

Ordinary Meeting of Council

held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 22 November 2016.

Minutes

Stuart Burdack
Chief Executive Officer

Wednesday 23 November 2016

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Domin je ka

Nillumbik Shire Council

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Nillumbik Shire Council

Minutes of the Ordinary Meeting of Nillumbik Shire Council held Tuesday 22 November 2016. The meeting commenced at 7.02pm.

Councillors present:

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

Officers in attendance:

Stuart Burdack	Chief Executive Officer
Pauline Gordon	General Manager Community and Leisure
Andrew Port	General Manager Corporate Services
Ransce Salan	General Manager Environment and Planning
Conal Creedon	General Manager Infrastructure Services
Allison Watt	Manager Governance and Communications
Naomi Paton	Manager Leisure and Social Infrastructure
Joanne Hammond	Coordinator Communications
Michelle DePasquale	Leisure Facilities Officer

Welcome

1. Reconciliation statement

The reconciliation statement was read by the Mayor, Cr Peter Clarke.

2. Prayer

A prayer was read by Father Michael McEntee of St Thomas the Apostle Parish, Diamond Creek.

3. Good governance pledge

The good governance pledge was read by Cr John Dumaresq.

4. Apologies

Nil

5. Presentations

Nil

6. Confirmation of minutes

Confirmation of minutes of the Council Meeting held on Tuesday 13 September 2016 and the Special Meeting held on Tuesday 8 November 2016.

Motion

Cr Peter Perkins
Cr Karen Egan

That the minutes of the Council Meeting held on Tuesday 13 September 2016 and the Special Meeting held on Tuesday 8 November 2016 be confirmed.

CARRIED

7. Disclosure of conflicts of interest

Nil

8. Petitions

Nil

9. Questions from the gallery

Garth Foxwell submitted a question to Council regarding the sealing of Beale Avenue, however as he was not present at the meeting, a written response will be provided.

Heather and Rossley Paul Gardner, asked Council:

‘In view of mandate in Council elections to abandon C81 and C101, can Council officers produce a method for the mandate to be honoured? Is the advice that Council can take no further action in respect of C81 received from the same source as the advice received in respect of C101? One option is to prepare an amendment to the planning scheme to remove C81.’

Mayor, Cr Peter Clarke, responded that the answer in respect of that is in terms of C81. C81 is legally an issue which has been dealt with by the previous Council and before the Minister. What that means is, Council’s position is legally resolved. That does not mean we cannot try and deal ourselves back into the equation but at the moment it is, if you like, sitting on the proverbial Minister’s desk waiting consideration. There is no formal legal framework for us to re-enter that debate. We can write to the Minister and ask him to do a range of things but frankly he has no legal obligation to take any notice of us and if he does there is almost an inferred obligation for him to take other advice from the people that might wish to support C81 if Council wanted to a take view to abandon it.

With respect to ‘one option is to prepare an amendment to abandon C81.’ Until he enacts it, there is nothing to reverse, so we will have to seek to get a resolution of how C81 is going to play out before we could take any other steps. Suffice to say the matter of C81 is also on the agenda tonight and will be debated later on in the evening.

Heather and Rossley Paul Gardner, asked Council:

‘With the VCAT decision on C101 clearly stating that Sec 28 of the Planning and Environment Act had not been complied with, will the CEO and General Manager Environment and Planning be suspended while the breaches are independently investigated?’

Mayor, Cr Peter Clarke, responded that the answer is no, and secondly the matter with respect to any investigation again will be dealt with later on in the evening.

9. Questions from the gallery cont.

Brian Murray, on behalf of Nillumbik Ratepayers Association asked Council:

'Re: C81 and C101, in the summary para 2. line 5-6 after the comma it states "Council has the opportunity to indicate to the Minister that it does not believe that C81 is the appropriate local planning policy for Nillumbik." In light of the above, rather than reviewing C81 as recommended could council just notify the Minister for Planning that C81 is not an appropriate policy for Nillumbik?'

Mayor, Cr Peter Clarke, responded that, in short, yes we can. The question is, is that sufficient in itself? Again that matter will be dealt with later on this evening in this agenda.

Brian Murray, on behalf of Nillumbik Ratepayers Association asked Council:

'As this Council was elected partly on the platform of rejecting overlays C81 and C101, will Council also reject the more reprehensible proposal of Public Acquisition of private land for a non-essential service as in Amendment C108?'

Mayor, Cr Peter Clarke, responded that our consideration of that matter more formally would occur post the panel being heard. The panel is to be convened and heard on November 28. It will proceed and we will then consider that matter following the panel hearing.

Alexander Collum asked Council:

'To what extent is Council interested in pursuing opportunities to promote greater visibility, accountability and transparency of Council meetings, such as investigating potential options including audio live streaming or transcripts of meetings, to ensure that all statements and actions of Councillors and officers made in these meetings are publicly available and a matter of record?'

Mayor, Cr Peter Clarke, responded that there is an interest in pursuing that and having a look at it. That is not to presume that we will adopt it but we are certainly interested in having a look at it. We will look at the experience of other councils in doing that, the cost issues associated with undertaking all of that and the benefit around those issues, but we will have a look at it.

Ned Carrig submitted two questions to Council regarding Lot 1 Hurstbridge, however as he was not present at the meeting, a written response will be provided.

10. Reports of Advisory Committees

AC.010/16 Advisory Committee Report

Distribution: Public

Manager: Andrew Port, General Manager Corporate Services

Author: Tracey Classon, Personal Assistant to General Manager Corporate Services

Council has a range of Advisory Committees which provide a formal mechanism for Council to consult with key stakeholders, seek specialist advice and enable community participation. Although they do not make any formal decisions, they provide valuable advice to Council.

In accordance with Advisory Committee Terms of Reference, the minutes of meetings are presented to Council. This month, the following minutes are attached for information:

- Arts Advisory Committee (Acquisition and Strategy) held 1 August 2016
- Eltham Activity Centre Forum held 1 August 2016
- Liveable Nillumbik Community Reference Group held 31 August 2016
- Memorials Advisory Committee held 2 September 2016
- Agricultural Advisory Committee held 8 September 2016.

Motion

Cr Peter Perkins

Cr Karen Egan

That Council notes the following Advisory Committee minutes:

1. **Arts Advisory Committee (Acquisition and Strategy) held 1 August 2016**
2. **Eltham Activity Centre Forum minutes held 1 August 2016**
3. **Liveable Nillumbik Community Reference Group held 31 August 2016**
4. **Memorials Advisory Committee held 2 September 2016**
5. **Agricultural Advisory Committee held 8 September 2016**

CARRIED

11. Reports of Special Committees

Nil

12. Officers' reports

The following officers' reports were moved as a block motion and their recommendations adopted:

- OCM.161/16 Diamond Valley Sports and Fitness Centre Masterplan - Strategic Advisory Group
- OCM.162/16 Introduction of revised planning fees under the new planning and subdivision fee regulations
- OCM.165/16 Restricted Breed Dog legislation amendments
- OCM.167/16 September Quarter Financial Report
- OCM.168/16 Council Plan Quarterly Performance Report September 2016
- OCM.171/16 Annual supply contract - Provision of fencing services - tender report
- OCM.172/16 Assemblies of Councillors
- OCM.173/16 Environment and Planning Monthly Activity Report

Motion

Cr Peter Perkins

Cr Jane Ashton

That officers' reports OCM.161/16, OCM.162/16, OCM.165/16, OCM.167/16, OCM.168/16, OCM.171/16, OCM.172/16, and OCM.173/16 be dealt with as a block motion and the recommendations be adopted.

CARRIED

12. Officers' reports

OCM.161/16 Diamond Valley Sports and Fitness Centre Masterplan - Strategic Advisory Group

Distribution: Public

Manager: Pauline Gordon, General Manager Community and Leisure

**Author: Naomi Paton, Manager Leisure and Social Infrastructure
Michelle DePasquale, Leisure Facilities Officer**

Summary

Council is preparing a masterplan for the Diamond Valley Sports and Fitness Centre (DVSFC). The Masterplan was a recommendation in Council's Recreation Strategy 2011-2019. Its preparation is jointly funded by Council and State Government.

DVSFC consists of six indoor sports courts and multi-purpose hall, squash courts, gym and group exercise spaces, crèche, café, office areas and change rooms. The facility attracted over 445,000 visits in 2015-2016 making it one of Council's most patronised venues.

The venue is 40 years old, and whilst the facility has undergone a number of minor upgrades in the past 15 years, it requires substantial renovation to meet community needs and expectations, deliver enhanced access and inclusion outcomes, address compliance and respond to forecasted community demands.

It is proposed the preparation of the Masterplan will be overseen by a Strategic Advisory Group (SAG) which will be chaired by the Blue Lake Ward Councillor. The SAG will include a second Councillor, up to six community business representatives and Council's General Manager Community and Leisure.

The SAG will be governed a Terms of Reference, provided as an attachment to this report for Council's consideration.

Motion

**Cr Peter Perkins
Cr Jane Ashton**

That Council:

- 1. Endorses the Terms of Reference for the Diamond Valley Sports and Fitness Centre Masterplan Project.**
- 2. Appoints Councillors Grant Brooker and Bruce Ranken to the Diamond Valley Sports and Fitness Centre Masterplan Strategic Advisory Group and the Project Reference Group with Cr Brooker as Chair.**

CARRIED

Note: Item OCM.161/16 was carried as part of a block motion.

12. Officers' reports

OCM.162/16 Introduction of revised planning fees under the new planning and subdivision fee regulations

Distribution: Public

Manager: Ransce Salan, General Manager Environment and Planning

Author: Jeremy Livingston, Manager Planning and Health Services

Summary

The purpose of this report is to update Council on the new planning fees which were recently gazetted by the Minister for Planning and which took effect on 13 October 2016.

The revised statutory fees apply to planning applications, subdivisions and planning scheme amendments, and have been introduced by the State Government following a regulatory impact statement process undertaken by the State Government. For many years, councils (and their communities) have been bearing a disproportionate cost burden for the delivery of planning services due to low and non-indexed planning fees set by State Government. The new fees will go some way in addressing this.

Although it is not yet possible to know what increased income generation the proposed fees will bring to the planning services in Nillumbik (without sufficient sample data and due to the complicated nature of the fee structures based on application type overlaid with both volume and cost of proposed development), the proposed fees will assist Council in receiving greater cost recovery for its provision of mandatory planning services to the community. The annual indexing of planning fees to Consumer Price Index (CPI) will also support this outcome.

Motion

Cr Peter Perkins

Cr Jane Ashton

That Council:

1. **Notes the gazetted planning and subdivision fees as outlined in the Planning and Environment (Fees) Regulations 2016 and Subdivision (Fees) Regulations 2016 respectively.**
2. **Monitors the fee income resulting from the new planning and subdivision fees and receives an update on this at the conclusion of the current financial year.**

CARRIED

Note: Item OCM.162/16 was carried as part of a block motion.

12. Officers' reports**OCM.163/16 Diamond Creek Trail - construction at Hurstbridge**

Distribution: Public**Manager: Conal Creedon, General Manager Infrastructure Services****Author: Conal Creedon, General Manager Infrastructure Services****Summary**

The Diamond Creek Trail is one of four regional trails in the Nillumbik Trails Strategy. The extension of the trail from Diamond Creek to Hurstbridge is a priority project in this strategy and Council has considered options for the provision of this trail extension over a number of years leading to the endorsement of a preferred alignment along the Diamond Creek. This alignment requires the acquisition of private land in order to provide the trail. This potential acquisition is the subject of a planning scheme amendment which is shortly due to be considered by an independent planning panel.

Council owns land at Graysharps Road in Hurstbridge which will be the end point of the trail extension. In 2014-2015 Council constructed a section of the trail in Graysharps Road which also serves as pedestrian access to the newly constructed Hurstbridge Hub.

In February 2016 Council resolved to continue this trail around the former Hurstbridge High School oval to connect with existing paths at the Hurstbridge wetlands Attachment 1. This would create a circuit in this precinct as well as ultimately connecting to the Diamond Creek Trail extension, should it proceed along the creek as planned. Council is also separately conducting a precinct planning exercise in conjunction with consideration of the future use of Lot 1 Graysharps Road.

Construction had commenced on the extension of the trail as resolved by Council, however some members of the community are concerned that this was happening independently of the precinct planning process. It is proposed to defer construction of the trail and consider the alignment in conjunction with the precinct planning project for Graysharps Road.

Motion

Cr Karen Egan**Cr Peter Perkins**

That Council defers construction of the extension of the Diamond Creek Trail at Graysharps Road, Hurstbridge until such time as the alignment is assessed in conjunction with the draft precinct plan development for the Graysharps Road area.

CARRIED

12. Officers' reports

OCM.164/16 Status update on Amendment C81 'Significant Landscape Overlays' and Amendment C101: 'Review of the Environmental Significance Overlay'

Distribution: Public

Manager: Stuart Burdack, Chief Executive Officer

Author: Ransce Salan, General Manager Environment and Planning

Summary

This report provides a status update on Amendment C101 and Amendment C81. These amendments are intended to respond to Council's obligations under State and Federal government legislation to protect important landscape character (C81) and sites of environmental significance (C101). Both amendments have been controversial within the community. In response to this community concern, the newly elected Council has indicated its intention to implement alternative local planning policy to the proposed C81 and C101 amendments.

Amendment C81 has been through the statutory process required under the *Planning and Environment Act 1987*. It has been adopted by the former Council and is with the Minister for Planning for his determination to be made. Whilst Council does not have further avenues through the statutory process of the *Planning and Environment Act 1987* to influence the Minister's decision, Council has the opportunity to indicate to the Minister that it does not believe that C81 is the appropriate local policy for Nillumbik. This report discusses and recommends that Council request the Minister to defer a decision on Amendment C81 whilst Council reviews the strategic policy setting for this amendment.

C101 was part way through the statutory process for planning scheme amendments under the *Planning and Environment Act 1987*. The former Council had referred the amendment to an independent planning panel for review. Subsequent to this decision of the former Council, an appeal on the process and procedure undertaken by Council to refer this amendment to panel was lodged at VCAT by a resident. Last week, VCAT handed down its decision and ruled in favour of the resident. This decision has effectively abandoned Amendment C101.

Whilst there is no urgent need for Council to take further action on Amendment C101 (it is abandoned), the environmental significance overlay currently exists over 61 per cent of the municipality. It is more than 16 years old and requires updating under State Planning Policy requirements. This report discusses the future implications and options for Council in respect to its environmental significance overlay.

Recommendation

That Council:

1. Notes that Amendment C101 to the Nillumbik Planning Scheme has been abandoned, and that the Minister for Planning has been notified accordingly.
2. Notes that under the *Planning and Environment Act 1987*, Council's powers and functions have been spent in adopting Amendment C81 to the Nillumbik Planning Scheme, and that this earlier decision cannot be rescinded.

12. Officers' reports

OCM.164/16 Status update on Amendment C81 'Significant Landscape Overlays' and Amendment C101: 'Review of the Environmental Significance Overlay'

3. Notes that Amendment C81 is currently before the Minister for Planning, awaiting approval.
4. Resolves to commence a review by an independent consultancy of the strategic policy underpinning Amendment C81, and consider the findings of that review at a future meeting of Council.
5. Notifies the Minister for Planning of its intention to commence the above review.

Motion 1

**Cr Peter Perkins
Cr Karen Egan**

That Council:

1. **Notes that Amendment C81 is currently before the Minister for Planning, awaiting approval.**
2. **Resolves to commence a review by an independent consultancy of the strategic policy underpinning Amendment C81, and consider the findings of that review at a future meeting of Council.**
3. **Immediately writes to the Minister for Planning notifying its intention to commence the above review and request the Minister preferably not approve C81 or, as a lesser alternative, defer a decision on Amendment C81 whilst Council reviews the strategic policy setting for the amendment. This may include appointing an advisory committee to review the Panel report. Council does not believe that C81 is the appropriate local policy for Nillumbik. The letter to be signed by the Mayor and Deputy Mayor.**

CARRIED

Motion 2

**Cr Karen Egan
Cr Jane Ashton**

That Council:

1. **Acknowledges the decision of the VCAT order dated 11 November 2016, that Amendment C101 to the Nillumbik Planning Scheme has been abandoned, and that the Minister for Planning has been notified accordingly.**
2. **Acknowledges the failure of the Council administration to act in accordance with the *Planning and Environment Act 1987*, by sending the resolution of Council to the Minister for Planning after the Policy and Services meeting held on 13 April, 2016.**
3. **Notes that the CEO Stuart Burdack has fulfilled the VCAT order requirements to advise the Minister for Planning that Planning Scheme Amendment C101 was abandoned in its entirety at the Policy and Services Meeting on 13 April 2016.**

12. Officers' reports

OCM.164/16 Status update on Amendment C81 'Significant Landscape Overlays' and Amendment C101: 'Review of the Environmental Significance Overlay'

4. Instructs officers to ensure that any notification or reference to Planning Scheme Amendment C101 be removed from Council advice to Nillumbik residents in relation to the Section 32 Vendor Statement requirements and writes to all residents who have made enquiry of Council with relation to these, where statements from Council have been issued to in relation to the sale of property in the last six months.

CARRIED

Motion 3

Cr Karen Egan
Cr Jane Ashton

That Council:

1. Undertakes an investigation into the circumstances surrounding the failure of Council to notify the Minister for Planning of the abandonment of Planning Scheme Amendment C101 at the Special Meeting of Council's Policy and Services Committee held on 13 April 2016.
2. Appoints Mr Christopher Wren QC as independent investigator to undertake this investigation and request that he reports directly to Council via the Mayor with all contact with Mr Wren to be through the Mayor or Council's solicitors Hunt & Hunt.
3. That the terms of reference for the investigation:
 - a) Determine at a minimum answers to the following:
 - Why was the Minister for Planning not immediately notified of the decision of the Policy and Services Committee on 13 April 2016 to abandon Amendment C101?
 - Was any legal advice requested and obtained in relation to the decision of the Policy and Services Committee to abandon Planning Scheme Amendment C101 and, if so, from whom, by whom and upon what instructions was such advice sought?
 - What was the legal advice and to whom was the advice distributed?
 - What circumstances led to the Policy and Services Committee resolution of 13 April 2016, being placed on the agenda paper of the Ordinary Council Meeting of 26 April 2016, and have the requirements of the *Planning and Environment Act 1987*, *Local Government Act 1989* or any other relevant legislation been complied with?
 - Any other matters the independent investigator deems appropriate in order to fully understand why Council did not immediately notify the Minister for Planning of the abandonment of Planning Scheme Amendment C101.

12. Officers' reports

OCM.164/16 Status update on Amendment C81 'Significant Landscape Overlays' and Amendment C101: 'Review of the Environmental Significance Overlay'

4. In order to ensure that high standards of governance are maintained, advises Council what action Council should take or procedures it should implement as a result of this investigation.
5. Requests that a report of the findings of the investigation be provided to the Mayor as soon as possible.
6. In undertaking the investigation, the independent investigator will be required to observe the rules of natural justice and procedural fairness but otherwise may conduct the enquiry in any manner he sees fit including calling for submissions, undertaking investigations and interviewing interested parties.
7. The independent investigator may conduct hearings or other meetings as necessary.
8. The independent investigator may limit the time of parties appearing before him.
9. Any submissions received by the independent investigator shall be made public at an appropriate time determined by the independent investigator unless special circumstances warrant that they be treated as confidential.
10. Parties wishing to make a submission to the independent investigator can do so in writing in respect to the matters covered in these terms of reference by providing their written submission along with their name, postal address and email address to Council's solicitors, Hunt & Hunt Lawyers by email to NillumbikC101investigation@huntvic.com.au or by post to Hunt & Hunt, GPO Box 1553N, Melbourne, VIC, 3001.

CARRIED

12. Officers' reports**OCM.165/16 Restricted Breed Dog legislation amendments**

Distribution: Public**Manager: Ransce Salan, General Manager Environment and Planning****Author: Phil Lovelace, Manager Regulatory Services****Summary**

Restricted Breed Dog legislation was initially introduced into Victoria by the State Government in 2001 to regulate the ownership of Pit Bull Terriers. In 2007, the legislation was further amended to prevent councils from registering them. In 2011, following the tragic death of four-year-old Ayan Chol, additional penalties were added for anyone who allowed a restricted-breed dog to kill or place a person in danger of death. A new standard was introduced for identifying Pit Bulls and a temporary amnesty allowing people to register restricted-breed dogs not previously registered was cut short. In 2014, further changes were introduced, including penalties for breeding from a restricted-breed dog, the power to disqualify people from owning dogs under certain circumstances and changes to the burden of proof about breed.

Unfortunately the standards were difficult to apply to Pit Bulls which lead to expensive legal challenges by dog owners against councils who were applying State Government legislation. Between 2011 and 2015 there were 39 cases appealed to Victorian Civil and Administrative Tribunal (VCAT). In total, ten declarations were affirmed and 29 were overturned. Nillumbik Shire Council had one which was affirmed.

Due to the complexities of administering and enforcing the legislation and costs associated with defending council decisions, the State Government ordered a Parliamentary Inquiry into restricted breed dog legislation in 2015.

The Department of Economic Development, Jobs, Transport and Resources (DEDJTR), specifically the Economy and Infrastructure Committee, undertook a detailed investigation into the management of different breeds of dog and dog attacks; their causes and prevention strategies. As a result, the State Government made a series of amendments to the primary legislation, the *Domestic Animals Act 1994*.

It is important to note that there is a clear distinction between Restricted Breed Dogs and Dangerous Dogs. A Restricted Breed Dog is breed specific and based on physical characteristics, opposed to a Dangerous Dog which has been declared by Council as a Dangerous Dog due to behaviour which includes attacking and causing serious injury to another animal or person.

There are no Restricted Breed Dogs currently registered with Nillumbik Council however there are there are six registered Dangerous Dogs.

12. Officers' reports

OCM.165/16 Restricted Breed Dog legislation amendments

Motion

Cr Peter Perkins

Cr Jane Ashton

That Council:

1. Notes the amendments to the State Government's *Domestic Animals Act 1994* relating to Restricted Breed Dogs.
2. Continues to enforce the Dangerous Dog provisions of the *Domestic Animals Act 1994*.

CARRIED

Note: Item OCM.165/16 was carried as part of a block motion.

12. Officers' reports

OCM.166/16 Committee structures and Councillor delegates to external organisations

Distribution: Public

Manager: Andrew Port, General Manager Corporate Services

Author: Andrew Port, General Manager Corporate Services

Summary

This report considers several matters regarding Council’s Committee structures, the appointment of Councillors to Committees, and the appointment of Councillors as Council’s delegates to various external organisations.

Following the recent general election, the newly-elected Mayor and Councillors have reviewed the arrangements for Special Committees and Advisory Committees. As detailed in this report, it is proposed to introduce portfolio responsibilities, with one Councillor assigned to each portfolio.

It is proposed that there will be a single Special Committee, and that the portfolio Councillor will chair the Special Committee meeting for items related to that portfolio. All Councillors will be members of the Special Committee. Prior to this change being implemented, a revised Terms of Reference and Instrument of Delegation will need to be prepared and formally approved by Council.

The arrangements for Advisory Committees have also been reviewed. It is proposed to reduce the number of Advisory Committees from seventeen to ten. It is further proposed to appoint Councillors to the remaining Advisory Committees, to update the Terms of Reference for those Advisory Committees which are affected by the changes, and to then review community membership on those Advisory Committees to reflect the new Terms of Reference.

Finally, it is proposed to appoint Councillors as Council delegates to various external organisations as detailed in the report.

Recommendation

That Council:

1. Establishes portfolio responsibilities for Councillors, and assigns a Councillor to each portfolio as follows:
 - a) Community Services portfolio – Cr Ashton
 - b) Economic Development and Marketing portfolio – Cr Egan
 - c) Environment and Sustainability portfolio – Cr Brooker
 - d) Finance and Governance portfolio – Cr Clarke
 - e) Infrastructure portfolio – Cr Dumaresq
 - f) Social Infrastructure portfolio – Cr Ranken
 - g) Planning portfolio – Cr Perkins

12. Officers' reports

OCM.166/16 Committee structures and Councillor delegates to external organisations

2. Initiates a process to change the existing Special Committee arrangements in order to establish a single Special Committee, with the relevant portfolio Councillor to chair the meeting for items within their portfolio, and that a revised Special Committee Terms of Reference and Instrument of Delegation be prepared and reported back to Council for approval in December.
3. Makes the following changes to Council's Advisory Committees:
 - a) Expand the role of the Economic Development Advisory Committee to include those matters which were previously the responsibility of the Agricultural Advisory Committee, the Eltham Activity Centre Forum, and the Artisan Hills Marketing Committee.
 - b) Expand the role of the Environment Advisory Committee to include those matters which were previously the responsibility of the Green Wedge Management Plan Implementation Advisory Committee.
 - c) Reduce the number of community members on the Arts Advisory Committee from twelve to six.
4. Instructs officers to prepare updated Terms of Reference for the Economic Development Advisory Committee, the Environment Advisory Committee, and the Arts Advisory Committee to reflect the changes listed in Clause 3, and report these to Council for approval.
5. Abolishes the Agricultural Advisory Committee, the Eltham Activity Centre Forum, the Artisan Hills Advisory Committee, the Green Wedge Management Plan Implementation Advisory Committee, the Edendale Advisory Committee, the Liveable Nillumbik Community Reference Group, and the Memorials Advisory Committee, and writes to existing community members of those Advisory Committees to thank them for their service.
6. Appoints Councillors to Council's Advisory Committees as listed below, for a term of one year or until Council resolves otherwise, and makes any consequential changes to the Terms of Reference to reflect changes in the number of Councillors appointed to those Advisory Committees.

Advisory Committee	Councillor(s) appointed
Arts Advisory Committee	Cr Egan (Chair)
Audit Committee	Cr Clarke, Cr Ranken
CEO Employment Matters Committee	All Councillors
Inclusion Advisory Committee	Cr Ashton (Chair)
Economic Development Advisory Committee	Cr Egan (Chair), Cr Ashton, Cr Dumaresq
Environment Advisory Committee	Cr Brooker (Chair), Cr Ashton

12. Officers' reports

OCM.166/16 Committee structures and Councillor delegates to external organisations

Living and Learning Advisory Committee	Cr Ashton
Municipal Emergency Management Planning Advisory Committee	Cr Perkins (Chair), Cr Brooker
Panton Hill Bushland Reserves System Advisory Committee	Cr Brooker (Chair), Cr Ashton
Recreational Trails Advisory Committee	Cr Dumaresq (Chair), Cr Egan, Cr Perkins

7. Appoints Councillors as Council's delegates to external organisations as listed below, for a term of one year or until Council resolves otherwise.

External Organisation	Councillor(s)
Municipal Association of Victoria	Cr Perkins (Cr Ashton alternate)
Interface Councils group	Cr Clarke (Cr Egan alternate)
Northern Metro Region Councils group	Cr Clarke (Cr Egan alternate)
Yarra Plenty Regional Library Board	Cr Clarke (Cr Egan alternate)
Metropolitan Waste Management Group	Cr Perkins (Cr Dumaresq alternate)
Metropolitan Transport Forum	Cr Dumaresq
Northern Alliance for Greenhouse Action	Cr Brooker
Nillumbik Tourism Association	Cr Egan and Cr Ranken
Diamond Creek Traders' Association	Cr Perkins
Eltham Chamber of Commerce and Industry	Cr Clarke, Cr Dumaresq, Cr Ranken
Hurstbridge Traders' Association	Cr Egan

Motion

Cr Bruce Ranken
Cr Grant Brooker

That Council:

1. **Establishes portfolio responsibilities for Councillors, and assigns a Councillor to each portfolio as follows:**

12. Officers' reports

OCM.166/16 Committee structures and Councillor delegates to external organisations

- a) **Community Services portfolio – Cr Ashton**
 - b) **Economic Development and Marketing portfolio – Cr Egan**
 - c) **Environment and Sustainability portfolio – Cr Brooker**
 - d) **Finance and Governance portfolio – Cr Clarke**
 - e) **Infrastructure portfolio – Cr Dumaresq**
 - f) **Social Infrastructure portfolio – Cr Ranken**
 - g) **Planning portfolio – Cr Perkins**
- 2. Initiates a process to change the existing Special Committee arrangements in order to establish a single Special Committee, with the relevant portfolio Councillor to chair the meeting for items within their portfolio, and that a revised Special Committee Terms of Reference and Instrument of Delegation be prepared and reported back to Council for approval in December.**
 - 3. Makes the following changes to Council's Advisory Committees:**
 - a) **Expand the role of the Economic Development Advisory Committee to include those matters which were previously the responsibility of the Agricultural Advisory Committee, the Eltham Activity Centre Forum, and the Artisan Hills Marketing Committee, and future planning in the Diamond Creek and Hurstbridge activity centres.**
 - b) **Expand the role of the Environment Advisory Committee to include those matters which were previously the responsibility of the Green Wedge Management Plan Implementation Advisory Committee.**
 - c) **Reduce the number of community members on the Arts Advisory Committee from twelve to six.**
 - 4. Instructs officers to prepare updated Terms of Reference for the Economic Development Advisory Committee, the Environment Advisory Committee, and the Arts Advisory Committee to reflect the changes listed in Clause 3, and report these to Council for approval.**
 - 5. Abolishes the Agricultural Advisory Committee, the Eltham Activity Centre Forum, the Artisan Hills Advisory Committee, the Green Wedge Management Plan Implementation Advisory Committee, the Edendale Advisory Committee, the Liveable Nillumbik Community Reference Group, and the Memorials Advisory Committee, and writes to existing community members of those Advisory Committees to thank them for their service.**
 - 6. Appoints Councillors to Council's Advisory Committees as listed below, for a term of one year or until Council resolves otherwise, and makes any consequential changes to the Terms of Reference to reflect changes in the number of Councillors appointed to those Advisory Committees.**

12. Officers' reports

OCM.166/16 Committee structures and Councillor delegates to external organisations

Advisory Committee	Councillor(s) appointed
Arts Advisory Committee	Cr Egan (Chair)
Audit Committee	Cr Clarke, Cr Ranken
CEO Employment Matters Committee	All Councillors
Inclusion Advisory Committee	Cr Ashton (Chair)
Economic Development Advisory Committee	Cr Egan (Chair), Cr Ashton, Cr Dumaresq
Environment Advisory Committee	Cr Brooker (Chair), Cr Ashton
Living and Learning Advisory Committee	Cr Ashton
Municipal Emergency Management Planning Advisory Committee	Cr Perkins (Chair), Cr Brooker
Panton Hill Bushland Reserves System Advisory Committee	Cr Brooker (Chair), Cr Ashton
Recreational Trails Advisory Committee	Cr Dumaresq (Chair), Cr Egan, Cr Perkins

7. Appoints Councillors as Council's delegates to external organisations as listed below, for a term of one year or until Council resolves otherwise.

External Organisation	Councillor(s)
Municipal Association of Victoria	Cr Perkins (Cr Ashton alternate)
Interface Councils group	Cr Clarke (Cr Egan alternate)
Northern Metro Region Councils group	Cr Clarke (Cr Egan alternate)
Yarra Plenty Regional Library Board	Cr Clarke and Cr Egan
Metropolitan Waste Management Group	Cr Perkins (Cr Dumaresq alternate)
Metropolitan Transport Forum	Cr Dumaresq
Northern Alliance for Greenhouse Action	Cr Brooker
Nillumbik Tourism Association	Cr Egan and Cr Ranken

12. Officers' reports

OCM.166/16 Committee structures and Councillor delegates to external organisations

Diamond Creek Traders' Association	Cr Perkins
Eltham Chamber of Commerce and Industry	Cr Clarke, Cr Dumaresq, Cr Ranken
Hurstbridge Traders' Association	Cr Egan

CARRIED

12. Officers' reports

OCM.167/16 September Quarter Financial Report

File: 20/10/004
Distribution: Public
Manager: Andrew Port, General Manager Corporate Services
Author: Vince Lombardi, Manager Finance
Robert Malignaggi, Management Accountant

Summary

This report outlines Council's financial performance and financial position for the period ending 30 September 2016.

The Income Statement shows an overall favourable Year to Date (YTD) variance of \$998,935, representing 2.18 per cent of YTD Budget. This reflects the combined result of higher-than-budgeted operating income of \$673,314 along with lower-than-budgeted operating expenses of \$325,621.

A significant part of the additional revenue is due to the receipt of funding for specific purposes grants, which will result in higher expenditure over coming months as those grants are expended for the required purposes.

Council's overall financial position at the end of this quarter is sound, and continues to be actively monitored to ensure achievement of budget targets.

The mid-year financial review will be presented to Council in December and will address any variations identified year-to-date.

Motion

Cr Peter Perkins
Cr Jane Ashton

That Council receives and notes the Financial Report for the period ended 30 September 2016.

CARRIED

Note: Item OCM.167/16 was carried as part of a block motion.

12. Officers' reports

OCM.168/16 Council Plan Quarterly Performance Report September 2016

File: 25/10/002

Distribution: Public

Manager: Andrew Port, General Manager Corporate Services

Author: Naomi Ellis, Corporate Planner

Summary

This report presents the Council Plan Quarterly Performance Report to Council for consideration, documenting progress of key actions for 2016-2017 that demonstrate how Council is delivering the objectives of the Council Plan 2013-2017 for the Nillumbik community.

The attached Council Plan Quarterly Performance Report provides the first update on the progress of the Annual Plan actions for the 2016-2017 financial year.

Of the 58 actions identified in the Annual Plan, at the close of the quarter (30 September 2016) all were on target with a green light status.

Motion

Cr Peter Perkins

Cr Jane Ashton

That Council receives the Council Plan Quarterly Performance Report for the period ending 30 September 2016.

CARRIED

Note: Item OCM.168/16 was carried as part of a block motion.

12. Officers' reports

OCM.169/16 Rehabilitation of the Diamond Street Bridge, Diamond Street Eltham - tender report

File: 1617-13

Distribution: Public

Manager: Conal Creedon, General Manager Infrastructure Services

Author: Mathew Deayton, Manager Infrastructure Development

Summary

An audit of all Council bridges and culverts in 2015 identified that the Diamond Street Bridge, Eltham was in poor condition and needed to be repaired urgently or else it would need to be closed.

A temporary repair was undertaken late last year, however this needed to be followed up with a permanent repair within 18 months.

This report considers the awarding of the contract for the rehabilitation of the Diamond Street Bridge, Diamond Street Eltham. These works will include the repair and replacement of existing piers, decking, guardrail and other miscellaneous items.

The Tender Evaluation panel has assessed all submissions and a separate confidential report outlines their evaluation in recommending the awarding of the contract for the rehabilitation of the Diamond Street Bridge, Diamond Street Eltham.

Pursuant to the Instrument of Delegation to the Chief Executive Officer the value of this contract exceeds the specified financial limits and a Council resolution is therefore required to award the contract.

Motion

Cr John Dumaresq

Cr Grant Brooker

That Council:

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

CARRIED

12. Officers' reports

OCM.170/16 Beale Avenue, Strathewen - Road Sealing Works

File: 1617-17

Distribution: Public

Manager: Conal Creedon, General Manager Infrastructure Services

Author: Steven Blight, Coordinator Construction

Summary

This report considers the awarding of the contract for the construction of Beale Avenue, Strathewen. The works will involve the spray sealing of Beale Avenue, Strathewen, between the road bridge at O'Deas Road and 50 metres beyond the driveway to No.400 Beale Avenue, approximately 100 metres west of the Kinglake National Park boundary.

Works are for the upgrade of the road pavement, pavement sealing, upgrade of existing culverts, construction of culvert end walls, some asphalt table drains and other associated works.

The Quotation Evaluation panel has assessed all submissions and a separate confidential report outlines their evaluation in recommending the awarding of the contract for the construction of Beale Avenue, Strathewen.

The value of this contract is within current delegations however the total project cost is close to the delegation limit and the contract is being reported to Council both to inform Council of the intended works and as a precaution against any contingencies which could take the total cost above the delegated limit.

Motion

Cr Karen Egan
Cr Peter Perkins

That Council:

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

CARRIED

12. Officers' reports

OCM.171/16 Annual supply contract - Provision of fencing services - tender report

File: Contract No: 1516-29
Distribution: Public
Manager: Conal Creedon, General Manager Infrastructure Services
Author: Steven Blight, Coordinator Construction

Summary

This report considers the tenders received for the Annual supply contract - provision of fencing services for a period of two years, commencing on 1 December 2016 (Contract 1516-29)

The provision of fencing services involves the supply and installation of safety fencing, residential boundary fencing, sports field fencing, rural style farm fencing, safety bollards and other associated works.

The Tender Evaluation panel has assessed all submissions and a separate confidential report outlines their evaluation in recommending the awarding of the contract for the Annual supply contract - Provision of fencing services.

Pursuant to the Instrument of Delegation to the Chief Executive Officer the value of this contract exceeds the specified financial limits and a Council resolution is therefore required to award the contract/s.

Motion

Cr Peter Perkins
Cr Jane Ashton

That Council:

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

CARRIED

Note: Item OCM.171/16 was carried as part of a block motion.

12. Officers' reports

OCM.172/16 Assemblies of Councillors

Distribution: Public

Manager: Andrew Port, General Manager Corporate Services

Author: Naomi Ellis, Corporate Planner

Summary

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

This report lists assemblies of Councillors forms that have been submitted since the matter was last reported to Council on 13 September 2016.

Motion

Cr Peter Perkins

Cr Jane Ashton

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

1	Date of assembly	1 August 2016	
	Matters considered	Eltham Activity Centre Forum	
	Councillors present	Cr Michael Young	Cr Bronnie Hattam
	Staff present	Chad Griffiths	Paul Fyffe
	Conflict of interest	None declared	

2	Date of assembly	8 September 2016	
	Matters considered	Agricultural Advisory Committee	
	Councillors present	Cr Ken King	Cr Anika Van Hulsen
	Staff present	Tim O'Donnell	Pat Vaughan
	Conflict of interest	None declared	

3	Date of assembly	13 September 2016	
	Matters considered	Pre-meeting for Ordinary Council Meeting	
	Councillors present	Cr Bronnie Hattam Cr Michael Young Cr Anika Van Hulsen Cr Ken King	Cr Meralyn Klein Cr Peter Perkins Cr Helen Coleman
	Staff present	Stuart Burdack Andrew Port Conal Creedon Ransce Salan	Nichole Johnson Corrienne Nichols Wayne Trull Naomi Ellis

12. Officers' reports

OCM.172/16 Assemblies of Councillors

		Pauline Gordon Jon Miller Mathew Deayton Naomi Paton	Adrian Cully Corinne Mays Jeremy Livingston
	Conflict of interest	None declared	

4	Date of assembly	19 September 2016	
	Matters considered	Eltham Activity Centre Forum	
	Councillors present	Cr Michael Young	Cr Helen Coleman
	Staff present	Paul Fyffe	Chad Griffiths
	Conflict of interest	None declared	

5	Date of assembly	3 November 2016	
	Matters considered	Councillor Induction Session <ul style="list-style-type: none"> • Transition Program • Council Plan and Budget process • Diamond Creek Trail • Key reports for November and December • Special Council meeting arrangements • Councillors' legal responsibilities 	
	Councillors present	Cr Peter Clarke Cr John Dumaresq Cr Bruce Ranken Cr Peter Perkins	Cr Grant Brooker Cr Jane Ashton Cr Karen Egan
	Staff present	Stuart Burdack Andrew Port Conal Creedon	Pauline Gordon Ransce Salan Allison Watt
	Conflict of interest	None declared	

6	Date of assembly	9 November 2016	
	Matters considered	Councillor Transition Workshop <ul style="list-style-type: none"> • Good governance • Governance Code and Meeting Procedure • Advisory committees and external organisations 	
	Councillors present	Cr Peter Clarke Cr John Dumaresq Cr Bruce Ranken Cr Peter Perkins	Cr Grant Brooker Cr Jane Ashton Cr Karen Egan

12. Officers' reports

OCM.172/16 Assemblies of Councillors

	Staff present	Stuart Burdack Andrew Port Conal Creedon	Pauline Gordon Ransce Salan
	Conflict of interest	None declared	

7	Date of assembly	15 November 2016	
	Matters considered	Officer Briefings of Councillors and Councillor Transition Workshop <ul style="list-style-type: none"> • Liveable Nillumbik Lot 1 Hurstbridge • Special Committees/Advisory Committees • Amendment C81 and C101 • Council Plan 2017-2021 • Diamond Valley Sports and Fitness Centre • Councillor Transition Workshop 	
	Councillors present	Cr Peter Clarke Cr John Dumaresq Cr Bruce Ranken Cr Peter Perkins	Cr Grant Brooker Cr Jane Ashton Cr Karen Egan
	Staff present	Stuart Burdack Andrew Port Conal Creedon Pauline Gordon Ransce Salan Chad Griffiths Nichole Johnson	Adrian Cully Corrienne Nichols Vince Lombardi Allison Watt Joanne Hammond Alison Fowler
	Conflict of interest	None declared	

CARRIED

Note: Item OCM.172/16 was carried as part of a block motion.

12. Officers' reports

OCM.173/16 Environment and Planning Monthly Activity Report

Distribution: Public

Manager: Ransce Salan, General Manager Environment and Planning

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

Summary

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

Motion

Cr Peter Perkins

Cr Jane Ashton

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

- 1. Seventy one per cent of planning applications were determined within 60 statutory days.**
- 2. Three VCAT decisions were handed down.**

CARRIED

Note: Item OCM.173/16 was carried as part of a block motion.

13. Notices of Motion

NOM.019/16

Cr Peter Perkins had advised of his intention to move the following motion:

Motion

That Council abandons any plans to sell Lot 1 Graysharps Road, Hurstbridge to developers and that the process to rezone Lot 1 Graysharps Road, Hurstbridge to Public Park and Recreation Zone (PPRZ) immediately commence.

Cr Peter Perkins, in accordance with Clause 6.13 of the Meeting Procedure Local Law, sought leave of Council to amend the Notice of Motion and substitute it with a new motion.

Motion

**Cr Peter Perkins
Cr Bruce Ranken**

That leave be granted to amend the Notice of Motion and substitute a new motion.

CARRIED

Cr Peter Perkins then invited Cr Karen Egan to move the substitute motion as it related to her ward.

Motion

**Cr Karen Egan
Cr Peter Perkins**

That Council:

- 1. Abandons any plans to sell Lot 1 Graysharps Road, Hurstbridge to developers and that the process to rezone Lot 1 Graysharps Road, Hurstbridge to Public Park and Recreation Zone (PPRZ) immediately commence.**
- 2. Endorses its policy change for the land at 44 Graysharps Road, Hurstbridge (Land) which now provides that the Land is to be used for recreation and public open space purposes.**
- 3. As a result of Council's change in policy for the Land, now resolves to terminate the procurement process for the sale and development of the Land.**
- 4. Further investigates housing options across the Shire targeting sites that would address the needs of older people wishing to downsize and remain in the Shire and families with an adult child with a disability.**
- 5. Consults with developers, people, their ageing carers, community organisations and the broader community to create an intentional community within Nillumbik and embracing close proximity to assets such as public transport, retail precincts and recreational space.**

6. Requests a further report to consider funding arrangements arising from this policy.
7. Thanks the Liveable Nillumbik Community Reference Group for their contribution.
8. Prepares a Recreational and Open Space Plan for the Graysharps Road precinct.

CARRIED

Cr Grant Brooker called for a division:
 For: Crs Perkins, Ranken, Ashton, Egan and Clarke.
 Against: Crs Dumaresq and Brooker.

14. Delegates' reports

Nil

15. Supplementary and urgent business

Nil

16. Confidential reports

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

Motion

Cr Peter Perkins
 Cr Jane Ashton

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

Report No.	Title	Reason for confidentiality
OCM.174/16	Rehabilitation of the Diamond Street Bridge, Diamond Street Eltham - tender report	(d) contractual matters
OCM.175/16	Beale Avenue, Strathewen - Road Sealing Works	(d) contractual matters
OCM.176/16	Annual Supply Contract - Provision of Fencing Services - tender report	(d) contractual matters

CARRIED

The meeting closed to the gallery at 8.10pm. There was a short pause in the meeting while the gallery left the Chamber.

Ordinary Meeting of Council minutes

22 November 2016

The meeting closed at 8.27pm.

Confirmed: _____

Cr Peter Clarke, Mayor