

Minutes

Ordinary Meeting of Council

Tuesday, 10 March 2020

6:30pm

Report Index

The following reports were considered:

10. Reports

10.1	299-311 Pascoe Vale Road, Essendon (Lot 1 TP90580H and Lots 1-3 LP9692) - Building and works in a Commercial 2 Zone and Special Building Overlay, including construction of a multi-storey mixed-use development, use of the land for a supermarket exceeding 1800 square metres, shops exceeding 500 square metres, food and drink premises exceeding 100 square metres, indoor recreation facility and child care centre, a reduction in car parking requirements, and the creation and alteration of access to a road in a Road Zone, Category 1	6
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Minutes of the Ordinary Meeting of Council

Tuesday, 10 March 2020 at 6:30pm
held at the Moonee Valley Civic Centre

Present

Members:	Cr Samantha Byrne	Mayor
	Cr John Sipek	Deputy Mayor
	Cr Jim Cusack	
	Cr Rebecca Gauci Maurici	
	Cr Richard Lawrence	
	Cr Nicole Marshall	
	Cr Cam Nation	
	Cr Narelle Sharpe	
	Cr Andrea Surace	
Officers:	Kendrea Pope	Acting Chief Executive Officer
	Vincent Cammell	General Manager City Development
	Allison Watt	Executive Manager Corporate Governance
	Petrus Barry	Manager Statutory Planning
	Meghan Hopper	Senior Coordinator Governance and Advocacy

1. Opening

The Mayor, Cr Byrne, opened the meeting and welcomed all present to the Council Meeting of Tuesday, 10 March 2020.

2. Reconciliation Statement

On behalf of Moonee Valley City Council, the Mayor welcomed all present and respectfully acknowledged the Traditional Custodians of the land on which Moonee Valley is located – the Wurundjeri Woi-wurrung People of the Kulin Nation; and paid respect to their Spirits, Ancestors, Elders and their Community Members past and present.

The Mayor also extended this respect to other Aboriginal and Torres Strait Islander Peoples who call Moonee Valley home.

3. Apologies

Nil

4. Confirmation of Minutes

Minute No. 2020/29

Council Resolution

Moved by Cr Lawrence, seconded by Cr Surace that the Minutes of the Ordinary Meeting of Council held on Tuesday, 25 February 2020 be confirmed.

CARRIED UNANIMOUSLY

5. Declarations of Conflict of Interest

Cr Nation declared an indirect conflict of interest in Item 10.1 due to a conflicting duty for reasons previously provided to the Acting Chief Executive Officer.

6. Presentations

The Mayor tabled a copy of the book *Rising Pillars Open Doors*, which is an updated history of Lowther Hall, recently published to coincide with the school's centenary year. Authors Claire Levi and Helen Penrose undertook extensive research in bringing this important publication together which highlights the school's journey through its first 100 years.

Cr Sharpe spoke of the Pass the Baton for Eating Disorders campaign, being spearheaded by Eating Disorders Families Australia in the lead-up to World Eating Disorders Day on 2 June 2020.

The Mayor thanked all those who attended and contributed to the International Women's Day mayoral breakfast held at the Clocktower on Tuesday morning, attended by Councillors, with a number of inspirational guest speakers. The event

is sponsored by local Rotary Clubs which enables women from across the municipality to attend.

7. Petitions and Joint Letters

Nil.

8. Public Question Time

Virginia Moylan asked Council:

My question relates to the planning application at 299-311 Pascoe Vale Road, Essendon. What are the plans if any for traffic management for Pascoe Vale Rd Essendon and Napier Cres intersection?

Petrus Barry responded:

The referral response provided by the Department of Transport (VicRoads) requires a signalised intersection at Napier Crescent and Pascoe Vale Road. Further details regarding this requirement can be found at Conditions 23, 24, 26 and 27 of the recommendation within the report for Item 10.1.

9. Reports from Special Committees

Nil.

Cr Nation left the meeting at 6.37pm due to a conflict of interest in the following item.

10. Reports

- 10.1** **299-311 Pascoe Vale Road, Essendon (Lot 1 TP90580H and Lots 1-3 LP9692) - Building and works in a Commercial 2 Zone and Special Building Overlay, including construction of a multi-storey mixed-use development, use of the land for a supermarket exceeding 1800 square metres, shops exceeding 500 square metres, food and drink premises exceeding 100 square metres, indoor recreation facility and child care centre, a reduction in car parking requirements, and the creation and alteration of access to a road in a Road Zone, Category 1**

Author: William Wheeler - Principal Statutory Planner

Business Unit: Planning

Minute No. **2020/30**

Council Resolution

Moved by Cr Sharpe, seconded by Cr Lawrence that Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/119/2019 for Building and works in a Commercial 2 Zone and Special Building Overlay, including construction of a multi-storey mixed-use development, use of the land for a supermarket exceeding 1,800 square metres, shops exceeding 500 square metres, food and drink premises exceeding 100 square metres, indoor recreation facility and child care centre, a reduction in car parking requirements, and the creation and alteration of access to a road in a Road Zone, Category 1 at No.299-311 Pascoe Vale Road, Essendon (Lot 1 TP90580H and Lots 1-3 LP9692), subject to the following conditions:

Endorsement Conditions

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. 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) An additional 25 bicycle parking spaces within the open plaza, generally in accordance with the layout and design shown on the revised 'without prejudice' ground floor plan prepared by Architecton, Revision 2, dated 11 October 2019;

- b) Accommodation of stairwells in an unenclosed manner, including external windows/skylights, allowing for natural ventilation, and the incorporation of glazing to fire doors/walls, where possible;
- c) All pathway widths in accordance with DDA design standards along Pascoe Vale Road;
- d) The provision of 300mm trench grates at the bottom of ramps from Pascoe Vale Road to the basement;
- e) No obstruction greater than 900mm located within the pedestrian visibility splay areas along the site frontage with Pascoe Vale Road;
- f) The 45-degree car spaces on Basement Level 2 made available for users of the self-storage facility only for loading purposes, due to their restricted reverse entry;
- g) Gradients for drainage within the public car parking areas (i.e. 1:200) required in accordance with AS2890.1-2004 requirements;
- h) Site access generally in accordance with the 'concept functional/traffic signal plan' prepared by GTA Consultants, with the final adopted design to be approved by all parties including Council;
- i) Details regarding footpath widths, set back and designed to cater for the increase in pedestrian traffic volumes, along the ground level interface between Pascoe Vale Road and the subject site;
- j) All stormwater treatment measures and associated annotations as a result of Condition 3;
- k) All Sustainability Management Plan and Green Star annotations and measures in accordance with Condition 4;
- l) A landscape plan in accordance with Condition 5; and
- m) A detailed schedule of all external materials and finishes. The schedule must show the specific material, colour (including colour samples) and finishes of all external walls, roofing, fascias, window frames, screening measures, soffits, vehicle access doors 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. Stormwater from the development must be treated to meet the water quality performance objectives set out in the *Urban Stormwater Best Practice Environmental Management Guidelines, Victoria Stormwater Committee 1999 (Guidelines)*, as amended. The performance objectives of the Guidelines must be met entirely on site as demonstrated by a Water Sensitive Urban Design (WSUD) assessment report(s) submitted to and approved by the Responsible Authority; except that with the written consent of the Responsible Authority, up to 20% of treatment may be delivered offsite as demonstrated by a Water Sensitive Urban Design

(WSUD) assessment report(s) submitted to and approved by the Responsible Authority.

4. An amended Sustainability Management Plan, inclusive of Green Star assessment, must be submitted simultaneously with the submission of amended plans in accordance with Condition 1 of this permit. The Sustainability Management Plan must be generally in accordance with the report prepared by 'Norman Disney & Young' (Revision 1.0 dated 1 February 2019) and be to the satisfaction of the Responsible Authority for approval. Once approved the Sustainability Management Plan, inclusive of Green Star assessment, is to be implemented and appropriately managed during construction of the proposed building.
5. Before the development starts, amended landscape plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended landscape plans 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 plans must be generally in accordance with the landscape plans 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 existing street trees to be retained and protected during construction;
 - c) The location and details of existing trees within Melbourne Water's drainage reserve along the southern property boundary, including details of tree protection measures in accordance with Australian Standard AS4970-2009;
 - d) The avoidance of weed species with an increase in native species;
 - e) The use of non-invasive plant species within any easements which will ensure that existing infrastructure assets are not damaged by root systems;
 - f) All planting abutting the vehicle accessway and land frontage along Pascoe Vale Road to have a maximum mature height of no more than 900mm in accordance with Clause 52.06-9 (Design standards for car parking) of the Moonee Valley Planning Scheme;
 - g) Further details for vertical climbers on the southern and western building façade, including climbing support structures; and
 - h) An appropriate irrigation system.

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

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

6. Before the development starts, an amended arborist report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended arborist report must

be prepared by an arborist with suitable qualifications to the satisfaction of the Responsible Authority and must outline:

- a) The provisions, recommendations and requirements contained in the 'Arboricultural Assessment & Report' prepared by Glenn Waters Arboriculture and dated 1 June 2018; and
- b) Adequate tree protection measures for all existing trees adjoining the subject site, including those within the Five Mile Creek drainage reserve along the southern property boundary.

When approved, the amended arborist report will be endorsed and will form part of this permit.

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

7. Before the development starts, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended Waste Management Plan must be in accordance with the City of Moonee Valley's 'Waste Management Plans – Guidelines for Applicants' and must:

- a) Be generally in accordance with the Waste Management Plan prepared by Leigh Design Pty Ltd dated 16 August 2019; and
- b) Be modified in accordance with Condition 1 of this permit.

When approved, the amended 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.

8. 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) A car parking layout generally in accordance with the relevant requirements of the Australian Standards for Off-Street Car Parking AS/NZS 2890.1-2004 (including ramp grades and dimensions, column location, headroom clearance, etc.);
- b) Arrangements for the provision and allocation of car spaces on site;
- c) The management of car parking spaces and security arrangements for occupants of the development, including the provision of an intercom system at the security entrances;
- d) Lighting of car parking areas, entries and exits;
- e) Proposed line marking, convex mirrors and signage to direct occupants, staff and visitors to their designated car parking spaces;

- f) Arrangements for the loading and unloading of goods and materials for the commercial uses;
- g) Entitlements to the use of the loading/service dock area by all uses on the land, including the collection of waste by private waste collection vehicles;
- h) No charge being made for car parking without the consent of the Responsible Authority;
- i) Traffic calming measures for inclusion within the accessways and car parking areas on site, including rubber speed humps and speed restrictions as appropriate;
- j) The closure of any car parking areas a minimum of 30 minutes after the closure of the last use(s) approved on the land and/or details regarding appropriate access to the site, including hours that the vehicle access gates/doors will be open; and
- k) The movements of trucks and other vehicles to the loading/service dock area showing likely access routes and movements from adjacent roads.

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.

9. Before the uses authorised by this permit commence, an operations management plan, to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The operations management plan must be prepared by a person with suitable qualifications to the satisfaction of the Responsible Authority and must detail how the different uses will operate to ensure any impacts will be managed. In particular, this must include staffing, security and/or surveillance arrangements to common areas (outside of typical business hours within the development), to adequately manage the safety of patrons within the development and open plaza area during operation. When approved, the operations management plan will be endorsed and will form part of this permit. The provisions, recommendations and requirements of the endorsed operations management plan must be implemented and complied with to the satisfaction of the Responsible Authority.
10. 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 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.

11. 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 treatment measures written by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or licensed installing/commissioning plumber, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all WSUD treatment measures 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.

12. Thirty (30) days prior to the commencement of building and works, a civil engineering plan showing all levels along the frontage footpath of the development must be submitted and approved to the satisfaction of the Responsible Authority.
13. 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 manufacturer's 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.

14. Prior to the commencement of the use or building and works associated with the use (or the certification or issue of a statement of compliance under the *Subdivision Act 1988*) the applicant must provide:
- a) A Certificate of Environmental Audit in accordance with Section 53Y of the *Environment Protection Act 1970*; or
 - b) A Statement of Environmental Audit under Section 53Z of the *Environment Protection Act 1970*. A Statement must state that the site is suitable for the use and development allowed by this permit.

All the conditions of the Statement of Environmental Audit must be complied with to the satisfaction of the Responsible Authority, prior to commencement of use of the site. Written confirmation of compliance must be provided by a suitably qualified environmental professional or other suitable person acceptable to the Responsible Authority. In addition, sign off must be in accordance with any requirements in the Statement conditions regarding verification of works.

The applicant must enter into a Section 173 Agreement under the *Planning and Environment Act 1987* in relation to ongoing maintenance and/or monitoring in accordance with the Statement of Environmental Audit. The Agreement must be executed on title prior to the commencement of the use and prior to the issue of a Statement of Compliance under the *Subdivision Act 1988*. The applicant must meet all costs associated with drafting and execution of the Agreement, including those incurred by the Responsible Authority.

Melbourne Water Conditions

15. The finished floor levels of the proposed buildings must be set 300mm above the 100-year graded flood level
16. The apex to the basement (entry/exist) must be set at 300mm above the applicable flood level.
17. The basement must be tanked and all doors, windows and openings to the basement must be set 300mm above the 100-year ARI flood level.
18. Prior to the commencement of works to Five Mile Creek, the Owner must enter into and comply with an agreement (Works Offer) with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation for the following:
 - a) Prior to the commencement of works taking place detailed landscape plans must be submitted to Melbourne Water for approval and must show:
 - i) A survey (including botanical names) of all existing vegetation to be retained and/or removed, this includes trees;
 - ii) Five Mile Creek clearly shown in both aerial and cross-sectional view;

- iii) The location of assets in relation to the proposed landscaping;
 - iv) Details of surface finishes located on recreational pathways, maintenance access or any other pathways near waterways;
 - v) A planting schedule of all proposed trees, shrubs and ground covers, including:
 - (1) botanical names; common names; pot sizes; life-form; quantities of each plant; planting density (plants per square metre); planting zones/locations (in plan and cross-section form in colour).
 - vi) Landscape treatments with specifications of products such as mulching, erosion control matting, and rock beaching.
 - vii) A vehicle access gate be installed at the beginning of the maintenance access path to allow for clear entry of Melbourne Water vehicles to be of the standard maintenance access gate design.
 - viii) Clearly illustrated storm water control measures that will manage any runoff appropriately into five-mile creek that are consistent and in-line with Melbourne Water's creek enhancement guidelines. These drawings must illustrate how storm water will be discharged appropriately that include detailed drawings that consider any proposed rock work, bank/outlet protection and any flow dissipation measures.
 - ix) Clearly illustrated plans that show how the storm water generated from the site will be treated on-site within its own footprint and to best practice guidelines before it is discharged. This includes any water retention tanks, Water sensitive urban design (WSUD), Storm Water Quality Treatment Systems (SWQTS) and rain gardens.
- b) The locations of all clearly designated legal points of discharge of the development advised by and endorsed by Moonee Valley City Council.
 - c) Prior to the commencement of works, a Site Environmental Management Plan (SEMP) or equivalent must be developed and implemented to ensure that waterway values are protected during the construction process. At a minimum this must include sediment controls to avoid direct or indirect sediment discharge to the waterway and surrounding wetlands. To be submitted to Melbourne Water for approval.
 - d) Prior to the commencement of works detailed design plans to be submitted to Melbourne Water for approval outlining the following,
 - i) Five Mile Creek modified and constructed from the northern boundary of the property to Pascoe Vale Road.
 - ii) Five Mile Creek should be constructed as per assumption made in hydraulic modelling and as per Option 4, which includes,

- extending existing Pascoe Vale Road box culvert of size 2.3m wide X 1.5m height, construction of access road for maintenance, open style gate. The maintenance access includes an infill raised to no higher than 30.32m AHD.
- iii) Rock work must be constructed both sides of banks throughout modified Creek section to avoid bank and bed erosion in the flood event up to 1%AEP.
 - iv) Rock size must be designed considering high velocity in modified Creek.
19. Prior to the commencement of works, a separate application direct to Melbourne Water must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses. Prior to accepting an application, evidence must be provided demonstrating that Council considers that it is not feasible to connect to the local drainage system.
20. Any new fences/gates must be of an open style of construction (minimum 50% open) to allow for the passage of floodwaters/ overland flows.
21. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

Department of Transport (VicRoads) Conditions

22. Unless otherwise agreed in writing by the Roads Corporation, prior to the commencement of any works, Concept Functional/ Traffic Signal Plans must be submitted to and approved by the Roads Corporation. The plans must reflect the mitigating works on Pascoe Vale Road and be generally in accordance with GTA Drawing DWG V146120-07 dated 25 January 2019.
23. Unless otherwise agreed in writing by the Roads Corporation, prior to the commencement of any works, Concept Functional/ Traffic Signal Plans must be submitted to and approved by the Roads Corporation. The plans must include a signalised intersection on Pascoe Vale Road and Napier Crescent.
24. Prior to the commencement of development on the site, the following must be constructed to the satisfaction of and at no cost to the Roads Corporation and the Responsible Authority:
- a) Signalised intersection on Pascoe Vale Road/site access;
 - b) Signalised intersection on Pascoe Vale Road/Napier Crescent;
 - c) All road works as outlined in the approved Concept Functional/Traffic Signal Plans in condition 1 and 2.
25. Prior to the occupation of the development all disused or redundant vehicle crossings must be removed, and the area reinstated to kerb and channel to the satisfaction of and at no cost to the Roads Corporation.

26. Within 6 months of the development operating, a post development Traffic Impact Assessment report must be submitted to and approved by the Roads Corporation and the Responsible Authority. The Traffic Impact Assessment must include the following:
 - a) An assessment on the operation of the road network post development.
 - b) Identify any mitigation measures that may be required to improve operation of Pascoe Vale Road.
 - c) Assess the performance of right turn movements from Pascoe Vale Road to Napier Crescent, and identify any mitigation measures required to improve the safety and efficiency of these movements.
27. Within 12 months of the development operating, or any such time as agreed with the Roads Corporation, the mitigation measures outlined in the post development Traffic Impact Assessment must be constructed to the satisfaction of and at no cost to the Roads Corporation and the Responsible Authority.

Head, Transport for Victoria Conditions

28. Prior to the commencement of the development, including demolition and bulk excavation, or any other time agreed in writing with the Head, TfV, amended plans to the satisfaction of the Head, TfV must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) The removal of any annotation referring to platform extension; and
 - b) The building setback from the rail corridor boundary to a minimum of 1 metre.
29. Prior to the commencement of the development, including demolition and bulk excavation permitted by this permit, the permit holder must contact the Rail Operator through the email address metrositeaccess@metrotrains.com.au to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to the railway land. The permit holder must comply with the Rail Operator's requirements for works on, over or adjacent to the railway land.
30. Prior to the commencement of the development, including demolition and bulk excavation, detailed construction/engineering plans and computations for any construction or works likely to have an impact on railway operations, railway infrastructure assets or railway land are to be submitted and approved by VicTrack, the Head, TfV and the Rail Operator. The Plans must detail all excavation design and controls of the site adjacent to the railway corridor having any impact on the railway land. The Design Plans to ensure compliance regarding building clearances to aerial power lines as per the applicable Victorian Electrical Safety (Installations) Regulations (particularly Part 3 Division 2) and design

loadings where within 20m of the nearest rail track in compliance with AS5100.2-2017 Design Loads.

31. All necessary construction control and indemnity agreements as required by VicTrack, the Head, TfV and the Rail Operator must also be in place prior to commencement of the development.
32. Prior to the commencement of the development, the Rail Operator must be contacted through the email address metrositeaccess@metrotrains.com.au to obtain the Rail Operator's agreement conditions and safety requirements for works on, over or adjacent to railway land.
33. Prior to the commencement of the development, including demolition and bulk excavation, Demolition and Construction Management Plans must be submitted to VicTrack, the Head, TfV and the Rail Operator which must be to the satisfaction of VicTrack, the Head, TfV and the Rail Operator. The Construction Management Plan must include details of (but not limited to) management proposals to minimise impacts to VicTrack assets and the operation of the railway during construction and must set out objectives and performance and monitoring requirements for:
 - a) Access if required to the rail environment, including designation of any areas to be used under license during the construction process.
 - b) Approvals and permits required from the Head, TfV, VicTrack and the Rail Operator prior to works commencing and prior to accessing the railway land.
 - c) Rail safety requirements that must be adhered to by the permit holder.
 - d) Protection of all rail infrastructure to ensure rail infrastructure is not damaged during demolition or construction.
 - e) Minimising disruption to train services and railway commuter access.
 - f) Management of drainage, effluent, material stockpiles, fencing, hoardings to ensure VicTrack land is not used for, or impacted on by these activities outside of the licence area.
 - g) Public safety, amenity and site security.
 - h) Operating hours, noise and vibration controls.
 - i) Air and dust management.
34. All demolition and construction works must be carried out in accordance with the approved Demolition and Construction Management Plan. The Demolition and Construction Management Plan must be implemented at no cost to VicTrack, the Head, TfV and the Rail Operator.
35. Any damage to the Rail Operator's infrastructure as a consequence of the construction works must be rectified to the satisfaction of the Rail Operator at the full cost of the permit holder.
36. The planning permit holder must make all reasonable steps to ensure that the disruption to train operation within the railway corridor are kept to a

minimum during the construction of the development and in compliance with the Rail Operators Safety and Environmental requirements contained within the Rail Operators construction control and indemnity agreement.

37. Building materials (including glass/window/ balcony treatments) or advertising signs likely to have an effect on train driver operations along the rail corridor must be shown by a reflectivity and or light study not to cause reflections or glare that may interfere with train driver operations and avoid using red, green or yellow colour schemes or shapes capable of being mistaken for train signals.
38. The planning permit holder must, at all times, ensure that the common boundary with railway land is fenced to prohibit unauthorised access to the rail corridor to the satisfaction of the Rail Operator.
39. Prior to the issue of a Certificate of Occupancy for the development, or other time agreed in writing with Public Transport Victoria the permit holder must install a visually transparent 1.8 metre high black coated chain mesh fence along the boundary abutting the rail reserve to the satisfaction of Public Transport Victoria and Vic Track at the full cost to the permit holder.
40. No lighting is to be erected that throws light onto the railway tracks or which interferes with the visibility of train signals and the rail lines by train drivers.
41. No drainage, effluent, waste, soil or other materials must enter or be directed to railway land or stored or deposited on railway land.
42. No ground anchors are to be installed in rail land unless permitted by VicTrack
43. The planning permit holder must not enter any railway land without the written consent of the Rail Operator. If the permit holder has obtained the Rail Operator's written consent to enter the railway land, the permit holder must comply with the Rail Operator's Site Access Procedures and Conditions when accessing the railway land.
44. The planning permit holder must not carry out, or allow to be carried out, any excavation, filling or construction on the common boundary between the subject land and the railway land unless it has obtained the prior written approval of VicTrack and the Rail Operator.
45. All works, including hoardings, must be undertaken within the subject land and must not encroach onto the railway land.
46. The planning permit holder shall pay any Rail Operator costs required for the development documentation review or construction works associated with the development as required by the Rail Operator.

VicTrack Conditions

47. The permit holder must, at all times, ensure that the common boundary with railway land is fenced, at no cost to VicTrack, to prohibit unauthorised access to the rail corridor. Any walls or fences on the common boundary with railway land must be cleaned and finished using a graffiti proof finish

or alternative measures used to prevent or reduce the potential of graffiti to the satisfaction of VicTrack.

48. No drainage, effluent, waste, soil or other materials must enter or be directed to railway land or stored or deposited on railway land.
49. The permit holder must not plant any plants or tree species that are likely to cause any future overhang onto the railway land or disturbance to the railway operations.
50. The permit holder must not enter any railway land without the written consent of the Rail Operator. If the permit holder has obtained the Rail Operator's written consent to enter the railway land, the permit holder must comply with the Rail Operator's Site Access Procedures, conditions and safety requirements when accessing the railway land. The permit holder must comply with the Rail Operator's reasonable requirements for works on, over or adjacent to the railway land. The rail operator contact is: metrositeaccess@metrotrains.com.au
51. Prior to the commencement of works, including demolition and bulk excavation, the permit holder must enter into all necessary construction control and indemnity agreements as required by the Rail Operator to ensure that the disruption to train operation within the railway corridor is kept to a minimum during construction and in compliance with the Rail Operators Safety and Environmental requirements contained within the Rail Operators construction control and indemnity agreement.
52. The permit holder must not carry out, or allow to be carried out, any excavation, filling or construction on the common boundary between the subject land and the railway land unless it has obtained the prior written approval of VicTrack and the Rail Operator.
53. All works, including hoardings, must be undertaken within the subject land and must not encroach onto the railway land.
54. The permit holder must ensure that the operating of lights is directed away from the rail corridor to ensure no disruption to the operation of trains and visibility of train drivers to the satisfaction of VicTrack.
55. Unless otherwise agreed in writing with VicTrack, prior to the commencement of works, the permit holder must prepare a report, to the satisfaction of VicTrack and the Rail Operator, by a suitably qualified consultant, which demonstrates that all building materials (including glass / window treatments) visible from the rail corridor are non-reflective such that it will not adversely impact on rail operations and driver safety. The development must avoid using red, green or yellow colour schemes that may interfere with driver operations.
56. The permit holder must not install, or cause to be installed, any permanent or temporary ground anchors within the railway land.
57. The permit holder must ensure that all track and overhead infrastructure is not damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of VicTrack at the full cost of the permit holder.

58. Unless otherwise agreed in writing with VicTrack, windows, doors and balconies must not be placed on the title boundary with railway land and no windows or doors are permitted to open beyond the railway land title boundary.
59. Prior to the commencement of development, detailed construction / engineering plans and computations for any construction abutting railway infrastructure or railway land must be submitted and approved by Vic Track and the Rail Operator (RO). The plans must detail all excavation design and controls of the site adjacent to the railway corridor having any impact on railway land. The design Plans must ensure compliance with:
 - a) building clearances to aerial power lines as per the applicable Victorian Electrical Safety (Installations) regulations;
 - b) design loadings for the building from the nearest rail track is in compliance with AS5100.2-2017 Design Loads and Part 4 AS1170.4 Earthquake action Australia; and
 - c) working adjacent to overhead power to the satisfaction of the RO.

Use and Development Conditions

60. The water sensitive urban design treatments as specified within the Water Sensitive Urban Design (WSUD) assessment report(s) submitted to and approved by the Responsible Authority must be implemented on site prior to the occupation of the development unless an alternative agreement is reached with the Responsible Authority.
61. Before the building approved by this permit is occupied, all retaining walls and boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority if the occupier of the adjoining land allows access for the purpose.
62. Buildings or works must not be constructed over or adjacent to any easement or within one metre of an existing Council drainage asset without the prior written consent of Council (or of the authorities or agencies with an interest in the easement) to the satisfaction of the Responsible Authority.
63. Floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
64. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than stormwater downpipes 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.
65. 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.

66. Before the building approved by this permit is occupied, concrete vehicular crossing(s) must be constructed to suit the proposed driveway(s) in accordance with the Responsible Authority's specification and any obsolete, disused or redundant vehicle crossing(s) must be removed and the area reinstated to footpath, nature strip and kerb and channel 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 prior written consent of the Responsible Authority and relevant servicing authority/agency. Subsequent works and costs in association with the relocation and/or amendment must be incurred at the owner's cost, to the satisfaction of the relevant servicing authority/agency and Responsible Authority.

67. Bicycle parking spaces, access, lockers and compounds, associated showers and change rooms, must be provided, maintained and kept available for these purposes at all times to the satisfaction of the Responsible Authority.
68. The existing street trees must not be removed or damaged as a result of the permitted development, without the written consent of the Responsible Authority.
69. Any street trees to be planted along Pascoe Vale Road must be to the satisfaction of the Responsible Authority. All costs associated with the planting of street trees must be borne by the permit applicant and be completed to the satisfaction of the Responsible Authority before the building approved by this permit is occupied.
70. 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.

71. Before the building approved by this permit is occupied, all boundary fencing is to be constructed in accordance with the endorsed plans at the cost of the permit holder to the satisfaction of the Responsible Authority.
72. The uses authorised by this permit may only operate between the hours of:
 - a) Monday to Sunday: 7.00am to midnight.
73. Goods must not be stored or left exposed outside a building so as to be visible from any public road or thoroughfare.
74. 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.
75. The development must be provided with external lighting capable of illuminating access to the vehicle accessways, loading/service dock area, car parking spaces and pedestrian entrances/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.
76. Noise emitted from 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).
77. Noise levels emanating from the land must not exceed the permissible noise levels determined in accordance with State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2 (SEPP N-2).
78. No form of public address system may be installed or operated so as to be audible from outside the boundaries of the site.
79. 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).
80. 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.
81. 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; or
- d) Presence of vermin,
- or in any other way, to the satisfaction of the Responsible Authority.
82. Any cooking exhaust systems must be provided with a filter system and appropriately sited to eliminate cooking odours, fumes and smoke to the satisfaction of the Responsible Authority.
83. All wastes, including liquid waste and waste water, must be disposed of to the satisfaction of the Responsible Authority.
84. 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.
85. Immediately upon the discovery of any Aboriginal cultural material, works must cease and Aboriginal Victoria must be notified of the discovery.
86. This permit will expire if:
- a) The development is not commenced within three (3) years from the date of issue of this permit; or
- b) The development is not completed and the use is not commenced within five (5) 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 on 9243 8888 regarding legal point of discharge, vehicular crossings, building over easements, asset protection, road consent/occupancy, etc.
- This permit does not authorise any advertising signs. No advertising signs may be erected on the land other than those which have been approved under a separate planning permit or are exempt from the need for a planning permit under the Moonee Valley Planning Scheme.

- The required on-site detention system must be designed to limit the rate of stormwater discharge from the property to pre-development levels in accordance with the following: $C_w=0.4$, $t_c=10$ mins, $t_{so}=5$ mins, ARI 1 in 5. An ARI of 1 in 10 shall be used for storage and the greater of post development C_w or $C_w=0.80$.
- All drainage works undertaken must be in accordance with the requirements of Stormwater Drainage Requirements for Development Works as prepared by Moonee Valley City Council.
- Before the development starts, separate approval must be obtained from Moonee Valley City Council in relation to the proposed removal and/or planting of street trees. 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 Moonee Valley City Council's Technical Services Department and be to the satisfaction of the Responsible Authority.
- Existing levels along the property line and easements must be maintained. All proposed levels must match to existing surface levels along the property boundary and/or easement. Council will not accept any modifications to existing levels within any road reserve or easement.
- The development authorised by this permit will require the submission of a Construction and Site Management Plan (CSMP) prior to the commencement of any works. All CSMP's are required to be made via Council's website or in person at 9 Kellaway Avenue, Moonee Ponds.
- Melbourne Water's Five Mile Creek is located within the subject property. Please note that this creek is a constructed channel which has a 1.52m base width and a 6.1m channel width constructed from blue stone pitchers. It was constructed in 1960.
- The property is subject to flooding when the capacity of the drainage system is exceeded. The applicable flood level for the property grades from 30.9 metres Australian Height Datum (AHD) at the western property boundary down to 30.43m AHD at the eastern property boundary based on a flood event which has a probability of 1% occurrence in any one year.
- A licenced surveyor to be engaged to determine the graded flood levels to Australian Height Datum (AHD) for the above property.
- Separate consent for works within the road reserve and the specifications of these works is required under the *Road Management Act 2004*. For the purposes of this application the works will include provision of signalised intersections and removal of redundant vehicle crossovers.
- Given the building's location adjacent the rail corridor, the design is to be designated as an 'importance level 2 structure' for the purposes of AS 1170.4 Structural design actions: Part 4 Earthquake actions in Australia.
- The building must comply with the Building Code of Australia and relevant Australian Standards, including AS 5100:2017 (Part 1&2) Bridge Design for impact protection and collision loads where a structure is within 10m of

rail, and risk assessment / mitigation measures for buildings within 10-20m of rail. Building is approx. 13m to nearest rail. The proponent is to confirm the lateral separation from nearest rail by survey and conduct risk assessment with respect to impact protection as required by the code.

- PTV and MTM minimum clearance requirements apply for external developments. Standard L1-CHE-STD-025 and/or PTV-NTS-001 shall apply for clearances and associated Technical Requirements.
- Working adjacent rail O/H power cables: Consultation and compliance with conditions of the rail operator are required. Plant reach within 2m of electrical infrastructure is not permitted without power shutdown permit. Plant reach 2-6.4m of electrical infrastructure requires rail operator safety observer on site and protective measures. Developer to confirm consultation and compliance with MTM requirements.
- Fire: MFB Guideline No. GL-27 for a building adjacent to the rail corridor, applies. The developer is to confirm consultation and agreement with MFB. Sufficient clearance for MFB assets adjacent to the rail corridor is required. Proponent to consult and comply with MFB requirements.
- Council remains strongly supportive of the link/connection and potential extension of the rail platform between the proposed development and Strathmore Railway Station, subject to approval from the relevant authorities.

For: Crs Byrne, Cusack, Gauci Maurici, Lawrence, Marshall, Sharpe, Surace

Against: Cr Sipek

CARRIED

Cr Nation returned to the meeting at 6.54pm.

10.2 Aged Care Service Review

Author: Maria Weiss - Group Manager Community Services

Department: Community Services

Minute No. 2020/31

Council Resolution

Moved by Cr Cusack, seconded by Cr Sharpe that Council resolves to:

- a. Note the aged care service review report provided outlining the performance of Commonwealth funded aged care services delivered in the 2018/19 financial year.
- b. Receives a report providing an update on aged care service delivery for the 2019/20 financial year no later than April 2021.

CARRIED UNANIMOUSLY

Cr Sipek left the meeting at 7.11pm before the vote on the following item.

It was moved by Cr Gauci Maurici, seconded by Cr Nation that the meeting be adjourned for two minutes.

CARRIED UNANIMOUSLY

The meeting adjourned at 7.18pm.

Cr Sipek returned to the chamber at 7.19pm.

The meeting resumed at 7.20pm.

10.3 Family Day Care service review

Author: Gurpreet Thiara - Team Leader Childcare Operations

Business Unit: Community Services

Minute No. 2020/32

Council Resolution

Moved by Cr Sharpe, seconded by Cr Cusack that Council resolves to:

- a. Support the transition of the three current contract educators to a new provider by 30 June 2020.
- b. Notify all contract educators and families the Council decision and timelines for the transition.

CARRIED UNANIMOUSLY

**10.4 Amendment to the Activities and General Amenities
Local Law 2018-2028**

Author: Carey Patterson - Group Manager Regulatory and City Compliance

Business Unit: Regulatory and City Compliance

Minute No. 2020/33

Council Resolution

Moved by Cr Surace, seconded by Cr Lawrence that Council resolves to:

- a. Endorse the proposed changes to the Activities and General Amenities Local Law 2018-2028 (Local Law), Attachment A and the draft community impact statement, Attachment B for the purposes of consultation and to assist with the public submission process.
- b. Place a notice in the Victorian Government Gazette, the Moonee Valley Leader and on Council's website, advising of Council's intention to amend the Local Law, in accordance with sections 119 and 223 of *the Local Government Act 1989*, stating:
 - I. The purpose of the proposed amendments to the current Local Law;
 - II. That a copy of the proposed amended Local Law and community impact statement can be obtained from Council's website or Civic Centre; and
 - III. That any person affected by the proposed changes to the Local Law may make a submission under Section 223 of the *Local Government Act 1989*. Submissions can be received from Friday, 13 March 2020 until close of business on Friday, 10 April 2020.
- c. Authorise the establishment of an advisory committee consisting of all Councillors, to consider any submission received.
- d. Authorise the Chief Executive Officer to arrange the time and date of the advisory committee if required.
- e. A further report be provided to Council at the completion of the submission process.

CARRIED UNANIMOUSLY

10.5 2019-20 Capital Works Program Update

Author: Nikhil Aggarwal - Coordinator Program Management Office

Business Unit: City Development

Minute No. **2020/34**

Council Resolution

Moved by Cr Sharpe, seconded by Cr Sipek that Council resolves to:

- a. Authorise requested 2019/20 Capital Works Project variations as per Section A of Attachment A.
- b. Allocate an additional \$250,000 to enable construction of the modular pavilion at Aberfeldie Park, adjacent to the existing JA Fullarton Pavilion. That the funding includes the provision of a temporary facility to support the winter sports that use the area. These facilities to include change facilities and toilets.

CARRIED UNANIMOUSLY

10.6 Councillor Expenses Report - 1 July 2019 to 31 December 2019

Author: Lee McSweeney - Senior Governance Advisor

Business Unit: Operations

Minute No. 2020/35

Council Resolution

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

- a. Endorse the Councillor Expenses Report for the period 1 July 2019 to 30 September 2019 and 1 October 2019 to 31 December 2019.
- b. Publish the Councillor Expenses Report, provided in Table 1 and Table 2, on Council's website.
- c. Receive a further report at an Ordinary council meeting in April 2020 updating individual Councillor expenses for all previous quarters in this Council term to show expenditure on training/professional development that has been provided to councillors by an external party and ensure this is recorded in future expenses reports.
- d. That the report include the cost of AICD training undertaken by Cr Byrne in October 2019, being \$8,168.

CARRIED UNANIMOUSLY

Cr Lawrence left the meeting at 7.47pm. Cr Lawrence returned to the meeting at 7.49pm before the vote on the next item.

Cr Sharpe left the meeting at 7.49pm.

11. Notices of Motion

11.1 Notice Of Motion No. 2020/07 - Walking and cycling around schools

File No: FOL/19/3935

From: Councillor Nicole Marshall

Minute No. 2020/36

Council Resolution

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

1. Acknowledges the important role exercise, including walking, can play in improving the mental and physical health of children;
2. Requests the Chief Executive Officer:
 - a) prepare a report for an Ordinary council meeting in this Council term (whether as part of the Connected Action Plan or otherwise) considering the feasibility of an integrated walking and cycling plan for Moonee Valley schools (acknowledging the relative close proximity of many Moonee Valley schools) to improve the levels of walking and cycling to school and reduce reliance on private vehicle transport. The report should also consider the possibility of applying for State Government or philanthropic (eg the Bluearth Foundation) funding to undertake a pilot project; and
 - b) liaise with Moonee Valley school principals in relation to this proposal.

CARRIED UNANIMOUSLY

11.2 **Notice Of Motion No. 2020/08 - Leases**
File No: FOL/19/3935
From: Councillor Nicole Marshall

Minute No. 2020/37

Council Resolution

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

1. Acknowledges it is waiting for the finalisation of the Victorian Local Government Rating System Review before finalising its leasing policy;
2. Acknowledges that there may be a significant period of time before the Review is finalised and its findings implemented (including any legislative amendments);
3. Further acknowledges that there are community organisations that are proposing to undertake significant capital works and maintenance in relation to the facilities they currently lease and the understandable reluctance of those organisations to do so without security of tenure for an appropriate period of time; and
4. Authorises the Chief Executive Officer to enter into leases for these facilities for a term of up to 5 years.

CARRIED UNANIMOUSLY

12. Urgent Business

Nil

13. Delegates Reports

Cr Surace reported on her activities as a delegate to the Metropolitan Transport Forum, to which she has been elected Deputy Chair. A congestion conference will be held in Melbourne on 16-17 April with a number of guest speakers addressing this major issue.

14. Confidential Reports

Nil

15. Close of Meeting

The meeting concluded at 8.12pm.

**CR SAMANTHA BYRNE
CHAIRPERSON**