



**MINUTES OF ORDINARY COUNCIL MEETING OF THE FRANKSTON CITY COUNCIL  
HELD IN THE CIVIC CENTRE, DAVEY STREET, FRANKSTON  
ON 4 MAY 2015 at 7PM**

|                           |  |
|---------------------------|--|
| PRESENT                   | Cr. Sandra Mayer (Mayor)<br>Cr. Darrel Taylor<br>Cr. James Dooley<br>Cr. Rebekah Spelman<br>Cr. Glenn Aitken<br>Cr. Suzette Tayler<br>Cr. Brian Cunial<br>Cr. Colin Hampton<br>Cr. Michael O'Reilly  |
| APOLOGIES:                | Nil.   |
| ABSENT:                   | Nil.   |
| OFFICERS:                 | Mr. Dennis Hovenden, Chief Executive Officer<br>Mr. Tim Frederico, Director Corporate Development<br>Dr. Gillian Kay, Director Communities Development<br>Mr. Vito Albicini, Director City Development<br>Mr. Michael Papageorgiou, Manager Planning & Environment<br>Ms. Fiona Johnstone, Coordinator Statutory Planning<br>Ms. Kelly Ross, Coordinator Media & Communications<br>Ms. Michelle Tipton, Coordinator Council Business Support |
| EXTERNAL REPRESENTATIVES: | Nil  |

**COUNCILLOR STATEMENT**

Councillor O'Reilly 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 Spelman 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**

Nil.

**2. CONFIRMATION OF MINUTES OF PREVIOUS MEETING****Council Decision****Moved: Councillor Aitken****Seconded: Councillor Tayler**

That the minutes of the Ordinary Meeting No. OM270 held on 13 April 2015 AND Special Meeting No. SP189 held on 27 April 2015, 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**

Cr. Cunial declared an interest in Item 10.1: Planning Application 142/2009/P/A - To amend Condition 6 to increase the number of patrons from 74 to 120 and to increase the area to be licensed - 160 Beach Street, Frankston and advised he will leave the chambers while discussion takes place.

The Chief Executive Officer declared in an interest in Item C.4: Reappointment of Chief Executive Officer and advised he will leave the chambers while discussion takes place.

**5. PUBLIC QUESTION TIME**

One (1) person submitted "Questions With Notice" 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.

Nine (9) persons submitted "Questions Without Notice" to Council. These questions related to Frankston Motorcycle Park and will be referred to the Interim Committee appointed by the Council. A written response will be provided to all individuals.

**6. HEARING OF PUBLIC SUBMISSIONS**

*Cr. Cunial left the Chamber at 7.13 pm*

Mr. Richard Umbers made a submission to Council regarding Item 10.1: Planning Application 142/2009/P/A - To amend Condition 6 to increase the number of patrons from 74 to 120 and to increase the area to be licensed - 160 Beach Street, Frankston and advised he will leave the chambers while discussion takes place;

Mr. Ben Hanna made a submission to Council regarding Item 10.1: Planning Application 142/2009/P/A - To amend Condition 6 to increase the number of patrons from 74 to 120 and to increase the area to be licensed - 160 Beach Street, Frankston and advised he will leave the chambers while discussion takes place;

*Cr. Cunial returned to the Chamber at 7.22 pm*

*Cr. Cunial left the Chamber at 7.22 pm*

*Cr. Aitken left the Chamber at 7.23 pm*

Chairperson's initials *S. Mayer*

*Cr. Aitken returned to the Chamber 7.29 pm*

Ms. Dalel Haggad made a submission to Council regarding Item 10.1: Planning Application 142/2009/P/A – To amend Condition 6 to increase the number of patrons from 74 to 120 and to increase the area to be licensed – 160 Beach Street, Frankston and advised he will leave the chambers while discussion takes place;

Mr. Mark Weerd made a submission to Council regarding Item 10.2: Planning Application 591/2014/P - 65A Wells Street Frankston - To construct a three storey building, and to waive car parking and loading bay requirements;

*Cr. Taylor left the Chamber at 7.31 pm*

*Cr. Cunial returned to the Chamber at 7.32 pm*

*Cr. Taylor returned to the Chamber at 7.33 pm*

Ms. Christine Richards made a submission to Council regarding Item 10.3: Planning Application 591/2014/P - 65A Wells Street Frankston - To construct a three storey building, and to waive car parking and loading bay requirements;

Mr. Barry Goold made a submission to Council regarding Item 10.3: Planning Application 591/2014/P - 65A Wells Street Frankston - To construct a three storey building, and to waive car parking and loading bay requirements;

Mr. Phillip Mannerheim made a submission to Council regarding Item 10.3: Planning Application 591/2014/P - 65A Wells Street Frankston - To construct a three storey building, and to waive car parking and loading bay requirements;

Mr. Raymond Westcott made a submission to Council regarding Item 10.3: Planning Application 591/2014/P - 65A Wells Street Frankston - To construct a three storey building, and to waive car parking and loading bay requirements;

Mr. Andrew Bromley made a submission to Council regarding Item 10.4: Planning Application 683/2014/P - 15 -17 Ebdale Street, Frankston - To construct a four (4) storey building containing twenty (25) apartments;

*Cr Hampton left the Chamber at 8.07 pm*

Mr. Rohan Burch made a submission to Council regarding Item 10.4: Planning Application 683/2014/P - 15 -17 Ebdale Street, Frankston - To construct a four (4) storey building containing twenty (25) apartments;

*Cr Hampton returned to the Chamber at 8.10 pm*

Mr. Neville Deutscher made a submission to Council regarding Item 10.7: 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. Carmel Dalli made a submission to Council regarding Item 10.7: 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. David Veith made a submission to Council regarding Item 10.7: 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. Peter Hudd made a submission to Council regarding Item 10.7: 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;

*Crs. Taylor, Tayler and Aitken left the Chamber at 8.33 pm*

*Crs. Taylor and Aitken returned to the Chamber at 8.34 pm*

*Cr. Tayler returned to the Chamber at 8.36 pm*

Chairperson's initials *S. Mayer*

Ms. Emmerson Shankie made a submission to Council regarding Item 12.8: NOM 1108 - 1st Seaford Scout Group Jamboree Funding.

## 7. ITEMS BROUGHT FORWARD

### Council Decision

**Moved: Councillor Hampton**

**Seconded: Councillor Dooley**

That the matter Item 12.8: NOM1108 – 1<sup>st</sup> Seaford Scout Group Jamboree Funding be brought forward.

Carried Unanimously

## 8. PRESENTATIONS / AWARDS

Nil.

## 9. PRESENTATION OF PETITIONS AND JOINT LETTERS

Nil.

**ITEMS BROUGHT FORWARD****12.8 NOM 1108 - 1st Seaford Scout Group Jamboree Funding**

*(MT Chief Executive Office)*

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

“That Council accepts the letter from the 1<sup>st</sup> Seaford Scout Group requesting financial assistance for Ms Anne-Marie Threlfall to attend the Jamboree as a volunteer leader and that the amount of \$700.00 be given to the 1<sup>st</sup> Seaford Scout Group from Cr Glenn Aitken Discretionary Fund.”

**Carried Unanimously**

*The meeting was adjourned at 8.41 pm*

*The meeting resumed at 8.49 pm*

*All Councillors present except Cr. Taylor*



**10. CONSIDERATION OF TOWN PLANNING REPORTS****10.1 Planning Application 142/2009/P/A - To amend Condition 6 to increase the number of patrons from 74 to 120 and to increase the area to be licensed - 160 Beach Street, Frankston**

*(MP Community Development)*

**Recommendation (Director Community Development)**

That Council resolves to issue a Notice of Decision to Grant an Amended Planning Permit, in respect to Planning Permit Application number 142/2009/P to use the land as a Restaurant, to sell and consume liquor (Restaurant and Café Licence) and to vary the car parking requirements of the Franston Planning Scheme at 160 Beach Street Frankston:

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

- To amend Condition 6 to increase the number of patrons from 74 to 120.
- Replacement of Condition 9
- Addition of new Conditions 1 b), c) & d), 16 & 17
- Substitution of plans

**B. To what Conditions is the Amendment Subject?****Condition 1 b)**

The provision for at least four (4) bicycle spaces for patrons and two (2) bicycle spaces for staff.

**Condition 1 c)**

Provision of a Car Park Management Plan in accordance with Condition 16.

**Condition 1 d)**

Provision of a Patron Management Plan in accordance with Condition 17.

**Condition 6**

Without the prior written consent of the Responsible Authority, the licensed area shown on the endorsed plans must accommodate no more than a total of 120 patrons

**Condition 9**

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

**Condition 16**

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) Provision of a temporary sign on Kelman Street during operating hours indicating that no restaurant parking is available south of the restaurant on Kelman Street.
- b) Provision for a Left Turn Only sign at the car parking exit point to Kelman Street.
- c) Measures to encourage staff and patrons to utilise alternative transport modes.
- d) Measures to encourage carpooling by staff.

Chairperson's initials *S. Mayer*

- e) Measures to encourage appropriate on-street parking behaviour to ensure on-street parking restrictions are complied with, in particular the No Stopping restrictions on Kelman Street.
- f) Measures to ensure that the parking area is clear to allow for patrons to conduct u-turns should they be unable to find a park in Kelman Street or on-site.

### Condition 17

Before the permitted use begins, a Patron Management Plan for the restaurant must be submitted to and approved to the satisfaction of the Responsible Authority. Once approved, the plan will be endorsed to form part of this permit. Once endorsed, all security and management practices must take place in accordance with this plan. The plan must include but is not limited to:

- (a) Specific methods of patron control either arriving at or leaving the premises so that no nuisance is caused to the surrounding area;
- (b) Except for background music and live acoustic performances (limited to 3 performers), no other music or live entertainment shall be permitted on the premises at any time;
- (c) Patron number control;
- (d) Encourage smokers to use designated smoking areas within the premises;
- (e) Staff being trained in the responsible service of alcohol;
- (f) The keeping of a complaints register, which must, on reasonable request, be made available for inspection by the Responsible Authority.

*Cr Cunial declared a conflict of interest and left the Chamber at 8.49 pm*

*Cr Taylor returned to the Chamber at 8.49 pm*

### Council Decision

**Moved: Councillor Hampton**

**Seconded: Councillor Tayler**

That a Refusal to Grant an Amendment to a Permit be issued pursuant to Section 76 of the Planning and Environment Act 1987:

#### PERMIT FOR WHICH AMENDMENT WAS SOUGHT:

Planning Permit 142/2009/P to use the land as a Restaurant, to sell and consume liquor (Restaurant and Café Licence) and to vary the car parking requirements of the Frankston Planning Scheme

#### WHAT HAS BEEN REFUSED?

1. To amend Condition 6 to increase the number of patrons from 74 to 120.
2. Substitution of plans

#### WHAT ARE THE REASONS FOR THE REFUSAL?

3. The increase in the number of patrons will result in an unacceptable loss of amenity to the surrounding residential area.
4. The proposal does not provide the required number of car spaces pursuant to Clause 52.06-5 of the Frankston Planning Scheme.

Chairperson's initials *S. Mayer*

5. The reduction in car parking will substantially impact on the availability of car parking within Beach Street and Kelman Avenue which will impact on the amenity of the residential area.

Note: This refusal to grant an amendment to the permit does not affect the validity of the permit issued on 5 October 2010.

**Carried**

For the Motion: Crs Aitken, Hampton, Mayer, O'Reilly, Spelman, Tayler and Taylor  
Against the Motion: Cr Dooley  
Absent: Cr Cunial

*Cr. Cunial returned to the Chamber at 8.54 pm*

**10.2 Planning Application 591/2014/P - 65A Wells Street Frankston - To construct a three storey building, and to waive car parking and loading bay requirements**  
(MP Community Development)

**Recommendation (Director Community Development)**

That Council resolves to issue a Planning Permit in respect to Planning Permit Application number 591/2014/P to construct a three storey building, and to waive car parking and loading bay requirements at 65A Wells Street Frankston, 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 10 March 2015 but modified to show:
  - a) The use of glazing on the first and second storeys of the north elevation reduced. A band of either a timber finish or other light weight material extending from the balcony to the west wall at a height to match the balustrading for each storey.
  - b) Deletion of the use of Dulux "Hurricane Black" on the north, west and south elevations and replaced with a lighter colour (i.e. not charcoal grey).
  - c) The door to the bin area at ground level to be solid and of a material and colour consistent with the materials and colours of the building.
  - d) Provision of a waste management plan in accordance with Condition 7.

**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.

**Drainage**

3. Stormwater Drainage Outfall is to be constructed to the satisfaction of the Responsible Authority.
4. 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.
5. 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 .
6. Where the development involves work on or access to Council controlled land including roads, reserves and rights of way, the owner, operator and their agents under this permit shall at all times take adequate precautions to maintain works to the highest public safety standards.

Chairperson's initials *S. Mayer*

Precautions are to 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 are to be obtained from Council for works within the existing road reserves in addition to the planning permit.

### **Waste Management Plan**

7. Prior to the commencement of construction a Waste Services Management Plan (WSMP) must be submitted for approval by the Responsible Authority. When approved, the WSMP will be endorsed and form part of this permit. The plan must detail the method of garbage collection from the site, times and frequency of garbage collection, to the satisfaction of the Responsible Authority.

### **Construction Management Plan**

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

### **Urban Design**

9. 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.
10. All plumbing work, sewer pipes etc. (except for spouting and storm waterpipes) associated with the buildings shall be concealed from general view.
11. All roof top plant and equipment must be screened to the satisfaction of the Responsible Authority.
12. Any outdoor lighting of the site must be baffled to prevent light from the site causing any detriment to the locality.
13. Power and telephone lines to the development shall be placed underground from the main points of service outside the boundaries of the site.

**Satisfactorily Completed**

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

**Permit Expiry**

15. 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 Taylor**

**Seconded: Councillor Aitken**

That the matter be deferred until more articulated plans are received and to discuss external treatments to the facade of the building.

**Carried Unanimously**

Chairperson's initials *S. Mayer*

**10.3 Planning Application No. 468/2013/P - 571 Nepean Highway Frankston - To construct one (1) dwelling in excess of seven (7) metres in height**

*(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 468/2013/P for a dwelling over seven (7) metres in height at 571 Nepean Highway, 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) detailed cross section of proposed vehicle crossing and shared access roadway including gradients
  - (b) shared accessway widened to 5 metres at connection with Warringa Road in accordance with condition 9.
  - (c) A modified Geotechnical Report in accordance with Condition 3
  - (d) The wingwalls to the retaining wall along the south boundary that extend into the adjoining property at 569 Warringa Road deleted.
  - (e) The temporary car park identified on the adjoining site at 569 Warringa Road deleted.
  - (f) The path to the front entrance of the dwelling within the road reserve of Warringa Road deleted.

**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.

**Geotechnical Report**

3. Prior to the endorsement of plans, a modified Geotechnical Report must be submitted to the satisfaction of the Responsible Authority and must be endorsed in writing by Responsible Authority.
4. All works associated with the development must be undertaken in accordance with the recommendations contained in the endorsed Geotechnical Report referred to in condition 3.

**Prior to Occupancy**

5. Prior to the occupancy of the proposed dwelling, the applicant must submit to the responsible authority a statement made by the Geotechnical Practitioner who prepared the Geotechnical Assessment stating that the conditions of the geotechnical report have been complied with and the permitted development is suitable to be occupied as a dwelling.
6. Prior to the commencement of works the existing title must be modified to provide a 3.0 metre wide carriageway easement clear of the proposed retaining wall location. A copy of the new title issued from Land Registry must be submitted to Council as evidence.

**Drainage**

7. Stormwater drainage shall be connected to Stormwater Legal Point of Discharge as nominated and to the satisfaction of the Responsible Authority.
8. Vehicle crossing shall be constructed to Frankston City Council's standards and specifications to the satisfaction of the Responsible Authority.
9. Proposed shared accessway must be altered and widened to a minimum of 5.0 metres and connected to Warringa Road to Frankston City Council's standards and specifications to the satisfaction of the Responsible Authority.

**Engineering Requirements**

10. 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 AS1743 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.

**Satisfactorily Completed**

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

**Permit Expiry**

12. 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 matter be deferred until the overlays have been gazetted by the Government.

**Carried**

For the Motion: Crs Aitken, Hampton, O'Reilly, Spelman and Tayler

Against the Motion: Crs Cunial, Dooley, Mayer and Taylor

**10.4 Planning Application 683/2014/P - 15 -17 Ebdale Street, Frankston - To construct a four (4) storey building containing twenty (25) apartments**

*(MP Community Development)*

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

That Council resolves to issue a Notice of Decision to Grant a Planning Permit in respect to Planning Permit Application number 683/2014/P to construct a four (4) storey building containing twenty (25) apartments at 15-17 Ebdale 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) All west facing habitable room windows to demonstrate compliance with the Overlooking requirements of Clause 55 of the Frankston Planning Scheme.
  - b) Apartments 101, 102, 103 and 104 setback 4 metres from the east side boundary, apartments 106, 107, 108 and 109 setback 4 metres from the west side boundary and apartments 105 and 106 setback 4.5 metres from the south (rear) boundary.
  - c) Apartments 205 and 206 setback 4.5 metres from the south (rear) boundary.
  - d) A notation on all relevant plans that the paving proposed within the tree protection zone of Tree No. 17 (3.2 metres) must be porous and laid above the existing soil grade to the satisfaction of the Responsible Authority.
  - e) The car parking spaces allocated for the residents correctly numbered on the ground level plan.
  - f) The provision of eight (8) bicycle parking spaces, five (5) for residents and three (3) for visitors.
  - g) The visitor parking arrangement amended to ensure that all five (5) visitor parking spaces are directly available to all visitors.
  - h) A pedestrian sight triangle shall be included on the departure side of the accessway in accordance with the requirements of Clause 52.06-8 of the Frankston Planning Scheme
    - (i) The provision of 6 cubic metres of storage area for each dwelling.
    - i) Letterboxes to be nominated.
    - j) Landscape Plan in accordance with Condition 4.
  - k) The construction of the vehicle crossover in accordance with Condition 7.
  - l) Tree protection conditions noted in accordance with Conditions 5, 6, 7 and 8.
  - m) Lighting of the front entrance and driveway in accordance with Condition 23.
  - n) The locations of air conditioning units (and any other associated plant equipment) in accordance with Conditions 24 and 25.

**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. The materials and colours as set out in the drawing schedule of the endorsed plan must not be altered without prior consent of the Responsible Authority.

**Prior to Occupation**

3. 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.

**Landscape Plans**

4. Before the commencement of buildings and works, a landscape plan to the satisfaction of the Responsible Authority, 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. buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary;
  - c. details of surface finishes of pathways and driveways, retaining walls and areas of cut and fill;
  - d. a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, size at maturity and quantities of each plant;
  - e. screen landscaping along the southern boundary of the site to a minimum mature height of 2.5 metres.
  - f. A planting theme of 70% indigenous species in each planting group.
  - g. At least six (6) canopy trees to a minimum mature height of seven metres (minimum two metres tall when planted) in locations to the satisfaction of the Responsible Authority.

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

**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 2.3 metres from Tree No. 17 (fence can be relocated during the construction of the paving), 2 metres from both Tree Nos. 18 and 19, 2.2 metres from the street tree (Tree No. 2 confined to the nature strip to not restrict pedestrian access) and

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2.5 metres from street Tree No. 1 (if suitable for retention see condition below) 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) No vehicular or pedestrian access.
- b) The existing soil level must not be altered either by fill or excavation.
- c) Any proposed paving must be porous and laid above the existing soil grade
- 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.

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

### Street Trees

7. Prior to the construction of the crossover a qualified arborist must undertake an exploratory hand digging along the western edge of the proposed crossover to determine the extent of tree roots. A Statement on the findings must be provided to Councils Environmental Planner or Vegetation Protection Officer who must also be contacted prior to hand digging to organise an inspection and must be to the satisfaction of the Responsible Authority.

### Tree Pruning

8. 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.

Any tree pruning required to the canopy of any tree, to obtain a four (4) metre height clearance as per the CFA requirements, is to be undertaken by a qualified Arborist to the Australian Standard – Pruning of Amenity Trees AS4373-1996 and to the satisfaction of the Responsible Authority

### Drainage and Parking

9. 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

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- On-site 'bio-treatment' to reduce dissolved contaminants and suspended solids.
10. Stormwater runoff must achieve the following objectives for environmental quality, as set out in the Urban Stormwater Best Practice Environmental Guidelines (CSIRO) 1999.
    - 80% retention of the typical annual load of suspended solids;
    - 45% retention of typical annual load of total phosphorous; and
    - 45% retention of typical annual load of total nitrogenWater Quality works within the development must achieve compliance with the above best practice standards to the satisfaction of the Responsible Authority.
  11. Water Quality works within the subdivision must be provided to achieve compliance with the above best practice standards to the satisfaction of the Responsible Authority.
  12. Imported fill must be kept to a minimum on the property and must only be used for the sub floor areas of the dwellings, garages and driveway ramp to the satisfaction of the Responsible Authority.
  13. 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 .
  14. Prior to commencement of development construction a Construction Environmental Management Plan must be submitted, approved and endorsed under this permit to the satisfaction of the Responsible Authority.
  15. Vehicle crossing shall be constructed to Frankston City Council's standards and specifications to the satisfaction of the Responsible Authority.
  16. All disused vehicle crossings shall be removed and the area reinstated to kerb and channel and landscaped to the satisfaction of the Responsible Authority.
  17. On-street kerbside parking linemarking amended to suit the new crossover to the satisfaction of the Responsible Authority.
  18. 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.

19. 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 1742 Road Works Signing

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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**

20. 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.
21. Mailboxes shall be provided to the proposed dwellings to the satisfaction of the Responsible Authority and Australia Post.
22. All plumbing work, sewer pipes etc. (except for spouting and stormwater pipes) associated with the new dwelling shall be concealed from general view.
23. Outdoor lighting must be provided, designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.
24. Air-conditioning or other plant and equipment must be baffled to prevent nuisance or annoyance to persons in dwellings nearby (or adjoining land).
25. No plant, equipment, services or architectural features other than those shown on the endorsed plan are permitted above the roof level of the dwelling except with the prior written consent of the Responsible Authority.

### **Waste Management**

26. Waste must be collected from the site in accordance with the Waste Management Plan by Peter Brown Architects which will be endorsed to form part of this permit.

### **Satisfactorily Completed**

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

### **Permit Expiry**

28. This permit will expire if one of the following circumstances applies:
  - a) The development is not started within two years of the date of this permit.
  - b) The development is not completed within four years of the issued date of this permit.
  - c) The use of the land for dwellings is not commenced within two (2) years of the date of completion of development.
  - d) The use of the land for dwellings is discontinued for a continuous period of two (2) years.

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

### **Notes**

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

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

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**

### 10.5 Planning Application 61/2012/P/B - 75 Hillcrest Drive, Langwarrin - To amend Condition 3 of the Planning Permit to vary the required public open space contribution requirements

*(MP Community Development)*

#### Recommendation (Director Community Development)

That Council resolves to issue an Amended Planning Permit pursuant to section 74 of the Planning and Environment Act 1987 for a four (4) lot subdivision in accordance with the endorsed plans subject to the attached list of conditions.

#### Amended Plans

1. Before the plan of subdivision can be certified, 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 must be generally in accordance with the plans submitted with the application but modified to show:-
  - a. The building envelope to lot 4 reduced from 45 metres to 40 metres in length.
  - b. Drainage easements are to be created of an appropriate width and set aside to the City of Frankston to provide for drainage connection to the future Melbourne Water 2331 Langwarrin South Drainage Scheme drain proposed on 47 Hillcrest Drive to the satisfaction of the Responsible Authority.
  - c. A setback of 10 metres from the southern boundary of lot 4's building envelope and trees 65 and 66 shown as being removed.
  - d. A reversing area within the driveway envelope of lot 4 which does not come within the tree protection zones of any existing trees.
  - e. Tree protection methodology to be noted on plans in accordance with Conditions 4, 5 and 6.
  - f. Notation on the plans that the driveway envelopes to lots 3 and 4 be constructed at or above the existing grade and of porous trafficable and pH neutral paving.
  - g. CFA requirements in accordance with Condition 26.

#### No Alteration or Changes

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

#### Open Space Contribution

3. Prior to the issue of a statement of compliance, the applicant or owner must pay a cash contribution to the Responsible Authority, an amount equivalent to **three (3%) percent** of the site value of all land in the subdivision and may be adjusted in accordance with Section 19 of the Subdivision Act 1998.

#### Prior to Statement of Compliance

4. Prior to a Statement of Compliance being issued, boundary fences must be erected, without removing, destroying or lopping any additional vegetation, unless with the prior written consent of the Responsible Authority.
5. A Statement of Compliance will not be issued until the Owner of the site enters into an agreement under Section 173 of the Planning and Environment Act with the Responsible Authority to provide for the following:-
  - a. All buildings and works on lots 2, 3 and 4 must be confined to within the endorsed building envelopes;

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- b. All works associated with access to lots 2, 3 and 4 must be confined to within the endorsed driveway envelope;
- c. All buildings and works associated with effluent disposal must be confined to within the endorsed effluent disposal envelope;

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.

### **Infrastructure Requirements**

- 6. Each lot shown on the endorsed plans must be provided with a stormwater legal point of discharge to the satisfaction of the Responsible Authority.
- 7. Vehicle crossing must be constructed to Frankston City Council's standards and specifications to the satisfaction of the Responsible Authority.
- 8. 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.

### **Environmental Health Requirements**

- 9. Replacement of the current septic tank system with an approved secondary treatment system prior to the issue of statement of compliance.

### **Melbourne Water Requirements**

- 10. Prior to the issue of a Statement of Compliance, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
- 11. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
- 12. All new lots must achieve appropriate freeboard in relation to local overland flow paths to Council's satisfaction.
- 13. Engineering plans of the subdivision (in electronic format) are to be forwarded to Melbourne Water for comment / approval. A Certified Survey Plan may be required following our comments on the engineering drawings.
- 14. Any road or access way intended to act as a storm water overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water's Land Development Manual.

15. Prior to certification, a drainage strategy for the subdivision (in an electronic format) must be submitted for Melbourne Water's approval. This strategy should demonstrate the proposed alignments of drainage infrastructure, relevant flow path directions for the 1 in 5 year ARI and 1 in 100 year ARI flood events.
16. Stormwater runoff from the subdivision must achieve State Environment Protection Policy (Waters of Victoria) objectives for environmental management of stormwater asset out in the 'Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) 1999'.
17. Prior to the issuing of a Statement of Compliance for the subdivision documentation supporting the approved ongoing maintenance of the treatment measures by the relevant authority must be submitted.
18. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.

### Tree Protection

19. 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.
20. Prior to the commencement of the development (including vegetation removal and demolition works), 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 to both the northern and southern edges of the proposed access ways to lots 3 and 4 to the satisfaction of the Responsible Authority. A fixed sign is to be provided on all visible sides of the Tree Preservation Fencing, stating "Tree Preservation Zone – No entry without permission from the City of Frankston": The requirements below must be observed within this area to the satisfaction of the Responsible Authority -
  - (a) No vehicular or pedestrian access.
  - (b) The existing soil level must not be altered either by fill excavation.
  - (c) The soil must not be compacted or the soil's drainage changed.
  - (d) 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. If approval is given a qualified arborist must be on site to oversee this process;
  - (e) No storage of equipment, machinery or material is to occur.
  - (f) No fuels, oils, chemicals, poisons, rubbish or other materials harmful to trees are to be disposed of or stored.
  - (g) Nothing whatsoever, including temporary services wires, nails, screws or any other fixing device, is to be attached to any tree.
  - (h) No building or any other structure is to be erected.
  - (i) Tree roots must not be severed or injured.
21. 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 to the satisfaction of the Responsible Authority. Pruning must be carried out in accordance with Australian Standard AS4373-2007 Pruning of Amenity Trees.

**South East Water Requirements**

## 22. Potable Water

The owner of the subject land must enter into an agreement with South East Water for the provision of potable water supply and fulfill all requirements to its satisfaction.

## 23. Sewer

The owner of the subject land must enter into an agreement with South East Water for the provision of sewerage and fulfill all requirements to its satisfaction.

## 24. General

The owner of the subject land is required to obtain a 'Notice of Agreement' from South East Water. All requirements must be fulfilled to its satisfaction prior to South East Water consenting to the issuing of a statement of compliance.

The following South East Water agreement options are available:

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

**United Energy Requirements**

25. The applicant must enter into an agreement with UE for rearrangement of the existing connection and for an underground supply of electricity to each lot shown on the endorsed plan.

**CFA Country Fire Authority****Amended Plans Required**

26. Before the plan of subdivision is certified under the Subdivision Act 1988, the 'Bushfire Development Plan' (Map 4 in Bushfire Management Statement version 01 dated 06/06/2012) must be amended to the satisfaction of the CFA and the Responsible Authority and must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and then form part of the permit. The plans must be substantially in accordance with the plans submitted with the application but modified to:

26.1 Nominate the Bushfire Attack Level (BAL) on the lots as follows:

- Lot 2 and 4 – BAL-12.5
- Lot 3 – BAL-29

26.2 Revise the defendable space envelopes as follows:

- Lot 1 showing a defendable space envelope around the existing dwelling nominating an inner zone of 19m)
- Lots 2 and 4 showing a defendable space envelope around the proposed building envelope nominating an inner zone of 19m)

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- Lot 3 showing a defensible space envelope around the proposed building envelope nominating an inner zone of 21m and outer zone of 12m (total 33m)

**Mandatory Condition (as per Clause 44.06-4)**

27. Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987 and make application to the Registrar of Titles to have the agreement registered on the title to the land under Section 181 of the Act. The agreement must set out the following matters:

27.1 That it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-1 of this planning scheme.

27.2 The building envelope and defensible space envelope to achieve the Bushfire Attack Level approved under this permit.

27.3 Any vegetation management requirements to implement the defensible space approved under this permit.

27.4 The access and water supply requirements approved under this permit.

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

**Supporting Conditions**

28. In addition to the matters set out in clause 44.06-4 of the Frankston Planning Scheme, the section 173 Agreement prepared in accordance with clause 44.06-4 must:

28.1 Specify that any dwelling or dependent person's unit constructed on Lots 2, 3 or 4 must be constructed to the Bushfire Attack Level (BAL) nominated on the endorsed 'Bushfire Development Plan'.

28.2 Specify that the owner/s of the lots must implement and maintain vegetation on the land in accordance with the requirements set out in CFA's condition labelled 'Implementation of Defensible Space' on the permit.

28.3 Specify that before the initial occupation of dwellings on Lot 2, 3 and 4, static water supply and access for the relevant lot must be provided on the land, in accordance with the requirements of CFA's condition labelled 'Static Water Supply and Access' on this permit.

28.4 Annexe a copy of this permit and the 'Bushfire Development Plan' endorsed under this permit to the section 173 agreement.

**Implementation of Defensible Space**

29. Before the Statement of Compliance is issued under the Subdivision Act 1988 defensible space (as shown on the endorsed Bushfire Development Plan) must be implemented to at least the following standard:

**Inner Zone**

a) Within 10 metres of the dwelling or dependent person's unit, flammable objects such as plants and mulches must not be located close to vulnerable parts of the dwelling such as windows, decks and eaves.

b) Fences (excluding where constructed of non-combustible materials) must not be located within 3 metres of vulnerable parts of the dwelling or dependent person's unit such as windows, decks and eaves.

- c) Trees must not overhang the roofline of the dwelling or dependent person's unit and must not touch the walls or other elements of the dwelling.
- d) Grass must be no more than 5 centimetres in height.
- e) All leaves and vegetation debris must be removed at regular intervals.
- f) Shrubs must not be planted under trees and must be separated from each other by at least 1.5 times their mature height.
- g) Plants greater than 10 centimetres in height at maturity must not be placed directly in front of a window or other glass feature.
- h) A tree canopy separation of at least 2 metres and an overall tree canopy cover of no more than 15 percent at maturity.
- i) Tree branches below 2 metres from ground level must be removed.

**Outer Zone**

- j) Grass must be no more than 10 centimetres in height and leaf and other debris must be mowed, slashed or mulched.
- k) Shrubs and trees must not form a continuous canopy with unmanaged vegetation.
- l) Tree branches below 2 metres from ground level must be removed.
- m) Trees may touch each other with an overall canopy cover of no more than 30 percent at maturity.
- n) Shrubs must be in clumps of no greater than 10 square metres, which are separated from each other by at least 10 metres.

**Static Water Supply and Access (Lots 2, 3 and 4)****Static Water Supply**

30. A static water supply must be provided on the land which complies with all of the following requirements:
- 30.1 The water supply must have a minimum capacity of not less than 10,000 litres that is maintained solely for fire fighting purposes.
  - 30.2 The water supply must be stored in an above ground water tank constructed of concrete, steel or corrugated iron.
  - 30.3 The water supply must be located within 60 metres of the outer edge of the dwelling (including any obstructions).
  - 30.4 The water supply outlet/s must be fixed to the water tank and must face away from the building if located less than 20 metres from the building to enable access during emergencies.
  - 30.5 All pipework between the water supply and the outlet/s must be a minimum of 64 mm nominal bore.
  - 30.6 All fixed above-ground water pipelines and fittings must be of non-corrodible and non-combustible materials.
  - 30.7 The water supply must:
    - a) Be located so that fire brigade vehicles are able to get to within 4 metres of the water supply outlet.

- b) Incorporate a 64 mm (minimum) gate or ball valve and 64 mm (fixed size), 3 threads per inch, male fitting to suit a CFA coupling.
  - c) The water supply must also incorporate a separate outlet to provide access to the water by the resident of the dwelling (for firefighting purposes).
- 30.8 The water supply must be readily identifiable from the principle property access or appropriate signage must be provided which:
- a) Has an arrow pointing to the location of the water supply.
  - b) Has dimensions of not less than 310 mm high and 400 mm long.
  - c) Is red in colour with a blue reflective marker attached.
  - d) Is labelled with a 'W' that is not less than 15 cm high and 3 cm thick.

### Emergency Vehicle Access

31. Access to the static water supply outlet and dwelling on the land must comply with the following requirements:
- 31.1 A minimum trafficable width of 3.5 metres and be substantially clear of encroachments for at least 0.5 metres on each side.
  - 31.2 Clear of encroachments at least 4 metres vertically.
  - 31.3 Be designed, constructed and maintained for a load limit of at least 15 tonnes and be all-weathered construction.
  - 31.4 Curves must have a minimum inner radius of 10 metres.
  - 31.5 Dips must have no more than a 1 in 8 (12.5%) (7.1 degrees) entry and exit angle.
  - 31.6 Must allow for emergency vehicles to get within 4 metres of the water supply outlet.
  - 31.7 Incorporate a turning area for fire fighting vehicles close to the dwelling, by either:
    - a) A turning circle with minimum radius of eight metres; or
    - b) The driveway encircling the dwelling; or
    - c) A T head or Y head with a minimum formed surface of each leg being eight metres in length measures from the centre point of the head, and four metres trafficable width.

### Static Water Supply and On-Site Access for the Existing Dwelling

32. Before the statement of compliance is issued under the Subdivision Act 1988 a static water supply with a capacity of 10,000 litres must be provided for the existing dwelling located on Lot 1. The static water supply for Lot 1 must comply with the same requirements specified on this permit for Lots 2, 3 and 4 and must allow for emergency vehicles to get within 4 metres of the water supply outlet.

### Permit Expiry

33. This permit will expire if one of the following circumstances applies:-
- a. The subdivision is not certified with two (2) years of the date of this permit.
  - b. The subdivision is not registered within five (5) years of the date of certification.

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

### Footnotes

- A. Melbourne Water  
If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on telephone 9235 2517, quoting Melbourne Water's reference 193773.
- B. Asset Protection Permit  
Prior to the commencement of works, the operator of this Planning Permit must obtain a non-refundable Asset Protection Permit from Frankston City Council's Infrastructure Department.
- C. Extension of Time  
Any request for time extension of this Permit shall be lodged with the relevant administration fee at the time the request is made.
- D. 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) (Amendment) Regulations 2008.
- E. Environmental Health  
A septic tank permit will be required for the installation of an approved secondary treatment system from Frankston City Council's Environmental Health Department.  
Lots 2, 3 and 4 must be serviced by septic tanks systems that provide secondary treatment of effluent waste.
- F. Asset Protection  
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.
- G. Water Sensitive Urban Design  
Water Sensitive Urban Design principles (WSUD) are to be incorporated in to 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.
- H. Street Tree Removal  
The relevant approval must be obtained prior to the commencement of works for the removal of street tree/s from the relevant department at Council.

**I. Street Numbering**

Property addresses are allocated by Council. This is usually formalised at the time of the issue of a certified plan, however it is Council's intention to number the proposed dwellings as follows:

- Lot 1 75 Hillcrest Drive, Langwarrin
- Lot 2 77 Hillcrest Drive, Langwarrin
- Lot 3 79 Hillcrest Drive, Langwarrin
- Lot 4 81 Hillcrest Drive, Langwarrin

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

That a Refusal to Grant an Amendment to a Permit be issued pursuant to Section 76 of the Planning and Environment Act 1987:

PERMIT FOR WHICH AMENDMENT WAS SOUGHT:

Planning Permit 61/2012/P for a four (4) lot subdivision

WHAT HAS BEEN REFUSED?

To amend Condition 3 to reduce the public open space contribution to two percent (2%).

WHAT ARE THE REASONS FOR THE REFUSAL?

1. The reduction to the public open space contribution is not justified as an increase in population will add pressure on the existing public open space.

Note: This refusal to grant an amendment to the permit does not affect the validity of the permit issued on 9 July 2013

**Carried Unanimously**

Chairperson's initials *S. Mayer*



**10.6 Planning Application 569/2013/P - 290 Nepean Highway, Seaford - To construct a four (4) storey apartment building containing twenty two (22) apartments and alter access to a Road Zone Category 1**

*(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 569/2013/P to construct a four (4) storey apartment building at 290 Nepean Highway, Seaford 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) A landscape break (adjacent to the outbuilding located on the common boundary) with a setback of 4.5 metres from the north boundary and a length of 4 metres to accommodate a canopy tree.
  - (b) Proposed building reduced by 500mm width on all levels to achieve commensurate increase in setback to the north boundary.
  - (b) North facing windows to living areas for Apartments 1, 11 and 14.
  - (c) Apartments 11 and 18 balconies with minimum 1.6m width for the full 8sqm of Secluded Private Open Space.
  - (d) Apartment 5 and 6 balconies extended to the eastern elevation of each apartment.
  - (e) Windows to north and south elevations minimising overlooking and the use of screening through the angling of windows, protruding elements with side windows facing west and east, or other means.
  - (f) The west (Nepean Highway) elevation modified to create two distinctive facades to distinguish the different sections of the building, including:
    - i. Second floor roofs featuring different designs, with one half capped concrete and the other angled.
    - ii. A feature canopy over the front wall and entrance.
    - iii. The 'fin' wall between the buildings reduced in width and height so that it does not protrude beyond the balcony of the first floor and is no higher than the parapet of the first floor.
  - (g) On the north and south elevations:
    - i. Further detailing on the west end of the south elevation and the east and west ends of the north elevation, to break up the blank sections of wall on the ground and first floor levels. The west ends on both elevations must feature vertical element(s) consistent with those on the Nepean Highway (west) elevation.
    - ii. Use of awnings and/or louvres above windows and wrapping elements around the corners of the building, or other such details to provide additional articulation and interest.
  - (h) Pedestrian access to the rear communal open space from ground level, from side and/or rear exits to the building. The access must meet accessibility requirements.

- (i) Pedestrian paths along side setbacks to provide access to the rear communal open space.
- (j) Carpark rearranged to provide visitor spaces and space for manoeuvring outside the security grille.
- (k) 'No Stopping Zone' in accordance with VicRoads requirements (Condition 39).
- (l) Screening of air conditioning units.
- (m) Printed schedule of cladding colours and materials.
- (m) All trees growing on the site and on the adjoining properties within 3m of the site boundaries clearly illustrated on all relevant plans to demonstrate canopy width, trunk location and clearly labelled with botanical name and whether the tree is to be retained or removed.
- (n) The Vegetation Protection Zone and protection fence location illustrated on all relevant plans.
- (o) Vegetation protection conditions noted in accordance with Condition 5.
- (p) A Bushfire Landscape Management Plan in accordance with Conditions 3, 35 and 41.
- (q) A Construction Environmental Management Plan in accordance with Conditions 7 and 31.
- (r) Drainage Plan in accordance with Condition 13.
- (s) Carpark Management Plan in accordance with Condition 16.
- (t) Site Management Plan in accordance with Condition 33.

### 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. 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) survey (*including botanical names*) of all existing vegetation to be retained and/or removed;
  - (b) buildings and trees (*including botanical names*) on neighbouring properties within three metres of the boundary;
  - (c) details of surface finishes of pathways and driveways, retaining walls and areas of cut and fill;
  - (d) The removal of all existing environmental weed species from the site;
  - (e) All pathways provided must be permeable;
  - (f) 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;
  - (g) The location of each species to be planted and the location of all areas to be covered by grass, lawn or other surface material;
  - (h) The proposed planting must be provided at adequate planting densities e.g. plants with a mature width of 1.0 metre must be planted at 1.0 metre intervals;
  - (i) All plants are to be provided within defined mulched garden bed areas;
  - (j) A planting theme of a 100% locally indigenous species;
  - (k) A layered landscape screen to the rear of the proposed building;
  - (l) Trees and large shrubs (of 5-7m height at maturity) in the front and side setbacks;

- (m) Revegetation along the frontage to Kananook Creek in accordance with Melbourne Water requirements;
- (n) Canopy trees that have a minimum mature height of five metres provided in suitable locations across the site, including at least three within the front setback, one within the northern landscape break, and others in the rear setback. The trees are to be provided at the advanced height of two (2) metres at the time of planting (unless otherwise agreed in writing by the Responsible Authority).

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

#### **Prior to Occupation**

4. The landscaping as shown on the endorsed landscape plan must be carried out and completed to the satisfaction of the Responsible Authority before the occupation of the development and/or commencement of the use or at such later date as is approved by the Responsible Authority in writing.
5. 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, a Vegetation 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 west of the underground sewer main extending from the south property boundary line to the north property boundary line to the satisfaction of the Responsible Authority. A fixed sign is to be provided on all visible sides of the Vegetation Preservation Fencing, stating "Vegetation Preservation Zone – No entry without permission from Frankston City Council". The requirements below must be observed within this area -
  - a) No vehicular or pedestrian access.
  - b) The existing soil level must not be altered either by fill or excavation.
  - c) The soil must not be compacted or the soil's drainage changed.
  - 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) Nothing whatsoever including temporary services wires, nails, screws or any other fixing device is to be attached to any tree.
  - g) No building or any other structure is to be erected.
  - h) Tree roots must not be severed or injured.
  - i) Machinery must not be used to remove any existing concrete, bricks or other materials.
6. Prior to the commencement of buildings and works a Construction and Environment Management Plan must be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed to form part of the permit. Any plans submitted must be consistent with all other documents approved as part of this permit. The information must be drawn to scale with dimensions and three (3) copies must be provided. The Plan is to include details of the following:
  - a) Contact Numbers of responsible owner/contractor including emergency/24 hour mobile contact details.
  - b) Identification of possible environmental risks associated with development works.

- c) Response measures and monitoring systems to minimise identified environmental risks, including but not limited to acid sulphate soils, vegetation protection, fauna protection, runoff, erosion, dust, litter, noise and light.
- d) Protection measures for the brick shed within the adjoining property (288-289 Nepean Highway) adjacent to the common boundary with the subject land.
- e) Location and specifications of sediment control devices on/off site.
- f) Location and specifications of surface water drainage controls.
- g) Location and specifications of fencing for the protection of trees and/or vegetation as required by the permit.
- h) Proposed drainage lines and flow control measures.
- i) Location of all stockpiles and storage of building materials.
- j) Location of parking for site workers and any temporary buildings or facilities.
- k) Details to demonstrate compliance with relevant EPA guidelines, including for coastal acid sulphate soils.
- l) Hours during which construction activity will take place.

The Construction Management Plan must be guided by the Urban Stormwater Best Practice Management Guidelines (CSIRO 1999).

### General Vegetation Conditions

7. The site must be left in a clean and tidy condition after completion of works to the satisfaction of the Responsible Authority.
8. All machinery brought on site must be weed and pathogen free.
9. Before the development starts, all persons undertaking the works on site must be advised of all relevant conditions of this permit.

### Tree Pruning

10. 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.

### Drainage and Parking

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

12. Stormwater runoff must achieve the following objectives for environmental quality, as set out in the Urban Stormwater Best Practice Environmental Guidelines (CSIRO) 1999.
- 80% retention of the typical annual load of suspended solids;
  - 45% retention of typical annual load of total phosphorous; and
  - 45% retention of typical annual load of total nitrogen
- Water Quality works within the development must achieve compliance with the above best practice standards to the satisfaction of the Responsible Authority.
13. 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.
14. The vehicle crossing must be constructed to Frankston City Council's standards and specifications to the satisfaction of the Responsible Authority.
15. All disused vehicle crossings must be removed and the area reinstated to kerb and channel and landscaped to the satisfaction of the Responsible Authority.
16. Prior to the commencement of the development a Carparking Management Plan must be submitted to and approved by the Responsible Authority.
17. 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.
18. 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

19. 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.
20. Mailboxes shall be provided to the proposed dwelling/s to the satisfaction of the Responsible Authority and Australia Post.

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

### **Waste Management**

23. Waste must be collected from the site in accordance with the Waste Management Plan by Coomes Consulting which will be endorsed to form part of this permit.

### **CASS and Site contamination**

24. The buildings and works must be carried out in accordance with the recommendations of the Site Contamination Assessment by Diomides and Associates Pty Ltd (3 October 2013).

### **Melbourne Water Requirements**

25. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.
26. Finished ground floor levels of proposed building must be constructed with finished floor levels at a minimum of 2.4 metres to Australian Height Datum (AHD).
27. The entry / exit driveway of the basement car park must incorporate a flood proof apex of a minimum of 2.4 metres to AHD.
28. All doors, windows, staircases, drainage outlets, vents and openings to the basement car park must be a minimum of 2.4 metres to AHD.
29. No buildings or works, including basements, private vehicular parking, fencing, private open space or balconies, is permitted within 10 metres from the top of bank or on land with existing surface levels below the 1.55 metre contour, whichever is greater.
30. Any earthworks within the site must not adversely affect flooding on upstream or downstream properties.
31. Prior to the commencement of works an environment management plan must be prepared to the satisfaction of the EPA and Council.
32. All proposed excavation works must be undertaken in accordance with the approved environment management plan.
33. Prior to commencement of works, a Site Management Plan detailing pollution and sediment control measures, must be submitted to Melbourne Water.
34. Upon completion of any proposed earthworks and development, appropriate revegetation along the creek side must be undertaken to Melbourne Water's satisfaction.
35. Prior to the commencement of works, a detailed landscape plan must be submitted to Melbourne Water for approval. Plans must show the location, density and species to be used. Only local native plants should be used and shown on the landscape plans.
36. Any new development must be designed to ensure that any buildings and walls are largely screened from the creek by shrubs and ground covers and the skyline is largely formed by tree canopies.

37. Any works or development (including vegetation removal) on the banks of the Kananook Creek requires separate approval from Melbourne Water.
38. Prior to the commencement of works, a separate application direct to Melbourne Water must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses.

#### **VicRoads Requirements**

39. Prior to the occupation of the dwellings a 'No Stopping' zone shall be established for a distance of 10 metres northwards from the northern extremity of the proposed driveway on Nepean Highway, at no cost to VicRoads.
40. Vehicles must enter and exit the site in a forward direction at all times.

#### **CFA Requirements**

41. Before the developments starts, a Bushfire Landscape Management Plan to the satisfaction of the Country Fire Authority (CFA) and 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 plan must be drawn to scale with dimensions and three copies must be provided. The plan must:
  - Be titled Bushfire Landscape Management Plan and must be dated.
  - Show the layout and dimensions of the development.
  - Show a defendable space envelope which must comprise a single inner zone applying to all of the land.
  - Show the BAL for the proposed dwelling which must comply with the requirements of this permit.
  - Show a nominal location for the provision of a static water supply on each lot which must comply with the requirements of this permit.
  - Omit any detail which is not required to depict the above information.
  - Use labelling techniques that enable the plan to be reproduced and interpreted in black and white.
  - Include a planting schedule detailing the proposed planting at the site.
  - The plan must show any future planting that is required to be conducted. All plants on the plan must be shown at their mature size and must not conflict with the requirements of the defendable space requirements under this permit.
  - Show any existing vegetation to be retained at the site.
42. The Bushfire Landscape Management Plan endorsed under this permit must not be altered unless with the written consent of the CFA and the Responsible Authority.

#### **Defendable Space**

43. Before the occupation of the building starts, and at all times thereafter, vegetation on the land must be maintained to at least the following standard:

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**Inner Zone – extending from the dwelling to all property boundaries**

- Within 10 metres of a building, flammable objects such as plants, mulches and fences must not be located close to vulnerable parts of the building such as windows, decks and eaves.
- Trees must not overhang the roofline of the building, touch walls or other elements of the building.
- Grass must be no more than 5 centimetres in height and all leaves and vegetation debris are to be removed at regular intervals.
- Shrubs must not be planted under trees and separated by at least 1.5 times their mature height.
- Plants greater than 10 centimetres in height at maturity must not be placed directly in front of a window or other glass feature.
- Tree canopy separation of 2 metres and the overall canopy cover of no more than 15 per cent at maturity.
- Tree branches below 2 metres from ground level must be removed.

**Construction**

44. A site assessment for the purpose of determining the bushfire attack level for the site has been considered as part of the application for the planning permit. The construction of the building must be to a bushfire attack level of BAL-12.5 in accordance with the relevant sections to AS3959-2009.

**Static Water Supply**

45. Before the occupation of the development starts, a static water supply must be provided on the land and must meet all of the following requirements to the satisfaction of the Responsible Authority:
- The water supply must have a minimum capacity of 10,000 litres that is maintained solely for fire fighting purposes.
  - The water supply must be stored in an above ground water tank constructed of concrete, steel or corrugated iron.
  - All fixed above-ground water pipelines and fittings must be of non-corrodible and non-combustible materials.
  - The water supply outlet must incorporate a ball or gate valve to provide access to the water by the resident of the dwelling.

**Mandatory Condition – Maintenance of bushfire mitigation measures**

46. The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply, and access, must be maintained to the satisfaction of the responsible authority and the relevant fire authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

**Satisfactorily Completed**

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

**Permit Expiry**

48. 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.

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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 applicable flood level for the property is 1.7 metres to Australian Height Datum (AHD).
- E. If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on telephone 9679 7517, quoting Melbourne Water's reference **135285**.
- F. Street Numbering

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.**

### Council Decision

**Moved: Councillor Aitken**

**Seconded: Councillor Dooley**

That a Refusal to Grant a Permit be issued pursuant to Section 65 of the Planning and Environment Act 1987:

### WHAT ARE THE REASONS FOR THE REFUSAL?

- 1. The proposed development is inconsistent with the objectives of the State and Local Policy Framework of the Frankston Planning Scheme, including:
  - a) Clause 11.02 – Urban Growth
  - b) Clause 15.01 – Urban Environment
  - c) Clause 16.01 – Residential Development

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- d) Clause 21.07 – Housing
- 2. The proposed development fails to comply with Clause 32.08 – General Residential Zone as it does not provide for residential development that respects the neighbourhood character.
- 3. The proposal does not satisfy the objectives of Clause 55 of the Frankston Planning Scheme, in particular:
  - a) Clause 55.02-1 - Neighbourhood Character
  - b) Clause 55.03-8 – Landscaping
  - c) Clause 55.06-1 – Design Detail
- 4. The proposal does not achieve the objectives of the Neighbourhood Character Policy (Clause 22.08 of the Frankston Planning Scheme), and the objectives of the specific Seaford Precinct 7 area.
- 5. The proposed development does not achieve a high design standard as it lacks design detail and interest which creates visual bulk along its northern, southern and eastern elevation.
- 6. The proposal is an overdevelopment of the site.
- 7. The proposal fails to provide adequate visitor car parking in accordance with Council's Multi Dwelling Visitor Car Parking Guidelines.

**Carried Unanimously**

**10.7 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)**

**Council Decision**

**Moved: Councillor Hampton**

**Seconded: Councillor O'Reilly**

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.

**Carried**

For the Motion: Crs Aitken, Cunial, Hampton, Mayer, O'Reilly, Spelman and Tayler

Against the Motion: Crs Dooley and Taylor

Chairperson's initials *S. Mayer*

**10.8 March Town Planning Progress Report**

*(MP Community Development)*

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

That Council receives and notes the report.

**Carried Unanimously**

**11. CONSIDERATION OF REPORTS OF OFFICERS****11.1 Half Year Progress Report - Council's Energy and Water Usage**

*(CD City Development)*

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

That Council:

1. Notes the positive results for the organisation's energy and water performance of Council's facilities and sites (where Council pays the utility bills and has full operational control) for Quarters 1 and 2 (2014/15).
2. Notes that Council's energy usage, greenhouse gas emissions and cost of utilities (reduction of \$46k) was significantly lower compared to the previous financial year, and where only mains water consumption has increased.
3. Calls upon the Victorian Government through the Essential Services Commission for cost increases by utility and water companies to be capped at CPI.

**Carried Unanimously**

**11.2 Grimwade Clock Tower Chiming Mechanism***(PS City Development)***Recommendation (Director City Development)**

That Council nominates their preferred option from:

1. Option 1 – The installation of the chiming mechanism to the Clock Tower
2. Option 2 – The installation of up-lighting to the Grimwade Clock Tower to highlight the historic Council asset.
3. Option 3 – Not to proceed with any changes to the Clock Tower.

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

That Council:

1. Approves the installation of the chiming mechanism to the clock tower with a timer;
2. Approves the installation of up-lighting to the Grimwade clock tower to highlight this historic Council asset; and
3. Allocates \$15,000 from savings within the 2014/15 Capital Works Program that allows for contingencies to fund the works.

**Carried**

For the Motion: Crs Aitken, Hampton, Mayer, O'Reilly, Spelman, Tayler and Taylor

Against the Motion: Crs Cunial and Dooley

**11.3 Bus Services Advocacy***(BH City Development)***Council Decision****Moved: Councillor Taylor****Seconded: Councillor Aitken**

That Council:

1. Endorses the following proposed principles and improvements to the Frankston Bus Network, providing further suggestions if identified:
  - High (10-20) minute frequencies along trunk (generally arterial) routes
  - A maximum of 40 minute frequencies along local routes
  - Ensure that bus services meet trains arriving at Frankston, Kananook and Seaford stations
  - Remove deviations on routes, ensuring that passengers have certainty of the route that the bus will travel on any given day and time
  - Remove all one-way routes, ensuring that all routes are bi-directional; and
2. Supports writing to the Minister for Public Transport and Public Transport Victoria (PTV), to advocate for implementation of these improvements via a Bus Network review. This should be done as a matter of urgency in order to align to the current planning for the Frankston Transit Interchange. Draft letters are attached to this report.

**Carried Unanimously**



**11.4 Council General Revaluation 2016***(KJ Corporate Development)***Council Decision****Moved: Councillor Aitken****Seconded: Councillor Taylor**

That:

1. Council resolves that a General Revaluation of all rateable property within Frankston City boundaries be made and returned no later than 31 March, 2016.
2. Pursuant to the provisions of Section 13DA of the *Valuation of Land Act 1960*, the General Revaluation be made and returned by Rod Patel (Patel Dore Valuers Pty Ltd), being the persons appointed by Council and holding the relevant qualifications.
3. The Chief Executive Officer gives notice of the Council's intention to cause a General Revaluation to the Valuer-General Victoria and other rating authorities.
4. That the signed Declaration of Impartiality and Oath of Fidelity and Secrecy documents executed by Rod Patel, dated 24 December, 2014, are received and noted.

**Carried Unanimously**

**11.5 Response to Petition - Opposition to buses in Young Street**

*(MP Community Development)*

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

That:

1. The petition be considered by Council prior to finalising its submission to the Frankston Station Precinct Taskforce regarding options for the future of buses in Young Street.
2. The head petitioner be notified of Council's decision.

**Carried Unanimously**

**11.6 Response to Petition - Objection to proposed medical centre at Forest Lodge**  
(MP Community Development)

**Council Decision**

**Moved: Councillor Aitken**

**Seconded: Councillor Tayler**

That:

1. Council notes the report.
2. The head petitioner be notified of Council's decision.

**Carried Unanimously**

**12. NOTICES OF MOTION****12.1 NOM 1101 - Victorian Top Obedience Dog of the Year Awards contribution**

*(MT Chief Executive Office)*

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

That Council accepts the letter from Dogs Victoria, requesting financial assistance to sponsor the 'Top Dog' event award on the 8<sup>th</sup> August 2015 and that the amount of \$500 be given to Dogs Victoria from Cr Sandra Mayer's Discretionary Fund.

**Carried Unanimously**

**12.2 NOM 1102 - AFL National U18 Girl's Championships - Mandurah, WA**

*(MT Chief Executive Office)*

**Council Decision****Moved: Councillor Hampton****Seconded: Councillor O'Reilly**

That amount of \$250.00 each be taken from Councillor Hampton, O'Reilly, and Mayer's discretionary fund to help towards the cost of the trip to Mandurah WA for Courtney Jones.

**Carried Unanimously**

**12.3 NOM 1103 - Smoking Ban Young Street Bus Interchange**

(MT Chief Executive Office)

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

From 1<sup>st</sup> March 2014, current Government policy is that all areas of train stations and raised platform tram stops will be smoke free, increasing the comfort for customers who travel on Victoria's public transport network.

The new arrangements will extend the existing smoke free zones, which already include covered areas of train platforms and under covered tram and bus shelters. The fine for smoking in a smoke free area on public transport is \$212 for adults and \$72 for children.

The land on the Eastern side of Young Street adjacent to the Railway Station is owned by VicTrack so smoking under bus shelters on this land should also be banned in accordance with the new transport policy to increase the health and comfort of commuters.

That Council seeks a report on how this ban will be policed on the Eastern side of Young Street including signage and if the ban extends to other bus shelters within the City of Frankston. As part of the report a Local Law foot patrol plan and a patrol schedule also be presented to ensure locals are enforced in the CAA.

That Council seeks an urgent meeting involving the Mayor and CEO to meet with the Minister for Transport, Metro Trains and VicTrack to discuss enforcing No Smoking bans along the land on the Eastern Side of Young Street.

**Carried**

For the Motion: Crs Aitken, Cunial, Hampton, Mayer, O'Reilly, Spelman, Tayler and Taylor

Against the Motion: Cr Dooley

**12.4 NOM 1104 - Lifegate - Colour of Hope Program**

*(MT Chief Executive Office)*

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

That Council accepts the letter from LifeGate, requesting financial assistance to sponsor part of the Colour of Hope Program and that the amount of \$1750 be given to LifeGate from Cr Sandra Mayer's Discretionary Fund.

**Carried Unanimously**

**12.5 NOM 1105 - Sisterhood Frankston and Mornington Peninsula**

*(MT Chief Executive Office)*

“That Council accepts the invoice/email/letter from Sandi Walters requesting financial assistance for the Sisterhood Frankston and Mornington Peninsula program and that the amount of \$2,000 be given to the program from Cr Spelman’s Discretionary Fund.”

*This matter was withdrawn*

Chairperson’s initials *S. Mayer*



**12.6 NOM 1106 - FUNC Hall Hire**

*(MT Chief Executive Office)*

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

“That Council accepts the email from FUNC requesting financial assistance for cost of hiring the room at Karingal Community Centre for 2015 and that the amount of \$210.00 be given to FUNC from Cr Rebekah Spelman Discretionary Fund.”

**Carried Unanimously**

**12.7 NOM 1107 - Rubbish along Young Street**

*(MT Chief Executive Office)*

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

“That a letter be written to the Public Transport Victoria, Minister for Transport and the local State Member of Parliament to ensure that the Young Street area around the railway line be consistently cleaned.

That the Mayor and CEO meet with the CEO of VicTrack and Metro Trains to discuss their maintenance regime.”

**Carried Unanimously**

**12.9 NOM 1109 - Pets Day Out**

*(MT Chief Executive Office)*

1. That the Frankston Rotary Club who have been contributing towards the Pets Day Out for the past 10 years be the only Not For Profit organisation attending this event.
2. That officers prepare a report for Council consideration on options for a process that would allow for a fair and equitable allocation of opportunities for service clubs and other not for profit organisations to be allocated space at Council owned, produced and / or sponsored events.

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

That the Frankston Rotary Club which has been attending Pets Day Out for some years be permitted to continue attending the event into the future.

**Carried Unanimously**

**13. LATE REPORTS**

Nil.

**14. URGENT BUSINESS****IDAHOT Day in Frankston City****Council Decision****Moved: Councillor Aitken****Seconded: Councillor Taylor**

That the matter of IDAHOT Day be accepted as urgent business.

**Carried Unanimously**

**IDAHOT Day in Frankston City****Council Decision****Moved: Councillor Taylor****Seconded: Councillor Spelman**

That the sum of \$755 be taken from Cr Sandra Mayer's discretionary fund towards the hire of Frankston's Mechanics Hall for IDAHOT Day which will be held on Sunday May 17 2015.

That the bond be returned to Cr Mayer's discretionary fund.

**Carried Unanimously**

**Safety Concerns in Ebdale Street/Kelman Street****Council Decision****Moved: Councillor Aitken****Seconded: Councillor Cunial**

That the matter of Safety Concerns in Ebdale & Kelman Streets be accepted as urgent business.

**Carried Unanimously**

**Safety Concerns in Ebdale Street/Kelman Street****Council Decision****Moved: Councillor Aitken****Seconded: Councillor Taylor**

That a report be prepared by Council in conjunction with discussion with interested Councillors on the possible options / or opportunities for car parking in Ebdale Street and Kelman Street.

**Carried Unanimously**

**15. CONFIDENTIAL ITEMS****Council Decision****Moved: Councillor Aitken****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 Refusal of application to register a Rooming House**

Agenda Item C.1 Refusal of application to register a Rooming House 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 Frankston Tennis Club Relocation**

Agenda Item C.2 Frankston Tennis Club Relocation is designated confidential as it relates to proposed developments (s89 2e)

**C.3 Lease Matter**

Agenda Item C.3 Lease Matter is designated confidential as it relates to contractual matters (s89 2d)

**C.4 Reappointment of Chief Executive Officer**

Agenda Item C.4 Reappointment of Chief Executive Officer is designated confidential as it relates to contractual matters (s89 2d)

**Carried Unanimously**

**16. OUTCOME OF CONSIDERATION OF CERTAIN CONFIDENTIAL ITEMS****C.1 East West Wells St Improvement Project Tender Award of Works  
(considered at OM270 13 April 2015)****Council Decision****Moved: Councillor Taylor****Seconded: Councillor Aitken**

That:

1. Council approves the acceptance of the tender from 2Construct Pty Ltd for the Contract 2014/15-57 – East West Wells St Streetscape Improvement.
2. Council notes that a project contingency will be reserved outside of the contract sum and vests specific authority in the Chief Executive Officer to authorize the payment of variations from that sum.
3. The Contract be signed and sealed; and
4. The recommendation (without commercially sensitive information) is released by the next Ordinary Meeting of Council on Monday, 4 May 2015.

The Motion was put and CARRIED unanimously

**C.2 Award of Contract No. 2014/15-70 Golf Links Road Reconstruction  
(considered at OM270 13 April 2015)****Council Decision****Moved: Councillor Aitken****Seconded: Councillor Tayler**

That:

1. Council approves the acceptance of the tender from Maw Civil Pty Ltd for *Golf Links Road Reconstruction*.
2. Council notes that:
  - a. A project contingency will be reserved outside of:
    - i. The contract sum and vests specific authority in the Chief Executive Officer to authorize the payment of variation from that sum.
3. The Contract be signed and sealed; and
4. The recommendation (without commercially sensitive information) be released by the next Ordinary Meeting of Council on Monday, 4 May 2015.

The Motion was put and CARRIED unanimously

**C.3 Award of Contract No. 2014/15-66 Kananook Creek Pedestrian Bridges  
(considered at OM270 13 April 2015)****Council Decision****Moved: Councillor Taylor****Seconded: Councillor Cunial**

That:

1. Council approves the acceptance of the tender from Cope Ag Pty Ltd for the construction of *Kananook Creek Pedestrian Bridges*.
2. Council notes that:
  - a. A project contingency will be reserved outside of:
    - i. the contract sum and vests specific authority in the Chief Executive Officer to authorize the payment of variation from that sum
3. The Contract be signed and sealed; and
4. The recommendation (without commercially sensitive information) be released by the next Ordinary Meeting of Council on Monday, 4 May 2015.

The Motion was put and CARRIED unanimously

**C.1 Frankston Motorcycle Club (considered at SP189 on 27 April 2015)****Council Decision****Moved: Councillor Hampton****Seconded: Councillor Dooley**

That Council resolves:

1. To authorise the Chief Executive Officer (or nominated officer) to issue a Notice to Quit to the Frankston City Motor Cycling Park Incorporated (the Club) advising that possession of the facility will revert to Council in 30 days;
2. To authorise the Chief Executive Officer (or nominated officer) to negotiate an arrangement to expedite the surrender of the Park by agreement with the Club prior to the 30-day notice period;
3. To establish a Transition Committee comprising Counsellors (Crs Aitken and Hampton), Council officers (3), Motor Cycling Victoria (1) and expert industry advisers (up to 2) required to:
  - a) Undertake a thorough assessment of the track and facilities at the Park, the conduct of the Club and the interests of existing members,
  - b) Provide direction and support to Motor Cycling Victoria as the interim short-term manager of the Park including the development of processes, practices and sound governance requirements; and,
  - c) Develop a long-term Management Plan for the Park including a business plan; and,
  - d) Report all findings and actions at each Councillor briefing and through the submission of Council reports where required.
4. That the Transition Committee will be chaired by Cr Aitken and he will be vested with Council authority to act as the spokesperson on behalf of Council;

Chairperson's initials *S. Mayer*

5. To enter into a short-term lease agreement (one year) with Motor Cycling Victoria to resource and manage all motor cycling activities at the Park under newly-developed standards and practices developed in conjunction with the Committee and authorise the Chief Executive Officer to execute the short-term lease agreement and to commit funds towards implementing the modifications deemed to be required at the facility.
6. The recommendation (without commercially sensitive information) is released by the next Ordinary Meeting of Council on Monday, 4 May 2015.

The Motion was put and CARRIED unanimously

### **C.1 Refusal of application to register a Rooming House (considered at this meeting)**

#### **Council Decision**

**Moved: Councillor Hampton**

**Seconded: Councillor Taylor**

That Council:

1. Notes that under Section 76 of The Public Health and Wellbeing Act 2008, Council has the power to refuse to register a rooming house.
2. Ratifies the refusal to register 177 Karingal Drive, Frankston as a rooming house.
3. Advises Consumer Affairs Victoria of the refusal to issue registration and supply them with the following information –
  - The date of the application for registration
  - The address of the (proposed) rooming house
  - The reason for refusal of registration
  - If the applicant is a body corporate, its name and ABN, and
  - If the applicant is an individual, the applicants name and ABN or date of birth.
4. Advises the owner of Council's decision to refuse to register 177 Karingal Drive, Frankston as a rooming house.
5. Releases the resolutions 1 to 4 only immediately after OM271 with the body of the report remaining confidential.

The Motion was put and CARRIED unanimously



**C.4 Reappointment of Chief Executive Officer (considered at this meeting)****Council Decision****Moved: Councillor Spelman****Seconded: Councillor Tayler**

That:

1. Council approves the placing of a public notice of its intention to re-appoint the Chief Executive Officer in accordance with section 94 (4) of the *Local Government Act 1989*.
2. The public notice is placed in both The Age and Frankston Leader.
3. This resolution be incorporated in the public minutes of this meeting.

The Motion was put and CARRIED unanimously

*The meeting closed to the public at 10.11 p.m.*

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 4 May 2015, confirmed on 25 May 2015.

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

Dated this

day of

2015