

Future Nillumbik Committee

held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 11 December 2018 commencing at 7.30pm.

Minutes

Carl Cowie
Chief Executive Officer

Friday 14 December 2018

Distribution: Public

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Wominje ka

Nillumbik Shire Council

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Nillumbik Shire Council

Minutes of the Future Nillumbik Committee Meeting held
Tuesday 11 December 2018. The meeting commenced at 7.33pm.

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 Peter Clarke	Wingrove Ward

Officers in attendance:

Carl Cowie	Chief Executive Officer
Matt Kelleher	Director Services and Planning
Adrian Cully	Director Business and Strategy
Blaga Naumoski	Executive Manager Governance
Mitch Grayson	Chief of Staff to Mayor and Councillors
Katia Croce	Governance Lead
Renaeh Ahern	Manager Planning Services
Gavin Crawford	Statutory Planner

1. Welcome and apologies

Committee Resolution

MOVED: Cr Peter Clarke

SECONDED: Cr Jane Ashton

That Cr Bruce Ranken's apology be accepted

CARRIED

2. Reconciliation statement

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

3. Disclosure of conflicts of interest

Nil

4. Confirmation of minutes

Confirmation of minutes of the Future Nillumbik Committee Meeting held on Tuesday 13 November 2018.

Committee Resolution

MOVED: Cr Peter Clarke

SECONDED: Cr Jane Ashton

That the minutes of the Future Nillumbik Committee Meeting held on Tuesday 13 November 2018 be confirmed.

CARRIED

Cr Peter Perkins assumed the chair at 7.34pm as the Councillor responsible for the Planning Portfolio.

5. Officers' report

FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North

Portfolio: Planning

Distribution: Public

Manager: Renae Ahern, Manager Planning Services

Author: Karen McPherson, Senior Statutory Planner

Application summary

Address of the land	1 Grevillea Close, Eltham North
Site area	1,272 square metres
Proposal	Buildings and works to construct three dwellings
Application number	612/2017/03P
Date lodged	21 December 2017
Applicant	Scheiber & Co Pty Ltd
Zoning	General Residential Zone (Schedule 1)
Overlay(s)	Nil
Reason for being reported	Called in by Ward Councillor.
Number of objections	15
Key issues	<ul style="list-style-type: none"> • Strategic Location (in the context of policy) • Neighbourhood Character • Compliance with Clause 55 (ResCode) • Compliance with Clause 52.06 (Car Parking)

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

1. Debbie James
2. Jason Connor
3. Mano Vivekanantham
4. Ashley Campbell
5. Suresh Bhalla
6. Suresh Bhalla on behalf of Ramesh Bhalla

5. Officers' report

FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North

Location map



5. Officers' report**FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North**

Recommendation

That the Committee (under delegation from Council) issue a Notice of Decision to Grant a Permit to the land located at 1 Grevillea Close, Eltham North for Buildings and works to construct three dwellings, in accordance with the submitted plans and subject to the following conditions

1. Before the development commences, three copies of amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be generally in accordance with the plans received on 22 August 2018 and 13 November 2018 and prepared by Scheiber & Co Pty Ltd but modified to show:
 - a) The eastern elevation of the TV/informal room located on the first floor at the east of Dwelling 1 reduced in length from 4.38 metres to 3.38 metres.
 - b) The northern elevation of the first floor bedroom located at the north east corner of Dwelling 2 reduced in length from 3.59 metres to 2.59 metres.
 - c) All west facing first floor habitable room windows screened with fixed obscure glazing.
 - d) Deletion of the front fence on the north boundary within 9 metres of the front property boundary with Grevillea Close.
 - e) Deletion of the front fence on the east boundary (4 Grevillea Close) within 9 metres of the front property boundary with Grevillea Close.
 - f) Additional screening to a height of 1.7 metres from the floor level of the deck on the west side of the proposed decking for all dwellings to prevent overlooking to adjoining private open space.
 - g) A full schedule of all colours and materials to be used in the construction of the three dwellings.
 - h) The location of letter boxes for the three dwellings.
 - i) Exact location and measurements of the Tree Protection Zone and associated tree protection fencing for tree number 4 (as identified in the Arborist report) shown on the plans to be retained.
 - j) Three copies of a landscape plan as required by Condition 3 below.
 - k) A Waste Management Plan as required by Condition 8 below.
2. The development as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
3. Before the development commences, three copies of a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must show:
 - a) A survey of all existing vegetation and natural features;

5. Officers' report**FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North**

- b) The area or areas set aside for landscaping;
 - c) A schedule of all proposed trees, shrubs/small trees and ground cover. This schedule shall include a mixture of exotic plants and plants selected from the Council document 'Live Local Plant Local' showing the botanical and common name of each plant, the quantity to be planted, the pot size and spacing;
 - d) The location of each species to be planted and the location of all areas to be covered by grass, lawn or other surface material;
 - e) Paving, retaining walls, fence design details and other landscape works including areas of cut and fill;
 - f) Appropriate irrigation systems;
 - g) The provision of canopy trees throughout the development as appropriate, including in the front setback area of the buildings.
4. Unless with the prior written consent of the Responsible Authority, before the occupation of the development the landscaping works shown on the endorsed plans must be carried out, completed and maintained to the satisfaction of the Responsible Authority.
5. Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the tree number 4 marked on the endorsed plans as being retained must have a Tree Protection Zone to the satisfaction of the Responsible Authority. The fencing associated with this Tree Protection Zone must meet the following requirements:
- a) Extent

The tree protection fencing is to be provided to the extent of the identified Tree Protection Zone.

If works are shown on any endorsed plan of this permit within the confines of the calculated Tree Protection Zone, then the Tree Protection Fencing must be taken in to only the minimum amount necessary to allow the works to be completed.
 - b) Fencing

All tree protection fencing required by this permit must be erected in accordance with the approved Tree Protection Zone.

The Tree Protection Fencing must be erected to form a visual and physical barrier, be a minimum height of 1.5 metres above ground level and of chain mesh or similar material. A top line of high visibility plastic tape must be erected around the perimeter of the fence.
 - c) Signage

Fixed signs are to be provided on all visible sides of the Tree Protection Fencing clearly stating "Tree Protection Zone – No Entry", to the satisfaction of the Responsible Authority.

5. Officers' report**FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North**

d) Irrigation

The area within the Tree Protection Zone and Tree Protection Fencing must be irrigated during the summer months with 1 litre of clean water for every 1cm of trunk girth measured at the soil/trunk interface on a weekly basis.

e) Provision of Services

Unless with the prior written consent of the Responsible Authority, all services (including water, electricity, gas and telephone) must be installed underground, and located outside of any Tree Protection Zone, to the satisfaction of the Responsible Authority.

f) Access to Tree Protection Zone

Should temporary access be necessary within the Tree Protection Zone during the period of construction, the Responsible Authority must be informed prior to relocating the fence (as it may be necessary to undertake additional root protection measures such as bridging over with timber).

6. Prior to the commencement of the approved works (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the erected tree protection fences must be inspected and approved by the Responsible Authority.

Once erected to the required standard, the tree protection fencing shall be maintained in good condition and may only be removed upon completion of all development works, to the satisfaction of the Responsible Authority.

7. The following actions must not be undertaken in any tree protection zone as identified in this permit, to the satisfaction of the Responsible Authority:
- a) Materials or equipment stored within the zone;
 - b) Servicing and refuelling of equipment and vehicles;
 - c) Storage of fuel, oil dumps or chemicals;
 - d) Attachment of any device to any tree (including temporary service wires, nails, screws or any other fixing device);
 - e) Open cut trenching or excavation works (whether or not for laying of services);
 - f) Changes to the soil grade level;
 - g) Temporary buildings and works; and
 - h) Unauthorised entry by any person, vehicle or machinery.
8. Prior to the development commencing, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will form part of the planning permit. The plan must specify:

5. Officers' report**FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North**

- a) The details and location of bin storage and bin collection areas to the satisfaction of Council's Infrastructure Maintenance Section (if a Council collection).
 - b) The details and location of bin storage and bin collection points by a private waste contractor (if not a Council collection).
 - c) Access route and method of access for the vehicles collecting waste.
 - d) Details and location of bin storage areas for each approved dwelling.
 - e) Odour control from bin storage areas.
9. The nature and colour of building materials employed in the construction of the buildings and works hereby permitted shall be harmonious with the environment, to the satisfaction of the Responsible Authority.
10. The materials to be used in the construction of the buildings and works hereby permitted shall be of non-reflective type, to the satisfaction of the Responsible Authority.
11. Prior to occupation of the development, all visual screening measures shown on the endorsed plans must be installed in order to prevent overlooking and must be maintained to the satisfaction of the responsible authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the responsible authority.
12. The on-site detention device shall be designed by a qualified engineer and plans submitted to the Responsible Authority (Nillumbik Shire) for approval prior to the commencement of the development. Construction of the on-site detention device must be carried out under Council supervision, in accordance with the approved plans and Council's specifications.
- The engineer that is designing the on-site detention unit must contact Nillumbik Shire development engineer for tc and tso figures in writing. For calculations adopt for pre development 1 in 5 years average occurrence interval, post development use 1 in 10 years average occurrence level.
13. Vehicular access and egress to the development site from the roadway must be by way of a vehicle crossing constructed to the requirements of the Nillumbik Shire Council, to suit the proposed driveway and the vehicles that will use the crossing. The Responsible Authority must approve the location, design and construction of the crossing. Any existing unused crossing must be removed and the disturbed area reinstated to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council supervision under an *Infrastructure Works permit*.
- The width of the driveway at the property boundary must match the width of the vehicle crossing.

5. Officers' report**FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North**

14. The vehicular driveway must be properly formed and constructed to such levels to ensure that it can be utilised at all times. The driveway must be drained, constructed in concrete, asphalt or similar surface and maintained in a continuously useable condition. All works are to be carried out to the satisfaction of the Responsible Authority.
15. Stormwater from the driveway must be collected using 225mm wide trench-grates across the driveway at the property boundary with Grevillea Close where it meets the road reserve and connected to the on-site detention device/new drainage system.
16. The development, including any new paved areas, must be drained so as to prevent the uncontrolled discharge of stormwater from the subject site across any road or footpath or onto any adjoining land.

Stormwater from the roof of the dwellings hereby approved must be directed to an individual holding tank with a minimum storage capacity of 2000 litres. The overflow from the tank shall be directed to an on-site detention unit.

The overflow from the on-site detention unit must be connected to Council point of stormwater discharge.

Water in the holding tank may be used for one or more of the following purposes: toilet flushing; property irrigation; vehicle washing and any other purpose approved by the Responsible Authority.

The drainage system within the subject site must be designed to the requirements and satisfaction of the Responsible Authority.

Any connection to Council's underground drainage system within road reserves or drainage easements must be carried out under Council supervision and an *Infrastructure Works permit*.

17. An on-site detention device must be installed, at no cost to Council, as per approved plans and Council's specification. Construction of the on-site detention device must be carried out under Council supervision and under an *Infrastructure Works permit*.
18. No polluted, effluent and/or sediment laden runoff from the development site is to be discharged directly or indirectly into Council's drains, Melbourne Water's drains or watercourses or adjoining private property. In this regard, pollution or litter traps must be installed on site and serviced accordingly, all to the satisfaction of the Responsible Authority.
19. This permit will expire if one of the following circumstances applies:
 - a) The development is not commenced within 2 years of the date of this permit.
 - b) The development is not completed within 4 years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within 6 months afterwards if the development has not commenced, or 12 months after if the development has commenced but is not yet completed.

5. Officers' report**FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North****NOTE:**

During the course of the approved construction work, a copy of this permit and the endorsed plan(s) must be kept on-site and made available for inspection by Council officers.

Failure to undertake the requisite tree protection fencing in accordance with the conditions of this permit will result in the issuing of Planning Infringement Notices to the land owner, occupant (if this is a different person), and the person or company undertaking the works on-site. The minimum penalty on the Planning Infringement Notice for land owners and occupants will be \$806 for the land owner and occupant, and \$1,612 for any company which may be undertaking works on-site.

Motion

MOVED: Cr John Dumaresq

SECONDED: Cr Grant Brooker

That the Committee (under delegation from Council) issue a Notice of Decision to Refuse a permit to the land located at 1 Grevillea Close, Eltham for the construction of three dwellings on the following grounds:

1. The proposal fails to provide a medium density development that is compatible with the existing character of the area, as required by Clause 22.01 Medium Density Housing Policy and Clause 22.12 Neighbourhood Character Policy (Garden Court Precinct) of the Nillumbik Planning Scheme as the design response provides minimal setbacks around each dwelling, limited opportunities for private open space and limited opportunities for landscaping throughout the site.
2. The proposal fails to provide adequate opportunities for the planting of meaningful landscaping in the front setback, in secluded private open spaces, and around the perimeter of the site, including the provision of appropriate canopy trees (preferably indigenous to the area) as required by Clause 22.01 Medium Density Housing Policy of the Nillumbik Planning Scheme.
3. The proposal fails to provide private open space areas that are practical and useable having consideration for the shape of the open space, dominance by large timber decks, fragmentation of open space and slope of the land as required by Clause 22.01 Medium Density Housing Policy and the objective of Clause 55.05-4 – Private Open Space.
4. The proposal does not meet the purpose of the General Residential Zone Schedule 1 as it does not respect the identified neighbourhood character and landscape characteristics outlined in Clause 22.12 Neighbourhood Character Policy of the Nillumbik Planning Scheme.
5. The proposal is not in accordance with Standard B6 (street setback objective) of Clause 55 of the Nillumbik Planning Scheme, as the development does not achieve a 9 metre front setback.

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

5. Officers' report

FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North

Committee Resolution

MOVED: Cr John Dumaresq

SECONDED: Cr Grant Brooker

That the Committee (under delegation from Council) issue a Notice of Decision to Refuse a permit to the land located at 1 Grevillea Close, Eltham for the construction of three dwellings on the following grounds:

1. The proposal fails to provide a medium density development that is compatible with the existing character of the area, as required by Clause 22.01 Medium Density Housing Policy and Clause 22.12 Neighbourhood Character Policy (Garden Court Precinct) of the Nillumbik Planning Scheme as the design response provides minimal setbacks around each dwelling, limited opportunities for private open space and limited opportunities for landscaping throughout the site.
2. The proposal fails to provide adequate opportunities for the planting of meaningful landscaping in the front setback, in secluded private open spaces, and around the perimeter of the site, including the provision of appropriate canopy trees (preferably indigenous to the area) as required by Clause 22.01 Medium Density Housing Policy of the Nillumbik Planning Scheme.
3. The proposal fails to provide private open space areas that are practical and useable having consideration for the shape of the open space, dominance by large timber decks, fragmentation of open space and slope of the land as required by Clause 22.01 Medium Density Housing Policy and the objective of Clause 55.05-4 – Private Open Space.
4. The proposal does not meet the purpose of the General Residential Zone Schedule 1 as it does not respect the identified neighbourhood character and landscape characteristics outlined in Clause 22.12 Neighbourhood Character Policy of the Nillumbik Planning Scheme.
5. The proposal is not in accordance with Standard B6 (street setback objective) of Clause 55 of the Nillumbik Planning Scheme, as the development does not achieve a 9 metre front setback.

CARRIED

Cr Peter Perkins called for a division

For: Cr Jane Ashton, Cr Grant Brooker, Cr John Dumaresq, and Cr Peter Perkins

Against: Cr Peter Clarke and Cr Karen Egan

Cr Peter Clarke foreshadowed a Motion to rescind this decision at the next Meeting.

Mitch Grayson, Chief of Staff to Mayor and Councillors temporarily left the meeting at 8.03pm and returned at 8.05pm during submissions.

Adrian Cully, Director Business and Strategy temporarily left the meeting at 8.29pm at the conclusion of this item.

5. Officers' report

FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek

Portfolio: Planning

Distribution: Public

Manager: Renae Ahern, Manager Planning Services

Author: Gavin Crawford, Senior Statutory Planner

Application summary

Address of the land	36-38 Old Aqueduct Road, Diamond Creek, CT-10666/002
Site area	2,999 square metres
Proposal	Construct nine dwellings
Application number	111/2017/03P
Date lodged	09 May 2017
Applicant	BB Design Group Pty Ltd
Zoning	General Residential Zone (Schedule 1)
Overlay(s)	-
Reason for being reported	Called in by Ward Councillor.
Number of objections	8
Key issues	<ul style="list-style-type: none"> • Strategic location (in the context of policy); • Existing neighbourhood character and previous planning application decisions • Compliance with Clause 55 (ResCode); and • Traffic and car parking.

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

1. Paul Downie
2. Stephan Koenig on behalf of John and Ruth Gadsden
3. Lorraine Stupak on behalf of permit applicant

FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek

Location map



FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek**Recommendation**

That the Committee (under delegation from Council) issue a Notice of Decision to Grant a Permit to the land located at 36-38 Old Aqueduct Road, Diamond Creek, for the Construction of nine dwellings, in accordance with the submitted plans and subject to the following conditions

1. Before the development commences, three copies of amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be generally in accordance with plans submitted 24 September 2018 and colour schedule TP-16 and TP-17 submitted 30 November 2017 prepared by BB Design Group but modified to show:
 - a) Ground floor finished floor levels reduced from the specified relative level to the lowered maximum relative level as follows:
 - dwelling 1 from RL 113.84 to maximum RL 113.4
 - dwelling 2 from RL 112.46 to maximum RL 112.29
 - dwelling 3 from RL 111.54 to maximum RL 110.3 (excluding garage)
 - dwelling 6 from RL 108.7 to maximum RL 108.1
 - dwelling 7 from RL 108.08 to maximum RL 107.1
 - dwelling 8 from RL 107.55 to maximum RL 106.7
 - dwelling 9 from RL 107.00 to maximum RL 106.7with a subsequent reduction in the building height, including first floor finished floor levels.
 - b) No fill in the secluded private open spaces of dwellings 1, 2 and 3.
 - c) The retaining walls shown for the secluded private open spaces of dwellings 4 to 8 set back a minimum 1.2 metres from common boundaries, located outside all tree protection zones and providing a minimum 3 metre by 3 metre area in the north west of the secluded private open spaces maintained at natural surface level for the planting of a small canopy tree.
 - d) Dwelling 9 ground floor living areas orientated to the east.
 - e) The dwelling 3 first floor north east bathroom and access corridor deleted.
 - f) Turning circles demonstrating vehicles can safely turn on the developed site to allow entry and exit in a forward motion to all approved garages / carports and complies with AN/NZS 2890.
 - g) Tree protection zones shown for trees 1, 9, 11, 13, 14, 15, 31, 37, 38, 39 and 40 dimensioned and notated with the tree numbers.
 - h) The waste collection and bin collection area reinstated south of dwelling 4 and 5, setback a minimum 2m from the south boundary.
 - i) Tree 14 and 15 provided with the following notation:

FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek

- Permeable paving within the tree protection zones with material laid at or above grade within the tree protection zone, with no excavation.
- j) Trees 14, 15, 37, 39 and 40 provided with the following notations:
- No grade changes within tree protection zones;
 - Manual soil cultivation and planting hole excavation within tree protection zones;
 - All roots greater than 40mm diameter left unscathed and intact and planting locations adjusted if required;
 - Any roots smaller than 40mm in diameter should be cleanly pruned by the project arborist, at right angles, using sharp, clean tools.
- k) A landscape plan in accordance with condition 3.
- l) A waste management plan in accordance with permit condition 19.
- m) A drainage plan in accordance with condition 20.
- n) The following changes to vehicle access within the site without reducing wall setbacks from any boundary:
- Constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable accessway width.
 - The average grade no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 meters. Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle.
 - Curves with a minimum inner radius of 10 metres.
 - Have a minimum trafficable width of 3.5 metres and be clear of encroachments for at least 0.5 metres on each side and 4 metres above the access way.
 - Access ways more than 60m in length from the nearest intersection to have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.
2. The development as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
3. Before the development commences, three copies of a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must be generally in accordance with the Plan L-TP1 prepared by Etched received 30 November but amended show:
- a. Changes generally in accordance with condition 1;

FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek

- b. The provision of canopy trees throughout the development as appropriate, including in the front setback area of the proposed buildings and a minimum 1 canopy tree in the secluded private open space of each dwelling. Such trees are to be in the north-west corner of the secluded private open spaces of Dwellings 6, 7, 8 and 9.
4. Unless with the prior written consent of the Responsible Authority, before the occupation of the development the landscaping works shown on the endorsed plans must be carried out, completed and maintained to the satisfaction of the Responsible Authority.
5. The nature and colour of building materials employed in the construction of the buildings and works hereby permitted shall be harmonious with the environment, to the satisfaction of the Responsible Authority.
6. The materials to be used in the construction of the buildings and works hereby permitted shall be of non-reflective type, to the satisfaction of the Responsible Authority.
7. Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the retained trees as shown on the endorsed plans must have a Tree Protection Zone to the satisfaction of the Responsible Authority. The fencing associated with this Tree Protection Zone must meet the following requirements:
 - a. Extent

The tree protection fencing is to be provided to the extent of the identified Tree Protection Zone.

If works are shown on any endorsed plan of this permit within the confines of the calculated Tree Protection Zone, then the Tree Protection Fencing must be taken in to only the minimum amount necessary to allow the works to be completed.
 - b. Fencing

All tree protection fencing required by this permit must be erected in accordance with the approved Tree Protection Zone.

The Tree Protection Fencing must be erected to form a visual and physical barrier, be a minimum height of 1.5 metres above ground level and of chain mesh or similar material. A top line of high visibility plastic tape must be erected around the perimeter of the fence.
 - c. Signage

Fixed signs are to be provided on all visible sides of the Tree Protection Fencing clearly stating "Tree Protection Zone – No Entry", to the satisfaction of the Responsible Authority.
 - d. Irrigation

The area within the Tree Protection Zone and Tree Protection Fencing must be irrigated during the summer months with 1 litre of clean water for every 1cm of trunk girth measured at the soil/trunk interface on a weekly basis.

FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek

e. Provision of Services

Unless with the prior written consent of the Responsible Authority, all services (including water, electricity, gas and telephone) must be installed underground, and located outside of any Tree Protection Zone, to the satisfaction of the Responsible Authority.

f. Access to Tree Protection Zone

Should temporary access be necessary within the Tree Protection Zone during the period of construction, the Responsible Authority must be informed prior to relocating the fence (as it may be necessary to undertake additional root protection measures such as bridging over with timber).

8. Prior to the commencement of the approved works (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the erected tree protection fences must be inspected and approved by the Responsible Authority.

Once erected to the required standard, the tree protection fencing shall be maintained in good condition and may only be removed upon completion of all development works, to the satisfaction of the Responsible Authority.

9. The following actions must not be undertaken in any tree protection zone as identified in this permit, to the satisfaction of the Responsible Authority:
- a. Materials or equipment stored within the zone;
 - b. Servicing and refuelling of equipment and vehicles;
 - c. Storage of fuel, oil dumps or chemicals;
 - d. Attachment of any device to any tree (including temporary service wires, nails, screws or any other fixing device);
 - e. Open cut trenching or excavation works (whether or not for laying of services);
 - f. Changes to the soil grade level;
 - g. Temporary buildings and works; and
 - h. Unauthorised entry by any person, vehicle or machinery.
10. The on-site detention device shall be designed by a qualified engineer and plans submitted to the Responsible Authority for approval prior to the commencement of the development (unless with the prior written consent of the responsible authority). The engineer that is designing the on-site detention unit must contact Council's Infrastructure Development engineer for tc and tso figures. For calculation adopt for pre development 1 in 5 years average occurrence interval, post development use 1 in 10 years average occurrence interval.
11. Vehicular access and egress to development site from the roadway must be by way of a vehicle crossing constructed / upgraded to the requirements of the Nillumbik Shire Council, to suit the proposed driveway and the vehicles that will use the crossing. The Responsible Authority must approve the location, design and construction of the crossing. Any existing unused crossing must be removed and the disturbed area reinstated to the satisfaction of the Responsible Authority.

FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek

All vehicle crossing works are to be carried out with Council supervision under an *Infrastructure Works permit*.

12. The vehicular driveway must be properly formed and constructed to such levels to ensure that it can be utilised at all times. The driveway must be drained, constructed in concrete, asphalt or similar surface and maintained in a continuously useable condition. All works are to be carried out to the satisfaction of the Responsible Authority. The width of the driveway at the property boundary must match the width at the service road. Ramp grades are to be shown on the plans and be in accordance with planning scheme requirements. Provision must be made so that a CFA truck can turn around on the property as per CFA document "Water supplies and access for subdivisions in Residential 1 and 2 and Township zones".
13. Stormwater from the driveway must be collected using 225mm wide trench-grates across the driveway and/or grating pits at a maximum spacing of 15 metres and connected to the new internal drainage system approved by the Responsible Authority. Overflow must be directed to the nominated point of discharge. Use minimum 225mm diameter underground drains for the internal drainage system underneath driveway.
14. The development, including any new paved areas, must be drained so as to prevent the uncontrolled discharge of stormwater from the subject site across any road or footpath or onto any adjoining land.

Stormwater from the roof of the dwellings hereby approved must be directed to individual holding tanks with a minimum storage capacity of 2000 litres. The overflow from the tanks must be directed to the on-site detention unit. The overflow from the on-site detention unit must be connected to Council nominated point of stormwater discharge.

Water in the holding tank may be used for one or more of the following purposes: toilet flushing; property irrigation; vehicle washing and any other purpose approved by the Responsible Authority.

15. Kerb and channel must be constructed for the entire frontage of the site to Nillumbik Shire standard. The width of the sealed road pavement must be 5.40 metres.
16. An on-site detention device must be installed, at no cost to Council, as per approved plans and Council's specification. Construction of the on-site detention device must be carried out under Council supervision and under an Infrastructure Works permit.
17. No polluted, effluent and/or sediment laden runoff from the development site is to be discharged directly or indirectly into Council's drains, Melbourne Water's drains or watercourses or adjoining private property during the construction of the development.
18. In this regard, sediment fencing and/or pollution/litter traps must be installed on site and serviced accordingly, all to the satisfaction of the Responsible Authority.

FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek

19. Prior to the development commencing, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval. The plan must be generally in accordance with the Waste Wise Environmental Waste Management Plan but amended to specify:
 - a. Waste collection by a private waste contractor from within the subject site.
 - b. Details of the size of the vehicle accessing the site and turning circles demonstrating access can be achieved.
20. Prior to the development commencing detailed drainage plans showing final surface levels, all to AHD, must be prepared and submitted to the responsible authority. The plans must be supported by drainage computations. The plans and computations must demonstrate surface water flow from a 1 in 100 year frequency storm will not adversely impact on any dwellings or part thereof within the development or any property downstream of the development. Any changes to surface levels must be located outside tree protection zones.

The plan and computations will require approval by the responsible authority.

21. Prior to the occupation of the dwellings fire hydrants must be provided for this development to the satisfaction of the Responsible Authority in accordance with the following:
 - a. Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all dwellings must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
 - b. The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.
22. This permit will expire if one of the following circumstances applies:
 - a. The development is not commenced within 2 years of the date of this permit.
 - b. The development is not completed within 4 years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within 6 months afterwards if the development has not commenced, or 12 months after if the development has commenced but is not yet completed.

Notes

During the course of the approved construction work, a copy of this permit and the endorsed plan(s) must be kept on-site and made available for inspection by Council officers.

Failure to undertake the requisite tree protection fencing in accordance with the conditions of this permit will result in the issuing of Planning Infringement Notices to the land owner, occupant (if this is a different person), and the person or company undertaking the works on-site. The minimum penalty on the Planning Infringement Notice for land owners and occupants will be \$806 for the land owner and occupant, and \$1612 for any company which may be undertaking works on-site.

FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek**Motion****MOVED: Cr John Dumaresq****SECONDED: Cr Grant Brooker**

That the Committee (under delegation from Council) issue a Notice of Decision to Refuse a permit to the land located at 36-38 Old Aqueduct Road, Diamond Creek to Construct nine dwellings on the following grounds:

1. The proposal fails to provide a medium density development that is compatible with the existing character of the area, as required by Clause 22.01 Medium Density Housing Policy of the Nillumbik Planning Scheme and the General Residential Zone (Schedule 1) as it does not respect the identified neighbourhood character characteristics outlined in Clause 22.12 Neighbourhood Character Policy of the Nillumbik Planning Scheme.
2. The proposal fails to provide adequate opportunities for the planting of meaningful landscaping in common areas, in secluded private open spaces, and around the perimeter of the site, including the provision of appropriate canopy trees (preferably indigenous to the area) as required by Clause 22.01 Medium Density Housing Policy of the Nillumbik Planning Scheme and the character objectives of Standard B1 Clause 55.02-1 (Neighbourhood Character Objectives) and Clause 55.03-8 (Landscaping Objectives) of the Nillumbik Planning Scheme.
3. The development is not responsive to the desired character objectives and characteristics sought under the 'Garden Court' precinct, as identified in Clause 22.12 (Neighbourhood Character Policy) of the Nillumbik Planning Scheme. The development is not sited to ensure that it appropriately nestles into the landform and existing and surrounding vegetation. The development has not adequately provided for appropriate retention of vegetation and provided adequate setbacks to allow for future retention and growth of existing trees and future planting.
4. The proposal does not retain a sufficient amount of existing vegetation and provide adequate opportunity for sufficient replacement vegetation to maintain the existing 'Garden Court' characteristics of the subject site and area, as outlined in Clause 22.12 (Neighbourhood Character Policy) of the Nillumbik Planning Scheme
5. The proposed siting and scale of the development does not provide for a built form in a landscape setting and is contrary to the purpose of the General Residential Zone Schedule 1 as it does not respect the identified neighbourhood character characteristics outlined in Clause 22.12 Neighbourhood Character Policy of the Nillumbik Planning Scheme.
6. The proposal fails to provide a development of a form, scale, intensity, height and setback that is compatible with the existing character of the area as required by Standard B1 Clause 55.02-1 (Neighbourhood Character Objectives) and Standard B31 Clause 55.06-1 (Design Detail Objectives) B31 of the Nillumbik Planning Scheme.

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

FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek**Committee Resolution****MOVED: Cr John Dumaresq****SECONDED: Cr Grant Brooker**

That the Committee (under delegation from Council) issue a Notice of Decision to Refuse a permit to the land located at 36-38 Old Aqueduct Road, Diamond Creek to Construct nine dwellings on the following grounds:

1. The proposal fails to provide a medium density development that is compatible with the existing character of the area, as required by Clause 22.01 Medium Density Housing Policy of the Nillumbik Planning Scheme and the General Residential Zone (Schedule 1) as it does not respect the identified neighbourhood character characteristics outlined in Clause 22.12 Neighbourhood Character Policy of the Nillumbik Planning Scheme.
2. The proposal fails to provide adequate opportunities for the planting of meaningful landscaping in common areas, in secluded private open spaces, and around the perimeter of the site, including the provision of appropriate canopy trees (preferably indigenous to the area) as required by Clause 22.01 Medium Density Housing Policy of the Nillumbik Planning Scheme and the character objectives of Standard B1 Clause 55.02-1 (Neighbourhood Character Objectives) and Clause 55.03-8 (Landscaping Objectives) of the Nillumbik Planning Scheme.
3. The development is not responsive to the desired character objectives and characteristics sought under the 'Garden Court' precinct, as identified in Clause 22.12 (Neighbourhood Character Policy) of the Nillumbik Planning Scheme. The development is not sited to ensure that it appropriately nestles into the landform and existing and surrounding vegetation. The development has not adequately provided for appropriate retention of vegetation and provided adequate setbacks to allow for future retention and growth of existing trees and future planting.
4. The proposal does not retain a sufficient amount of existing vegetation and provide adequate opportunity for sufficient replacement vegetation to maintain the existing 'Garden Court' characteristics of the subject site and area, as outlined in Clause 22.12 (Neighbourhood Character Policy) of the Nillumbik Planning Scheme
5. The proposed siting and scale of the development does not provide for a built form in a landscape setting and is contrary to the purpose of the General Residential Zone Schedule 1 as it does not respect the identified neighbourhood character characteristics outlined in Clause 22.12 Neighbourhood Character Policy of the Nillumbik Planning Scheme.
6. The proposal fails to provide a development of a form, scale, intensity, height and setback that is compatible with the existing character of the area as required by Standard B1 Clause 55.02-1 (Neighbourhood Character Objectives) and Standard B31 Clause 55.06-1 (Design Detail Objectives) B31 of the Nillumbik Planning Scheme.

CARRIED

Adrian Cully, Director Business and Strategy returned to the meeting at 8.34pm during submissions.

Matt Kelleher, Director Services and Planning temporarily left the meeting at 8.39pm during submissions and returned at 8.51pm.

5. Officers' report

FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham

Portfolio: Planning
Distribution: Public
Manager: Renae Ahern, Manager Planning Services
Author: Tyson McAdie, Senior Statutory Planner

Application summary

Address of the land	60 Lavender Park Road, Eltham
Site area	8,606 square metres
Proposal	Two lot subdivision and associated native vegetation removal
Application number	253/2018/14P
Date lodged	31 May 2018
Applicant	Terrain Consulting Group Pty Ltd
Zoning	Low Density Residential Zone
Overlay(s)	Significant Landscape Overlay (Schedule 2) Heritage Overlay (Schedule 113) Bushfire Management Overlay
Reason for being reported	Called in by Ward Councillor.
Number of objections	11
Key issues	<ul style="list-style-type: none"> • Neighbourhood Character • Heritage • Vegetation Impacts • Native Vegetation • Bushfire Management • On-Site Stormwater and Wastewater Management • Amenity Impacts

5. Officers' report

FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham

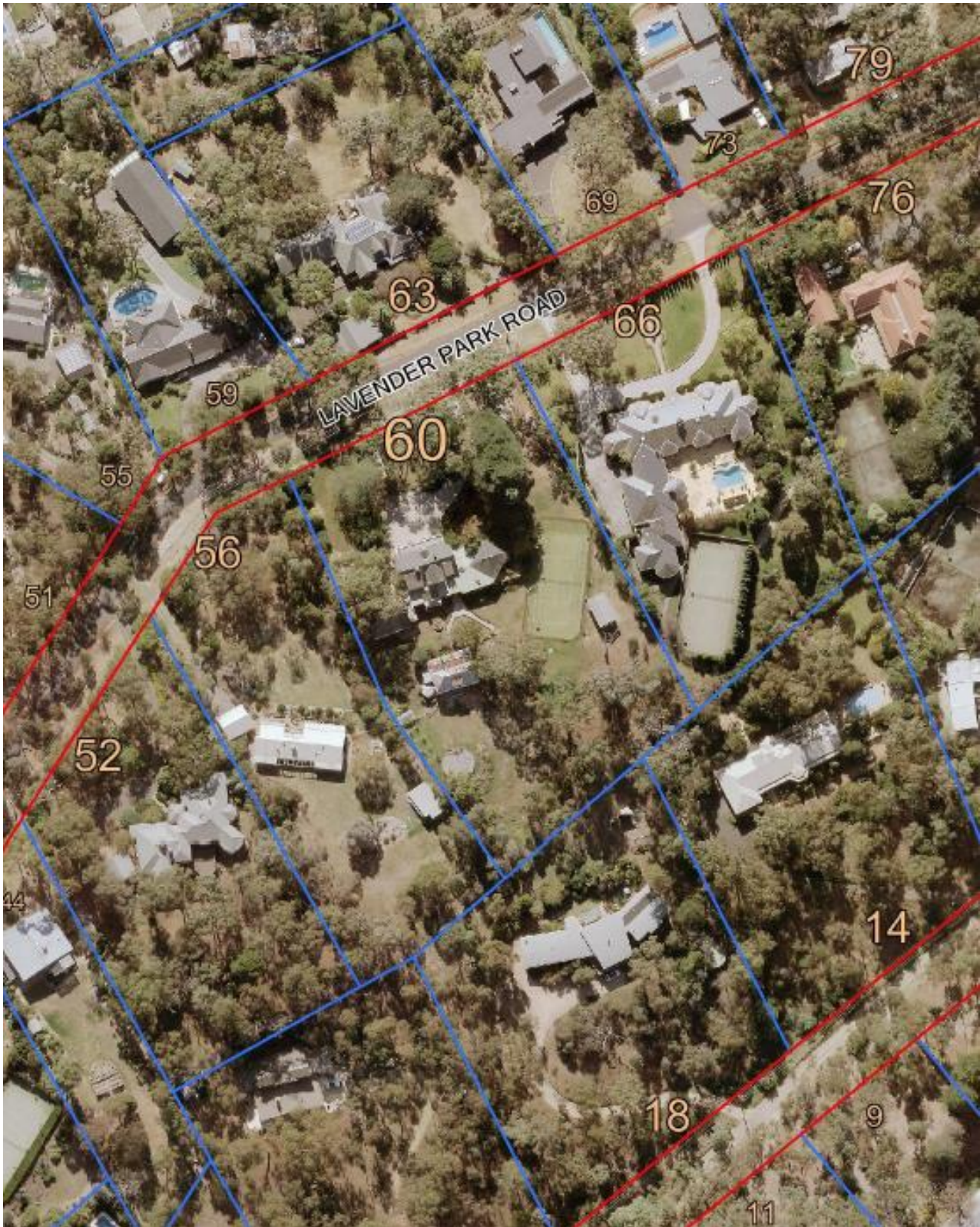
The following people addressed the Committee with respect to this item:

1. Alistair Royse
2. John Finch
3. Peter McDonough
4. Lorenzo Rigoni (Terrain Consulting Group) on behalf of the permit applicant
5. Lyndsay Prinoto
6. Dale Sanders

5. Officers' report

FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham

Location map



5. Officers' report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham****Recommendation**

That the Committee (under delegation from Council) issue a Notice of Decision to Grant a Permit to the land located at 60 Lavender Park Road, Eltham South, for the two lot subdivision and associated native vegetation removal, in accordance with the submitted plans and subject to the following conditions.

1. Before the commencement of works, including removal of vegetation, or before the plan of subdivision is certified under the Subdivision Act 1988, whichever comes first, three copies of amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be generally in accordance with the plans received on 31 May 2018 and prepared by Terrain Consulting Group but modified to show:
 - a) The building envelope modified so as to be located outside the TPZ of tree no's 16 and 21 and located a minimum setback of 10 metres (measured from the outer edge of the trunk) to tree no's 21.
 - b) A legend that nominates all trees to be retained except for tree no's 14 and 15.
 - c) The location of Tree A (*Eucalyptus melliodora* – Yellow Box) within the front setback and its Structural Root Zone and Tree Protection Zone.
 - d) The location of the easement along the rear boundary.
 - e) An amended arborist report to be submitted that details the trees located near the proposed effluent fields for both Lots 1 and 2.
 - f) All trees identified within the amended arborist report to be nominated including details of the Tree Protection Zones, on the proposed plans in accordance with the numbering system adopted within the report.
 - g) Location of effluent envelopes to reflect the recommendations within the submitted Land Capability Assessment, prepared by EWS Environmental, dated 2 March 2018, including effluent fields to be located within the front setback for Lot 1.
 - h) The location of the storm water detention systems for both Lot 1 and 2. Storm water for each lot must be located below any effluent fields. The stormwater must meet the requirements of the Shire of Nillumbik's 'Drainage of Unserviced Allotments document' and not impact any vegetation to be retained.
 - i) An amended Bushfire Management Plan in accordance with Condition 18 of this permit.
2. The subdivision allowed by this permit and shown on the plans endorsed to accompany the permit shall not be amended for any reason unless with the prior written consent of the Responsible Authority.
3. The tree removal as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.

5. Officers' report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**

4. Only trees marked "tree to be removed" on the endorsed plans are permitted to be removed, to the satisfaction of the Responsible Authority.
5. Prior to the issue of a statement of compliance, the owner must enter into an agreement for Lots 1 and 2 with the Responsible Authority and in accordance with Section 173 of the Planning and Environment Act 1987. The agreement must be to the satisfaction of the Responsible Authority. The agreement must provide for:
 - a) Unless with the prior written consent of the Responsible Authority, all buildings and works (including excavation, fill, trenching, paving, outbuildings, swimming pools) must be contained within the approved building and driveway envelope for Lot 2 as designated on the endorsed plans.
 - b) Unless with the prior written consent of the Responsible Authority, all effluent must be disposed of and contained within the designated effluent envelope as shown on Endorsed Plans for Lots 1 and 2.
 - c) Unless Lot 2 can be connected to reticulated sewerage, the provision of effluent for the future dwelling must meet the following requirements to the satisfaction of the Responsible Authority:
 - i. All sewage and sullage waters shall be treated in accordance with the requirements of the Environment Protection Act 1970. All wastewater shall be disposed of within the curtilage of the land and sufficient area shall be kept available for the purpose of wastewater disposal to the satisfaction of the Responsible Authority. No wastewater shall drain directly or indirectly onto an adjoining property, street or any watercourse or drain to the satisfaction of the Responsible Authority.
 - ii. Approval of wastewater disposal must be obtained from Council (Environmental Health) prior to a Building Permit being issued.
 - iii. The septic system must be upgraded in accordance with the requirements of the Environment Protection Act 1970 and Council (Environmental Health).
 - iv. The method of effluent disposal must be upgraded in accordance with the requirements of the Environmental Protection Act 1970 and Council.
 - v. Prior to the commencement of the development, a soil permeability test or assessment must be submitted as part of any permit application to Council (Environmental Health) to install a septic tank system.
 - vi. Secondary treatment of wastewater followed by sub-surface irrigation must be installed to the satisfaction of the Responsible Authority.
 - vii. The permit holder must ensure that a current maintenance agreement in place for the septic tanks system. Servicing must be completed by a competently trained person or servicing agent at least once every three months, with a copy of the report sent to the Council (Environmental Health).

5. Officers' report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**

- d) Unless with the prior written consent of the Responsible Authority, all trees nominated for retention on Lots 1 and 2 must not be removed, destroyed or lopped.
- e) Prior to the commencement of any buildings and works and any demolition works (including removal of tennis court) on Lot 2, Tree Protection Zones (TPZs) must be established on the subject site and maintained during, and until completion of all buildings and works including any future landscaping, around the following trees in accordance with the distances and measures specified below (and within the arborist report prepared by Stem Arboriculture dated 26 February 2018), to the satisfaction of the Responsible Authority:
- Tree A – 13.7 metres radius from centre base of tree.
 - Tree 1 – 8.5 metres radius from centre base of the tree.
 - Tree 2 – 7.2 metres radius from centre base of the tree.
 - Tree 3 – 6.2 metres radius from centre base of the tree.
 - Tree 4 – 15 metres radius from centre base of the tree.
 - Tree 5 – 4.3 metres radius from centre base of the tree.
 - Tree 6 – 4.9 metres radius from centre base of the tree.
 - Tree 8 – 4.1 metre radius from centre base of the tree.
 - Tree 9 – 4.2 metre radius from centre base of the tree.
 - Tree 10 – 4.4 metre radius from centre base of the tree.
 - Tree Group 11 – 3.2 metre radius from centre base of the tree.
 - Tree 12 – 2.4 metre radius from centre base of the tree.
 - Tree 13 – 2.0 metre radius from centre base of the tree.
 - Tree 16 – 8.2 metre radius from centre base of the tree.
 - Tree 17 – 4.8 metre radius from centre base of the tree.
 - Tree 18 – 4.9 metre radius from centre base of the tree.
 - Tree 19 – 10.0 metres radius from the centre base of the tree.
 - Tree 21 – 10.0 metre radius from the centre base of the tree.
 - Tree 23 – 2.6 metre radius from the centre base of the tree.
 - Tree 27 – 3.6 metre radius from the centre base of the tree.
- f) Prior to the commencement of any buildings and works (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the trees marked on the endorsed plans as being retained and protected under this Agreement must have a Tree Protection Zone (TPZ) defined on a plan to the satisfaction of the Responsible Authority. Unless works have already been shown on endorsed plans within the periphery, the zone for each tree shall be marked to extend to at least the periphery of the foliage canopy and to include the drip line of each tree. If

5. Officers' report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**

works are shown on the endorsed plan within the periphery, then the Tree Protection Zone must be taken in to the minimum amount necessary to allow the works to be completed. All Tree Protection Fencing required by this permit must be erected in accordance with the approved Tree Protection Zone.

- g) Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the tree protection fencing must be erected to the satisfaction of the Responsible Authority in accordance with the approved Tree Protection Zone(s). The fencing must be erected to form a visual and physical barrier, be a minimum height of 1.5 metres above ground level, and include signage clearly marked 'Tree Protection Zone – No Entry' on all sides.
- h) Once erected and approved by the Responsible Authority, the Tree Protection Fencing shall be maintained in good condition and may only be removed upon completion of all development works, to the satisfaction of the Responsible Authority. Should temporary access be necessary within the Tree Protection Zone during the period of construction, the Responsible Authority must be informed prior to relocating the fence. Any additional root protection requirements as a result of such access being granted and as directed by the Responsible Authority shall be undertaken to the satisfaction of the Responsible Authority.
- i) The following actions must not be undertaken in any Tree Protection Zone identified on the endorsed plan, to the satisfaction of the Responsible Authority:
- Materials or equipment storage within the zone.
 - Nothing is to be attached to any tree (including temporary service wires, nails, screws or any other fixing device).
 - Open cut trenching or excavation works (whether or not for laying of services) within the zone.
 - Changes to the soil grade level within the zone.
- j) The trenching of services must be located outside of any identified Tree Protection Zone within Lot 2 wherever practically possible. If underground services are to be routed within an identified Tree Protection Zone, they must be installed by directional boring with the top of the bore to be a minimum depth of 600mm below the existing grade. The works must be completed under the direct supervision of the project arborist and all must be completed to the satisfaction of the Responsible Authority.
- k) Unless with the prior written consent of the Responsible Authority, all bore pits must be located outside of an identified Tree Protection Zone to the satisfaction of the Responsible Authority.

5. Officers' report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**

- l) The driveway for Lot 2 must be constructed of a permeable or porous materials with the Tree Protection Zone of Tree A. The driveway must be laid at or above grade within any identified Tree Protection Zone as shown on the endorsed plans, unless with the prior written consent of the Responsible Authority. All works must be completed to the satisfaction of the Responsible Authority.
- m) Stormwater from the roof of the future dwelling on Lot 2 must be directed to a holding tank for storage and detention purpose and absorbed on-site in accordance with the Shire of Nillumbik's 'Drainage of Unserviced Allotments document'

Application must be made to the Registrar of Titles to register the section 173 Agreement on the title to the land under Section 181 of the same Act prior to the certification of the Plan of Subdivision.

The owner must pay all costs (including Council's costs) associated with the preparation, execution, registration, review (if required) and (if later sought) cancellation of the section 173 Agreement.

- 6. Prior to the issue of a statement of compliance, the owner must enter into an agreement for Lots 1 and 2 with the Responsible Authority and in accordance with section 173 of the *Planning and Environment Act 1987*. The agreement must be to the satisfaction of the Responsible Authority. The agreement must provide for:
 - a) State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Nillumbik Planning Scheme.
 - b) Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.
 - c) State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.
 - d) Unless with the prior written consent of the Country Fire Authority and Council, development on Lot 2 must comply with the CFA conditions.

Application must be made to the Registrar of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the same Act prior to the certification of the Plan of Subdivision.

The owner must pay all costs (including Council's costs) associated with the preparation, execution, registration, review (if required) and (if later sought) cancellation of the Section 173 Agreement.

- 7. Prior to the statement of compliance the following must occur to the satisfaction of the Responsible Authority:

5. Officers' report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**

- a) Existing septic system serving Lot 1 must be decommissioned in accordance with the recommendations contained within the Land Capability Assessment, prepared by EWS Environmental, dated 2 March 2018, to the satisfaction of the Responsible Authority.
- b) Unless Lot 1 can connect to reticulated sewerage, Lot 1 must be provided with a wastewater management system that meets the following requirements:
 - i. All sewage and sullage waters shall be treated in accordance with the requirements of the Environment Protection Act 1970. All wastewater shall be disposed of within the curtilage of the land and sufficient area shall be kept available for the purpose of wastewater disposal to the satisfaction of the Responsible Authority. No wastewater shall drain directly or indirectly onto an adjoining property, street or any watercourse or drain to the satisfaction of the Responsible Authority.
 - ii. Approval of wastewater disposal must be obtained from Council (Environmental Health) prior to a Building Permit being issued.
 - iii. The septic system must be upgraded in accordance with the requirements of the Environment Protection Act 1970 and Council (Environmental Health).
 - iv. The method of effluent disposal must be upgraded in accordance with the requirements of the Environmental Protection Act 1970 and Council.
 - v. Prior to the commencement of the development, a soil permeability test or assessment must be submitted as part of any permit application to Council (Environmental Health) to install a septic tank system.
 - vi. Secondary treatment of wastewater followed by sub-surface irrigation must be installed to the satisfaction of the Responsible Authority.
 - vii. The permit holder must ensure that a current maintenance agreement is in place for the septic tanks system. Servicing must be completed by a competently trained person or servicing agent at least once every three months, with a copy of the report sent to the Council (Environmental Health).
- c) Stormwater from the roof of all buildings on Lot 1 hereby approved must be directed to a holding tank for storage and detention purpose and absorbed on-site in accordance with the Shire of Nillumbik's 'Drainage of Unserviced Allotments document'.
- d) Vehicular access and egress to each lot from the roadway must be by way of a vehicle crossing constructed / upgraded to the requirements of the Nillumbik Shire Council, to suit the proposed driveway and vehicles that will use the crossing. The Responsible Authority must approve the location, design and construction of the crossing. Any existing unused crossing must be removed and the disturbed area reinstated to the satisfaction of the Responsible Authority.

5. Officers' report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**

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8. The subdivision hereby permitted, including any new paved areas, must be drained so as to prevent the uncontrolled discharge of stormwater from the subject site across any road or footpath or onto any adjoining land. Stormwater must not cause any nuisance or loss of amenity in any adjacent or nearby land by reason of the discharge of stormwater.

9. Offset requirement

To offset the removal of 0.074 hectares of native vegetation the permit holder must secure a native vegetation offset, in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP 2017) as specified below:

General Offset

A general offset of 0.014 general habitat units:

- located within the Port Phillip & Westernport Catchment Management Authority boundary or Shire of Nillumbik municipal district
- with a minimum strategic biodiversity value of at least 0.200.

Large trees

- The offset(s) secured must provide protection of at least 1 large tree.

The offset provided must be to the satisfaction of the Responsible Authority.

10. Offset evidence and timing

Before any native vegetation is removed, evidence that the required offset has been secured must be provided to the satisfaction of Council. This evidence is one or both of the following:

- i. An established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10 year management actions and ongoing management of the site and/or
- ii. Credit extract(s) allocated to the permit from the Native Vegetation Credit Register.

A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence by the responsible authority, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning.

11. Monitoring and reporting for onsite offset implementation

In the event that a security agreement is entered into as per Condition 10.i. the applicant must provide the annual offset site report to the Responsible Authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of the Responsible Authority.

5. Officers' report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**

12. Unless with the prior written consent of the Responsible Authority, all services (including water, electricity, gas and telephone) must be installed underground, and located outside of any identified Tree Protection Zone, or if no such zone is identified on the endorsed plans, the drip line of any nearby canopy tree, to the satisfaction of the Responsible Authority.
13. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
14. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
15. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
16. The owner of the land must enter into an agreement with:
 - a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - a suitably qualified person for the provision of fibre ready telecommunication facilities.
 - To each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
17. This permit will expire if one of the following circumstances applies:
 - a) A plan of subdivision is not certified within two years of the issue date of this permit;

5. Officers' report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**

- b) A plan of subdivision is not registered at Land Victoria within five years of the original certification date
- c) The vegetation removal is not completed within 12 months of the certification of the plan of subdivision.

The Responsible Authority may extend the time for certification if a request is made in writing before the expiry of the permit or within 6 months afterwards.

Country Fire Authority Conditions**18. Amended Bushfire Management Plan**

Before certification under the Subdivision Act 1988, an amended bushfire management plan (BMP) must be submitted to and endorsed by the Responsible Authority. When approved, the BMP will be endorsed by the Responsible Authority and be included as an annexure to the Section 173 Agreement.

The BMP must be substantially in accordance with the BMP Plan prepared by Terramatrix Pty Ltd, Parts B and B (Pages 1 & 2), dated 16 May 2018 and must show the following bushfire mitigation measures, unless otherwise agreed in writing by the CFA and the Responsible Authority.

- a) Defendable space (Lot 2)
 - Show an area of defendable space to the property boundary where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:
 - Grass must be short cropped and maintained during the declared fire danger period.
 - All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
 - Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
 - Plants greater than 10 centimetres in height must not be placed within 3 metres of a window or glass feature of the building.
 - Shrubs must not be located under the canopy of trees.
 - Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
 - There must be a clearance of at least 2 metres between the lowest tree branches and ground level.
- b) Construction standards (Lot 2)
 - Nominate a minimum Bushfire Attack Level of BAL – 12.5 that the future buildings will be designed and constructed.

5. Officers' report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**

- c) Water Supply (Lot 2)
- Show 10,000 litres of effective water supply for fire fighting purposes which meets the following requirement.
 - Is stored in an above ground water tank constructed of concrete or metal.
 - All fixed above-ground water pipes and fittings requires for firefighting purposes must be made of corrosive resistant metal.
 - Incorporate a ball of gate valve (British Standard Pip (BSB) 65mm) and coupling (64 mm CFA 3 thread per inch male fitting).
 - The outlet/s of the water tank must be within 4 metres of the accessway and be unobstructed.
 - Be readily identifiable from the building or appropriate identification signage to the satisfaction of CF must be provided.
 - Any pipework and fittings must be a minimum of 65mm (excluding the CFA coupling).
- d) Access (Lot 2)
- Show the access for fire fighting purposes which meets the following requirements:
 - Curves must have a minimum inner radius of 10 metres.
 - The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50 metres.
 - Have a minimum trafficable width of 3.5 metres of all-weather construction.
 - Be clear of encroachments for at least 0.5 metres on each side and 4 metres above the accessway.
 - Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.

Notes

- A. During the course of the approved construction work, including tree removal, a copy of this permit and the endorsed plan(s) must be kept on-site and made available for inspection by Council officers.
- B. Failure to undertake the requisite tree protection fencing in accordance with the conditions of this permit will result in the issuing of Planning Infringement Notices to the land owner, occupant (if this is a different person), and the person or company undertaking the works on-site. The minimum penalty on the Planning Infringement Notice for land owners and occupants will be \$806 for the land owner and occupant, and \$1612 for any company which may be undertaking works on-site.

5. Officers' report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**

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- C. Failure to undertake the vegetation removal in accordance with this permit will result in the issuing of Planning Infringement Notices to the landowner, occupant (if this is a different person), and the person or company undertaking the tree removal works. The minimum penalty on the Planning Infringement Notice for land owners and occupants will be \$806 for the land owner and occupant, and \$1612 for any company which may be undertaking the tree removal works.
- D. The removal of vegetation is often found by Council to generate concern amongst other community members who may not be aware that a permit has been obtained. Council therefore strongly recommends that the permit holder advise any nearby neighbours of their intention to remove the vegetation and that they have obtained permission to do so before they proceed to remove the vegetation. Failure to do so may result in Council officers being obliged to visit the land, and also potentially delay the vegetation removal process while compliance with the permit is checked.
- E. All vehicle crossing works are to be carried out with Council supervision under an Infrastructure Works Permit.

Motion**MOVED: Cr Peter Clarke****SECONDED: Cr Karen Egan**

That the Committee (under delegation from Council) issue a Notice of Decision to Refuse a permit to the land located at 60 Lavender Park Road, Eltham South for the Two lot subdivision and associated native vegetation removal on the following grounds:

1. The proposal fails to provide for the protection of the natural environment and character of the area as the proposed subdivision is not in keeping with the existing neighbourhood character due the proposed lot layout. The provision of a building envelope and provision of future services (stormwater & septic) on the site will limit future landscaping opportunities, as required by Clause 32.03 (Low Density Residential Zone) of the Nillumbik Planning Scheme.
2. The proposal fails to conserve and enhance the natural and cultural significance of the heritage place as required by Clause 43.01 (Heritage Overlay) as the proposed subdivision will create a developable area on the site for a future dwelling which will impact the significance of the existing heritage building and landscaped surrounds on the site.
3. The proposal fails to maintain and enhance the continuous flow of the landscape and vegetation in the locality as the loss of vegetation and location of the building envelope (and services required for a future dwelling) will limit planting opportunities on the site in the future as required by Clause 22.12 (Neighbourhood Character) of the Nillumbik Planning Scheme.
4. The proposal is not consistent with the subdivisional pattern of the locality as the proposed subdivision layout and lot size is not reflective of that of the locality required by Clause 65.02 (Approval of an Application to Subdivide Land) of the Nillumbik Planning Scheme.

5. Officers' report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**

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

Committee Resolution**MOVED: Cr Peter Clarke****SECONDED: Cr Karen Egan**

That the Committee (under delegation from Council) issue a Notice of Decision to Refuse a permit to the land located at 60 Lavender Park Road, Eltham South for the Two lot subdivision and associated native vegetation removal on the following grounds:

1. The proposal fails to provide for the protection of the natural environment and character of the area as the proposed subdivision is not in keeping with the existing neighbourhood character due the proposed lot layout. The provision of a building envelope and provision of future services (stormwater & septic) on the site will limit future landscaping opportunities, as required by Clause 32.03 (Low Density Residential Zone) of the Nillumbik Planning Scheme.
2. The proposal fails to conserve and enhance the natural and cultural significance of the heritage place as required by Clause 43.01 (Heritage Overlay) as the proposed subdivision will create a developable area on the site for a future dwelling which will impact the significance of the existing heritage building and landscaped surrounds on the site.
3. The proposal fails to maintain and enhance the continuous flow of the landscape and vegetation in the locality as the loss of vegetation and location of the building envelope (and services required for a future dwelling) will limit planting opportunities on the site in the future as required by Clause 22.12 (Neighbourhood Character) of the Nillumbik Planning Scheme.
4. The proposal is not consistent with the subdivisional pattern of the locality as the proposed subdivision layout and lot size is not reflective of that of the locality required by Clause 65.02 (Approval of an Application to Subdivide Land) of the Nillumbik Planning Scheme.

CARRIED UNANIMOUSLY

Cr Jane Ashton temporarily left the meeting at 9.11pm at the commencement of this item and returned at 9.13pm during submissions.

Mitch Grayson, Chief of Staff to Mayor and Councillors temporarily left the meeting at 9.20pm and returned during submissions.

5. Officers' report**FN.042/18 Review of the Structure Plans for the Eltham and Diamond Creek Activity Centres - Response to Stage 1 Consultation**

Portfolio: Planning**Distribution: Public****Manager: Adrian Cully, Director Business and Strategy****Author: Paul Fyffe, Senior Strategic Planner****Fae Ballingall, Senior Strategic Planner****Summary**

The purpose of this report is to:

- 1) Present and discuss the findings of recent public engagement that formally commenced Council's review of the structure plans for the Eltham and Diamond Creek Activity Centres.
- 2) Identify possible responses to actions highlighted by the community and how Council might best respond to them.

The engagement, assisted by engagement specialist Chatterbox, was carried out between 23 July and 16 September 2018. Two separate programs were run, one for the Diamond Creek Activity Centre and the other for the Eltham centre. The purpose of the engagement was to get an early and high level understanding about how the community use and interact with each centre, what they like or dislike and to get their thoughts on each centre's appearance, performance and how each centre might better serve the community by way of identifying possible changes people would like to see. This information will directly inform the preparation of a discussion paper – the next phase in the structure planning process. The information will also be used in discussions with key State Government Departments and agencies e.g. with Public Transport Victoria in relation to comments about transport interchanges.

The engagement obtained a good level of response. Approximately 146 people responded to a survey in Diamond Creek and 333 in Eltham. Additional information was also gathered from a range of the engagement activities.

Key findings identified a high level of use of each centre, considerable satisfaction with the range and quality of retail and services and there is a good sense of community in each centre. However, there are issues with each centre regarding their structure, appearance and safety.

It is proposed that by May 2019 Council will be presented with a draft discussion paper, for public engagement, on broad proposals relevant to the structure plan for each centre. As an accompanying action, it is recommended that Council is provided with a proposal as to how it best responds to the requests for improvements articulated in the community engagement, particularly any opportunities available to expedite a solution.

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

1. Grant Edwards (Eltham Chamber of Commerce)
2. Esther Caspi on behalf of Gila Schnapp
3. Esther Caspi, and tabled her submission

5. Officers' report

FN.042/18 Review of the Structure Plans for the Eltham and Diamond Creek Activity Centres - Response to Stage 1 Consultation

Committee Resolution

MOVED: Cr Peter Clarke

SECONDED: Cr Karen Egan

That the Committee (acting under delegation from Council):

1. Notes:
 - a) The results of the first community engagement for the review of the activity centre structure plans;
 - b) It will receive a draft discussion paper by May 2019 for each centre which will discuss broad approaches to protect and improve the prosperity, appearance, safety and accessibility of each centre.
2. Requests a response by May 2019 to improvements requested from the community engagement.

CARRIED

Adrian Cully, Director Business and Strategy temporarily left the meeting at 10.05pm and returned at 10.09pm during submissions.

Cr Grant Brooker assumed the chair at 10.20pm as the Councillor responsible for the Community Services Portfolio.

5. Officers' report

FN.043/18 Open Space Precinct Plan, Graysharps Road, Hurstbridge

Portfolio: Community Services

Distribution: Public

Manager: Adrian Cully, Director Business and Strategy

Author: Paige Macdonald, Leisure Services Project Officer

Summary

This report presents the Open Space Precinct Plan, Graysharps Road, Hurstbridge.

The Open Space Precinct Plan, Graysharps Road, Hurstbridge has been developed following a decision to retain the area known as Lot 1 Graysharps Road, Hurstbridge and the surrounding recreation and open space. It was identified that a Precinct Plan was needed to ensure the retention of its cherished open space characteristics.

Development of the Open Space Precinct Plan, Graysharps Road, Hurstbridge has been completed through extensive community consultation to ensure the plan responds to current and future needs.

Committee Resolution

MOVED: Cr Karen Egan

SECONDED: Cr Jane Ashton

That the Committee (acting under delegation from Council):

1. Acknowledge the Project Reference Group, key stakeholders and community members for their contribution to the development of this plan.
2. Adopts the Open Space Precinct Plan, Graysharps Road Hurstbridge (**Attachment 1**).

CARRIED UNANIMOUSLY

Matt Kelleher, Director Services and Planning temporarily left the meeting at 10.20pm at the commencement of this item

Motion to extend the Meeting

In accordance with the Meeting Procedure Local Law, Clause 2.1, an Ordinary or Special Committee must not continue after 10.30pm unless a majority of Councillors present vote in favour of the meeting continuing.

The Future Nillumbik Committee resolved the following procedural motion to continue the meeting past 10.30pm

Committee Resolution

MOVED: Cr Peter Clarke

SECONDED: Cr Jane Ashton

That the Future Nillumbik Committee Meeting be extended to 11pm.

CARRIED

5. Officers' report

FN.044/18 Report on Gambling Harm Minimisation Policy 2016-2021 (updated Nov 2018)

Portfolio: Community Services

Distribution: Public

Manager: Adrian Cully, Director Business and Strategy

Author: Diana Bell, Social Planning and Policy Officer

Yasmin Green, Co-ordinator Strategy and Policy

Summary

The Nillumbik Gambling Harm Minimisation Policy 2016-2021 (Policy) requires a biennial report to be provided to Council. The report updates Councillors and the community on the fulfilment of the objectives of the Policy. Minor changes are made to the implementation plan contained within the Policy to reflect the current organisational structure and reporting years.

Committee Resolution

MOVED: Cr Jane Ashton

SECONDED: Cr Karen Egan

That the Committee (acting under delegation from Council) notes the updated Report on Gambling Harm Minimisation Policy 2016-2021.

CARRIED UNANIMOUSLY

Mayor, Cr Karen Egan resumed the chair at 10.35pm

6. Supplementary and urgent business

Nil

7. Confidential reports

The meeting closed at 10.36pm.

Confirmed: _____

Cr Karen Egan, Mayor