

# Future Nillumbik Committee

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

## Minutes

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

Friday 16 August 2019

Distribution: Public

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## Nillumbik Shire Council

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### Contents

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<b>1.</b>	<b>Welcome by the Chair</b>	<b>1</b>
<b>2.</b>	<b>Reconciliation statement</b>	<b>1</b>
<b>3.</b>	<b>Apologies</b>	<b>1</b>
<b>4.</b>	<b>Confirmation of minutes</b>	<b>1</b>
<b>5.</b>	<b>Disclosure of conflicts of interest</b>	<b>1</b>
<b>6.</b>	<b>Officers' reports</b>	<b>2</b>
<b>Economic Development and Marketing Portfolio</b>		
FN.014/19	Nillumbik Shire Public Art Policy 2019-2022 and Nillumbik Shire Public Art Implementation Guidelines 2019-2022	2
FN.015/19	Nillumbik Shire Art Collection Policy 2019-2022 and Nillumbik Shire Art Collection Curatorial Guidelines 2019-2022	4
FN.016/19	Regional Gallery Feasibility Study	6
<b>Environment and Sustainability Portfolio</b>		
FN.017/19	Advocacy to the Victorian government to ensure business continuity for municipal recycling	8
<b>Planning Portfolio</b>		
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	11
<b>7.</b>	<b>Supplementary and urgent business</b>	<b>16</b>
FN.019/19	Vehicle access to 91 John Street, Eltham (VCAT Hearing P2653/2018)	16
<b>8.</b>	<b>Confidential reports</b>	<b>18</b>

## Nillumbik Shire Council

Minutes of the Future Nillumbik Committee Meeting held  
Tuesday 13 August 2019. The meeting commenced at 7:04pm.

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### Councillors present:

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

### Officers in attendance:

Carl Cowie	Chief Executive Officer
Vince Lombardi	Chief Financial Officer
Hjalmar Philipp	Director Operations and Infrastructure
Jeremy Livingston	Acting Director Community and Planning
Blaga Naumoski	Executive Manager Governance and Legal Services
Mitch Grayson	Executive Manager Communications and Engagement
Danielle Phyland	Acting Executive Manager Economic Development and Tourism
Heath Gillett	Manager Recreation and Leisure
Grace Longato	Acting Coordinator Arts and Culture
Clare Leporati	Public and Participatory Arts Officer
Sarah Hammond	Community Arts Officer
Paul Fyffe	Senior Strategic Planner
Katia Croce	Governance Lead

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#### 1. Welcome by the Chair

#### 2. Reconciliation statement

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

#### 3. Apologies

Nil

#### 4. Confirmation of minutes

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

<b>Committee Resolution</b>
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**MOVED:** Cr Bruce Ranken

**SECONDED:** Cr Peter Perkins

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

**CARRIED**

#### 5. Disclosure of conflicts of interest

Nil

**6. Officers' reports**

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

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**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.

The following people addressed the Committee with respect to this item:

1. Jim Connor

<b>Committee Resolution</b>
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**MOVED: Cr Jane Ashton**

**SECONDED: Cr Peter Clarke**

**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.

**6. Officers' reports**

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

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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.

**CARRIED**

*Vince Lombardi, Chief Financial Officer temporarily left the meeting during discussions of the above item at 7:06pm and returned at 7:08pm.*

**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.

**Committee Resolution****MOVED: Cr Jane Ashton****SECONDED: Cr Peter Clarke****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**

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

**CARRIED**

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

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**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.

The following people addressed the Committee with respect to this item:

1. Jacky Ogeil (Montsalvat)
2. Jim Connor
3. Gayle Blackwood
4. Jim Connor on behalf of Eltham District Historical Society
5. Rachel Deans
6. Sue Dyet on behalf of Eltham Community Action Group

**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.



6. Officers' reports

FN.016/19 Regional Gallery Feasibility Study

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**Motion**

**MOVED: Cr Jane Ashton**  
**SECONDED: Cr Bruce Ranken**

**That** the Committee (acting under delegation from Council):

1. Notes all of the submissions received in respect of the Regional Gallery Feasibility Study, **including the additional submission.**
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.

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

**Committee Resolution**

**MOVED: Cr Jane Ashton**  
**SECONDED: Cr Bruce Ranken**

**That** the Committee (acting under delegation from Council):

1. Notes all of the submissions received in respect of the Regional Gallery Feasibility Study, including the additional submission.
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.

**CARRIED**

*Mitch Grayson, Executive Manager Communications and Engagement left the meeting during discussions of the above item at 7:35pm.*

*Vince Lombardi, Chief Financial Officer temporarily left the meeting during discussions of the above item at 7:40pm and returned at 7:41pm.*

*Jeremy Livingston, Acting Director Community and Planning temporarily left the meeting during discussions of the above item at 8:07pm and returned at 8:10pm.*

*Cr Jane Ashton assumed the chair at 8:11pm as the Councillor responsible for the Environment and Sustainability Portfolio.*

**6. Officers' reports**

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

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**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.

**6. Officers' reports****FN.017/19 Advocacy to the Victorian government to ensure business continuity for municipal recycling****Motion****MOVED: Cr Grant Brooker****SECONDED: Cr Peter Perkins**

**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 unable to process recycling and/or forced to send recycling to landfill due to either closure of SKM Recycling Pty Ltd or lack of alternative processing capacity or other, then:**
  - a) **the Victorian Municipal and Industrial Landfill Levy should be waived or refunded for that material, and**
  - b) **Council requests the State to reimburse Nillumbik Shire Council for any associated costs so Council is not financially disadvantaged.**

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

**Committee Resolution****MOVED: Cr Grant Brooker****SECONDED: Cr Peter Perkins**

**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.

**6. Officers' reports**

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

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2. In the event that Council is unable to process recycling and/or forced to send recycling to landfill due to either closure of SKM Recycling Pty Ltd or lack of alternative processing capacity or other, then:
  - a) the Victorian Municipal and Industrial Landfill Levy should be waived or refunded for that material, and
  - b) Council requests the State to reimburse Nillumbik Shire Council for any associated costs so Council is not financially disadvantaged.

**CARRIED**

*Cr Peter Perkins assumed the chair at 8:25pm as the Councillor responsible for the Planning Portfolio.*

## 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**

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**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.

The following people addressed the Committee with respect to this item:

1. Jim Connor
2. Sue Dyet on behalf of Eltham Community Action Group
3. Jill Chan

### **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.

## 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**

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<b>Motion</b>
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**MOVED: Cr John Dumaresq**

**SECONDED: Cr Grant Brooker**

**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 once Council receives a detailed briefing from MRPV, this will enable Councillors to provide the Chief Executive Officer direction to appropriately respond to the MRPV's written request dated 1 August 2019.**

<b>Amendment</b>
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**MOVED: Cr Peter Clarke**

**SECONDED: Cr Bruce Ranken**

- a) That the Mayor be authorised to write to the Major Road Projects Victoria (MPRV), Victorian State Government Minister of Roads, Minister of Planning and Local member for Eltham Vicki Ward advising that Council rejects Ministerial Amendment (GC119) utilising a 20 part (4) process of the *Planning and Environment Act 1987* for the proposed works at Fitzsimons Lane / Main Road Eltham intersection (Eltham Gateway) and requests that the State Government and its agencies:
  - 1. Supply to Council a full set of the drawings of the proposed road design, landscaping proposal, environmental impact statements and traffic modelling for the proposed works.
  - 2. Place on public exhibition the proposed road design including landscape proposals, environmental impact statements and traffic modelling.
  - 3. Undertake a full public consultation process and be immediately commenced including a briefing by Major Road Projects Victoria to Council for the proposed road works and intersection design on Main Road and Fitzsimons Lane.
  - 4. Advise Council of the program to complete the project from commencement of consultation and planning scheme amendment through to completion.
  - 5. Advise Council of proposed future stages of widening / duplication of the Diamond Creek / Main Road bridge or the widening of Main Road to Bridge Street and how many lanes are proposed into future as a consequence of the current proposed design for Fitzsimons Lane and Main Road.
- b) That the Nillumbik CEO requests advice from our abutting Councils, Banyule and Manningham on the impact the proposed roadworks and their proposed response.
- c) That the proposed works on Leane Drive be continued.

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**

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THE AMENDMENT WAS PUT TO THE VOTE AND CARRIED.

*Cr Peter Clarke called for a division*

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

Against: Cr Peter Perkins and Cr John Dumaresq

*The Chairperson, Cr Peter Perkins declared the Amendment Carried.*

THE SUBSTANTIVE MOTION BEFORE THE CHAIR IS AS FOLLOWS:

<b>Substantive Motion</b>
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**MOVED: Cr John Dumaresq**

**SECONDED: Cr Grant Brooker**

- a) That the Mayor be authorised to write to the Major Road Projects Victoria (MPRV), Victorian State Government Minister of Roads, Minister of Planning and Local member for Eltham Vicki Ward advising that Council rejects Ministerial Amendment (GC119) utilising a 20 part (4) process of the *Planning and Environment Act 1987* for the proposed works at Fitzsimons Lane / Main Road Eltham intersection (Eltham Gateway) and requests that the State Government and its agencies:
  1. Supply to Council a full set of the drawings of the proposed road design, landscaping proposal, environmental impact statements and traffic modelling for the proposed works.
  2. Place on public exhibition the proposed road design including landscape proposals, environmental impact statements and traffic modelling.
  3. Undertake a full public consultation process and be immediately commenced including a briefing by Major Road Projects Victoria to Council for the proposed road works and intersection design on Main Road and Fitzsimons Lane.
  4. Advise Council of the program to complete the project from commencement of consultation and planning scheme amendment through to completion.
  5. Advise Council of proposed future stages of widening / duplication of the Diamond Creek / Main Road bridge or the widening of Main Road to Bridge Street and how many lanes are proposed into future as a consequence of the current proposed design for Fitzsimons Lane and Main Road.
- b) That the Nillumbik CEO requests advice from our abutting Councils, Banyule and Manningham on the impact the proposed roadworks and their proposed response.
- c) That the proposed works on Leane Drive be continued.

**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**

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

<b>Committee Resolution</b>
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**MOVED: Cr John Dumaresq**

**SECONDED: Cr Grant Brooker**

- a) That the Mayor be authorised to write to the Major Road Projects Victoria (MPRV), Victorian State Government Minister of Roads, Minister of Planning and Local member for Eltham Vicki Ward advising that Council rejects Ministerial Amendment (GC119) utilising a 20 part (4) process of the *Planning and Environment Act 1987* for the proposed works at Fitzsimons Lane / Main Road Eltham intersection (Eltham Gateway) and requests that the State Government and its agencies:
1. Supply to Council a full set of the drawings of the proposed road design, landscaping proposal, environmental impact statements and traffic modelling for the proposed works.
  2. Place on public exhibition the proposed road design including landscape proposals, environmental impact statements and traffic modelling.
  3. Undertake a full public consultation process and be immediately commenced including a briefing by Major Road Projects Victoria to Council for the proposed road works and intersection design on Main Road and Fitzsimons Lane.
  4. Advise Council of the program to complete the project from commencement of consultation and planning scheme amendment through to completion.
  5. Advise Council of proposed future stages of widening / duplication of the Diamond Creek / Main Road bridge or the widening of Main Road to Bridge Street and how many lanes are proposed into future as a consequence of the current proposed design for Fitzsimons Lane and Main Road.
- b) That the Nillumbik CEO requests advice from our abutting Councils, Banyule and Manningham on the impact the proposed roadworks and their proposed response.
- c) That the proposed works on Leane Drive be continued.

**CARRIED**

*Cr Peter Clarke called for a division*

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

Against: Cr Peter Perkins and Cr John Dumaresq

*The Chairperson, Cr Peter Perkins declared the Motion Carried.*



**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**

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*Grace Longato, Acting Coordinator Arts and Culture, Clare Leporati, Public and Participatory Arts Officer and Sarah Hammond, Community Arts Officer left the meeting at the commencement of the above item at 8:26pm.*

*Katia Croce, Governance Lead temporarily left the meeting during discussions of the above item at 8:46pm and returned at 8:48pm.*

*The Mayor, Cr Karen Egan assumed the chair at 8:49pm.*

*The Chairperson, Cr Karen Egan admitted the following Urgent business item in accordance with section 6.15 of the Meeting Procedure Local Law 2017.*

## 7. Supplementary and urgent business

### **FN.019/19 Vehicle access to 91 John Street, Eltham (VCAT Hearing P2653/2018)**

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**Submitter: Cr Peter Clarke**

#### **Summary**

Council refused planning applications 443/2018/03P and 235/2018/14P for buildings and works to extend a crossover/driveway and a three lot subdivision, respectively, in December 2018. The planning applications were refused on grounds that can be summarised as not responding favourably to neighbourhood and landscape character, vegetation impacts and unsuitability for vehicle access. Under the Nillumbik Planning Scheme, the land is zoned Neighbourhood Residential Zone and covered by the Significant Landscape Overlay (Schedule 3).

The permit applicant lodged an application for review at the Victorian Civil and Administrative Tribunal (VCAT). At the order of the Deputy President, this hearing has been reconstituted by another VCAT member due to the permit applicant not following due process and the VCAT member subsequently identifying a perception of bias following 'out-of-hearing' contact from the permit applicant. The VCAT hearing recommences on 19, 22 and 23 August 2019.

When Council determined the planning application, the permit applicant provided limited meaningful information on vehicle access from Bridge Street or John Street. Following the reconstituted VCAT hearing, the permit applicant has now circulated some further detail regarding vehicle access, however this has not addressed neighbourhood character and vegetation impact issues already outlined in Council's planning assessment.

Beyond the planning submissions that Council will make at the reconstituted VCAT hearing, this motion seeks to highlight Council's position as owner and manager of the road reserves in Bridge Street and John Street, Eltham.

#### **Committee Resolution**

**MOVED: Cr Peter Clarke**

**SECONDED: Cr Bruce Ranken**

**That** the Committee (acting under delegation from Council) resolves:

1. The strategic function and role of the land at the rear of 91 John Street is to remain as a vegetated public pedestrian footpath. The footpath forms part of an important pedestrian network that provides a safe and attractive walking link to the Eltham town centre, schools, parks, public transport and the wider community. It is a high quality pedestrian environment that is frequently used. The footpath also provides safe access for other footpath-bound vehicles such as wheelchairs, prams, scooters and cyclists. The Nillumbik Planning Scheme places a positive obligation on Council to promote the use of sustainable personal transport by providing a safe and attractive pedestrian environment, see for example Clause 18.02-1S *Sustainable personal transport*. Allowing car access along the public footpath is entirely inconsistent with this important strategic outcome, and will undermine its safe operation.

7. Supplementary and urgent business

FN.019/19 Vehicle access to 91 John Street, Eltham (VCAT Hearing P2653/2018)

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2. That Council does not have any intention of:
- a) Upgrading or converting the road reserve along John Street (opposite 91 John Street) into a fully constructed road with kerb and channel, and a separate pedestrian footpath.
  - b) Allowing the removal of any street tree(s) within the road reserve along John Street to enable vehicle access to 91 John Street, Eltham.

**CARRIED**

*Danielle Phyland, Acting Executive Manager Economic Development and Tourism and Paul Fyffe, Senior Strategic Planner left the meeting during discussions of the above item at 9:53pm.*

**8. Confidential reports**

Nil

The meeting closed at 9:58pm.

Confirmed: \_\_\_\_\_  
Cr Karen Egan, Mayor