



**MINUTES OF COUNCIL MEETING OF THE FRANKSTON CITY COUNCIL  
HELD IN THE FRANKSTON ARTS CENTRE, DAVEY STREET, FRANKSTON  
ON 27 JANUARY 2021 at 7.21PM**

PRESENT	Cr. Nathan Conroy (Chairperson) Cr. David Asker Cr. Sue Baker Cr. Claire Harvey Cr. Brad Hill Cr. Liam Hughes Cr. Steven Hughes Cr. Suzette Tayler
APOLOGIES:	Cr. Kris Bolam (Mayor)
ABSENT:	Nil.
OFFICERS:	Mr. Phil Cantillon, Chief Executive Officer Ms. Kim Jaensch, Chief Financial Officer Dr. Gillian Kay, Director Communities Mr. Vishal Gupta, Acting Director Infrastructure and Operations Ms. Fran Boyd, Acting Director Business Innovation and Culture Ms. Brianna Alcock, Manager Governance and Information Mr. Sam Clements, Manager Statutory Planning Ms. Elizabeth Holley, Acting Manager Community Relations Ms. Simone Wickes, Manager Financial and Corporate Planning Mr. Byron Douglas, Acting Manager Community Strengthening Ms. Heather Hutchinson, Coordinator Community Engagement and Participation Mr. Stuart Caldwell, Coordinator Statutory Planning Ms. Michelle Tipton, Coordinator Governance Ms. Tenille Craig, Councillor Support Officer Mr. Connor Rose, Business Analyst Mr. Damian Clarkson, Supervising Technician Mr. Glenn Parry, Supervising Technician
EXTERNAL REPRESENTATIVES:	Nil.

**MAYOR'S STATEMENT**

*This meeting is being live streamed for public viewing in accordance with section 66(3) of the Local Government Act 2020. In the event Council encounters technical issues with the streaming, the meeting will be adjourned for up to 30 minutes until the matter is resolved. If the matter cannot be resolved, the meeting will be postponed to another evening.*

Chairperson's initials

**COUNCILLOR STATEMENT**

Councillor Liam Hughes made the following statement:

*“All members of this Council pledge to the City of Frankston community to consider every item listed on this evening’s agenda:*

- *Based on the individual merits of each item;*
- *Without bias or prejudice by maintaining an open mind; and*
- *Disregarding Councillors’ personal interests so as to avoid any conflict with our public duty.*

*Any Councillor having a conflict of interest in an item will make proper, prior disclosure to the meeting and will not participate or vote on the issue.”*

**PRAYER**

At the request of the Chair, Councillor Liam Hughes read the Opening Prayer.

**ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

Councillor Liam Hughes acknowledged the Boon Wurrung and Bunurong peoples – the traditional custodians of the land on which we stand and recognised all Aboriginal and Torres Strait Islander peoples who have given to Australia’s identity – from the past, into the present and for the future.

Chairperson’s initials



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**1. PRESENTATION TO COMMUNITY GROUPS****1.1 Presentation to the Men's Shed, Frankston North**

Cr Steven Hughes presented a Certificate of Appreciation to Andrew Maling and the Frankston North Men's Shed for their continued support to the men within the community, focusing on mental health.

**2. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**Council Meeting No. CM16 held on 14 December 2020.**

**Council Decision**

**Moved: Councillor Asker**

**Seconded: Councillor Tayler**

That the minutes of the Council Meeting No. CM16 held on 14 December 2020 copies of which had previously been circulated to all Councillors, be confirmed, approved and adopted.

**Carried Unanimously**

**3. APOLOGIES****Apology****Council Decision**

**Moved: Councillor Harvey**

**Seconded: Councillor Baker**

That the apology be received and Councillor Kris Bolam be granted leave from the meeting.

**Carried Unanimously**

**4. DISCLOSURES OF INTEREST AND DECLARATIONS OF CONFLICT OF INTEREST**

Nil.

**5. PUBLIC QUESTION TIME**

Nil.

**6. HEARING OF PUBLIC SUBMISSIONS**

Mr. Coleby McDonough made a submission to Council regarding Item 11.1 Planning Permit Application 177/2020/P - 91 Overport Road, Frankston South - To use and develop the land for a child care centre in a General Residential Zone (GRZ), removal of substantial trees and to undertake building or construct or carry out works in the tree protection zone of substantial trees in a Significant Landscape Overlay Schedule 3 (SLO3) and to construct a building in a Design and Development Overlay Schedule 1 (DDO1);

Ms Nicci Foster made a submission to Council regarding Item 11.4 Town Planning Application 353/2020/P - 3A Shannon Street Mall Frankston - To use the land for the sale and consumption of liquor (On-premise Licence) and to reduce the number of car parking spaces required under Clause 52.06-5.

*Officers had attempted to contact a submitter who requested to speak against the officers recommendation for Item 11.1 Planning Permit Application 177/2020/P - 91 Overport Road, Frankston South - To use and develop the land for a child care centre*

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*in a General Residential Zone (GRZ), removal of substantial trees and to undertake building or construct or carry out works in the tree protection zone of substantial trees in a Significant Landscape Overlay Schedule 3 (SLO3) and to construct a building in a Design and Development Overlay Schedule 1 (DDO1, but were not able to reach the submitter.*

## 7. ITEMS BROUGHT FORWARD

### Items Brought Forward

#### Council Decision

**Moved: Councillor Tayler**

**Seconded: Councillor Harvey**

That the below Items be brought forward:

- 11.1: Planning Permit Application 177/2020/P - 91 Overport Road, Frankston South - To use and develop the land for a child care centre in a General Residential Zone (GRZ), removal of substantial trees and to undertake building or construct or carry out works in the tree protection zone of substantial trees in a Significant Landscape Overlay Schedule 3 (SLO3) and to construct a building in a Design and Development Overlay Schedule 1 (DDO1)
- 11.4: Town Planning Application 353/2020/P - 3A Shannon Street Mall Frankston - To use the land for the sale and consumption of liquor (On-premise Licence) and to reduce the number of car parking spaces required under Clause 52.06-5

**Carried Unanimously**

### Block Motion

#### Council Decision

**Moved: Councillor Harvey**

**Seconded: Councillor Baker**

That the following items be blocked resolved and that the recommendations in each item be adopted:

- 11.2: Planning Application 374/2020/P - 383-389 Nepean Highway Frankston (Frankston International) - To extend the area where liquor is allowed to be consumed or supplied
- 12.1: Council Resolution Status Update for 27 January 2021
- 12.3: Setting of Mayoral and Councillor Allowances 2020-2024
- 12.4: Appointment and Authorisation of Council Staff
- 12.8: Legislated changes to the Emergency Management Act
- 12.9: Authorisation of Use of Council Seal for Years of Service Certificates
- 12.11: Outcomes of the Audit and Risk Committee meeting
- 12.12: Audit and Risk Committee – Chairperson's second half-yearly report to Council in 2020
- 12.13: Appointment of Independent Member to the Audit and Risk Committee

**Carried Unanimously**

Chairperson's initials



**8. PRESENTATIONS / AWARDS**

The Deputy Mayor, Cr Nathan Conroy acknowledged that Frankston City Council received a Certificate of Appreciation from Frankston Life for its support of the 2020 Christmas Day Lunch.

**9. PRESENTATION OF PETITIONS AND JOINT LETTERS****Petition****Council Decision****Moved: Councillor Liam Hughes****Seconded: Councillor Harvey**

That a petition regarding a request for Frankston City Council to investigate the malpractice of Burdettes Sand and Soil and LP cranes, containing thirty-one (31) signatures, be received.

**Carried Unanimously****10. DELEGATES' REPORTS**

Nil

**ITEMS BROUGHT FORWARD****11.1 Planning Permit Application 177/2020/P - 91 Overport Road, Frankston South - To use and develop the land for a child care centre in a General Residential Zone (GRZ), removal of substantial trees and to undertake building or construct or carry out works in the tree protection zone of substantial trees in a Significant Landscape Overlay Schedule 3 (SLO3) and to construct a building in a Design and Development Overlay Schedule 1 (DDO1)**

*(SC Communities)*

**Council Decision****Moved: Councillor Baker****Seconded: Councillor Asker**

That Council resolves to issue a Notice of Decision to Grant a Planning Permit in respect to Planning Permit Application number 177/2020/P to use and develop the land for a child care centre in a General Residential Zone (GRZ), removal of substantial trees and to undertake building or construct or carry out works in the tree protection zone of substantial trees in a Significant Landscape Overlay Schedule 3 (SLO3) and to construct a building in a Design and Development Overlay Schedule 1 (DDO1) at 91 Overport Road, Frankston South, subject to the following conditions:

**Amended Plans**

1. Before the use and/or development starts, 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 the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted with the application (or some other specified plan) but modified to show:
  - (a) All trees growing on the site and on the adjoining properties within 3m of the boundaries must be clearly illustrated on all relevant plans to demonstrate canopy width, trunk location and clearly labelled in accordance with the Development Impact Assessment Report prepared by Arbor Survey dated 8 April 2020 and clearly state whether the tree is to be retained or removed.
  - (b) The Tree Protection Zone and Structural Root Zone for all trees to be retained and the tree protection fence/ground protection locations must be illustrated on all relevant plans.
  - (c) A Landscape Plan in accordance with Condition 3
  - (d) A Tree Management Plan in accordance with Condition 6.
  - (e) Tree Protection Conditions noted in accordance with Condition 7 and 8.
  - (f) A Waste Management Plan in accordance with Condition 16.
  - (g) A Construction and Environment Management Plan in accordance with Condition 17.
  - (h) Location of any mechanical equipment in accordance with Condition 18.
  - (i) Location of outdoor lighting in accordance with Condition 19.
  - (j) An Internal pedestrian path connecting to the existing footpath on Overport Road to the centre to be provided on the southern side of the proposed crossover.
  - (k) Proposed visual corner splays on either side of the accessway to be demonstrated in accordance with Clause 52.06-9 of the Frankston Planning Scheme.

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- (l) Location of wheel stoppers for each proposed car space.
- (m) Location and height of all proposed retaining walls.

### No Alterations

2. The use and/or development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

### Landscape Plan

3. Before the commencement of buildings and works, a landscape plan prepared by a suitably qualified person must be submitted to and be approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
  - a. a survey (including botanical names) of all existing vegetation to be retained and/or removed;
  - b. buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary;
  - c. details of surface finishes of pathways and driveways, retaining walls and areas of cut and fill;
  - d. a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, size at maturity and quantities of each plant;
  - e. A planting theme of a minimum 20% indigenous and 40% native within each plant group;
  - f. landscaping to a minimum height of 1.5m to be incorporated along the south boundary of the common driveway
  - g. canopy trees (minimum two metres tall when planted) in the following areas;
    - (i) One (1) feature tree within the front setback with a mature height of ten (10) metres.
    - (ii) Three (3) in the front setback with a minimum mature height of seven (7) metres.
    - (iii) Seven (7) surrounding the building within the play areas with a minimum mature height of seven (7) metres.

Trees are not to be sited over easements.

All species selected must be to the satisfaction of the Responsible Authority.

### Prior to Occupation

4. The landscaping as shown on the endorsed landscape plan must be carried out and completed to the satisfaction of the Responsible Authority before the occupation of the development and/or commencement of the use or at such later date as is approved by the Responsible Authority in writing.
5. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged trees are to be replaced.

### Tree Protection Management Plan

6. A Tree Protection Management Plan prepared in accordance with Frankston

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City Council's 'Arboricultural Report Writing Guide' must be submitted by a suitably qualified and experienced Arborist in relation to the management and maintenance of Tree 9 of the submitted arborist report (identified as Development Impact Assessment Report prepared by Arbor Survey dated 8 April 2020) and must be approved by the Responsible Authority prior to the commencement of any works (including any demolition, levelling of the site, excavations, tree removal, delivery of building/construction materials and/or temporary buildings). The Tree Management Plan must make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites and detail the following where relevant but not limited to ensuring that the trees remain healthy and viable during and following construction:

- a) A site plan showing tree protection zones (TPZ) and structural root zones (SRZ), tree protection fence locations and any relocations required and any areas where ground protection systems will be used;
- b) A clear photograph of each tree;
- c) Any specific damage/faults evident within each tree prior to demolition or construction. These photographs must be supplied within the TPMP as a preliminary dilapidation report.
- d) Restricted activities in the TPZ;
- e) Key supervision and monitoring stages of the development including pre-demolition, pre-construction, and post construction stages;
- f) Details of any TPZ encroachments including;
- g) Details of exploratory root investigation
- h) Alternative construction techniques
- i) Supervision
- j) Details of any root pruning
- k) Methods for installation of services e.g.; sewerage, storm water, telecommunications, electricity etc;
- l) Remedial works as required including a detailed photographic diagram specifying what pruning will occur;
- m) Final Certification of Tree protection template. The Final Certification Report Template as required in the Tree Protection Management Plan must be completed and submitted to the satisfaction of the Responsible Authority before the occupation of the development and/or commencement of the use or at such later date as is approved by the Responsible Authority in writing.

### **Tree Protection**

7. Tree protection must be carried out in accordance with the Australian Standard AS 4970-2009 Protection of trees on development sites to the satisfaction of the Responsible Authority.
8. Prior to the commencement of the development (including vegetation removal), a Tree Protection Fence defined by a 1.8 metre high (minimum) temporary fence constructed using steel or timber posts fixed in the ground or to a concrete pad, with the fence's panels to be constructed of cyclone mesh wire or similar strong metal mesh or netting with a high visibility plastic hazard tape, must be installed at the edge of the defined tree protection zones of trees to be retained as per the Arborist report prepared by Arbor Survey dated 8 April 2020, to the satisfaction of the Responsible Authority. A fixed sign is to be provided on all visible sides of the Tree Preservation Fencing, stating "Tree Preservation Zone

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– No entry without permission from Frankston City Council”.

The requirements below must be observed within this area –

- a) Coarse mulch laid to a depth of 50-100 mm (excluding street trees).
- b) No vehicular or pedestrian access.
- c) The existing soil level must not be altered either by fill or excavation.
- d) The soil must not be compacted or the soil’s drainage changed.
- e) No fuels, oils, chemicals, poisons, rubbish or other materials harmful to trees are to be disposed of or stored.
- f) No storage of equipment, machinery or material is to occur.
- g) Open trenching to lay underground services e.g.: drainage, water, gas, etc. must not be used unless approved by the Responsible authority to tunnel beneath.
- h) Nothing whatsoever, including temporary services wires, nails, screws or any other fixing device, is to be attached to any tree.
- i) Tree roots must not be severed or injured.
- j) Machinery must not be used to remove any existing concrete, bricks or other materials.

The tree protection fence must remain in place for the duration of building and works to the satisfaction of the Responsible Authority.

### Drainage

9. Provision of a Stormwater Detention System with a volume capable of retarding the 10 year ARI flow from the development site back to a 5 year ARI pre-development value to the satisfaction of the Responsible Authority.
10. Prior to commencement of development construction detailed design plans and drainage computations of the internal stormwater drainage system including the method of connection to the existing Council drainage infrastructure are to be submitted and approved to the satisfaction of the Responsible Authority.
11. Water Sensitive Urban Design principles (WSUD) are to be incorporated into the drainage design, which may include but not be limited to the following components or a combination thereof:
  - On-site stormwater detention and rainwater tanks.
  - Soil percolation
  - Stormwater harvesting and Re-use of stormwater for garden watering, toilet flushing, etc
  - On-site ‘bio-treatment’ to reduce dissolved contaminants and suspended solids.
12. Vehicle crossing shall be constructed to Frankston City Council’s standards and specifications to the satisfaction of the Responsible Authority.
13. All disused vehicle crossings shall be removed and the area reinstated to kerb and channel and landscaped to the satisfaction of the Responsible Authority.
14. Concrete kerbs and barriers shall be provided to the satisfaction of the responsible authority to prevent direct vehicle access to an adjoining road other than by a vehicle crossing.
15. Where the development involves work on or access to Council controlled land including roads, reserves and right of way, the owner, operator and their agents

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under this permit must at all times take adequate precautions to maintain works to the highest public safety standards, to the satisfaction of the Responsible Authority.

Precautions must include, appropriate signage to AS 1743 Road Works Signing Code of Practice, the provision of adequate barricading of works, including trenches of Service Authorities and any other road openings, sufficient to ensure public safety.

All relevant permits must be obtained from Council for works within the existing road reserves, in addition to the planning permit.

### **Waste Management Plan**

16. Prior to the use commencing, an amended waste management plan must be submitted to the Responsible Authority for approval that is reflective of the current proposal. Such plan must provide details of a regular garbage collection service to be provided by the owner of the site, including information regarding the type of refuse bins, type/size of trucks, means of accessing bins and frequency and timing of refuse collection, to the satisfaction of the Responsible Authority. Once approved, such plan must be implemented to the satisfaction of the Responsible Authority.

### **Construction and Environment Management Plan**

17. Prior to the commencement of any stage of the development a Construction Management Plan must be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed to form part of the permit. Any plans submitted must be consistent with all other documents approved as part of this permit. The information must be drawn to scale with dimensions and three copies must be provided. The Plan is to include details of the following:
  - a) Contact Numbers of responsible owner/contractor including emergency/24 hour mobile contact details.
  - b) Identification of possible environmental risks associated with development works.
  - c) Response measures and monitoring systems to minimise identified environmental risks, including but not limited to creek protection, vegetation protection, runoff, erosion, dust, litter, noise and light.
  - d) Location and specifications of sediment control devices on/off site.
  - e) Location and specification of surface water drainage controls.
  - f) Proposed drainage lines and flow control measures.
  - g) Location and specifications of fencing for the protection of trees and/or vegetation as required by the permit.
  - h) Location of all stockpiles and storage of building materials.
  - i) Location of parking for site workers and any temporary buildings or facilities.
  - j) Details to demonstrate compliance with relevant EPA guidelines.
  - k) Target of recycling and re-using a minimum of 80% of construction and demolition waste by weight.
  - l) Hours during which construction activity will take place.

### **Urban Design**

18. Air-conditioning plant, compressors and exhaust fans must be located so as to minimise adverse amenity impacts on abutting and nearby residential properties, to the satisfaction of the Responsible Authority.

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19. Outdoor lighting, external sign lighting and building illumination must at all times be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
20. All fences must be maintained in sound condition, to the satisfaction of the Responsible Authority.

#### **Acoustic Fencing**

21. Before commencement of the use, an acoustic fence must be erected along the northern and eastern boundaries where it adjoins residential properties. The minimum height must be 1.8 metres above natural ground level. The details of the design and acoustic qualities of the fence must be to the satisfaction of the Responsible Authority and must demonstrate achievement of noise attenuation measures and limits required in the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.

#### **Number of Children**

22. No more than 110 children may be present on the premises at any one time.

#### **Hours of Operation**

23. The use may only operate between the hours of 6:30am to 6:30pm (Monday to Friday).

#### **Amenity**

24. The development or use must not detrimentally affect the amenity of the area including through the:
  - a) Transport of materials, goods or commodities to or from the land.
  - b) Appearance of any building, works or materials.
  - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
  - d) Presence of vermin.

to the satisfaction of the Responsible Authority.

25. Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2 and the State Environment Protection Policy (Control of Industry, Commerce and Trade), No. N-1.

#### **Department of Transport**

26. The demolition and construction of the development must not disrupt bus operations on Overport Road without the prior written consent of the Head, Transport for Victoria.
27. Any request for written consent to disrupt bus operations on Overport Road during the demolition and construction of the development must be submitted to the Head, Transport for Victoria not later than 8 weeks prior to the planned disruption and must detail measures that will occur to mitigate the impact of the planned disruption.

#### **Satisfactorily Completed**

28. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

#### **Permit Expiry**

29. This permit will expire if one of the following circumstances applies:

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- The development is not started within two years of the date of this permit.
- The development is not completed within four years of the issued date of this permit.
- The use is not commenced within two (2) years of the date of this permit.
- The use is discontinued for a period of two (2) years.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

#### Notes

- A. Any request for an extension of time, or variation/amendment of this permit must be lodged with the relevant fee.
- B. Prior to the commencement of construction the operator of this planning permit must obtain a non-refundable Asset Protection Permit from Frankston City Council's Infrastructure Department.
- C. Prior to the commencement of construction the operator of this planning permit must obtain Build Over Easement Consent from Frankston City Council's Infrastructure Department.
- D. Any request for time extension of this Permit shall be lodged with the relevant administration fee at the time the request is made. Pursuant to Section 69 of the Planning and Environment Act 1987 the Responsible Authority may extend the periods referred to if a request is made in writing within the following prescribed timeframes:
- a. Before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started;
  - b. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

If a request is made out of time, the Responsible Authority cannot consider the request and the permit holder will not be able to apply to VCAT for a review of the matter.

**Carried Unanimously**

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**11.4 Town Planning Application 353/2020/P - 3A Shannon Street Mall Frankston - To use the land for the sale and consumption of liquor (On-premise Licence) and to reduce the number of car parking spaces required under Clause 52.06-5**

(SC Communities)

**Council Decision****Moved: Councillor Hill****Seconded: Councillor Harvey**

That Council resolves to issue a Notice of Decision to Grant a Planning Permit in respect to Planning Permit Application number 353/2020/P to use the land for the sale and consumption of liquor (On-premise Licence) and to reduce the number of car spaces required under Clause 52.06-5 at 3A Shannon Street Mall Frankston, subject to the following conditions:

**Plans**

1. Before the use starts, 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 the permit. The plans must be drawn to scale with dimensions and must be substantially in accordance with the plans submitted with the application but modified to show:
  - (a) Deletion of outdoor dining tables within White Street Mall and other property frontages.
  - (b) Notation of the three tables with 6 seating capacity located under canopy at the frontage of the subject site as being subject to separate Council Local Law or License approval.
  - (c) The amended red line area reduced to cover the internal areas and potential external under canopy seating area in accordance with condition 1(a) and 1(b).
  - (d) A Venue/Patron Management Plan in accordance with Condition 5.
  - (e) A Waste Management Plan in accordance with condition 7.

**No Alterations**

2. The use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

**Number of Patrons**

3. A maximum of 28 patrons may be present on the site at any one time.

**Liquor Licence Requirements**

4. The sale and consumption of alcohol must only take place at the premises during the following hours:

Wednesday and Thursday 12 noon to 9pm

Friday and Saturday 12 noon to 11pm

Sunday 12 noon to 5pm

Anzac Day 2pm to 5pm

Public Holidays – 12 noon to 5pm

**Venue/Patrons Management Plan**

5. Prior to the commencement of the sale and consumption of alcohol within the site, a Venue/Patrons Management Plan is to be submitted to and approved by

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the Responsible Authority that details (but is not limited to) the following:

- a) Measures taken to manage the number of patrons admitted in the designated area at any one time.
  - b) Venue shut down procedures to encourage the patrons to leave the premises sporadically.
  - c) Signage to be used to encourage responsible off-site patron behaviour.
  - d) Measures to prevent vandalism and antisocial behaviour.
  - e) Details to address and reduce waste, including bottles and rubbish, generated by the use.
  - f) Standard procedures to be undertaken by staff in the event of complaints by a member of the public, the Victoria Police, an 'authorised officer' of the Responsible Authority, or an officer of Liquor Licensing Victoria.
  - g) Details of training provided for staff in the responsible serving of alcohol, and the management of patron behaviour.
  - h) Lighting within the boundaries of the site, and security lighting outside the premises.
  - i) Measure taken to have passive surveillance within the site and particularly at the time when the patrons leave the site.
6. The requirements of the endorsed Venue/Patron Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

#### **Waste Management Plan**

7. Before the development starts, a Waste Management Plan must be submitted to, and approved by, the Responsible Authority. Once approved, the Waste Management Plan will be endorsed and will then form part of this Permit. The Waste Management Plan must include reference to the following:
- (a) The waste collection and management to be done by a private waste management contractor.
  - (b) The estimated garbage and recycling generation volumes for the proposed use.
  - (c) The garbage and recycling equipment to be used and the collection service requirements, including the frequency of collection.
  - (d) The location, proximity, screening of and space allocated both to the garbage and recycling storage areas and collection points.
  - (e) How noise, odour and litter will be managed and minimised.
  - (f) Approved facilities for washing bins and storage areas.
  - (g) Swept path diagrams illustrating how waste vehicles will access the site if applicable.
8. The requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

#### **Amenity**

9. The amenity of the area must not be detrimentally affected by the use through the
- a) Transport of materials, good or commodities to or from the land.
  - b) Appearance of any building, works or materials.

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- c) Emissions of noise, artificial light, vibration, smell, fumes, smoke, vapour, seam, soot, ash, dust, waste water, waste products, rit or oil.
- d) Presence of vermin.
- e) In any other way

To the satisfaction of the Responsible Authority.

10. Noise emitted from the premises must not exceed limits prescribed by the State Environmental Protection Policy (Control of Noise form Commerce, Industry and Trade) No N-1.

### Permit Expiry

11. This permit will expire if one of the following circumstances applies:

- (a) The use is not started within two years of the date of this permit.
- (b) The use ceases for a continuous period of two (2) or more years.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

### Notes

- A. Any request for an extension of time, or variation/amendment of this permit must be lodged with the relevant fee.
- B. Any request for time extension of this Permit shall be lodged with the relevant administration fee at the time the request is made. Pursuant to Section 69 of the Planning and Environment Act 1987 the Responsible Authority may extend the periods referred to if a request is made in writing within the following prescribed timeframes:
  - a. Before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started;
  - b. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

If a request is made out of time, the Responsible Authority cannot consider the request and the permit holder will not be able to apply to VCAT for a review of the matter.

- C. The owner/applicant of the subject site should join and comply with the Frankston Liquor Industry Accord, which requirements the member to serve liquor in a responsible manner.

**Carried Unanimously**



**11. CONSIDERATION OF TOWN PLANNING REPORTS****11.2 Planning Application 374/2020/P - 383-389 Nepean Highway Frankston (Frankston International) - To extend the area where liquor is allowed to be consumed or supplied**

(SC Communities)

**Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council resolves to issue a Planning Permit in respect to Planning Permit Application number 374/2020/P to extend the area where liquor is allowed to be consumed or supplied at 383-389 Nepean Highway Frankston subject to the following conditions:

**Amended Plans**

1. Before the use and development starts, 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 the permit. The plans must be drawn to scale with dimensions. The plans must be substantially in accordance with the plans submitted with the application but modified to show:
  - a. Red line area fully encapsulating the external terrace.

**No Alterations**

2. The use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

**Patron Numbers**

3. A maximum of 60 patrons internally and 40 patrons externally shall be permitted in the restaurant at any one time, unless with the prior written consent of the Responsible Authority.

**Liquor Consumption**

4. Unless with the prior written consent of the Responsible Authority, the selling or consumption of alcohol must only take place within an approved red line plan and at the premises during the following hours:

Sunday	12noon to 11pm
Sunday (being Christmas Eve, New Year's Eve or Day)	12noon to 11pm
Good Friday	12noon to 11pm
On any other day	7am to 11pm

**Amenity**

5. The licensee/permit holder shall not cause or permit undue detriment to the amenity of the area that arises out of or is in connection with the use of the premises to which the licence/permit relates during or immediately after trading hours authorised by the licence/permit.
6. Noise emissions from the premises must comply with the requirements of the *State Environment Protection Policies (Control of Noise from Commerce, Industry and Trade) No. N-1* (as varied).

**Permit Expiry**

7. This permit will expire if one of the following circumstances applies:

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- The use is not started within two (2) years of the date of this permit.
- The use is discontinued for a period of two (2) years or more.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

#### Notes

- A. Any request for an extension of time, or variation/amendment of this permit must be lodged with the relevant fee.
- B. Any request for time extension of this Permit shall be lodged with the relevant administration fee at the time the request is made. Pursuant to Section 69 of the Planning and Environment Act 1987 the Responsible Authority may extend the periods referred to if a request is made in writing within the following prescribed timeframes:
- a. Before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started;
  - b. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

If a request is made out of time, the Responsible Authority cannot consider the request and the permit holder will not be able to apply to VCAT for a review of the matter.

**Carried Unanimously**

**Note:** Refer to Page 4 of the Minutes where this item is block resolved.

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**11.3 Town Planning Application 288/2020/P - 366 and 368 Nepean Highway, Frankston 3199 - To use and construct a child care centre within a Mixed Use Zone (MUZ), to construct a building and construct and carry out works in a Design and Development Overlay Schedule 5 (DDO5) and to create/alter access to a road in Road Zone Category 1**

*(SC Communities)*

**Council Decision**

**Moved: Councillor Harvey**

**Seconded: Councillor Hill**

That Council resolves to issue a Notice of Decision to Grant a Planning Permit in respect to Planning Permit Application number 288/2020/P to construct a building and construct and carry out works within a Mixed Use Zone (MUZ), to construct a building construct and carry out works in a Design and Development Overlay Schedule 5 (DDO5) and to create/alter access to a road in a Road Zone Category 1 at 366 and 368 Nepean Highway Frankston generally in accordance with the plans submitted with the application identified as PA00-PA23, prepared by Mollard Property Group PTY LTD 28 July 2020, subject to the following conditions:

**Plans**

1. Before the use and/or development starts, 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 the permit. The plans must be drawn to scale with dimensions. The plans must be substantially in accordance with the plans submitted with the application but modified to show:
  - (a) Changes as shown on the discussion plans provided to Council dated 19 October 2020.
  - (b) All trees growing on the site and on the adjoining properties within 3m of the boundaries clearly illustrated on all relevant plans. This must include canopy width, trunk location and be clearly labelled in accordance with the arborist report by Tree Logic dated 29/07/2020, and state whether the tree is to be retained or removed.
  - (c) The Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) for all retained trees and the location of tree protection fencing and or ground protection systems must be clearly illustrated on all relevant plans (including ground floor).
  - (d) Notation of all relevant plans that the existing natural ground level (NGL) within the neighbouring TPZ for Tree 3 that extends into the site must be maintained and not be altered by excavations throughout the all development phases.
  - (e) The alfresco area on the north side of the building to accommodate a deep soil planting zone and have a minimum dimension of 4.5m x 4.5m.
  - (f) Notation that clear glazing (i.e. not obscured glazing or frosted film) is to be used along the building frontage.
  - (g) A schedule of external finishes and colours (including samples) to be used on the building.
  - (h) Tree protection conditions noted in accordance with Condition 3.
  - (i) A landscape plan as required by Condition 6.
  - (j) The Waste Management Plan amended to demonstrate that waste collection will be undertaken by private contractor outside of the operating

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hours of the child care centre and to the satisfaction of the Responsible Authority.

- (k) The Melbourne Water requirements as shown in conditions 24 to 38.
- (l) The Department of Transport in requirements in Condition 41 noted on all relevant plans.
- (m) The location of the splitter island required by Condition 42.

### No Alterations

- 2. The use and/or development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

### Tree Protection

- 3. Tree protection must be carried out in accordance with the Australian Standard AS 4970-2009 Protection of Trees on Development Sites to the satisfaction of the Responsible Authority.
- 4. The following radial tree protection zones (TPZ) apply to the following trees:
  - Tree 1 (Council street tree – Brush Box) – 4.3m (finishing at paved surfacing level).
  - Tree 2 (Council street tree – Silky Oak) – 2.1m (finishing at paved surfacing level).
  - Tree 3 (neighbouring Photinia to the south) – 2.0m.
- 5. Prior to the commencement of the development (including demolition and any initial site preparations) Tree Protection Fencing (TPF) must then be erected at the applicable radial TPZs.

The TPF must comprise temporary fencing panels (min. 1.8m height) and held in place with concrete feet. A fixed sign stating Tree Protection zone is to be provided on all visible sides of the TPF. All tree protection zones, fencing and signage must be to the satisfaction of the Responsible Authority.

The requirements below must be observed within this area:

- (a) Coarse mulch laid to a depth of 75 mm (excluding road reserve of street trees).
- (b) No vehicular or pedestrian access.
- (c) The existing soil level must not be altered either by fill or excavation.
- (d) The soil must not be compacted or the soil's drainage changed.
- (e) No fuels, oils, chemicals, poisons, rubbish or other materials harmful to trees are to be disposed of or stored.
- (f) No storage of equipment, machinery or material is to occur.
- (g) No open trenching to lay underground services.
- (h) Nothing whatsoever is to be attached to any tree.
- (i) Tree roots must not be severed or injured.
- (j) All tree pruning (including to roots) is to be carried out by a professional arborist and in accordance with Australian Standard AS4373-2007 Pruning of Amenity Trees.

Note: where TPF is impractical, formalised ground protection must be installed. Ground protection must comprise strapped timber rumble boards installed over the previously installed layer of mulch.

### Landscape Plans

6. Before the commencement of buildings and works, a landscape plan in accordance with the submitted development plan, prepared by a suitably qualified landscape professional must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
- (a) A survey (including botanical names) of all existing vegetation on the site and those located within three (3) metres of the boundary of the site on adjoining properties, accurately illustrated to represent canopy width and labelled with botanical name, height and whether the tree is proposed to be retained and/or removed.
  - (b) The tree number, T.P.Z., S.R.Z. and notations regarding protection methods during construction of retained trees.
  - (c) Buildings on neighbouring properties within three metres of the boundary.
  - (d) The delineation and details of surface finishes of all garden beds, grassed areas, pathways, driveways, retaining walls and other landscape works including areas of cut and fill throughout the development site.
  - (e) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, size at maturity and quantities of each plant.
  - (f) A range of plant types from ground covers to large shrubs and trees.
  - (g) Landscaping and planting within all open areas of the site.
  - (h) Adequate planting densities (e.g.: plants with a mature width of 1 metre, planted at 1 metre intervals).
  - (i) Plants with a height of less than 0.9n to be used within corner splay areas
  - (j) No synthetic grass to be used in the ground level open air play space areas
  - (k) A Landscape Buffer Zone within the Kananook Creek setback as required by Melbourne Water and shown in Condition 34.
  - (l) A planting theme of a minimum 75% indigenous and 25% native (EVC Coast Banksia Woodland/Swamp Scrub Mosaic) within each plant group.
  - (m) All existing environmental weed species are to be removed from the site and environmental and noxious weeds found in the 'Frankston Invasive Species guide' (2019) are not to be planted.
  - (n) The provision of suitable canopy trees (minimum two metres tall when planted) in the areas specified below (trees are not to be sited over easements) with species chosen to be approved by the Responsible Authority:
    - i. Three (3) within the front setback minimum mature height of 10m.
    - ii. Five (5) within the rear play space minimum mature height 7m.
  - (o) The provision of notes on the landscape plan regarding site preparation, including in-ground irrigation system to be provided to all landscaped areas, removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.
  - (p) All tree stock used must be in accordance with AS2303-2015 Tree stock for Landscape Use.

### Prior to Occupation

7. The landscaping as shown on the endorsed landscape plan must be carried out and completed to the satisfaction of the Responsible Authority before the occupation of the development and/or commencement of the use or at such later date as is approved by the Responsible Authority in writing.
8. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or

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damaged trees are to be replaced.

### Engineering Requirements

9. Stormwater drainage shall be connected to stormwater Legal Point of Discharge as nominated and to the satisfaction of the Responsible Authority.
10. Soakage systems for Stormwater drainage shall be provided with Geotechnical design to demonstrate that effective drainage can be provided without detriment to premises and/or other properties.
11. Prior to commencement of development construction detailed design plans and drainage computations of the internal stormwater drainage system are to be submitted and approved to the satisfaction of the Responsible Authority.
12. Water Sensitive Urban Design principles (WSUD) are to be incorporated into the drainage design, which may include but not be limited to the following components or a combination thereof:
  - On-site stormwater detention.
  - Permeable Paving.
  - Rainwater tanks for harvesting and re-use of stormwater for toilet flushing, landscape irrigation, etc.
  - Soil percolation.
  - Rain gardens providing extended detention and on-site 'bio-treatment' to reduce dissolved contaminants and suspended solids.
13. Stormwater runoff must achieve the following objectives for environmental quality, as set out in the Urban Stormwater Best Practice Environmental Guidelines (CSIRO) 1999:
  - 80% retention of the typical annual load of suspended solids.
  - 45% retention of typical annual load of total phosphorous.
  - 45% retention of typical annual load of total nitrogen.

Water quality works within the development must be provided to achieve compliance with the above best practice.

14. Prior to occupation of the building, areas set aside for parking vehicles, loading bays, access lanes and paths as shown on the endorsed plans must be:
  - (a) Constructed to the satisfaction of the Responsible Authority.
  - (b) Properly formed to such levels that they can be used in accordance with the plans.
  - (c) Surfaced with an all-weather sealcoat or surfaced with crushed rock or gravel.
  - (d) Drained and maintained to the satisfaction of the Responsible Authority.
  - (e) Line-marked to indicate each car space, loading bay and all access lanes and if necessary, the direction in which vehicles are to travel to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways must be kept available for these purposes at all times.

15. Where the development involves work on or access to Council controlled land including roads, reserves and right of way, the owner, operator and their agents under this permit must at all times take adequate precautions to maintain works to the highest public safety standards, to the satisfaction of the Responsible Authority.

Precautions must include, appropriate signage to AS 1743 Road Works Signing Code of Practice, the provision of adequate barricading of works, including trenches of Service Authorities and any other road openings, sufficient to ensure public safety.

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All relevant permits must be obtained from Council for works within the existing road reserves, in addition to the planning permit.

### Urban Design

16. All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.
17. All plumbing work, sewer pipes etc. (except for spouting and stormwater pipes) associated with the new building shall be concealed from general view.
18. Outdoor lighting must be provided, designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.

### Number of Children

19. Unless with the prior written consent of the Responsible Authority, no more than 120 children may be on the premises at any one time.

### Hours of Operation

20. Unless with the prior written consent of the Responsible Authority, the use hereby permitted may operate only between the hours of 6.30am–7.00pm, Monday to Friday.
21. Unless with the prior written consent of the Responsible Authority, the use hereby permitted may not operate on weekends or public holidays.

### Amenity

22. The amenity of the area must not be detrimentally affected by the development and/or use through the:
  - (a) Transport of materials, goods or commodities to or from the land.
  - (b) Appearance of any building, works or materials.
  - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
  - (d) Presence of vermin.

to the satisfaction of the Responsible Authority.

23. Unless with the prior written consent of the Responsible Authority, any form of public address system or sound amplification equipment used on the premises must not be audible outside the premises.

### Melbourne Water Requirements

24. Prior to the development plans being endorsed, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must show:
  - (a) The removal of one of the fences adjacent Kananook Creek.
  - (b) Detailed footing design of the fence to be located within the setback.
  - (c) The acoustic side boundary fence located at and above the 1.5 metre contour line.
25. Finished floor levels of the building must be constructed no lower than 3.0 metres to Australian Height Datum (AHD).
26. The building must be setback a minimum of 10 metres measured from the top of bank of Kananook Creek or above the 1.5 metre contour line whichever is

greater.

27. Imported fill must be kept to a minimum on the property and must only be used for the sub floor areas of the building only.
28. No imported fill is permitted below the 1.7 metre contour line to allow for the conveyance of floodwaters.
29. The natural surface levels below the 1.9 metre contour must not be lowered below existing to ensure flood depths are not exacerbated.
30. The acoustic style side boundary fence must be located at and above the 1.5 metre contour line to allow for the conveyance of flood flow.
31. Any new internal and side boundary fencing located at and below the 1.7 metre contour line must be 'open style' a minimum of 50% of construction or timber paling to allow for the conveyance of floodwaters.
32. Melbourne Water will permit the construction of one 'open style' fence located within the Kananook Creek setback.
33. The fence including footings permitted to be located within the Kananook Creek setback must be designed as to not impact the bank of Kananook Creek and must be designed and constructed to the satisfaction of Melbourne Water.
34. A 'Landscape Buffer Zone' of indigenous vegetation located within the Kananook setback is required to screen the development from the waterway to protect ecological and future amenity. A detailed landscape plan must be submitted to Melbourne Water and must detail:
  - (a) A survey (including botanical names) of all existing vegetation to be retained and/or removed.
  - (b) Details of surface finishes of pathways and driveways.
  - (c) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
  - (d) If retaining any Robinia pseudoacacia tree species a maintenance plan to outline how the trees will be managed to avoid suckering and reseeding into the landscape.
  - (e) Only local native plants (Coast Banksia Woodland (EVC 2) must be used and shown on the landscape plans.
35. No native vegetation is permitted to be removed located within twenty (20) metres measured from the 'top of bank' of Kananook Creek without prior written approval from Melbourne Water.
36. Any new or modified stormwater connection to Melbourne Water's drainage system must obtain separate approval from Melbourne Water's Asset Services Team.
37. Prior to commencement of construction a Site Environmental Management Plan (SEMP) must be submitted to Melbourne Water for approval, specifying relevant actions in a practical way to ensure that they are implemented effectively. The SEMP must include a site map detailing the location and design of all measures including the following:
  - (a) Silt fencing.
  - (b) Access tracks.
  - (c) Spoil stockpiling.
  - (d) Trenching locations.
  - (e) Machinery/Plan Locations.
38. Prior to the completion of works, a Flood Risk Management Plan prepared by an accredited risk management professional must be submitted to the satisfaction and approval of Melbourne Water. The Flood Risk Management Plan must

provide for ongoing effective management of flood risks.

39. Prior to the Occupancy Permit being issued, the owner of the Land must enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987 with the Responsible Authority and Melbourne Water Corporation. All costs associated with the setting up of the agreement must be borne by the permit holder. The agreement must be registered on the title of the Land and must provide, to the satisfaction of the Responsible Authority and Melbourne Water, for:
- (a) Prospective and future owners/users of the Land to be informed that the outdoor play areas is subject to inundation;
  - (b) Identify the implementation of a Flood Risk Management Plan which has been approved by the Responsible Authority and Melbourne Water Corporation.
40. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

#### **Department of Transport Requirements**

41. Prior to the commencement of the use, the crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
42. Traffic management treatment in the form of a splitter island must be provided at the entry point to the site and must be setback inside the property boundary to allow vehicles to store clear of the Nepean Highway pavement and footpath.
43. The demolition and construction of the development must not disrupt bus operations on Nepean Highway without the prior written consent of the Head, Transport for Victoria.
44. Any request for written consent to disrupt bus operations on Nepean Highway during the demolition and construction of the development must be submitted to the Head, Transport for Victoria not later than 8 weeks prior to the planned disruption and must detail measures that will occur to mitigate the impact of the planned disruption.

#### **Waste Management Plan**

45. Waste management must be implemented to the satisfaction of the Responsible Authority in accordance with Waste Management Plan approved as part of this permit.

#### **Satisfactorily Completed**

46. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

#### **Permit Expiry**

47. This permit will expire if one of the following circumstances applies:
- The development is not started within two (2) years of the date of this permit.
  - The development is not completed within four (4) years of the issued date of this permit.
  - The use has not commenced within two (2) years of the date of this permit.
  - The use is discontinued for a period of two (2) years.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the Responsible Authority for an extension of

the periods referred to in this condition.

### Notes

- A.** Any request for an extension of time, or variation/amendment of this permit must be lodged with the relevant fee.

Any request for time extension of this Permit shall be lodged with the relevant administration fee at the time the request is made. Pursuant to Section 69 of the Planning and Environment Act 1987 the Responsible Authority may extend the periods referred to if a request is made in writing within the following prescribed timeframes:

- Before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started;
- Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

If a request is made out of time, the Responsible Authority cannot consider the request and the permit holder will not be able to apply to VCAT for a review of the matter.

- B.** Prior to the commencement of construction the operator of this planning permit must obtain a non-refundable Asset Protection Permit from Frankston City Council's Infrastructure Department.

### Department of Transport

- C.** The proposed development requires the construction of a crossover, and the reinstatement of a disused crossover to kerb and channel. Separate approval under the Road Management Act 2004 for this activity may be required from the Head, Transport for Victoria. Please contact the Department of Transport prior to commencing any works.

### Melbourne Water

- D.** The applicable flood level for the property is 1.7 metres to Australian Height Datum (AHD).
- E.** This property will also be affected by any incremental mean sea level rise associated with climate change predictions above the current Port Phillip Bay level of 1.6 metres. The flood level for Port Phillip Bay in 2040, rises 200mm to a level of 1.80 metres (AHD), with a further increase of 600mm by 2100, to 2.4 metres AHD.

### Fencing

- F.** Melbourne Water will permit the construction of one fence only to be located within the Kananook Creek setback.

The submitted plan show the existing fence located on the deck to remain and a new fence within the Kananook Creek setback. Melbourne Water will permit only one fence. This fence may either be the existing fence on the deck with an extension to the property boundary for security purposes or a new fence as proposed within the setback the entire length of the property boundary. Melbourne Water will not permit both fences and therefore one must be removed.

Any new fencing including footings must not impact the bank of Kananook Creek and must be constructed as 'open style' to the satisfaction of Melbourne Water.

Landscape Plan

- G.** The existing vegetation on the site comprises of Robinia pseudoacacia, a tree species that is prone to 'suckering' and can re-seed. the landscape plan must show if these trees are to be removed or retained for the development. If they are to be retained the landscape plan must include details as to how these tree will be managed in the future to avoid suckering & seeding into the new re-vegetation.

**Carried**

For the Motion: Crs Asker, Baker, Conroy, Harvey, Hill and Liam Hughes

Against the Motion: Crs Steven Hughes and Tayler

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**11.5 Statutory Planning Progress Report - November and December 2020**  
(SC Communities)**Council Decision****Moved: Councillor Hill****Seconded: Councillor Harvey**

That Council receives the Statutory Planning Progress Reports for the months of November and December 2020.

**Carried Unanimously**

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**12. CONSIDERATION OF REPORTS OF OFFICERS****12.1 Council Resolution Status Update for 27 January 2021**

*(BA Chief Financial Office)*

**Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Receives the Notices of Motion Report for 27 January 2021;
2. Receives the Urgent Business Status Update for 27 January 2021;
3. Notes there is one Notices of Motion that have been reported as being complete:
  - 2019/NOM50 – Climate Emergency
4. Notes there is one report that will be delayed in their presentation back to Council:
  - Proposed Planning Scheme Amendment C144 – Frankston Gap Heritage Review 2020 – Include properties identified as having local heritage significance in the Heritage Overlay in the Frankston Planning Scheme
5. Notes, since the Council Meeting held on 14 December 2020, 46 resolutions have been completed, as listed in the body of the report; and
6. Resolves for Attachment D to remain confidential indefinitely as it contains information prescribed by the regulations to be confidential information and would, if prematurely released, breach the confidential provisions of the Local Government Act 2020.

**Carried Unanimously**

**Note:** Refer to Page 4 of the Minutes where this item is block resolved.

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**12.2 Update on Coronavirus (COVID-19) - 27 January 2021**

(PC Chief Executive Office)

**Council Decision****Moved: Councillor Hill****Seconded: Councillor Harvey**

That Council:

1. Notes this report outlines its response to the impacts of the Coronavirus (COVID-19);
2. Notes an update will be provided to each Council meeting for the foreseeable future during this Pandemic;
3. Approves the Waterfront Festival be moved to March 2021, and the name changed to 'Live & Local @ the Waterfront' for the 2021 year only; and
4. Reallocate activities within the Relief and Recovery Package to the value of \$134,000. Total package value remains at \$7,321,153 by approving the financial adjustments proposed in this report:
  - Extend the fee relief for sporting clubs and outdoor fitness providers by waiving summer tenancy fees and ground hire fees (for personal trainers/educators) by \$134,000. This is to be funded from the reallocation from Activity 49 Fast Business Grants (\$75,000), Activity 14 Student Scholarship (\$29,000) and Activity 30 Increased Sanitisation (\$30,000).

**Carried Unanimously**

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**12.3 Setting of Mayoral and Councillor Allowances 2020-2024**

(BA Chief Financial Office)

**Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Having given public notice of its intention to set the Mayoral and Councillor Allowances in accordance with section 223 of the Local Government Act 1989, and having not received any submissions, hereby resolves the Mayoral and Councillor Allowances for the 2020/2021 financial year, be set at the maximum levels for a Category 3 Council, as determined by the Minister for Local Government and published in the Victoria Government Gazette (currently \$31,444 for Councillors and \$100,434 for the Mayor);
2. Notes the Minister for Local Government had conducted a review under section 73B of the Local Government Act 1989 and confirmed no adjustment to allowances will be made in respect to all Councils for the 2020-2021 financial year, in line with the Victorian Premier's recent decision determining a zero percent adjustment to Victorian Public Service executive remuneration;
3. Sets the Mayoral and Councillor Allowances for the remainder of the Council term (i.e. until October 2024), at the maximum amount specified in the relevant Determination of the Victorian Independent Remuneration Tribunal or by the Minister for Local Government;
4. Notes the Mayor, Deputy Mayor and Councillors have determined to receive the entire allowance;
5. Notes the allowances will be paid monthly in advance, with the amounts being subject to any variations or adjustments made by the Victorian Independent Remuneration Tribunal during the four year Council term; and
6. Notes an amount equivalent to the superannuation guarantee contribution under Commonwealth taxation legislation (currently 9.5%) is payable in addition to the allowance amounts. This contribution, which increases in accordance with the Commonwealth taxation legislation, is to be paid into the approved fund nominated by the Mayor and each Councillor, on a quarterly in-arrears basis for the 2020/2021, 2021/2022, 2022/2023, 2023/2024 and 2024/2025 financial years.

**Carried Unanimously****Note:** Refer to Page 4 of the Minutes where this item is block resolved.

Chairperson's initials



**12.4 Appointment and Authorisation of Council Staff**

(BA Chief Financial Office)

**Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Pursuant to the provisions of Section 147 (4) of the *Planning and Environment Act 1987* and Section 313 of the *Local Government Act 2020* (Act), appoints the officers listed in the Instrument of Appointment and Authorisations; and
2. Authorises for the updated Instruments of Appointment and Authorisation to be signed and sealed.

**Carried Unanimously**

**Note:** Refer to Page 4 of the Minutes where this item is block resolved.

Chairperson's initials



**12.5 Adoption of Public Interest Disclosure Policy**

*(BA Chief Financial Office)*

**Council Decision****Moved: Councillor Hill****Seconded: Councillor Liam Hughes**

That Council:

1. Notes the Public Interest Disclosure Policy (Policy) was adopted by Council at its meeting on 31 August 2020, after being placed on public exhibition for six weeks, with no written submissions received;
2. Notes the Policy has been updated to include an option for using an external hotline service to make disclosures;
3. Notes this an administrative update to the Policy, which will not be publicly exhibited further; and
4. Adopts the updated Policy.

**Carried Unanimously**

Chairperson's initials



**12.6 Sexual Harassment Policy and Procedure**

*(FB Business Innovation and Culture)*

**Council Decision****Moved: Councillor Baker****Seconded: Councillor Tayler**

That Council:

1. Notes the Sexual Harassment Policy (Policy) and Procedure;
2. Endorses the Policy to be placed on public exhibition for a period of six (6) week;  
and
3. Seeks a report back no later than April 2021 to adopt the Policy, taking into account any submissions received.

**Carried Unanimously**

Chairperson's initials



**12.7 Draft Community Engagement Policy**  
*(EH Business Innovation and Culture)***Council Decision****Moved: Councillor Baker****Seconded: Councillor Harvey**

That Council:

1. Notes the Draft Community Engagement Policy (Policy);
2. Notes the Community Engagement Plan;
3. Endorses the Policy to be publicly exhibited for a period of 2 weeks;
4. Notes the legislative requirement for the Policy to be adopted on or before 1 March 2021;
5. Seeks a report back no later than 1 March 2021, to adopt the Policy, taking into account any submissions received; and
6. Notes a strategic community engagement framework will be brought to Council for endorsement at 28 June 2021 Council meeting.

**Carried Unanimously**

Chairperson's initials



**12.8 Legislated changes to the Emergency Management Act**

*(JS Communities)*

**Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Authorises dissolving the existing Municipal Emergency Management Planning Committee (MEMPC) established under s21(3)-(5) of the *Emergency Management Act 1986, which have been superseded;*
2. Authorises the CEO to facilitate the establishment of a new MEMPC in accordance with the provisions of s68 of the *Emergency Management Legislation Amendment Act 2018* (which inserts a new 'Part 6-Municipal Emergency Management Planning Committees' into the *Emergency Management Act 2013* on 1 December 2020); and
3. Notes, under the MEMPC Terms of Reference provided and the *Emergency Management Legislation Amendment Act 2018* (which inserts s59 and 59F into the *Emergency Management Act 2013* on 1 December 2020), it is Council's role to establish the Committee. Once established, the Committee exists separately to Council and is not a committee of Council.

**Carried Unanimously**

**Note:** Refer to Page 4 of the Minutes where this item is block resolved.

Chairperson's initials



**12.9 Authorisation of Use of Council Seal for Years of Service Certificates**

*(FB Business Innovation and Culture)*

**Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council approves the Common Seal to be affixed for all years of service certificates from this date onwards, for Council employees who achieve the service milestone of 25 years or more.

**Carried Unanimously**

**Note:** Refer to Page 4 of the Minutes where this item is block resolved.

Chairperson's initials



**12.102020-2021 Mid-Year Budget Review***(SW Chief Financial Office)***Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Endorses the proposed amendments to the 2020-2021 Adopted Budget resulting in a cash deficit of \$641,000;
2. Endorses the allocation of funding for Councillor referred items;
  - Nat's Track \$87,000; and
  - Urban Forest Action Plan \$60,000
3. Endorses the funding of the cash deficit as follows;
  - \$358,000 contingency savings to be found across the capital works program in the remainder of the financial year;
  - \$283,000 funded from reallocations within the Relief and Recovery Package activities as follows;
    - a) Activity 3 Penalty interest freeze on overdue rates increase of \$140,000 funded from Activity 1 Residential rates relief waiver; and
    - b) Activity 49 Expansion of invest Frankston Business Grant funding pool reduced by \$143,000 and applied to fund lease and rental waivers (Activities 55, 54, and 43) valued at \$124,000 and \$19,000 returned to be reallocated across other activities requiring funding.
4. Notes the key dates for the 2021-2022 Annual Budget process.

**Carried**

For the Motion: Crs Asker, Baker, Conroy, Harvey and Hill

Against the Motion: Crs Liam Hughes, Steven Hughes and Tayler



**12.11 Outcomes of the Audit and Risk Committee meeting**

*(SW Chief Financial Office)*

**Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Receives the unconfirmed minutes of the Audit and Risk Committee meeting held on 4 December 2020; and
2. Resolves the attachment remains confidential indefinitely as it contains details of existing audits and other information and would, if prematurely released, impact the status of the audits and release information that is considered confidential.

**Carried Unanimously****Note:** Refer to Page 4 of the Minutes where this item is block resolved.

Chairperson's initials



**12.12 Audit and Risk Committee – Chairperson's second half-yearly report to Council in 2020**

*(KJ Chief Financial Office)*

**Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Acknowledges the work undertaken by the Audit and Risk Committee over the second six months of 2020, and the contribution it has made to the proper functioning of the Council and Management; and
2. Resolves the attachment remains confidential indefinitely as it contains details of existing audits and other information and would, if prematurely released, impact the status of the audits and release information that is considered confidential.

**Carried Unanimously****Note:** Refer to Page 4 of the Minutes where this item is block resolved.

Chairperson's initials



**12.13 Appointment of Independent Member to the Audit and Risk Committee**

*(SW Chief Financial Office)*

**Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Appoints Mr Michael Ulbrick to the Audit and Risk Committee for a three (3) year term, expiring on 30 December 2023; and
2. Resolves the attachment remains confidential indefinitely as it contains personal information and would, if prematurely released, be a breach of Privacy Laws.

**Carried Unanimously****Note:** Refer to Page 4 of the Minutes where this item is block resolved.

Chairperson's initials



**12.14 Appointment of Directors to the Board of Peninsula Leisure Pty Ltd**

*(KJ Chief Financial Office)*

**Council Decision****Moved: Councillor Hill****Seconded: Councillor Baker**

That Council:

1. Acknowledges the advertisement and interview process conducted for the expression of interest of Non-Executive Directors to the Board of Peninsula Leisure Pty Ltd (PL);
2. Appoints Ms Julie Busch as a Non-Executive Director and Chair of Peninsula Pty Ltd for a period of three years, with the appointment expiring on 31 January 2024;
3. Appoints Ms Marlene Elliott as a Non-Executive Director of Peninsula Pty Ltd for a period of three years, with the appointment expiring on 31 January 2024.
4. Resolves to conclude Mr Phil Cantillon's role as Interim Director and Chair of PL;
5. Resolves to transition Mrs Kim Jaensch's role from Interim Director to Non-Executive Director until such time as a matrix of the skill sets of the Board members is conducted to determine whether there is a notable skill gap. Council can then determine whether to continue with the current board or seek to move to appointing a fifth Director with the required skill-set;
6. Authorises a media release announcing the appointments of the two successful applicants.

**Carried**

For the Motion: Crs Asker, Baker, Conroy, Harvey, Hill and Tayler

Against the Motion: Crs Liam Hughes and Steven Hughes

Chairperson's initials

**12.15 St Kilda Football Club Proposal for the Belvedere Precinct (Formerly Linen House)**

*(TB Communities)*

**Council Decision****Moved: Councillor Hill****Seconded: Councillor Asker**

That Council:

1. Notes the proposal submitted for the Belvedere Precinct by St Kilda Football Club (SKFC);
2. Notes the positive engagement and collaborative discussions that have been taking place between SKFC and Council in order to repurpose the Belvedere Precinct to best serve the needs of the Frankston community in the years ahead;
3. Supports in-principle the SKFC proposal for the broader Belvedere Precinct, and approves further detailed exploration to take place into the development of an appropriate governance and operational management model;
4. Resolves for officers to work with the Councillor delegates, SKFC and Belvedere Community Centre to negotiate an appropriate Lease / License / Service Level Agreement (Community Covenant) with detailed operational KPI's, governance and reporting procedures and a range of further contractual safeguards to protect the interests of Council. These agreements are to be inclusive of the following requirements:
  - Use of the site must provide community benefit under the broad umbrella of sport, health and well-being, including the provision of specific benefit targeted towards Frankston's vulnerable groups
  - Council is to retain significant influence over any current or future sub-tenanting and hire arrangements to ensure that future users and uses continue to deliver on Council's interests and vision for the site
  - A community covenant must be developed to set out the enduring obligations and accountabilities for the use of the site
  - Council has the right to terminate any agreement with SKFC if performance measures are not met
  - Council must approve the fees for the sub-tenants and the fees framework that is applied to the hire arrangements of future users, to ensure the venue is affordable for local community and sporting groups
  - Governance processes and associated decision-making must be transparent with regular reporting to Council and the establishment of a governance structure/steering group to protect and deliver on the community covenant;
  - Naming rights and branding for the site must be agreed to by Council.
  - Ongoing local sports club access to the oval, associated change facilities and car parking is to be supported and prioritised in consultation with Council to ensure equitable access;
5. Notes that a further report is anticipated to be presented to Council no later than September 2021, outlining the detailed proposal and contractual arrangements for final approval / decision;
6. Approves an architect to be appointed to progress designs for the site and the associated overflow car park as sufficient detail becomes known regarding the anticipated uses of the facility; and
7. Resolves the attachments to this report to be retained confidential, pursuant to section 3(1) of the Local Government Act 2020, on the grounds that it contains Council business information, being information that would prejudice the Council's

Chairperson's initials



position in commercial negotiations if prematurely released.

Carried

For the Motion: Crs Asker, Baker, Conroy, Harvey and Hill

Against the Motion: Crs Liam Hughes, Steven Hughes and Tayler

Chairperson's initials



**12.16 Debrief of Council Meetings**

(BA Chief Financial Office)

**Council Decision****Moved: Councillor Tayler****Seconded: Councillor Harvey**

That Council:

1. Resolves for the assessments of Council Meetings to occur after each Council Meeting, at an informal meeting of Councillors;
2. Notes this change will come into effect from this Council Meeting;
3. Continues to make assessments based on the following eight (8) pillars identified in the Framework for Good Governance Commission of Inquiry into Greater Geelong City Council:
  - Direction and Leadership
  - Culture and Behaviour
  - Structure, Systems and Policies
  - Decision making
  - Communication and community engagement
  - Capability
  - Risk and Compliance; and
  - Monitoring and Review
4. Confirms the Good Governance Debrief Notes made at the Council Meeting held on 14 December 2020;
5. Resolves for the attachment to be confidential indefinitely, as it contains personal information, and would, if prematurely released, impact the reputation of Councillors and Council; and
6. Approves for the Good Governance Debrief Notes to be included as part of the CEO Confidential Quarterly Report going forward.

**Carried Unanimously**

Chairperson's initials

**13. RESPONSE TO NOTICES OF MOTION**

Nil

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Handwritten initials in blue ink, appearing to be 'D' or similar, with a flourish underneath.

**14. NOTICES OF MOTION****14.1 2021/NOM1 - Call for Relocation of Government Offices to Frankston City**

*(KT Business Innovation and Culture)*

**Council Decision****Moved: Councillor Hill****Seconded: Councillor Harvey**

Given the changing workplace landscape as a result of COVID pandemic, Council is to write to the State member for Frankston, Mr Paul Edbrooke MP, the Federal member for Dunkley, Ms Peta Murphy MP, and Senator David Van, Liberal Patron for Dunkley, a representative of the Federal Government, to discuss and express a strong in seeing government departments, or government offices, relocate/decentralise to Frankston to promote local growth and jobs.

**Carried Unanimously**

**15. LATE REPORTS**

Nil.

**16. URGENT BUSINESS**

Nil.

Chairperson's initials

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**17. CONFIDENTIAL ITEMS****Council Decision****Moved: Councillor Hill****Seconded: Councillor Harvey**

That the Council Meeting be closed to the public to discuss the following Agenda items and all documents associated with the consideration and discussion of it, that are designated confidential information by me, pursuant to Section 3(1) of the Local Government Act 2020 (the Act) on the following grounds:

**C.1 Chief Executive Officer's Quarterly Report - October - December 2020 period**

This document and all relevant attachments have been designated by me, the Chief Executive Officer, as confidential information under Section 3(1) of the Local Government Act 2020:

- on the grounds that it contains personal and legal privileged information, being information which if released, would result in the unreasonable disclosure of information about any person or their personal affairs, or information which legal professional privilege or client legal privilege applies; and
- these grounds apply because the information that is detailed within the quarterly report contains matters would, if prematurely released, result in reputational or financial implications for Council

**Carried Unanimously**

*The meeting was closed to the public at 9.00 pm*

**CONFIRMED THIS**

15th

**DAY OF**

February

**2021**



.....  
**CHAIRPERSON**

**AUTHORITY TO STAMP INITIALS ON MINUTES**

I, Cr. Nathan Conroy, Chairperson – Council Meeting hereby authorise the use of an electronic stamp of my initials to initial each page of these Minutes of the Council Meeting held on Wednesday 27 January 2021, confirmed on 15 February 2021.



.....  
(Cr. Nathan Conroy, Chairperson – Council Meeting)

Dated this

16th

day of

February

2021

Chairperson's initials

