



City of  
**Moonee Valley**

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# **Ordinary Meeting of Council**

**Tuesday, 22 July 2014**

**Minutes**

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# Minutes of the Ordinary Meeting of Council

Tuesday, 22 July 2014 at 7.05pm  
held at the Moonee Valley Civic Centre

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## PRESENT

**Members** Cr Jan Chantry Mayor  
Cr Nicole Marshall  
Cr Shirley Cornish  
Cr Jim Cusack  
Cr Paul Giuliano  
Cr Cam Nation  
Cr Narelle Sharpe  
Cr Andrea Surace

**Officers:** Mr Neville Smith Chief Executive  
Mr Bryan Lancaster Director City Works & Development  
Mr Anthony Smith Director Corporate Services  
Mr Tony Ball Director Community Services  
Mr Scott Widdicombe Director Environment & Lifestyle  
Mr Henry Bezuidenhout Manager Strategic & Statutory Planning  
Ms Yvonne Hansen Manager Governance & Local Laws

### 1. Opening

The Mayor, Cr Chantry, opened the meeting and welcomed all present to the Council Meeting of Tuesday, 22 July 2014.

### 2. Apologies

An apology for non-attendance was received for Cr John Sipek.

#### Leave of Absence

Moved by Cr Marshall, seconded by Cr Surace that Council grant Cr John Sipek Leave of Absence during the period 1 - 20 August 2014 inclusive.

### 3. Confirmation of Minutes

Moved by Cr Cusack, seconded by Cr Nation that the Minutes of the Ordinary Meeting of Council held on Tuesday, 24 June 2014 be confirmed.

**CARRIED**

#### **4. Declarations of Conflict of Interest**

The Mayor, Cr Chantry informed Councillors of what may be perceived as an indirect Conflict of Interest in Report 9.9 given her shareholdings in Transurban. The Mayor further advised that in accordance Section 78A(3) of the Local Government Act 1989, it is not considered a Conflict of Interest as the total amount of shareholding does not exceed the prescribed limit.

Mr Bryan Lancaster disclosed a conflict of interest in Reports 9.4 and 9.5 because of an indirect interest. A family member owns property in close proximity to the subject site in Report 9.4 and the outcome of the decision may directly impact their residential amenity; and he owns property in the vicinity of the study area outlined in Report 9.5 which may impact his residential amenity.

#### **5. Presentations**

Nil.

#### **6. Petitions And Joint Letters**

Nil.

Cr Cornish informed Council that the Essendon Historical Society referred a request to the Moonee Valley Integrated Waterways Advisory Committee, seeking the naming of Afton Street Pedestrian Bridge.

Cr Cornish also provided a letter from the Moonee Ponds Creek Coordination Committee to the Minister for Planning regarding the East West Assessment Committee.

#### **7. Public Question Time**

##### **Question 1**

Ms Helen van den Berg of Niddrie raised the following:

1. How much does Council receive from VicRoads for street cleaning and maintenance of their embankments and residual road reserves e.g. corner of Spring Street and Keilor Road?
2. What does it actually cost the City of Moonee Valley to carry out this work?

The Chief Executive advised that Council's minor maintenance agreements with VicRoads are valued at \$41,303 per annum, for the provision of these services on roads under the control of VicRoads.

However, Council spends substantially more than this to maintain street and parks to a standard consistent with community expectations. For example all VicRoads Main roads are swept on a weekly basis. Council is unable to determine an exact cost because the expenditure for these works is incorporated into existing operational budgets for street cleaning and road reserve maintenance.

## Question 2

Mr Andrew Gunter of West Essendon raised the following:

1. What are the current (or most recent) voter enrolments for Buckley, Myrnong and Rose Hill Wards?
2. Is the trend of each ward's voter enrolment since 2012 towards or away from the average ward voter enrolment number?
3. Has Council received any notice or other communication from the Victorian Electoral Commission, Local Government Victoria or the Minister for Local Government regarding the expected compliance or non-compliance of ward voter enrolments with the limits specified in the Local Government Act?
4. Does Council currently anticipate a subdivision review before 2016?

The Chief Executive advised that current figures show 30,295 in Buckley Ward; 28,762 in Myrnong Ward; and 25,682 in Rose Hill Ward as per the voters roll certified on 20 September 2012. Current trends in voter enrolment cannot be determined until the preparation of the Voters Roll for the 2016 General Elections.

In terms of a subdivision review, these must be conducted before every third general election (that is every 12 years) or at any other time specified by the Minister. Council's last review was conducted in 2008. It is anticipated that Moonee Valley City Council would be due for its next review prior to the 2020 General Election as there has been no indication from the Minister or the VEC requiring Council to undertake a review prior to this.

## Question 3

Mr Jarrod Sheridan of Niddrie raised the following:

Council may wish to consider the following extracts from Moreland City Council and Bayside Council policies on this topic before answering:

### *Moreland City Council*

*The land be offered on the basis of giving first preference to those in physical occupation of the area at the time of the closure for administration costs only provided that:*

*The occupation is to the extent of having adverse possession rights.*

*There is no history of opposition by other neighbours to the illegal take over of the ROW.*

### *Bayside Council*

*If a property owner can demonstrate continuous exclusive occupation of the road or reserve for 15 years or longer and they have a right to claim land by adverse possession, consideration may be given to discounting the purchase price by up to 50% of the current market value*

The above extracts recognise the subsisting rights of the owner of adjoining land under the transfer of land act 1958 Section 42 2b. This information and the

following questions are not intended to apply to standard cases of road discontinuance and sale.

Under the current policy, MVCC can acquire land that it has had no interest or involvement in, for nil cost, and then immediately sell to a ratepayer, who already has a rightful claim on the land. Even if the land has been abandoned for decades, and is not public land.

It seems unconscionable or at least unethical, for council to gain a financial advantage by being protected by a law that was not designed for this purpose. As the limitations act was designed to protect existing public land. Not to circumvent a ratepayers rights in order for council to profit.

Will council's review of this policy fairly cater for land that would otherwise be the subject of a successful adverse possession claim? Particularly land which council has acquired since the 2004 limitations act, and the owner has occupied the land for 15+ years.

If not, how does council intend to fairly deal with the issues that have and will continue to develop from the current policy?

The Chief Executive advised that under Council's current policy (currently being reviewed) if the Council agreed to the sale the owner would be required to pay what is determined to be the market value for the land in question based on its highest and best use.

The current policy has similar provision to Moreland and Bayside Councils' policy in that Council recognises existing occupation of a road or road reserve and that first preference to sell the land will be given to those property owners:

- In physical occupation of the land;
- Who have occupied the land for 15 years or longer;
- Who have maintained the land in a neat and orderly condition; and
- Where there has been no history or opposition by adjoining neighbours to the occupation of the land.

The existing policy does not provide a specific discount of the land market value as appears the case of Bayside City Council. However, the delegated officer has the discretion to negotiate a sale price less than market value if circumstances

warrant. In such circumstances, the reasons shall be publicly disclosed in the public notice or Council report.

The Local Government Best Practice Guideline for the Sale, Exchange and Transfer of Land requires as a matter of Principle, for a Council to dispose of public land at its highest and best use and wherever possible, achieve the highest sale price.

**8. Reports By Mayor And Councillors**

**File No.** FOL/12/1435

**Minute No.** 2014/103

**Council Resolution**

Moved by Cr Surace, seconded by Cr Marshall that the reports by the Mayor and Councillors be received.

**CARRIED**

**9. Reports**

**9.1 26 Richardson Street, Essendon (Lot 1 on TP397186B) - Construction of a three storey building comprising of seven dwellings and a reduction in the required car parking provisions (visitor parking).**

**File No:** MV/863/2013

**Author:** Senior Town Planner

**Directorate:** City Works & Development

**Ward:** Buckley

**Minute No:** 2014/104

**Council Resolution**

Moved by Cr Sharpe, seconded by Cr Cornish that with respect to an Application for Review against Council's failure to decide the application within the prescribed time, Council resolves to advise the Victorian Civil and Administrative Tribunal (VCAT) and other parties to the application, that the substituted plans prepared by Achieve Design Group, and comprising S1 - S3 and P1 - P4 dated 19/05/2014, fail to address the previous Grounds of Refusal in relation to Planning Application MV/863/2013 for construction of a three storey building comprising seven dwellings and a reduction in car parking requirements at 26 Richardson Street, Essendon (Lot 1 on TP397186B) on the following grounds:

1. The development would present a visually dominant and unsympathetic built form character to the area contrary to Clauses 55.02-1 (Neighbourhood Character) and 21.05-3 (Objectives and Strategies – Urban Design) of the Moonee Valley Planning Scheme.
2. The proposal fails to comply with Clause 52.06 (Car Parking) of the Moonee Valley Planning Scheme and a reduction in car parking will detrimentally impact on the surrounding area.
3. The development is not site responsive and would represent an overdevelopment of the land.

**CARRIED**

**9.2            5 Morton Street, Essendon (Lot 19 on LP001188) - Construction of a three storey residential building and a reduction to the car parking requirement**

**File No:**        MV/672/2013  
**Author:**        Town Planner  
**Directorate:** City Works & Development  
**Ward:**           Buckley  
**Minute No:** 2014/105

**Council Resolution**

Moved by Cr Sharpe, seconded by Cr Giuliano that Council issue a Refusal to Grant a Permit in relation to Planning Permit Application No. MV/672/2013 for 5 Morton Street, Essendon (Lot 19 on LP001188) for the construction of a three storey residential building and a reduction to the car parking requirement on the following grounds:

1. The proposal would present a visually dominant and unsympathetic built form in relation to the character of the area and adjoining properties contrary to Clause 21.05 (Built Environment) of the Moonee Valley Planning Scheme.
2. The proposal fails to comply with the following provisions of Clause 55 of the Moonee Valley Planning Scheme:
  - a) Clause 55.02-1 (Neighbourhood Character)
  - b) Clause 55.03-1 (Street Setback)
  - c) Clause 55.04-1 (Side and Rear Setbacks)
3. The proposal fails to provide a visitor parking space in accordance with Clause 52.06 (Car Parking) of the Moonee Valley Planning Scheme.
4. The development is not site responsive and would represent an overdevelopment of the land.

**CARRIED**

**9.3            17-21A Kendall Street, Essendon (Lots 1, 2, 3 & 4 on PS329968R and Lots 1 & 3 on TP155H) - Construction of ten dwellings**

**File No:**        MV/275/2014  
**Author:**        Senior Town Planner  
**Directorate:** City Works & Development  
**Ward:**           Buckley  
**Minute No:** 2014/106



### Council Resolution

Moved by Cr Surace, seconded by Cr Marshall that Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/275/2014 for the construction of ten dwellings at No.17-21A Kendall Street, Essendon (Lots 1, 2, 3 and 4 on PS329968R and Lots 1 and 3 on TP155H), subject to the following conditions:

1. Before the development starts, amended plans (three copies) must be submitted to and approved to the satisfaction of the Responsible Authority. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted and assessed with the application but modified to show:
  - a) Correct bedroom annotations for the first floor levels of Dwellings 1 to 4 (inclusive).
  - b) The crossover located in the north-eastern corner constructed as a double crossover with the abutting property to the north at No.86-88 Albion Street.
  - c) The crossover adjacent to the western property boundary constructed as a double crossover with the abutting property to the west at No.15 Kendall Street.
  - d) Planting and structures within each pedestrian visibility splay annotated as being visually permeable pursuant to Clause 52.06 (Car Parking) of the Moonee Valley Planning Scheme.
  - e) The bicycle racks along Lawson Street relocated further south so that they are outside the pedestrian visibility splay area.
  - f) Retaining wall heights and garden beds to be a maximum of 900mm above Natural Ground Level along Kendall Street and Lawson Street.
  - g) A low scale front fence along Kendall and Lawson Streets, suitable to the character of the area and a maximum of 1.2 metres in height.
  - h) The location of bin/recycling enclosures for Dwellings 5 and 6.
  - i) A notation that the first floor retreat areas of Dwellings 5 and 6 will not be used as bedrooms.
  - j) A notation that all obscure glazed windows and privacy screens are to have a maximum of 25% transparency.
  - k) A schedule of all external materials and finishes, including colour samples, to correspond accurately with the elevation plans.
  - l) WSUD measures as shown on the basement, ground and first floor stormwater management plans (TP11, TP12 and TP13 respectively) received by Council on 17 June 2014.
  - m) Details of treatment measures to mitigate noise associated with the sensitive interface between the proposed residential dwellings and the existing non-residential use to the north of the site at No. 86-88 Albion Street, Essendon.

Once approved these plans become the endorsed plans of this permit.

2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.
3. Prior to the issue of an Occupancy Permit, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
4. Building or works must not be constructed over any easement without the written consent of the relevant authorities or agencies to the satisfaction of the Responsible Authority.
5. Floor levels shown on the endorsed plan(s) must not be altered or modified without written consent of the Responsible Authority.
6. The privacy screens/obscure glazing as shown on the endorsed plans must be installed prior to the occupation of the building.
7. The area set aside for the parking of vehicles, together with the associated access lanes as delineated on the endorsed plan(s) must be to the satisfaction of the Responsible Authority:
  - a) Be provided and completed prior to the commencement of the use hereby permitted;
  - b) Thereafter be maintained;
  - c) Be made available for such use at all times and not used for any other purpose;
  - d) Be properly formed to such levels that it can be used in accordance with the endorsed plan; and
  - e) Be drained and sealed with an all weather seal coat.
8. Standard concrete vehicular crossing(s) must be constructed to suit the proposed driveway(s) in accordance with the Responsible Authority's standard specification and any vehicle crossing(s) no longer required must be removed and the land, footpath and kerb and channel replaced all to the satisfaction of the Responsible Authority. All vehicle access points must be located a minimum of 1.0 metre from any infrastructure including service pits.

Alternatively, such assets may be incorporated into the crossover with the written consent of the Responsible Authority and the relevant servicing authority/agency.

Subsequent works and costs in association with relocation and/or amendment must be incurred at the owner's cost, to the satisfaction of the relevant servicing authority/agency and the Responsible Authority.
9. Prior to the removal of the existing street tree along Lawson Street to facilitate the new crossover, the applicant shall advise the Responsible Authority of the method and safety measures to be implemented. The removal of the tree must be undertaken to the requirements and satisfaction of the Responsible authority.

10. Prior to the commencement of the development, the applicant must provide details of the replacement street tree, which is to include:
- Method of mulching and mounding;
  - The species of the replacement planting (preferably Jacaranda);
  - The size of planting and its maturity; and
  - The location of the replacement planting.

All fees associated with the removal and replacement of the street tree must be borne by the permit/applicant.

11. A minimum 30 days prior to any building or works commencing, all WSUD Design Details, such as cross sections and/or specifications, to assess the technical effectiveness of the proposed stormwater treatment measures, must be submitted to and be approved by the Responsible Authority.

The WSUD Design Details should be appropriate to the proposed stormwater treatment measure (e.g. further detail is required for raingarden systems but is not required for above ground stand alone rainwater tanks unless connected to toilets in which case notation to that effect is to be included on the drawings and in an ESD report if applicable).

Where applicable, any stormwater treatment measures (e.g. rainwater tank, raingarden, etc.) contained within the endorsed plans must be included on the stormwater drainage plan, the roof plan and landscape plan as applicable.

12. A minimum 30 days prior to any building or works commencing, a Construction & Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The plan must include, but is not limited to:
- a) Hours of construction;
  - b) Parking and traffic movement of all workers vehicles and construction vehicles;
  - c) Scaffolding and hoarding for the site;
  - d) Allocated areas for loading and unloading;
  - e) Site evacuation plan and procedure;
  - f) Occupational health and safety policy;
  - g) Hazard identification and control;
  - h) Environmental management and waste minimisation;
  - i) Management of onsite stormwater and contamination: a statement or report outlining all construction measures to be taken to prevent litter, sediments and pollution from entering the stormwater systems.
  - j) Protection of surrounding roads from site contamination and damage including rumble grid and or wash down bay facility;
  - k) Chemical storage;
  - l) Noise and vibration;
  - m) Risk assessment;
  - n) Works timetable; and

- o) Number of workers expected of work on the site at any one time.

Once submitted and approved the works detailed by the Construction & Site Management Plan must be carried out to the satisfaction of the Responsible Authority.

- 13. A minimum 30 days prior to any building or works being completed, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:
  - a) Inspection frequency.
  - b) Cleanout procedures.
  - c) As installed design details/diagrams including a sketch of how the system operates.
  - d) A report confirming completion and commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all initiatives specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder's User Guide or a Building Maintenance Guide.

- 14. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.
- 15. An on-site stormwater detention drainage system must be installed on the subject land to the satisfaction of the Responsible Authority. Prior to the commencement of building and works a drainage layout plan, together with computations and manufacturers specifications, must be prepared by a suitably qualified Civil Engineer and submitted to and approved by the Responsible Authority. Once approved by the Responsible Authority the plan must be carried out to the satisfaction of the Responsible Authority.
- 16. Prior to the commencement of buildings and works, a drainage layout plan, including stormwater outlets and legal points of discharge, must be prepared and submitted to and approved by the Responsible Authority. Once approved by the Responsible Authority the plan must be carried out to the satisfaction of the Responsible Authority.
- 17. Prior to the issue of an Occupancy Permit, fencing in accordance with the endorsed plan must be erected. The cost of such fencing must be met by the owner and carried out to the satisfaction of the Responsible Authority.

18. The development must be provided with external lighting capable of illuminating access to each garage, car parking space and pedestrian walkways. Lighting must be located, directed and shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within or beyond the site to the satisfaction of the Responsible Authority.
19. Building or works must not be commenced (and trees or vegetation must not be removed) until a landscape plan prepared by a suitably qualified and experienced person or firm has been submitted to and approved by the Responsible Authority. The landscape plan(s) must be generally in accordance with the plans submitted for endorsement but modified to show:
  - a) A survey of all existing vegetation, abutting street trees, natural features and vegetation.
  - b) Buildings, outbuildings and trees in neighbouring allotments that would affect the landscape design.
  - c) Planting on the land comprising trees and shrubs capable of:
    - i) Providing a complete garden scheme
    - ii) Softening the building bulk
    - iii) Providing at least one canopy tree in the front setback of each dwelling addressing a street. Selected canopy trees must be capable of reaching a mature minimum height of 4 metres
    - iv) Minimising the potential of any overlooking between habitable rooms of adjacent dwellings
  - d) The proposed design features such as paths, paving, lawn and mulch.
  - e) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes botanical names, common names, pot size, mature size and total quantities of each plant.
  - f) The use of drought tolerant species.
  - g) All trees on the land that are proposed to be removed or destroyed.

Landscaping in accordance with this approved plan and schedule must be completed before the building is occupied. Once approved by the responsible authority these plans become part of the endorsed plans of this permit.

20. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.
21. This permit will expire if:
  - a) the development does not start within two (2) years of the date of issue of this permit, or
  - b) the development is not completed within four (4) years from the date of issue of this permit.

Before the permit expires or within six (6) months afterwards the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date.

Once the development has commenced the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date within twelve (12) months of the lapse date.

#### Permit Notes

- This is not a building permit under the Building Act. A separate building permit is required to be obtained for any demolition or building works.
- Before commencement of the development occurs, the applicant should contact the Moonee Valley City Council's Technical Services Department regarding legal point of discharge, new crossings, building over easements, etc.
- A permit must be obtained from Council for all vehicular crossings.
- Owners of properties may be asked to pay an inspection fee and provide a bond to ensure that Council assets in the vicinity of their works are not damaged during construction.
- No on street parking permits will be provided to the occupiers of the subject site.
- It is recommended that the required on-site detention system be designed to limit the rate of stormwater discharge from the property to pre-development levels in accordance with the following calculation;  $C=0.4$ ,  $t_c=5$ mins, ARI 1 in 5. An ARI of 1 in 10 should be used for storage and the greater of post development C or  $C=0.80$ .
- All drainage works undertaken must be in accordance with the requirements of Stormwater Drainage Requirements for Development Works as prepared by the Moonee Valley City Council.
- Prior to the commencement of any buildings and works, separate approval must be obtained from the Moonee Valley City Council in relation to the proposed removal and/or replacement of the nominated street tree(s). Please contact Council on 9243 8888 to speak with Council's Arborist.
- All works undertaken within any existing road reserves must accord with the requirements of the Moonee Valley City Council's Technical Services Department and to the satisfaction of the Responsible Authority.
- Existing levels along the property line must be maintained. All proposed levels must match to existing surface levels along the property boundary. Council will not accept any modifications to existing levels within any road reserve.

**CARRIED**

Cr Nation abstained from the vote.

Cr Giuliano voted against the motion.

Mr Lancaster declared an Interest in Reports 9.4 and 9.5 and therefore left the meeting before any discussion or voting took place on the items.

**9.4 134 Hoffmans Road, Essendon (All land on Strata Plan 013649) - Buildings and works to an existing residential building and on common property and construction of a front fence.**

**File No:** MV/675/2013

**Author:** Town Planner

**Directorate:** City Works & Development

**Ward:** Buckley

**Minute No:** 2014/107

**Council Resolution**

Moved by Cr Sharpe, seconded by Cr Surace that Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/675/2013 for buildings and works to an existing residential building and on common property and construction of a front fence at 134 Hoffmans Road, Essendon (All land on Strata Plan 013649), subject to the following conditions:

1. Before the development starts, amended plans (three copies) must be submitted to and approved to the satisfaction of the Responsible Authority. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted and assessed with the application but modified to show:
  - a) All upper level windows and balcony screening shown shaded to be annotated as being fixed and obscured with a maximum transparency of 25% in accordance with Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme;
  - b) The accessway along the northern boundary servicing Dwellings 2 to 4 to be constructed of permeable paving to achieve a minimum permeable site coverage of 20% in accordance with Clause 55.03-4 (Permeability) of the Moonee Valley Planning Scheme;
  - c) The provision of boundary fencing alongside the open space areas of Dwellings 2 to 4, with trellising provided where necessary, in accordance with Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme;
  - d) Internal fencing and balcony screening provided in accordance with Clause 55.04-7 (Internal Views) of the Moonee Valley Planning Scheme;
  - e) The percentage of permeable site coverage annotated within the area schedule;
  - f) Pedestrian visibility splays provided alongside the existing crossover, with the gatehouse and any affected structures/planting modified accordingly, in accordance with Clause 52.06-8 of the Moonee Valley Planning Scheme;
  - g) The garages of Dwellings 2 and 3 setback an additional 800mm from the northern boundary, and the deletion of landscaping opposite the car spaces of Dwelling 4;
  - h) Any internal reconfiguration of the layout of Dwellings 2 and 3 as a result of Condition 1 f);

- i) An annotation on the ground floor plan showing details of the carport to Dwelling 4;
- j) Any changes as a result of Condition 3.

Once approved these plans become the endorsed plans of this permit.

2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.
3. Prior to the endorsement of plans under Condition 1 of this permit, a STORM assessment must be submitted to and approved by the Responsible Authority. The STORM assessment must achieve a minimum rating of 100%.
4. A minimum 30 days prior to any building or works commencing, all WSUD details, such as cross sections and specifications, to assess the technical effectiveness of the proposed stormwater treatment measures, must be submitted to and be approved by the Responsible Authority.

The WSUD details should be appropriate to the proposed stormwater treatment measure (eg. further detail is required for raingarden systems but is not required for above ground stand alone rainwater tanks unless connected to toilets in which case notation to that effect is to be included on the drawings and in an ESD report if applicable). The Design Details should include but are not limited to:

- a) **ROOF CATCHMENT AREA:** the extent of the roof catchment area/s that is/are nominated in the STORM or MUSIC report must be graphically shown on the drawings, and must note which WSUD treatment measure each area connects to (ie. nominate the specific rainwater tank and/or specific raingarden that that particular roof catchment area is connected to);
- b) **RAINWATER TANKS:** Show the size and location of any rainwater tank on the plans and elevations. Provide a note outlining the roof catchment area being collected by each rainwater tank and note connection to the number of toilets, as per the STORM or MUSIC report, or area of garden it is distributing to;
- c) **RAINGARDENS:** Show the size and location of any raingarden on the site and landscape plans. Raingardens must be setback a minimum of 300mm from a site boundary and a minimum of 300mm from a building. Raingardens must be lined and have their overflow plumbed into the stormwater system;
- d) **BUFFER STRIPS:** Show the size and location of any buffer strips and the extent, size and grading of the pervious surface/s draining to it;
- e) **PERVIOUS & IMPERVIOUS PAVING:** provide details of the location and type of all paved and sealed areas (ie. denoting if porous or not);
- f) Integration of other WSUD features such as swales, ponds, etc; and



- g) Where applicable, any stormwater treatment measures (eg. rainwater tank, raingarden, etc) contained within the endorsed plans must be included on the stormwater drainage plan, the roof plan and landscape plan as applicable.
5. A minimum 30 days prior to any building or works being completed, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:
  - a) Inspection frequency;
  - b) Cleanout procedures;
  - c) As installed design details/diagrams including a sketch of how the system operates; and
  - d) A report confirming completion and commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all initiatives specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.
6. The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder' User's Guide or a Building Maintenance Guide.
7. Prior to the issue of an Occupancy Permit, all retaining walls and boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
8. All piping and ducting, excepting for gutters and rainwater downpipes, above the ground floor storey of the building must be concealed to the satisfaction of the Responsible Authority.
9. Service units, including air conditioning units, must not be located on any of the balconies or terrace areas unless appropriately visually and acoustically screened to the satisfaction of the Responsible Authority.
10. A minimum of 30 days prior to any building or works commencing, a Construction & Site Management Plan (CSMP) must be submitted to and approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The plan must include, but not be limited to:
  - a) Hours of construction;
  - b) Parking and traffic movement of all workers vehicles and construction vehicles;
  - c) Scaffolding and hoarding for the site;
  - d) Allocated areas for loading and unloading;
  - e) Site evacuation plan and procedure;
  - f) Occupational health and safety policy;
  - g) Hazard identification and control;
  - h) Environmental management and waste minimisation;

- i) Management of onsite stormwater and contamination: a statement or report outlining all construction measures to be taken to prevent litter, sediments and pollution from entering the stormwater systems;
  - j) Protection of surrounding roads from site contamination and damage including rumble grid and or wash down bay facility;
  - k) On site stormwater contamination;
  - l) Chemical storage;
  - m) Noise and vibration;
  - n) Risk assessment;
  - o) Works timetable, and
  - p) Number of workers expected of work on the site at any one time.
11. Once submitted and approved the works detailed by the Construction & Site Management Plan must be carried out to the satisfaction of the Responsible Authority.
12. Floor levels shown on the endorsed plan(s) must not be altered or modified without written consent of the Responsible Authority.
13. The privacy screens/obscure glazing as shown on the endorsed plans must be installed prior to the occupation of the buildings.
14. All obsolete and unnecessary vehicle crossings must be removed and reinstated to footpath, nature strip and kerb and channel, to the satisfaction of the Responsible Authority.
15. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.
16. Prior to the issue of an Occupancy Permit, all boundary fencing must be erected. The cost of such fencing must be met by the owner and carried out to the satisfaction of the Responsible Authority.
17. The development must be provided with external lighting capable of illuminating access to each car parking space, vehicular accessway, pedestrian accessways and pedestrian entrances. Lighting must be located, directed and shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within or beyond the site to the satisfaction of the Responsible Authority.
18. Before the development starts, or any trees or vegetation removed, an amended landscape plan (three copies) prepared by a suitably qualified person or firm shall be submitted to and approved to the satisfaction of the Responsible Authority. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:
- a) Plans to accord with Condition 1 of this permit.
19. Once approved these plans become the endorsed plans of this permit. Landscaping in accordance with this approved plan and schedule shall be completed before the building is occupied.

20. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the responsible authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.
21. Prior to the issue of an Occupancy Permit, the applicant shall submit a Waste Management Plan to the Responsible Authority for approval. The Waste Management Plan shall be in accordance with the City of Moonee Valley's "Waste Management Plans – Guidelines for Applicants" and once approved shall be implemented to the satisfaction of the Responsible Authority
22. This permit will expire if:-
  - a) The development does not start within two (2) years of the date of issue of this permit, or
  - b) The development is not completed within four (4) years of the date of issue of this permit.
23. Before the permit expires or within six (6) months afterwards the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date.
24. Once the development has commenced the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date within twelve (12) months of the lapse date.

#### Permit Notes

- This is not a building permit under the Building Act. A separate building permit is required to be obtained for any demolition or building works.
- Before commencement of the development occurs, the applicant should contact the Moonee Valley City Council's Technical Services Department regarding legal point of discharge, new crossings, building over easements, etc.
- Owners of properties may be asked to pay an inspection fee and provide a bond to ensure that Council assets in the vicinity of their works are not damaged during construction.
- No on street parking permits will be provided to the occupiers of the subject site.
- All works undertaken within any existing road reserves must accord with the requirements of the Moonee Valley City Council's Technical Services Department and be to the satisfaction of the Responsible Authority.
- Existing levels along the property line must be maintained. All proposed levels must match to existing surface levels along the property boundary. Council will not accept any modifications to existing levels within any road reserve.

**CARRIED**

## **9.5 St Therese's Local Area Traffic Management Study**

**File No:** FOL/13/171  
**Author:** Traffic & Transport Engineer  
**Directorate:** City Works & Development  
**Ward:** Buckley  
**Minute No:** 2014/108

### **Council Resolution**

Moved by Cr Sharpe, seconded by Cr Giuliano that Council:

1. Adopt the final St Therese's Traffic Management Plan as presented in Appendix B (circulated separately).
2. Adopt for implementation the final St Therese's Parking Management Plan as presented in Appendix C (circulated separately).
3. Monitor the additional traffic issues raised by the local community as identified in Appendix D.
4. Monitor the additional parking issues raised by the local community as identified in Appendix E.
5. Advocate to Victoria Police to provide greater enforcement on streets with the highest speed issues.
6. Refer the works within the final Traffic Management Plan and Parking Management Plan to future Capital Works Budget for funding consideration.
7. Advise residents and traders within the St Therese's study area of the outcome of this report.

**CARRIED**

## **9.6 Fletcher Local Area Traffic Management Study**

**File No:** FOL/13/171  
**Author:** Traffic & Transport Engineer  
**Directorate:** City Works & Development  
**Ward:** Buckley  
**Minute No:** 2014/109

### **Council Resolution**

Moved by Cr Sharpe, seconded by Cr Nation that Council:

1. Adopt the final Fletcher Traffic Management Plan as presented in Appendix B (circulated separately).
2. Adopt for implementation the final Fletcher Parking Management Plan as presented in Appendix C (circulated separately).

3. Monitor the additional traffic issues raised by the local community identified in Appendix D.
4. Monitor the additional parking issues raised by the local community identified in Appendix E.
5. Advocate to Victoria Police to provide greater enforcement on streets with the highest speed issues.
6. Refer the works within the final Traffic Management Plan and Parking Management Plan to future Capital Works Budget for funding consideration.
7. Advise residents and traders within the Fletcher study area of the outcome of this report.

**CARRIED**

Mr Lancaster returned to the meeting here.

### **9.7           Municipal Parking Strategy Update**

**File No:**       FOL/10/1066  
**Author:**       Strategic Transport Planner  
**Directorate:** City Works & Development  
**Ward:**         Municipal  
**Minute No:** 2014/110

#### **Council Resolution**

Moved by Cr Marshall, seconded by Cr Giuliano that Council defer this matter pending a further Councillor Workshop to be held as soon as possible.

**CARRIED**

Cr Giuliano left the meeting at 8.18pm and returned at 8.20pm.

### **9.8           East West Link, Comprehensive Impact Statement, Minister for Planning's Approval Decision**

**File No:**       FOL/12/1274  
**Author:**       Senior Strategic Planning Officer  
**Directorate:** City Works & Development  
**Ward:**         Municipal  
**Minute No:** 2014/111

#### **Motion**

Moved by Cr Cusack, seconded by Cr Marshall that Council:

1. Remains opposed to the East West Link (Eastern Section) and considers that funding priority should be given to vital public transport projects that would

- ensure Melbourne is positioned to manage the public transport challenges which it will inevitably face in the near future and throughout the 21st century.
2. Notes the release on 30 June 2014 of the Assessment Committee's report on the East West Link Comprehensive Impact Statement and the Minister's decision to approve the East West Link subject to conditions.
  3. Disagrees with the decision of the State Government to proceed with the East West Link in a way which denies key elements of the scientific and legal evidence presented and the recommendations of the Assessment Committee and that this is conveyed immediately to the Premier and all responsible Ministers including Planning and Transport. In particular, Council objects to the paucity of information provided in the business case to support this major project and further changes that are now proposed. Therefore, it requests that the State government not sign any contracts to proceed with this project until all design, economic, traffic and social impact issues that are yet to be finalised as part of the business case and final plan for this project have been made public to all Victorians and have been resolved through a respectful and reasonable process.
  4. Specifically, this Council objects to the lack of clarity brought about by the Minister's decision to approve two East West Link interchanges 'subject to further planning' and to potentially amend the exhibited Project Boundary without further and proper community consultation.
  5. Endorses the concerns of the Assessment Committee about the intended reliance on the successful contractor to deliver the Project and to be accountable for managing all aspects of the design, planning, environmental and construction framework.
  6. Writes to the Minister for Planning:
    - Requesting inclusion on the advisory group(s) established to consider Development Plans for East West Link and to comment on the Transport Network Impact Assessment prior to VicRoads approval.
    - Seeking to enter into a Memorandum of Understanding with the Council in order to provide financial mitigation with regard to project impacts (identified in the Council's submission to the Assessment Committee), and the management of public land holdings into the future.
    - Requesting details in relation to the City Link Widening project, and seeking his understanding of how it will be integrated into the final outcomes, and construction program for the East West Link, and also seeking retention of key safety upgrades in the vicinity of the Flemington Road, Racecourse Road and Mount Alexander Road.
  7. Calls upon the State government to provide funds for Council to undertake a public meeting and information session, to be held as soon as possible following the release of the project design to advise the community on details of the extent to which the plans reflect the recommendations of the Assessment Committee and the Minister's decision, and to outline the opportunities by which the Council and the community can participate in and influence the project as per the conditions of the Minister's approval.

8. That Council's CEO obtain comprehensive legal advice regarding:
  - The process by which Council could be joined to the legal proceedings taken by Moreland and Yarra Councils and the cost and likelihood of success of any such application to be joined.
  - If the Council was to be joined as a party to the proceedings, the likelihood of success and cost of any such proceedings, likely remedies in the event such proceedings were successful and likely damages or other awards against Council in the event the proceedings were not successful, such advice to be prepared on the basis that Council was working collaboratively with Moreland and Yarra Councils.
9. Notes that the City of Yarra and the City of Moreland have issued a Supreme Court challenge to both the Assessment Committee's findings and the Minister's decision and supports the City of Yarra and the City of Moreland in their decision to bring the proceedings in the Supreme Court.
10. Notes that the Performance Requirements in the Minister's decision contain within them various "secondary consents" which call for the exercise of the Minister's discretion, for example in LU3 and LU4. Council reserves its rights to challenge, including through administrative law review in the Supreme Court, the inappropriate exercise of this discretion.

#### **Division Called**

A Division was called and voting was as follows:

**For:** Crs Marshall, Cusack, Cornish and Nation.

**Against:** Crs Sharpe, Chantry, Giuliano and Surace.

#### **LOST ON THE CASTING VOTE OF THE CHAIRPERSON**

#### **Council Resolution**

Moved by Cr Surace, seconded by Cr Giuliano that Council:

1. Remains opposed to the East West Link (Eastern Section) and considers that funding priority should be given to vital public transport projects that would ensure Melbourne is positioned to manage the public transport challenges which it will inevitably face in the near future and throughout the 21st century.
2. Notes the release on 30 June 2014 of the Assessment Committee's report on the East West Link Comprehensive Impact Statement and the Minister's decision to approve the East West Link subject to conditions.
3. Disagrees with the decision of the State Government to proceed with the East West Link in a way which denies key elements of the scientific and legal evidence presented and the recommendations of the Assessment Committee and that this is conveyed immediately to the Premier and all responsible Ministers including Planning and Transport. In particular, Council objects to the paucity of information provided in the business case to support this major project and further changes that are now proposed. Therefore, it requests that the State government not sign any contracts to proceed with this project until all design, economic, traffic and social impact issues that are yet to be finalised as part of the business case and final plan for this project have been

- made public to all Victorians and have been resolved through a respectful and reasonable process.
4. Specifically, this Council objects to the lack of clarity brought about by the Minister's decision to approve two East West Link interchanges 'subject to further planning' and to potentially amend the exhibited Project Boundary without further and proper community consultation.
  5. Endorses the concerns of the Assessment Committee about the intended reliance on the successful contractor to deliver the Project and to be accountable for managing all aspects of the design, planning, environmental and construction framework.
  6. Writes to the Minister for Planning:
    - Requesting inclusion on the advisory group(s) established to consider Development Plans for East West Link and to comment on the Transport Network Impact Assessment prior to VicRoads approval.
    - Seeking to enter into a Memorandum of Understanding with the Council in order to provide financial mitigation with regard to project impacts (identified in the Council's submission to the Assessment Committee), and the management of public land holdings into the future.
    - Requesting details in relation to the City Link Widening project, and seeking his understanding of how it will be integrated into the final outcomes, and construction program for the East West Link, and also seeking retention of key safety upgrades in the vicinity of the Flemington Road, Racecourse Road and Mount Alexander Road.
  7. Calls upon the State government to provide funds for Council to undertake a public meeting and information session, to be held as soon as possible following the release of the project design to advise the community on details of the extent to which the plans reflect the recommendations of the Assessment Committee and the Minister's decision, and to outline the opportunities by which the Council and the community can participate in and influence the project as per the conditions of the Minister's approval.
  8. Notes that the City of Yarra and the City of Moreland have issued a Supreme Court challenge to both the Assessment Committee's findings and the Minister's decision and supports the City of Yarra and the City of Moreland in their decision to bring the proceedings in the Supreme Court.
  9. Notes that the Performance Requirements in the Minister's decision contain within them various "secondary consents" which call for the exercise of the Minister's discretion, for example in LU3 and LU4. Council reserves its rights to challenge, including through administrative law review in the Supreme Court, the inappropriate exercise of this discretion.



### **Division Called**

A Division was called and voting was as follows:

**For:** Crs Sharpe, Chantry, Giuliano and Surace.

**Against:** Crs Marshall, Cusack, Cornish and Nation.

**THE FORESHADOWED MOTION IN THE NAME OF CR SURACE WAS PUT AND CARRIED ON THE CASTING VOTE OF THE CHAIRPERSON**

### **9.9 City Link Widening Update**

**File No:** FOL/14/578

**Author:** Strategic Transport Planner

**Directorate:** City Works & Development

**Ward:** Buckley

**Minute No:** 2014/112

### **Council Resolution**

Moved by Cr Sharpe, seconded by Cr Giuliano that Council:

1. Note this report.
2. Write to the Coordinator-General, Major Transport Infrastructure Program:
  - a) Outlining the key issues and opportunities identified in this report.
  - b) Requesting that Council be involved in reviewing the CityLink – Tulla Widening project's traffic modelling.
  - c) Requesting to be consulted / involved in any amendments to the Melbourne CityLink Act, CityLink Concession Deed and CityLink Planning Overlay.
  - d) Requesting that there be improved co-ordination between government agencies, contractors and Council.
  - e) That all relevant stakeholders along the route be included in the development of project outcomes.
3. Request that the project proponent participate in an information session to advise the Moonee Valley community of the project and its likely impacts during and after construction.
4. That priority be given to funding the widening of the Tullamarine Freeway from Melrose Drive to Melbourne Airport to ensure that the current vehicle congestion experienced during the am and pm peak periods on the freeway is mitigated and not exacerbated as a consequence of the CityLink/Tullamarine widening project and the East West Link.

**CARRIED**

### **Reports Considered En Bloc**

**Minute No:** 2014/113

**Council Resolution**

Moved by Cr Surace, seconded by Cr Cornish that the recommendations contained in reports:

- 9.10 Return of the 2014 General Revaluation
  - 9.11 Union Road, Ascot Vale Business District Special Rate and Charge Declaration
  - 9.12 Flemington Business District Special Rate and Charge Declaration
  - 9.13 Health Plan 2013-17 – Year 2 Action Plan
  - 9.14 Strengthening Maribyrnong River Planning Controls
  - 9.15 Urban Ecology Strategy 2014
  - 9.16 Annual Review of the Domestic Animal Management Plan 2013-2017
  - 9.19 2 Salter Street and 165 Napier Street, Essendon - Proposed Sale of Unused Drainage Reserve
  - 9.20 Report on Tenders and Contracts Awarded
  - 9.21 Report on Assemblies of Council
  - 9.22 Report on Advisory Committees
- be adopted by Council.

**CARRIED**

**9.10 Return of the 2014 General Revaluation**

**File No:** 37/020/001  
**Author:** Revenue Coordinator  
**Directorate:** Corporate Services  
**Ward:** Municipal  
**Minute No:** 2014/113

**Council Resolution**

Moved by Cr Surace, seconded by Cr Cornish that Council receives and adopts the return of the 2014 General Revaluation of all properties within the municipality.

**CARRIED**

**9.11 Union Road, Ascot Vale Business District Special Rate and Charge Declaration**

**File No:** FOL/13/495

**Author:** Manager Economic Development & City Sustainability

**Directorate:** Environment & Lifestyle

**Ward:** Municipal

**Minute No:** 2014/113

**Council Resolution**

Moved by Cr Surace, seconded by Cr Cornish that Council:

1. Having considered all submissions received and taken account of all objections lodged and complied with the requirements of sections 163A, 163B and 223 of the Local Government Act 1989 (Act), and otherwise according to law, hereby declares a Special Rate and Charge under section 163(1) of the Act for the purposes of defraying expenses to be incurred by Council to be used for the purposes of funding a part-time Shopping Centre Coordinator, promotional, advertising, marketing, business development and other incidental expenses, all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Union Road Business District (Business Precinct).
2. Endorse that the criteria which form the basis of the declaration of the Special Rate and Charge are the ownership and the capital improved value of rateable land used, or reasonably capable of being used, for commercial retail or professional purposes, which rateable land is situated within the geographical areas in which the properties described in paragraphs 6 and 7 of the declaration (Appendix A) – separately circulated.
3. In declaring the Special Rate and Charge, is performing functions and exercising powers in relation to peace, order and good government of the municipal district of the City of Moonee Valley, in particular the encouragement of commerce, retail activity and employment opportunities within the areas for which the Special Rate and Charge is declared.
4. Endorse the total cost of the performance of the function and the exercise of the power by Council (in relation to activities associated with the encouragement of commerce, retail activity and employment opportunities in the area for which the Special Rate and Charge is declared); and confirm that the total amount of the Special Rate and Charge to be levied by Council is referable to an amount of \$50,000 in the first year and increase in \$2,500 increments, for a four year period (year four will collect \$57,500) collecting a total of \$215,000.
5. Set the period for which the Special Rate and Charge is declared and will remain in force is a period of four years commencing 1 July 2014 and ending on 30 June 2018.

6. Define that the areas for which the Special Rate and Charge is declared, as all of the land referred to as the Business Precinct, as identified and shown of the plan set out in the attachment forming a part of the declaration (Appendix A) - separately circulated
7. Define the land in relation to which the Special Rate and Charge is declared as all that rateable land described in the listing of rateable properties set out in the attachment forming a part of the declaration.
8. Confirm the Special Rate and Charge will be declared and assessed in accordance with an ad valorem rate and fixed charge component to be applied to each property within the schedule forming part of the declaration (Appendix A – separately circulated)
9. Amounts have respectively been assessed by –
  - a) An 80 per cent Special Rate component, calculated and assessed by multiplying the capital improved value of each property by a rate in the dollar (adjusted annually); and
  - b) A 20 percent fixed Charge component , assessed as a flat charge \$61.73 for each property in the Scheme in the first year

with the total amount of the Special Rate and Charge to be collected increasing by \$2,500 in each year of the Scheme for the remaining three years of the Scheme.

10. Levy the Special Rate and Charge by sending a notice of levy in the prescribed form annually to the person who is liable to pay the Special Rate and Charge, which will require that the Special Rate and Charge must be paid by two instalments, to be paid by the dates which are fixed by Council in the notice.
11. Consider cases of financial and other hardship and may reconsider other payment options for the Special Rate and Charge.
12. Endorse that no incentives will be given for payment of the Special Rate and Charge before the due date for payment.
13. Considers that there will be a special benefit to the persons required to pay the Special Rate and Charge because there will be a benefit to those persons that is over and above, or greater than, the benefit that is available to persons who are not subject to the Special Rate and Charge, and directly and indirectly as a result of the expenditure of the Special Rate and Charge the viability of the Business Precinct as a business, commercial and retail area, and the value and the use, occupation and enjoyment of the properties and the businesses included in the Special Rate and Charge Scheme will be maintained or enhanced through increased economic activity.

14. For the purposes of having determined the total amount of the Special Rate and Charge to be levied under the Scheme, further considers and formally determines for the purposes of sections 163(2)(a), (2A) and (2B) of the Act that the estimated proportion of the total benefits of the Scheme to which the performance of the function and the exercise of the power relates (including all special benefits and community benefits) that will accrue as special benefits to all of the persons who are liable to pay the Special Rate and Charge is in a ratio of 1:1 (100%). This is on the basis that, in the opinion of Council, all of the services and activities to be provided from the expenditure of the Special Rate and Charge are marketing, promotion and advertising related and will accordingly only benefit those properties and businesses included in the Scheme that are used, or reasonably capable of being used, for retail, commercial or professional purposes.
15. Authorise the Chief Executive or the person for the time being acting in that position, to prepare the funding agreement between Council and the Traders' Association by which administrative arrangements in relation to the Special Rate are confirmed, such agreement being to ensure that at all times, Council is and remains, legally responsible for approving, directing and controlling the expenditure of the proceeds of the Special Rate and Charge in accordance with its obligations under the *Local Government Act 1989* to do so, and such funding agreement to be submitted to Council for sealing.
16. Give notice to all owners and occupiers of properties included in the Scheme and all persons who have lodged a submission and/or and objection in writing of the decision of Council to declare and levy the Special Rate and Charge commencing on 1 July 2014, and the reasons for the decision.
17. Confirm that for the purpose of paragraph 15, the reasons for the decision of Council to declare the Special Rate and Charge are that –
  - a) there is minimal objection to the Scheme and it is otherwise considered that there is a broad level of support for the Special Rate and Charge from all properties owners and occupiers;
  - b) Council considers that it is acting in accordance with the functions and powers conferred on it under the *Local Government Act 1989*, having regard to its role, purposes and objectives under the Act, particularly in relation to the encouragement of commerce, retail activity and employment opportunities in and around the Scheme area;
  - c) all persons who are liable or required to pay the Special Rate and Charge and the properties respectively owned or occupied by them will receive a special benefit in the form of an enhancement or maintenance in land values and/or a maintenance or enhancement in the use, occupation and enjoyment of the properties; and
  - d) the basis of distribution of the Special Rate amongst those persons who are liable or required to pay the Special Rate and Charge is considered to be fair and reasonable.

18. Advise the Traders' Association of the matters specified in paragraphs 1 and 14 of this resolution.

**CARRIED**

**9.12 Flemington Business District Special Rate and Charge Declaration**

**File No:** FOL/13/496

**Author:** Manager Economic Development & City Sustainability

**Directorate:** Environment & Lifestyle

**Ward:** Municipal

**Minute No:** 2014/113

**Council Resolution**

Moved by Cr Surace, seconded by Cr Cornish that Council:

1. Having considered all submissions received and taken account of all objections lodged and complied with the requirements of sections 163A, 163B and 223 of the *Local Government Act 1989* (Act), and otherwise according to law, hereby declares a Special Rate and Charge under section 163(1) of the Act for the purposes of defraying expenses to be incurred by Council to be used for the purposes of funding a part-time Shopping Centre Coordinator, promotional, advertising, marketing, business development and other incidental expenses, all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Flemington Business District (Business Precinct).
2. Endorse that the criteria which form the basis of the declaration of the Special Rate and Charge are the ownership and the capital improved value of rateable land used, or reasonably capable of being used, for commercial retail or professional purposes, which rateable land is situated within the geographical areas in which the properties described in paragraphs 6 and 7 of the declaration (Appendix A – separately circulated).
3. In declaring the Special Rate and Charge, is performing functions and exercising powers in relation to peace, order and good government of the municipal district of the City of Moonee Valley, in particular the encouragement of commerce, retail activity and employment opportunities within the areas for which the Special Rate and Charge is declared.
4. Endorse the total cost of the performance of the function and the exercise of the power by Council (in relation to activities associated with the encouragement of commerce, retail activity and employment opportunities in the area for which the Special Rate and Charge is declared); and confirm that the total amount of the Special Rate and Charge to be levied by Council is referable to an amount of \$50,000 in the first year and increase in \$2,500 increments, for a four year period (year four will collect \$57,500) collecting a total of \$215,000.

5. Set the period for which the Special Rate and Charge is declared and will remain in force is a period of four years commencing 1 July 2014 and ending on 30 June 2018.
6. Define that the areas for which the Special Rate and Charge is declared, as all of the land referred to as the Business Precinct, as identified and shown of the plan set out in the attachment forming a part of the declaration (Appendix A – separately circulated).
7. Define the land in relation to which the Special Rate and Charge is declared as all that rateable land described in the listing of rateable properties set out in the attachment forming a part of the declaration.
8. Confirm the Special Rate and Charge will be declared and assessed in accordance with an ad valorem rate and a fixed charge component to be applied to each property within the schedule forming part of the declaration (Appendix A – separately circulated). Amounts have respectively been assessed by –
  - a) An 80 per cent Special Rate component, calculated and assessed by multiplying the capital improved value of each property by a rate in the dollar (adjusted annually); and
9. A 20 percent fixed Charge component , assessed as a flat charge \$88.50 for each property in the Scheme in the first year;  
  
with the total amount of the Special Rate and Charge to be collected increasing by \$2,500 in each year of the Scheme for the remaining three years of the Scheme.
10. Levy the Special Rate and Charge by sending a notice of levy in the prescribed form annually to the person who is liable to pay the Special Rate and Charge, which will require that the Special Rate and Charge must be paid by two instalments, to be paid by the dates which are fixed by Council in the notice.
11. Consider cases of financial and other hardship and may reconsider other payment options for the Special Rate and Charge.
12. Endorse that no incentives will be given for payment of the Special Rate and Charge before the due date for payment.
13. Considers that there will be a special benefit to the persons required to pay the Special Rate and Charge because there will be a benefit to those persons that is over and above, or greater than, the benefit that is available to persons who are not subject to the Special Rate and Charge, and directly and indirectly as a result of the expenditure of the Special Rate and Charge the viability of the Business Precinct as a business, commercial and retail area, and the value and the use, occupation and enjoyment of the properties and the businesses included in the Special Rate and Charge Scheme will be maintained or enhanced through increased economic activity.

14. For the purposes of having determined the total amount of the Special Rate and Charge to be levied under the Scheme, further considers and formally determines for the purposes of sections 163(2)(a), (2A) and (2B) of the Act that the estimated proportion of the total benefits of the Scheme to which the performance of the function and the exercise of the power relates (including all special benefits and community benefits) that will accrue as special benefits to all of the persons who are liable to pay the Special Rate and Charge is in a ratio of 1:1 (100%). This is on the basis that, in the opinion of Council, all of the services and activities to be provided from the expenditure of the Special Rate and Charge are marketing, promotion and advertising related and will accordingly only benefit those properties and businesses included in the Scheme that are used, or reasonably capable of being used, for retail, commercial or professional purposes.
15. Authorise the Chief Executive or the person for the time being acting in that position, to prepare the funding agreement between Council and the Traders' Association by which administrative arrangements in relation to the Special Rate are confirmed, such agreement being to ensure that at all times, Council is and remains, legally responsible for approving, directing and controlling the expenditure of the proceeds of the Special Rate and Charge in accordance with its obligations under the *Local Government Act 1989* to do so, and such funding agreement to be submitted to Council for sealing.
16. Give notice to all owners and occupiers of properties included in the Scheme and all persons who have lodged a submission and/or and objection in writing of the decision of Council to declare and levy the Special Rate and Charge commencing on 1 July 2014, and the reasons for the decision.
17. Confirm that for the purpose of paragraph 15, the reasons for the decision of Council to declare the Special Rate and Charge are that –
  - a) there is minimal objection to the Scheme and it is otherwise considered that there is a broad level of support for the Special Rate and Charge from all properties owners and occupiers.
  - b) Council considers that it is acting in accordance with the functions and powers conferred on it under the Local Government Act 1989, having regard to its role, purposes and objectives under the Act, particularly in relation to the encouragement of commerce, retail activity and employment opportunities in and around the Scheme area.
  - c) all persons who are liable or required to pay the Special Rate and Charge and the properties respectively owned or occupied by them will receive a special benefit in the form of an enhancement or maintenance in land values and/or a maintenance or enhancement in the use, occupation and enjoyment of the properties.
  - d) the basis of distribution of the Special Rate amongst those persons who are liable or required to pay the Special Rate and Charge is considered to be fair and reasonable.



18. Advise the Traders' Association of the matters specified in paragraphs 1 and 14 of this resolution.

**CARRIED**

**9.13 Health Plan 2013-17 – Year 2 Action Plan**

**File No:** FOL/13/908

**Author:** Coordinator Community Planning and Engagement

**Directorate:** Community Services

**Ward:** Municipal

**Minute No:** 2014/113

**Council Resolution**

Moved by Cr Surace, seconded by Cr Cornish that Council:

1. Note the Health Plan Progress Report June 2014 (Appendix A) – separately circulated.
2. Adopt the Action Plan 2014/ 15 provided as (Appendix B) – separately circulated.

**CARRIED**

**9.14 Strengthening Maribyrnong River Planning Controls**

**File No:** FOL/14/649

**Author:** Coordinator Strategic Planning

**Directorate:** City Works & Development

**Ward:** Municipal

**Minute No:** 2014/113

**Council Resolution**

Moved by Cr Surace, seconded by Cr Cornish that Council writes to Minister for Planning and Melbourne Water providing support for strengthening the Maribyrnong River Planning Controls and request that as part of this process a review be undertaken of the Maribyrnong River Valley Design Guidelines 2010.

**CARRIED**

**9.15 Urban Ecology Strategy 2014**

**File No:** FOL/13/615

**Author:** Manager Economic Development & City Sustainability

**Directorate:** Environment & Lifestyle

**Ward:** Municipal

**Minute No:** 2014/113

**Council Resolution**

Moved by Cr Surace, seconded by Cr Cornish that Council adopt the Urban Ecology Strategy 2014 as provided in (Appendix A) - separately circulated.

**CARRIED**

**9.16 Annual Review of the Domestic Animal Management Plan 2013-2017**

**File No:** FOL/13/923

**Author:** Coordinator Parking Control & Local Laws

**Directorate:** Corporate Services

**Ward:** Municipal

**Minute No:** 2014/113

**Council Resolution**

Moved by Cr Surace, seconded by Cr Cornish that Council:

1. Receive and note the Annual Review of the Domestic Animal Management Plan 2013-2017.
2. Note that no amendments are required to the Domestic Animal Management Plan 2013-2017.

**CARRIED**

Cr Cusack left the meeting at 9.40pm.

Cr Cornish left the meeting at 9.41pm.

**9.17 Agreements with Local Veterinary Clinics for Animal Care**

**File No:** FOL/13/923

**Author:** Manager Governance & Local Laws

**Directorate:** Corporate Services

**Ward:** Municipal

**Minute No:** 2014/114

### **Council Resolution**

Moved by Cr Sharpe, seconded by Cr Surace that Council:

1. Receive and note the report on Council entering into agreements with Local Veterinary Clinics for Animal Care.
2. Reaffirms the delegation of its powers under Section 12(1) of the Domestic Animals Act 1994 to Council Officers.
3. Promote and support entering into Section 84Y Agreements, as prescribed under the Domestic Animals Act 1994, and pursue discussions with interested Veterinary Clinics, animal welfare businesses and other parties.

**CARRIED**

Cr Cornish returned to the meeting at 9.43pm.

Cr Cusack returned to the meeting at 9.44pm.

Cr Nation left the meeting at 9.44pm

### **9.18 Strategic Planning Advisory Committee Terms of Reference**

**File No:** FOL/13/225

**Author:** Manager Governance & Local Laws

**Directorate:** Corporate Services

**Ward:** Municipal

**Minute No:** 2014/115

### **Council Resolution**

Moved by Cr Marshall, seconded by Cr Surace that Council:

1. Adopt the Strategic Planning Advisory Committee Terms of Reference, provided as Appendix A.
2. Note the appointment of Councillor Nicole Marshall, as the Chairperson for the Strategic Planning Advisory Committee.
3. Appoint Councillor Shirley Cornish and Councillor Andrea Surace as Deputy Chairpersons for the Strategic Planning Advisory Committee.
4. Note the appointment of professional representatives from the Department of Transport, Planning and Local Infrastructure, VicRoads, Public Transport Victoria, Department of Transport, Victoria Police and Heritage Victoria to the Strategic Planning Advisory Committee.

**CARRIED**

**9.19            2 Salter Street and 165 Napier Street, Essendon - Proposed Sale of Unused Drainage Reserve**

**File No:** PR28355  
**Author:** Coordinator Property Services  
**Directorate:** Corporate Services  
**Ward:** Buckley  
**Minute No:** 2014/113

**Council Resolution**

Moved by Cr Surace, seconded by Cr Cornish that Council having undertaken statutory procedures pursuant to sections 189 and 223 of the Local Government Act 1989 and having received no submissions, sells by private treaty to the owner of 2 Salter Street, Essendon a section of former drainage reserve measuring 0.91m x 15.24m (14m<sup>2</sup>) abutting 2 Salter Street and 165 Napier Street, Essendon described as Lot 1 on PS626714T contained on Certificate of Title Volume 11413 Folio 832. Refer Appendix A.

**CARRIED**

**9.20            Report on Tenders and Contracts Awarded**

**File No:** FOL/10/358  
**Author:** Manager Governance & Local Laws  
**Directorate:** Corporate Services  
**Ward:** Municipal  
**Minute No:** 2014/113

**Council Resolution**

Moved by Cr Surace, seconded by Cr Cornish that Council receive and note the report of Council's Tenders Committee and tenders awarded at its meeting held on 15 July 2014.

**CARRIED**

**9.21            Report on Assemblies of Council**

**File No:** FOL/09/1245  
**Author:** Manager Governance & Local Laws  
**Directorate:** Corporate Services  
**Ward:** Municipal  
**Minute No:** 2014/113

### **Council Resolution**

Moved by Cr Surace, seconded by Cr Cornish that Council receive and note the written records of Assembly of Councillors, provided as Appendix A, received since the last report to Council in June 2014.

**CARRIED**

### **9.22 Report on Advisory Committees**

**File No:** FOL/12/69

**Author:** Manager Governance & Local Laws

**Directorate:** Corporate Services

**Ward:** Municipal

**Minute No:** 2014/113

### **Council Resolution**

Moved by Cr Surace, seconded by Cr Cornish that Council:

1. Receive and note the following confirmed Advisory Committee Meeting Minutes, received since the last report to Council in June 2014:
  - a) Disability Reference Group held 18 March 2014 (Appendix A); and
  - b) Integrated Waterways Advisory Group held 9 May 2014 (Appendix B).
2. Note the update on the Place Naming Committee.

**CARRIED**

Cr Nation returned to the meeting at 9.47pm.

## **10. Notices of Motion**

### **10.1 Notice of Motion No. 2014/16**

**Title:** Review of the Planning Scheme Provisions and Decision Guidelines relating to the Overshadowing of Solar Panels

**From:** Cr Nicole Marshall

**Ward:** Municipal

**File No:** FOL/12/1253

**Minute No:** 2014/115

### **Council Resolution**

Moved by Cr Marshall, seconded Cr Cornish that Council:

1. Request the Chief Executive to write to the Minister for Planning, Mr Guy, requesting a review of the Planning Scheme Provisions to allow for the introduction of specific decision guidelines and standards relating to the loss of

energy efficiency due to overshadowing of existing solar panels by new development on neighbouring properties.

2. Ensures that consideration be given to including a requirement to show the locations of all solar panels of neighbouring properties as part of the assessing of any application.
3. Request that the Minister for Planning be requested to involve all relevant councils and government agencies and other role-players in the proposed review.

**CARRIED**

#### **11. Urgent Business**

Cr Cusack sought that a vote be taken to consider a matter concerning East West Link as Urgent Business.

##### **Division Called**

A Division was called and voting was as follows:

**For:** Crs Marshall, Cusack, Cornish and Nation.

**Against:** Crs Sharpe, Chantry, Giuliano and Surace.

**LOST**

#### **12. Confidential Report**

##### **Council Resolution**

Moved by Cr Cornish, seconded by Cr Surace that Council resolve to close the meeting to the public pursuant to Section 89(2) of the *Local Government Act 1989* to consider a report which Council considers may prejudice the Council or any person.

**CARRIED**

##### **Consideration of Confidential Report**

12.1 Land Use Review - 5 Treadwell Road Niddrie

##### **Council Resolution**

Moved by Cr Surace, seconded by Cr Cusack that Council resume in open Council.

The meeting concluded at 10.04pm.

**CONFIRMED**

**CR JAN CHANTRY  
CHAIRPERSON**