



**MINUTES OF ORDINARY COUNCIL MEETING OF THE FRANKSTON CITY COUNCIL  
HELD IN THE CIVIC CENTRE, DAVEY STREET, FRANKSTON  
ON 23 MARCH 2015 at 7PM**

PRESENT	Cr. Sandra Mayer (Mayor) Cr. Darrel Taylor Cr. James Dooley Cr. Rebekah Spelman Cr. Glenn Aitken Cr. Suzette Tayler Cr. Colin Hampton
APOLOGIES:	Cr. Michael O'Reilly Cr. Brain Cunial
ABSENT:	Nil.
OFFICERS:	Mr. Dennis Hovenden, Chief Executive Officer Mr. Tim Frederico, Director Corporate Development Dr. Gillian Kay, Director Communities Development Mr. Vito Albicini, Director City Development Ms. Mandy Gatliff, Manager Family & Youth Ms. Liz Daley, Manager Community Strengthening Ms. Katy Wills, Coordinator Children's Services Mr. Michael Papageorgiou, Manager Planning & Environment Ms. Fiona Johnstone, Coordinator Statutory Planning Ms. Marilyn Miller, Coordinator Media & Communications Ms. Kelly Ross, Coordinator Media & Communications Ms. Vera Roberts, Officer Council Business Support
EXTERNAL REPRESENTATIVES:	Nil

**COUNCILLOR STATEMENT**

Councillor Spelman 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.”*

Chairperson's initials *S. Mayer*

**PRAYER**

At the request of the Mayor, Councillor Dooley read the Opening Prayer.

**ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

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



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## 1. PRESENTATION TO COMMUNITY GROUPS

The Mayor presented Certificate of Appreciation Awards for their service to the Frankston Community to:

- Mrs Margaret McGrath
- Mrs Maroa Pedler
- Mr Raymond Chapman

## 2. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

### Council Decision

**Moved: Councillor Aitken**

**Seconded: Councillor Taylor**

That the minutes of the Ordinary Meeting No. OM268 held on 2 March 2015 and Special Meeting No SP187 held on 10 March 2015, copies of which had previously been circulated to all Councillors, be confirmed, approved and adopted.

**Carried Unanimously**

## 3. APOLOGIES

### Council Decision

**Moved: Councillor Hampton**

**Seconded: Councillor Taylor**

That the apologies be received and Councillors Brian Cunial and Michael O'Reilly be granted leave from the meeting.

**Carried Unanimously**

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

The Chief Executive Officer declared a conflict of interest in Item C.8: Chief Executive Officer Remuneration Review 2014/2015 and advised that he will leave the chambers, while discussion on the matter takes place.

## 5. PUBLIC QUESTION TIME

One (1) person submitted three (3) questions to Council. At the request of the Mayor, the Chief Executive Officer read the questions and answers to the gallery. The questions and answers are contained in Appendix.

## 6. HEARING OF PUBLIC SUBMISSIONS

Ms. Joanna Kordos made a submission to Council regarding Item 10.3: Planning Application 816/2010/P - 325 Nepean Highway, Frankston - The construction of thirty seven (37) dwellings in a four storey building, alteration to access to a Road Zone and reduction of car parking requirements - Extension of Time Request;

Mr. Lou Pascuzzi made a submission to Council regarding Item 10.4: Application to Amend Planning Permit No. 306/2006/P - 23 Forest Drive, Frankston North - To use part of the site for a medical centre with ancillary dispensary and pathology, display of business identification signs;

Mr. Kevin Dainton of Daicom Australia Pty Ltd made a submission to Council regarding Item 10.5: Planning Application No. 494/2014/P - 560 Frankston-Dandenong Road, Carrum Downs - To use and develop the site for a Micro-brewery; sale and consumption of liquor; cafe (food and drink premises) and a variation to the car parking requirements;

Mr. Ron Amos made a submission to Council regarding Item 10.10: Application for Planning Permit No. 635/2014/P - 39 Hillcrest Drive, Langwarrin - To construct one (1) outbuilding and to build outside of the building envelope;

Mr. Richard Clough made a submission to Council regarding Item 10.10: Application for Planning Permit No. 635/2014/P - 39 Hillcrest Drive, Langwarrin - To construct one (1) outbuilding and to build outside of the building envelope;

Mr. Charlie Dalli – Property Owner made a submission to Council regarding Item 10.10: Application for Planning Permit No. 635/2014/P - 39 Hillcrest Drive, Langwarrin - To construct one (1) outbuilding and to build outside of the building envelope;

Ms. Jodie Forster made a submission to Council regarding Item 11.5: Kindergarten Enrolment System Review;

Ms. Sarah Guenther made a submission to Council regarding Item 11.5: Kindergarten Enrolment System Review;

Ms. Melinda Shelley made a submission to Council regarding Item 11.5: Kindergarten Enrolment System Review.

## 7. ITEMS BROUGHT FORWARD

### Items Brought Forward

#### Council Decision

**Moved: Councillor Taylor**

**Seconded: Councillor Tayler**

That the following items be brought forward:

- Item 10.3: Planning Application 816/2010/P - 325 Nepean Highway, Frankston - The construction of thirty seven (37) dwellings in a four storey building, alteration to access to a Road Zone and reduction of car parking requirements - Extension of Time Request;
- Item 10.4: Application to Amend Planning Permit No. 306/2006/P - 23 Forest Drive, Frankston North - To use part of the site for a medical centre with ancillary dispensary and pathology, display of business identification signs;
- Item 10.5: Planning Application No. 494/2014/P - 560 Frankston-Dandenong Road, Carrum Downs - To use and develop the site for a Micro-brewery; sale and consumption of liquor; cafe (food and drink premises) and a variation to the car parking requirement;
- Item 10.10: Application for Planning Permit No. 635/2014/P - 39 Hillcrest Drive, Langwarrin - To construct one (1) outbuilding and to build outside of the building envelope; and
- Item 11.5: Kindergarten Enrolment System Review.

**Carried Unanimously**

## 8. PRESENTATIONS / AWARDS

Cr. Darryl Tayler presented a Certificate of Appreciation from Bruce Park Tennis Club who thanked Council for being a major sponsor and supporter.

Chairperson's initials

*S. Mayer*

**9. PRESENTATION OF PETITIONS AND JOINT LETTERS****Council Decision****Moved: Councillor Hampton****Seconded: Councillor Taylor**

That the petition submitted by the residents and visitors to Frankston containing 289 signatures drawing attention to the community support in moving bus stops from Young Street to the other side of the Frankston Station be received.

**Carried Unanimously****Council Decision****Moved: Councillor Spelman****Seconded: Councillor Aitken**

That the second petition objecting to a planning application at 23 Forest Drive, Frankston North containing 147 signatures be received.

**Carried Unanimously****Adjournment****Council Decision****Moved: Councillor Aitken****Seconded: Councillor Dooley**

That the meeting be adjourned at 8.30 pm.

**Carried Unanimously**

*Meeting resumed at 8.45 pm and all Councillors were present.*



**ITEMS BOUGHT FORWARD****11.5 Kindergarten Enrolment System Review**

(MG Community Development)

**Recommendation (Director Community Development)**

That Council:

Notes the minutes and the recommendations of the Kindergarten Enrolment Review Steering Committee and the subsequent Special Meeting of Kindergarten representatives with Councillors and Steering Committee Members.

As a result of discussions it is recommended that Council:

1. Amends the existing Kindergarten Enrolment Procedure to include a new priority of access category; '*Sibling Preference*' for 4 year old kindergarten places to be implemented from 2015 for the 2016 kindergarten year where siblings enroll with a kinder within a 2 year period'.
2. Notifies the community of amendments to the procedure.
3. Notes that the recommended amendment to the enrolment procedure does not constitute a significant change, therefore further public consultation is not mandatory.
4. Reviews the kindergarten lease agreements and makes it a requirement of the lease that all kindergartens offer places to their registered capacity where it **does not** compromise the kindergarten's viability.
5. Once a new procedure has been endorsed, Council writes to the members of the Advisory Committee to thank them for their significant time and input in the development of the new procedure.

**Council Decision**

**Moved: Councillor Taylor**

**Seconded: Councillor Tayler**

That Council:

Notes the minutes and the recommendations of the Kindergarten Enrolment Review Steering Committee and the subsequent Special Meeting of Kindergarten representatives with Councillors and Steering Committee Members.

As a result of discussions it is recommended that Council:

1. Amends the existing Kindergarten Enrolment Procedure to include a new priority of access category; '*Sibling Preference*' for 4 year old kindergarten places to be implemented from 2015 for the 2016 kindergarten year where siblings enroll with a kinder within a 2 year period'.
2. Notifies the community of amendments to the procedure.
3. Notes that the recommended amendment to the enrolment procedure does not constitute a significant change, therefore further public consultation is not mandatory.
4. Reviews the kindergarten lease agreements and makes it a requirement of the lease that all kindergartens offer places to their registered capacity where it **does not** compromise the kindergarten's viability.
5. Once a new procedure has been endorsed, Council writes to the members of the Advisory Committee to thank them for their significant time and input in the development of the new procedure.
6. That the proximity is included as a consideration in the enrolment process.

Chairperson's initials

*S. Mayer*

**Extension of Time****Moved: Councillor Taylor****Seconded: Councillor Spelman**

That Cr Hampton be granted an extension of time.

**Carried Unanimously****The Motion was then Put  
And Carried Unanimously**

Chairperson's initials

*S. Mayer*

**10.3 Planning Application 816/2010/P - 325 Nepean Highway, Frankston - The construction of thirty seven (37) dwellings in a four storey building, alteration to access to a Road Zone and reduction of car parking requirements - Extension of Time Request**

*(MP Community Development)*

**Council Decision**

**Moved: Councillor Taylor**

**Seconded: Councillor Dooley**

That Council resolves that the permitted time in which the development is to be commenced is extended to 19 January 2016 and the permitted time in which the development is to be completed is extended to 19 January 2018 for Planning Permit 816/2010/P.

**Carried**

For the Motion: Crs Dooley, Hampton, Mayer, Spelman, Tayler and Taylor

Against the Motion: Cr Aitken

**10.4 Application to Amend Planning Permit No. 306/2006/P - 23 Forest Drive, Frankston North - To use part of the site for a medical centre with ancillary dispensary and pathology, display of business identification signs.**

*(MP Community Development)*

**Council Decision****Moved: Councillor Dooley****Seconded: Councillor Taylor**

That Council resolves to issue a Notice of Decision to Grant an Amended Planning Permit in respect to Planning Permit Application number 306/2006/P/F for the development and use of the site for a 180-bed aged care facility within a single building, removal of native vegetation and associated works, and the use of the site for a medical centre in conjunction with the residential aged care facility and display of business identification signs at 23 Forest Drive, Frankston North, subject to the following conditions:-

**A. What Amendment is being made to the Permit?**

- Amend the Permit Preamble to allow for ‘the use of the site for a medical centre in conjunction with the residential aged care facility and display of business identification signs’;
- Addition of Conditions 1(jj), 1(kk), 1(ll) and 42-56 and subsequent renumbering of all remaining conditions; and,
- Amending Condition 56 to include the permit expiry for use and signage.

**B. To what Conditions is the Amendment Subject?****Amended Plans**

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to be approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to the Responsible Authority, but modified to show:

**Medical Centre Use**

jj. The medical centre generally in accordance with the plans submitted [Job No. 327, Dwg No. A3, Rev. 2, Date: 30/10/14, prepared by Issa & Associates Architects], but modified to show:

- (a) The west-facing door of the dispensary leading to the air lock entrance of the building relocated to the northern wall of the dispensary.

kk. The business identification sign generally in accordance with the plans submitted [TC-PC-01, Date: 24-09-2014, TLC – Pylon Concept, prepared by Power Image], but modified to show:

- (a) The sign (including structure) reduced to a maximum height of 3.5 metres.
- (b) The removal of the logo ‘Quality Pharmacy’ and replaced with ‘Dispensary’.

- II. A Car Parking Management Plan, generally in accordance with the plans and report submitted [Job No. 327, Dwg No. A1, Rev. 1, Date: 25.09.2014, prepared by Issa & Associates Architects; and, Car Parking Impact Assessment, Date: 2 March 2015, prepared by Evan Boloutis] but modified to show:
- (a) The two (2) proposed on-site staff car parking spaces on the site plan as per the Parking Management Strategy.
  - (b) The proposal for 'No Stopping' Signs on both sides of Forest Drive removed.

### Medical Centre Requirements

- 42. The medical centre use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
- 43. The premises must not be used by more than four (4) persons providing health services at any one time.
- 44. The use for a medical centre hereby permitted may operate only during following hours:
  - 9:00 am to 5:00 pm on Monday to Friday
- 45. Narcotics or drugs of addiction must not be kept in any part of the premises on the subject land, unless when a medical practitioner or registered nurse is in attendance.
- 46. Refuse or waste matter must not be disposed of by means of incineration on the site.
- 47. The dispensary must be used only for the purpose of storing medication for residents within the residential aged care facility and patients attending the medical centre. It must not operate independent of the residential aged care facility or medical centre.

### Car Parking Management Plan

- 48. Before the use starts, a Car Parking Management Plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. Three copies of the plan must be submitted. The plan must include:
  - (a) The location of all areas on-and/or off-site to be used for staff and visitor parking.
  - (b) Details of any signage and line-marking to be used to designate parking areas.
  - (c) Measures to encourage staff and visitor car parking on-site.
  - (d) Measures to discourage staff and visitor car parking in nearby on-street spaces.
  - (e) Staffing and other measures to maximise the availability of parking during staff changeover periods.

### Signage Requirements

- 49. The location and details of sign(s), as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

50. The sign(s) hereby permitted must not:
- be animated;
  - be moving or rotating;
  - contain any flashing or intermittent light.
51. All signs must be located wholly within the boundary of the land.
52. The sign(s) hereby permitted must be constructed to the satisfaction of the Responsible Authority, and must be maintained to the satisfaction of the Responsible Authority.
53. The structure must at no time be designed or altered in such a manner as to be an advertising device or symbol.
54. The existing pole sign on the land must be removed prior to the erection of the sign hereby permitted.
55. The intensity of the light in the sign(s) must be limited so as not to cause glare or distraction to motorists or other persons or loss of amenity, to the satisfaction of the Responsible Authority.

#### **Permit Expiry**

56. This permit will expire if one of the following circumstances applies:
- The development has not commenced within two (2) years of the date of this permit.
  - The development is not completed within four (4) years of the date of this permit.
  - The use of the medical centre has not commenced within two (2) years of the approval date of the relevant amendment.
  - The use is discontinued for a continuous period of two (2) years.
  - The permit for the sign expires 15 years from the approval date of the relevant amendment.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three (3) months afterwards.

**Carried**

For the Motion: Crs Dooley, Mayer, Spelman, Tayler and Taylor

Against the Motion: Crs Aitken and Hampton

*The Mayor adjourned the meeting at 9.37 pm*

*The meeting resumed at 9.43 pm*

Chairperson's initials

*S. Mayer*

**10.5 Planning Application No. 494/2014/P - 560 Frankston-Dandenong Road, Carrum Downs - To use and develop the site for a Micro-brewery; sale and consumption of liquor; cafe (food and drink premises) and a variation to the car parking requirements.**

*(MP Community Development)*

**Council Decision**

**Moved: Councillor Taylor**

**Seconded: Councillor Dooley**

That Council resolves to issue a Planning Permit in respect to Planning Permit Application number 494/2014/P for the use and development of the site for a Micro-brewery; sale and consumption of liquor; café (food and drink premises) and a variation to the car parking requirements at 560 Frankston-Dandenong Road, Carrum Downs, subject to the following conditions:

**Plans**

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted with the application (or some other specified plan) but modified to show:
  - (a) The disabled car space located in a more convenient location for easier access to the café.

**No Alterations**

2. The use and development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. Once the development has commenced it must be continued and completed to the satisfaction of the Responsible Authority.
4. The licensed area as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

**Liquor Licence Requirements**

5. The selling or consumption of alcohol; tasting room and café (Manufacturing sales and food and drink premises) must only take place at the premises during the following hours:

Thursday and Friday	12 noon – 10.30pm
Saturday and Sunday	12 noon – 6pm
6. Not more than 60 patrons may be present on the premises at any one time in association with the tasting room and café (Manufacturing sales and food and drink premises).
7. The Brewery (industry) hereby permitted may operate only between the hours of:

Monday to Wednesday	8am - 6pm
Thursday, Friday and Saturday	8am - 4pm (no deliveries after 12 noon)
8. Car parking spaces 1 – 5 and 6 – 14 must be kept clear for truck turning areas of deliveries during the hours of the Brewery (industry) (refer to Condition 7).
9. The licensee/permit holder shall not cause or permit undue detriment to the

Chairperson's initials

*S. Mayer*

amenity of the area to arise out of or in connection with the use of the premises to which the licence/permit relates during or immediately after trading hours authorised by the licence/permit.

10. Liquor must not be consumed in the licensed area by members of the public outside the opening hours of the café.
11. Sales of packaged liquor to members of the public for consumption on or off the licensed premises must not take place on the land outside the opening hours of the café.

### **Amenity**

12. The licensee/permit holder shall not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which the licence/permit relates during or immediately after trading hours authorised by the licence/permit.
13. The loading and unloading of goods from vehicles must only be carried out on the land within the designated loading bays and must not disrupt the circulation and parking of vehicles on the land.
14. The amenity of the area must not be detrimentally affected by the development and/or use through the:-
  - (a) Parking of vehicles and loading / unloading of vehicles;
  - (b) Transport of materials, goods or commodities to or from the land;
  - (c) Appearance of any building, works or materials;
  - (d) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;\
  - (e) Presence of vermin; or
  - (f) In any other way.to the satisfaction of the Responsible Authority.

### **Environment Protection Authority (EPA)**

15. The proponent must apply for and be issued with a works approval from the Environment Protection Authority with respect to the use and development of the site for a micro-brewery prior to any works beginning.

There must be no discharge of wastewater or contaminated stormwater to the stormwater drainage system or surface waters. Suitable drains, interceptor pits, water treatment facilities, pumps and sumps must be installed to ensure that any wastewater or contaminated stormwater generated at the premises is:

  - connected to reticulated sewer, in accordance with the Trade Waste Agreement; or
  - collected by an EPA permitted contractor, as appropriate.
16. A secondary containment system shall be provided for liquids and chemicals which if split are likely to cause pollution or pose an environmental hazard, in accordance with the Building Guidelines (EPA Publication No. 347, 1992).
17. Noise emissions from the premises must meet the objectives of State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) N-1.
18. Odours offensive to the senses of human beings must not be discharged beyond the boundaries of the premises.



19. All putrescible waste (including spent grains/yeast etc) must be sorted in sealed and lidded bins and removed from the premises as frequently as required to prevent the discharge of offensive odours.
20. There must be no visible discharge of dust beyond the boundary of the premises. All waste discharges to the external atmosphere must be:
  - Discharged from a stack outlet at least 3 metres above the roofline of any building or
  - Obstruction within a 15 metre radius;
  - Discharged with an efflux velocity of at least 10 metres per second; and
  - Not be obstructed at the stack outlet by a weather cap, cowl or other obstruction.

### Drainage

21. Prior to commencement of development construction detailed design plans and drainage computations of the internal stormwater drainage system including the method of connection to the existing Council drainage infrastructure are to be submitted and approved to the satisfaction of the Responsible Authority.
22. Vehicle crossing shall be constructed to Frankston City Council's standards and specifications to the satisfaction of the Responsible Authority.
23. Concrete kerbs and barriers shall be provided to the satisfaction of the responsible authority to prevent direct vehicle access to an adjoining road other than by a vehicle crossing.
24. 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.

### Car Parking and Access

25. Before the occupation of any development hereby permitted commences 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
  - d) Drained and maintained to the satisfaction of the Responsible Authority.
  - e) Line-marked to indicate each car space, loading bay and all access lanes and if necessary, the direction in which vehicles are to travel to the satisfaction of the Responsible Authority.

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

**Satisfactorily Completed**

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

**Permit Expiry**

27. This permit will expire if one of the following circumstances applies:
- The development is not started within two years of the date of this permit.
  - The development is not completed within four years of the issued date of this permit.
  - The use is not commenced within two (2) years of the date of this permit.
  - The use ceases for a continuous period of two (2) or more years.

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

**Notes**

- A. Any request for an extension of time, or variation/amendment of this permit must be lodged with the relevant fee.
- B. Prior to the commencement of construction the operator of this planning permit must obtain a non-refundable Asset Protection Permit from Frankston City Council's Infrastructure Department.
- C. Any request for time extension of this Permit shall be lodged with the relevant administration fee at the time the request is made. Pursuant to Section 69 of the Planning and Environment Act 1987 the Responsible Authority may extend the periods referred to if a request is made in writing within the following prescribed timeframes:
- a. Before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started;
  - b. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.
- If a request is made out of time, the Responsible Authority cannot consider the request and the permit holder will not be able to apply to VCAT for a review of the matter.
- D. The owner/applicant of the subject site should join and comply with the Frankston Liquor Industry Accord, which requires the member to serve liquor in a responsible manner.

**Asset Protection Permit**

- E. Water Sensitive Urban Design principles (WSUD) are to be incorporated into the drainage design, which may include but not be limited to the following components or a combination thereof:
- On-site stormwater detention and rainwater tanks.
  - Soil percolation
  - Stormwater harvesting and Re-use of stormwater for garden watering, toilet flushing, etc
  - On-site 'bio-treatment' to reduce dissolved contaminants and suspended solids.

Carried

For the Motion: Crs Aitken, Dooley, Mayer, Spelman, Tayler and Taylor  
Against the Motion: Cr Hampton

Chairperson's initials *S. Mayer*

**10.10 Application for Planning Permit No. 635/2014/P - 39 Hillcrest Drive, Langwarrin -  
To construct one (1) outbuilding and to build outside of the building envelope  
(MP Community Development)**

**Recommendation (Director Community Development)**

That Council resolves to issue a Notice of Decision to Grant a Planning Permit in respect to Planning Permit Application number 635/2014/P to construct one (1) outbuilding and to build outside of the building envelope at 39 Hillcrest Drive Langwarrin, subject to the following conditions:

**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 and three copies must be provided. The plans must be substantially in accordance with the plans submitted with the application but modified to show:
  - (a) The maximum height of the outbuilding reduced by 0.5 metres to 5.063 metres.
  - (b) The length of the outbuilding reduced from 30.0 metres to 20.0 metres and the gym/pool table area deleted.
  - (c) All setbacks of the outbuilding shown on the site plan
  - (d) Extent of any cut and fill shown on the site plan and elevations
  - (e) A landscape plan in accordance with Condition 3

**No Alterations**

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

**Landscaping**

3. Prior to commencement of the development a Landscape Plan must be submitted to and approved by the Responsible Authority. The Landscape Plan must show native canopy trees to a minimum mature height of 8.0 metres located within 10.0 metres to provide screening of the east and south side of the proposed outbuilding. The trees must be of a minimum height of 2.0 metres when planted and maintained to the satisfaction of the Responsible Authority.

**Drainage**

4. Storm water drainage shall be connected to stormwater Legal Point of Discharge as nominated and to the satisfaction of the Responsible Authority.

**Environmental Health**

5. Storm water runoff from the proposed bitumen driveway must be directed to the Legal Point of Discharge.

**Use**

6. The outbuilding hereby approved must be used only for the purpose of domestic storage/hobby purposes. It must not be used for human habitation, or as a workshop for any commercial enterprise or the storage of equipment, goods or motor vehicles used in conjunction with the occupation of a resident of the dwelling on the land other than in accordance with the provisions of Clause 52.11 (Home Occupation) of the Frankston Planning Scheme.

**Amenity**

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

**Satisfactorily Completed**

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

**Permit Expiry**

9. This permit will expire if one of the following circumstances applies:
- The development is not started within two years of the date of this permit.
  - The development is not completed within four years of the issued date of this permit.

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

**Notes**

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

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

**Council Decision****Moved: Councillor Hampton****Seconded: Councillor Aitken**

That the item be deferred until the next Ordinary Meeting and talks take place between the owner of the property and council (including interested councillors) about downsizing the shed and repositioning it on the block (including a site visit to be organised).

**Carried Unanimously**

## 10. CONSIDERATION OF TOWN PLANNING REPORTS

### 10.1 Planning Application 21/2015/P - 5/20 Beach Street, Frankston - To use the land for sale and consumption of liquor (restaurant and cafe licence)

(MP Community Development)

#### Council Decision

**Moved: Councillor Dooley**

**Seconded: Councillor Taylor**

That Council resolves to issue a Planning Permit in respect to Planning Permit Application number 21/2015/P to use land for sale and consumption of liquor (restaurant and cafe licence) at 5/20 Beach Street, Frankston, subject to the following conditions:

#### **Plans**

1. Before the use and/or development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted with the application (or some other specified plan) but modified to show:
  - (a) The correct location of the site in relation to surrounding land and accessways.

#### **No Alterations**

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

#### **Liquor Licence Requirements**

3. Unless with the prior written consent of the Responsible Authority, the selling or consumption of alcohol must only take place at the premises during the following hours:
  - Sunday to Thursday 11am-10pm
  - Friday and Saturday 11am – 11pm

#### **Amenity**

4. The licensee/permit holder shall not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which the licence/permit relates during or immediately after trading hours authorised by the licence/permit.

#### **Patron Numbers**

5. Not more than 50 patrons may be present on the premises at any one time.

#### **Permit Expiry**

6. This permit will expire if one of the following circumstances applies:
  - The use is not commenced within two (2) years of the date of this permit.
  - The use is discontinued for a period of two (2) years or more.

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

**Notes**

- A. Any request for an extension of time, or variation/amendment of this permit must be lodged with the relevant fee.
- B. The owner/applicant of the subject site should join and comply with the Frankston Liquor Industry Accord, which requires the member to serve liquor in a responsible manner.
- C. Any request for a time extension for this Permit shall be lodged with the relevant administration fee at the time the request is made. Pursuant to Section 69 of the Planning and Environment Act 1987 the Responsible Authority may extend the periods referred to if a request is made in writing within the following prescribed timeframes:
- a. Before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started;
  - b. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

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

**Carried Unanimously**



**10.2 Retrospective Secondary Consent Application for Statement of Compliance for Planning Application 173/2013/P/B - 22 Foot Street Frankston**

*(MP Community Development)*

**Council Decision****Moved: Councillor Aitken****Seconded: Councillor Taylor**

That Council resolves to approve the amended plans identified as Bel-Air Design Group Date Feb 13 – Pages 1-2 – Secondary Amendments January 2015 pursuant to Condition 2 of Planning permit 173/2013/P under the secondary consent provisions of the Planning and Environment Act 1987.

**Carried Unanimously**

**10.6 Retrospective Secondary Consent Application for Statement of Compliance for Planning Application 282/2011/P - 47 Kananook Avenue Seaford**

*(MP Community Development)*

**Recommendation (Director Community Development)**

That Council resolves to approve the amended plans pursuant to Condition 2 of Planning Permit 282/2011/P under the secondary consent provisions of the Planning and Environment Act 1987; and

Require the applicant to submit an amended landscape plan showing the removed plants from within the northern setback of Dwelling 2 (total twelve (12) plants) replaced elsewhere on the site.

**Council Decision****Moved: Councillor Aitken****Seconded: Councillor Taylor**

That a Refusal to Grant an Amendment to a Permit be issued for the following reasons:

That Council resolves to refuse to amend plans pursuant to Condition 2 of Planning Permit 282/2011/P under the secondary consent provisions of the Planning and Environment Act 1987, subject to the following grounds:

1. To build contrary to planning approval shows disregard to Council's decision and to neighbours.
2. To request retrospective changes creates unreasonable expectations for approval.
3. The proposed changes do not satisfy the Neighbourhood Character Policy for the area.

**Carried Unanimously**

*Cr Hampton left the chamber at 9.52 pm*

*Cr Hampton returned to the Chamber at 9.53 pm*

**10.7 Residents of Warringa Road Petition - Cliff Road Geotechnical Investigation**

*(MP Community Development)*

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

That:

1. The petition was tabled and that the matters raised in the Petition have been addressed as a result of the resolution of Council at its meeting on 9<sup>th</sup> February 2015; and
2. The Head Petitioner be advised in writing of the action taken.

**Carried Unanimously**

**10.8 Planning Application 611/2011/P/D - 332-334 Cranbourne Road, Frankston - To amend the Planning Permit to extend the hours of operation to the existing retail liquor shop**

*(MP Community Development)*

**Council Decision****Moved: Councillor Taylor****Seconded: Councillor Hampton**

That Council resolves to issue an Amended Planning Permit pursuant to section 74 of the Planning and Environment Act 1987 to construct buildings and works, variation to the existing packaged liquor licence area, business identification signs and a reduction to the car parking provision

A. What Amendment is being made to the Permit?

To amend Condition 3 to extend the trading hours to:

Monday to Saturday	9.00am - 9.00pm
Sunday	10.00am - 7.00pm

B. To what Conditions is the Amendment Subject?

Nil

**Carried Unanimously**

**10.9 Planning Permit Application 209/2014/P - To construct six (6) double storey dwellings - 39 Culcairn Drive Frankston South**

(MP Community Development)

**Council Decision****Moved: Councillor Taylor****Seconded: Councillor Hampton**

That Council resolves to issue a Planning Permit in respect to Planning Permit Application number 209/2014/P for the construction of six (6) double storey dwellings, and removal of vegetation at 39 Culcairn Drive 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 and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application Philip Harvey and Associates, TP 1-12, 18/7/14, but modified to show:

- (a) Retention of tree 16 – Dawn Redwood and tree 52– Norfolk Pine;
- (b) Redesign of dwelling 2 and 6 to enable the long term protection and retention of Tree 16 and Tree 52 in accordance with Conditions 9 and 10;
- (c) Deletion of the visitor car space between dwelling 2 and 3;
- (d) Redesign of the common property access to enable the long term protection and retention of Tree 52;
- (e) Provide obscure glazing to 1.7m above finished floor level to the window of bedroom 1 of dwelling 6 on the southern elevation;
- (f) Existing and finished surface contours, proposed finished floor levels, cut and fill depths, retaining wall locations and heights, levels and longitudinal grades of driveway and garage access and cross-sections to indicate treatment where a difference in levels occurs between adjacent garages;
- (g) All car parking areas to have a maximum grade of 1:20;
- (h) All trees growing on the site and on the adjoining properties within 3m of the boundaries must be clearly illustrated on all relevant plans to demonstrate canopy width, trunk location and clearly labelled in accordance with the Arborist Report prepared by Constructive Arboriculture dated February 2014 and state whether the tree is to be retained or removed.
- (i) The decked areas in the secluded private open space to dwellings 1-5 reduced to provide for the opportunity of more landscaping and canopy trees.
- (j) The Tree protection zones for all trees to be retained and the tree protection fence locations must be illustrated on all relevant plans.
- (k) Tree protection conditions noted in accordance with Conditions 5-9;
- (l) A Landscape Plan in accordance with Condition 3.

**No Alteration or Changes**

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

### Landscaping

3. Before the commencement of buildings and works, a landscape plan prepared by a suitably qualified person must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
- (a) a survey (*including botanical names*) of all existing vegetation to be retained and/or removed;
  - (b) the retention of Trees 16 and 52;
  - (c) buildings and trees (*including botanical names*) on neighbouring properties within three metres of the boundary;
  - (d) details of surface finishes of pathways and driveways, retaining walls and areas of cut and fill;
  - (e) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, size at maturity and quantities of each plant;
  - (f) suitable plantings for use beneath the existing canopy of tree no. 52 to be retained e.g. low density, shade species, no excavation for garden bed borders, tube stock only for minimal disturbance.
  - (g) A planting theme of a minimum 40% indigenous, 40% native and 20% exotic within each plant group;
  - (h) canopy trees to a minimum mature height of five metres (*minimum two metres tall when planted*) in the following areas;
    - (i) one within the front setback
    - (ii) one within the private open space of all dwellings
  - (i) landscaping to a minimum height of 1.5m for the full length of the west boundary fence

Trees are not to be sited over easements and all species selected must be to the satisfaction of the Responsible Authority.

### Prior to Occupation

4. The landscaping as shown on the endorsed landscape plan must be carried out and completed to the satisfaction of the Responsible Authority before the occupation of the development and/or commencement of the use or at such later date as is approved by the Responsible Authority in writing.

### Tree Protection

5. 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.
6. Prior to the commencement of the development (including vegetation removal), a Tree Protection Fence defined by a 1.8 metre high (minimum) temporary fence constructed using steel or timber posts fixed in the ground or to a concrete pad, with the fence's panels to be constructed of cyclone mesh wire or similar strong metal mesh or netting with a high visibility plastic hazard tape, must be installed around the street trees numbered 2 and 3 at a distance of 2m (but clear of footpaths) and 5.6m from the base of Tree no. 52 Norfolk Island Pine (or adjusted to a minimum of 4m on one side of the tree only as required), to the satisfaction of the Responsible Authority. A fixed sign is to be provided on all visible sides of the Tree Preservation Fencing, stating "Tree Preservation Zone – No entry without permission from Frankston City Council".

The requirements below must be observed within this area -

- a) Coarse mulch laid to a depth of 50-100 mm (excluding the street trees).
- b) No vehicular or pedestrian access.
- c) The existing soil level must not be altered either by fill or excavation.
- d) The soil must not be compacted or the soil's drainage changed.
- e) No fuels, oils, chemicals, poisons, rubbish or other materials harmful to trees are to be disposed of or stored.
- f) No storage of equipment, machinery or material is to occur.
- g) Open trenching to lay underground services e.g.: drainage, water, gas, etc. must not be used unless approved by the Responsible Authority to tunnel beneath;
- h) Nothing whatsoever including temporary services wires, nails, screws or any other fixing device is to be attached to any tree.
- i) No building or any other structure is to be erected.
- j) Tree roots must not be severed or injured.
- k) Machinery must not be used to remove any existing concrete, bricks or other materials.
- l) Where scaffolding is required it should be located outside the TPZ. If this is deemed not possible any scaffolding placed within the TPZ must be in accordance with Section 4.5.6 of AS4970-2009

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

### Ground Protection

7. Prior to the commencement of construction, the following tree protection conditions apply within the Tree Protection Zones (as identified in the arborist report prepared by Constructive Arboriculture dated February 2014) for trees 58-61, 64 and 65 located on the neighbouring property to the rear of the site and trees 20-23 and 26-28 located at 37 Culcairn Drive Frankston South (if they are present at the time of construction). All tree protection conditions must be undertaken to the satisfaction of the Responsible Authority.
  - a) To avoid compaction and damage to the tree trees a layer of organic mulch 200 mm thick must be laid with rumble planks/ crossing planks laid above the mulch where access through the TPZ is required. This ground protection is to be maintained until construction is complete.
  - b) No excavation works are permitted for the construction of the driveway (tree 20). The existing driveway is to be removed with care and the proposed driveway constructed above the existing soil grade.
  - c) Excavation works for the construction of the garage for Unit 1 must be undertaken by hand (adjacent Tree 21) any tree roots exposed are to be cleanly cut by an arborist in accordance with the AS4373-2007.
  - d) No fuels, oils, chemicals, poisons, rubbish or other materials harmful to trees are to be disposed of or stored.
  - e) No storage of equipment, machinery or material is to occur.
  - f) Open trenching to lay underground services e.g.: drainage, water, gas, etc. must not be used unless approved by the responsible authority to tunnel beneath.
  - g) If property boundary fencing is to be removed, a tree protection fence defined by a 1.8 metre high (minimum) temporary fence constructed using steel or timber posts fixed in the ground or to a concrete pad, with the fence's panels to be constructed of cyclone mesh wire or similar strong metal mesh or netting with a high visibility plastic hazard tape,

Chairperson's initials

*S. Mayer*

- must be installed at the property fence line.
- h) If machinery is used to remove existing structures, concrete, bricks or other materials it must be located outside of the defined Tree Protection Zones with ONLY the main arm of the machine reaching into this Zone.
  - i) Where a redesign of dwelling 6 requires an encroachment (of greater than 10%) into the TPZ of trees along the rear boundary alternative construction methods are to be utilised. Minor excavation by hand to 0.5 m deep must be undertaken at the points of footing placements to determine if any significant roots are present. Roots greater than 40 mm in diameter are deemed significant. If such roots are encountered the positioning of the footing must be altered to provide at least 0.3 m of clearance from the roots. Smaller roots can be hand trimmed to AS 4373-2007.
8. Where a fence boundary encroaches within a TPZ of any tree to be retained excavation for fence footings must be hand dug and overseen by a suitably qualified and experienced Arborist. Any roots with a diameter greater than 40 mm are to be retained and the footing relocated. Small roots to be hand trimmed in accordance with AS4373-2007.
9. The following tree protection requirements apply for any works within the defined 5.3 m radius of Tree 16 and 5.6 m radius of Tree 52 as defined at the Tree Protection Zone in the Arborist Report prepared by Dare Designs (June 2009):
- i) No excavation works are to be undertaken within a 3.3 m radius of this tree.
  - ii) Alternative construction methods are to be employed such as counter-leaver, pier and beam construction, or stump footings for foundations. Minor hand excavation to 0.5 m deep must be undertaken at the points of pier placements to determine if any significant roots are present. Roots greater than 40 mm in diameter are deemed significant. If such roots are encountered the position of the foundation supports must be altered to provide at least 0.3 m of clearance from the roots. An arborist must be present for these works. Any root pruning must be undertaken by a suitably qualified and experience Arborist.
  - iii) Any excavation works within the Tree Protection Zone (outside of the Root Protection Zone) must be undertaken by hand and overseen by a suitable qualified and experienced arborist. Any tree roots encountered with a diameter greater than 30mm must be retained and the footing relocated. Smaller roots can be cleanly pruned using an appropriate sharp saw by a suitably qualified and experienced Arborist.
  - iv) Pruning must be to the minimum extent necessary and in accordance with Australian Standards (AS4373-Pruning of Amenity Trees).
  - v) Any underground services must be diverted around the trees tree protection zone where possible or laid beneath the root profile by method of directional boring.
  - vi) The driveway must be constructed of permeable material.



**Retention of Tree 16**

10. Dwelling 2 and 3 are to be redesigned to accommodate tree no. 16 Dawn Redwood and its associated Tree Protection Zone of 5.3 metres. The visitor car space between dwelling 2 and 3 is to be deleted. The redesign must demonstrate the following:
- i) Redesign of dwelling 2 and 3 to minimise construction within the Tree Protection zone (5.3m). No encroachment into the structural root zone of 2.3m is acceptable. If the encroachment is considered to be major under the Australian Standards AS4970-2009 a statement from a qualified arborist must demonstrate that the proposed works will not impact on the long term survival of the tree and that there is adequate room to accommodate further growth.
  - ii) The driveway area must not encroach within the structural root zone of the tree (5.3m) and must be constructed above the existing soil level (no fill or excavation is to be used) and use a porous, pH neutral material.
  - iii) Any pruning or raising of the canopy must be in accordance with the Australian Standard AS4373-2007 Pruning Amenity Trees and be undertaken by a qualified and experienced arborist.

**Retention of Tree 52**

11. Dwelling 6 is to be redesigned to accommodate tree no. 52 Norfolk Island Pine and its associated Tree Protection Zone of 5.6 metres. The redesign must demonstrate the following:
- i) Redesign of dwelling 6 to minimise construction within the Tree Protection Zone (5.6m) a maximum encroachment of 4 m from the base of the tree on one side of the tree only would be considered acceptable.
  - ii) Any proposed driveway area must not encroach within the structural root zone of the tree (2.4m) and must be constructed above the existing soil level (no fill or excavation is to be used) and use a porous, pH neutral material.
  - iii) Any proposed boundary fencing is to be bridged over the structural root zone of the trees with footings hand dug and relocated if significant roots are uncovered (roots with a diameter of 4mm or greater).
  - iv) Any pruning or raising of the canopy must be in accordance with the Australian Standard AS4373-2007 Pruning Amenity Trees and be undertaken by a qualified and experienced arborist.
12. Prior to the commencement of any building and/or works, including vegetation removal, the owner must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority to provide for the following:-
- a) The retention and protection of trees number 16 – Dawn Redwood and 52 – Norfolk Island Pine in accordance with Conditions 9 and 10 of Planning permit 209/2014/P.

- b) In the event that tree 16 - Dawn Redwood or tree 52 - Norfolk Island Pine are proven to be dangerous or dead then the tree/s may be removed with the written consent of the responsible authority but must be replaced within three months after removal with a suitable species which has a mature height and canopy size generally comparable to the existing trees. The replacement tree/s must be approved by the responsible authority and must be supplied with a minimum height of two metres tall (at the time of planting). The replacement tree must be planted in the same location as the tree being removed and maintained thereafter to the satisfaction of the Responsible Authority.
- c) If a request is received by the responsible authority for the removal of either tree protected by this agreement, an Arborist Report prepared by a suitably qualified person will be required to be submitted to the satisfaction of the responsible authority.
- d) No buildings and/or works are allowed within the 5.6 metre Tree Protection Zone of any replacement tree for Tree 52 – Norfolk Island Pine or the 5.3 metre Tree Protection Zone of Tree 16 – Dawn Redwood as shown on the endorsed plan except in accordance with Condition 9 and 10 of planning permit 209/2014/P, unless with the written approval of the Responsible Authority;
- e) Prior to the removal of either Tree 16 or 52 or any works within the Tree Protection Zone of either tree, tree protection measures must be put in place in accordance with Condition 6 and 7 of Planning Permit 209/2014/P.

The Owner must pay all reasonable costs for the preparation, execution and registration of the Section 173 Agreement.

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

### Tree Pruning

- 13. All tree pruning is to be carried out by a qualified and experienced Arborist who has a thorough knowledge of tree physiology and pruning methods. Pruning must be carried out in accordance with Australian Standard AS4373-2007 *Pruning of Amenity Trees*. If pruning works are to be undertaken then these works should be carried out prior to any construction works beginning on site. Any pruning of trees located on a neighbouring property should be undertaken in consultation with the property owner.

### Street Trees

- 14. Prior to the construction of the crossover payment for the removal of the Council Street Tree *Eucalyptus leucoxyton* located on the nature strip at 39 Culcairn Drive Frankston South must be made to Frankston City Council's Planning and Environment Department in accordance with the fees for a Medium Street Tree outlined in Council's *Guidelines for Street Tree Removal for Private Development*.

**Fauna identification, salvage and relocation**

15. Prior to the commencement of any tree removal, all hollows must be inspected for the presence of fauna. The inspection must be carried out by qualified and experience expert. If fauna is located during the inspection, they must be salvaged and relocated by a suitably qualified and experienced Zoologist or Wildlife Handler in accordance with all relevant legislation and approvals, and if appropriate, in consultation with the DEWap.

**Drainage**

16. 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.
17. Prior to commencement of development construction detailed design plans and drainage computations of the internal stormwater drainage system including the method of connection to the existing Council drainage infrastructure are to be submitted and approved to the satisfaction of the Responsible Authority.
18. Water Sensitive Urban Design principles (WSUD) are to be incorporated into the drainage design, which may include but not be limited to the following components or a combination thereof:
- On-site stormwater detention and rainwater tanks.
  - Soil percolation
  - Stormwater harvesting and Re-use of stormwater for garden watering, toilet flushing, etc
  - On-site 'bio-treatment' to reduce dissolved contaminants and suspended solids.
19. Vehicle crossing shall be constructed to Frankston City Council's standards and specifications to the satisfaction of the Responsible Authority.
20. Prior to occupation of the dwellings hereby permitted by this permit starts, 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.

### Urban Design

22. 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.
23. Mailboxes shall be provided to the proposed dwelling/s to the satisfaction of the Responsible Authority and Australia Post.
24. All plumbing work, sewer pipes etc. (except for spouting and stormwater pipes) associated with the new dwelling shall be concealed from general view.
25. Outdoor lighting must be provided, designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.

### Completion of Buildings and Works

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

### Permit Expiry

27. This permit will expire if:
  - (a) The development has not commenced within two (2) years of the date of this permit.
  - (b) The development is not completed within four (4) years of the 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.

### Notes

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

- b. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

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

#### Street Numbering

- D. Local Government is the Authority responsible for property addressing. There is a requirement under Local Law No. 7 2.12 for the owner or occupier of each property to clearly display the street numbering allocated by Council.

Proposed Street Numbering can be provided by contacting Frankston City Council Rates department - Phone 9784 1853.

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

**Carried Unanimously**

**11. CONSIDERATION OF REPORTS OF OFFICERS****11.1 Homelessness in Frankston**

*(LD Community Development)*

**Recommendation (Director Community Development)**

That Council:

1. Approves, subject to external organisations achieving funding and Council facilitation support only, a 12 month pilot to establish 3 'Magpie Nest' model houses in Frankston.
2. Subject to Council approval of the project, a report be presented to Council at the conclusion of the twelve months outlining the results.
3. Approves officers to commence discussions with Wintringham regarding how existing Council services can support their model in Frankston at no additional cost to Council.
4. Develop and implement an advocacy platform regarding homelessness
5. Approves work to develop a Rooming House Strategy and Regulatory Practice Guidelines.

**Council Decision**

**Moved: Councillor Aitken**

**Seconded: Councillor Hampton**

That Council:

1. Approves, subject to external organisations achieving funding and Council facilitation support only, a 12 month pilot to establish 3 'Magpie Nest' model houses in Frankston.
2. Subject to Council approval of the project, a report be presented to Council at the conclusion of the twelve months outlining the results.
3. An implementation report be brought to Council outlining the program guidelines and framework on the operational activities of the proposal prior to it commencing.
4. Approves officers to commence discussions with Wintringham regarding how existing Council services can support their model in Frankston at no additional cost to Council.
5. Develop and implement an advocacy platform regarding homelessness
6. Approves work to develop a Rooming House Strategy and Regulatory Practice Guidelines.

**Carried Unanimously**

**11.2 To formally name McMannis Way**

*(MC Corporate Development)*

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

That:

1. Council, having complied with the principles of the Guidelines for Geographic Names 2010 and that in accordance with the *Local Government Act 1989 (the Act)* and there being no submissions in relation to the proposal, hereby resolves to lodge with the Registrar for consideration a proposal to formally name the “unnamed” road off McCulloch Avenue to McMannis Way as advertised in the local paper on Monday 19 January 2015.
2. The CFA and the residents off McCulloch Avenue be notified of Council’s decision and be advised of the Registrar’s decision when approval is received.
3. An appropriate ceremony be arranged in conjunction with the SES to formally unveil the name once approval is obtained.

**Carried Unanimously**

**11.3 Adoption of General (Amendment) Local Law 2015 No. 21 (Open Air Burning)**  
(MC Corporate Development)**Council Decision****Moved: Councillor Dooley****Seconded: Councillor Taylor**

That Council:

1. Having complied with the requirements of the *Local Government Act* 1989, and with no submissions to the proposed amendment having been received, resolves to make General (Amendment) Local Law 2015 No. 21, and to amend Clause 3.10 of the General Local Law 2012 No. 7.
2. Signs and seals General (Amendment) Local Law 2015 No. 21.
3. Gives notice of the making of General (Amendment) Local Law 2015 No. 21 in the Victoria Government Gazette.
4. Forwards a copy of General (Amendment) Local Law 2015 No. 21 to the Minister for Local Government.

**Carried Unanimously**



**11.4 Audit and Risk Management Committee Charter**

*(KJ Corporate Development)*

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

That Council notes the Audit and Risk Management Committee's review of its Charter, with no changes being proposed.

**Carried Unanimously**

**11.6 Commercial Property Audit**  
*(PM Community Development)***Council Decision****Moved: Councillor Aitken****Seconded: Councillor Tayler**

That:

1. The information contained in the report on Commercial Property Audit be received; and
2. A further report updating Council on the outcomes of the property audit will be presented to the August 2015 meeting.

**Carried Unanimously**

**11.7 Update of Western Port Highway Proposed Plan Change (C99)**

*(BH City Development)*

**Recommendation (Director City Development)**

That:

1. Council officers immediately contact the Premier of Victoria seeking an urgent meeting to gain assurance that the State Government will honour its election commitment to support the construction of a full interchange at Ballarto Road;
2. Council officers immediately contact the VicRoads Regional Director seeking an urgent discussion with Council in relation to VicRoads position on access at Ballarto Road and Wedge Road;
3. Council approve officers identify and brief a specialist lawyer(s) to ensure that, if required, they are available to take Council's case to the Panel Hearing in late May 2015; and
4. Council approve officers engage an expert traffic consultant, if required, to assist in developing Council's position for the Hearing and to act as an expert witness.

**Council Decision**

**Moved: Councillor Hampton**

**Seconded: Councillor Mayer**

That:

1. Council officers immediately contact the Premier of Victoria seeking an urgent meeting to gain assurance that the State Government will honour its election commitment to support the construction of a full interchange at Ballarto Road and a copy of this letter sent to the Member for Carrum, Ms Sonya Kilkenny and she make appropriate representations on our behalf;
2. Council officers immediately contact the VicRoads Regional Director seeking an urgent discussion with Council in relation to VicRoads position on access at Ballarto Road and Wedge Road;
3. Council approves officers identifying and briefing a specialist lawyer(s) to ensure that, if required, they are available to take Council's case to the Panel Hearing in late May 2015; and
4. Council approves officers engaging an expert traffic consultant, if required, to assist in developing Council's position for the Hearing and to act as an expert witness.

**Carried Unanimously**

**11.8 Response to Playne Street residents' petition about changes to on-street car parking conditions**

*(BH City Development)*

**Council Decision****Moved: Councillor Taylor****Seconded: Councillor Aitken**

That:

1. Council does not proceed with proposed changes to on-street parking restrictions;
2. The petitioners be advised.

**Carried Unanimously**

**12. NOTICES OF MOTION****12.1 NOM 1091 - Dogs in the Central Activities Area - Frankston**

*(MT Chief Executive Office)*

**Council Decision****Moved: Councillor Spelman****Seconded: Councillor Dooley**

“That the Director Community Development investigates options relating to amending the Local Law No. 7 General Local Law to allow dogs on leashes to be allowed back into the CAA and that a report on the findings be presented to Council in June 2015.”

**Carried**

For the Motion: Crs Dooley, Mayer, Spelman and Taylor

Against the Motion: Crs Aitken, Hampton and Tayler

**12.2 NOM 1092 - Yamala Park Tennis Club**

*(MT Chief Executive Office)*

**Council Decision****Moved: Councillor Taylor****Seconded: Councillor Hampton**

That Council accepts the email from Yamala Park Tennis Club, requesting financial assistance for \$5,110 towards fencing and that the amount of \$3,000 be taken from Councillor Cunial's discretionary fund and the balance be taken from Council's Capital Works Budget.

**Carried Unanimously**

**12.3 NOM 1093 - Mahogany Rise Primary School - Request for Funds**

*(MT Chief Executive Office)*

**Council Decision****Moved: Councillor Hampton****Seconded: Councillor Spelman**

“That Council accepts the email from Daniel Riley from the Mahogany Rise Primary School, requesting financial assistance for an overseas learning experience for eight children and that the amount of \$2,000 be given to the school from Cr Spelman’s Discretionary Fund.”

**Carried Unanimously**

**13. LATE REPORTS**

Nil.

**14. URGENT BUSINESS****Ironman Event****Council Decision****Moved: Councillor Dooley****Seconded: Councillor Spelman**

That the matter of the Ironman Event be accepted as urgent business.

**Carried Unanimously**

**Ironman Event****Council Decision****Moved: Councillor Dooley****Seconded: Councillor Taylor**

That Council thank the Events Team, One Stop Squad, Foreshore Crews, Economic Development, Traffic, Compliance & Safety and all Volunteers who help make the Ironman Event a success.

**Carried Unanimously**

*The Chief Executive Officer (CEO) highlighted to the Chamber that Ms. Marilyn Miller's contract was concluding with Council. The CEO thanked Marilyn for her contribution during her time at the Council. Cr Darryl Taylor also noted Marilyn's enthusiasm regarding the Speak Up for Frankston Advocacy campaign.*



## 15. CONFIDENTIAL ITEMS

### Council Decision

**Moved: Councillor Taylor**

**Seconded: Councillor Tayler**

That the Ordinary Council Meeting be closed to the public to consider the following items which are of a confidential nature, pursuant to section 89(2) of the Local Government Act (LGA) 1989 for the reasons indicated:

**C.1 Outcomes of the Audit and Risk Management Committee meeting held on 28 November 2014**

Agenda Item C.1 Outcomes of the Audit and Risk Management Committee meeting held on 28 November 2014 is designated confidential as it relates to Any other matter which the Council or special committee considers would prejudice the Council or any person (s89 2h)

**C.2 Family Day Care**

Agenda Item C.2 Family Day Care is designated confidential as it relates to personnel matters (s89 2a), and industrial matters (s89 2c), and contractual matters (s89 2d)

**C.3 Delacombe Park Pre School Expansion**

Agenda Item C.3 Delacombe Park Pre School Expansion is designated confidential as it relates to contractual matters (s89 2d)

**C.4 Street Lighting Contract**

Agenda Item C.4 Street Lighting Contract is designated confidential as it relates to contractual matters (s89 2d)

**C.5 Contractual Matters - Carrum Downs Recreation Reserve**

Agenda Item C.5 Contractual Matters - Carrum Downs Recreation Reserve is designated confidential as it relates to contractual matters (s89 2d)

**C.6 Contractual Matters - Transfer of 404 Ballarto Road, Skye to the Country Fire Authority**

Agenda Item C.6 Contractual Matters - Transfer of 404 Ballarto Road, Skye to the Country Fire Authority is designated confidential as it relates to contractual matters (s89 2d)

**C.7 Award of Contract Extension for the Provision of Landfill Services**

Agenda Item C.7 Award of Contract Extension for the Provision of Landfill Services is designated confidential as it relates to contractual matters (s89 2d)

**C.8 Chief Executive Officer Remuneration Review 2014/2015**

Agenda Item C.8 Chief Executive Officer Remuneration Review 2014/2015 is designated confidential as it relates to contractual matters (s89 2d), and Any other matter which the Council or special committee considers would prejudice the Council or any person (s89 2h)

**Carried Unanimously**

**16. OUTCOME OF CONSIDERATION OF CERTAIN CONFIDENTIAL ITEMS****C.6 McClelland Drive Deviation (320 Ballarto Road) (considered at OM262 20 October 2014)****Council Decision****Moved: Councillor Mayer****Seconded: Councillor O'Reilly**

That Council:

1. Notes the successful completion of negotiations for the purchase of 320 Ballarto Road, Skye;
2. Authorises the Chief Executive Officer to execute the transfer of land documents and seal the requisite documentation;
3. Holds the land as land for 'Municipal Purposes' until a decision is made about the future need for the road deviation;
4. Continues to periodically review the need for the road deviation and should it be determined that the road deviation is not required the process to sell the land be commenced;
5. Prepares a press release to notify nearby land owners of Council's decision to purchase the land for future 'Municipal Purposes'; and
6. Releases the recommendation only once title to the parcel of land has been issued in Council's name.

The Motion was put and CARRIED unanimously

**C.2 Seaford Property, Occupancy, Legal and Associated Matters (considered at OM265 22 December 2014)****Council Decision****Moved: Councillor Aitken****Seconded: Councillor Spelman**

That:

1. The proposed land swap as agreed at the Ordinary Meeting on 18 August, 2014 be abandoned and no further action be taken in this regard.
2. Council determines to re-lease the Crown Land currently occupied by the Seaford Cabin Park, subject to the lease terms incorporating the following minimum conditions and such lease agreement being signed and sealed by the Seaford Cabin Park operator by the 31<sup>st</sup> March 2015:
  - (i) The agreed term not to exceed 10 years on a 5x5 year option basis, and that any lease renewal be subject to ongoing satisfactory performance of all essential terms and an agreed schedule of Cabin Park improvements;
  - (ii) The lessee entering into a Section 173A agreement to continue to operate the Cabin Park for a minimum of 10 years;
  - (iii) A commercial rental (to be agreed) being fixed for the commencing year and reviewed thereafter to market on each option renewal plus a fixed annual 3% increment;
  - (iv) The lessee agreeing to undertake a significant upgrade of the Cabin Park and all facilities to benefit current and future residential tenants as specified and detailed in the proposed new lease agreement and future tenant rental increases be fixed at no more than CPI;
  - (v) Immediate payment in full of the rent for the 2014/15 year on receipt of notice;

Chairperson's initials

*S. Mayer*

- (vi) Inclusion of clauses to require the operator to work with any Council approved housing agencies to relocate residents in a timely, open and honest manner in the event that the Cabin Park is to close for whatever reason in the future;
  - (vii) The Chief Executive Officer be authorised to negotiate the details of the lease agreement with final terms and conditions to be subject to Council approval;
  - (viii) The payment to Council of a bond or bank guarantee on signing of the lease to ensure future and ongoing performance;
  - (ix) And any other conditions recommended by our lawyers and subsequently approved by Council.
3. A draft lease be presented for Council consideration at the earliest opportunity.
  4. Department of Environment and Primary Industry ( DEPI), Cabin Park residents, relevant Housing Agencies ,current Cabin Park operator and interested Community organisations be advised of Council's revised position and that it is in response to public and community concerns and an appropriate press release be issued immediately following notification of these parties.
  5. The Council decision taken on 8th September 2014 authorising legal action for vacant possession of the Crown Land remain in place in the event that a suitable lease agreement cannot be agreed in writing by 31<sup>st</sup> March, 2015 or such other time as Council may later agree.
  6. This decision only be released immediately the directly affected parties have been advised.

The Motion was put and CARRIED unanimously

#### **C.4 Contractual Matters (considered at OM265 22 December 2014)**

##### **Council Decision**

**Moved: Councillor Hampton**

**Seconded: Councillor Aitken**

That Council resolves to authorise:

1. The Chief Executive Officer or Director Corporate Development to enter into a contract of sale with Ballarto Pastoral Pty Ltd (Vendor) to purchase the 7.3 ha Harold Road, Skye Waste Transfer Site described under the plan of subdivision approved by Council under Planning Permit 547/2014/P with the execution of the contract with a settlement date of 17 July 2015,
2. The reimbursement to the Vendor for the Ballarto and Harold Roads improvement works on the settlement date subject to the Vendor providing evidence of costs incurred and VicRoads approval of the works,
3. The Manager Financial Services to commence the process to apply for a loan to fund the acquisition, road improvement works and to complete works required to satisfy the conditions of the Planning Permit for the use and development of the Waste Transfer Station,
4. The signing and sealing of the loan documents and the transfer instrument to complete the acquisition of the site,
5. The completion of the outstanding works, and,
6. That the contents of this report remain confidential until both parties have executed the contracts of sale.

The Motion was put and CARRIED unanimously

Chairperson's initials

*S. Mayer*

**C.1 Frankston Station Precinct Redevelopment (considered at SP187 10 March 2015)****Council Decision****Moved: Councillor Hampton****Seconded: Councillor Cunial**

That:

1. Council notes the interim Frankston Station Precinct Redevelopment Submission pending immediate consultative discussions with the community and business community on Wednesday 1st April 2015.
2. Adopts the Wells Street Upgrade Streetscape palette as the preferred palette for the Frankston Metropolitan Activity Centre.
3. The interim submission be brought to Council for endorsement at its meeting on the 13th April 2015.
4. That a meeting be called between Council and the Taskforce, to formally present Councils submission on the Frankston Station Precinct Redevelopment, following its formal adoption of the submission at its meeting on 13th April 2015.

The Motion was put and CARRIED unanimously

**C.6 Contractual Matters - Transfer of 404 Ballarto Road, Skye to the Country Fire Authority (considered at this meeting)****Council Decision****Moved: Councillor Hampton****Seconded: Mayor Mayer**

That:

1. Council having received no submissions in response to a public notice in the Frankston Leader on 16 February 2015 and a display sign displayed on site for a 28-day period, resolves to proceed with the transfer of the subject land to the Country Fire Authority.
2. The recommendation be incorporated in the public minutes of this Meeting.

The Motion was put and CARRIED unanimously

**C.8 Chief Executive Officer Remuneration Review 2014/2015 (considered at this meeting)****Council Decision****Moved: Councillor Taylor****Seconded: Councillor Tayler**

That:

1. The Chief Executive Officer's total package be increased to an appropriate market rate to recognise his service and high level performance over the past 12 months and the size, complexity and scope of the role.
2. Council adopts a Total Remuneration Package (TRP) for the Chief Executive Officer and request that officers prepare all the appropriate documents to be effective from 28<sup>th</sup> October 2014 (noting that TRP consists of the component Council Vehicle, Transaction Fee Reimbursement, Superannuation and Salary).
3. This resolution be incorporated in the public minutes of this meeting.

*The meeting closed to the public at 10.40 pm*

CONFIRMED THIS

DAY OF

2015

.....  
CHAIRPERSON

**AUTHORITY TO STAMP INITIALS ON MINUTES**

I, Cr. Sandra Mayer, Chairperson – Council Meeting hereby authorise the use of a stamp of my initials to initial each page of these Minutes of the Council Meeting held on 23 March 2015, confirmed on 13 April 2015.

.....  
(Cr. Sandra Mayer, Chairperson – Council Meeting)

Dated this

day of

2015