



**MINUTES OF COUNCIL MEETING OF THE FRANKSTON CITY COUNCIL
HELD IN THE CIVIC CENTRE, DAVEY STREET, FRANKSTON
ON 30 AUGUST 2021 at 7.01PM**

PRESENT	Cr. Kris Bolam (Mayor) Cr. Nathan Conroy (Deputy Mayor) Cr. David Asker (via Zoom) Cr. Sue Baker (via Zoom) Cr. Claire Harvey (via Zoom) Cr. Brad Hill (via Zoom) Cr. Liam Hughes (via Zoom) Cr. Steven Hughes (via Zoom) Cr. Suzette Tayler (via Zoom)
APOLOGIES:	Nil.
ABSENT:	Nil.
OFFICERS:	Mr. Phil Cantillon, Chief Executive Officer Ms. Kim Jaensch, Chief Financial Officer (via Zoom) Dr. Gillian Kay, Director Communities (via Zoom) Mr. Cam Arullanantham, Director Infrastructure and Operations (via Zoom) Ms. Shweta Babbar, Director Business Innovation and Culture (via Zoom) Ms. Brianna Alcock, Manager Governance and Information Mr. Sam Clements, Manager Statutory Planning (via Zoom) Mr. Byron Douglas, Coordinator Recreation (via Zoom) Ms. Simone Bonella, Senior Recreation Planner (via Zoom) Ms. Vera Roberts, Coordinator Governance Mr. Josh Lacey, Supervising Technician Mr. Jeremy O'Rourke, Supervising Technician Mr. Ric Rais, Desktop Support Officer
EXTERNAL REPRESENTATIVES:	

COUNCILLOR STATEMENT

Councillor Conroy 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.*

Chairperson's initials

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 Mayor, Councillor Conroy read the Opening Prayer.

ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

Councillor Conroy 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.

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1. PRESENTATION TO COMMUNITY GROUPS**1.1 Certificate of Appreciation to the cafes of Frankston**

An appreciation award was presented by Cr Sue Baker to all the cafes across the municipality acknowledging these small business at the heart of our community.

2. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Council Meeting No. CM14 held on 23 August 2021.

Council Decision

Moved: Councillor Tayler

Seconded: Councillor Hill

That the minutes of the Council Meeting No. CM14 held on 23 August 2021 copies of which had previously been circulated to all Councillors, be confirmed, approved and adopted.

Carried Unanimously

3. APOLOGIES

Nil

4. DISCLOSURES OF INTEREST AND DECLARATIONS OF CONFLICT OF INTEREST

Nil.

5. PUBLIC QUESTION TIME

Nil.

6. HEARING OF PUBLIC SUBMISSIONS

Mr Marcus Lough made a submission to Council regarding Item 11.1: Planning Application 182/2020/P - Staged Subdivision of the land into 44 Lots at 86-88 Stotts Lane Frankston South;

Ms Tracey Bugeja made a submission to Council regarding Item 11.1: Planning Application 182/2020/P - Staged Subdivision of the land into 44 Lots at 86-88 Stotts Lane Frankston South;

Ms Carolynne Wilson made a submission to Council regarding Item 12.12: Frankston Coast Guard Accommodation and Boat Storage Update;

Cr Liam Hughes left the meeting at 7.34pm

Cr Liam Hughes returned to the meeting at 7.36pm

Mr John Maudsley made a submission to Council regarding Item 12.12: Frankston Coast Guard Accommodation and Boat Storage Update;

Mr Robert Thurley made a submission to Council regarding Item 12.12: Frankston Coast Guard Accommodation and Boat Storage Update;

Cr Tayler left the meeting at 7.55pm

Cr Tayler returned to the meeting at 7.56pm

Ms Louise Rawlings made a submission to Council regarding Item 12.12: Frankston Coast Guard Accommodation and Boat Storage Update;

Mr Luke Chamberlain made a submission to Council regarding Item 11.1: Planning Application 182/2020/P - Staged Subdivision of the land into 44 Lots at 86-88 Stotts Lane Frankston South.

7. ITEMS BROUGHT FORWARD

Items Brought Forward

Council Decision

Moved: Councillor Conroy

Seconded: Councillor Tayler

That:

- Item 11.1: Planning Application 182/2020/P - Staged Subdivision of the land into 44 Lots at 86-88 Stotts Lane Frankston South; and
- Item 12.12: Frankston Coast Guard Accommodation and Boat Storage Update be brought forward.

Carried Unanimously

11.1 Planning Application 182/2020/P - Staged Subdivision of the land into 44 Lots at 86-88 Stotts Lane Frankston South

(SC Communities)

Cr L Hughes left the meeting at 8.15pm

Cr L Hughes returned to the meeting at 8.16pm

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

That Council resolves to issue a Notice of Decision to Grant a Planning Permit in respect to Planning Application number 182/2020/P to Subdivide the land into a maximum of Forty Four (44) residential lots (staged subdivision) in a General Residential Zone (GRZ) at Lot 1 PS347248B, 86-88 Stotts Lane, Frankston South subject to the following conditions:

Amended Plans

1. Before the Plan of Subdivision is certified under the Subdivision Act 1988, 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 and provided with dimensions. The plans must be substantially in accordance with the revised subdivision concept plan titled 'Subdivision Layout Plan – August 2021 Project/Drawing No. 319/0782-U-01 DR02 Rev 3 dated 12.08.2021 by Tract' but modified to show/include:
 - a) Street naming – with Manor Drive naming not continuing beyond its incursion into the subdivision to avoid duplication at the intersection between the subdivision access road and Stotts Lane.
 - b) The court bowl terminus to Kensington Avenue reduced in size to a maximum diameter of 8 metres.
 - c) Building and driveway envelopes for all lots in the subdivision plan.
 - d) An amended Bushfire Management Statement and Plan in accordance with condition 4.
 - e) A functional layout plan(s) in accordance with condition 5.
 - f) A detailed drainage and pavement design in accordance with Condition 21.
 - g) Reserve Management Plans for each reserve as required by Condition 41.
 - h) A Construction Environmental Management Plan as required by Condition 30.

No Alterations or Changes

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

Staging

3. The subdivision may be staged in accordance with the endorsed staging plan. Where the road in any stage terminates in the absence of any vehicle turning facility proximate to the end of the road the Responsible Authority may require the construction and maintenance of a temporary turning facility at the owner's cost, all to the satisfaction of the Responsible Authority in accordance with a design approved in writing by the Responsible Authority prior to construction occurring.

Amended Bushfire Management Statement (inclusive of Bushfire Management Plan)

4. Before the Plan of Subdivision is certified under the Subdivision Act 1988, an amended Bushfire Management Statement reflecting the changes to the development required by this Permit to the satisfaction of the Responsible Authority in consultation with Fire Protection Victoria must be submitted to and approved by the Responsible Authority. The Bushfire Management Statement should remove the main reserve from the jurisdiction of the Bushfire Management Plan with management of the reserve for bushfire protection to be undertaken in accordance with the Natural Reserves Bushfire Management Plan (2013) by Terramatrix as implemented by the Council.

Functional Layout Plan

5. Before the Plan of Subdivision is certified under the Subdivision Act 1988, a functional layout plan must be provided to the satisfaction of, and be approved by the Responsible Authority. The plan must show:
 - a) A concept layout and treatment for the intersection of the subdivision access road and Stotts Lane which must include signage, kerb and channel and associated pavement widening to accommodate parking as appropriate, right turn slots and deceleration lanes in accordance with condition 17 of this permit.
 - b) Internal road reserve and pavement widths;
 - c) Provision of footpaths, including connection to Stotts Lane;
 - d) A pram crossing across Stotts Lane, north of the proposed intersection;
 - e) Vehicle crossovers, intersection and traffic management treatments including raised pavement treatment and splitter islands as appropriate and utilizing the same kerb and channel and rock paved road entry treatments as the adjoining Tahnee Lodge estate.

Prior to Statement of Compliance

6. A Statement of Compliance will not be issued until the owner of the site enters into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority which addresses the following matters:
 - a) No building must be constructed outside of a building envelope, within a building exclusion area, or an area of defensible space as shown on the endorsed plan except with the further written consent of the Responsible Authority.
 - b) No driveway must be constructed outside of a driveway envelope as shown on the endorsed plan except with the further written consent of the Responsible Authority.
 - c) Vegetation shown on the endorsed plan as to be retained must not be removed, pruned or damaged except with the written consent of the Responsible Authority.
 - d) No cats shall be kept or allowed on the land unless retained within a building or fully enclosed run.

The applicant must cover all costs relating to the preparation and registration of the Agreement (including costs incurred by the Responsible Authority).

The Section 173 Agreement must be registered in accordance with the provisions of Section 181 of the Planning and Environment Act 1987.

Telecommunications Requirements

7. The owner of the land must enter into an agreement with:
 - a) 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
 - b) 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.
8. 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) 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
 - b) 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.

Department of Environment Land Water and Planning

9. Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.
10. A Land management plan for the area of open space in the north western corner, prepared to the satisfaction of the responsible authority, must be submitted to and approved by the Responsible Authority.
11. Before any native vegetation is removed, a Construction Environmental Management Plan (CEMP) prepared to the satisfaction of the responsible authority, must be submitted to and approved by the responsible authority. When approved, the CEMP will be endorsed and form part of this permit. The CEMP must include (but not limited to) the following:
 - a. The location and area of all native vegetation present, including scattered trees, that are permitted to be removed and to be retained under this permit (including trees deemed to be lost but must be retained).
 - b. Detailed description of the measures to be implemented to protect the native vegetation to be retained during construction works, and the person/s responsible for implementation and compliance. These measures must include the erection of a native vegetation protection fence around all native vegetation to be retained on site, to the satisfaction of the responsible authority, including the tree protection zones of all native trees to be retained. All tree protection zones must comply with AS 4970-2009 Protection of Trees on Development Sites, to the satisfaction of the responsible authority.

12. *Prior to the commencement of any development or works the Native Vegetation Removal Report submitted with the application for permit must be revised to reflect the changes to the extent of native vegetation removal resulting from the amendments to the development required by this Permit in accordance with Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) to the satisfaction of the Responsible Authority and an offset for the removal of permitted clearing secured.*

The offset as calculated by the report must be secured and must be located within the Port Phillip and Westernport Catchment Management boundary or Frankston municipal area.

13. Before the issue of the Statement of Compliance, evidence that the required offset by this permit has been secured must be provided to the satisfaction of the responsible authority. This evidence must be one or both of the following:
- 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
 - 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.

14. Where the offset includes a first party offset(s), the permit holder must provide an 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 a statutory authority.
15. Within 6 months of the conclusion of the permitted clearing of native vegetation under this permit, the offset requirements can be reconciled with the written agreement of the responsible authority and the Department of Environment, Land, Water and Planning.
16. A suitably qualified wildlife handler or zoologist is to be present when felling trees/removing native vegetation, to ensure affected wildlife is not harmed. If displaced wildlife that cannot be relocated on site to an appropriate location away from the construction footprint, or injured wildlife is captured, please contact DELWP on 136 186 for further advice.

(amendments made to DELWP conditions by the Responsible authority are in italics)

Engineering Requirements

17. Prior to commencement of works or the plan of subdivision being certified a detailed design plan for the intersection of the subdivision road and Stotts Lane must be submitted to and approved by the Responsible Authority. The plan must:
- meet appropriate engineering design standards to the satisfaction of the Responsible Authority;
 - minimise the removal of native vegetation;
 - show and respond to the access to the existing childcare centre on the western side of Stotts Lane; and
 - have due regard for the design of Council's Project 1695 – Shared Pathway on Stotts Lane for the western side of Stotts Lane, including provision of a concrete pram crossing and path connecting the footpath in Manor Drive to the proposed shared pathway on the northern side of the intersection

Works to construct intersection and related treatments must be undertaken at the cost of the owner and prior to the issuance of a Statement of Compliance.

18. Prior to the issue of a Statement of Compliance a court bowl must be constructed within the land at the owner's expense at the end of Kensington Avenue to provide a turning facility for vehicles and with a footpath linking this to the footpath in Manor Drive all to the satisfaction of the Responsible Authority.
19. Prior to the issue of a Statement of Compliance the link between Colbert Court and the subdivision road must be landscaped with a pedestrian path constructed kerb to kerb and lighting as appropriate to the satisfaction of the Responsible Authority.
20. Prior to the issue of a Statement of Compliance a pedestrian path must be constructed within the Edinburgh Court road reserve to link the path required within the main reserve in the subdivision to the kerb of the existing court bowl to the satisfaction of the Responsible Authority.
21. Prior to Certification of the plan of Subdivision, a detailed Drainage and Pavement design of the internal stormwater drainage system including drainage computations and the method of connection to the existing Melbourne Water Council drainage infrastructure are to be submitted to the satisfaction of and be approved by the Responsible Authority.
22. Prior to the issue of a Statement of Compliance the drainage reserve at the south-eastern corner of the land must be formed to provide for the overland flow of stormwater with connection to the piped drain at the rear of 33 Colbert Court and the reserve must be landscaped all in accordance with plans and specifications approved by the Responsible Authority.
22. During construction no polluted and/or sediment laden runoff is to be discharged from the site directly or indirectly into Frankston City Council drains or watercourses to the satisfaction of the Responsible Authority.
23. 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; and
 - 45% retention of typical annual load of total nitrogen

Water quality works within the subdivision must be provided to achieve compliance with the above best practice standards to the satisfaction of the Responsible Authority.

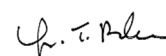
24. Each lot shown on the endorsed plans must be provided with a stormwater legal point of discharge to the satisfaction of the Responsible Authority.
25. Prior to the issue of a Statement of Compliance, roadworks, drainage and associated works must be provided and constructed at the expense of the developer in accordance with plans and specifications approved by Council. The plans and specifications must include as appropriate details of:
 - (a) Detailed road and drainage design generally in accordance with endorsed plans;
 - (b) Road Pavement Design/Makeup
 - (c) Drainage System Design/Layout and 100 year flow paths to be accommodated
 - (d) Service Conduit Plan

- (e) Permanent Survey Marks / Numbered / Levelled.
 - (f) Traffic Management / Calming devices / Signage / Line marking / Metcon Marking / Signing
 - (g) Kerb and Channel
 - (h) Construction of vehicle crossings for each lot at locations satisfactory to Council
 - (i) Footpaths
 - (j) Cycle/Pedestrian Paths signage as necessary.
 - (k) Street Signs
 - (l) Street Tree Planting
 - (m) Fencing of Municipal and Tree Reserves
 - (n) Filling of land/Placement/Material
 - (o) Street Lighting including at Stotts Lane intersection as required
 - (p) Environmental Site Management Plan
 - (q) Amenity Control during Construction
26. Prior to the issue of a Statement of Compliance for the subdivision;
- (a) as-constructed plans detailing all Water Sensitive Urban Design (WSUD) treatment measures must be provided to the satisfaction of the Responsible Authority; and
 - (b) a maintenance schedule and program must be submitted to the Responsible Authority for approval. The developer must maintain the WSUD treatment measures in accordance with the approved schedule and program; and
 - (c) the end of maintenance for the WSUD measures will be 12 months for all Civil/Hard Edge WSUD and 24 months for all Landscape/Soft Edge WSUD to the satisfaction of the Responsible Authority.
27. Prior to the issue of a Statement of Compliance “as constructed” drawings and data must be submitted to the satisfaction of the Responsible Authority in the following format. Engineering drawings/data in “MapInfo Native or MIF/MID” and pdf digital format. As constructed digital data of the drainage information component of the subdivision, in accordance with the current version of D-SPEC* As constructed digital data of the road information component of the subdivision, in accordance with the current version of R-SPEC*.
28. Water Sensitive Urban Design installations must incorporate planting with appropriate indigenous plant species to reduce nutrients and pollution in run-off entering the environment

Construction Environmental Management Plan

- 30 Prior to the certification of the plan of subdivision and/or commencement of works (including native vegetation removal) a Construction Environmental Management Plan must be submitted to and be approved by the Responsible Authority. When approved the information will be endorsed and then form part of the permit. Any plans submitted as part of 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) Identification of possible risks throughout the construction process and response measures/ procedures to be implemented to ensure that no significant adverse environmental impacts occur, including by not limited to:

Chairperson's initials



- i. Erosion control during and post-construction.
 - ii. Sediment run-off control.
 - iii. Vegetation protection.
 - iv. Identification and presence of significance bird species prior to and during construction.
 - v. Minimising weed and pathogen spread.
 - vi. Construction equipment access to the site and storage locations.
 - vii. Access arrangements for construction vehicles, which must be directly to/from Stotts Lane and travel via a route to Golf Links Road only, unless with the written consent of the Responsible Authority
- b) Details on who will implement and oversee the on-ground environmental management.
31. 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.

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

No additional tree removal

32. Except with the further written consent of the Responsible Authority, no vegetation (other than that indicated on the endorsed plan, or exempt from planning permission under the provisions of the Frankston Planning Scheme) shall be damaged, removed, destroyed or lopped.

Tree Pruning

33. All pruning of trees identified on the endorsed plans to be retained is to be carried out by a qualified and experienced arborist who has a thorough knowledge of tree physiology and pruning methods. Pruning must be carried out in accordance with Australian Standard AS4373- 2007 Pruning of Amenity Trees.
34. Any pruning or removal of tree limbs, particularly hollow-baring tree limbs, must be to the minimum extent necessary.
35. Any root pruning of the root system of any tree to be retained is to be undertaken by hand by a qualified arborist and to the satisfaction of the Responsible Authority.

Tree and Vegetation Protection

36. Prior to the commencement of works (including native vegetation removal) hereby permitted Tree Protection Fencing defined by a 1.8 metre high temporary fence constructed using steel or timber posts fixed in the ground or to a concrete pad, with the fence's side 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 in locations for the protection of all trees and vegetation to be retained 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 – No entry without permission from the City of Frankston".

Unless approved by Council in an endorsed or approved plan, the below requirements must be observed within all Tree Protection Fences.

- (a) no vehicular or pedestrian access;
 - (b) the existing soil level must not be altered either by fill excavation;
 - (c) the soil must not be compacted or the soil's drainage changed;
 - (d) no fuels, oils, chemicals, poisons, rubbish and other materials harmful to trees are to be stored or dispersed;
 - (e) no storage of equipment, machinery or material is to occur;
 - (f) 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;
 - (g) Nothing whatsoever, including temporary services wires, nails, screws or any other fixing device, is to be attached to any tree;
 - (h) no building or any other structure is to be erected;
 - (i) tree roots must not be severed or injured; and
 - (j) machinery must not be used to remove any existing concrete, bricks or other materials; Any works undertaken within the bounds of the Tree Protection Fencing must accord with the management techniques, recommendations or the like contained within any endorsed or approved plan.
37. Vegetation removal and disposal must not damage vegetation or trees to be retained and to drainage lines and/or water courses to the satisfaction of the Responsible Authority. Removal of Vegetation within all Tree Protection Zones as approved by this permit must be undertaken under the supervision of a suitably qualified arborist, to the satisfaction of the Responsible Authority.
38. Within three (3) months of the felling of trees and removal of vegetation approved under this permit, all tree and vegetation materials not required to be maintained within a reserve for ecological habitat shall be mulched or removed from the site to the satisfaction of the Responsible Authority.
39. Root sensitive permeable paving such as 'on-ground' or 'no-dig' paving (or similar) are to be used where any part of the proposed paving including roads and footpaths comes within the tree protection zone of any tree to be retained, unless with the further written consent of the Responsible Authority.

Reserves: Landscape and Management Plans

41. Before the commencement of works (including native vegetation removal) or the Plan of Subdivision is certified under the Subdivision Act 1988, a Reserve Landscape and Management Plan for each reserve prepared to the satisfaction of the Responsible Authority by a suitably qualified landscape designer/drainage engineer/ecologist as appropriate 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) Overall environmental, drainage and recreational objectives for the reserve as relevant with a focus of conserving and enhancing its ecological values and the management actions required for their achievement.
 - (b) A survey (including botanical names) of all existing vegetation to be retained and/or removed and any arboricultural recommendations such as pruning works required to be undertaken including provision for asset protection from bushfire for adjoining residential properties and retention

of existing trees as roosting sites for the Powerful Owl albeit not being of indigenous species as appropriate.

- (c) Details of surface finishes of pathways.
 - (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 where bushland regeneration is appropriate.
 - (e) Details of weed removal activities, including weed targets, methods and timing for control.
 - (f) A planting theme of 100% indigenous species (Heathy Woodland EVC - 48) unless otherwise agreed by the Responsible Authority.
 - (g) Retention of suitable felled trees from the land within the main reserve for habitat value.
 - (h) Fencing and path specifications and locations.
 - (i) Sign design and locations.
 - (j) Furniture specifications and locations.
 - (k) Three year management schedule, timing and costings of all works.
 - (l) Bushfire protection management having regard to the requirements of Condition 6.
 - (l) Timing of handover of the reserve to Council.
42. Prior to issuance of a Statement of Compliance, all Reserve management landscaping works, including fencing, signage, path construction, furniture construction, weed removal, plantings and associated works must be completed to the satisfaction of the Responsible Authority and constructed at the expense of the developer in accordance with plans and specifications approved by the Responsible Authority.
43. Unless otherwise agreed in writing by the Responsible Authority, soft landscaping within the Reserves will be maintained at no cost to the Responsible Authority for a period of three years following the date of issue of the Certificate of Practical Completion.
44. Before the commencement of the works (including native vegetation removal), a quote, which is prepared by a suitably qualified person or firm, must be submitted to and approved by the Responsible Authority. The quote must provide details of the costs to maintain the approved Reserve Management and Landscape Plans on the subject site for a three year period, in accordance with the approved landscape plans. Once approved, 150% of the cost quoted must be paid by the developer to Frankston City Council as a maintenance bond prior to the issue of a Statement of Compliance for the final stage of the subdivision.

At the end of the three year maintenance period for the Reserves, the Developer must contact the Responsible Authority to organise an inspection of the Reserves.

If the Responsible Authority is satisfied that all of the conditions of the Reserve Management and Landscape Plans have been met, the maintenance bond(s) originally paid will be refunded to the developer.

Fire Rescue Victoria

45. Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987. The agreement must:

- a) State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Frankston 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.

The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.

46. Before certification, an amended Bushfire Management Plan must be prepared in accordance with the requirements of this Permit inclusive of Condition 6 to the satisfaction of the Responsible Authority in consultation with the CFA then submitted to and endorsed by the Responsible Authority. When endorsed the plan must not be altered without the written consent of CFA and the Responsible Authority. The Bushfire Management Plan must show the following bushfire mitigation measures:

Defendable space

- a) All residential lots must be managed as defendable space 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 3m 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.
 - Trees must not overhang or touch any elements of the building.
 - The canopy of trees 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.

Construction standards

- b) Any dwelling constructed on lots 1001, 1013-1022 (inclusive), 2001, 2022 & 2023 must be a Bushfire Attack Level of 19 (BAL-19) or greater. All other lots in the subdivision must be a Bushfire Attack Level of 12.5 (BAL-12.5) or greater.

Water supply

- d) 5,000 litres of effective water supply for fire fighting purposes must be provided on all residential lots which meets the following requirements:
 - It must be stored in an above ground water tank constructed of concrete or metal.

- All fixed above-ground water pipes and fittings required for fire fighting purposes must be made of corrosive resistant metal.

Building envelopes

- e) No buildings shall be constructed within areas of Defendable Space as shown on 'Subdivision Layout Plan – August 2021 Project/Drawing No. 319/0782-U-01 DR02 Rev 03 dated 12.08.2021 by Tract'.

Initial implementation of defendable space

47. Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 the defendable space requirements on the endorsed Bushfire Management Plan must be implemented or an alternative arrangement to the satisfaction of CFA.

Fire hydrants

48. Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 above or below ground operable hydrants must be provided.

The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.

The hydrants must be identified with marker posts, white road triangles and blue road reflectors as applicable to the satisfaction of CFA.

Roads

49. Prior to the issue of a Statement of Compliance under the Subdivision Act 1988, roads must be constructed to the satisfaction of CFA.

The layout of the roads must be generally in accordance with what is shown on the endorsed Bushfire Management Plan.

Roads must be accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.

Roads must 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.

Melbourne Water

50. Prior to the issue of a Statement of Compliance, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
51. Prior to a Statement of Compliance, a drainage strategy for the development must be submitted to Melbourne Water demonstrating the proposed alignment for the 20% AEP flows and drainage infrastructure and the overland flow paths directions for the 1% AEP flood event, to the satisfaction of Melbourne Water.
52. Prior to the issue of a Statement of Compliance, Council approved drainage plans of the subdivision (in electronic format) are to be forwarded to Melbourne Water for our records.
53. Any road or access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria either as outlined in Melbourne Water's Land Development Manual, or where appropriate to Council's requirements and standards.

54. All new lots must be filled 600mm above the 1% AEP flood level for a new or existing Melbourne Water waterway and/or 300mm above a 1% AEP flow path associated with Melbourne Water's drainage system.
55. Prior to a Statement of Compliance, a Certified Survey Plan is to be submitted for approval after the completion of filling, verifying that the specified fill levels have been achieved.
56. Prior to the commencement of works, a separate application direct to Melbourne Water's Asset Services team must be made for formal approval, must be made before any new or modified connection is made to a Melbourne Water asset.
57. Stormwater runoff from the subdivision must achieve State Environment Protection Policy (Waters of Victoria) objectives for environmental management of stormwater as set out in the 'Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) 1999'.
58. Prior to a Statement of Compliance, a Site Management Plan detailing pollution and sediment control measures, must be submitted to Melbourne Water for our review and records.
59. The Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.

South East Water

60. The owner of the subject land must enter into an agreement with South East Water for the provision of drinking water supply and fulfil all requirements to its satisfaction.
 61. The owner of the subject land must enter into an agreement with South East Water for the provision of sewerage and fulfil all requirements to its satisfaction.
 62. Prior to certification, the Plan of Subdivision must be referred to South East Water, in accordance with Section 8 of the Subdivision Act 1988.
 63. The Plan of Subdivision must be accompanied by an Owners Corporation Schedule. All lots shown on the Plan of Subdivision must be included in the Owners Corporation Schedule.
- Or,
- the owner of the subject land can enter into an agreement with South East Water for the provision of separate services to each individual lot.
64. The certified Plan of Subdivision will need to show sewerage and water supply easements over all existing and/or proposed South East Water sewer and water mains located within the land, to be in favour of South East Water Corporation pursuant to Section 12(1) of the Subdivision Act.

United Energy

65. The plan of subdivision submitted for certification must be referred to United Energy Distribution Pty Ltd in accordance with Section 8 of the subdivision Act 1988.
66. The applicant must –
 - Enter into an agreement with United Energy Distribution Pty Ltd for the extension, upgrading or rearrangement of the electricity supply to lots on the plan of subdivision. A payment to cover the cost of such work will be required.

- Provide electricity easements internal and external to the subdivision in favour of United Energy Distribution Pty Ltd to service the lots on the plan of subdivision and/or abutting lands as required by United Energy Distribution Pty Ltd. The provision of reserves for electricity substations may also be required.

Utility Requirements

67. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
68. 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.
69. 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.

Permit Expiry

70. This permit will expire if:
- a. The subdivision is not certified within two (2) years of the date of this permit; or
 - b. The subdivision is not registered within five (5) years of the date of certification.

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.

Permit Notes

A. Asset Protection Permit

Prior to the commencement of construction the operator of this planning permit must obtain a non-refundable Asset Protection Permit from Council's Engineering Services Department.

B. Extension of Time

Section 69 of the Planning and Environment Act 1987 provides that before the permit expires or within 6 months afterwards, the owner or occupier of the land to which the permit applies may ask the responsible authority for an extension of time. Please note, 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.

Any request for time extension of this Permit shall be lodged with the relevant administration fee.

C. Variation to Planning Permit

Any request for a variation of this Permit shall be lodged with the relevant fee as determined under the Planning & Environment (Fees) Regulations 2016.

D. Street Addressing

Street addresses are allocated by Council. It is a requirement under Frankston City Council Community Local Law 2020 Part 2.12 for the owner or occupier of each property to clearly display the street numbering allocated by Council.

Proposed street addresses can be obtained by contacting Council's Rates Department on 1300 322 322.

It is the applicant's responsibility to ensure all owners are notified of the allocated street addressing.

E. Drainage Inspection

Once the required drainage works have been completed they must be inspected and approved by Council. To arrange a Drainage Inspection, please contact Engineering Services on 1300 322 322.

F. South East Water

The following South East Water agreement options are available:

- a. Application to enter into a Development Agreement – Works – If South East Water reticulated sewer/water/recycled water (as applicable) is required to be extended to service lots within the development
- b. Application to enter into an agreement – Non Works - If South East Water reticulated sewer/water/recycled water (as applicable) is available to the development and the owner only requires Statement of Compliance to release the titles (i.e. subdivision prior to building).
- c. Plumbing Industrial, Commercial, Units & Private Water application – If south East Water reticulated sewer/water/recycled water (as applicable) is available to the development and the owner wishes to commence construction of the building/s (i.e. building prior to subdivision).

G. DELWP Permit Note

Within the area of native vegetation to be retained and any tree protection zone associated with the permitted use and/or development, the following is prohibited:

- a) Any vehicle or pedestrian access, trenching or soil excavation, and
- b) Storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products, and
- c) Entry or exit pits for underground services, and
- d) Any other actions or activities that may result in adverse impacts to retained native vegetation.

Carried

For the Motion: Crs Asker, Baker, Bolam, Conroy, Harvey, Hill and Tayler
Against the Motion: Nil
Abstained: Crs Steven Hughes and Liam Hughes

12.12 Frankston Coast Guard Accommodation and Boat Storage Update

(MS Infrastructure and Operations)

Recommendation (Director Infrastructure and Operations)

That Council:

1. Notes its resolution at its meeting on 14 October 2019 OM13 that committed building works and associated budgets to provide permanent accommodation for Frankston Coast Guard (FCG) within the first floor of the Frankston Yacht Club (FYC) facility;
2. Resolves to rescind its resolution at the 14 October 2019 OM13 meeting to provide permanent accommodation for the FCG at the FYC facility (and puts back the associated \$400,000 budget allocation from the Strategic Reserve), and instead commits, to alternate accommodation being provided at Frankston Mechanics Institute;
3. In doing so, commits \$210,000 in the 2021/22 Capital Works Budget from the Strategic Reserve to undertake required building improvements to Frankston Mechanics Institute, noting this will be subject to statutory requirements and an appropriate occupancy arrangement;
4. Notes Council officers have been working in collaboration with the FCG to identify an appropriate rescue vessel storage, with these investigations determining the most appropriate solution involving an integrated facility with an upgraded public toilet at the base of Olivers Hill at a total estimated cost of \$1,225,000. These works will require statutory approvals along with DELWP approval;
5. Notes the cost of the public toilets component of the integrated facility amounts to \$400,000 which is currently funded in the 2022/23 capital works program. This will provide for 3 female, 3 male and a unisex accessible toilet and public showers;
6. Notes the cost of the rescue vessel storage component of the integrated facility amounts to \$825,000 and Council commits \$495,000 (60%) towards this cost on the basis that remaining cost \$330,000 (40%) is provided from the State Government through Emergency Management Victoria (EMV) or other funding sources; and
7. Funds the \$495,000 Council's commitment towards the FCG rescue vessels storage as follows:
 - a. \$100,000 sourced from the 2021/22 Capital Works Budget for detailed design and documentation, with this adjustment to be incorporated at Council's mid-year budget review
 - b. \$395,000 in the 2022/23 Capital Works Budget.

The meeting adjourned at 8.25pm

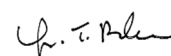
The meeting resumed at 8.35pm

Cr Tayler returned to the meeting at 8.36pm

Cr Hill left the meeting at 8.39pm

Cr Hill returned to the meeting at 8.40pm

Chairperson's initials



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

That Council:

1. Notes its resolution at its meeting on 14 October 2019 OM13 that committed building works and associated budgets to provide permanent accommodation for Frankston Coast Guard (FCG) within the first floor of the Frankston Yacht Club (FYC) facility;
2. Resolves to rescind its resolution at the 14 October 2019 OM13 meeting to provide permanent accommodation for the FCG at the FYC facility (and puts back the associated \$400,000 budget allocation from the Strategic Reserve), and instead commits, to alternate accommodation being provided at Frankston Mechanics Institute;
3. In doing so, commits \$210,000 in the 2021/22 Capital Works Budget from the Strategic Reserve to undertake required building improvements to Frankston Mechanics Institute, noting this will be subject to statutory requirements and an appropriate occupancy arrangement;
4. Notes the previous Council decision on 19 October 2019 OM13 item 5 *“Authorises officers to investigate potential options and external funding sources for the FCG’s secondary vessel storage facility in the vicinity of the Frankston Foreshore, including consultation with stakeholders such as the FCG and DELWP, with the findings to be brought back to Council for consideration”*;
5. Notes Council officers have been working in collaboration with the FCG and DELWP to identify an appropriate rescue vessel storage, with these investigations determining the most appropriate solution involving an integrated facility with an upgraded public toilet at the base of Olivers Hill at a total estimated cost of \$1,225,000. These works will require statutory approvals along with DELWP approval;
6. Directs the CEO to organise a Councillor Briefing to discuss all proposed site options considered in the municipality;
7. Authorises Council officers to undertake community engagement on the draft functional concept plans and proposed locations of the rescue vessel storage; and
8. Provides a report to Council on or before June 2022 on the outcomes of community consultation and site investigation options for the rescue vessel storage.

Carried Unanimously

Block Motion**Council Decision****Moved: Councillor Harvey****Seconded: Councillor Asker**

That the items listed below be Blocked Resolved:

- 11.2: Statutory Planning Progress Report - July 2021
- 12.1: Council Resolution Status Update for 30 August 2021
- 12.3: Minutes of Committee meetings represented by a Councillor Delegate
- 12.4: Appointment and Authorisation of Council Staff
- 12.7: Draft 2021-2031 Financial Plan
- 12.10: Frankston Planning Scheme Parking Overlay & Financial Contribution Requirement
- 12.11: Frankston Arts Advisory Committee - Report
- 12.15: Frankston Charitable Fund Community Representatives
- 12.16: Proposed closure in Taylors Road, Skye between Hall Road and Ballarto Road
- 12.18: Award of Contract CN10558 - Park Tree Maintenance - Programmed & Reactive Works
- 12.19: Award of Contract CN 10582 - Hall Road Pavement Rehabilitation Works - Seeking Council delegation to Chief Executive Officer to award Tender and enter into Contract

Carried Unanimously**8. ITEMS TO BE TABLED****8.1 Frankston City Council & Hughes (IAP 2021-3) - Application for an internal arbitration process to make finding of misconduct**

The Mayor advised Council that there was one item to be tabled at this meeting, being that in accordance with section 147(4) of the *Local Government Act 2020*, the arbiter's decision and statement of reasons on the matter of Frankston City Council & Hughes (IAP 2021-3) – Application for an internal arbitration process to make findings of misconduct (attached) is tabled and recorded in the minutes of the meeting.

DECISION OF AN INTERNAL ARBITER (HON SHANE MARSHALL AM) IN AN APPLICATION BY
FRANKSTON CITY COUNCIL BROUGHT BY ITS REPRESENTATIVE CR BOLAM UNDER
SECTION 143 OF THE LOCAL GOVERNMENT ACT 2020

Decision on liability

The resolution

1. On 1 March 2021, the Frankston City Council (the Council) made a resolution "to bring an application for an internal arbitration process under section 143 of the *Local Government Act 2020* (the Act) alleging multiple acts of misconduct on the part of Cr Steven Hughes (the respondent) in his social media post of 18 February 2021 and 1 March 2021". The resolution also appointed Mayor Kris Bolam to be its representative in respect of the Application. Although strictly the Council is the applicant, the matter was conducted on its behalf by Cr Bolam who for purposes of this decision is referred to as "the applicant".

The background

2. The resolution was preceded by a difference of opinion between the applicant and the respondent about the propriety of various social media posts made by the respondent including posts that preceded the posts referred to in the application. On 8 February 2021 the applicant wrote to the respondent concerning two posts published by the respondent on 30 January 2021 on his Facebook page regarding the appointment of new directors to "the board of Peninsula Leisure; and Council's negotiations with the St. Kilda Football Club in relation to the Linen House Lease."
3. The applicant attempted to engage in a meeting with the respondent concerning his issues with the 30 January 2021 posts and the posts of 18 February 2021 dealt with in this application but without successfully engaging with him on the issue. The post of 1 March 2021, also the subject of this application was the catalyst for Council's resolution of 1 March 2021.

The application

4. On 5 March 2021, the applicant applied, on behalf of the Council under section 143 of the Act for an arbiter to make findings of misconduct against the respondent. The Principal Councillor Conduct Registrar (the Registrar) examined the application under section 144 of the Act. On 6 April 2021, the Registrar appointed the arbiter under sections 144 and 149 of the Act after forming the opinion that the application was not frivolous, vexatious, misconceived or lacking in substance and that there was sufficient evidence to support a breach of the Council's Councillor Code of Conduct (the Code).

5. On 27 April 2021, the Registrar wrote to the parties and the Council's Councillor Conduct Officer advising that a directions hearing would be held on 6 May 2021. At the directions hearing, orders were made for the filing and serving of documents on which the parties intended to rely at the hearing, which required the respondent to file his material by 3 June 2021. A hearing was set down for 17 June 2021, but after requests from the respondent for extra time, the hearing date was adjusted to 30 June 2021. After hearing submissions from the parties at the hearing on 30 June 2021 and considering the documents filed by them I reserved my decision.
6. The application raises 4 allegations of misconduct concerning 3 Facebook posts paid for by the respondent to ensure maximum publicity in targeted areas. Allegations A and B concern a post made on 18 February 2021 which is Attachment C to the application. That post commences in the following manner:-

"Frankston council has crowned a new monarch with laws that give power to just one person. In a sad day for transparency, all councillor social media posts must now go through the Mayor. He has the power to decide on what information the ratepayer can know based on vague and highly subjective rules. No criticism of a council decision will be permitted. Any information that is damaging to Council's reputation, like wasting money on PARC [Peninsula Aquatic Recreation Centre] directors or St Kilda FC will be banned. Accountability is dead. Long live the Mayor. The vote to approve these laws went to Council on Monday night [15/2/21]. Only two councillors voted to reject this tyranny and to defend the rights of the ratepayer to know the truth ... "

The post went on to refer to the respondent being "stifled" and to "Murky laws may be created to keep Frankston in the dark." It invited Facebook users to share the post "to help make Frankston council transparent and accountable." At the end of the post there is depicted a Napoleonic type figure with the head of a dolphin (the animal symbol of the Council).

7. The post was a protest against the Council's adoption of a draft Communications Policy at its meeting on 15 February 2021 which was approved for distribution for public comment and later accepted in April 2021. The policy in section 1 is expressed to be intended to provide "guidance for the appropriate use of communications tools, including verbal, printed, electronic and online, to help build a positive reputation of Council ... " The policy in section 2 is expressed to be "aligned with the Councillor Code of Conduct". Section 5.1.4 of the policy states that:-

"Councillors are entitled to communicate their own views to the media, constituents and others, but must not actively undermine any decision or

position already taken by Council or bring Council into disrepute. Councillors must make it clear that they are expressing their own individual view and not the official position of Council."

Clause 5.1.6 provides that:-

"Councillors are responsible for ensuring that any information or response they provide is accurate and consistent with Council decisions, legislation and policies ..."

8. The abovementioned post is the subject of allegation A in the application in that it allegedly carries imputations which exhibit a lack of respect for the office of the Mayor and/or a lack of courtesy towards the mayor in breach of clause 2.1 of the Code. It is also the subject of allegation B which alleges that the post brought discredit on the Council and/or was deliberately misleading in breach of clause 2.4 of the Code.
9. The second post referred to in the application, the subject of Allegation C, was also made on 18 February 2021 by the respondent. It is Attachment E to the application. The post claimed that ratepayers in the Council's area pay nearly 40% higher rates than those in Mornington Peninsula, 38% higher than in Greater Dandenong and 100% higher than in Bayside. The post failed to mention that this information does not have regard to the average valuations of rateable property. The respondent said that he mentioned that in an earlier post. However the applicant claimed that this post was misleading on its face and would deceive those who read it who did not read the earlier post. The applicant claimed that the post brought discredit on the Council and/or was deliberately misleading contrary to clause 2.4 of the Code.
10. The third and final post referred to in the application is the subject of Allegation D. It was posted on 1 March 2021. It is Attachment G to the application. It commences by saying that:-

"A taste of North Korean justice comes to Frankston with a move that would make Kim Jon-Un (sic) nod in approval. Two weeks ago, Frankston council voted through the most repressive social media policy in its entire history. The new laws silence criticism and give the mayor control of how a councillor can communicate with Frankston residents on social media. Just 14 days later, we are seeing these laws being used as intended: to silence any dissent or free thought, and to create fear amongst councillors if they dare oppose the regime."

The post went on to refer to the draft communications policy as "tyrannical laws". It repeated claims about Frankston residents paying the highest percentage of their

income on rates compared to residents of neighbouring councils and asserted that both previous posts of 18 February 2021 were "100% factual". The post also said that "The new laws are absurd and make a mockery of basic human rights". He referred to, in effect, the possibility of this arbitration arising, as "a perverse loop of guilt (for him) that is worthy of a Pyongyang courtroom". He referred to being in "a social media gulag". He asked for the post to be shared. At the bottom of the post appeared a flag identical to the North Korean flag save that where a 5 pointed red star would appear on a circular white background a dolphin appeared instead, being the symbol of the Council. The applicant alleges that this post is in breach of section 2.4 of the Code "by bringing discredit upon Council".

The Code

11. Under section 139 of the Act, Council is required to develop a Councillor Code of Conduct. Pursuant to section 139(2), the purpose of the Code is to "include the standards of conduct expected to be observed by Councillors in the course of performing their duties and functions as Councillors, including prohibiting discrimination, harassment (including sexual harassment) and vilification." The Code must comply with the requirements of section 139(3) of the Act. Those matters are:
- (a) "standards of conduct prescribed by the regulations expected to be observed by Councillors";
 - (b) "provisions prescribed by the regulations for the purpose of this section";
 - (c) "provisions addressing any matters prescribed by the regulations for the purposes of this section"; and
 - (d) "may include any other matters which the Council considers appropriate, other than any other standards of conduct".

Section 139(7) provides that the Code is inoperative to the extent that it is inconsistent with any Act or regulations, including the *Charter of Human Rights and Responsibilities Act 2006* (the Charter). Section 7(2) of the Charter provides that a human right is subject only to such reasonable limits as can be justified in a free and democratic society based on human dignity, equality and freedom but section 7(3) provides that nothing in the Charter gives a right to destroy the human rights of another person. Section 15 of the Charter provides for a right to hold an opinion without interference and a right to freedom of expression. However section 15(3) provides that:

"... the right to freedom of expression may be subject to "lawful restrictions reasonably necessary:

- (a) to respect the rights and reputations of other persons; or

- (b) for the protection of national security, public order, public health or public morality.”

Allegation A

12. The first allegation of misconduct raised in the application is that the respondent contravened the standard of conduct set out in clause 2.1 of the Code by not treating the applicant with dignity, courtesy or respect. The particulars of the allegation contend that the post at Attachment C contains imputations that the applicant is a tyrant, a dictator, an autocrat, someone who does not support free speech and who does not believe in transparency and accountability.
13. Clause 2.1 of the Code insofar as material provides that a councillor in performing that role must treat other councillors with dignity, courtesy, and respect, including by ensuring that the councillor “does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors.” The specificity in paragraph (c) of clause 2.1 quoted immediately above does not detract from the general injunction to treat other councillors with dignity, courtesy and respect. Imputations against another councillor to the effect that that person is a tyrant, dictator, autocrat, someone who does not believe in free speech and someone who does not believe transparency or accountability, if established, would mean that the other councillor has not been treated with dignity, courtesy and respect.
14. Clause 2.1 of the Code does not impinge the Charter as it is a lawful restriction on freedom of expression designed to respect the rights and reputations of other persons, in accordance with section 15(3) of the Charter.
15. A fair minded objective observer would regard the alleged imputations as established by reading Attachment C. The post represents the Mayor, not just the office of Mayor, but the applicant himself as the Mayor, as being an autocratic monarch who does not believe in transparency. The imputations that the Mayor is a person who does not support free speech and doesn't believe in transparency are clearly established. The other imputations are also made out based on the tenor of the post combined with its Napoleonic depiction of a Frankston mayor in the drawing contained in it. I find Allegation A to be established and I am comfortably satisfied that it is established.

G18

Allegation B

16. Allegation B also claims a breach of clause 2.4 of the Code. That provision is as follows:-
- (a) In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.
 - (b) In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.
17. Clause 2.4 of the Code is entitled to be in the Code in that form as a consequence of regulation 4 of the Local Government (Governance and Integrity) Regulations 2020 (the regulations). Section 2.4 of the Code is in identical terms to regulation 4 of the regulations. Under section 139(1) of the Act, it is a standard of conduct prescribed by the regulations expected to be observed by councillors.
18. The respondent's post, contained at Attachment C to the application, is critical of the draft communications policy of the Council in particular section 5.1.4 which is set out at [7] above. The respondent invited me to rule that the policy contravened the Charter. The policy is no more than a policy position of Council. It is not part of the Code. It is not contrary to the Charter. It is not subject to the Charter. Section 5.1.4 of the policy permits dissension from a decision by Council to be communicated in a way in which a councillor makes it clear that he or she is expressing a personal view and does not use language likely to bring Council into disrepute. It was open to the applicant to say, in lieu of Attachment C that the Council had adopted a draft communications policy, that he was a dissenter to the adoption of that policy because he believed it to be unduly restrictive of his right to communicate with constituents and that he would advocate for the policy to be reconsidered. Instead he used inflammatory and derogatory language attacking the applicant, personally as well as the position of Mayor, including the use of an offensive drawing.
19. Allegation B contends that the respondent contravened clause 2.4 of the Code by bringing discredit upon the Council and by deliberately misleading the public about a matter relevant to the performance of his public duties as a councillor. The bringing of the Council into disrepute is said to arise from the imputation in the post that the Mayor is empowered to decide what information is given to ratepayers. The imputation is established from the second paragraph of the post where it is alleged that all councillor social media posts should go through the Mayor. That imputation brings discredit on Council. It is also not a fair reading of the policy. I am comfortably satisfied that Allegation B is established in that respect.

20. The applicant, in support of Allegation B, also contends that the post in Attachment C was deliberately misleading of the public. I accept that it was misleading because the Policy was only a draft policy, for consideration, at that stage. However I accept the assurance of the respondent that he was genuinely confused as to whether the Policy was a final policy or a draft policy. Nonetheless, on the basis of clause 2.4(a) of the Code, I am comfortably satisfied that Allegation B is established.

Allegation C

21. Allegation C also relies on clause 2.4 of the Code. However it relates to the post contained at Attachment E to the application concerning Council rates. The applicant alleges that by making comparisons with rates paid in other Council districts with rates paid in Frankston and not disclosing that the figures did not have regard to the average valuation of rateable property the post brought discredit on the Council. I agree with that submission. The post gave the impression that Council rates in Frankston were unusually high by comparison with other Councils without giving the full story. The suggestion that this post followed an earlier one which did refer to an appropriate qualification does not mean that this post does not bring discredit on Council as many people would most likely have read it without the context of the earlier post or were reasonably unlikely to have done so. I find Allegation C to be made out in its aspect that the post brought discredit upon Council but I do not accept that it is made out in respect of the public being deliberately misled. I am satisfied that the respondent did not intend to be misleading but genuinely believed this post followed on from an earlier post without giving sufficient subjective consideration to its misleading nature when read in isolation.
22. Nonetheless as I am comfortably satisfied that the post constituted behaviour bringing discredit upon the Council I find Allegation C made out.

Allegation D

23. Allegation D concerns the post at Attachment G. It also relies on clause 2.4 of the Code. That post also attacks the draft communications policy. The applicant alleges that the post brings discredit on the Council by containing imputations, first, that the draft policy was intended to resemble the North Korean Government's suppression of human rights. The post commences by referring to North Korean justice coming to Frankston and immediately refers to a repressive social media policy, silencing criticism and giving powers of communication via social media to the Mayor alone. There is a later reference to "a Pyongyang courtroom" and to a North Korean flag with a dolphin superimposed. I am comfortably satisfied that the first alleged imputation is made out and that it brings discredit on the Council by comparing it to one of the most repressive regimes on Earth.

24. The second alleged imputation is that by making the draft communications policy available for public consultation the Council acted to preclude dissent from any councillor. I do not see how that arises from the post. The post wrongly proceeds on the assumption that the policy was "voted through" as is on 15 February 2021.
25. The third and fourth-alleged imputations are that by making the draft policy available for public consultation, Council denied freedom of expression of councillors, and Council acted incompatibly with the Charter. For the reason set out in the foregoing paragraph the third imputation is not established. The same applies to the fourth imputation. The Charter is not mentioned in the post.
26. Having regard to the first alleged imputation being clearly discernible from the post, I am comfortably satisfied that Allegation D has been established.

Conclusion

27. For the reasons set out above I find that the respondent has failed to comply with the prescribed standards of conduct contained in clauses 2.1 and 2.4 of the Code in the four posts the subject of the application.
28. Pursuant to section 147(1) of the Act I make four findings of misconduct in respect of Allegations A, B, C and D in the application in the respects set out earlier in these reasons.

Other matters

29. At the commencement of the hearing the respondent sought an adjournment on the basis that the Council had not complied with clause 5 of the Code by not making best endeavours to resolve the matter without recourse to the internal arbitration process. I refused that adjournment because I was satisfied that the applicant made several attempts to engage the respondent in a discussion on the issues the subject of the application but that the continued behaviour of the respondent as the applicant saw it, especially the 1 March 2021 post, was the final straw in actuating him to bring the application. In any event, an attempt to resolve the matters between the parties prior to the making of an application is not a requirement of the Act.
30. The respondent also applied to strike out certain particulars of the allegations in the application. I refused that application. The arbitration process is not amenable to Court pleading points. In any case even if this forum was a Court it would not strike out information designed to show a respondent what is alleged against that person to better prepare him or her to defend the application.

Concluding remarks

31. The applicant and the respondent are to be congratulated for the way in which they conducted themselves during the formal arbitration hearing which enabled the matter to be dealt with expeditiously.

32. I formally adjourn the arbitration to a date to be fixed for submissions on the question of sanctions if any, to be imposed as a consequence of the findings of misconduct in the context of the reasons for decision.

Hon Shane Marshall AM
Arbiter

Date: 27 July 2021

DECISION OF AN INTERNAL ARBITER (HON SHANE MARSHALL AM) IN AN APPLICATION BY
FRANKSTON CITY COUNCIL BROUGHT BY ITS REPRESENTATIVE CR BOLAM UNDER
SECTION 143 OF THE LOCAL GOVERNMENT ACT 2020

Decision on sanction

1. On 27 July 2021, I provided my reasons for decision concerning allegations that Cr Steven Hughes (the respondent) had engaged in misconduct in four respects in three Facebook posts (the liability decision). The reasons for decision on the appropriate sanction or sanctions herein must be read together with the liability decision.
2. The findings of misconduct in the liability decision, briefly stated, were as follows:
 - (a) a finding of breach of clause 2.1 of the Code by not treating the applicant with dignity, courtesy and respect. The relevant Facebook post portrayed the applicant as a tyrant, dictator, autocrat or a person who does not believe in free speech and transparency.
 - (b) a finding of breach of clause 2.4 of the Code by bringing discredit on the Council by posting on Facebook misleading material concerning the Council's draft communications policy;
 - (c) a finding of breach of clause 2.4 of the Code by bringing discredit on the Council by posting on Facebook misleading material when comparing rates in the Frankston municipality with rates in other local government areas; and
 - (d) a finding of breach of clause 2.4 of the Code by bringing discredit on the Council by posting on Facebook misleading material comparing it to the North Korean regime.

Sanction options

3. Each of the abovementioned findings constitute misconduct under section 147(1) of the *Local Government Act 2020* (the Act). Under section 147(2) of the Act, after a finding of misconduct, the arbiter may impose any of the following sanctions:-
 - a direction to the respondent to make an apology;
 - the suspension of the respondent for a period not exceeding one calendar month from the office of Councillor;
 - a direction that the respondent be removed from any position where he represents the Council for a period to be determined;
 - a direction that he be removed from being the chair of a delegated committee for a period to be determined; and
 - a direction to attend or undergo training or counselling for a period to be specified.

The applicant's submission on sanction

4. The applicant submitted that the respondent should be suspended for a period of time. He had earlier, during the liability hearing, taken the view, prior to findings by me, that the respondent should make an apology or be directed to undertake training in emotional intelligence, team building and cyber bullying. He urged the penalty of suspension in light of what he contended were further instances of misconduct in Facebook posts on 2 August 2021, subsequent to the liability decision. The applicant also sought that the respondent be directed to make a public, thorough and unreserved apology to be read at an open meeting of Council after the tabling of this decision and the liability decision. The applicant maintained his position that the respondent should undertake the training referred to above.
5. I observe that the applicant's reference to conduct on 2 August 2021 similar to that found to be misconduct in the liability decision is not relevant to the sanction to be imposed on the respondent for his instances of misconduct found in the liability decision. The respondent is not to be punished on account of untested allegations which did not form the basis of any matters dealt with in the liability decision. If the applicant considers appropriate that matter can be raised with Council for the authorisation of a further application under section 143 of the Act. I also note that when suggesting the respondent undergo training the applicant offered no proposals concerning the availability of any such courses.

The respondent's submissions

6. The respondent's submissions were not confined to consideration of the sanction or sanctions he thought were appropriate in light of the liability decision. Instead he took the opportunity to take issue with the findings of misconduct and the rulings made during the hearing. He cavilled with the liability decision in a manner showing that he did not accept it. He thereby revealed a lack of insight into his misconduct and a failure to show any remorse but instead a desire to use the decision to further advance his own views that there was nothing wrong with his conduct.
7. The respondent expressed his reluctance to issue an apology. That is unsurprising given his defiant attitude. I do not consider it would be appropriate to direct him to do so, as an apology from him would be forced and insincere. The respondent stated that he would be prepared to undergo training on the Act, the Code and the Council's Communication Policy, but did not identify any particular form of preferred training or whether such training was available.

Conclusion on sanctions

8. For reasons expressed at [7] above I do not consider it appropriate to direct the respondent to make an apology.
9. There is no evidence of the respondent occupying any position on Council from which he could be removed. No such sanction was sought by the applicant. I decline to direct any such removal.
10. Due to the lack of any appropriate training being specified as open and available I decline to direct any such training.
11. This leaves the option of suspending the respondent for the period of up to a calendar month; see section 44(6)(b) of the *Interpretation of Legislation Act 1984* which defines "month" as a calendar month unless otherwise stated.
12. The respondent has been found to have engaged in four instances of misconduct by breaching the Code in four respects. He has failed to accept those findings. He consequently has shown no remorse or insight into his misconduct. It is hoped that a period of one month's suspension (being the statutory maximum) may help him to comprehend that if he continues to engage in the conduct that led to the findings of misconduct he may be subject to further applications under the Act.

Order

13. My order to finalise this matter as a consequence of the liability decision and this decision is:

"Pursuant to section 147(2)(b) of the *Local Government Act 2020* the respondent, Cr Steven Hughes, a Councillor of the Frankston City Council, is hereby suspended from the office of Councillor for a period of one calendar month commencing on the day after the meeting of Council at which this decision and the liability decision are tabled under section 147(4) of the Act."

Hon Shane Marshall AM
Arbiter

Date: 26 August 2021

9. PRESENTATION OF PETITIONS AND JOINT LETTERS

Cr Hill advised the meeting that he had received an online petition with 300 signatures opposing the cat curfew. This petition has been reviewed by Governance and is not compliant under Section 58 of the Governance Rules thus this petition cannot be accepted by Council.

10. DELEGATES' REPORTS

Nil

11. CONSIDERATION OF TOWN PLANNING REPORTS**11.2 Statutory Planning Progress Report - July 2021**

(SC Communities)

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

That Council:

1. Receives the Statutory Planning Progress Report for the month of July 2021; and
2. Resolves Attachment B - Applications of Councillor Interest to be retained as confidential, as it contains private development information and would, if prematurely released, impact the reputation of Councillors and Council.

Carried Unanimously

Note: Refer to page 21 of these Minutes where is item was Block Resolved

12. CONSIDERATION OF REPORTS OF OFFICERS**12.1 Council Resolution Status Update for 30 August 2021**

(BA Chief Financial Office)

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

That Council:

1. Receives the Notice of Motion Report for 30 August 2021;
2. Receives the Urgent Business Status Update for 30 August 2021;
3. Notes there are no Notice of Motion actions that have been reported as being complete;
4. Notes there is one report that is listed as being delayed in its presentation back to Council;
 - Response to Urgent Business – Disposal of Tree Debris arising from a Severe Weather Event
5. Notes, since the Council Meeting held on 9 August 2021, 32 resolutions have been completed, as listed in the body of the report; and
6. Resolves for Attachment D remain confidential, as it contains Council business information that is prescribed by the regulations to be confidential information and would, if prematurely released impact on Council's reputation and ability to function to its full capacity.

Carried Unanimously

Note: Refer to page 21 of these Minutes where is item was Block Resolved

12.2 Update on Coronavirus (COVID-19) - 30 August 2021

(PC Chief Executive Office)

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

That Council:

1. Notes this report which outlines an update of its response to the impacts of the Coronavirus (COVID-19).
2. Seeks a report back to Council in October 2021 considering the financial impact of further COVID-19 lockdowns due to, but not limited to, the following issues:
 - a) The Victorian Government legislating further rent relief for eligible commercial tenants;
 - b) Lockdown of PARC;
 - c) Closure of Arts Centre and other Council facilities;
 - d) Reduction of income relating to user fees and charges; and
 - e) Financial hardship impact on the community.
3. Defer the following items to the mid-year budget review to be considered in the context of all the community impacts associated with the COVID-19 restrictions:
 - a) Consideration of waiving winter season sports club tenancy and ground allocation fees until 30 September 2021 (estimated cost is \$149,337); and
 - b) Consideration of waiving of licence fees, cleaning fees, utilities and services fees during any period that tenants are not permitted to occupy the Ebdale Community Hub, Karingal PLACE and Frankston South Community and Recreation Centre as a result of COVID-19 restrictions during the 2021/22 financial year (estimated cost is \$8,700 per month that it is applied).

Carried Unanimously

12.3 Minutes of Committee meetings represented by a Councillor Delegate
(BA Chief Financial Office)**Council Decision****Moved: Councillor Harvey****Seconded: Councillor Asker**

That Council:

1. Notes the requirement created by NOM986 for the Minutes of Internal and External Committee Meetings to be presented to Council;
2. Recognises the new requirements arising from the Local Government Act 2020 in relation to confidential information provisions and the associated penalties for disclosure;
3. Notes that there are alternative mechanisms for Councillors to report information to Council such as reporting the achievements of a committee via a Councillor Delegate report; and
4. Resolves to no longer require the Minutes of Internal and External Committee Meetings, to which a Councillor delegate has been appointed, to be tabled at future Council Meetings.

Carried Unanimously**Note:** Refer to page 21 of these Minutes where is item was Block Resolved

12.4 Appointment and Authorisation of Council Staff

(BA Chief Financial Office)

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

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 officer listed in the Instrument of Appointment and Authorisations;
2. Authorises for the Instrument of Appointment and Authorisation to be signed and sealed; and
3. Resolves for attachment A to be retained confidential, as it contains personal and council business information and would, if prematurely released, breach privacy obligations.

Carried Unanimously

Note: Refer to page 21 of these Minutes where is item was Block Resolved

12.5 Draft Procurement Policy 2021 - 2025

(DW Chief Financial Office)

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

That Council:

1. Notes the draft Procurement Policy 2021 - 2025 (Policy);
2. Notes the incorporation of Community Benefit procurement principles and objectives to achieve social, economic and environmental outcomes;
3. Endorses the draft Policy to be publicly exhibited for a period of four (4) weeks; and
4. Seeks a report back no later than October 2021 to comply with the requirements of the *Local Government Act 2020* to adopt a Procurement Policy by 31 December 2021, taking into account any submissions received.

Carried Unanimously

12.6 Draft 2021-2031 Financial Plan

(SW Chief Financial Office)

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

That Council:

1. Notes the draft 2021-2031 Financial Plan;
2. Notes the deliberative community consultation that was undertaken to inform the development of this plan;
3. Endorses the draft 2021-2031 Financial Plan to be publicly exhibited for four (4) weeks from Tuesday 31 August 2021 to 28 September 2021; and
4. Seeks a report back no later than October 2021 to comply with the requirements of the *Local Government Act 2020* to adopt a Financial Plan by 31 October in the year following a general election, taking into account any submissions received.

Carried

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

Against the Motion: Cr Steven Hughes

Abstained: Cr Liam Hughes

12.7 Local Shopping Strip Action Plan*(SB Communities)***Council Decision****Moved: Councillor Harvey****Seconded: Councillor Asker**

That Council:

1. Notes that two (2) rounds of consultation have been undertaken to inform the development of the Local Shopping Strips Action Plan;
2. Notes that the Draft Frankston Local Shopping Strip Action Plan was publicly exhibited for a period of 12 weeks from 26 October 2020 to 24 January 2021 with seven (7) written submissions received;
3. Notes that all submissions have been considered and, where appropriate, changes have been incorporated into the Local Shopping Strips Action Plan;
4. Notes Council has allocated an annual rolling program of \$300,000 for major upgrades and between \$25,000 and \$70,000 to enable the implementation of the Local Shopping Strip Action Plan as part of Council's annual budget process and that funding and grant opportunities will also be pursued; and
5. Adopts the Frankston Local Shopping Strip Action Plan, noting officers will advise the submitters of its decision accordingly.

Carried Unanimously**Note:** Refer to page 21 of these Minutes where is item was Block Resolved

12.8 Sandfield Reserve Master Plan*(SB Communities)***Council Decision****Moved: Councillor Conroy****Seconded: Councillor Hill**

That Council:

1. Notes that two (2) rounds of consultation have been undertaken to inform the development of the Sandfield Reserve Master Plan;
2. Notes the Sandfield Reserve Master Plan was publicly exhibited for a period of six (6) weeks from Monday 26 April to Sunday 6 June 2021 with 86 survey responses and 13 written submissions received;
3. Notes that all submissions have been considered and, where appropriate, changes have been incorporated into the Sandfield Reserve Master Plan;
4. Notes that recommendations for the Sandfield Reserve Master Plan will be considered as part of Council's annual budget process and that funding and grant opportunities will also be pursued; and
5. Adopts the Sandfield Reserve Master Plan, noting the officers will notify submitters of its decision accordingly.

Carried Unanimously

12.9 Frankston City Tennis Action Plan*(TB Communities)***Council Decision****Moved: Councillor Hill****Seconded: Councillor Tayler**

That Council:

1. Notes two (2) rounds of consultation has been undertaken to inform the development of the final Frankston City Tennis Action Plan;
2. Notes that the draft Tennis Action Plan was publicly exhibited for a period of six (6) weeks from 22 March 2021 to 3 May 2021, with 19 written submissions received;
3. Notes that all submissions have been considered and, where appropriate, changes have been incorporated into the Tennis Action Plan;
4. Notes specific recommendations for the Tennis Action Plan will be considered as part of Council's annual budget process and that funding and grant opportunities will also be pursued; and
5. Adopts the revised draft Frankston City Tennis Action Plan noting officers will notify submitters of its decision accordingly.

Carried

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

Against the Motion: Cr Steven Hughes

Abstained: Cr Liam Hughes

12.10 Frankston Planning Scheme Parking Overlay & Financial Contribution Requirement
(SB Communities)

Council Decision

Moved: Councillor Harvey

Seconded: Councillor Asker

That Council:

1. Notes the Parking Overlay and Financial Contribution Requirement within Schedule 1 of the Parking Overlay of the Frankston Planning Scheme; and
2. Endorses that it be reviewed concurrently with the revision of Council's Municipal Planning Strategy and review of the Frankston Metropolitan Activity Centre Structure Plan.

Carried Unanimously

Note: Refer to page 21 of these Minutes where is item was Block Resolved

12.11 Frankston Arts Advisory Committee - Report

(AM Communities)

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

That Council receives the Minutes of the Frankston Arts Advisory Committee (FAAC) meeting of 27 July 2021.

Carried Unanimously

Note: Refer to page 21 of these Minutes where is item was Block Resolved

12.13 Acknowledgment of Traditional Owners by Frankston City Council

(TB Communities)

Cr Steven Hughes left the meeting at 9.54pm

Cr Steven Hughes returned to the meeting at 9.56pm

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

That Council:

1. Recognises the unique role of the Bunurong Land Council as the appointed Registered Aboriginal Party to be the representative corporation that is inclusive of all Traditional Owners in the Frankston municipality, and
2. Adopts the three following variations of the Acknowledgment of Traditional Owners as provided by the Bunurong Land Council for use by Frankston City Council:

- i. Acknowledgement of Country for Council meetings and events:

I acknowledge the Traditional Custodians of the land on which we meet today, the Bunurong People of the Kulin Nation, and pay my respect to Elders past, present and future. I would like to extend that respect to Elders of other communities who may be here today.

- ii. Acknowledgment of Country for Council staff signature blocks and documents:

Frankston City Council acknowledges and pays respect to the Bunurong People, the Traditional Custodians of these lands and waters.

- iii. Acknowledgement of Country for Council strategies and action plans:

Frankston City Council acknowledges the Bunurong people of the Kulin Nation as the Traditional Custodians of the lands and waters in and around Frankston City, and value and recognise local Aboriginal and Torres Strait

Islander cultures, heritage and connection to land as a proud part of a shared identity for Frankston City.

Council pays respect to Elders past and present and recognises their importance in maintaining knowledge, traditions and culture in our community.

Council also respectfully acknowledges the Bunurong Land Council as the Registered Aboriginal Party responsible for managing the Aboriginal cultural heritage of the land and waters where Frankston City Council is situated.

Carried

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

Against the Motion: Cr Liam Hughes

Abstained: Cr Steven Hughes

12.14 Community Satisfaction Survey 2021

(SW Chief Financial Office)

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

That Council:

1. Notes the Local Government Community Satisfaction Survey results for 2021;
2. Notes the significant improvement of community satisfaction, with overall performance increasing by 17.5 per cent this year; and
3. Releases the results to the community, via various social media channels, on the Council's website, in e-news, in the next available issue of the Frankston City News (FCN) and through media releases.

Carried Unanimously

12.15 Frankston Charitable Fund Community Representatives

(TB Communities)

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

That Council:

1. Approves the re-appointment Ms Karin Hann, Mr Shane Thomas, and Ms Jackie Galloway to serve as the community representatives on the Frankston Charitable Fund Committee 2021-2024; and
2. Approves the updated Frankston Charitable Fund Terms of Reference to ensure Frankston Charitable Fund continues to fulfil its charter in response to current and emerging community needs.

Carried Unanimously**Note:** Refer to page 21 of these Minutes where is item was Block Resolved

12.16 Proposed closure in Taylors Road, Skye between Hall Road and Ballarto Road

(DD Infrastructure and Operations)

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

That Council, in accordance with sections 207, 207A, 223 and clause 9 of Schedule 11 to the Local Government Act 1989 ('Act') and having given public notice of the proposal:

1. Notes one public submission was received during the public notice period;
2. Notes a report offering no objection to the proposed road closure was obtained from the Department of Transport (formerly VicRoads), as required by Clause 9(2) of Schedule 11 to the Act;
3. Notes emergency services have been notified and indicate no objection to the proposal however commented on the impact on the response time;
4. Authorises the Chief Executive Officer to instigate the road closure in Taylors Road in Skye between Hall Road and Ballarto Road to vehicular traffic, excluding emergency services and utility authority vehicles; and
5. Resolves to proceed with the installation of a gate retaining controlled access for emergency services and utility authority vehicles.

Carried Unanimously

Note: Refer to page 21 of these Minutes where is item was Block Resolved

12.17 Award of Contract CN10576 - Kerbside Hard Waste Collection Service

(BH Chief Financial Office)

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

That Council:

1. Awards contract CN10576 to WM Waste Management Services Pty Ltd for \$3,000,000 GST exclusive for an initial 2 year term with the provision for a further 1 year extension, noting that this is a schedule of rates contract;
2. Authorises the Chief Executive Officer to sign the contract and contract extensions based on the contractors' successful performance;
3. Delegates approval of contract variations to the Chief Executive Officer; and
4. Resolves the attachments A and B to this report be retained confidential, on the grounds that it contains Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released, pursuant to 3(1)(c) of the Local Government Act 2020.

Carried Unanimously

12.18 Award of Contract CN10558 - Park Tree Maintenance - Programmed & Reactive Works

(BH Infrastructure and Operations)

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

That Council:

1. Awards contract CN10558 – Park Tree Maintenance – Programmed & Reactive to Navkau Trans Pty Ltd; A.C.N 152 631 724 for \$2,223,084.01 GST exclusive for an initial 4 year term with the provision for a further 2 X 2 year extensions, noting that this is a schedule of rates contract;
2. Authorises the Chief Executive Officer to sign the contract and contract extensions based on the contractors' successful performance;
3. Delegates approval of contract variations to the Chief Executive Officer; and
4. Resolves the attachments A and B to this report be retained confidential, on the grounds that it contains Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released, pursuant to 3(1)(c) of the Local Government Act 2020.

Carried Unanimously

Note: Refer to page 21 of these Minutes where is item was Block Resolved

**12.19 Award of Contract CN 10582 - Hall Road Pavement Rehabilitation Works -
Seeking Council delegation to Chief Executive Officer to award Tender and enter
into Contract**

(VG Infrastructure and Operations)

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

That Council:

1. Notes the update in regards to the Tender for Contract CN 10582 Hall Road Pavement Rehabilitation Works in Carrum Downs;
2. Notes Council has received grant of \$4.25 million from the Australian Government as part of phase 2 Local Roads and Community Infrastructure (LRCI) grant program with the condition that projects needs to be substantially completed by 31 December 2021; and
3. Delegate the authority to the Chief Executive Officer to accept a tender and enter into a contract for the Tender CN 10582 Hall Road Pavement Rehabilitation Works in Carrum Downs, subject to the following conditions:
 - a) The recommended tender sum being within ten percent (10%) of the allocated budget (maximum contract value of \$4.675 million excluding GST).
 - b) Report to be presented to Council at its meeting on 15 November 2021 to note the details of award of tender for the Contract CN 10582 under the delegation. Report to also include details of the tender evaluation process.

Carried Unanimously

Note: Refer to page 21 of these Minutes where is item was Block Resolved

13. RESPONSE TO NOTICES OF MOTION

Nil

14. NOTICES OF MOTION**14.1 2021/NOM7 - Bringing Forward Council's Net Zero Emissions Target**

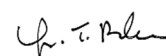
(TC Chief Financial Office)

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

That Council:

1. Notes that Council:
 - a) Declared a climate emergency in November 2019 recognising the urgent need to advance and accelerate actions to address climate change and support the restoration of a safe climate;
 - b) Has a long and proud history of delivering actions to mitigate greenhouse gas emissions and address climate change focusing on Council and the community actions;
 - c) In 2019 adopted a 4-year Towards Zero Emissions Plan (2019-2023) which sets out Council's priorities for reducing emissions in its own operations and supporting our community to transition to a low carbon future;
 - d) Since 2008 has committed to a net zero emissions (carbon neutral) target for Council operations by 2025 (reaffirmed in the Towards Zero Emissions Plan);
 - e) In 2020 ran a Community Climate Change Survey which showed that of the 610 respondents, 80% are extremely or very concerned about climate change.
2. Recognises that:
 - a) Our climate is changing and acting now will help to avert the worst impacts on our economy, our community and the environment;
 - b) The long-awaited report from the Intergovernmental Panel on Climate Change (IPCC), the leading global scientific body on climate science, warns of unprecedented increases in climate extremes for Australia as a result of a warming planet, including bushfires, floods and droughts, in addition to rising sea levels;
 - c) To avert the worst impacts of climate change we must keep global temperatures to well below 2°C above pre-industrial levels and pursue efforts to limit the temperature increase to 1.5°C;
 - d) The Earth's surface has warmed by 1.09°C since pre-industrial times, while average concentrations of all the major long-lived greenhouse gases continue to rise in the atmosphere. Australia's average temperatures have already increased by 1.4°C since 1910;
 - e) By 2030 global warming could likely increase to 1.5°C. Limiting human-induced global warming will therefore require deep and sustained cuts in greenhouse gas emissions.
3. Investigates:
 - a) Options to bring forward Council's net zero emissions target to FY 2023-24 (or earlier), from the original adopted target of FY 2024-25, in response to the climate emergency and recent findings of the IPCC, and in line with community expectations that Council will continue to demonstrate bold leadership in this important area;
 - b) The feasibility, costs and benefits of each option, including how these options

Chairperson's initials



will deliver value for money to Council and the community, as well as the ongoing investment required to maintain a net zero emissions target over time;

c) Options including:

- Status quo: Continue reporting on Council's annual emissions including assets where Council pays the utility costs (electricity, gas), plus Peninsula Aquatic Recreation Centre (PARC) and Pines Forest Aquatic Centre (managed by Peninsula Leisure, a subsidiary company owned by Council);
 - Exclude subsidiaries: Report on assets where Council pays the utility costs but exclude PARC and Pines Forest Aquatic Centre;
 - Full certification: In addition to the current reporting methodology, include emissions from relevant Council tenanted facilities (where Council does not pay the utility costs) and other sources, to enable Council to claim carbon neutrality under the Australian Government's Climate Active Carbon Neutral Certification program; and
4. Receives an update from Council officers on the investigation into each option at a Councillor briefing by no later than December 2021 to inform the development of Council's Climate Change Strategy and climate emergency response.

Carried

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

Against the Motion: Crs Liam Hughes and Steven Hughes

15. LATE REPORTS

Nil.

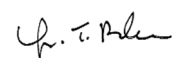
16. URGENT BUSINESS

Nil.

17. CONFIDENTIAL ITEMS

Nil Reports

Chairperson's initials



The meeting was closed to the public at 10.33 pm

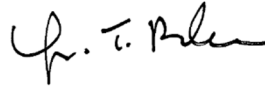
CONFIRMED THIS

20th

DAY OF

September

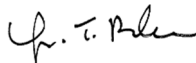
2021



.....
CHAIRPERSON

AUTHORITY TO STAMP INITIALS ON MINUTES

I, Cr. Kris Bolam, 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 Monday 30 August 2021 and confirmed on Monday 20 September 2021.



.....
(Cr. Kris Bolam, Chairperson – Council Meeting)

Dated this

20th

day of

September

2021