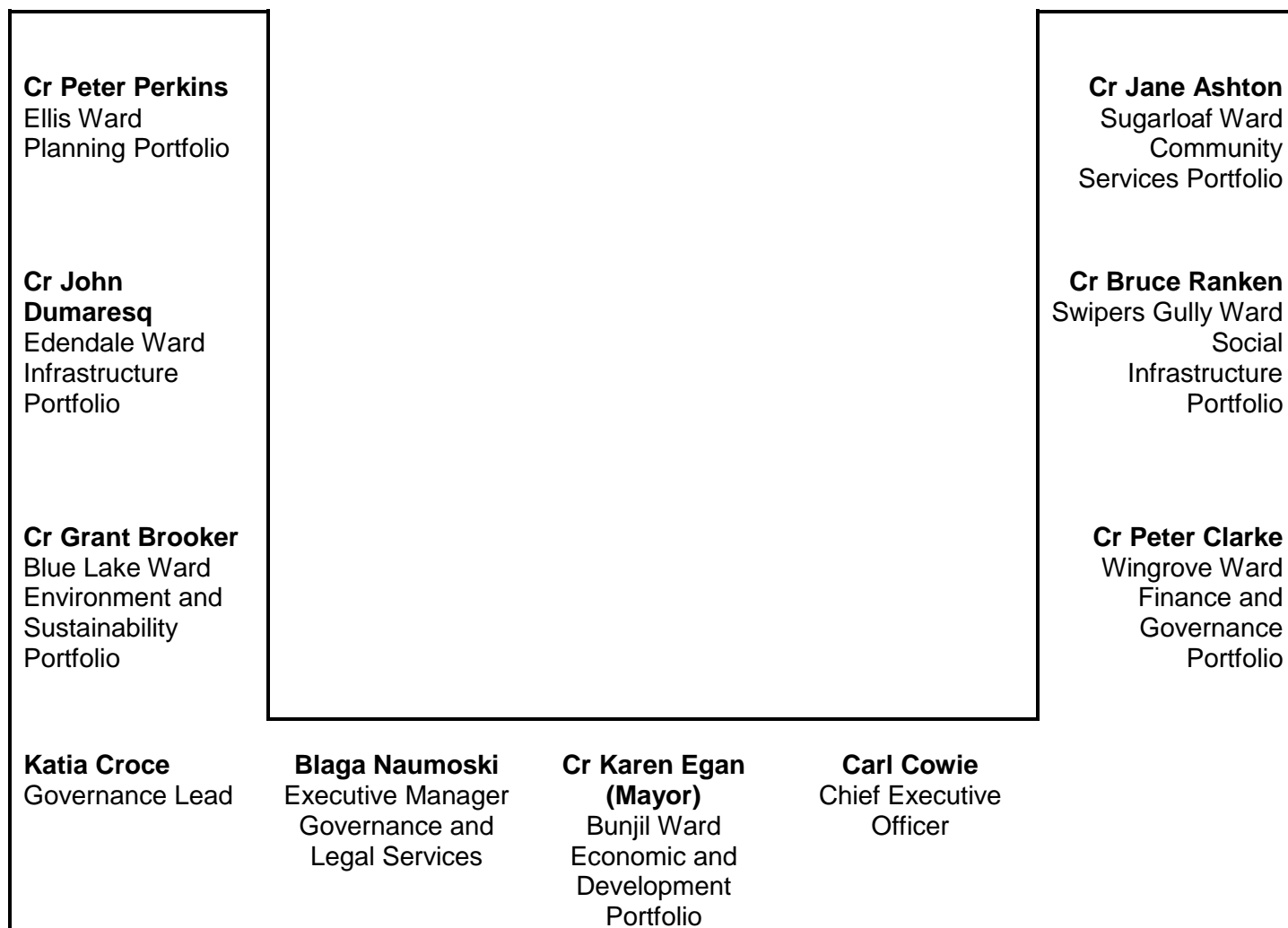
Carl Cowie
Chief Executive Officer

Friday 9 August 2019

Distribution: Public

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Future Nillumbik Committee seating plan



Visitors in the gallery at Committee meetings are:

- Welcome to copies of the various reports which will be considered by this Committee at the meeting. These are on the table in the foyer.
- Welcome to tea, coffee and water. These are on the table in the foyer near the Council Chamber entry.
- Requested to observe deliberations quietly in order for Committee meetings to run smoothly.
- Advised that the meeting will be recorded and an audio recording of the meeting will be made publicly available on Council's website.

Nillumbik Shire Council

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Nillumbik Shire Council

**Agenda of the Future Nillumbik Committee Meeting to be held
Tuesday 13 August 2019 commencing at 7:00pm.**

1. Welcome by the Chair

Members of the public are advised the meeting will be recorded and an audio recording of the meeting will be made publicly available on Council's website.

2. Reconciliation statement

The reconciliation statement to be read by the Chairperson

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

3. Apologies

Recommendation

That the apologies be noted.

4. Confirmation of minutes

Confirmation of minutes of the Future Nillumbik Committee Meeting held on Tuesday 11 June 2019.

Recommendation

That the minutes of the Future Nillumbik Committee Meeting held on Tuesday 11 June 2019 be confirmed.

5. Disclosure of conflicts of interest

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

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6. Officers' reports

FN.014/19 Nillumbik Shire Public Art Policy 2019-2022 and Nillumbik Shire Public Art Implementation Guidelines 2019-2022

Portfolio: Economic Development and Marketing

Distribution: Public

Manager: Kylie Lethbridge, Executive Manager Economic Development and Tourism

Author: Clare Leporati, Public and Participatory Arts Officer

Summary

The draft Nillumbik Shire Public Art Policy 2019-2022 (the draft policy) and the draft Nillumbik Shire Public Art Implementation Guidelines 2019-2022 (the draft guidelines) are key actions under the Arts and Cultural Plan 2018-2022.

The draft policy confirms Council's position, and the draft guidelines provide a mechanism to guide the commissioning of public artworks.

The draft policy and the draft guidelines were developed using a methodology that included benchmarking public art policies and/or strategies from other local government authorities, the input of industry knowledge and best practice, and cross-functional collaboration with Strategic Planning, Statutory Planning, Major Projects and Regulatory Services.

The draft policy and the draft guidelines were endorsed at the 25 June 2019 Ordinary Council Meeting and placed on public exhibition for community feedback from 28 June 2019 to 19 July 2019.

Eight submissions were received, and are being presented for consideration by the Committee (**Attachment 3**). The community has been invited to speak to their submissions at this meeting.

This report recommends that the Committee, having received the written submissions and heard the verbal submissions, refers a decision regarding the adoption of the draft policy and the draft guidelines to the 29 October 2019 Ordinary Council Meeting. This will enable officers to consider all submissions in detail and further develop and progress the Nillumbik Shire Public Art Policy 2019-2022 and Nillumbik Shire Public Art Implementation Guidelines 2019-2022 as required.

Recommendation

That the Committee (acting under delegation from Council):

1. Notes all of the submissions received in respect of the draft Nillumbik Shire Public Art Policy 2019-2022 and the draft Nillumbik Shire Public Art Implementation Guidelines 2019-2022.
2. Requests that officers consider the matters contained in the written and verbal submissions during finalisation of the Nillumbik Shire Public Art Policy 2019-2022 and the Nillumbik Shire Public Art Implementation Guidelines 2019-2022 and present recommendations to the 29 October 2019 Ordinary Council Meeting.
3. Requests that officers thank submitters and provide a written response to their submissions.

6. Officers' reports

FN.014/19 Nillumbik Shire Public Art Policy 2019-2022 and Nillumbik Shire Public Art Implementation Guidelines 2019-2022

Attachments

1. DRAFT Nillumbik Shire Public Art Policy 2019-2022
2. DRAFT Nillumbik Shire Public Art Implementation Guidelines 2019-2022
3. Public Art Policy Submissions

Background

1. The draft Nillumbik Shire Public Art Policy 2019-2022 (**Attachment 1**) and the draft Nillumbik Shire Public Art Implementation Guidelines 2019-2022 (**Attachment 2**) were developed using methodology that included benchmarking public art policies and/or strategies from other local government authorities, the input of industry knowledge and best practice, and cross-functional collaboration with Strategic Planning, Statutory Planning, Major Projects and Regulatory Services.
2. The draft policy confirms Council's position, and the draft guidelines provide a mechanism for action to guide the commissioning process. Both documents are inter-related and should be read in conjunction with each other.
3. The draft policy and the draft guidelines recommend a spectrum of public art forms, from:
 - Ephemeral (temporary) public artworks which includes busking and murals (which have a maximum life span of five years); to
 - Permanent public artworks, including major sculpture.
4. The draft policy and the draft guidelines exclude:
 - a. Interpretative signage and wayfinding;
 - b. Civic architectural design installations and township decorations;
 - c. Memorials and monuments (unless the installation is predominantly an artwork, whereby a professional artist or artists has/have been commissioned and an artistic process has formed the context and development of the installation); or
 - d. Advertising.
5. Best public art practice reflects the nuances of local culture, rather than replicating other communities, and is undertaken by a qualified practicing public artist. Successful public art is intrinsically linked to community, and is usually site-specific to the immediate environment in which it is located.
6. The draft guidelines provide for the implementation of public art programs such as a public art incubator (building on the successful 2017 pilot through major initiative funding, which saw strong community outcomes), and a busking program to activate public places and support emerging performers.
7. To inform the policy development process, significant benchmarking was undertaken against 24 other Victorian councils. Their public art policies/strategies were documented and reviewed including their position and/or application of a percentage for art for developers and/or capital works.

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8. Significantly, a framework for the commissioning of public artwork is proposed based on:
- a. The equivalent of 1 per cent of the total project budget of publicly accessible capital works projects valued in excess of \$2 million, be allocated to incorporate a major public artwork as an integral feature. For example, a project valued at \$2 million would set aside \$20,000 for a public art installation specific to that project. This relates to community facilities such as community buildings and spaces such as playgrounds, and does not include civil infrastructure such as roads and drains. This also includes those projects funded through state and/or federal funding.
 - b. A negotiated developer contribution for publicly accessible developments with a total project value exceeding \$2 million. This would require 1 per cent of the total project cost to be allocated to the commissioning of public artwork as a key element to the commissioning of a qualified public artist to develop works congruent with the Nillumbik Shire Art Collection. A negotiated arrangement would be triggered through the planning permit process.

Policy context

9. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Create and activate places and spaces that have good connectivity, provide needed infrastructure and promote social interaction.

Budget implications

10. The operational budget has traditionally had an allocation of \$15,000 per annum for public art acquisitions managed through a reserve. The reserve was created to build sufficient funds in order to draw upon for the acquisition of major public sculpture. The reserve has also been added to by insurance claims paid to Council and the receipt of philanthropic donations.
11. At the present time, the reserve has a balance of \$154,000.
12. The 2019-2020 operational budget includes \$35,000 for a public art program to support the draft policy.

Consultation/communication

13. At the 25 June 2019 Ordinary Council Meeting, Council endorsed the draft Nillumbik Shire Public Art Policy 2019-2022 and the draft Nillumbik Shire Public Art Implementation Guidelines 2019-2022 for the purpose of community consultation; and instructed officers to report to Council on the results of that process.
14. To generate awareness of the consultation process, a Communications Plan was implemented. The communication mechanisms employed included a media release, posts on multiple social media platforms, electronic newsletters, listing on Council's website, and direct invitations through the Arts Advisory Committee, relevant regional/community groups and associations.

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FN.014/19 Nillumbik Shire Public Art Policy 2019-2022 and Nillumbik Shire Public Art Implementation Guidelines 2019-2022

15. Council's online community engagement platform, Participate Nillumbik, provided access to the draft policy and the draft guidelines as well as collecting and collating the submissions.
16. The draft documents were viewed by 65 individuals and shared with Council's committees and networks, resulting in eight submissions received (**Attachment 3**).

Conclusion

17. Council will consider the impact and influence of all submissions at the Councillor Briefing on 17 September 2019 to help inform the final versions of the Nillumbik Shire Public Art Policy 2019-2022 and the Nillumbik Shire Public Art Implementation Guidelines 2019-2022, before they are formally presented to Council at the 29 October 2019 Ordinary Council Meeting.

6. Officers' reports**FN.015/19 Nillumbik Shire Art Collection Policy 2019-2022 and Nillumbik Shire Art Collection Curatorial Guidelines 2019-2022**

Portfolio: Economic Development and Marketing
Distribution: Public
Manager: Kylie Lethbridge, Executive Manager Economic Development and Tourism
Author: Grace Longato, Curator and Creative Industries Officer

Summary

The draft Nillumbik Shire Art Collection Policy 2019-2022 (the draft Collection Policy) and the draft Nillumbik Shire Art Collection Curatorial Guidelines 2019-2022 (the draft Curatorial Guidelines) are Council Plan priority actions and key actions of the Arts and Cultural Plan 2018-2022.

The Nillumbik Shire Art Collection (the Collection) is a public collection, and a Council asset and as such there is an imperative to ensure return on investment to Council in its acquisitions.

The draft Collection Policy confirms Council's position, and the draft Curatorial Guidelines provide a mechanism for acquisition and management of the Collection.

The draft Collection Policy and the draft Curatorial Guidelines were developed using industry knowledge and best practice and consulted with the Arts Advisory Committee.

The draft Collection Policy and the draft Curatorial Guidelines were endorsed at the 25 June 2019 Ordinary Council Meeting and placed on public exhibition for community feedback for 21 days (28 June 2019 to 19 July 2019).

Seven submissions were received and collated for consideration by the Committee. The community has been invited to speak to their submissions at this meeting.

This report recommends that the Committee, having received the written submissions and heard the verbal submissions, refers a decision regarding the adoption of the draft Collection Policy and the draft Curatorial Guidelines to the 29 October 2019 Ordinary Council Meeting. This will enable officers to consider all submissions in detail and further develop and progress the Nillumbik Shire Art Collection Policy 2019-2022 and Nillumbik Shire Art Collection Curatorial Guidelines 2019-2022 as required.

Recommendation

That the Committee (acting under delegation from Council):

1. Notes all of the submissions received in respect of the draft Nillumbik Shire Art Collection Policy 2019-2022 and the draft Nillumbik Shire Art Collection Curatorial Guidelines 2019-2022.
2. Requests that officers consider the matters contained in the written and verbal submissions during finalisation of the Nillumbik Shire Art Collection Policy 2019-2022 and the Nillumbik Shire Art Collection Curatorial Guidelines 2019-2022 and present recommendations to the 29 October 2019 Ordinary Council Meeting.

6. Officers' reports

FN.015/19 Nillumbik Shire Art Collection Policy 2019-2022 and Nillumbik Shire Art Collection Curatorial Guidelines 2019-2022

3. Requests that officers thank submitters and provide a written response to their submissions.

Attachments

1. DRAFT Nillumbik Shire Art Collection Policy 2019-2022
2. DRAFT Nillumbik Shire Art Collection Curatorial Guidelines 2019-2022
3. Art Collection Policy Submissions

Background

1. The draft Nillumbik Shire Art Collection Policy 2019-2022 (**Attachment 1**) and the draft Nillumbik Shire Art Collection Curatorial Guidelines 2019-2022 (**Attachment 2**) address key actions of the Council Plan 2017-2021 and the Arts and Cultural Plan 2018-2022.
2. The Nillumbik Shire Art Collection supports the development and growth of creative and cultural industries through:
 - a. The collection of contemporary and modernist artworks of excellence that reflect our artistic heritage and local culture;
 - b. The acquisition of indoor visual and outdoor public artworks of excellence;
 - c. Encouragement of donations and bequests of artworks to the Collection via the Commonwealth Cultural Gifts Program;
 - d. The biennial acquisitive Nillumbik Prize for Contemporary Visual Art;
 - e. The acquisition of significant heritage items and civic objects that reflect Nillumbik's social and cultural history; and
 - f. Public access to the Collection via display, exhibitions and public programs to educate, challenge and engage the community.
3. The Collection has three categories:
 - a. Indoor visual art;
 - b. Outdoor public art; and
 - c. Civic memorabilia.
4. The Collection houses over 500 indoor visual art works, 15 outdoor permanent public artworks and over 120 objects of civic memorabilia.
5. The Collection was last valued in 2016 at \$2.5 million which comprises the visual art collection, \$1,445,940; the public art collection, \$969,750; and civic memorabilia, \$16,710. The Collection is due for re-valuation in 2020.
6. The Nillumbik Shire Art Collection is a public collection, and accordingly, all items housed within the Collection must meet strict selection criteria and acquisition processes as set out in the draft Curatorial Guidelines.

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FN.015/19 Nillumbik Shire Art Collection Policy 2019-2022 and Nillumbik Shire Art Collection Curatorial Guidelines 2019-2022

7. The draft Collection Policy and the draft Curatorial Guidelines also cross-reference the draft Nillumbik Shire Public Art Policy 2019-2022 and the draft Nillumbik Shire Public Art Implementation Guidelines 2019-2022 currently being considered by Council.

Policy context

8. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Build on our commitment to lifelong learning for the community.

Budget implications

9. Acquisitions of artworks, and the management and conservation of the Collection, are funded through a reserve, created as the primary budget source to build sufficient funds in order to draw upon for major acquisitions and/or major public sculpture. The reserve has also been contributed to through insurance claims paid to Council and philanthropic donations.

Consultation/communication

10. The draft Collection Policy and the draft Curatorial Guidelines have been referred to Council's Arts Advisory Committee for advice throughout their development.
11. At the 25 June 2019 Ordinary Council Meeting, Council authorised officers to:
- Place the draft Nillumbik Shire Art Collection Policy 2019-2022 and the draft Nillumbik Shire Art Collection Curatorial Guidelines 2019-2022 on public exhibition for a period of three weeks for the purpose of community consultation; and
 - Report to Council on the results of the community consultation process
12. To generate awareness of the consultation process, a Communications Plan was implemented. The communication mechanisms employed included a media release, posts on multiple social media platforms, electronic newsletters, listing on Council's website, and direct invitations through the Arts Advisory Committee, relevant regional/community groups and associations.
13. Council's online community engagement platform, Participate Nillumbik, provided access to the draft Collection Policy and the draft Curatorial Guidelines as well as collecting and collating the submissions.
14. The draft documents were viewed by 39 individuals via Participate Nillumbik, resulting in seven submissions received (**Attachment 3**).

Conclusion

15. Council will consider the impact and influence of all submissions at the 17 September 2019 Councillor Briefing to help inform the final versions of the Nillumbik Shire Art Collection Policy 2019-2022 and the Nillumbik Shire Art Collection Curatorial Guidelines 2019-2022, before they are formally presented to Council at the 29 October 2019 Ordinary Council Meeting.

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6. Officers' reports**FN.016/19 Regional Gallery Feasibility Study**

Portfolio: Economic Development and Marketing**Distribution: Public****Manager: Kylie Lethbridge, Executive Manager Economic Development and Tourism****Author: Grace Longato, Curator and Creative Industries Officer****Summary**

A priority action of the Council Plan 2017-2021 is to attract external funding for the development of a gallery of regional significance. The Regional Gallery Feasibility Study (feasibility study) is the first step in attracting that funding.

Council accepted the findings of the feasibility study by independent consultants Outside the Square at the 25 June 2019 Ordinary Council Meeting for public exhibition. The study was exhibited for 21 days on Council's online community engagement platform, Participate Nillumbik. 112 submissions were received and are attached to this report (**Attachment 1**). The community has been invited to speak to their submissions at this meeting.

This report recommends that the Committee, having received the written submissions and heard the verbal submissions, refers a decision regarding the acceptance of the Regional Gallery Feasibility Study to the 29 October 2019 Ordinary Council Meeting. This will enable officers to consider all submissions in detail and further develop and progress the process as required.

Recommendation

That the Committee (acting under delegation from Council):

1. Notes all of the submissions received in respect of the Regional Gallery Feasibility Study.
2. Requests that officers consider the matters contained in the written and verbal submissions during finalisation of the Regional Gallery Feasibility Study to be presented at the 29 October 2019 Ordinary Council Meeting.
3. Requests that officers thank submitters and provide a written response to their submissions.

Attachments

1. Regional Gallery Feasibility Study Submissions
2. DRAFT Nillumbik Regional Art Gallery Feasibility Study Report

Background

1. Nillumbik Shire Council is committed to investing in the arts through strategic objective two of the Council Plan 2017-2021; *Active lifestyles and artistic expression are fostered through participation and innovation.*
2. This strategic objective is augmented by the Arts and Cultural Plan 2018-2022, which talks to the objective through three goals:

6. Officers' reports**FN.016/19 Regional Gallery Feasibility Study**

- Public and participatory arts as an everyday experience;
 - Develop and grow creative and cultural industries; and
 - Support and promote arts and cultural activities that maximise access.
3. A priority action of the Council Plan 2017-2021 is to attract external funding for the development of a gallery of regional significance. The feasibility study is the first step in attracting that funding.
 4. The next step in this process, which is proposed in the 2019/2020 budget is to undertake the business case and master planning that will ultimately be required to attract state, federal or private sector funding for major capital works.
 5. For the purposes of the feasibility study, a regional gallery is defined as a vibrant, cohesive, inclusive not-for-profit public organisation that delivers inspiring visual art experiences that are relevant and accessible to the whole community, with valuable cultural, social and economic returns.
 6. The function of a regional gallery includes:
 - a. Housing Council's extensive collection;
 - b. The collection and preservation of artworks related to the region;
 - c. The presentation of major exhibitions, events and special programs;
 - d. Hosting touring exhibitions;
 - e. Provide engaging and educational experiences, together with public programs, publications and merchandise that supports the collection and local artists; and
 - f. Multi-purpose spaces for diversification of activity.
 7. The project scope included an audit of cultural infrastructure within Nillumbik and surrounding municipalities, industry benchmarking, a cultural needs analysis, identification of possible sites, and overall feasibility analysis with a projection of ongoing costs and future impacts and implications.
 8. The methodology comprised a situational analysis, extensive community and industry consultation, and strategic planning, resulting in the draft Nillumbik Regional Art Gallery Feasibility Study Report (**Attachment 2**).
 9. The State Government's 2013 report, 'Economic Impact of Arts and Culture in Victoria', undertaken by KPMG, found that the Victorian arts and cultural sector contributed \$6.1 billion to the Victorian economy and 68,000 full time workers.
 10. Cultural tourism is a drawcard for Victoria's international tourists, who contribute \$695 million to Victoria's economy. Therefore, a regional gallery in Nillumbik has the potential to contribute not only to the local economy but to Victoria's economy.

Policy context

11. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Create and activate places and spaces that have good connectivity, provide needed infrastructure and promote social interaction.

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FN.016/19 Regional Gallery Feasibility Study

Consultation/communication

12. The feasibility study has been developed in conjunction with Council's Arts Advisory Committee and through an initial state of community engagement.
13. At the 25 June 2019 Ordinary Council Meeting, Council endorsed the findings of the draft Nillumbik Regional Art Gallery Feasibility Study Report (**Attachment 2**) and instructed officers to place it on public exhibition for a period of three weeks for the purpose of community consultation.
14. To generate awareness of the public exhibition, a Communications Plan was implemented. The communication mechanisms employed included a media release, posts on multiple social media platforms, electronic newsletters, listing on Council's website, and direct invitations through the Arts Advisory Committee, relevant regional/community groups and associations.
15. Participate Nillumbik provided access to the feasibility study as well as collecting and collating the submissions.
16. The feasibility study was viewed by 692 individuals, resulting in 112 written submissions received (**Attachment 1**).

Conclusion

17. Council will consider the impact and influence of all submissions at the 17 September 2019 Councillor Briefing to help inform the final version of the Regional Gallery Feasibility Study, before it is formally presented to Council at the 29 October 2019 Ordinary Council Meeting.

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6. Officers' reports

FN.017/19 Advocacy to the Victorian government to ensure business continuity for municipal recycling

Portfolio: Environment and Sustainability

Distribution: Public

Manager: Hjalmar Philipp, Director Operations and Infrastructure

Author: Lisa Pittle, Manager Environment

Mikael Ooi, Waste Management Coordinator

Hannah Burns, Project Officer, Environment

Carl Cowie, Chief Executive Officer

Summary

This report recommends advocacy to the Victorian government to play a role in ensuring that recycling continues to be processed rather than landfilled; that the Victorian Municipal and Industrial Landfill Levy (Landfill Levy) is waived or refunded for recycling sent to landfill as a consequence of SKM Recycling Pty Ltd (SKM) closure; and that the Landfill Levy is used to fast track the development of processing capacity and markets for recovered resources.

Recommendation

That the Committee (acting under delegation from Council) advocates to the Victorian government to:

1. Use the Victorian Municipal and Industrial Landfill Levy (to which Nillumbik Shire Council has contributed \$3,190,959 in the last five years):
 - a) Where required to support the continued operation of infrastructure to process municipal kerbside recycling.
 - b) To fast track investment in development of infrastructure to process recycling on behalf of councils.
 - c) To fast track further investment in the development of markets for recovered resources.
2. In the event that Council is forced to send recycling to landfill due to closure of SKM Recycling Pty Ltd and lack of alternative processing capacity, the Victorian Municipal and Industrial Landfill Levy should be waived or refunded for that material.

Attachments

Nil

Background

1. Nillumbik Shire Council is one of five councils participating in a collaborative contract with SKM, administered by the Metropolitan Waste and Resource Recovery Group (MWRRG), which delivers approximately 60,000 tonnes of recycling per year for processing. Nillumbik's portion of this is approximately 7,000 tonnes.

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FN.017/19 Advocacy to the Victorian government to ensure business continuity for municipal recycling

2. SKM currently processes around 50 per cent of Victoria's recycling. As with all recycling processors, SKM has been affected by changes in the international markets for recovered resources.
3. In February 2019, the Environment Protection Authority (EPA) ordered SKM to stop receiving material at its Coolaroo, Laverton and Geelong facilities until stockpiling issues were resolved, resulting in seven days' worth of Nillumbik's kerbside recycling, and many thousands of tonnes across Victoria, ending up in landfill.
4. More recently, on 26 July 2019, SKM announced a voluntary temporary closure of SKM processing facilities in Coolaroo, Geelong and Laverton. This temporary closure has impacted 33 councils in Victoria and approximately 50 per cent of Victoria's recycling.

Policy context

5. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Provide waste management service that meet the needs of our community.

Budget implications

6. The 2019-2020 budget for disposal of kerbside recycling is \$426,020.

Consultation/communication

7. In May 2019, Council made a submission to the Victorian Legislative Council's Inquiry into Recycling and Waste Management.
8. The MWRRG collaborative contract user group communicates regularly regarding developments with SKM and the options for recovery of materials from kerbside recycling collections.

Issues/options

9. Council has already experienced some disruption to disposal of kerbside recycling.
10. The Victorian Auditor-General's Office (VAGO) tabled a report to the Victorian Parliament on 6 June 2019 titled 'Recovering and Reprocessing Resources from Waste'. The report identified:
 - That waste management is a complex system and system failure has significant potential impacts on human and environmental health.
 - That Victorian government agencies with responsibility for Victoria's waste management systems have been largely reactive and there is a need for stronger, proactive leadership particularly with regard to infrastructure planning and regulation.
11. The report made a total of six recommendations for the Department of Environment, Land, Water and Planning, eight for Sustainability Victoria, four for EPA, and four for MWRRG to improve leadership for waste management in Victoria. These recommendations relate to:
 - a) Improving measurability of the state-wide waste policy including improved data collection;

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FN.017/19 Advocacy to the Victorian government to ensure business continuity for municipal recycling

- b) Improving state leadership with clarified roles, responsibilities and training to improve waste and resource recovery outcomes;
 - c) Improving the understanding of risks relating to the waste management sector and improving compliance; and
 - d) Improving the understanding and procurement of future waste management infrastructure capacity.
12. Given current concerns about the continuing operation of SKM, it is critical that continuity of capacity to process collected materials is ensured. For these materials to be landfilled is a significant environmental, social and economic failure for the Victorian community.
- Environmental failure – useful resources are not recovered.
 - Social failure – loss of community trust in the recovery process.
 - Economic failure – lost value of resources sent to landfill and the additional cost to the community that landfill represents including the Victorian Municipal and Industrial Landfill Levy.
13. The Municipal Association of Victoria reports in its *Rescue our Recycling Action Plan* that the Municipal and Industrial Landfill Levy is significantly under-utilised and that the Victorian government has more than \$0.5 billion which has been collected to support policy of diverting waste from landfill. Nillumbik has contributed \$3,190,959 in the last five years to the Landfill Levy.
14. In addition, if Council is forced to send recycling to landfill due to the closure of SKM and no other processing capacity is available, then the Landfill Levy should be waived or refunded for that material.

Conclusion

15. There are concerns about the continuity of processing capacity for 50 per cent of Victoria's recycling, including Nillumbik's annual tonnage.
16. The VAGO report identifies that the Victorian government has a significant leadership role in ensuring that the state's complex waste management arrangements continue to operate for environmental and human health outcomes.
17. The Victorian Municipal and Industrial Landfill Levy should be used to support continuity of recycling capacity and where councils are forced to send recycling to landfill, it should be waived or refunded.

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6. Officers' reports

FN.018/19 Proposed Amendment GC119 to the Nillumbik Planning Scheme - State Government Upgrade to Fitzsimons Lane, Foote Street, Porter Street, Main Road and Leane Drive

Portfolio: Planning

Distribution: Public

Manager: Jeremy Livingston, Acting Director Community and Planning

Author: Paul Fyffe, Senior Strategic Planner

Summary

This report considers a request from Major Road Projects Victoria (MRPV) to Council's Chief Executive Officer on 1 August 2019 that he provide written support for a proposed Ministerial Amendment (GC119) that will provide MRPV with planning approval to upgrade the intersections of Main Road and Fitzsimons Lane and Main Road and Leane Drive.

Prior to the last election, the State Government announced a package of road upgrades along the Fitzsimons Lane corridor, including the listed intersections above. The Fitzsimons intersection is a key point of congestion on the Shire's southern boundary, but is also the start of a highly significant gateway into the Nillumbik known as the Eltham Gateway, which is of significant aesthetic, historic, environmental and economic value to the community.

The upgrades are being managed by the State Government authority MRPV. This is the first formal request to Council regarding MRPV's intended approach to obtaining planning approval.

Recommendation

That the Committee (acting under delegation from Council):

- a) Authorises the Mayor to formally write to MRPV requesting MRPV provide Council with a detailed briefing on the proposed road designs, Incorporated Document and traffic modelling at the earliest opportunity.
- b) Notes that in responding to MRPV's request for written support for Amendment GC119 dated 1 August 2019, this will then enable the Chief Executive Officer to seek the appropriate direction from Council.

Attachments

Nil

Background

1. Prior to the last election, the State Government announced a package of road upgrades along the Fitzsimons Lane corridor, including in Eltham an upgrade to the intersection of Main Road and Fitzsimons Lane and the intersection of Main Road and Leane Drive. The upgrades are being managed by the State Government authority Major Road Projects Victoria (MRPV).
2. The Fitzsimons intersection is a point of key congestion on the Shire's southern boundary and Council has consistently supported an appropriate upgrade to that intersection. However, Council is also very aware that the Fitzsimons intersection is

6. Officers' reports**FN.018/19 Proposed Amendment GC119 to the Nillumbik Planning Scheme - State Government Upgrade to Fitzsimons Lane, Foote Street, Porter Street, Main Road and Leane Drive**

the start of a key gateway into the Shire, the Eltham Gateway, and that this gateway is of significant aesthetic, historic, environmental and economic value to the community. The project to upgrade the Fitzsimons intersection should aim to both alleviate congestion and respect the values of the Eltham Gateway.

3. MRPV has requested the Minister for Planning to prepare, approve and adopt a Ministerial Amendment pursuant to Section 20(4) of the *Planning and Environment Act 1987* (the Act), to give it the necessary planning permission to complete the upgrades.
4. MRPV is the applicant for this amendment and the Minister is the planning authority. Under Section 20(4) of the Act, the Minister prepares, approves and adopts the amendment and exempts himself or herself from notification requirements on the basis that notification is not warranted, or that the interests of Victoria or any part of Victoria make such an exemption appropriate. This type of amendment has typically been used to “fast-track” major projects, such as key transport upgrades, on the basis that the project and its efficient delivery are in the interest of Victorians.
5. As an alternative, the Minister can also decide to process an amendment with some limited notification, pursuant to Section 20(5) of the Act. Under this provision the Minister might, for example, notify a Council or other particular parties. Yet a further option used by the State Government to process an amendment is for the relevant authority to fully exhibit the amendment in accordance with Section 19 of the Act. Full statutory notification includes public exhibition of the amendment with the option for a Planning Panel (if required) to consider any submissions received.
6. MRPV’s proposed Amendment GC119 will place an incorporated document into the Nillumbik Planning Scheme which will allow use and development of the upgrades to the Fitzsimons and Leane Drive intersections, subject to conditions. The proposed conditions pertain to such matters as putting in place an environmental management strategy, securing offsets for native vegetation removed, and requiring the approval of the relevant floodplain management authority for buildings and works on flood prone land.
7. Council’s Chief Executive Officer (CEO) received a letter from MRPV dated 1 August 2019 which requests that the CEO provide written support for both the proposed amendment and the Minister’s use of Section 20(4) of the Act to process the amendment. The road is designed in accordance with the conditions proposed in the amendment documentation, however the designs are not part of the amendment documentation.
8. Officers identified issues with MRPV’s current designs for the proposed upgrade of the Fitzsimons intersection. On 30 July 2019, at MRPV’s invitation, Council officers presented key considerations of this proposal for the local area to potential tenderers. These considerations included, but were not limited to, the integration with the local road network, connectivity to pedestrian and bicycle facilities, potential impact on the character of the Eltham Gateway, potential impact on canopy trees and native vegetation, and lack of data to support the scale of proposed works. However, there is no formal requirement for MRPV to consider and/or adequately respond to these concerns.

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9. The latest plans referred to above are MRPV's "issue for tender" plans and officers have only been allowed to view these on signing a deed of confidentiality, which means that the plans cannot be made public as part of this report.

Policy context

10. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Improve community trust through better communications and genuine engagement.

Budget implications

11. There are no budget implications.

Consultation/communication

12. Refer to all other sections of this report for discussion of this matter.

Issues/options

13. The immediate matter at hand is how Council should respond to MRPV's request for written support for both the proposed Amendment GC119 and use of Section 20(4) to process the amendment. Although Council has consistently supported an appropriate upgrade of the Fitzsimons intersection, the issues to consider are:
- a) it is unclear at this stage that the intersection design is 'fit for purpose', actually resolves the traffic congestion adequately, as well as responds to the key considerations as above put forward by Council officers.
 - b) while acknowledging that MRPV has undertaken some high level public engagement, Council officers view is that this needs to be comprehensive and it is anticipated the community would like to understand and respond to the full extent of the proposal in regard to such matters as the potential significant impact on the character of the Eltham Gateway and highly popular Eltham Lower Park.
14. Considering all of the above, and with the limited information at hand, Council officers recommend that Council formally requests MRPV to provide Council with a detailed briefing on the proposed road designs, Incorporated document and traffic modelling at the earliest opportunity. The following are some further possible options for Council to consider in its response to MRPV on this matter:
- a) Oppose Section 20(4) amendment outright.
 - b) Oppose the Section 20(4) amendment and request an amendment with the full notification provided under Section 19 of the Act, i.e. a fully exhibited amendment. In this option, the community will be fully consulted on the amendment and would provide the option of a Planning Panel (if required) to consider submissions. However, such an amendment process could take approximately 12-18 months to complete, which may significantly delay the project.
 - c) Oppose the Section 20(4) amendment and request consultation with Council under Section 20(5) of the Act. This option would provide statutory notification to Council regarding the amendment. There would not be public exhibition, but Council could inform its view by conducting its own consultation. With this option,

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it would likely still allow the amendment to proceed much more quickly than an amendment which is put on full exhibition.

- d) Advise that Council's support for the amendment is conditional on MRPV providing assurance that the design is fit for purpose and responds to the issues put forward, including through additional conditions in the Incorporated Document where appropriate. This option provides clear opportunity for MRPV to better engage with Council and to still process the amendment efficiently through a Section 20(4) process. However, this option does not directly include the community within the consultation, nor formally include Council.

Conclusion

- 15. Council is concerned about the limited community engagement to date on this important matter. While sympathetic to fully supporting traffic congestion removal, Council does not feel sufficiently informed to make a decision to support or otherwise the request made by MRPV in their letter of 1 August 2019. This report outlines potential courses of action for Council to consider. These options are designed to still facilitate the project, but to better enable Council and the community to ensure potential issues are adequately considered and addressed.

- 7. Supplementary and urgent business**
- 8. Confidential reports**