



**MINUTES OF COUNCIL MEETING OF THE FRANKSTON CITY COUNCIL  
HELD IN THE CIVIC CENTRE, DAVEY STREET, FRANKSTON  
ON 30 JANUARY 2023 at 7.01PM**

PRESENT	Cr. Nathan Conroy (Mayor) Cr. Liam Hughes (Deputy Mayor) Cr. David Asker Cr. Sue Baker Cr. Kris Bolam Cr. Claire Harvey Cr. Brad Hill Cr. Steven Hughes Cr. Suzette Tayler
APOLOGIES:	Nil.
ABSENT:	Nil.
OFFICERS:	Mr. Phil Cantillon, Chief Executive Officer Ms. Kim Jaensch, Director Corporate and Commercial Services Ms. Angela Hughes, Director Communities Mr. Cam Arullanantham, Director Infrastructure and Operations Ms. Shweta Babbar, Director Customer Innovation and Arts Ms. Brianna Alcock, Manager Governance Ms. Claire Benzie, Manager Family Health Support Services (via Zoom) Mr. Sam Clements, Manager Development Services (via Zoom) Ms. Fiona McQueen, Manager Community Relations (via Zoom) Mr. Stuart Caldwell, Coordinator Statutory Planning (via Zoom) Ms. Jamey Barbakos, Coordinator Major Development (via Zoom) Ms. Rachna Gupta Singh, Coordinator Governance Ms. Tenille Craig, Team Leader Governance Mr. Josh Lacey, Supervising Technician Mr. Angus Edwards, Technician Mr. Ric Rais, Systems Support Officer
EXTERNAL REPRESENTATIVES:	Nil

## COUNCILLOR STATEMENT

Deputy Mayor, Cr Liam Hughes made the following statement:

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

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

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

## PRAYER

Deputy Mayor, Cr Liam Hughes read the Opening Prayer.

## ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

Deputy Mayor, Cr Liam Hughes acknowledged the Bunurong People of the Kulin Nation – the Traditional Custodians of the land on which we stand, and paid respect to Elders past, present and future. Respect was also extended to Elders of other communities who may have been present.

## STATEMENT BY THE MAYOR

My role as Mayor is to ensure the Council meeting is conducted in accordance with the Council's Governance Rules (sub rule 78.2). It is important for a successful Council meeting that the members of the gallery respect the setting and do not disrupt the meeting, particularly during the debate and discussion on council items.

Chairperson’s initials .....

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**1. COUNCILLOR APPRECIATION AWARDS**

The Mayor mentioned that the Citizen of the Year Awards Ceremony was conducted on 26 January 2023 and acknowledged the recipients of the awards: Citizen of the Year - Warwick Exton, Young Citizen of the Year - Jack Lyons, and Community Group of the Year - Women's Spirit Project.

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

**Council Meeting No. CM18 held on 12 December 2022.**

**Council Decision**

**Moved: Councillor Hill**

**Seconded: Councillor Harvey**

That the minutes of the Council Meeting No. CM18 held on 12 December 2022 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**

Two (2) people submitted questions with notice to Council. At the request of the Mayor, the Chief Executive Officer read the questions and answers to the gallery. There were four (4) people who submitted questions without notice. The questions were taken on notice and a response will be provided in writing within seven business days of the Council Meeting. Both questions and answers will be published in the Minutes of the next Council Meeting.

**6. HEARING OF PUBLIC SUBMISSIONS**

Following people made submissions to Council regarding Item 11.1 - Planning Application 446/2022/P - 383-389 Nepean Highway, Frankston - Use and develop a five to six (5-6) storey office building in a Mixed Use Zone, Design and Development Overlay (Schedule 5) and Special Building Overlay, reduction to car parking requirements of Clause 52.06 of the Frankston Planning Scheme, construction and display of two business identification signs and one floodlit identification sign and alteration to access to a road in a Transport Zone 2

- Harriett Sestak
- David Little

Following people made submissions to Council regarding Item 11.2 - Planning Application 44/2022/P - 135 Golf Links Road, Frankston South - To construct a Telecommunications Facility (including telecommunications tower and associated equipment) in a Rural Conservation Zone Schedule 3 (RCZ3) and to remove one (1) tree in a Significant Landscape Overlay Schedule 1 (SLO1):

Chairperson's initials .....

- Daniel Prior

*Councillor Bolam left the chamber at 7:40 pm.*

- Lisa Parker

*Councillor Bolam returned to the chamber at 7:43 pm.*

## 7. ITEMS BROUGHT FORWARD

Nil

### Block Motion

#### Council Decision

**Moved: Councillor Harvey**

**Seconded: Councillor Baker**

That, in accordance with rule 35.2 of the Council's Governance Rules, the items listed below be Block Resolved:

- 11.3: Statutory Planning Progress Report - November and December 2022
- 12.1: Council Resolution Status Update for 30 January 2023
- 12.2: Chief Executive Officer's Quarterly report - October - December 2022 period
- 12.4: E-bikes trial progress report
- 12.6: Appointment of Independent Member to the Audit and Risk Committee
- 12.7: Appointment of Chairperson to the Audit and Risk Committee 2023
- 12.8: Outcomes of the Audit & Risk Committee Meeting - 2 December 2022

**Carried Unanimously**

## 8. ITEMS TO BE TABLED

### 8.1 Frankston City Council & Cr S Hughes (IAP 2022-21) - Application for an internal arbitration process to make finding of misconduct

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 2022-21) – Application for an internal arbitration process to make findings of misconduct (attached) was tabled and recorded in the minutes of the meeting.

Chairperson's initials .....

## INTERNAL ARBITRATION PROCESS - FRANKSTON CITY COUNCIL

In the matter of an Application by the Frankston City Council concerning  
Councillor Steven Hughes

HEARING PURSUANT TO DIVISION 5 OF PART 6 OF THE *LOCAL GOVERNMENT ACT 2020*

Application Number: IAP 2022-21  
Applicant: Frankston City Council (represented by the Mayor  
Councillor Nathan Conroy)  
Respondent: Councillor Steven Hughes  
Hearing Date: 7 December 2022  
Before: Arbiter Matthew Evans

**DETERMINATION**

The Arbiter has determined that the Respondent, Councillor Steven Hughes, has breached the prescribed Standards of Conduct included in section 2 of the Frankston City Council Councillor Code of Conduct 2021 in relation to four of the eight allegations, and has made a finding of misconduct in respect of these breaches. These are summarised as follows:

- Allegation 1 - breached Standards of Conduct 2.2 and 2.4(a)  
(Standards 2 & 4(1) of the prescribed standards of conduct)
- Allegation 2 - breached Standard of Conduct 2.1  
(Standard 1 of the prescribed standards of conduct)
- Allegation 3 - breached Standard of Conduct 2.2  
(Standard 2 of the prescribed standards of conduct)
- Allegation 7 - breached Standard of Conduct 2.1  
(Standard 1 of the prescribed standards of conduct)

The Arbiter has made no finding of misconduct in relation to four allegations (numbers 4,5,6 and 8). As there had been no breach of the prescribed standards of conduct, the Application in relation to these allegations is dismissed.

**STATEMENT OF REASONS FOR DECISION****The Application**

1. On 15 June 2022, the Applicant applied under section 143 of the *Local Government Act 2020* (the Act) for an Arbiter to make a finding of misconduct against the Respondent.
2. The Principal Councillor Conduct Registrar (the Registrar) examined the application under section 144 of the Act, and on 30 August 2022, 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 Frankston City Council Councillor Code of Conduct.

**Jurisdiction of the Arbiter in relation to this Application**

3. Section 143 of the Act provides that an Arbiter may hear an application that alleges misconduct by a Councillor.
4. The Arbiter was appointed pursuant to section 144 of the Act.
5. Pursuant to section 147 of the Act, an Arbiter may determine whether a Councillor has engaged in misconduct.
6. At the time of the Application, 'misconduct' was defined in section 3 of the Act as "...any breach by a Councillor of the prescribed standards of conduct included in the Councillor Code of Conduct".
7. The prescribed standards of conduct are set out in Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020. A copy of the standards is attached as Attachment 1.
8. These standards are included in section 2 of the Frankston City Council Councillor Code of Conduct. The Code was adopted and signed by all Council members.

**The Hearings**

9. On 7 September 2022, the Arbiter wrote to the Council's Councillor Conduct Officer and the parties advising that a directions hearing would be held on 14 September 2022. An additional Direction was issued on 11 September 2022 accepting a request from parties that the directions hearing be held remotely.
10. Following the directions hearing, directions were made for the filing and serving of documents on which the parties intended to rely at the hearing, and a hearing date was set down for 4 November 2022.
11. Due to a delay in the filing of the Applicant's documents, additional directions were made on 20 October 2022 providing revised deadlines for the filing and serving of documents by the parties.



12. An additional direction was made on 3 November 2022 agreeing to postpone the 4 November 2022 hearing, following a request from the Applicant's representative. This was followed by a direction that was made on 23 November 2022 setting a new hearing date for 7 December 2022.
13. After hearing submissions from the parties at the hearing, and considering the documents filed by them, the Arbiter reserved his decision.

#### **Evidence Provided**

14. The Application contains eight separate allegations. Written submissions and evidence including copies of emails, screenshots of social media posts, copies of media articles, links to the recorded livestream of Council meetings and a 'debrief' (following a Council meeting) and other material was submitted by both the Applicant and Respondent prior to the hearing. In addition, the Mayor Councillor Nathan Conroy lodged a personal Witness Statement.
15. At the hearing on 7 December 2022, both the Applicant and Respondent made verbal submissions regarding the eight allegations of a breach of the Standards of Conduct. During the hearing, a video of the livestream of the Council meeting of 26 April 2022 was also viewed.

#### **Findings of the Arbiter and Reasons**

##### Allegation 1

16. The Applicant alleged that Councillor Hughes had breached Standards of Conduct in the Code by not removing from his public Facebook page any of the posts referred to in the Arbiter's Determination and Reasons dated 27 July 2021. This is a reference to the decision of the Arbiter Hon. Shane Marshall AM.
17. The Applicant argued that Councillor Hughes was requested to remove the posts by the then Mayor Councillor Kris Bolam on 4 October 2021 and on 22 October 2022, and copies of these requests were provided as part of the Applicant's evidence. Councillor Hughes did not comply with that request.
18. Council contended that continued publication of the relevant posts (especially after a request for their removal had been made) constituted a breach of paragraphs 2.1, 2.2 and/or 2.4 of the Councillor Code of Conduct.
19. Specifically, the Applicant alleged that Councillor Hughes' continued to breach:
  - (a) paragraph 2.1 of the Code in that Councillor Hughes' continued publication of the posts treats the office of Mayor and Councillor Bolam (as the Mayor at the time that the posts were originally published) with a lack of courtesy and respect;
  - (b) paragraph 2.2 of the Code in that Councillor Hughes' continue publication of the posts means that he is not performing the role of Councillor responsibly; and/or
  - (c) paragraph 2.4 of the Code in that Councillor Hughes' continued publication of the posts brings discredit upon Council and/or involves Councillor Hughes deliberately misleading the public.

20. The Applicant alleged that the continued publication of social media content that has been found to breach a Standard of Conduct is itself a breach of the Standards of Conduct. The Applicant explained that were it to be otherwise, a Councillor who had been found to breach a Standard of Conduct could continue to:
- (a) show a lack of courtesy and respect to others;
  - (b) not perform the role of Councillor responsibly; and/or
  - (c) bring discredit upon Council or deliberately mislead the public.
21. The Applicant submitted that if a member of the public were to read the posts subsequent to the Arbiter's decision (27 July 2021), they may have been unaware of that decision or the findings that Councillor Hughes had breached the Standards of Conduct. That member of the public would, in any event, have been confronted with content that (according to the Arbiter's decision) exhibited a lack of dignity, courtesy or respect for the office of Mayor (or, Councillor Bolam, as the immediate past Mayor) or which brought discredit upon Council.
22. In his Witness Statement, Councillor Conroy provided a screenshot of the relevant parts of Councillor Hughes' public Facebook page as it appeared on 20 October 2022. This contains two posts:
- (i) The first was posted 1 March 2021 and opens with "A taste of North Korean justice comes to Frankston with a move that would make Kim Jon-Un nod in approval"; and,
  - (ii) The second was posted 18 February 2021 and opens with 'The odds have shortened on a rate rise next year as council votes to reject a rate reduction'.
- Both parties acknowledged a third post that was also originally contentious, but there was a common understanding that the Respondent had removed this at the time of the previous Arbitration due to a 'technical error'.
23. At the hearing, Councillor Hughes explained that every time he discussed a council decision he disagreed with, he feels he may be in breach of the Code of Conduct and open to further sanctioning. He explained that he equates this to the silencing of free speech that he experienced when visiting North Korea. The 'North Korea' post focuses on Councillor Hughes' position on the Frankston Code of Conduct's Communication Policy, which had remained in place, but was recently removed from the Code via a resolution of Council. With the removal of the Code of Conduct's Communication Policy, I questioned whether Councillor Hughes would now agree to remove the 'North Korea' post. Councillor Hughes confirmed that he would. No clear explanation was provided by Councillor Hughes as to why the post had not already been removed.
24. In relation to the Facebook post on rates (18 February 2021), Councillor Hughes made submissions on this in relation to Allegation 1 and Allegation 3. In relation to Allegation 1, he submitted in his oral evidence that the post was his only recourse when Council promotes resolutions about the level of rates that he had voted against, and Council's communications neglected to inform that he voted against the resolution.
25. Whilst I note Councillor Hughes' explanation for producing, posting and retaining these two items on Facebook, I do not accept that he could not have originally written them in such a way as to make his point without breaching the Code. After considering submissions from the parties and their evidence I am satisfied that Councillor Hughes social media posts continue to breach the Standard of Conduct as follows:

- Standard of Conduct 2.2 of the Code in that Councillor Hughes' continued publication of the posts means that he is not performing the role of Councillor responsibly; and
- Standard of Conduct 2.4(a) of the Code in that Councillor Hughes' continued publication of the posts brings discredit upon Council.

#### Allegation 2

26. The Applicant alleged Councillor Hughes has breached paragraph 2.1, 2.2 and/or 2.4 of the Councillor Code of Conduct. It was alleged that at a Councillor Briefing on 21 March 2022 Councillor Hughes made serious allegations about members of Council staff associated with the handling of a petition from residents in Ozone Avenue, Frankston. Councillor Hughes alleged that a member of Council staff advised the residents objecting to an application for a crossover that they should delay submitting a petition to Council, and that Council staff did this so they could make a decision (using delegated authority) on the crossover before the existence of the petition became known to Councillors.
27. To support the allegation, the Applicant provided evidence including an email from Council's CEO to Councillor Hughes sent on 3 May 2022 containing a review into the circumstances surrounding the petition. Contrary to Councillor Hughes' understanding of the potential for Councillors to 'call the matter in' and use discretion to decide the application, the review noted that little discretion was available. As part of a 'Chronology' of key events, the review noted that on 6 May 2021, an email was sent by C Hughes to various officers, including advice that 'They (residents) have started to form a petition from their neighbours, but I asked them to hold off until we can find out what is going on'. The CEO concluded that in relation to how the crossover application was handled by Council there was no further action required in relation to the matter.
28. I have reviewed a recording of the Council Briefing of the 21 March 2022, during which Councillor Hughes is alleged to have asserted that staff associated with the handling of the petition had acted improperly, seemingly with nefarious intentions. Councillor Hughes' allegation was unqualified, and no definitive evidence was presented to support his claims.
29. In response to the allegation, Councillor Hughes highlighted that the CEO's review was limited insofar as it did not seek the views of residents. However, I have reviewed statements provided by Councillor Hughes, which outlines the residents' grievances in some detail. In his evidence Councillor Hughes asserts that officers were in some way seeking to deceive residents, even referring to this as '*trickery*'.
30. In his defence, Councillor Hughes also emphasised that his questioning of how Council officers dealt with the matter was in a closed Council briefing session, which he referred to as 'in-private' rather than a meeting open to the public, and that he did not name the staff member whom it is claimed encouraged residents to delay lodgement of a petition. However, in addition to the Mayor and Councillors, Council's executive leadership team and several managers were in attendance including officers that managed the team that Councillor Hughes alleged had misled residents.
31. Section 2.1 'Treatment of Others' of the Councillor Code of Conduct is clear that members of Council staff are entitled to be treated with dignity, fairness, objectivity, courtesy, and respect.

32. After considering submissions from the parties and evidence, I am satisfied that Councillor Hughes breached Standard of Conduct 2.1 as he did not treat Council staff with dignity, fairness, objectivity, courtesy, and respect. Councillor Hughes derided Council staff in front of the elected Council and senior officers of the Council, after he formed a position on this matter without providing substantive evidence.

Allegation 3

33. On the 31 March 2022, Councillor Hughes posted on his public Facebook Page information purporting to set out the level of Frankston City Council's rates compared with the level of rates in other municipal districts. A screenshot of the post was provided in the Application. The Application contends that in doing so, he did not explain that each council's level of rates is affected by the mix and distribution of the rates burden, with some councils having a heavier reliance on rates referable to residential properties than others.

34. The Applicant therefore alleges that Councillor Hughes' failure to present a complete account of the comparative rates data breached:

- (i) Paragraph 2.2 of the Code, in that Councillor Hughes failed to perform the role of Councillor responsibly; and/or
- (ii) Paragraph 2.4 of the Code, in that Councillor Hughes deliberately misled the public.

In addition, it was alleged that the breaches were due to his failure to attend Councillor briefings dedicated to Council's financial affairs, held on 21 July 2021 and 9 February 2022, thereby breaching paragraph 2.2 of the Code by failing to perform the role of Councillor responsibly (and more particularly, by failing to diligently use Council processes to become informed about matters which are subject to Council decisions).

35. The Applicant's outline of argument referred to an earlier decision (dated 27 July 2021) of the Arbiter Hon. Shane Marshall AM. This was in relation to a social media post by Councillor Hughes that also referred to the relative level of rates across municipalities. The Applicant argued that "As the Arbiter's Decision and Reasons indicated (at para 21), it is important that anything said about rates presents the full story. Otherwise, there is the risk that members of the public are misled and that Council is brought into disrepute".
36. The Applicant submitted that the 31 March 2022 social media post by Councillor Hughes did not contain relevant qualifications about the information presented. It failed to distinguish between the mix and distribution of residential and commercial rateable properties within municipalities, and that such qualifying information is important in order to compare rates within different municipalities. This failure to present the 'full story' (as Mr Marshall referred to it in para 21) meant that Councillor Hughes breached paragraph 2.2 and/or 2.4 of the Councillor Code of Conduct.
37. In addition, the Applicant submitted that had Councillor Hughes attended Councillor Briefings dedicated to Council's financial position, and rating strategies more particularly, he would have better understood the 'full story' and appropriately qualified his post. Such briefings took place on 21 July 2021 and 9 February 2022. It was submitted that a failure to attend those Councillor briefings meant that Councillor Hughes failed to diligently use council processes to become informed about matters which were the subject of Council decisions. Attached to the witness

statement of the Mayor Councillor Conroy was a record of Councillor attendance at Councillor Briefings between 1 November 2020 and 6 June 2022. I agree this illustrates a decline in attendance at Councillor Briefings by Councillor Hughes particularly from around 1 July 2021.

38. From the Respondent's opening remarks at the hearing, it was clear that he prioritises the issue of Council's financial accountability in his role as a Councillor. I agree with the observation in his written statement that 'the amount charged in rates in Frankston is a vexed issue'. He maintains that the social media post of the 31 March 2022 is accurate and provides complete information that is not misleading. He also references his efforts to improve the post of the 31 March 2022 based upon feedback from the earlier decision (dated 27 July 2021) of the Arbiter Hon. Shane Marshall AM.
39. After considering submissions from the parties and evidence I find that there is agreement between the parties that Councillor Hughes has the right to say that rates are too high. In his oral evidence, Councillor Conroy acknowledged this point. But where the parties diverge is in relation to ensuring that Councillor Hughes does not simplify a complex decision of council to fit a narrative, or that he does not provide misleading or incomplete information. It is not consistent with the Code to continue to give the impression that Council rates in Frankston are unreasonable without giving the full story. For example, Councillor Hughes selectively refers to the impact on rates of Council pursuing various capital projects. But other important factors such as differences in the mix and proportion of categories of residential property or commercial/industrial properties, and the fact that these will each pay a higher or lower rate in the dollar in each municipality must be included in any reasonable comparison between municipalities or their localities. Other factors may include, for example, historic investment levels in infrastructure and maintenance across municipalities, which can also significantly impact decisions on rates and distort comparisons like those provided in Councillor Hughes' post.
40. It is noted that Council's website provides a significant amount of information and responses to frequently asked questions about how rates are calculated. This information is fair, balanced and helpful.
41. I am comfortably satisfied that Councillor Hughes' social media post breached Standard of Conduct 2.2 of the Councillor Code of Conduct and that Councillor Hughes failed to perform the role of Councillor responsibly. However, I am not satisfied it was Councillor Hughes intention to deliberately mislead so have not found a breach of the Standard of Conduct 2.4(b).
42. It is not at all helpful that Councillor Hughes fails to attend Councillor Briefings dedicated to Council's financial affairs, such as those held on 21 July 2021 and 9 February 2022. Whilst it was alleged that these breaches can be attributed to Councillor Hughes non-attendance, on-balance I find that Councillor Hughes non-attendance does not breach Standard of Conduct 2.2 of the Code.

#### Allegation 4

43. Upon being elected, all Frankston Councillors have taken oath or affirmation of office as prescribed in Regulation 5 of the Local Government (Governance and Integrity) Regulations 2020. This requires each Councillor to swear or affirm that they will undertake the duties of the office of Councillor in the best interests of the municipal community.

44. Against this backdrop, the Applicant alleged that Councillor Hughes made very direct allegations against several Councillors at the 'debrief' meeting (not open to the public) following the end of the Council meeting on 26 April 2022. It was alleged that Councillor Hughes effectively claimed that each of the named Councillors were guided by political affiliations at the expense of the broader interests of the community. The quality of the recording of the debrief is not great and there was some contention over whether some Councillors were referred to as 'former' members of political parties.
45. According to the Applicant, each named Councillor was really being said to have elevated political priorities above interests of the broader community. The Applicant alleged that in making these claims at the 'debrief' Councillor Hughes breached paragraph 2.1, 2.2 and/or 2.4 of the Councillor Code of Conduct.
46. The Applicant noted the comments were made only to Councillors and those members of Council staff who continued to be present in the meeting's aftermath. Therefore, it cannot be said that any element of robust public debate existed as a defence.
47. A recording of the 26 April 2022 Council meeting debrief was viewed.
48. In response, Councillor Hughes explained that a significant amount of Councillor time had been spent focussing on a controversy due to a federal election candidate appearing in a council photo, and this controversy had dominated Councillor discussions prior to the Council meeting on the 26 April 2022, and in the 'pre meeting' on the night of the Council meeting. Councillor Conroy did not dispute that Council had spent considerable time focussing on that issue. This appears to have contributed to some frustration for Councillor Hughes who was focusing on a matter that required a Council decision, being the level of funding for a Toy Library.
49. After considering submissions from the parties, I accept the evidence of Councillor Hughes and find there to be no breach of the Standards of Conduct. I accept that Councillor Hughes reference to political affiliations did not amount to Councillors disregarding their oath or affirmation. Rather, Councillor Hughes was expressing some frustration at the result of Council's resolution on the Toy Library issue, and it was his view that Council should have been more focussed on that issue rather than other issues outlined above.

#### Allegation 5

50. Allegation 5 alleged that Councillor Hughes made an accusation on social media that Councillors' political associations were given priority over their concern for the community.
51. Specifically, evidence presented focused on a social media exchange on or about the 27 April 2021, whereby Councillor Hughes questioned the motivation of 'other Councillors'. Councillor Hughes' comment was part of a lengthy exchange, which included Councillor Hughes drawing a distinction between he and Councillor Liam Hughes with other Councillors. He claimed that 'Unlike...other Councillors, we are not political party operatives'. This goes to the reputation or character of Councillors. The Applicant alleges that this constituted a breach of paragraph 2.1, 2.2 and/or 2.4 of the Councillor Code of Conduct.

52. At the hearing, the Respondent conceded that the wording of his comment underneath the social media post was 'very poor', and that as soon as this concern was brought to his attention he deleted the comment. The Respondent also described the exchange of comments as robust debate. I accept that this debate on social media was robust.
53. Whilst the social media comment is on the borderline of breaching substandard 2.4 (a), I find there to be no breach of the Standards of Conduct found in paragraph 2.1, 2.2 and 2.4 of the Councillor Code of Conduct. Notwithstanding, Councillor Hughes' social media comments were unhelpful, and this finding should not be misconstrued as a 'green light' for casting of aspersions about the impact of political affiliations, even in the context of robust debate.

#### Allegation 6

54. The Applicant alleged breaches of paragraph 2.1, 2.2 and/or 2.4 of the Councillor Code of Conduct in relation to allegation 6. At a meeting of Council on 21 February 2022, a matter regarding funding for the Frankston Toy Library was considered by Council.
55. The Application alleged that Councillor Hughes misrepresented Councillor Bolam's position when posting on his public Facebook page on or about 28 April 2022. The Application explained that Councillor Bolam's comments at the meeting on 21 February 2022 were confined to the amount of funds given to the Frankston Toy Library by Council, and that he said nothing about the overall financial position of the Frankston Toy Library. To support the allegation the Applicant provided an extract of Councillor Hughes' social media post.
56. In his post of 28 April 2022, Councillor Hughes states: *'He (Cr Bolam) made claims that the library was 'doing alright', with his statement being included in a local newspaper, potentially misleading residents to believe that the toy library was not in financial hardship'.*
57. The Application claimed that at a minimum this failed to treat Councillor Bolam fairly, and at worst it reflected a failure to act responsibly, by checking what had, in fact, been said, or it could even have been an act of deliberately misleading the public.
58. I have reviewed the publicly available livestream of the 21 February 2022 Council meeting to determine if Councillor Hughes' social media post fairly described Councillor Bolam's comments. When summing up his arguments in support of item 12.10 'Community Grants Program' on the Council Agenda, Councillor Bolam seeks to put the issue of the toy library's funding into a broader context. He comments on several aspects of the toy library including the "enormous amount of space", "zero rent" and proposed "\$15,000 contribution", quickly followed by the comment "So I think they're doing pretty well". He continued by comparing this toy library to other nearby toy libraries and stated that the toy library is "still doing very well in comparison to those other toy libraries".
59. A fair-minded objective observer of the meeting would conclude that Councillor Bolam's description did not amount to a toy library that was confronting financial hardship. Councillor Bolam's comments were not confined to the amount of funds allocated through the Community Grants Program but were broader, with reference to other merits of the toy library (space, zero rent) in addition to the funding, and he then makes a sweeping comparison between the Frankston Toy Library and other toy libraries.

60. In summary, whilst Councillor Hughes' social media post suggested that Councillor Bolam had used the words 'doing alright' when describing the position of the 'toy library', and this was not what he said, I do not find that Councillor Hughes description constitutes unfair treatment, a failure to act responsibly or was intentionally misleading. After considering submissions from the parties and evidence, I find that there has been no breach of the standards of conduct.

Allegation 7

61. Section 18 of the Act specifies the role of the Mayor. This includes a requirement to 'promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct', and to 'assist Councillors to understand their role'.
62. Also, for context, each Council including Frankston has Governance rules, made in accordance with section 60 of the Act. I have reviewed Frankston's Governance rules, and these do not differ in any consequential way from those at other Councils. These rules apply to meetings of Councils, requiring decisions which are balanced, ethical, impartial and on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations.
63. On 27 April 2022, the Mayor Councillor Nathan Conroy drafted and sent a memo titled 'Council Meeting reflections from Tuesday 26 April 2022'. This contained: the Mayor's observations (after a period of reflection), a summary of issues of concern about Councillor conduct, a commitment to strictly apply several Frankston City Council governance rules, a reminder that the chambers is a workplace subject to Council's obligations under the OHS Act, and finally a reminder of the conduct and standards that the Mayor expects in future meetings. After reviewing video of the conduct during the meeting and debrief, it is clear that this was the only responsible course of action for the Mayor. The memo was 'on-point' and consistent with the type of leadership envisaged by section 18 of the Act.
64. As a consequence, Councillor Hughes sent an email to the Mayor in response to the Memorandum, which was copied to all Councillors. A copy of the email was submitted as evidence by the Applicant. It included several personal and provocative statements including that the Mayor 'adhere(s) to the 'if you can't beat them, silence them' philosophy' and that the Mayor was destroying democracy to protect a friend. It refers to the Mayor's 'new rules' when the memo was simply a recommitment by Councillor Conroy to enforce the existing Governance rules. Any fair-minded objective observer of the 26 April 2022 meeting would have identified a need for the Governance rules to be applied as described in Councillor Conroy's Memorandum.
65. The Applicant alleged that in the circumstances there had been a breach of paragraph 2.1, 2.2 and/or 2.4. In support, the Applicant submitted that it is important that the office of Mayor be respected by all Councillors, and that this should be so irrespective of whether, during a particular meeting, the Mayor makes rulings that are adverse to the interests of any one particular Councillor. It submitted that Councillor Hughes' response was inflammatory (when referring to a destruction of democracy) and patently unfair in alleging a lack of impartiality and, indeed, hypocrisy. What was said went beyond robust public debate and involved allegations about character.



66. In his witness statement, Councillor Conroy described how he felt incredibly disappointed when he read the email from Councillor Hughes, which he described as factually wrong and failed to treat him fairly or with courtesy and respect.
67. In his evidence, Councillor Hughes colloquially ‘doubled-down’ calling the Memorandum a ‘terrible attack on free speech, democratic principles or transparency and drastically limits the ability of a Councillor to represent the residents they were elected by’. He then proceeded to list several ‘legal issues’ with the memo, focusing on the Mayor’s recommitment to enforce what are the existing Governance rules.
68. After considering submissions from the parties and evidence I find the allegation proven. Councillor Hughes’ polarising response to the Mayor’s memorandum, directed to the entire Council group, failed to treat the Mayor with fairness, objectivity, courtesy and respect (Standard of Conduct 2.1).

#### Allegation 8

69. On 28 April 2022, Councillor Hughes posted elements of the Mayor’s Memorandum to all Councillors (sent on 27 April 2022) onto his public Facebook page. By making aspects of the Mayoral Memorandum available the Applicant alleged that there was a breach by Councillor Hughes of Standards of Conduct 2.1, 2.2 and/or 2.4 of the Councillor Code of Conduct.
70. To support the allegation the Applicant submitted that good governance depends, at least in part, on certain communications between and among Councillors (and between and among Councillors and senior members of Council staff) remaining private or confidential. Without labelling every document or every discussion ‘private’, ‘confidential’ or ‘private and confidential’, it will be apparent that the subject-matter of many documents and discussions are intended to remain accessible only to a very limited audience. This was the case with the Mayor’s Memorandum to Councillors dated 27 April 2022.
71. In his witness statement Councillor Conroy explained that had he known that the Memorandum or its contents would be publicly available, the Memorandum might not have been sent. Instead, he suggested that a Councillor-only discussion may have been held. Alternatively, what was said in the Memorandum might have been heavily modified.
72. In addition, the Application alleged that Councillor Hughes’ 28 April 2022 post which referred to aspects of the Memorandum suggested that the Memorandum was directed solely at the behaviour of himself and Councillor Liam Hughes. It was alleged that the imputation that the Memorandum was directed solely at two Councillors failed to accord the Mayor fairness and objectivity. It was therefore submitted that there was a breach of a paragraph 2.1 of the Councillor Code of Conduct by Councillor Hughes. It was also alleged that paragraphs 2.2 and/or 2.4 of the Councillor Code of Conduct were breached, in that the imputations were the product of a failure to perform the role of Councillor responsibly and/or involved Council and the public being deliberately misled.
73. In response Councillor Hughes submitted that the Applicant’s claim that the information provided in the email by the Mayor was of a private nature and shouldn’t have been shared, is legally incorrect and lacks transparency. The Respondent submitted that emails, meeting minutes and

council discussions are all available to the public under Freedom of Information laws, and that only items that are clearly stated as confidential are not available for discussion.

74. I accept the Applicant's submission that good governance depends, at least in part, on certain communications between and among Councillors (and between and among Councillors and senior members of Council staff) remaining private or confidential. However, I interpret Councillor Hughes decision on 28 April 2022 to post extracts of the memorandum with a commentary on his interpretation as 'robust public debate', which should not be unreasonably restricted by the Standards of Conduct. I therefore make no finding in relation to this allegation.
75. After considering submissions from the parties, as well as observing the conduct of several Councillors at the 26 April 2022 meeting, I am comfortable that a fair reading of the Memorandum suggests that it was not the intention of the Mayor to direct this solely at two Councillors. Whilst the Respondent's claim failed to accord the Mayor fairness and objectivity, I give Councillor Hughes the benefit of the doubt as he seems to sincerely believe that parts of the Memorandum are directed solely towards him and Councillor Liam Hughes. On balance, I therefore find there to be no breach.

#### Conclusion

76. For the reasons set out above, I find that the Respondent Councillor Hughes has failed to comply with the prescribed standards of conduct in section 2 of the Frankston Code of Conduct.
77. Pursuant to section 147(1) of the Act I make a finding of misconduct in respect of the breach of clauses 2.1, 2.2 and 2.4(a) of Code of Conduct in the application for the reasons set out earlier.
78. These breaches are summarised as follows:
- Allegation 1 - breached Standards of Conduct 2.2 and 2.4(a)  
(Standards 2 & 4(1) of the prescribed standards of conduct)
  - Allegation 2 - breached Standard of Conduct 2.1  
(Standard 1 of the prescribed standards of conduct)
  - Allegation 3 - breached Standard of Conduct 2.2  
(Standard 2 of the prescribed standards of conduct)
  - Allegation 7 - breached Standard of Conduct 2.1  
(Standard 1 of the prescribed standards of conduct)
79. I make no finding of misconduct in response to four allegations (numbers 4,5,6 and 8). As there had been no breach of the prescribed Standards of Conduct, the Application in relation to these allegations is dismissed.

#### Sanction options

80. Under section 147(2) of the Act, after a finding of misconduct, the Arbiter may do any one or more of the following—
- (a) direct the Councillor to make an apology in a form or manner specified by the Arbiter;
  - (b) suspend the Councillor from the office of Councillor for a period specified by the Arbiter not exceeding one month;

- (c) direct that the Councillor be removed from any position where the Councillor represents the Council for the period determined by the Arbiter;
- (d) direct that the Councillor is removed from being the chair of a delegated committee for the period determined by the Arbiter;
- (e) direct a Councillor to attend or undergo training or counselling specified by the Arbiter.

The Applicant's submission on sanction

81. At the Hearing, the Applicant was invited to make a submission on appropriate sanctions if a finding of 'Misconduct' was made in relation to any of the eight allegations.
82. In response, the Applicant requested that the Arbiter consider imposing a requirement for a verbal apology if the Arbiter found there to be a breach of the Code in relation to the treatment of others.
83. In addition, a request to consider a suspension of Councillor Hughes from the office of Councillor for a period of up to 30 days was made.
84. Finally, it was suggested that should a finding of 'Misconduct' be made, Councillor Hughes should be required to undergo training (including in 'emotional intelligence') to ensure he understands his role as a Councillor "but also as a colleague more than anything else".

The Respondent's submission on sanction

85. The Respondent was also invited to make a submission on appropriate sanctions if a finding of 'Misconduct' was made in relation to any of the eight allegations.
86. In response, he observed that during the Council's 'Dispute Resolution Procedure' that commenced prior to this internal arbitration process, he was willing to apologise 'in relation to a couple of points'.
87. Councillor Hughes found the Applicant's suggestion that an appropriate sanction could include emotional intelligence training to be 'offensive'.

Conclusion on sanctions

88. In relation to Allegation 2 whereby Councillor Hughes has been found to have breached Standard of Conduct 2.1, I note that he has not provided an apology to Council staff. I find the only appropriate remedy in this instance is for Councillor Hughes to provide a written apology, addressed to 'Council staff associated with the processing of the Ozone Avenue application, C/- the Frankston City Council CEO'. At a minimum:
- The apology will reference Councillor Hughes' breach of standard of conduct 2.1 of the Councillor Code of Conduct; and,
  - It will contain an apology for not treating Council staff with dignity, fairness, objectivity, courtesy, and respect; and,
  - It will contain an apology for deriding the Council staff member/s in front of the elected Council and senior officers of the Council, and for forming a position and raising serious allegations without providing substantive evidence; and,
  - Be unqualified and unconditional.

89. Consideration has been given to applying other potential sanctions available. This has included directing that Councillor Hughes be removed from any position where he represents Council, or from being the chair of a delegated committee. In addition to this sanction not being raised by the Applicant, I also do not see any nexus between these sanctions and Councillor Hughes' breaches of the standards of conduct. It is also not appropriate to direct a Councillor to attend or undergo training or counselling when such training has not been specified and identified.

90. A period of suspension from the office of Councillor for a period not exceeding 1 month is an available sanction. Given the multiple breaches as outlined in these findings, a period of suspension for 1 month would allow Councillor Hughes ample opportunity to reflect on the consequences of breaching standards of conduct that he agreed to abide by when he signed the Councillor Code of Conduct.

91. These sanctions are proportionate to Councillor Hughes' misconduct.

#### Order

92. My order to finalise this matter as a consequence of my decision is:

- (1) Pursuant to section 147(2)(b) of the Local Government Act 2020, the Respondent Councillor 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 is tabled under section 147(4) of the Act.
- (2) Pursuant to section 147(2)(a) of the Local Government Act 2020, the Respondent Councillor Steven Hughes is to provide a written apology, addressed to 'Council staff associated with the processing of the Ozone Avenue application, C/- the Frankston City Council CEO'. At a minimum:
  - It will reference Councillor Hughes' breach of standard of conduct 2.1 of the Frankston City Council Councillor Code of Conduct; and,
  - It will contain an apology for not treating Council staff with dignity, fairness, objectivity, courtesy, and respect; and,
  - It will contain an apology for deriding the Council staff member/s in front of the elected Council and senior officers of the Council, and for forming a position and raising serious allegations without providing substantive evidence; and,
  - Be unqualified and unconditional.

The written apology is to be provided by Councillor Hughes to the CEO within two weeks from the date of the meeting of Council at which this decision is tabled. At his discretion, Council's CEO may then supply the letter to those staff member/s associated with the processing of the Ozone Avenue application which was the focus of allegation 2.

#### Other matters

93. The Frankston City Council Councillor Code of Conduct provides an opportunity for an internal Council mediation process in relation to disputes between Councillors before it reaches a stage of requiring an Internal Arbitration process.

94. At the Directions Hearing held on 14 September 2022, the parties advised that an internal Council mediation process in relation to allegations contained within Application IAP 2022-21 was ongoing. The willingness of the parties to pursue such a process was commended.
95. In a Direction issued by the Arbiter on 4 October 2022, the parties were advised that should they come to a satisfactory resolution on any of the allegations that are contained within Application IAP 2022-21 before the Hearing, the Applicant may withdraw any of the allegations from the current live application for Internal Arbitration.
96. On 16 September 2022 the Respondent sent an email to Council's Councillor Conduct Officer and this email was forwarded to the Arbiter. In summary, the email outlined the status of the internal Council mediation process in relation to allegations contained within Application IAP 2022-21. It alleged that by lodging an application for an Internal Arbitration process the Applicant had breached Council's Code of Conduct. It stated that according to section 4.1 of the Code, Councillors must make genuine attempts at resolving the issues at a local level before commencing the formal dispute resolution process. It alleged that Councillors have disregarded the Code of Conduct and its requirements of due process. Finally, it requested that the current application be dismissed to protect the Respondent's rights to procedural fairness under the Code.
97. The contents of the email from the Respondent outlined above were carefully considered by the Arbiter. The Arbiter was not able to consider the allegations relating to Council's 'Dispute Resolution Procedure (Interpersonal disputes)', as outlined in Section 4 of the Frankston City Council Councillor Code of Conduct.
98. Councils may include complimentary processes, such as a mediation process, in their Councillor Code of Conduct. However, these complimentary processes cannot limit or restrict a Council's or Councillor's entitlement to make an application for an internal arbitration process under section 143 of the Local Government Act 2020. In view of this, the parties were advised that Application IAP 2022-21 was to proceed to hearing.

**Matthew Evans**  
Arbiter

Date: 23 January 2023

Attachment 1**Local Government (Governance and Integrity) Regulations 2020****Schedule 1—Standards of conduct****1 Treatment of others**

A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor—

- (a) takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the **Equal Opportunity Act 2010**; and
- (b) supports the Council in fulfilling its obligation to achieve and promote gender equality; and
- (c) does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and
- (d) in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.

**2 Performing the role of Councillor**

A Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor—

- (a) undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor; and
- (b) diligently uses Council processes to become informed about matters which are subject to Council decisions; and
- (c) is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and
- (d) represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.

**3 Compliance with good governance measures**

A Councillor, in performing the role of a Councillor, to ensure the good governance of the Council, must diligently and properly comply with the following—

- (a) any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors;
- (b) the Council expenses policy adopted and maintained by the Council under section 41 of the Act;
- (c) the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act;
- (d) any directions of the Minister issued under section 175 of the Act.

**4 Councillor must not discredit or mislead Council or public**

- (1) In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.
- (2) 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.

**5 Standards do not limit robust political debate**

Nothing in these standards is intended to limit, restrict or detract from robust public debate in a democracy.

**9. PRESENTATION OF PETITIONS AND JOINT LETTERS**

**Petition - Demolition of Long Street Reserve to construct a new Child and Family Centre**

**Council Decision**

**Moved: Councillor Liam Hughes**

**Seconded: Councillor Hill**

That the petition from Jason Toomer concerning the demolition of Long Street Reserve to construct a new Child and Family Centre comprising of 3 kindergarten rooms, 2 Maternal and Child Health consultation suites and a playgroup/parent education room with 1751 signatures be received.

**Carried Unanimously**

**10. DELEGATES' REPORTS**

Nil



**11. CONSIDERATION OF CITY PLANNING REPORTS**

- 11.1 Planning Application 446/2022/P - 383-389 Nepean Highway, Frankston - Use and develop a five to six (5-6) storey office building in a Mixed Use Zone, Design and Development Overlay (Schedule 5) and Special Building Overlay, reduction to car parking requirements of Clause 52.06 of the Frankston Planning Scheme, construction and display of two business identification signs and one floodlit identification sign and alteration to access to a road in a Transport Zone 2 (SC Communities)**

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

That Council resolves to issue a Notice of Decision to Grant a Planning Permit in respect to Planning Permit Application number 446/2022/P for use and development of the land for a five to six (5-6) storey office building in a Mixed Use Zone, Design and Development Overlay (Schedule 5) and Special Building Overlay, reduction to car parking requirements of Clause 52.06 of the Frankston Planning Scheme, construction and display of two business identification signs and one floodlit identification sign and alteration to access to a road in a Transport Zone 2 at 383-389 Nepean Highway, Frankston, subject to the following conditions:

**Amended Plans**

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application Project Reference CM3948 28 prepared by Crone Architects, Revision E, dated 3 October 2022, but modified to show:
  - a) The modifications proposed in the “without prejudice” plans prepared by Crone Architects, Drawing No. TP-A-115-00, Revision E, dated 23 November 2022.
  - b) Enhanced architectural expression and design detail toward the north-west and south-west corners through an integrated use of shading devices, fenestration, cladding and/or balconies or alternative to the satisfaction of the Responsible Authority.
  - c) The retaining/basement wall along O’Grady Avenue to include articulated precast panels as shown on the eastern elevation or alternative finish to the satisfaction of the Responsible Authority.
  - d) The proposed security metal fencing to access the rear staff amenities area with a minimum of 75% transparency.
  - e) Signage plan including an elevation and detail of each sign, including method of illumination and a location key.
  - f) A notation nominating bicycle space numbers.
  - g) Location of wayfinding signage to bicycle spaces in accordance with Clause 52.34-7 of the Frankston Planning Scheme.
  - h) Landscape Plan in accordance with Condition 5.
  - i) Landscape Maintenance Plan in accordance with Condition 6.
  - j) The finish ‘ST01 STONE – LIGHT’ to be extended across the north-west and central-west doorways or alternative material to the satisfaction of the Responsible Authority.
  - k) Detailed colours and materials schedule in accordance with Condition 22.

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- l) All surface treatments to be nominated on the plans.
- m) Modifications to plans in accordance with the recommendations of the Wind Tunnel Assessment required under Condition 34.
- n) If required, modifications to the Sustainability Management Plan under Condition 26, Green Travel Plan under Condition 29 and the Waste Management Plan under Condition 31 in response to the recommendations of the Wind Tunnel Assessment endorsed under Condition 34.
- o) Development plans to reflect all sustainability features that are required as part of the endorsed Sustainability Management Plan (SMP). The plans are to be generally in accordance with the plans submitted including:
  - a. Metering initiatives
  - b. Management 4.1 Building Users Guide
  - c. Reticulated third pipe or/and rainwater tank size and location
  - d. Water fixtures WELS star rating
  - e. Water 4.1 Building Systems Water Use Reduction
  - f. Energy 1.1 Thermal Performance Rating - Non-Residential
  - g. Heating & cooling efficiency
  - h. Hot water system unit type and its efficiency
  - i. ESD initiative regarding Internal Lighting
  - j. CO2 concentrations for the ventilation systems designed to achieve, to monitor and to maintain
  - k. Increase in outdoor air to regular use areas compared to the minimum required by AS 1668:2012
  - l. IEQ 4.1 Air Quality initiatives
  - m. Transport 2.1 Electric Vehicle Infrastructure

### **No Alterations or Changes**

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

### **Completion of Works**

- 3. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
- 4. Unless with the further written consent of the Responsible Authority, the building must not be occupied until all buildings and works as shown on the endorsed plans have been completed to the satisfaction of the Responsible Authority.

### **Landscaping**

- 5. Before the development starts, a detailed landscape plan consistent with Frankston City Council's Landscape Plan Guidelines (2020) 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 prepared by a suitably qualified landscape designer, drawn to scale with dimensions. The plan must be consistent with the development plans and generally in accordance with the concept landscape plan, prepared by Zenith Concepts Pty Ltd, dated 10/06/2022, but modified to show:
  - a) Proposed pathway connections and stairs within Council's reserve deleted.
  - b) A survey (including botanical names) of all existing vegetation on the site and those located within 3m of the site boundary on adjoining properties, accurately illustrated to represent canopy width and labelled with botanical name, height

- and whether the tree is proposed to be retained and/or removed;
- c) Buildings on neighbouring properties within three metres of the boundary;
  - d) The delineation and details of surface finishes of all garden beds, grassed areas, pathways, driveways, retaining walls and other landscape works including areas of cut and fill throughout the development site;
  - e) Details on the upper storey planting as illustrated in the elevation facades;
  - f) Detailed design for the level two rooftop garden planting to include more substantial mass planting of indigenous grasses;
  - g) Detailed design of raised planter beds;
  - h) The provision of subliminal vehicle protection barriers such as low-height concrete plinth or sphere rather than 'standard' bollards;
  - i) A reduction in the use of bollards with planter beds to minimise paved areas to the satisfaction of the Responsible Authority;
  - j) 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;
  - k) A range of plant types from ground covers to large shrubs and trees;
  - l) Increased landscape areas along Nepean highway by a minimum of 20% to reduce paved areas and soften the built form;
  - m) Adequate planting densities (e.g.: plants with a mature width of 1 metre, planted at 1 metre intervals);
  - n) A planting theme of a minimum 40% indigenous and 40% native within each plant group in keeping with the local coastal character;
  - o) All existing environmental weed species must be removed from the site and environmental and noxious weeds found in the 'Frankston City Council Invasive Species Guide (2019)' must not be planted;
  - p) Suitable canopy trees (minimum two metres tall when planted) in the areas specified below with species chosen to be approved by the Responsible Authority;
    - i. One upright tree within a deep zone within the north-west corner of the site minimum mature height of 6m or alternative to the satisfaction of the Responsible Authority.
    - ii. Eight (8) small trees within planter boxes along Nepean Highway.
    - iii. A minimum of twelve (12) small trees within planter boxes along the north, south and east boundaries.
  - q) The provision of notes on the landscape plan regarding site preparation, including in-ground recycled water irrigation system to be provided to all landscaped areas, removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements;
  - r) All tree stock used must be in accordance with *AS2303-2015 Tree stock for Landscape Use*.
  - s) Lighting specifications.

#### **Landscape Maintenance Plan**

6. Before the development starts, a landscape maintenance plan 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 include:
- a) Plant establishment schedule and period.
  - b) Ongoing annual planting maintenance schedule (monitoring of plants, weeding, watering, pruning, re-mulching, pest and disease management, fertilising, re-planting). Ongoing maintenance schedule for structures and surfaces (cyclic, routine, reactive, emergency and renovation).
  - c) Replacement timeframes for poorly performing plant stock.
  - d) Irrigation specification and irrigation maintenance schedule.
  - e) Maintenance responsibilities for landscaping establishment and ongoing maintenance.

#### **Council Tree Planting Plan**

7. Within 6 months of the development starting, a Council Tree Planting Plan must be submitted to and approved by the Responsible Authority unless otherwise agreed to

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in writing by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must include:

- a) Nominated location and species for the planting of 13 street trees and 7 trees to Council's Reserve (i.e. Evelyn Park) where achievable and to the satisfaction of the Responsible Authority, Servicing Authorities and Department of Transport.
  - b) An 18-month maintenance period (quote to be provided to be bonded including 30% replacement contingency) prior to the occupancy permit being issued with handover occurring outside summer period.
  - c) Trees to be planted in accordance with Council Standard SD522 (size 45L).
  - d) Notation that the trees are to be planted prior to the issue of the occupancy permit for the development, or by written agreement the payment of a fee for Council to deliver the requirements (including supply, installation and maintenance).
8. Prior to planting of trees on council property Council must be notified of the works and an inspection arranged of the stock or as agreed the provision of a certificate demonstrating all stock is in accordance with AS2303-2015 Tree stock for Landscape Use, unless agreed in written that an alternative arrange is made.
9. Prior to the issue of the occupancy permit and the satisfactory planting of the Council trees (as approved by Council's Arborist), payment of a bond 150% of the cost quoted for the 18 month maintenance and including formative prune and 30% replacement contingency of the Council trees must be paid to Frankston City Council as a maintenance bond. During this period any vandalized, damaged, sick, diseased, dead or dying trees must be replaced. Upon completion of the 18-month maintenance period, an inspection must be organised with Council's Arborist and if the Responsible Authority is satisfied that all the conditions of the Council tree planting have been met, the maintenance bond(s) originally paid will be refunded to the permit holder.
10. The landscaping as shown on the endorsed landscape plan must be carried out and completed to the satisfaction of the Responsible Authority before the occupation of the development and/or commencement of the use or at such later date as is approved by the Responsible Authority in writing.
11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged trees are to be replaced.

### **Construction Environmental Management Plan**

12. Before the development starts, a Construction Environmental Management Plan must be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed to form part of the permit. Any plans submitted must be consistent with all other documents approved as part of this permit. The information must be drawn to scale with dimensions and must include the following:
- a) Contact numbers of responsible owner/contractor including emergency/24 hour mobile contact details.
  - b) Identification of possible environmental risks associated with development works.
  - c) Response measures and monitoring systems to minimise identified environmental risks, including but not limited to creek protection, vegetation protection, runoff, erosion, dust, litter, noise and light.
  - d) Location and specifications of sediment control devices on/off site.
  - e) Location and specification of surface water drainage controls.
  - f) Proposed drainage lines and flow control measures.
  - g) Location and specifications of fencing for the protection of trees and/or vegetation as required by the permit.

- h) Location of all stockpiles and storage of building materials.
- i) Location of parking for site workers and any temporary buildings or facilities.
- j) Traffic management plans that show proposed traffic control measures during construction, the heavy vehicle route to and from the site, loading bay/works zone and access and egress from the site.
- k) Details to demonstrate compliance with relevant EPA guidelines.
- l) Hours during which construction activity will take place.

The provisions, recommendations and requirements of the endorsed Construction Environmental Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### Engineering

13. Provision of a Stormwater Detention System with a volume capable of retarding the 10 year ARI flow from the development site back to a 5 year ARI pre-development value to the satisfaction of the Responsible Authority.
14. Before the development starts detailed design plans and drainage computations of the internal stormwater drainage system including the method of connection to the existing Council drainage infrastructure must be submitted and approved to the satisfaction of the Responsible Authority.
15. Stormwater Drainage Outfall must be constructed to the satisfaction of the responsible Authority.
16. Water Sensitive Urban Design principles (WSUD) are to be incorporated into the drainage design, which may include but not be limited to the following components or a combination thereof:
  - a) On-site stormwater detention and rainwater tanks.
  - b) Soil percolation
  - c) Stormwater harvesting and Re-use of stormwater for garden watering, toilet flushing, etc.
  - d) On-site 'bio-treatment' to reduce dissolved contaminants and suspended solids.
17. Vehicle crossing must be constructed to Frankston City Council's standards and specifications to the satisfaction of the Responsible Authority.
18. All disused vehicle crossings must be removed and the area reinstated to kerb and channel and landscaped to the satisfaction of the Responsible Authority.
19. Before the development is completed, a footpath must be constructed along the northern site boundary with O'Grady Avenue to Frankston City Council's standards and specifications to the satisfaction of the Responsible Authority.
20. Before the building is occupied, areas set aside for parking vehicles, loading bays, access lanes and paths as shown on the endorsed plans must be:
  - a) Constructed to the satisfaction of the Responsible Authority;
  - b) Properly formed to such levels that they can be used in accordance with the plans;
  - c) Surfaced with an all-weather sealcoat; and
  - d) Drained and maintained to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways must be kept available for these purposes at all times.
21. 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 for works within the existing road reserves, in addition to the planning permit.

### **Façade Details and Materials and Finishes**

22. Before the development starts, a colour schedule and sample panel of all external materials and finishes showing materials, colours and materials, roof and glazing treatments to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the schedule will be endorsed and will then form part of the permit.
23. As part of the consultant team Crone Architects or an experienced architect must be engaged to oversee the design intent and construction quality to ensure that the design and quality and the appearance of the approved building is maintained to the satisfaction of the Responsible Authority.
24. The design, materials and finishes must be high quality, generally consistent with the materials and finishes proposed by Crone Architects, to the satisfaction of the Responsible Authority.
25. No equipment, services, architectural features or structures of any kind, including telecommunication facilities, other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.

### **Environmentally Sustainable Development**

26. Before the development starts, the Sustainability Management Plan (SMP) prepared by Stantec and dated 9 August 2022 must be submitted to and approved by the Responsible Authority. The plan will be endorsed and will then form part of the permit.
27. All works must be undertaken in accordance with the endorsed Sustainability Management Plan (SMP) to the satisfaction of the Responsible Authority. No alterations to the SMP may occur without the written consent of the Responsible Authority.
28. Before the occupation of the building approved under this permit, a report from the author of the SMP, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the SMP have been implemented in accordance with the approved Plan.

### **Green Travel Plan**

29. Before the use and/or development starts, the Green Travel Plan prepared by Traffix Group and dated June 2022 must be submitted to and approved by the Responsible Authority. When approved, the amended Green Travel Plan will be endorsed and will form part of this permit.
30. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Waste Management**

31. Before any of the uses start, the waste management plan (WMP) prepared by Traffic Group dated June 2022 must be submitted to and approved by the Responsible Authority. When approved, the WMP will be endorsed and form part of this permit. All waste generated by the uses must be collected by a Private Waste Management

Agency and in accordance with the EPA Victoria Publication 1254.2 Noise Control Guidelines and the endorsed WMP at all times to the satisfaction of the Responsible Authority.

### **Public Art Management Plan**

32. Prior to the issue of the occupancy permit, a Public Art Management Plan must be submitted to and approved by the Responsible Authority. When approved, the Public Art Management Plan will be endorsed and will then form part of this permit. The Public Art Management Plan must include, but not be limited to:

- a) Details of the commissioned artist(s)
- b) Location of the art on the development
- c) Description of art work, including:
  - a. Materials and colours;
  - b. Dimensions;
  - c. Content;
  - d. Special features;
  - e. Lighting to illuminate the artwork;
  - f. Details of the installation process; and
  - g. Details of art works maintenance schedule.

To the satisfaction of the Responsible Authority.

33. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the approved public art must be carried out and completed. Once completed, the public art must be maintained in accordance with the endorsed Public Art Management Plan to the satisfaction of the Responsible Authority.

### **Wind Assessment**

34. Before the development commences, a Wind Tunnel Assessment unless otherwise agreed to in writing by the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Wind Tunnel Assessment will be endorsed and will form part of the permit. The Wind Tunnel Assessment must be to the satisfaction of the Responsible Authority and include:

- a. An assessment based on the amended plans in accordance with Condition 1 of this permit; and
- b. Minimum acceptable criterion achieved at all locations to ensure that the built form, design and layout of the development does not generate unacceptable wind impacts within the site or on surrounding land.

35. The provisions, recommendations and requirements of the Wind Assessment endorsed under Condition No. 34 must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Urban Design**

36. All lighting used to externally illuminate buildings, works and uses shall be fitted with cut-off luminaires (baffles) so as to prevent the emission of direct and indirect light onto adjoining roadways, land and premises.

37. All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.

38. Mailboxes shall be provided within the development to the satisfaction of the Responsible Authority and Australia Post.

39. All pipes, fixtures and fittings servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible

Authority.

40. All roof plant and equipment must be screened so as not to be visible from public areas.
41. Before the buildings are occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.

### **Amenity**

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

To the satisfaction of the Responsible Authority.

43. The loading and unloading of goods from vehicles must only be carried out within the designated loading bay area on the site.
44. Air-conditioning and other plant and equipment installed on or within the buildings must be positioned and baffled that any noise emitted complies with the appropriate Australian Standards and EPA requirements.

### **Signage Requirements**

45. The signs hereby permitted must not:
- a) be animated;
  - f) be moving or rotating;
  - g) contain any flashing or intermittent light.
46. The signs hereby permitted must be constructed to the satisfaction of the Responsible Authority, and must be maintained to the satisfaction of the Responsible Authority.
47. Upon expiry of the approved signage, all structures built specifically to support the structure must subsequently be removed.

### **Cultural Heritage Management Plan**

48. The construction of the development hereby approved must be carried out in the accordance with the approved Cultural Heritage Management Plan No. 16179 prepared by Unearthed Heritage and approved by the Bunurong Land Council on 9 May 2022.

### **Permit Expiry**

49. This permit as it relates to development will expire if:
- a) The development is not started within two (2) years of the date of this permit.
  - b) The development is not completed within four (4) years of the issued date of this permit.

This permit as it relates to use will expire if:

- a) The use is not started within two (2) years of the completion of the development.
- b) The use is discontinued for a period of two (2) years or more.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an

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application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

50. The permit as it relates to signage expires 15 years from the date of this permit.

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**Permit Notes****A. Asset Protection Permit**

Before the development starts 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 extension of time request must 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. Building Work**

An owner/occupier is required by law to ensure full compliance with the requirements of the *Building Regulations 2018* and the *Building Act 1993*. Before any building work starts, the *Building Act 1993* requires that a building permit is obtained and be available for inspection during all times of construction.

**Carried**

**For the Motion:** Crs Asker, Baker, Bolam, Conroy, Harvey, Hill and Tayler **(7)**

**Against the Motion:** Crs Liam Hughes and Steven Hughes **(2)**

**11.2 Planning Application 44/2022/P - 135 Golf Links Road, Frankston South - To construct a Telecommunications Facility (including telecommunications tower and associated equipment) in a Rural Conservation Zone Schedule 3 (RCZ3) and to remove one (1) tree in a Significant Landscape Overlay Schedule 1 (SLO1).**

*(SC Communities)*

**Moved: Councillor Bolam**

**Seconded: Councillor Hill**

That Council resolves to issue a Notice of Decision to Grant a Planning Permit in respect to Planning Permit Application number 44/2022/P to construct a Telecommunications Facility (including telecommunications tower and associated equipment) in a Rural Conservation Zone Schedule 3 (RCZ3) at 135 Golf Links Road Frankston South, subject to the following conditions:

**Amended Plans**

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be substantially in accordance with the plans submitted with the application *Drawing Number 340111 5 Sheets prepared by Axicom dated 5 April 2022 Revision A* but modified to show:
  - (a) All trees growing on the site and on the adjoining properties within 3m of the boundaries clearly illustrated on all relevant plans. This must include canopy width, trunk location and be clearly labelled in accordance with the arborist report by Treespace Solutions dated 7 April 2022 and state whether the tree is to be retained or removed.
  - (b) The Tree Protection Zone (TPZ), Structural Root Zone (SRZ) and the location of tree protection fencing and or ground protection systems for all retained trees clearly illustrated on all relevant plans.
  - (c) Notation on all relevant plans that the existing natural ground level (NGL) within any TPZ must be maintained and not be altered by excavations throughout all development phases.
  - (d) Increased setback of the facility from the east side boundary to avoid pruning Tree 5.
  - (e) Tree protection conditions noted on all relevant plans in accordance with Condition 6.
  - (f) Landscape Plan in accordance with Condition 3.
  - (g) Amendments to the access track, crossover and tree retention in accordance with the plans received by Council on 27 July 2022.
  - (h) Detailed plan of the proposed crossover and access track, including as necessary swept paths of vehicles used during construction and maintenance of the facility.
  - (i) The exterior colour and cladding of the monopole and buildings of a non-reflective nature and/or either painted or have a pre-painted finish in natural, muted tones (or such other colour as is approved by the Responsible Authority).

**No Alterations**

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

**Landscape Plan**

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3. Before the development starts, a detailed landscape plan for a 10 metre radius around the compound, consistent with Frankston City Council's Landscape Plan Guidelines (2020) 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 prepared by a suitably qualified landscape designer, drawn to scale with dimensions. The plan must be consistent with the development plans and show:
  - a) The Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) of retained trees illustrated with notations regarding protection methods during construction;
  - b) 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;
  - c) a range of plant types from ground covers to large shrubs and trees;
  - d) adequate planting densities (e.g.: plants with a mature width of 1 metre, planted at 1 metre intervals);
  - e) A 100% indigenous planting theme;
  - f) All existing environmental weed species must be removed from the site and environmental and noxious weeds found in the 'Frankston City Council Invasive Species Guide (2019)' must not be planted;
  - g) the provision of notes on the landscape plan regarding site preparation, removal of all weeds, weed control, planting timing, plant protection, proposed mulch, soil types and thickness, subsoil preparation and ongoing maintenance requirements;
  - h) All tree stock used must be in accordance with *AS2303-2015 Tree stock for Landscape Use*.
4. The landscaping as shown on the endorsed landscape plan must be carried out and completed to the satisfaction of the Responsible Authority before the use starts or at such later date as is approved by the Responsible Authority in writing.
5. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged trees are to be replaced.

### Tree Protection

6. Tree protection must be carried out in accordance with the Australian Standard AS 4970-2009 Protection of Trees on Development Sites to the satisfaction of the Responsible Authority. Prior to the commencement of the development (including demolition and any initial site preparations) Tree Protection Fencing (TPF) must then be erected at the applicable radial TPZs. The TPF must comprise temporary fencing panels (min. 1.8m height) and held in place with concrete feet. A fixed sign stating Tree Protection zone is to be provided on all visible sides of the TPF. All tree protection zones, fencing and signage must be to the satisfaction of the Responsible Authority.

The requirements below must be observed within this area –

- a) Coarse mulch laid to a depth of 75 mm (excluding road reserve of street trees).
- b) No vehicular or pedestrian access.
- c) The existing soil level must not be altered either by fill or excavation.
- d) The soil must not be compacted or the soil's drainage changed.
- e) No fuels, oils, chemicals, poisons, rubbish or other materials harmful to trees

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are to be disposed of or stored.

- f) No storage of equipment, machinery or material is to occur.
- g) No open trenching to lay underground services.
- h) Nothing whatsoever is to be attached to any tree.
- i) Tree roots must not be severed or injured.
- j) All tree pruning (including to roots) is to be carried out by a professional arborist and in accordance with Australian Standard AS4373-2007 Pruning of Amenity Trees.

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

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

### Telecommunications

- 7. The telecommunications cabinets and equipment must be visually maintained and kept free from vandalism and graffiti to the satisfaction of the Responsible Authority.
- 8. Any landscaped areas surrounding the housing units must be maintained regularly to the satisfaction of the Responsible Authority.
- 9. Any communications infrastructure decommissioned and no longer required at the telecommunications facility must be removed from the site in one month of being decommissioned and no longer required to the satisfaction of the Responsible Authority.
- 10. If the telecommunications facility hereby approved becomes redundant, all above ground infrastructure associated with the telecommunication facility must be removed and the area reinstated to the satisfaction of the Responsible Authority. All works to comply with this condition must be completed within three months of the facility ceasing to operate and must be at the expense of the permit holder.

### Completion of Works

- 11. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
- 12. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
- 13. The use and development must be managed to the satisfaction of the Responsible Authority so that the amenity of the area is not detrimentally affected through the:
  - (a) Transport of materials, goods or commodities to or from the land; and
  - (b) Appearance of the building, works or materials.

### Engineering

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

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

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

### **Permit Expiry**

16. This permit will expire if:

- (a) The development is not started within two (2) years of the date of this permit; or
- (b) The development is not completed within four (4) years of the issued date of this permit.

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.

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### **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 extension of time request must 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.

### **Deferral Motion to another Council Meeting**

**Moved: Councillor Steven Hughes**

**Seconded: Councillor Asker**

That the matter be deferred to be considered at the next Council meeting.

**Carried**

**For the Motion:** Crs Asker, Harvey, Hill, Liam Hughes and Steven Hughes **(5)**

**Against the Motion:** Crs Bolam, Conroy and Tayler **(3)**

**Abstained:** Cr Baker **(1)**

It was noted that the matter has been deferred to understand the extent of the consultation between the applicant and the objectors and report back to Council.

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**11.3 Statutory Planning Progress Report - November and December 2022***(SC Communities)***Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Receives the Statutory Planning Progress Reports for the months of November and December 2022; and
2. Resolves that the Major Development Updates (Attachment C) remain confidential indefinitely on the grounds that it contains land use planning information and private commercial information (*Local Government Act 2020, s.3(1)(c) and (g)*). These grounds apply because it contains private development information and would, if prematurely released, impact the reputation of Councillors and Council.

**Carried Unanimously****Note:** Refer to page 4 of these Minutes where this item was Block Resolved

**12. CONSIDERATION OF REPORTS OF OFFICERS****12.1 Council Resolution Status Update for 30 January 2023***(BA Corporate and Commercial Services)***Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Receives the Notice of Motion Report for 30 January 2023;
2. Receives the Urgent Business Status Update for 30 January 2023;
3. Notes there are no Notice of Motion actions that have been reported as being complete;
4. Notes, since the Council Meeting held on 12 December 2022, 14 resolutions have been completed, as listed in the body of the report;
5. Resolves for Attachment D to remain confidential indefinitely on the grounds that it includes confidential meeting information, being the records of meetings closed to the public under section 66(2)(a) (*Local Government Act 2020, s.3(1)(h)*). These grounds apply because the information concerns updates on resolutions made by Council in meetings closed to the public and would, if prematurely released, impact on Council's ability to properly perform its functions.

**Carried Unanimously****Note:** Refer to page 4 of these Minutes where this item was Block Resolved

**12.2 Chief Executive Officer's Quarterly report - October - December 2022 period***(PC Chief Executive Office)***Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Notes the Chief Executive Officer's Report including updates from previous adopted recommendations;
2. Notes the 'public' version of the Chief Executive Officer's Quarterly Report for the period October to December 2022 (attachment A), which will be made available after this meeting through Council's website;
3. Approves for \$5,000 (in addition to the \$1,000 already allocated via Council's Environmental Grants) in under-expended funds from the Community Mental Health 1st Aid Training initiative to be reallocated to the Seaford Banksia Arboretum Project in order to support local residents to connect with each other whilst sharing in this positive community planting project; and
4. Resolves for attachment B (Confidential Chief Executive Officer's report for October to December 2022 period) to be retained as confidential indefinitely, on the grounds that it contains information that is confidential pursuant to the Local Government Act 2020, section 3(1) (a), (d), (e), (f), (g), (i), (j) and (h) and would, if prematurely released impact on Council's reputation and ability to properly perform its functions.

**Carried Unanimously****Note:** Refer to page 4 of these Minutes where this item was Block Resolved



**12.3 Frankston Business Collective update***(FM Customer Innovation and Arts)**Councillor Liam Hughes left the chamber at 8:37 pm.***Council Decision****Moved: Councillor Tayler****Seconded: Councillor Harvey**

That Council:

1. Notes a local business chamber, now known as the Frankston Business Collective (FBC), officially commenced operating in July 2022 under the joint management of Council and a voluntary board;
2. Notes the success of the Frankston Business Collective in forming an active membership base of over 110, over 2,000 registered to the FBC mailing list and a series of well-attended business networking and training events delivered while achieving initiatives identified within their key pillars of Connection, Education and Advocacy;
3. Notes the FBC 2023 Schedule of Events, including Networking Events, Annual Business Awards and a Full Business Education series;
4. Notes the FBC has been working on a business model aimed at becoming a self-sustaining independent body representing local Frankston City businesses, with current modelling indicating this can likely be achieved within the next two (2) year period;
5. Notes the FBC will continue to support Council initiatives aimed at economic recovery, including advertising and communicating to the business community, and supporting the Business Grants process as an independent panel member;
6. Endorses the FBC to formally establish itself as an independent body from 28 February 2023 given the ongoing success of the FBC to date and in response to current forecast modelling of the group;
7. Notes the agreement begins 28 February 2023 and ends 30 August 2025 (to provide sufficient time for acquittal of all funds), and will include a 12 month review for 2024/25 funding needs. At the end of this complete period a further review will be conducted if warranted. There are also additional safeguards to protect Council's interests in the event of non-compliance with agreed obligations;
8. Commits funding of \$130,000 in 2023-2024 towards FBC operations and notes a further \$60,000 requested by FBC in 2024-2025 which is subject to FBC's financial position at the time and Council's annual budget process;
9. Authorises the Chief Executive Officer to sign the attached draft FBC Funding Agreement and make the necessary adjustments to Council's Annual Budget to support the FBC in achieving financial sustainability and independence; and
10. Receives ongoing quarterly reporting from the FBC covering initiatives, finances, membership and future direction, and maintains a positive and collaborative working relationship with the FBC into the future including invitations to attend FBC events and Board meetings.

**Carried Unanimously***The Deputy Mayor was not present in the Chamber at the time of the vote*

**12.4 E-bikes trial progress report***(PD Customer Innovation and Arts)***Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Notes the E-bikes progress report, as resolved at its Meeting on 24 October 2022;
2. Notes a further E-bike report will be provided to determine the future of E-bikes within the City of Frankston at the April 2023 Council Meeting; and
3. Endorses the continuation of the E-bike service until the April 2023 Council Meeting.

**Carried Unanimously****Note:** Refer to page 4 of these Minutes where this item was Block Resolved

**12.5 Appointment of Directors to the Board of Peninsula Leisure Pty Ltd***(KJ Corporate and Commercial Services)**Councillor Liam Hughes returned to the chamber at 8:40 pm.**Councillor Asker left the chamber at 8.41 pm.***Recommendation (Director Corporate and Commercial Services)**

That Council:

1. Acknowledges the contribution of Mr David Fraser and Mr Tom Mollenkopf during their tenure as Non-Executive Directors to the Board of Peninsula Leisure Pty Ltd (PL);
2. Re-appoints Mr David Fraser as a Non-Executive Director of Peninsula Pty Ltd for a period of three years, with the appointment expiring on 30 April 2026; and
3. Re-appoints Mr Tom Mollenkopf as a Non-Executive Director of Peninsula Pty Ltd for a period of three years, with the appointment expiring on 30 April 2026.

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

That Council:

1. Acknowledges the contribution of Mr David Fraser and Mr Tom Mollenkopf during their tenure as Non-Executive Directors to the Board of Peninsula Leisure Pty Ltd (PL);
2. Re-appoints Mr David Fraser as a Non-Executive Director of Peninsula Pty Ltd for a period of three years, with the appointment expiring on 30 April 2026;
3. Re-appoints Mr Tom Mollenkopf as a Non-Executive Director of Peninsula Pty Ltd for a period of three years, with the appointment expiring on 30 April 2026; and
4. Congratulates Tom Mollenkopf for receiving the Award of Officer in the Order of Australia (AO) on Australia Day. This well-earned honour recognised the contribution Tom has made in the areas of business and community.

**Carried****For the Motion:** Crs Baker, Bolam, Conroy, Harvey, Hill, Liam Hughes and Tayler **(7)****Against the Motion:** Nil**Abstained:** Cr Steven Hughes **(1)***Councillor Asker was not present in the Chamber at the time of the vote*

**12.6 Appointment of Independent Member to the Audit and Risk Committee***(KJ Corporate and Commercial Services)***Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Reappoints Ms Lisa Tripodi as an Independent Member of the Frankston City Council Audit and Risk Committee (ARC) for a further three (3) year term, expiring on 31 December 2025; and
2. That the CEO writes to Ms Lisa Tripodi advising of Council's decision and offer congratulation on reappointment to the ARC.

**Carried Unanimously****Note:** Refer to page 4 of these Minutes where this item was Block Resolved

**12.7 Appointment of Chairperson to the Audit and Risk Committee 2023***(KJ Corporate and Commercial Services)***Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Resolves to appoint Ms Lisa Tripodi to the position of Chairperson of the Audit and Risk Committee (ARC) until 31 December 2023; and
2. Resolves that the attachment, Expression of Interest – Chairperson Position – Ms Lisa Tripodi, remains confidential indefinitely as it contains personal information (*Local Government Act 2020, s.3(1)(f)*). These grounds apply because the information which, if released, would result in the unreasonable disclosure of information about a person and their personal affairs and would breach privacy obligations.

**Carried Unanimously****Note:** Refer to page 4 of these Minutes where this item was Block Resolved

**12.8 Outcomes of the Audit & Risk Committee Meeting - 2 December 2022***(KJ Corporate and Commercial Services)***Council Decision****Moved: Councillor Harvey****Seconded: Councillor Baker**

That Council:

1. Receives the unconfirmed minutes of the Audit and Risk Committee meeting held on 2 December 2022; and
2. Resolves the attachment remains confidential indefinitely on the grounds that it as it contains details of existing audits and other information which includes Council business information, security information, law enforcement information, legal privileged information, personal information, private commercial information and confidential meeting information (Local Government Act 2020, s.3(1)(a), (b), (d), (e), (f), (g) and (h)). Premature release of this information would impact the status of the audits and compromise the ability for future audits to be properly undertaken.

**Carried Unanimously****Note:** Refer to page 4 of these Minutes where this item was Block Resolved

**13. RESPONSE TO NOTICES OF MOTION**

Nil

**14. NOTICES OF MOTION****14.1 2023/NOM1 - Kananook Railway Station Sound Wall***(JM Customer Innovation and Arts)*

*Councillor Asker returned to the chamber at 8.45 pm.*

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

That Council formally writes to the State Member for Frankston, Mr Paul Edbrooke MP, and State Minister for Public Transport, the Hon Ben Carroll MP, expressing concern about the aesthetic state of the new sound-wall on Frankston Freeway adjoining Kananook Railway Station.

The new wall, much like the previous sound-wall, is recurrently vandalised resulting in an unpleasant sense of arrival to Frankston City while impacting amenity, civic pride and municipal reputation.

The letter will seek Victorian Government investment towards beautification works to the Kananook Railway Station sound-wall, which could include a public art mural and/or artificial greening.

**Carried Unanimously**



**.14.2 2023/NOM2 - Release of Closed Council Report on Proposed Long St Kindergarten and MCH***(TC Corporate and Commercial Services)***Council Decision****Moved: Councillor Hill****Seconded: Councillor Harvey**

That Council:

1. Authorises the immediate public release of the division of voting for the Closed Council Item C.1 (Kindergarten Reform Update and Langwarrin Child & Family Centre), at Council Meeting 2022/CM15 on 24 October 2022 with the draft minutes of this Council Meeting;
2. Authorises the immediate public release of the officer's report for Closed Council item referred to in (1) with the draft minutes of this Council meeting, except for the first dot point/fourth paragraph under the Key Points/Issues sub-heading and the attachment. These two items of information to be excluded relate to kindergarten sites other than Long Street Langwarrin; and
3. Receives a report at the February 2023 Council Meeting outlining:
  - (a) The information released to the community to date;
  - (b) Information to be released to the community in future and timeframes around this release, including the timeframe for the release of the excluded information referred to in item 2 (above).

**Carried Unanimously**

**15. LATE REPORTS**

Nil

**16. URGENT BUSINESS**

Nil

**17. CONFIDENTIAL ITEMS**

Nil Reports

Chairperson's initials .....

**18. OUTCOME OF CONSIDERATION OF CONFIDENTIAL ITEMS**

*The Council, at its meeting held on 24 October 2022 considered the following item in the closed meeting and passed the following resolution:*

**C.1 Kindergarten Reform Update and Langwarrin Child & Family Centre****Council Decision****Moved: Councillor Bolam****Seconded: Councillor Baker**

That Council:

1. Notes the Kindergarten Reform changes and the assessment findings for existing single room kindergarten expansions;
2. Supports the inclusion of new kindergarten infrastructure projects into the Long Term Infrastructure Plan (LTIP) to reduce the impact of the reform on community, and for all Early Years projects to be prioritised;
3. Endorses the Long Street Reserve to be the preferred site for the Langwarrin Child & Family Centre to enable further planning and feasibility to be undertaken;
4. Endorses commencing conversations with the existing Langwarrin Pre-School Committee of Management (COM) regarding the opportunity to transition to the new Langwarrin Child & Family Centre site;
5. Notes McClelland Gallery has been informally advised that the acquisition of part of its land for a Bush Kindergarten will not be pursued and that will now be formally communicated;
6. Resolves that the report and Attachment A be retained as confidential indefinitely on the grounds that it contains information that is Council business information, being information that would prejudice Council's position in commercial negotiations if prematurely released (*Local Government Act 2020, section 3(1)(a)*); and private commercial information, being information provided by a business, commercial or financial undertaking that (i) relates to trade secrets; or (ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage (*section 3(1)(g)*). These grounds apply because the information concerns matters that are likely to be the subject of future negotiations and would, if prematurely released, compromise the integrity and outcome of those negotiations; and
7. Resolves that the resolution be released after Council staff having commenced conversations with the Langwarrin Pre-School Committee of Management.

**Carried Unanimously**

Reports of Officers

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24 October 2022  
2022/CM15**Executive Summary****C.1 Kindergarten Reform Update and Langwarrin Child & Family Centre***Enquiries: (Claire Benzie: Communities)*Council Plan

Level 1: 1. Healthy and Safe Communities

Level 2: 1.1 Engage families to promote the importance of early childhood education and health

**Purpose**

To inform Council of the Kindergarten Reform and infrastructure requirements, and to propose a new preferred site for the Langwarrin Child & Family Centre.

**Recommendation (Director Communities)**

That Council:

1. Notes the Kindergarten Reform changes and the assessment findings for existing single room kindergarten expansions;
2. Supports the inclusion of new kindergarten infrastructure projects into the Long Term Infrastructure Plan (LTIP) to reduce the impact of the reform on community, and for all Early Years projects to be prioritised;
3. Endorses the Long Street Reserve to be the preferred site for the Langwarrin Child & Family Centre to enable further planning and feasibility to be undertaken;
4. Endorses commencing conversations with the existing Langwarrin Pre-School Committee of Management (COM) regarding the opportunity to transition to the new Langwarrin Child & Family Centre site;
5. Notes McClelland Gallery has been informally advised that the acquisition of part of its land for a Bush Kindergarten will not be pursued and that will now be formally communicated;
6. Resolves that the report and Attachment A be retained as confidential indefinitely on the grounds that it contains information that is Council business information, being information that would prejudice Council's position in commercial negotiations if prematurely released (*Local Government Act 2020, section 3(1)(a)*); and private commercial information, being information provided by a business, commercial or financial undertaking that (i) relates to trade secrets; or (ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage (*section 3(1)(g)*). These grounds apply because the information concerns matters that are likely to be the subject of future negotiations and would, if prematurely released, compromise the integrity and outcome of those negotiations; and
7. Resolves that the resolution be released after Council staff having commenced conversations with the Langwarrin Pre-School Committee of Management.

**Key Points / Issues**

At the Council briefing on 12 September 2022, officers presented information pertaining to the Kindergarten Reform and proposed a new preferred site for the Langwarrin Child & Family Centre.

Chairperson's initials .....

Reports of Officers

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24 October 2022  
2022/CM15**C.1 Kindergarten Reform Update and Langwarrin Child & Family Centre**  
**Executive Summary**Kindergarten Reform Update

The Victorian Government recently announced free kindergarten for all 3 and 4 year old children commencing in 2023, included in the announcement is delivery of 30 hours of kindergarten for 4 year olds commencing in 2025. This will place additional pressure on existing infrastructure and will significantly increase the demand for new and or expansion of existing buildings. It is anticipated that with the introduction of 30 hours commencing in 2025, all single room kindergartens will only be able to offer one group of funded 4 year old kindergarten.

A single room kindergarten can currently accommodate up to 77 children to provide kindergarten programs, and when the 30 hours per week commences in 2025 this will reduce to 28 available places. In total there are 23 community kindergartens in Frankston, these are run by Committees of Management (COM) and Early Years Managers (EYM), and of these kindergartens, 17 are single room.

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- For kindergartens that cannot expand, officers will commence discussions with service providers and other peak early years' bodies to consider viable options to allow the continuation of programs. It is critical through this planning to ensure programs meet community need and provide optimal learning opportunities for children.
- The inclusion of new expansion projects will greatly improve the capacity shortage for the future, however it will not meet all of the expected shortfall. Meeting the kindergarten supply shortage will be a shared responsibility between Council and the not-for-profit and for-profit long day care sector. Where the demand for places exceeds the additional supply provided through Council's LTIP, Council Officers, in partnership with DET, will advocate to the long day care sector to meet the gap.

Langwarrin Child & Family Centre

- Locating appropriate land for the Langwarrin Child & Family Centre has proven to be challenging and has taken a number of years. The recent announcement to increase program hours, along with information regarding the existing Langwarrin Pre-School's inability to expand, has presented an opportunity to re-visit the Long Street Reserve as the site for the facility.
- The Long Street Reserve land is owned by Frankston City Council and is zoned as Public Park and Recreation (PPRZ), as such, no planning permit is required to build the facility. The site is not in a bushfire prone area, and has no significant



Reports of Officers

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24 October 2022  
2022/CM15**C.1 Kindergarten Reform Update and Langwarrin Child & Family Centre****Executive Summary**

planning overlays. There are numerous mature trees on the site, however the land is of sufficient size to minimise the impact and tree removal through the design and concept of the facility. There is existing play equipment in the reserve, and there is an opportunity for this to be renewed and relocated within the site.

The Long Street Reserve site is an ideal location for a kindergarten due to its proximity to public transport and location within a high density residential area. There are tall mature trees across the site that would provide screening for the surrounding properties and shade for the children in the outdoor play space. Towards the back of the site is heavily vegetated and is of sufficient size to allow for a Bush Kinder, the Bush Kinder would be fantastic for Frankston City Council and the community, and a significant drawcard for families.

Given the Long Street Reserves close proximity to the existing Langwarrin Pre-School that cannot be expanded, there is an opportunity to commence early conversations with the Committee of Management to seek their Expression of Interest in operating from the new facility. This opportunity presents benefits for all parties. The Committee would have certainty about their future, families attending the centre could remain in the same location, and Council could then consider the future use or disposal of the land. A valuation is currently being carried out on the existing Langwarrin Pre-School site.

- The integrated facility will accommodate, 3 kindergarten program rooms that meet the minimum compliance requirements for the licenced areas including outdoor play space. There are 2 MCH consult suites and a smaller consult suite for allied services to attend the centre, along with a parenting education room. Sufficient space is allocated for a staff kitchen and office.
- Currently, the project has an allocation of \$8.2 million in the LTIP. Without detailed cost estimates there is an assumption that the Long Street project may cost approximately \$7.279 million, additionally, due to site constraints and the relocation of the existing playground the overall cost of the project is estimated to be \$7.679 million. Funding up to \$2 million is available through the Victorian School Building Authority (VSBA) and this will reduce the estimated cost to \$5.679 million.

**Financial Impact**

There is currently an allocation of approximately \$26 million in the LTIP for Early Years facilities. The recent announcements require addition Early Years infrastructure projects to reduce the impact of the reform. It is estimated the additional projects, along with a review of existing projects, will increase the overall allocation for Community Health to approximately \$60 million.

Building Blocks grant funding is available through the Victorian School Building Authority (VSBA). Each project is assessed individually, and the amount of funding awarded is based on the increase in capacity and if the site is integrated with other services. If the capacity expansion is stand alone, funding of up to \$1.2 million may be awarded, and up to \$2 million if it is integrated with other services. Without further feasibility and cost estimates it is anticipated that of the total estimated \$60 million for all projects, Council could apply for approximately \$22 million, thereby reducing the cost to Council to \$38 million. If additional funding streams become available in the future, Council officers will apply accordingly.

The provision of kindergarten infrastructure is critical, and opportunities will be sought to advocate to State and Federal Government. Council staff will ensure the Advocacy Team is provided with a list of all kindergarten projects requiring additional funding allocation.

Chairperson's initials .....

Reports of Officers

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24 October 2022  
2022/CM15**C.1 Kindergarten Reform Update and Langwarrin Child & Family Centre****Executive Summary****Consultation****1. External Stakeholders**

- Cohen Leigh was the appointed architect to undertake the capacity expansion assessment of the single room kindergartens, and provided feasibility studies for the Long Street and Pindara Boulevard sites in Langwarrin.
- Robert Panozzo was appointed as the consultant to develop the Community Infrastructure Plan. Robert provided statistic data and advice regarding the expected implications for Council due to the Kindergarten Reform.

**2. Other Stakeholders**

The following internal teams were consulted on the initial planning and feasibility of the single room kindergartens and proposed Langwarrin sites:

- Building and Facilities
- Capital Works Delivery
- Traffic Engineering
- Environment and Planning
- Open Space
- Development Services

**Analysis (Environmental / Economic / Social Implications)**

Access to kindergarten programs is crucial to provide young children the learning opportunity to develop their social, emotional and behavioural skills. These foundation years for children will support learning and long term success. It is important that Council supports the reform changes and additional infrastructure projects to give the children in Frankston City the best start in life.

Tree removal will be a consistent issue across every kindergarten site identified for redevelopment and expansion. Officers will comply with relevant procedures and permit requirements for any trees that require removal, and will ensure concept designs are developed with a view to minimise impact on the environment and surrounding aesthetics of the community.

**Legal / Policy / Council Plan Impact**Charter of Human Rights and Responsibilities

All matters relevant to the Charter of Human Rights and Responsibilities have been considered in the preparation of this report and are consistent with the standards set by the Charter.

Legal

Local Government is a key stakeholder in the Victorian Government Kindergarten Reform. The Kindergarten Infrastructure and Services Plan (KISP), although not legally binding, is an agreement co-signed by the Department of Education and Training (DET) and Frankston City Council to support the Kindergarten Reform. It is a commitment to work together to improve joint planning to deliver more kindergarten places to better support children and families wherever they live.

Policy Impacts

Relevant Council policies include, Open Space Strategy, Kindergarten Infrastructure and Services Plan (KISP), Draft Community Infrastructure Plan (CIP), Municipal Early Years Plan (MEYP) and the Council Plan.

Chairperson's initials .....



## Reports of Officers

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24 October 2022  
2022/CM15

## C.1 Kindergarten Reform Update and Langwarrin Child &amp; Family Centre

**Executive Summary**Officer's Declaration of Interests

Council officers involved in the preparation of this report have no Conflict of Interest in this matter.

**Risk Mitigation**

The Kindergarten Reform announcements were unexpected, and the implementation is commencing within a short time period, at the beginning of 2023. It is imperative that Council supports the inclusion of new infrastructure projects, and for all Early Years projects to be deemed non-discretionary, to reduce the number of children impacted by the reform. There are 6 new projects to be listed in the LTIP, if these projects are not progressed there is significant risk that approximately 163 children will either be relocated to another provider, or miss out altogether. If these kindergartens then become unviable, resulting in their closure, the number of displaced children will increase to 317. In total, including kindergartens that cannot be expanded the number of children displaced could be up to 678. Noting this capacity reduction does not incorporate the additional children identified in the Key Infrastructure and Services Plan (KISP).

Community consultation will be key to mitigating the risk of community resistance. It is important that Council has the support from the Langwarrin Pre-School Committee and extended Langwarrin local community. Commencing early conversations with the Committee will provide certainty around their future and will encourage support from existing families and broader community.

A Kindergarten Strategy is required to ensure the program of infrastructure projects are prioritised and delivered in key priority areas, and aligned with other relevant strategic documents. The strategy will be a key communication piece to consult and involve community across the roll out of all infrastructure projects. Similarly, the ongoing management of capacity expansion projects is essential to coordinate and facilitate the relocation of existing services and respond to key stakeholders and families.

**Conclusion**

The search to locate suitable land for a new kindergarten in Langwarrin has taken several years. A recent capacity assessment has identified the Long Street Reserve site as an ideal location for an Early Years facility. Public transport is within close proximity and being in a high density residential area, will be within walking distance for many families. The tall mature trees create a natural play space for the children screening for surrounding properties. Furthermore, the site allows for a Bush Kinder, and this would be a great asset to Frankston City Council and the community. The overall project cost of the Long Street Reserve site will be reduced as the land is owned by Council. It is important that this project be progressed in a timely manner to align with the LTIP and Kindergarten Reform requirements.

A number of new Early Years projects need to be incorporated into the current LTIP to reduce the impact of the Kindergarten Reform. A Kindergarten Strategy, is required to ensure the community are informed, and Council is well positioned to implement the reform and support the ongoing education needs of children in the community.

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**Reports of Officers****6****24 October 2022  
2022/CM15****Executive Summary**

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**ATTACHMENTS**

Attachment A: Attachment A - Kindergarten Expansion Opportunities -  
**CONFIDENTIAL**

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## Reports of Officers

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24 October 2022  
2022/CM15**C.1 Kindergarten Reform Update and Langwarrin Child & Family Centre  
Officers' Assessment****Background**

Over the last few years officers have carried out feasibility studies across a number of sites in Langwarrin for the Langwarrin Child & Family Centre facility. These are:

- Lloyd Park – Telecom Tower
- Lloyd Park – North West Corner
- Lloyd Park North – Pindara Boulevard
- Melbourne Water site – McClelland Drive
- Studio Park – McClelland Gallery
- Cruden Farm
- Langwarrin Gateway
- McClelland Gallery – new allotment

In April 2021, the McClelland Gallery was identified as the preferred site for the new facility, this was predominantly due to land availability. The size of the land required to be purchased by Council in the subdivision process also afforded the opportunity to provide the community with a Bush Kindergarten.

In June 2022, the Victorian Government announced free kindergarten for all 3 & 4 year old children commencing in 2023, and an increase of program hours to 30 hours per week for 4 year olds in 2025. The need for additional kindergarten infrastructure across the municipality was quickly realised.

At a briefing in August 2022, officers presented an update on the Kindergarten Reform and further feasibility studies at the McClelland Gallery site. Feedback was received from Councillors regarding the overall cost of the project and the cost escalation of all LTIP projects. It was also noted that a number of new projects will be required in the current LTIP in other local areas. Additionally, there was a request to assess the ability for Council to expand the existing single room kindergartens.

At a briefing in September 2022, officers presented the findings of the capacity assessment, along with two alternative sites for the Langwarrin Child & Family Centre. The Long Street Reserve site affords many benefits to Council, the Langwarrin Pre-School Committee of Management, and families accessing existing Maternal and Child Health, and Kindergarten services.

**Issues and Discussion**

The Kindergarten Reform has presented additional challenges with the recent announcement to increase enrolments and program hours. This will have a significant impact on existing infrastructure, a number of single room kindergartens will require expansion to ensure children have access to community kindergarten programs to support improved educational outcomes for future generations.

Council will need to take a circumspect approach with the roll-out of the expansion projects. Children attending the facility identified for expansion will need to be relocated to a suitable licenced area during the redevelopment period, and these spaces are very limited. Kananook Pre-School is currently being used for supported playgroups, this site has been identified as the first relocation site for projects in the Seaford area. The Building and Facilities team has undertaken works to ensure the space is approved for kindergarten services to operate.

The larger infrastructure projects have been listed in the LTIP over the next few years to provide additional options for the relocation of children during construction. The larger

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## Reports of Officers

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24 October 2022  
2022/CM15**C.1 Kindergarten Reform Update and Langwarrin Child & Family Centre  
Officers' Assessment**

facilities comprise of 3 program rooms, this will allow 2 rooms for the existing kindergarten and 1 room for the relocation option. All 3 projects are across different local areas.

The number of new projects required to support the implementation of the Kindergarten Reform will increase budget allocations in the LTIP. Equally, additional Council staff resourcing will be required to establish a Kindergarten Strategy and manage the number of redevelopments.

**Options Available including Financial Implications**

Alternative service delivery models were explored for single room kindergartens that cannot be expanded, the proposed model will allow the continuation of kindergarten programs whilst maximising the number of children that can attend when the increase to 30 hours commences.

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Scenario 1 30 hours	Session 1	Session 1	Session 1	Session 1	Session 1	Session 1
	8–1pm	8–1pm	8–1pm	8–1pm	8–1pm	8–1pm
	Session 2	Session 2	Session 2	Session 2	Session 2	Session 2
	1:30- 6:30pm	1:30- 6:30pm	1:30- 6:30pm	1:30- 6:30pm	1:30- 6:30pm	1:30- 6:30pm
Scenario 2 30 hours	Session 1	Session 1	Session 1	Session 1	Session 1	
	7 – 1pm	7 – 1pm	7 – 1pm	7 – 1pm	7 – 1pm	
	Session 2	Session 2	Session 2	Session 2	Session 2	
	1:30- 7:30pm	1:30- 7:30pm	1:30- 7:30pm	1:30- 7:30pm	1:30- 7:30pm	

Notwithstanding that the above model would increase the number of children at single room kindergartens, the ability to provide these sessions would require overcoming several barriers including; the commitment from the kindergarten managers, availability of staff during our current workforce crisis; ability to meet the requirements of the Victorian Early Childhood Teacher and Educator Agreement; and enough community desire to attend the extended hours to be a viable option for service providers.

Langwarrin Site Options:

- Pindara Boulevard
  - Significant planning overlays
  - Land owned by DELWP, Council will require permission to build the new facility
  - Large open space with minimal tree removal
  - Previous community feedback prior to community consultation
  - Total project cost estimate \$7.279 million (\$5.279 million with VSBA funding)
- McClelland Gallery
  - Large area sufficient for the facility
  - Significant tree removal required
  - Land acquisition cost and surrounding road/earth works in excess of \$2 million to \$2.5 million.
  - Not in high density residential area

Chairperson's initials .....

Reports of Officers

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24 October 2022  
2022/CM15**C.1 Kindergarten Reform Update and Langwarrin Child & Family Centre  
Officers' Assessment**

- Bush kindergarten opportunity
- Total project cost estimate \$9 million to \$9.5 million (\$7 million to \$7.5 million with VSBA funding)
- Long Street Reserve
  - Supports Langwarrin Pre-School Committee of Management
  - Supports existing families accessing MCH & Kindergarten services
  - Community engagement may have improved result as existing services in the same street
  - Total project cost estimate \$7.679 million (\$5.679 million with VSBA funding)

Chairperson's initials .....

**QUESTION TIME**

*The following questions were presented at the Council Meeting 2022/CM18 – 12 December 2022. The questions and answers were read out publicly. In accordance with the Public Submissions and Question Time Policy, the questions and response(s) are published at the next Council Meeting Minutes.*

**Shelley Hansen****Question 1**

What sophisticated and coordinated approach, along with new innovative solutions does Frankston City Council have to reduce the increasing 'Rough sleeping and other forms of homelessness' in Frankston, since 2020?

**Response by Director of Communities**

*In 2019 Frankston City Council established the Frankston City Strategic Housing & Homelessness Alliance (Strategic Alliance) to bring together key services with a commitment to alleviating homelessness in Frankston City, with the purpose of driving a shared agenda for improving the coordination of the homelessness service system and advocating for better access to appropriate and affordable housing to better respond to homelessness.*

*In 2021 the Strategic Alliance initiated Frankston Zero, a collective impact initiative between Launch Housing, Council and local homelessness agencies to improve the local service system response to rough sleepers, by providing a more coordinated and integrated rough sleeper response with the aim of achieving 'functional zero' homelessness.*

*Council has also recently endorsed a Housing Advisory Committee to monitor, advocate and provide advice to Council on local housing needs within Frankston City.*

*Council also participates in the Regional Local Government Charter for Homelessness and Social Housing, along with 12 other local councils in the south-east.*

*Social and Policy Planning team can provide more information via email.*

**Question 2**

How many homeless people have the FCHHA secured into long term housing in Frankston since the Alliance conception?

**Response by Director of Communities**

*As of October 2022, the Frankston Zero initiative had supported a total of 20 rough sleepers into long-term housing (over a 16 month period since it was launched in July 2021).*

*It should be noted that rough sleepers are a highly vulnerable cohort who often have very complex needs that take time and coordinated multi-agency response to address. Given the previous trauma that some rough sleepers have experienced, it can often take many weeks for assertive outreach workers to build rapport and get to a point where the help being offered will be accepted.*

**Question 3**

What are the emerging trends, issues and factors contributing to homelessness in Frankston, are there any Reports I can read?

**Response by Director of Communities**

*The Australian Institute of Health and Welfare (AIHW) collects data for the Australian Government on specialist homelessness services that provide government-funded services to support people experiencing or at risk of homelessness and provides information on trends and key issues for people seeking assistance. The most recent data from the AIHW stated the most common main reasons for people seeking assistance nationally in 2019-20 as being financial difficulties, family violence, housing crisis, housing affordability stress, inadequate dwelling conditions and relationship/family break-down.*

*There are no reports available specific to Frankston City. Two reports that provide comprehensive information emerging trends, issues and factors contributing homelessness nationally are: 1) The AIHW Specialist Homelessness Services Annual Report 2020-21, and 2) Final Report Parliamentary Inquiry into Homelessness in Australia. Social and Policy Planning team can provide more information via email.*

*The meeting was closed to the public at 8.54 pm*

CONFIRMED THIS

20<sup>th</sup>

DAY OF

February

2023

.....  
CHAIRPERSON

**AUTHORITY TO STAMP INITIALS ON MINUTES**

I, Cr. Nathan Conroy, Chairperson – Council Meeting hereby authorise the use of an electronic stamp of my initials to initial each page of these Minutes of the Council Meeting held on 30 January 2023, confirmed on 20 February 2023.

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

Dated this

20<sup>th</sup>

day of

February

2023

Chairperson's initials .....