

# Future Nillumbik Committee

to be held at the Civic Centre, Civic Drive, Greensborough  
on Tuesday 10 March 2020 commencing at 7:00pm.

## Agenda

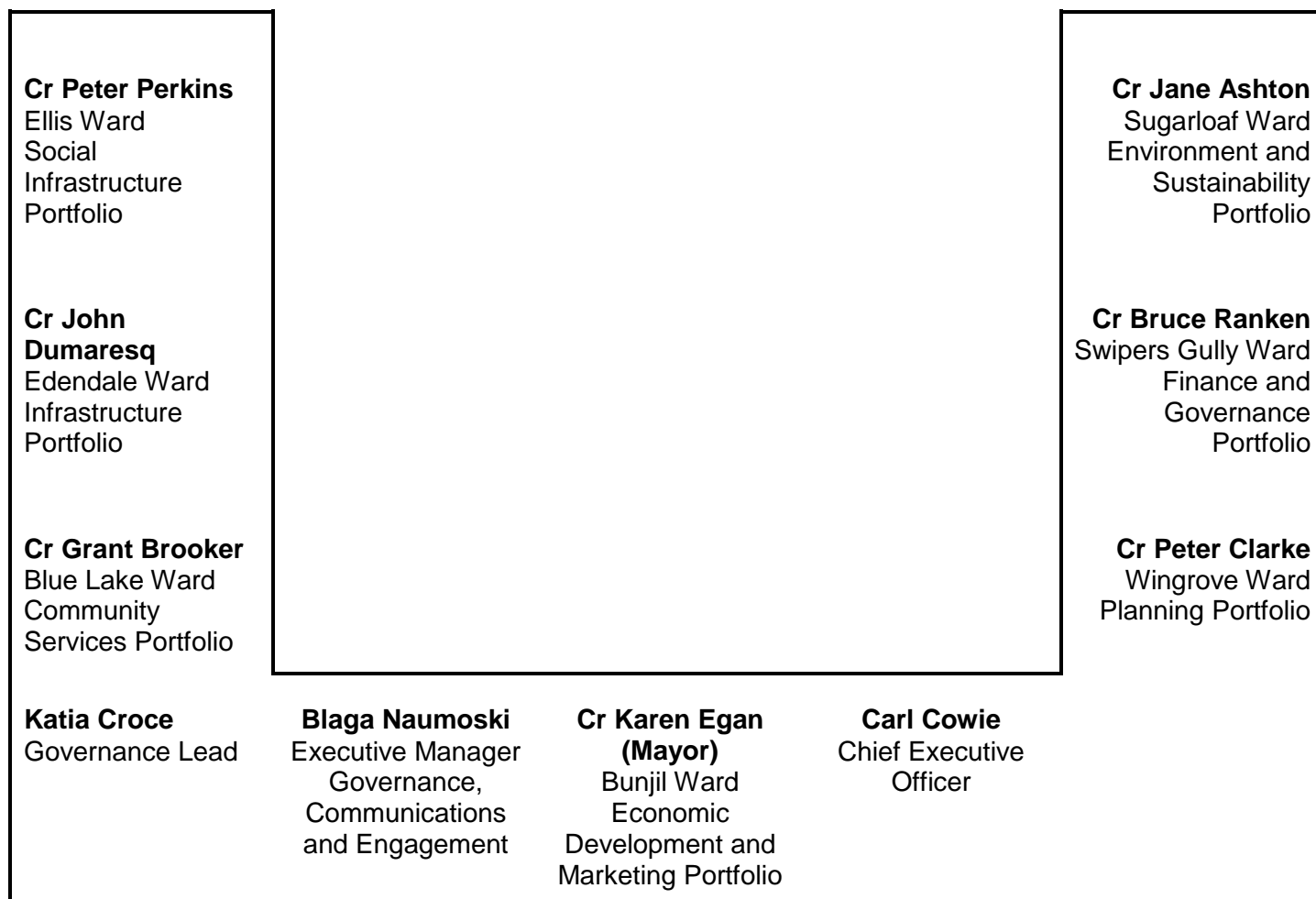
**Carl Cowie**  
**Chief Executive Officer**

Friday 6 March 2020

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 10 March 2020 commencing at 7:00pm.**

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**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 public and confidential minutes of the Future Nillumbik Committee meeting held on Tuesday 11 February 2020.

**Recommendation**

That the public and confidential minutes of the Future Nillumbik Committee meeting held on Tuesday 11 February 2020 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.006/20 Council Submission on the Review of Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)**

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**Portfolio: Environment and Sustainability**

**Distribution: Public**

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

**Author: Lisa Pittle, Manager Environment  
Kirsten Reedy, Coordinator Environment  
Julia Franco, Biodiversity Officer**

### Summary

The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is currently being independently reviewed by Professor Graeme Samuel AC who is supported by an expert panel. The first consultative step of the review process was the release of a discussion paper on 21 November 2019.

The review will examine how the EPBC Act has been operating and identify any changes needed for Australia to better support ecologically sustainable development into the future. The overarching aim is to modernise the EPBC Act and its operation to best address current and future environment challenges (*Independent Review of the EPBC Act – Discussion Paper*, Commonwealth of Australia 2019).

Interested parties have been invited to provide formal written submissions in response to the ideas and questions set out within the *Independent Review of the EPBC Act – Discussion Paper* prepared by Professor Graeme Samuel AC on behalf of the Commonwealth Government. Submissions on the Discussion Paper are due by 17 April 2020. This first stage of the review process is seeking to identify areas where reform will deliver the greatest benefit for the environment, business and the community, while maintaining strong environmental standards.

To help ensure that the EPBC Act is fit for the future, Council has the opportunity to participate in the review by providing a submission on the Discussion Paper. Officers have prepared a submission in response to the Discussion Paper, which is presented for Council consideration and endorsement (**Attachment 1**).

Within a Nillumbik context, the submission considers and makes recommendations around the principle of ecologically sustainable development, the objects of the EPBC Act, matters of National Environmental Significance (NES), priorities for reform, high level concerns, future trends, outcomes and processes, community involvement in decision making and principles to help guide future reform.

Over the next 12 months an expert panel will consider the submissions received and will explore the reform options. Council may have additional opportunities to provide feedback as the review progresses.

### Recommendation

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

1. Endorses the Council submission (**Attachment 1**) on the *Independent Review of the EPBC Act – Discussion Paper*.

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2. Notes that officers may provide additional input into the EPBC Act review over the coming 12 months.

**Attachments**

1. Nillumbik Shire Council Submission to the Review of the EPBC Act

**Background**

1. The EPBC Act, as the Australian Government's central piece of national environmental law, reflects the role of the Commonwealth to: address matters of NES; provide a nationally coordinated approach to managing our environment; and meet our international commitments.
2. It is more than 1,000 pages of legislation and an additional 400 pages of regulations.
3. It is applied within Nillumbik:
  - a) In instances where a matter of NES is or may be impacted by a project or development. This has very rarely occurred in Nillumbik for small projects, but it has more recently been applied in larger cases where a matter of NES may be impacted – such as the Yan Yean Road upgrade and the North East Link project.
  - b) In the context of how Council actively manages threatened species that are listed under the EPBC Act found on Council-owned land (including reserves and roadsides) – such as the Eltham Copper Butterfly, Charming Spider Orchid, Clover Glycine, Matted Flax-lily and Rosella (Little Pink) Spider Orchid.
  - c) In the context of how Council supports and encourages private landholders to be good custodians of their land and to meet their obligation to protect threatened species under the EPBC Act.
4. The EPBC Act has been amended on a number of occasions previously. It is required to be reviewed at least once every ten years to assess how it operates and what it is achieving.
5. This process provides the opportunity to make recommendations to amend the EPBC Act to ensure that it is fit for the future.
6. For example, changing land use, invasive pests and weeds, a changing climate, more frequent extreme weather events, and fires place pressure on our environment and heritage. Australia's population, the ways that businesses operate, and how governments regulate are changing and are vastly different from when the EPBC Act was first legislated 20 years ago.
7. The current independent review was announced on 29 October 2019 and will take approximately 12 months.
8. The first stage of consultation has included the release of a Discussion Paper on 21 November 2019. Interested parties have been invited to provide formal written submissions in response to the ideas and questions set out within it. Submissions are due by 17 April 2020.



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9. This first stage of the review process is seeking to identify areas where reform will deliver the greatest benefit for the environment, business and the community, while maintaining strong environmental standards.
10. The overall review is required to make recommendations to further modernise the EPBC Act and its operation to address current and future challenges, including consideration of:
  - a) Australia's international environmental responsibilities;
  - b) Indigenous peoples' knowledge and role in the management of the environment and heritage;
  - c) Broad consultation, including with local government; and
  - d) Costs and benefits of recommendations.
11. The review will be guided by the principles of:
  - a) Protecting Australia's unique environment through strong, clear and focused protections;
  - b) Making decisions simpler;
  - c) Supporting partnerships to deliver for the environment, support investment and create new jobs;
  - d) Improving transparency; and
  - e) Streamlining and integrating planning to support ecologically sustainable development.

**Policy context**

12. This report directly supports the achievement of Council Plan 2017-2021 strategies:
  - Work with the local community to review and implement environmental policies to protect biodiversity and conserve natural resources; and
  - Advocate effectively for Nillumbik's interests at a state and national level.

**Budget implications**

13. There are no financial or resource implications.

**Consultation/communication**

14. The membership of Council's Environment and Sustainability Advisory Committee (ESAC) was invited to contribute to the formulation of Council's submission. No members expressed interest.

**Issues/options**

15. A submission to the Discussion Paper for the independent review of the EPBC Act has been prepared to help inform its review.
16. The submission (**Attachment 1**) identifies those species of national significance that are located within Nillumbik.
17. It identifies which threatening processes are applicable locally.

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18. It notes that the object of the EPBC Act – to help protect threatened species of national significance against threatening processes – requires stakeholders, including where relevant, local government, to:
- a) Provide for the protection of the environment, especially those aspects of the environment that are matters of NES;
  - b) Promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources;
  - c) Promote the conservation of biodiversity;
  - d) Provide for the protection and conservation of heritage;
  - e) Promote a co-operative approach to the protection and management of the environment involving governments, the community, landholders and indigenous peoples;
  - f) Assist in the co-operative implementation of Australia's international environmental responsibilities;
  - g) Recognise the role of indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity; and
  - h) Promote the use of indigenous peoples' knowledge of biodiversity with the involvement of, and in co-operation with, the owners of the knowledge.
19. It considers and makes recommendations around the principle of ecologically sustainable development, the objects of the EPBC Act, matters of NES, priorities for reform, high level concerns, future trends, outcomes and processes, community involvement in decision making and principles to help guide future reform.
20. Some of the key recommendations made in the submission include:
- a) Achieve better alignment of Commonwealth, State and local government policy;
  - b) Make the objects of the EPBC Act more specific;
  - c) Expand the list of matters of national significance to also include the protection of the environment from climate change impacts;
  - d) Prioritise proactive biodiversity conservation;
  - e) Require assessment and approval processes to be robust;
  - f) Better define 'significant impact';
  - g) Require cumulative and landscape scale impacts to be considered in any assessment;
  - h) Provide better guidance and clearer environmental standards within the EPBC Act, to enable it to be better understood and more likely to work effectively;
  - i) Include a greater focus on environmental restoration;
  - j) Establish an independent regulator or third-party commission to oversee the implementation of the EPBC Act and to ensure independent decision making processes;

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- k) Permit the use of environmental offsetting only as a last resort. Genuine effort should instead be demonstrated to avoid or mitigate impacts to a matter of NES;
- l) Embed all aspects of ecologically sustainable development into the EPBC Act;
- m) Consider adding the 'loss and degradation of native plants and animal habitat by deer' to the list of threatening processes within the EPBC Act;
- n) Consider strengthening the linkage between the EPBC Act and the Victorian *Planning and Environment Act 1987*.

**Conclusion**

- 21. The considerations raised within Council's submission will provide the expert panel with locally relevant suggestions to help inform the review of the EPBC Act – in order that appropriate environmental protection and biodiversity conservation protections, processes and regulations can be applied across Nillumbik and Australia.

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## 6. Officers' reports

### FN.007/20 Complaint Handling Policy

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**Portfolio:** Finance and Governance

**Distribution:** Public

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

**Author:** Craig King, Customer Experience Lead

#### Summary

This report presents an updated Complaint Handling Policy (Policy) for adoption by Council.

The Policy has been updated based on a good practice guide and policy template developed by the Victorian Ombudsman in 2015. The Policy also complies with the recommendations of the Victorian Ombudsman's 2019 report concerning complaint handling within councils, as well as requirements of the Local Government Bill 2019.

Through this Policy, Council will be meeting reporting standards set by the Ombudsman on how many complaints it receives by introducing updated policy and procedural standards to ensure compliance with the new directives.

The Local Government Bill 2019 requires compliance with complaints handling requirements by 2022, so in this regard, Council is well advanced in preparations to meet these future legislated requirements.

#### Recommendation

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

1. Adopts the updated Complaint Handling Policy (**Attachment 1**).
2. Makes the policy publicly available on Council's website.

#### Attachments

1. Complaint Handling Policy

#### Background

1. Council has an existing Complaint Handling Policy (2015) which responded to the 2015 Victorian Ombudsman's report relating to complaints handling in councils.
2. In March 2019, Council adopted the 'Nillumbik Customer First Strategy'. Action 2.4 in the strategy addresses complaints handling by employing a "*complaint management framework, reporting and policy to ensure consistent and compliant management policy and process*".
3. In response to this action, a revised Complaint Handling Policy (2020) has been drafted and tested (**Attachment 1**). A supporting internal facing complaint handling procedure has also been prepared which will support the new Policy to capture complaints. This will be complemented with reporting to target continuous improvement initiatives, which is a key recommendation from the Victorian Ombudsman.
4. During the development of the Policy and procedure, the Victorian Ombudsman released an updated report – Revisiting councils and complaints (October 2019).

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**FN.007/20 Complaint Handling Policy**

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The recommendations of this report have been incorporated into the Policy and supporting procedure.

5. The Policy and supporting procedure have been refined following piloting in the following teams:
- Statutory Planning
  - Operations Centre
  - Environmental Health
  - Community Safety

**Policy context**

6. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Ensure seamless service delivery and an open and responsive approach to our customers.

**Budget implications**

7. The development and implementation of the Policy is accommodated within Council's operating budget.

**Consultation/communication**

8. The Policy details how the organisation will deal with customer complaints and outlines the internal processes for how complaints should be recorded, monitored, escalated and resolved. The Policy is an update of the 2015 Complaint Handling Policy, which already aligned closely with the Victorian Ombudsman's best practice guide on complaint handling. The new Policy follows this same approach, in addition to responding to the recommendations in the Victorian Ombudsman's 2019 report 'Revisiting councils and complaints' and the requirements in the Local Government Bill 2019.
9. The Policy has been tested and piloted internally within Council. As it deals with internal processes and is intended to keep as close as possible to the model developed by the Victorian Ombudsman, the Policy has not been released for public comment. It will, however, be publicly communicated and made available on Council's website.
10. The draft policy document was presented to the Audit and Risk Committee for review and comment. The Audit and Risk Committee recommended that Council adopts the Policy.

**Discussion**

11. The Policy and supporting systems approach addresses both the Local Government Bill 2019 and the Victorian Ombudsman's 2019 report recommendations as follows:

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FN.007/20 Complaint Handling Policy

Table 1: Response to Local Government Bill 2019 draft recommendations

Local Government Bill 2019 draft legislation recommendations	Council response
<p>1. A Council must develop and maintain a complaints policy that includes a process for –</p> <ul style="list-style-type: none"> <li>a) dealing with complaints made to the Council; and</li> <li>b) reviewing any action, decision or service in respect of which the complaint is made.</li> </ul>	<p>Policy (pages 6-7) covers how we deal with complaints and how they are reviewed</p>
<p>2. A review process must provide for a review that is independent of –</p> <ul style="list-style-type: none"> <li>• the person who took the action; and</li> <li>• the person who made the decision; and</li> <li>• the person who provided the service.</li> </ul>	<p>Policy (page 7) details specifically in point 3 how an internal review will be processed</p>
<p>3. For the purposes of the complaints policy</p> <ul style="list-style-type: none"> <li>a) <b>complaint</b> includes the communication, whether orally or in writing, to the Council by a person of their dissatisfaction with – <ul style="list-style-type: none"> <li>• the quality of an action taken, decision made or service provided by a member of Council staff or a contractor engaged by the Council; or</li> <li>• the delay by a member of Council staff or a contractor engaged by the Council in taking an action, making a decision or providing a service.</li> </ul> </li> </ul>	<p>Policy (page 5) in definitions outlines specifically this point</p>
<p>4. <b>decision</b> does not include a policy or decision made by the Council or a member of Council staff or a contractor engaged by the Council that is otherwise subject to statutory review</p>	<p>Recommendation 1.1 in the Victorian Ombudsman report (2019) specifically advises the removal of this definition and was accepted by the Minister. As such, this has not been included in the draft policy</p>

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FN.007/20 Complaint Handling Policy

Table 2: Response to Victorian Ombudsman's 2019 report – Revisiting councils and complaints

Victorian Ombudsman Report (2019) recommendations	Council response
<p><b>Recommendation 1</b></p> <p>For the 2019 Local Government Bill:</p> <p>1.1 Remove the definition of 'decision' as set out in clause 145 of the 2018 Bill.</p> <p>1.2 Expressly <i>include</i> in the definition of 'complaint', complaints about 'a policy or decision made by a council or a member of council staff or a contractor engaged by the council that is otherwise subject to statutory review'.</p> <p>1.3. Provide councils with an express <i>discretion</i> to enable them to refuse to deal with a complaint that is otherwise subject to statutory review. In exercising this discretion, councils should consider whether it is reasonable in the circumstances to expect the complainant to exercise their rights under the relevant statutory review process.</p> <p>1.4 Retain the requirement in the 2018 Bill that councils have:</p> <ul style="list-style-type: none"> <li>• complaint handling policies and procedures</li> <li>• an internal review function for reviewing complaint decisions.</li> </ul>	<p>1.1 Not included as per point 4 in Table 1 above</p> <p>1.2 Included on page 5 of the Complaint Handling Policy</p> <p>1.3 Included as part of the Overview section (page 7) of the Complaint Handling Policy</p> <p>1.4 Complaint handling procedure details how an internal review will be processed and managed</p>
<p><b>Recommendation 2</b></p> <p>In connection with the 2019 Local Government Bill, create regulations:</p> <ul style="list-style-type: none"> <li>• addressing the process for managing and resolving complaints about a council</li> <li>• addressing the process for internally reviewing a complaint</li> <li>• requiring councils to report on complaint data in their Annual Report.</li> </ul>	<p>Note point 1 on Local Government Bill 2019 draft legislation recommendations – pages 6-7 of Complaint Handling Policy details how we deal with complaints and how they are reviewed.</p> <p>Reporting framework has been developed during the pilot phase of our complaint handling process and will ensure Nillumbik complies with reporting on complaint data as set out by the Victorian Ombudsman.</p>



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Victorian Ombudsman Report (2019) recommendations	Council response
<p><b>Recommendation 3</b></p> <p>Following the implementation of the recommendations above, develop an indicator for complaints in the Local Government Reporting Framework, including:</p> <ul style="list-style-type: none"> <li>if councils have a complaints policy, and complaints data collected in accordance with the recommended regulations in Recommendation 2.</li> </ul>	<p>Local Government Victoria will refer the recommendation to establish additional indicators to measure complaints-related performance to the next LGPRF Technical Working Group for consideration and potential implementation.</p> <p>Nillumbik will closely monitor the outcome and apply recommendations as required.</p>
<p><b>Recommendation 4</b></p> <p>Lead the development of strategies to improve rural councils' ability to handle complaints and provide independent internal reviews, through the sharing of resources.</p>	<p>Not applicable to Nillumbik</p>

**Conclusion**

- The Complaint Handling Policy is being presented to the Committee for adoption. The Policy complies with the recommendations of the Victorian Ombudsman's 2019 report concerning complaint handling within councils, as well as corresponding requirements of the Local Government Bill 2019.
- Following adoption, the Policy will be published on Council's website, and its implementation will occur across all areas of Council by the end of the 2020 calendar year. This will coincide with reporting of complaints, which will be publicly reported for the first time in the Council Annual Report 2019-2020.

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## 6. Officers' reports

### FN.008/20 Council Submission to the draft Yarra Strategic Plan

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**Portfolio:** Planning

**Distribution:** Public

**Manager:** Rosa Zouzoulas, Executive Manager Planning and Community Safety

**Author:** Leigh Northwood, Strategic Planning Lead

#### Summary

This report presents Council's submission to the draft Yarra Strategic Plan (draft Plan). The draft Plan has been prepared by Melbourne Water as project lead, and is currently on public exhibition until 22 March 2020. The draft Plan has been prepared in association with the Yarra Collaboration Committee (YCC), which includes Nillumbik Shire.

The draft Plan identifies very broad priority actions that will require collaborative effort and investment over the next 10 years, towards a 50 Year Community Vision and includes an implementation plan. It also includes a Land Use Framework which is the spatial representation of how the draft Plan's four performance objectives will be achieved.

A submission (**Attachment 1**) has been prepared. It gives support to the intent and objectives of the draft Plan, and also identifies issues that need to be resolved particularly in regard to:

- Implications for existing and future private land owners located in the Yarra River Corridor in regard to building and re-building;
- Future ongoing maintenance costs to Council in implementation of the draft Plan and;
- Allowing the future consideration of strategies that optimise community access to the Yarra River corridor.

#### Recommendation

**That** the Committee (acting under delegation from Council) endorses and submits the submission (**Attachment 1**) to the draft Yarra Strategic Plan by 22 March 2020.

#### Attachments

1. Nillumbik Shire Council Submission to the draft Yarra Strategic Plan

#### Background

1. In 2017, the landmark *Yarra River Protection (Wilip-gin Birrarung murron) Act* (the Act) enshrined in law the protection of the Yarra River corridor and acknowledges the significance of the river to the Wurundjeri Woi wurrung people, highlighting their ongoing role in its management. The draft Yarra Strategic Plan represents implementation of the objectives of the Act, in facilitating collaborative management of the Yarra River corridor.
2. The draft Plan identifies very broad priority actions and investment over the next 10 years, towards a 50 Year Community Vision and includes an implementation plan. It also includes a Land Use Framework which is the spatial representation of how the

**6. Officers' reports****FN.008/20 Council Submission to the draft Yarra Strategic Plan**

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draft Plan's four performance objectives will be achieved. All of these directions would be subject to further work to identify detail.

3. The draft Plan has been prepared in association with the YCC – the governance group overseeing development of the Yarra Strategic Plan. It includes 15 state and local agencies who manage the Yarra River corridor, along with Elders of the Wurundjeri Woi wurrung Cultural Heritage Aboriginal Corporation and includes eight councils including Nillumbik Shire.
4. Following approval of the final Plan, the Land Use Framework in the Plan will be given effect in the planning scheme, including updating of the existing Yarra River protection policy (at clause 12.03-1R of the Victoria Planning Provisions).
5. Implementation of the Land Use Framework in this way means that planning permit and planning scheme amendment proposals within the Yarra Strategic Plan area must be consistent with the objectives of the Yarra Strategic Plan once finalised.
6. Not all content in the Land Use Framework will become part of planning policy, with a range of actions and initiatives delivered through different non-statutory means.
7. As such, even identified projects which may have a statutory planning component will not be implemented through planning schemes immediately, they would be subject to further strategic work and consultation.
8. An independent Panel will assess the draft Plan and make recommendations as to any changes once the draft Plan has been finalised (subject to consideration of submissions during the engagement phase), however the Panel will not be requested to consider specific amendments to any planning scheme in the Yarra Strategic Plan area. Instead recommendations will inform the finalisation of the Plan and the preparation of subsequent planning scheme amendments.
9. Any planning scheme amendment to implement the approved Yarra Strategic Plan will be required to accord with the planning scheme amendment processes as outlined in Part 3 of the *Planning and Environment Act 1987* and subject to the Minister for Planning's final approval.

**Policy context**

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

**Budget implications**

11. There are no known budget implications at this point in time.

**Consultation/communication**

12. Melbourne Water are the project lead for the draft Plan, and have run a community engagement process as part of the project. This has included a dedicated webpage 'imaginetheyarra.com.au' which includes information on the draft, background, frequently asked questions, timelines, how to make a submission and also identifies community pop-up events for the project.

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13. Given this is not a Council-led project, Council has provided advice to the Nillumbik community in regard to how they can make a submission directing them to the project website via the Participate Nillumbik website and through social media updates.
14. Future project opportunities identified in the Land Use Framework of the draft Plan will require further investigation by the YCC partners and be subject to separate engagement and consultation with the community.

**Issues/options**

15. The draft Plan is generally compliant with Council's relevant adopted strategies and policies.
16. There are a number of issues that have been identified that require further consideration as part of the finalisation of the draft, particularly in regard to:
  - a) Providing more certainty for existing and future private land owners located within the Yarra River Corridor, with particular regard to building and rebuilding given the identification in the draft Plan for specific siting and design requirements yet to be prepared.
  - b) The costs to Council of implementation of the draft Plan's broad objectives and yet to be identified detail, and potential funding assistance to Council to ensure effective delivery.
  - c) In optimising community access within the Shire to the Yarra River Corridor, the need for the draft Plan to ensure that new opportunities identified in other agency and local government strategies can be considered and implemented.

**Conclusion**

17. The closing date for submissions is 22 March 2020.
18. With consideration of submissions, the final Plan will be prepared, and will then be referred to an independent Panel for consideration. The Panel, as appointed under the *Water Act 1989*, will provide recommendations in regard to the final Plan.
19. Any planning scheme amendment to implement the approved Yarra Strategic Plan will be required to accord with the planning scheme amendment processes as outlined in Part 3 of the *Planning and Environment Act 1987* and subject to the Minister for Planning's final approval. This process will follow the finalisation and adoption of the final Plan by the Minister for Water.
20. The date for release of the final Plan is yet to be confirmed.

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**Future Nillumbik Committee Agenda**

**10 March 2020**

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