



City of
Moonee Valley

Ordinary Meeting of Council

Tuesday, 25 July 2017 at 6.30pm

Minutes

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Minutes of the Ordinary Meeting of Council

Tuesday, 25 July 2017 at 6.35pm
held at the Moonee Valley Civic Centre

PRESENT :

Members: Cr Andrea Surace Mayor
Cr Cam Nation
Cr Samantha Byrne
Cr Jim Cusack
Cr Rebecca Gauci Maurici
Cr Richard Lawrence
Cr Narelle Sharpe
Cr John Sipek

Officers: Mr Bryan Lancaster Chief Executive Officer
Mr David Benallack Chief Financial Officer
Mr Steven Lambert Director City Services
Ms Kendrea Pope Director Organisational Performance
Mr Petrus Barry Acting Director Planning & Development
Ms Nicole Battle Acting Manager Governance & Communications

1. Opening

The Mayor, Cr Surace, opened the meeting and welcomed all present to the Ordinary Meeting of Council for Tuesday, 25 July 2017.

The Mayor welcomed all present and respectfully acknowledged the traditional custodians of this land - the Wurundjeri people of the Kulin Nation, their spirits, ancestors, elders and community members past and present. Council also extends this respect to the elders and descendants of other Aboriginal peoples here today.

The Mayor paid tribute to the late Jonathon Tarascio a former Moonee Valley Citizen of the Year who sadly passed away on July 11 2017. A minute's silence followed.

The Mayor then recited the Councillor Creed:

“We commit to making positive strategic decisions for the future, remembering we are here to collectively deliver on the broader vision for Moonee Valley in a fair and equitable manner, always showing respect for one another.

Through strong leadership and maturity, we will engage in robust, intelligent debate before coming to informed, evidence-based decisions, being respectful of the outcome once the votes are cast. We will ensure we focus on policy, always mindful our role is to serve our local community.”

2. Apologies

An apology for non-attendance was received for Cr Marshall.

Leave of Absence

Minute No. 2017/196

Council Resolution

Moved by Cr Sharpe, seconded by Cr Byrne that a Leave of Absence be granted to Cr Gauci Maurici for the period 7 -10 August 2017 inclusive.

CARRIED

3. Confirmation of Minutes

Minute No. 2017/197

Council Resolution

Moved by Cr Sipek , seconded by Cr Lawrence that the Minutes of the Ordinary Meeting of Council held on Tuesday, 27 June 2017 be confirmed.

CARRIED UNANIMOUSLY

4. Declarations of Conflict of Interest

4.1 Cr Sharpe declared an indirect conflict of interest in Item 10.5 Notice of Motion 2017/22 Footpath Trading.

4.2 Cr Gauci Maurici declared an indirect conflict of interest in Item 9.1 31-43 Puckle Street, Moonee Ponds due to a close association.

4.3 Cr Nation declared an indirect conflict of interest in Item 12.1 Windy Hill-Update due to a conflicting duty. A written disclosure was provided to the Chief Executive outlining the reasons for this conflict.

4.4 Mr Bryan Lancaster declared an indirect conflict of interest in Item 9.4 Buckley Street Level Crossing Removal Update due to a residential amenity.

5. Presentations

Nil.

6. Petitions and Joint Letters

6.1 65 Aberfeldie Street, Moonee Ponds – Demolition Permit and new Dwelling

File No. 17/170291

Cr Lawrence tabled a petition signed by 57 individuals concerning the proposed demolition at 65 Aberfeldie Street, Moonee Ponds.

6.2 166 The Boulevard, Aberfeldie – ‘No’ to four level apartments

File No. 17/191442

Cr Sharpe tabled a petition signed by 456 individuals concerning the proposed development of a four storey building at 166 The Boulevard, Aberfeldie and general over development of the Maribyrnong River area.

7. Public Question Time

Question 1

Ms Rose Iser from Travancore asked the following questions:

1. *At the Council meeting on 28 March 2017, Council voted to support the Minister for Planning to be the Responsible Authority for the Debneys Precinct throughout the planning process. The precinct envelope includes 60% of Council owned land including the entirety of Debneys Park.*
 - a. *Given that no plans have been presented for Stage 2 of the process, which will involve works on the Council land portion of the precinct, will Council be given an opportunity to reconsider this request and its implications for consultation, with park users and community members, about future plans for the parkland?*
 - b. *At the Council meeting in December 2016, Council voted to request DHHS for Council to be the lead stakeholder responsible for community engagement for the duration of the project. To what extent is this request affected by the subsequent request for the Minister for Planning to be the Responsible Authority for the project site?*
2. *At the Council meeting in September 2016, Council voted to relocate a junior playground and construct a new fence in Debneys Park. How is this decision affected by the Debneys Precinct redevelopment?*

Response:

The Chief Executive Officer provided the following response:

Part - Q1a

It is critical that during Stage 1 of the Advisory Committee process, consideration is given to the longer term vision for Debneys Park and the wider area. Council understands that the Advisory Committee Hearing process, established to consider the Flemington Housing Estate Renewal Program and the wider Debneys Precinct, will address Stage 1 matters on DHHS land,

making recommendations to ensure that an appropriate planning framework and controls are prepared where appropriate.

For Stage 2 in Debneys Park, and where any matters are unresolved in Stage 1, the Committee will provide Council, and Stakeholders with guidance and direction, and there will be the opportunity for further community engagement and input.

This is expected to include significant opportunities to upgrade and expand the open space area where possible, the connections within and beyond Debneys Park, and relevant physical and social infrastructure which are essential given the pressures of ongoing population increase in inner Melbourne.

Part - Q1b

The Terms of Reference set by the Minister for Planning tasked the Advisory Committee with advising him whether he “should act as Responsible Authority for the development site(s) and if this would expedite future planning approvals”.

The request to DHHS for Council to be the lead stakeholder responsible for community engagement for the duration of the project is not affected by any recommendation for the Minister for Planning to be the Responsible Authority for the project site.

Given that the Minister for Planning has tasked the Standing Advisory Committee with providing him advice on the matter of the Responsible Authority status, it is prudent that Council await the outcome of their recommendations to the Minister, and respond accordingly at the appropriate time.

In the meantime Council officers will continue to work closely with DHHS towards ensuring that the community is meaningfully engaged in the process and fully remain informed.

Part - Q2

The Junior playground and Debney Meadows School are at a key interface between the DHHS redevelopment and Debneys Park.

Prior to the Minister for Housing’s announcement of the Housing Renewal Program, Council and Council officers prepared a plan in consultation with Debney Meadows Primary School, which outlines new location of fencing and junior playspace for consultation.

It became apparent to all parties that through the Renewal program there was likely to be major changes to the interface of the Walk up Housing, the School and Debneys Park.

As such, it was agreed that it was not prudent to proceed with the proposed design given the significant capital investment that was required and that a short term solution, that did not require a long term impost on Debneys Park or embed a design that was unsympathetic for the long term plans for the area, could be explored.

To this end Council, in recognition of the special needs of the school due to the issues experienced when using the land at play periods Debney Meadows

Primary and DEET have agreed to facilitate the construction of a temporary fence.

Council is working in association with Debney Meadows School and DEET to ensure that a mutually agreed solution to the immediate issues is facilitated whilst consideration of the outcome for the precinct is developed through the Minister for Planning's Standing Advisory Committee.

Question 2

Mr Edward Ho from Ascot Vale asked the following questions:

- 1. The panel recommended this change on page 91 of the agenda:
Amend the Schedule to the Design and Development Overlay to alter wording and use the term 'should' in lieu of the term 'must' when referencing building heights and front setbacks along Newsom Street and Hurtle Street.

If the panel is serious about protecting the two storey height limit on those streets, why make the words open to interpretation and potentially changeable to three storeys?*
- 2. Some of the inner townhouses apparently have a limit of three storeys, but yet some will have roof terraces built on it. This means people living in those townhouses will actually have access to 4 levels including the roof terrace, which makes it four storeys.*

The Chief Executive Officer provided the following response:

Response:

Part – Q1

Council Officers agree with the concern raised by Mr Edward Ho in Question 1 and this is reflected in the Officers Report before Council.

The Panel in their recommendations back to Council made reference to the new General Residential Zone (GRZ) which allows for a building height of 3 storeys. The Panel did not see a compelling reason for there to be a building height limitation in the Design and Development Overlay Schedule 13 (DDO13) where it is less than the zone requirements and therefore recommended the term 'should' in lieu of the more mandatory term 'must'.

Notwithstanding above, Council Officers do not support altering the wording within the DDO13. Council Officers maintain the preference for using the term 'must' within Section 2.0 of the DDO13 with respect to building heights and front setbacks along Newsom and Hurtle Streets. The reason for this is to ensure clear design requirements for proposed dwellings fronting existing streets and an outcome that respects the existing neighbourhood character of surrounding residential development.

Part – Q2

Centrally located Townhouses 8-25 are three storeys in scale and feature roof top terraces. Pursuant to the Moonee Valley Planning Scheme a 'storey' is defined as 'that part of a building between floor levels'. As these roof top spaces are uncovered they are not deemed to be the 'fourth storey' to these dwellings.

It is considered that the location of three storey elements and use of rooftop terraces integrates well with the integrity of the overall design resulting in an attractive built form outcome that responds to its surrounding context and provides adequate and valuable internal amenity for future occupants.

Question 3

Ms Sharon Mumford of Strathmore asked the following questions:

1. *The MVC has been aware that the Strathaird Street Reserve was surplus to VicRoad's needs since 2014 (Council Minutes, May 23rd 2017, p147). In this time, why did the Council choose not to consult with the Community that this sale would affect?*
2. *What were the research methods (process, tools and general rigour) used by the Council to investigate the Community's needs and conclude that the recommendations reached were in the best interests of the Community?*

The Chief Executive Officer provided the following response:

Response:

Part – Q1

Council has been holding discussions with VicRoads over the future of Strathaird Reserve since notification was first received on 30 October 2014 offering Council first right of refusal to purchase the land at market value in accordance with requirements under the Victorian Government Landholding Policy and Guidelines (VGLPG).

Given the long permissive occupancy of this site by Council, Council officers strongly advocated to VicRoads to either transfer the land to Council for nominal consideration or grant a long term lease at a peppercorn rent.

Council wrote to VicRoads on 30 April 2015 seeking a 12 month deferral of negotiations pending discussions being held with the State Government over a range of other significant land and infrastructure issues impacting the municipality as part of the East West Link project. VicRoads subsequently agreed to Council's request for a deferral.

VicRoads has repeatedly stated that the land had been declared surplus to its requirements and that it had no latitude under the VGLPG to transfer the land to Council other than at current market value.

Given these circumstances, Council considered that undertaking local community consultation would not change the outcome should Council determine not to purchase the land.

Part – Q2

The reference document, Council's Open Space Strategy Towards 2020, records Strathaird Reserve as local open space and is categorized as a low Council priority.

The lease of the area known as Nursery Corner will be finishing at the end of the year and this area will eventually revert to Public Open Space which will enhance the linear park network adjacent to the Moonee Ponds Creek.

8. Reports by Mayor and Councillors

Minute No. 2017/198

Council Resolution

Moved by Cr Sharpe, seconded by Cr Gauci Maurici that the reports by the Mayor and Councillors be received.

CARRIED

9. Reports

Due to the large number of interested gallery members, Item 10.2 Notice of Motion No. 2017/19 - Strathaird Reserve was brought forward on the agenda.

10.2 Notice of Motion No. 2017/19 - Strathaird Reserve

File No: FOL/17/11

From: Cr Sharpe

Minute No. 2017/199

Motion

Moved by Cr Sharpe, seconded by Cr Gauci Maurici that the Chief Executive Officer reinvestigate the purchase of the property at 1-15 Strathaird Street Strathmore, comprising Lots 16-23 on Plan of Subdivision 57622, being the whole of the land in Certificates of Title Volume 8425 Folios 537-544 and prepare a report to come before an Ordinary Meeting of Council to be held on 8 August 2017.

Cr Lawrence foreshadowed a motion should the motion on the floor be lost.

**FOR Crs Lawrence, Gauci Maurici, Sharpe and Nation
AGAINST Crs Cusack, Byrne, Sipek and Surace**

LOST

MOTION WAS LOST ON THE CASTING VOTE OF THE CHAIRPERSON

Council Resolution

Moved by Cr Lawrence, seconded by Cusack that Council continue to advocate to the State Government Council's position that the land should be gifted or

transferred to Council at no cost to our community which was a position this Council successfully promoted to be adopted by Councils across Victoria at MAV's State Council Meeting on 12 May 2017.

CARRIED UNANIMOUSLY

Having declared a conflict of interest in the following item Cr Gauci Maurici left the meeting at 7:26pm.

9.1 31-43 Puckle Street, Moonee Ponds (Lot 4 LP8142 and Lot 1 TP531726B) - Construction of buildings and works comprising a 10 storey building, demolition and external alterations in an Activity Centre Zone and Heritage Overlay, a reduction in car parking requirements and waiver of loading bay requirements

File No: FOL/17/11
Author: William Wheeler
Principal Statutory Planner
Directorate: Planning & Development
Minute No. 2017/200

Council Resolution

Moved by Cr Cusack, seconded by Cr Nation that Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/687/2016 for the construction of buildings and works comprising a 10 storey building, demolition and external alterations in an Activity Centre Zone and Heritage Overlay, a reduction in car parking requirements and waiver of loading bay requirements at No.31-43 Puckle Street, Moonee Ponds (Lot 4 LP8142 and Lot 1 TP531726B), subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended plans must be drawn to scale with dimensions and an electronic copy must be provided. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:
 - a) Provision of a traffic 'stop-go' signal system at the entrance to the Right of Way along Young Street which is connected to a corresponding traffic signal system at the egress point of the proposed basement ramp;
 - b) Segmentation of the corporate façade, behind the retained original inter-war façade, to support the historic subdivision pattern of Puckle Street;
 - c) Incorporation of the design elements of traditional shop fronts (i.e. plinth, segmented window panels, subdivision pattern) into the new building fabric;
 - d) The allocation of all resident, retail and office car parking spaces on

the basement floor plans;

- e) The provision of pedestrian visibility splays in accordance with the requirements of Clause 52.06-8 (Design Standards for Car Parking) of the Moonee Valley Planning Scheme;
- f) All bicycle parking designed and annotated in accordance with the relevant Australian Standards;
- g) Residential storage doors and areas designed to ensure that there is no protrusion into car parking spaces or vehicle accessways;
- h) The entrance to the basement ramp designed to prevent water runoff from the Right of Way;
- i) The provision of 300mm (minimum) wide trench grates on the basement ramps;
- j) All private/residential balconies a minimum of 8m² in area;
- k) A notation stating all noise attenuation measures are to be implemented as required by the acoustic report under Condition 27 of this permit;
- l) A prominent note on all floor and elevation plans stating: “Refer to endorsed Sustainability Management Plan, and associated BESS Report, for all ESD commitments and requirements”;
- m) Details and notations for all Water Sensitive Urban Design (WSUD) treatment measures within the approved STORM Rating Report;
- n) Further details for the ‘printed glass with selected graphic imagery’ (GL4); and
- o) A schedule of all external materials and finishes. The schedule must show the material, colour (including colour samples) and finishes of all external walls, roofing, fascias, window frames, fences and paving.

When approved, these plans will be endorsed and will form part of this permit.

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. A minimum 30 days prior to any building or works commencing, all Water Sensitive Urban Design (WSUD) details (relating to the WSUD treatment measures nominated in the approved and complying STORM report), such as cross sections and/or specifications, to assess the technical effectiveness of the proposed stormwater treatment measures, must be submitted for approval by the Responsible Authority.
4. A minimum 30 days prior to any building or works commencing, a Construction and 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 CSMP must be in accordance with Moonee Valley City Council’s CSMP’s Guidelines and Template.

When approved, the CSMP will be endorsed and will form part of this permit.

The development must be carried out in accordance with the endorsed CSMP and the provisions, requirements and recommendations of the endorsed CSMP must be implemented and complied with to the satisfaction of the Responsible Authority.

5. A maximum 30 days following completion of the development, 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.

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

6. Prior to demolition of the Fishbourne house, a photographic record and detailed/measured drawings that document parts of the original building that are still existing must be prepared by a suitably qualified heritage architect, with two copies submitted to Moonee Valley City Council.
7. Before the building approved by this permit is occupied, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority if the owner of the adjoining land allows access for the purpose.
8. The materials, colours, decoration and/or finishes to be applied to the exterior of the building or works as described on the drawings or schedules endorsed to this permit must not be altered without the consent 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. Floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
11. Before the building approved by this permit is occupied, the privacy screens and other measures to prevent overlooking as shown on the

endorsed plans must be installed in accordance with Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme to the satisfaction of the Responsible Authority.

All privacy screens and other measures to prevent overlooking as shown on the endorsed plans must at all times be maintained to the satisfaction of the Responsible Authority.

12. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than storm water down pipes and gutters above the ground floor storey of the building, must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
13. Before the building approved by this permit is occupied, the areas set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must be:
 - a) Constructed;
 - b) Available for use in accordance with the endorsed plans;
 - c) Properly formed to such levels and drained so that they can be used in accordance with the endorsed plans;
 - d) Finished with a permanent trafficable surface (such as concrete, asphalt or paving); and
 - e) Line-marked or provided with another adequate means of ensuring that the boundaries of all vehicle spaces are clearly indicated on the ground,

in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

The area set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must:

- f) Be maintained and made available for such use; and
 - g) Not be used for any other purpose,
- to the satisfaction of the Responsible Authority.
14. Before the development starts, a Car Parking Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Car Parking Management Plan must be prepared by a traffic consultant with suitable qualifications to the satisfaction of the Responsible Authority and must include:
 - a) Details as to how the car stackers are to be regularly maintained and serviced;
 - b) Details of timeframes and measures to be undertaken, to reinstate the car stackers back to working order, if the car stackers becoming non-operational; and
 - c) Details of measures to be undertaken if the car stackers are not operational, so not to provide any additional on-street parking

demand.

When approved, the Car Parking Management Plan will be endorsed and will form part of this permit.

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

15. Bicycle parking spaces, access, lockers and compounds must be provided, maintained and kept available for these purposes at all times to the satisfaction of the Responsible Authority.
16. Before the building approved by this permit is occupied, the 'future laneway expansion zone' is to be constructed and completed to the satisfaction of the Responsible Authority. All costs associated with the survey, design and construction of the Right of Way must be borne by the permit holder.
17. Before the use starts, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Green Travel Plan must be prepared by a person with suitable qualifications to the satisfaction of the Responsible Authority and must encourage the use of non-private vehicle transport modes by the occupiers of the land. The Green Travel Plan must include:
 - a) A description of the location in the context of alternate modes of transport and objectives for the Green Travel Plan;
 - b) An outline of Green Travel Plan measures for the development including, but not limited to:
 - i) Household welcome packs – tram, train and bus timetables relevant to the local area must be included in the pack of information provided to purchasers upon a purchaser's occupation of an apartment;
 - ii) Include a myki pass and registration information;
 - iii) Bicycle parking and facilities available on the land;
 - iv) Information and promotion of on-site and off-site car sharing schemes;
 - v) Monitoring & review; and
 - c) A plan showing the bicycle parking areas to be provided for use by residents.

When approved, the Green Travel Plan will be endorsed and will form part of this permit.

The provisions, recommendations and requirements (including any ongoing management actions) of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

18. All structures within the pedestrian visibility splays at the vehicle access point must be at least 50% visually permeable pursuant to Clause 52.06-8

(Design Standards for Car Parking) of the Moonee Valley Planning Scheme.

19. 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.
20. An on-site stormwater detention drainage system must be installed on the land to the satisfaction of the Responsible Authority.

Before the development starts a Drainage Layout Plan, including computations and manufacturers specifications, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Drainage Layout Plan must be prepared by a Civil Engineer with suitable qualifications to the satisfaction of the Responsible Authority and must depict an on-site stormwater detention drainage system to be installed on the land.

When approved, the Drainage Layout Plan will form part of this permit.

The on-site stormwater detention drainage system must be installed and the provisions, recommendations and requirements of the endorsed Drainage Layout Plan must otherwise be implemented and complied with to the satisfaction of the Responsible Authority.

21. Except with the prior written consent of the Responsible Authority, the arcade area must remain open to the public as a thoroughfare seven days per week between the following minimum hours:
Monday to Friday: 7.00am to 8.00pm;
Saturday: 7.00am to 6.00pm; and
Sunday: 9.00am to 5.00pm.
22. Goods must not be stored or left exposed outside the building so as to be visible from any public road or thoroughfare, to the satisfaction of the Responsible Authority.
23. Except with the prior written consent of the Responsible Authority, equipment, services or other building features (other than those shown on the endorsed plan) must not be erected above the roof level of the building.
24. The plant area and equipment on the roof of the building must be screened in a manner to complement the appearance of the building and be to the satisfaction of the Responsible Authority.
25. The development must be provided with external lighting capable of illuminating access to each vehicle accessway, 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 land.
26. Noise levels emanating from service equipment on the land must not

exceed the permissible noise levels determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1 (SEPP N-1).

27. Before the development starts, an acoustic report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The acoustic report must be prepared by an acoustics consultant with suitable qualifications to the satisfaction of the Responsible Authority and must detail the noise attenuation measures required to all habitable rooms within each dwelling to ensure minimal impacts from noise sources external to that dwelling.

When approved, the acoustic report will be endorsed and will form part of the permit.

The provisions, recommendations and requirements of the endorsed acoustic report must be implemented and complied with to the satisfaction of the Responsible Authority.

28. All security alarms or similar devices installed on the land must not emit any noise which is audible beyond the boundary of the land and must be designed in accordance with the relevant Australian Standard and must be connected to a security monitoring service.
29. The amenity of the area must not be detrimentally affected by the use of land, through:
- a) Transportation 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; or
 - e) In any other way,

to the satisfaction of the Responsible Authority.

30. Prior to the commencement of building and works, the Sustainability Management Plan (SMP), inclusive of the BESS report, prepared by 'Sustainable Development Consultants' dated 2 March 2017 is to be modified in accordance with Condition 1 and submitted to the Responsible Authority for approval. The associated BESS Report must be a 'published' version, and comply with the relevant guide notes regarding dwelling groupings, to the satisfaction of the Responsible Authority. Once approved the SMP, inclusive of the BESS Report, is to be implemented and appropriately managed during construction of the proposed building.
31. Before the development starts, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be in accordance with the City of Moonee Valley's 'Waste Management Plans – Guidelines for Applicants' and must be:

- a) Generally in accordance with the Waste Management Plan prepared by 'Leigh Design Pty Ltd' dated 1 March 2017; and
- b) Modified in accordance with Condition 1 of this permit.

When approved, the Waste Management Plan will be endorsed and will form part of this permit.

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

32. All wastes must be disposed of to the satisfaction of the Responsible Authority. Liquid waste or polluted waters must not be discharged into a sewer or stormwater drainage system.
33. Before the development starts, and before any trees or vegetation are removed, an amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended landscape plan must be prepared by a person or firm with suitable qualifications to the satisfaction of the Responsible Authority, drawn to scale with dimensions and an electronic copy must be provided. The amended landscape plan must be generally in accordance with the landscape plan submitted with the application but modified to show:
 - a) Any changes as required by Condition 1 of this permit;
 - b) The location and details of all 'façade plantings';
 - c) Surface treatment details of the 'future laneway expansion zone'; and
 - d) An appropriate irrigation system.

When approved, the amended landscape plan will be endorsed and will form part of this permit.

Landscaping in accordance with the endorsed landscaping plan and schedule must be completed before the building is occupied.

34. 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.
35. The on-site car spaces and storage cages must not be subdivided, leased or sold separately to external parties that are not prime lot owners or tenants of the building or development.
36. This permit will expire if one of the following circumstances applies:
 - a) The development is not commenced within two (2) years from 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 make a written request to the Responsible Authority to extend the expiry date.

If the development commences before the permit expires, within twelve (12) months after the permit expires, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry 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 the development starts, the permit holder must contact Moonee Valley City Council regarding legal point of discharge, vehicular crossings, building over easements, asset protection, road consent/occupancy, etc.
- This land is located within a Heritage Overlay control area. Planning permission is required for any additional works to the land in accordance with Clause 43.01 (Heritage Overlay) of the Moonee Valley Planning Scheme.
- This permit does not authorise any advertising signs. No advertising signs may be erected on the land (other than those which, under the Moonee Valley Planning Scheme, are exempt from the need for a planning permit).
- No on street parking permits will be provided to the occupiers of the land.
- The required on-site detention system must be designed to limit the rate of stormwater discharge from the land 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.
- All works undertaken within any existing road reserves must accord with the requirements of Moonee Valley City Council 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.
- In the event that car parking spaces or storage cages are separately titled, a condition will be imposed on any future subdivision permit requiring the permit holder to enter into a Section 173 Agreement to ensure the on-site car spaces and storage cages must not be subdivided, leased or sold separately to external parties that are not prime lot owners or tenants of the building or the development.

CARRIED

Cr Gauci Maurici returned to the meeting at 7:37pm.

**9.2 166 The Boulevard Aberfeldie (Lot 11 on PS 015933) -
Development of a four storey building comprising three
dwellings**

File No: FOL/17/11

Author: Vi Tran
Senior Statutory Planner

Directorate: Planning & Development

Minute No. 2017/201

Council Resolution

Moved by Cr Sharpe, seconded by Cr Gauci Maurici that Council issue a Notice of Decision to Refuse to Grant a Permit in relation to Planning Permit Application No. MV/949/2015 for the development of a four storey building comprising three, three-bedroom dwellings at 166 The Boulevard, Aberfeldie (Lot 11 on Plan of Subdivision 015933) in accordance with the following grounds:

1. The bulk, scale, form and layout of the proposal fails to meet the objectives and strategies contained within Clause 21.06 (Built Environment) and Clause 43.02 (Design and Development Overlay, Schedule 1) of the Moonee Valley Planning Scheme, resulting in a development that does not appropriately respond to the opportunities and constraints of the site as well as the surrounding context.
2. Limited on-site landscaping to provide a vegetated connection to the river environs and fails to meet the objectives and strategies contained within Clause 43.02 (Design and Development Overlay, Schedule 1) of the Moonee Valley Planning Scheme and the Maribyrnong River Valley Design Guidelines 2010.
3. The proposed vehicular gradients does not accord with Design Standard 3, Gradients of Clause 52.06 (Car parking) of the Moonee Valley Planning Scheme.
4. The proposal result in car parking and accessways dominating the sites frontage and does not accord with Design Standard 5, Urban Design of Clause 52.06 (Car parking) of the Moonee Valley Planning Scheme.
5. The proposal will cause adverse traffic impacts on the surrounding area, which will be substantial and unreasonable.
6. The proposal fails to comply with the following provisions of Clause 55 (ResCode) of the Moonee Valley Planning Scheme:
 - a) Clause 55.02-1 (Neighbourhood character);
 - b) Clause 55.02-5 (Integration with the street);
 - c) Clause 55.03-3 (Site coverage);
 - d) Clause 55.03-7 (Safety);

- e) Clause 55.03-8 (Landscaping);
 - f) Clause 55.03-9 (Access);
 - g) Clause 55.04-1 (Side and rear setbacks);
 - h) Clause 55.04-6 (Overlooking);
 - i) Clause 55.05-2 (Dwelling entry);
 - j) Clause 55.05-5 (Solar access to open space);
 - k) Clause 55.06-1 (Design detail);
 - l) Clause 55.06-2 (Front fences); and
 - m) Clause 55.06-4 (Site services).
7. The proposal represents an overdevelopment of the land.

CARRIED

Cr Sipek left the meeting at 7:53pm.

9.3 Combined Planning Scheme Amendment C148 and Permit Application MV/900/2015 at 9 Newsom Street, Ascot Vale - Post Panel adoption and approval

File No: FOL/17/11
Author: David Kilroe
Senior Strategic Planner
Directorate: Planning & Development
Minute No. 2017/202

Council Resolution

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

1. Having complied with Part 3, Division 1 and 2 of the *Planning and Environment Act 1987*, adopt Moonee Valley Planning Scheme Amendment C148 in accordance with the changes outlined in this report and amendment documentation at **Appendix F** (separately circulated).
2. Pursuant to Section 31 (1) of the *Planning and Environment Act 1987*, submit Amendment C148 to the Moonee Valley Planning Scheme to the Minister for Planning for approval.
3. Recommend to the Minister for Planning that Planning Permit MV/900/2015 be granted in accordance with Section 96G(1)(a) of the *Planning and Environment Act 1987*.
4. Submit Planning Permit MV/900/2015 to the Minister for Planning in accordance with Section 96H of the *Planning and Environment Act 1987*.

CARRIED

Cr Sipek was not present during vote
Cr Lawrence left the meeting at 7:53pm.
Cr Lawrence returned to the meeting at 7:55pm.

Having declared a conflict of interest in the following item, Mr Bryan Lancaster left the meeting at 7:56pm.

Cr Sipek returned to the meeting at 7:59pm.

9.4 Buckley Street Level Crossing Removal Update

File No: FOL/17/11

Author: Natalie Reiter

Director Planning & Development

Directorate: Planning & Development

Minute No. 2017/203

Council Resolution

Moved by Cr Lawrence, seconded by Cr Gauci Maurici that Council:

1. Note this report.
2. In the event that the Minister for Planning does not refer the Buckley Street Level Crossing to his Standing Advisory Committee, which was established and is able to consider such matters, that Council requests the Government to defer the Buckley Street level Crossing project until such time as all relevant matters, including traffic and transport impacts, and the future of the Essendon Car Parking sites and other level crossing removal options, have been independently and transparently considered.

CARRIED UNANIMOUSLY

Mr Bryan Lancaster returned to the meeting at 8:11pm

9.5 MV2040 Engagement Program Phase 1 Outcomes

File No: FOL/17/11

Author: Christina Collia

Strategic Planner

Directorate: Planning & Development

Minute No. 2017/204

Council Resolution

Moved by Cr Sipek, seconded by Cr Gauci Maurici that Council note the MV2040 Engagement Program Phase 1 Consolidated Key Findings Report as provided in **Appendices A, B & C** (separately circulated).

CARRIED UNANIMOUSLY

**9.6 Proposed Relocation of Axicom Pty Ltd
Telecommunications Facility at Walter Street Reserve to
Riverside Golf and Tennis Centre, 50 Newsom Street,
Ascot Vale**

File No: FOL/17/11
Author: Gary Mills
Coordinator Property Management
Directorate: Chief Financial Officer
Ward: Myrnong
Minute No. 2017/205

Council Resolution

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

1. Approve the new site location of the mobile telecommunications facility owned by Axicom Pty Ltd at the Riverside Golf and Tennis Centre, 50 Newsom Street, Ascot Vale and contained on Certificate of Title Volume 2922 Folio 208 ('subject site') and as shown on the site plan at **(Appendix A)**
2. Give notice under sections 190 and 223 of *the Local Government Act* 1989 of its intention to enter into a ground lease with Axicom Pty Ltd for occupation and use of the subject site for a term of 20 years with one ten year break date at a commencing annual rent of \$27,800 plus GST with an annual fixed increase of 3 per cent, commencing 1 January 2019.
3. Give notice under sections 190 and 223 of *the Local Government Act* 1989 of its intention to enter into a ground lease with Optus Mobile Pty Ltd for occupation and use of the subject site for a term of 20 years with one ten year break date at a commencing annual rent of \$14,000 plus GST with an annual fixed increase of 3 per cent commencing 1 January 2019.
4. Establish a Committee of Council pursuant to section 223(1) (c) of the Act to hear and consider submissions received and requests to be heard in support of the submissions.
5. Authorise the Chief Executive Officer to fix the day, time and place for the Committee meeting, if required.

CARRIED

9.7 Victorian State Emergency Service - Lease Renewal

File No: FOL/17/11
Author: Paul D'Elia
Property Consultant
Directorate: Chief Financial Officer
Minute No. 2017/206

Council Resolution

Moved by Cr Lawrence, seconded by Cr Sipek that Council:

1. Enter into a Deed of Lease Renewal with Victorian State Emergency Service for occupancy and use of 9 Rutherford Street, Aberfeldie by the Essendon SES Unit for a further term of three years commencing 1 August 2017 at a commencing annual rental of \$510.50 plus GST.
2. Authorise the Chief Executive Officer to execute the Deed of Lease Renewal on behalf of the Council.

CARRIED

10. Notices of Motion

10.1 Notice Of Motion No. 2017/18 - Wi-Fi in Activity Centres

File No: FOL/17/11
From: Councillor Richard Lawrence
Minute No. 2017/207

Council Resolution

Moved by Cr Lawrence, seconded by Cr Sipek take notice that at the Ordinary Meeting of Council to be held on 25 July 2017 it is my intention to move that Council provide a report that investigates the costs and potential installation of free Wi-Fi services into our shopping strips within MVCC. These would include, but not be limited to:

- Puckle Street, Moonee Ponds shopping precinct;
- Union Road, Ascot Vale shopping precinct;
- Keilor Road, Niddrie shopping precinct;
- North Essendon Village shopping precinct;
- Rose Street, Essendon shopping precinct;
- Napier Street, Strathmore shopping precinct; and
- Any others that may be suitable.

CARRIED

10.3 Notice Of Motion No. 2017/20 - Smart City

File No: FOL/17/11
From: Councillor Jim Cusack
Minute No. 2017/208

Council Resolution

Moved by Cr Cusack, seconded by Cr Sipek that, with respect to developing Moonee Valley as a Smart City, that Council provide a report for consideration at the Ordinary Meeting of Council on 12 December 2017 that:

1. Identifies how Moonee Valley can transition to a Smart City in 2040;
2. Discusses strategies to optimise Moonee Valley's capacity to achieve this aim including positioning Moonee Valley to access government funding, form critical partnerships (public and private) and participate in local, regional and national projects;
3. Identifies those current and planned initiatives that are direction setters towards making Moonee Valley a Smart City through the integration of new and digital technologies and their application to improve Council's delivery of goods and services, management of information and ongoing improvement through application of next generation technologies; and
4. Considers the benefits for the residents of Moonee Valley especially the most vulnerable in our community and businesses.

CARRIED

Cr Surace left the meeting at 8.36pm
Cr Nation assumed the role of Chairperson

10.4 Notice Of Motion No. 2017/21 - Electric Car Charging

File No: FOL/17/11
From: Cr Cusack
Minute No. 2017/209

Council Resolution

Moved by Cr Cusack, seconded by Cr Sipek that Council provide a report for consideration at the Ordinary Meeting of Council on 12 December 2017 that addresses options for Moonee Valley City Council to plan for and address the projected growth of electric cars. The report will:

1. Address options for the provision of recharge points, the costs of which may be offset by identifying opportunities to partner with car companies (eg BMW and others);
2. Identify implications for planning and the need for incorporation into future major developments (retail, commercial and residential); and
3. Identify a transition plan for Council's car fleet to incorporate electric vehicles.

CARRIED

Having declared a conflict of interest in the following item Cr Sharpe left the meeting at 8.42pm.

Cr Surace returned to the meeting.

10.5 Notice of Motion No. 2017/22 - Footpath Trading

File No: FOL/17/11

From: Cr Jim Cusack

Minute No. 2017/210

Council Resolution

Moved by Cr Cusack, seconded by Cr Sipek that Council provide a report for the Ordinary Meeting of Council on 10 October 2017 that addresses existing and potential anomalies arising out the application of Council's Footpath Trading Policy.

Although not restricted to the following points, the report should include:

1. The operation of the existing Footpath Trading Policy and feedback provided by traders and the general community;
2. The option of creating a category within the policy (operational guidelines and costs) for businesses that only have access to a small area of footpath but are interested in footpath trading but are required at present to pay the same fee as traders in more advantageous situations. While anomalous situations have arisen in some shopping strips, future developments in laneways and side streets will be similarly disadvantaged and consequently discouraged to the detriment of Moonee Valley's character and lifestyle;
3. A permit category for "pop up" retailers to provide tables and chairs on footpaths outside of approved community events and festivals; and
4. Adjustments to the policy where footpath trading is for training purposes or to promote a social enterprise.

CARRIED

Cr Nation left the meeting at 8.43pm

Cr Nation returned to the meeting at 8.44pm

Cr Sharpe returned to the meeting at 8.48pm.

11. Urgent Business

Nil.

12. Confidential Reports

Minute No. 2017/211

Council Resolution

Moved by Cr Lawrence, seconded by Cr Byrne that Council resolve to close the meeting to the public pursuant to Section 89(2) of the *Local Government Act 1989* to discuss the following matters:

12.1 Windy Hill - Update

Item 12.1 is confidential under the terms of section 89(2) of the Local Government Act 1989 as it contains information relating to: (d) contractual matters, (f) legal advice and h) any other matter which the Council considers would prejudice the Council or any person.

12.2 Councillor Code of Conduct

Item 12.2 is confidential under the terms of section 89(2) of the Local Government Act 1989 as it contains information relating to: (a) personnel matters.

CARRIED

Cr Surace left the meeting at 8.50pm

Cr Surace returned to the meeting at 8.52pm

Minute No. 2017/212

Council Resolution

Moved by Cr Lawrence, seconded by Cr Byrne that Council resume in open Council.

CARRIED

13. Close of Meeting

The meeting concluded at 9.45pm.

**CR ANDREA SURACE
CHAIRPERSON**