



**CITY OF
MONASH**

**MINUTES OF THE MEETING OF
COUNCIL
HELD ON 15 DECEMBER 2020**

at 7.00 pm

**Council Chambers
293 Springvale Road,
Glen Waverley**

**MINUTES OF THE MEETING OF THE MONASH CITY COUNCIL
HELD IN THE COUNCIL CHAMBERS, SPRINGVALE ROAD GLEN WAVERLEY
ON 15 DECEMBER 2020 AT 7.00 PM.**

PRESENT

Councillors B Little (Mayor), S McCluskey (Deputy Mayor), A de Silva, J Fergeus, S James, G Lake, N Luo, R Paterson, T Samardzija, T Zographos

APOLOGIES

Councillor P Klisaris

DISCLOSURES OF CONFLICT OF INTEREST

Cr Paterson disclosed a conflict of interest for item 7.1. Cr Paterson left the meeting at 8:38pm and returned to the meeting at 8:40pm.

CONFIRMATION OF MINUTES OF THE MEETINGS OF COUNCIL HELD ON 24 NOVEMBER 2020

Moved Cr James

Seconded Cr McCluskey

That the minutes of the Meeting of Council held on 24 November 2020, be taken as read and confirmed.

CARRIED

RECEPTION AND READING OF PETITIONS, JOINT LETTERS & MEMORIALS

MEMORIAL

The Mayor noted the passing of John Webster, a former Deputy Town Clerk of the former City of Waverley (now known as the City of Monash).

PETITION

Cr de Silva tabled a petition of 50 signatures from residents against the removal of a tree in the front yard of 44 Darbyshire Road, Mount Waverley.

PROCEDURAL MOTION

Moved Cr de Silva

Seconded Cr Paterson

That the petition against the removal of a tree in the front yard of 44 Darbyshire Road, Mount Waverley be received.

CARRIED

PUBLIC QUESTION TIME

The Mayor advised that one (1) question had been received.

OFFICERS' REPORTS

1. CITY DEVELOPMENT

1.1 Town Planning Schedules

Moved Cr Zographos

Seconded Cr Fergeus

That the report containing the Town Planning Schedules be noted.

CARRIED

1.2 253-269 Wellington Road, Mulgrave – Use and development for a residential hotel including the sale and consumption of liquor and display of signage

Moved Cr Fergeus

Seconded Cr Paterson

That Council resolves to issue a Notice of Decision to Refuse to Grant a Planning Permit (TPA/51770) for the use and development of the land for a residential hotel in a Heritage Overlay and Design and Development Overlay, use of the land to sell and consume liquor, display of internally illuminated business identification high wall and panel signage and alteration of access to a Road Zone Category 1 at 253-269 Wellington Road, Mulgrave subject to the following grounds:

-
1. *The scale, height, massing and siting of the proposed building fails to satisfy the objectives of Clause 21.12 (Heritage) and 22.07 (Heritage) as it will dominate the heritage place and its surrounds, in particular obscuring the views of the freestanding pavilion from Wellington Road.*
 2. *The proposal fails to satisfy the design objectives of the Design and Development Overlay, Schedule 1 and Clause 22.03 of the Monash Planning Scheme with respect to the location of services, fencing and car parking within the front setback of the site.*
 3. *The proposal fails to satisfy the objectives of Clause 22.07 as the proposed works are not sympathetic to the heritage place and its surrounds and fails to conserve, restore and enhance the heritage place.*
 4. *The proposal fails to provide for sufficient bicycle facilities in accordance with Clause 52.34 of the Monash Planning Scheme.*
 5. *The area for liquor to be sold and consumed within the ground floor front setback of the site is not an appropriate location and will impact on the amenity of the surrounding area.*
 6. *The provision of car parking spaces allocated to the Hotel Use is not satisfactory and is contrary to the provisions of Clause 52.06.*

DIVISION

For: Crs de Silva, Fergeus, Paterson, Samardzija, McCluskey

Against: Crs Little, Lake, Zographos, James, Luo

Note: Due to a tied vote, the Mayor had the casting vote and declared the motion as lost.

LOST

ALTERNATIVE MOTION

Moved Cr James

Seconded Cr Lake

That Council resolves to issue a Notice of Decision to Grant a Planning Permit (TPA/51770) for use and development of the land for a residential hotel in a Heritage Overlay and Design and Development Overlay, use of the land to sell and consume liquor, display of internally illuminated business identification high wall and panel signage and alteration of access to a Road Zone Category 1, at 253-269 Wellington Road, Mulgrave subject to the following conditions:

Amended Plans Required

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 plans must be drawn to scale and dimensioned. When the plans are endorsed they will then form part of the Permit. The plans must be generally in accordance with the decision plans prepared by WMK Architecture , dated 16 September 2020 but modified to show:

- a) Reduction in the building footprint within the north-west corner and northern side of the building at the ground floor, and within the north-west corner at all other levels to improve sight lines to the existing 1969 Building, to the satisfaction of the Responsible Authority.**
- b) The removal of the paint on the existing 1969 building to restore the rusted appearance of the weathered Core-Ten steel.**
- c) The removal of the proposed additional external staircases and openings within the front elevation of the existing 1969 building.**
- d) The proposed pavilion structure to utilise Core-Ten steel within the supporting columns, and be designed to be more in keeping with the 1969 building.**
- e) All services and screen walls to be set back a minimum of 20 metres from Wellington Road.**
- f) The pedestrian pathways to Wellington Road to be identified as being permeable, and located at natural ground level (no excavation or fill permitted) within the tree protection zones identified.**
- g) The water meter assembly and hydraulic sewer trap within the front setback of the site to be relocated or further arboricultural advice provided to suggest that this will have no impact on the health of Tree 8 to be retained to the satisfaction of the Responsible Authority.**
- h) A plan clearly showing the area of liquor to be sold and consumed (with correlating legend). The sale and consumption of liquor at the ground floor within the front setback of the site is not permitted.**
- i) A total of 69 car spaces to be clearly allocated to the proposed residential hotel use, and 99 car spaces to the office use.**
- j) Proposed bicycle spaces for staff and hotel visitors to be relocated to the ground floor of the building, or alternate accessible location.**
- k) The provision of a minimum of four (4) visitor bicycle parking spaces external to the buildings within the site.**
- l) A Landscape Plan in accordance with Condition 9 of this Permit.**
- m) A Tree Management Plan in accordance with Condition 12 of this Permit.**
- n) The provision of organics / food waste recycling in accordance with Condition 15.**
- o) A Sustainable Management Plan in accordance with Condition 20 of this Permit.**
- p) An amended Acoustic Report in accordance with Condition 22 of this Permit.**
- q) An amended Car Parking Management Plan in accordance with Condition 23 of this Permit.**

Layout not to be altered

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

Satisfactory Continuation

-
3. *Once the development and use has started it must be continued and completed to the satisfaction of the Responsible Authority.*

Heritage Conservation

4. *Before the works commence (including demolition), a detailed account of conservation and restoration works must be submitted to and approved by the Responsible Authority. When approved, the Conservation Management Plan will be endorsed and will form part of this permit. The Conservation Management Plan must include, but not be limited to, the following:*

(a) Fully dimensioned and accurately measured plans at a scale of no less than 1:50 prepared by a suitably qualified heritage practitioner/ architect, detailing:

- (i) The existing external walls and roofing, including sections and the thickness of architectural elements of the heritage building;*
- (ii) The proposed reconstruction, restoration or works to the existing façade, with notations clearly outlining any changes from existing conditions or use of new materials; and*
- (iii) External detailing of the new hotel as responsive to the heritage precedent.*

(b) A written description of the demolition and construction methods to be used.

The report is to be peer reviewed prior to endorsement, at the cost of the applicant.

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

6. *Prior to the commencement of the development, including any demolition works, an audit must be prepared which details the condition of heritage fabric on the heritage building and further detail provided regarding elements that are to be retained, demolished or altered. The report must be prepared by a suitably qualified heritage practitioner / architect. The recommendations contained within this report must be implemented and be to the satisfaction of the Responsible Authority.*

7. *Prior to any demolition works commencing on the site, an annotated photographic heritage record of any elements to be demolished or altered of the building or sunken courtyard area must be prepared to the satisfaction of the Responsible Authority. A copy of the study must be submitted to the Responsible Authority. The study must include:*

- (a) Views of each elevation of the building;*
- (b) Two diagonally opposed views of each internal space in the building; and*
- (c) Architectural design detailing of the building.*

Images must be presented to a high quality and resolution to the satisfaction of the Responsible Authority.

8. *The works associated with the existing heritage building on the site are to be undertaken in parallel with the construction with the new building on the land, and are to be completed prior to the use of the new building on the land.*

Landscape Plan

9. Concurrent with the endorsement of any plans pursuant to Condition 1, a landscape plan prepared by a Landscape Architect or a suitably qualified or experienced landscape designer, drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. When endorsed, the plan will form part of the Permit. The Landscape Plan must be generally in accordance with the Landscape Plan prepared by John Patrick Pty Ltd, dated 21 July 2020 except that the plan must show:

- (a) Changes as required by Condition 1 of this Permit.**
- (b) Areas of permeable paving required as per the Arborist Report prepared by John Patrick Pty Ltd dated July 2020.**
- (c) Notations required for any areas where no excavation / fill is permitted within the Tree Protection Zones of trees to be retained on the site.**

10. Before the occupation of the buildings allowed by this permit, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.

11. All landscaping works shown on the endorsed landscape plan(s) must be maintained and any dead, diseased or damaged plants replaced, all to the satisfaction of the Responsible Authority.

Tree Management Plan

12. Concurrent with the submission of amended plans required by Condition 1 and prior to any demolition or site works, a Tree Management Plan (TMP) must be submitted to and approved by the Responsible Authority. The TMP must be prepared by a suitably qualified and experienced Arborist and must set out recommendations and requirements in relation to the management and maintenance of Tree Nos. 3, 5, 6, 7, 8, 10 and 11 (as identified in the Arborist Report submitted with the application, prepared by John Patrick Pty Ltd dated July 2020).

The TMP must be approved by the Responsible Authority prior to the commencement of any works, including demolition and/or levelling of the site. The TMP must make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites and detail the following to the satisfaction of the Responsible Authority ensuring the trees to be retained remain healthy and viable during construction:

- (a) A Tree Protection Plan drawn to scale that shows:**
 - i. Tree protection zones and structural root zones of all trees to be retained,**
 - ii. All tree protection fenced off areas and areas where ground protection systems will be used;**
 - iii. The type of footings within any tree protection zones;**

-
-
- iv. *Any services to be located within the tree protection zone and a notation stating all services will either be located outside of the tree protection zone, bored under the tree protection zone, or installed using hydro excavation under the supervision of the Project Arborist; and*
 - v. *A notation to refer to the Tree Management Plan for specific detail on what actions are required within the tree protection zones.*

(b) Details of how the root system of any tree to be retained will be managed. This must detail any initial non-destructive trenching and pruning of any roots required to be undertaken by the Project Arborist.

(c) Supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the responsible authority; and

(d) Any remedial pruning works required to be performed on tree canopies located within subject site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.

13. All trees specified in the endorsed Tree Management Plan are to be protected and maintained in accordance with the recommendations set out in the report, to the satisfaction of the Responsible Authority.

14. Any in-ground, automatic watering system linked to rainwater tanks on the land must be installed and maintained to the common garden areas to the satisfaction of the Responsible Authority.

Waste Management Plan

15. Concurrent with the endorsement of any plans pursuant to Condition 1, a Waste Management Plan must be submitted and approved by the Responsible Authority. The plan must be generally in accordance with the plan prepared by MGA dated 15 July 2020, but showing to the satisfaction of the Responsible Authority:

- a) Purpose as stated in the City of Monash MUD and Commercial Developments WMP Guide for Applicants;**
- b) Application number added to introductory section of WMP;**
- c) Allowance for organics / food waste recycling service;**
- d) Allowance for separated glass recycling as per 2020 State Government Recycling Victoria Policy released in April 2020.;**
- e) Detail of internal bin strategy; and**
- f) Scale drawing to demonstrate bin maneuverability, access routes for occupants and cleaners and the provision of all waste stream storage.**

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

17. No bin or receptacle or any form of rubbish or refuse shall be allowed to remain in view of the public and no odour shall be emitted from any receptacle so as to cause offence to persons outside the land.

Construction Management Plan

-
- 18. Prior to the commencement of any site works (including demolition and excavation), a Construction Management Plan must be submitted and approved by the Responsible Authority. No works are permitted to occur until the Plan has been endorsed by the Responsible Authority. Once endorsed, the Construction Management Plan will form part of the permit and must be implemented to the satisfaction of the Responsible Authority. The plan must address the following issues:**
- a) Hours for construction activity in accordance with any other condition of this permit;**
 - b) Measures to control noise, dust and water and sediment laden runoff;**
 - c) Prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;**
 - d) Measures relating to removal of hazardous or dangerous material from the site, where applicable;**
 - e) A plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site;**
 - f) Cleaning and maintaining surrounding road surfaces;**
 - g) A site plan showing the location of any site sheds, on-site amenities, building waste storage and the like, noting that Council does not support the siting of site sheds within Council road reserves;**
 - h) Public Safety and site security;**
 - i) A plan showing the location of parking areas for construction and sub-contractors' vehicles on and surrounding the site, to ensure that vehicles associated with construction activity cause minimum disruption to surrounding premises. Any basement car park on the land must be made available for use by sub-constructors/tradespersons upon completion of such areas, without delay;**
 - j) A Traffic Management Plan showing truck routes to and from the site;**
 - k) Swept path analysis demonstrating the ability for trucks to enter and exit the site in a safe manner for the largest anticipated truck associated with the construction;**
 - l) Measures to ensure that sub-contractors/tradespersons operating on the site are aware of the contents of the Construction Management Plan;**
 - m) Contact details of key construction site staff;**
 - n) Any other relevant matters, including the requirements of VicRoads or Public Transport Victoria.**
 - o) Except with the prior written consent of the Responsible Authority, a requirement that construction works must only be carried out during the following hours:**
 - Monday to Friday (inclusive) – 7.00am to 6.00pm;**
 - Saturday – 9.00am to 1.00pm;**
 - Saturday – 1.00pm to 5.00pm (Only activities associated with the erection of buildings. This does not include excavation or the use of heavy machinery.)**
 - No works are permitted on Sundays or Public Holidays.**

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

Sustainable Management Plan (SMP) Required

- 20. Concurrent with the endorsement of any plans pursuant to Condition 1, a Sustainable Management Plan (in accordance with Clause 22.13) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Sustainable Management Plan will be endorsed and will form part of this permit.**

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

Amended Acoustic Report Required

- 22. Concurrent with the endorsement of any plans pursuant to Condition 1, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Octave Acoustics dated 21 July 2020, but modified to include:**
- a) Any changes as required by Condition 1 of the Permit.**

Car Park Management Plan Required

- 23. Before the development commences, an amended Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Car Park Management Plan will be endorsed and will form part of this permit. The amended Car Park Management Plan must be generally in accordance with the Car Park Management Plan prepared by MGA dated 16 September 2020, but modified to include (or show):**

- a) All car spaces on the land to be allocated to hotel or office uses.**
- b) Tandem car parking proposed to be allocated to staff.**

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

Department of Transport Conditions (ref: PPR33676/20)

- 25. The demolition and construction of the development must not disrupt bus operations on Wellington Road without the prior written consent of the Head, Transport for Victoria.**

- 26. Any request for written consent to disrupt bus operations on Wellington Road during the demolition and construction of the development must be submitted to the Head, Transport for Victoria not later than 8 weeks prior to the planned**

disruption and must detail measures that will occur to mitigate the impact of the planned disruption.

Amenity of Area

27. The amenity of the area must not be detrimentally affected by the use or development, through the:

- a) transport of materials, goods or commodities to or from the land;***
- b) appearance of any building, works or materials;***
- c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; and***
- d) presence of vermin.***

To the satisfaction of the Responsible Authority.

Noise

28. Noise levels emanating from the premises must not exceed the relevant levels prescribed under State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority.

29. Noise levels emanating from the premises must not exceed the relevant levels prescribed by the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1, to the satisfaction of the Responsible Authority.

Licensed premises

30. Alcohol must only be consumed within the areas delineated on the plans by a red line.

31. Except without the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur during the following hours:

- a) Café/ Lounge – 9am – 1am the following morning, 7 days per week.***
- b) Dining – 9am-1am the following morning, 7 days per week.***
- c) Level 3 events areas and business centre – 9am-1am the following morning, 7 days per week.***
- d) Hotel Suites – 24 hours***

Car Parking and Driveways

32. Before the use starts or any building is occupied, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:

- a) constructed to the satisfaction of the Responsible Authority;***
- b) properly formed to such levels that they can be used in accordance with the plans;***
- c) surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;***
- d) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority;***
- e) line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.***

Parking areas and access lanes must be kept available for these purposes at all times.

- 33. Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose, to the satisfaction of the Responsible Authority.**
- 34. Concrete kerbs or other suitable barriers must be provided to prevent damage to fences and/or landscaped areas and to prevent direct vehicle access to and from the site other than by a vehicle crossing, to the satisfaction of the Responsible Authority.**
- 35. Low intensity / baffled lighting must be provided to ensure that car park areas and pedestrian accessways are adequately illuminated without any unreasonable loss of amenity to the surrounding area, to the satisfaction of the Responsible Authority.**
- 36. Visitor parking spaces within the development must be:**
- a) Clearly identified by appropriate signage having an area no greater than 0.3m²;**
 - b) Line marked to indicate each car space; and**
 - c) Available for visitor usage at all times.**
- 37. All loading and unloading of vehicles must be carried out within the designated loading bay and must be conducted in a manner that does not cause any interference with the circulation and parking of vehicles on the land, to the satisfaction of the Responsible Authority.**

Ongoing Architect Involvement

- 38. As part of the ongoing consultant team, WMK Architects or an architectural firm which is acknowledged to have comparable skill and expertise to the satisfaction of the Responsible Authority must be engaged to:**
- a) oversee design and construction of the development; and**
 - b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.**

Service Location

- 39. Any required fire services, electricity supply, gas and water meter boxes must be discreetly located and/or screened to compliment the development to the satisfaction of the Responsible Authority. Any required services must be clearly detailed on endorsed plans forming part of this permit.**
- 40. No equipment, services, architectural features or structures of any kind, including telecommunication facilities, other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.**
- 41. No goods must be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.**

Drainage and Stormwater

-
- 42. The site must be drained to the satisfaction of the Responsible Authority.**
- 43. All stormwater collected on the site from all hard surface areas must not be allowed to flow uncontrolled into adjoining properties or the road reserve.**
- 44. The nominated point of stormwater connection for the site is to the south of the property where the entire site's stormwater must be collected and free drained via a pipe to the in the easement via the existing property connection. Note: If the point of connection cannot be located then notify Council's Engineering Department immediately.**
- 45. Any internal drainage pipes found during construction are to be reconnected to the new internal stormwater system, or to the satisfaction of the Responsible Authority.**

Signs

- 46. The location, layout, dimensions, structures and features of the approved sign(s) shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.**
- 47. All signs must be constructed and maintained to the satisfaction of the Responsible Authority.**
- 48. All signs must be located wholly within the boundary of the land.**
- 49. The intensity of lighting associated with the illumination of the advertising sign(s) must be limited so as not to cause glare or be a distraction to motorists in adjoining streets or cause a loss of amenity in the surrounding area to the satisfaction of the Responsible Authority.**
- 50. The sign must not:**
- a) Dazzle or distract drivers due to its colouring;**
 - b) Be able to be mistaken for a traffic signal because it has, for example, red circles, octagons, crosses or triangles;**
 - c) Be able to be mistaken as an instruction to drivers.**
- to the satisfaction of the Responsible Authority.**
- 51. Signs advertising goods and services must, to the satisfaction of the Responsible Authority, only be for goods and services available on the land for which this permit is granted.**

Time for Starting and Completion

- 52. In accordance with section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:**
- a) The development has not started before 2 years from the date of issue.**
 - b) The development is not completed before 4 years from the date of issue.**

In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or:

- i. within six (6) months afterwards if the use or the development has not commenced; or*
- ii. within twelve (12) months afterwards if the development has not been completed.*

Council and the Victorian Civil and Administrative Tribunal are unable to approve requests outside of the relevant time frame.

Permit to Expire

53. The approved sign(s) of this Permit will expire 15 years from the date of issue of this permit.

NOTES

- A. This is not a Building Permit. Building approval must be obtained prior to the commencement of the above approved works.***
- B. This is not approval under the Health Act. Premises used for the sale or storage of food in any manner whatsoever are to be registered under the Food Act before occupation and will require approval***
- C. Unless no permit is required under the planning scheme, no sign must be constructed or displayed without a further permit.***
- D. Upon expiry of this permit, the continued display of the sign(s) approved under this permit is unlawful. Prior to the permit expiring, application for a new planning permit must be made if the continued display of the sign(s) is proposed.***
- E. All service easements within the property must be either relocated and services adjusted to the satisfaction of the responsible authorities.***
- F. One copy of the plans for the drainage and civil works must be submitted to the Engineering Department prior to the commencement of works. The plans are to show sufficient information to determine that the drainage works will meet all drainage conditions of the permit.***

DIVISION

For: Crs Paterson, Lake, Luo, Zographos, Little, McCluskey, James

Against: Crs Fergeus, de Silva, Samardzija

CARRIED

1.3 Proposed reinstatement of responsible authority status to council for the Waverley park estate (Mirvac estate) and M-City (formerly the Nova Centre)

Moved Cr Fergeus

Seconded Cr Zographos

That Council:

1. *Advise the Department of Environment, Land, Water and Planning (DELWP) that Council will agree to the reinstatement of Responsible Authority status to Council for the Waverley Park Estate and M-City (formerly the Nova Centre) subject to:*
 - a. *The full and total completion of all stages of each development and subdivision in accordance with the approved planning permits and any other outstanding requirements or agreements;*
 - b. *Written confirmation from the Minister for Planning that the developments are in full compliance with all conditions of their respective planning permits;*
 - c. *All public land, including roads, has been formally transferred to Council*
 - d. *Any open space provided as part each of the developments is rezoned to the appropriate zone ;*
 - e. *DEWLP confirm that there are no ongoing conflicts between the mandatory components of the General Residential Zone and the requirements of Waverley Park Neighbourhood Character Overlay 1 - such as building heights and garden area requirements; and*
 - f. *DEWLP advising all land owners in the affected areas of the change in Responsible Authority status.*

CARRIED

1.4 Proposed Lease to Oakleigh Tennis Club Inc.

Moved Cr Zographos

Seconded Cr McCluskey

That Council:

1. *Negotiate a lease with the Oakleigh Tennis Club Inc (OTC) for the tennis courts located at part Caloola Reserve, 85 Atkinson Street Oakleigh incorporating the following terms and conditions;*
 - a) *Premises: Tennis courts located at part Caloola Reserve, 85 Atkinson Street, Oakleigh*
 - b) *Lessee: Oakleigh Tennis Club Incorporated*
 - c) *Term: 12 Years*
 - d) *Rent: \$1,022 per annum (Inc GST)*
 - e) *Rent Reviews: Increased in accordance with the City of Monash's Annual adopted Budget*
 - f) *Further Term: One (1) further term of Ten (10) years*
 - g) *Use: Tennis and associated activities ("the Proposal")*

-
2. *Give public notice of the proposal in accordance with Section 190 of the Act, in a newspaper and on Council's website from 27 January 2021 and invite submissions on the proposal.*
 3. *Authorises Council's Chief Executive Officer or her delegate to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act in respect of the proposal ('Appointed Officer').*
 4. *Appoint a Committee of Council comprising the Oakleigh Councillors and the Mayor to hear any submitters requesting to be heard and consider any submissions received under Section 223 of the Act.*
 5. *Consider and determine the outcome of the Section 223 process on the proposal at the Ordinary Meeting of Council on a date and time to be fixed.*

CARRIED

2. COMMUNITY SERVICES

2.1 2020/21 Monash Quick Response Grants Program Recipients

Moved Cr Paterson

Seconded Cr McCluskey

That Council notes the successful applications that have been funded through the Quick Response Grant program during the period 8 October – 4 November 2020 to a total of \$510.

CARRIED

2.2 Monash Social Housing Framework 2020 – 2025

Moved Cr Fergeus

Seconded Cr Paterson

That Council endorse the Monash Social Housing Framework 2020 – 2025.

CARRIED

2.3 Waverley Women's Sports Centre Precinct Plan

Moved Cr McCluskey

Seconded Cr Luo

That Council:

1. *Notes the key findings and submissions received in response to the public exhibition of the draft Waverley Women's Sport Centre Precinct Plan in Appendix A.*
2. *Endorse the Waverley Women's Sports Centre Precinct Plan (Appendix B).*

LOST

ALTERNATIVE MOTION

Moved Cr Samardzija

Seconded Cr James

That Council:

1. *Notes the key findings and submissions received in response to the public exhibition of the draft Waverley Women's Sport Centre Precinct Plan in Appendix A*
2. *Defers endorsement of the Waverley Women's Sports Centre Precinct Plan to enable further consideration of the matters raised through the community consultation process*

POINT OF ORDER

Cr Fergeus called a Point of Order and stated that Cr Lake's comments were not relevant to the item. The Mayor upheld the Point of Order.

The alternative motion was put to the vote and declared carried.

CARRIED

4. INFRASTRUCTURE & ENVIRONMENT

4.1 Tree Management Policy

Moved Cr James

Seconded Cr Paterson

That Council approve the draft Tree Management Policy (Attachment 1) for public exhibition and invite community submissions for review before finalising the Policy for Council consideration and endorsement.

CARRIED

4.2 Environmental Sustainable Design Policy for Council Buildings and Infrastructure

Moved Cr James

Seconded Cr Paterson

That Council note the draft Environmental Sustainable Design [ESD] Policy for Council Buildings and Infrastructure acknowledging that a final version of the policy will be presented to a Council meeting in 2021 for adoption following a trial of the policy during the development of the Wellington Children's Hub and Mulgrave Pavilion to identify any changes or updates that may need to be made.

CARRIED

4.3 Tender for Madison Court Playspace Upgrade

Moved Cr McCluskey

Seconded Cr Paterson

That Council:

- 1. Awards the tender from Citywide Service Solutions Pty Ltd for Madison Court Playspace Upgrade, Contract No. T2021036 for a fixed Lump Sum of \$401,711.34 with a further \$29,310.70 for Provisional Items and a \$25,300 Contingency Sum;*
- 2. Authorises the Chief Executive Officer to execute the contract agreement;*
- 3. Notes that the contract will commence on 4 January 2021 and the expected completion date is 14 May 2021; and*
- 4. Notes that the anticipated project expenditure including the fixed Lump Sum, Provisional Items, Contingency and Project Management Fees and Delivery Fees is \$492,732.04.*

*(*Please note that all dollar figures are GST Inclusive unless stated otherwise)*

CARRIED

4.4 Tender for Painting and Graffiti Removal Services

Moved Cr Samardzija

Seconded Cr Paterson

That Council:

- 1. Awards the tender from Kleenit Pty Ltd, Contract No. 2020161A for the category of Graffiti Removal Services for a fixed annual lump sum of \$24,979.40 and an estimated annual spend of \$70,840 (based on work load estimates) for programmed inspections and reactive works respectively, with an estimated total contract value of \$508,721 inclusive of all available extension options;*

-
2. *Awards the tender from Aesthetic Property Services Pty Ltd, Programmed Maintenance Service Pty Ltd and Quayclean Australia Pty Ltd for Contract No. 2020161B for the category of Painting Services for a schedule of rates based contract with the annual estimated contract value (based on anticipated program expenditure) of \$500,000 with an estimated total contract value of \$2,654,570 inclusive of all available extension options;*
 3. *Authorises the Chief Executive Officer to execute the contract agreements;*
 4. *Notes that the contract will commence on 15 January 2021 with an initial term of one (1) year and the contract has two separate extension options of two (2) years each and authorises the Chief Executive Officer to approve extension options subject to satisfactory performance.*

CARRIED

4.5 Tender for Essential Services Management & Maintenance

Moved Cr Paterson

Seconded Cr McCluskey

That Council:

1. *Awards the tender from TCM Solutions Pty Ltd for the following categories for Provision of Essential Services Management & Maintenance, Contract No. 2020162:*
 - *Group 1: ESM Maintenance & Management, for a fixed Lump Sum of \$212,358.30 for the first year of the contract and an Annual Lump Sum of \$149,933.30 in subsequent years (subject to annual CPI adjustment) with \$82,500 per annum for programmed inspections, contingencies and reactive works respectively; for a combined estimated total contract value of \$1,764,532.71 inclusive of all available extension options (assuming 1.5% CPI); and*
 - *Group 2: Exit and Emergency Lighting, for a fixed Annual Lump Sum of \$37,400 (subject to annual CPI adjustment) with an extra \$44,000 per annum for programmed inspections, contingencies and reactive works respectively, for a combined estimated total contract value of \$596,091.73 inclusive of all available extension options (assuming 1.5% CPI).*
2. *Authorises the Chief Executive Officer to execute the contract agreement;*
3. *Notes that:*
 - a. *Services contained in Group 1 ESM Maintenance & Management contract will commence 1 February 2021 with an initial term of three (3) years and the contract has two separate extension options of two (2) years each, and authorises the Chief Executive Officer to approve extension options subject to satisfactory performance.*
 - b. *Group 2 Exit and Emergency Lighting contract will commence on 23 December 2022 with an initial term of one (1) year and forty (40) days and the contract has two separate extension options of two (2) years each, and*

authorises the Chief Executive Officer to approve extension options subject to satisfactory performance.

- 4. Notes that the total allocated budget for year one available for this contract including the fixed Lump Sum and contingencies is \$376,258.30**

*(*Please note that all dollar figures are GST Inclusive unless stated otherwise).*

CARRIED

5. CHIEF EXECUTIVE OFFICER'S REPORTS

5.1 Councillors Meeting Records

Moved Cr McCluskey

Seconded Cr Samardzija

That Council notes the record of a Committee Meeting and Informal Councillors' Meetings.

CARRIED

5.2 Tender for Digital Experience Platform

Moved Cr Paterson

Seconded Cr McCluskey

That Council:

- 1. Awards the tender from SeamlessCMS for Digital Experience Platform (DXP) – Website Refresh, Contract No. 2021002 for a schedule of rates based contract with an estimated annual contract value of \$295,000, a once-off implementation fee of \$36,600 and an estimated total contract value of \$1,806,600 inclusive of all available extension options;*
- 2. Authorises the Chief Executive Officer or her delegate to execute the contract agreement; and*
- 3. Notes that the contract will commence from 1 January 2021, with an initial term of 3 years and 3 extension options of 1 year each for Digital Experience Platform (DXP) – Website Refresh; and authorises the Chief Executive Officer to approve extension options subject to satisfactory performance.*

*(*Please note that all dollar figures are GST Inclusive unless stated otherwise)*

CARRIED

6. NOTICES OF MOTION

6.1 Council's Discretionary Expenditure Fund Applications – Mayor

Moved Cr Little

Seconded Cr Fergeus

That Council resolves to approve the following application for funding from the Council's Discretionary Expenditure Fund:

APPLICANT	PURPOSE	AMOUNT RECOMMENDED
<i>Silent Witness Network</i>	<i>The Men's Forum 14/03/2020. Requesting a donation.</i>	<i>\$122.55 (excl. GST)</i>
<i>Glen Waverley Rotary Club</i>	<i>Semi Annual Rotary Book Sale 12-14/03/2021. Requesting funding for hall hire.</i>	<i>\$624.00 (excl. GST)</i>
<i>Mount Waverley Rotary Club</i>	<i>Trivia Evening 24/04/2021. Requesting funding for hall hire.</i>	<i>\$685.00 excl. GST)</i>
<i>Waverley Bonsai Group</i>	<i>Annual Bonsai Show 14-15/08/2021. Requesting a donation.</i>	<i>\$500.00</i>

CARRIED

6.2 Support for the LGBTIQ+ Community – Cr James

Moved Cr James

Seconded Cr McCluskey

That Council:

- 1. Directs officers to report back to Council on the steps required to be undertaken to achieve Rainbow Tick accreditation for council-run services and a plan to achieve this.*
- 2. Resolves to establish an LGBTIQ+ advisory committee and directs officers to draft terms of reference for the committee.*
- 3. Directs officers to establish an LGBTIQ+ action plan in consultation with the advisory committee, once established, and reports to Council for endorsement as soon as practicable, but no later than November 2022.*

AMENDMENT

Moved Cr Fergeus

Seconded Cr de Silva

That Council:

- 1. Directs officers to report back to Council on the steps required to be undertaken to achieve Rainbow Tick accreditation for council-run services and a plan to achieve this.***
- 2. Resolves to establish an LGBTIQA+ advisory committee and directs officers to draft terms of reference for the committee.***
- 3. Directs officers to establish an LGBTIQA+ action plan in consultation with the advisory committee, once established, and reports to Council for endorsement as soon as practicable, but no later than November 2022.***
- 4. Resolves to display the rainbow flag at the Civic Centre and to fly the rainbow flag at a minimum of 4 prominent locations around Monash on LGBTIQA+ awareness days throughout the year including the International Day Against Homophobia, Biphobia and Transphobia, Wear It Purple Day, World AIDS Day, Bi Visibility Day, and Intersex Awareness Day.***

The amendment was accepted by the mover and seconder, but not all Councillors. After further debate, the amendment was put to the vote and was declared carried to become the substantive motion.

CARRIED

SUBSTANTIVE MOTION

The substantive motion and was put to the vote and declared carried.

Cr Zographos abstained.

CARRIED

6.3 Dedicated Fenced Dog Off Leash Reserves – Cr James & Cr Paterson

Moved Cr Paterson

Seconded Cr James

That Council:

- 1. Directs officers to identify possible locations (at least one per ward if possible) for dedicated fenced dog off leash areas strategically positioned across the municipality*
- 2. Receives a report/update by November 2021 on possible locations, associated costs, implications and any implementation recommendations to allow consideration as part of Council's 2022/23 Budget process*

CARRIED

6.4 Glen Waverley Activity Centre Committee – Cr Lake & Cr Luo

Moved Cr Lake

Seconded Cr Luo

That Council:

- 1. establish a committee consisting of the Mayor and Glen Waverley Ward councillors, and supported by the CEO, Director City Development, Director Community Services and other staff as required, to provide:*
 - a. high level advice, direction and input into major projects and development in the Glen Waverley Activity Centre including the Montclair Multideck Car Park project, implications for Council and the activity centre arising from the State Government's Suburban Rail Loop project, the redevelopment and reinvigoration of Kingsway (with an increased focus on pedestrians and outdoor dining), a new library and community meeting spaces for Glen Waverley, the establishment of a town square in Kingsway, future options for the Central Car Park site, replacement car parking and any other issues relating to the Glen Waverley Activity Centre; and*
 - b. a conduit for consultation and engagement between Council and the Glen Waverley Traders Association, local residents and other traders and key stakeholders in the Glen Waverley Activity Centre; and*
- 2. appoints Cr Lake as chair of the Committee.*

PROCEDURAL MOTION

Moved Cr James

Seconded Cr de Silva

That Council consent to Cr Lake moving an amendment.

CARRIED

AMENDMENT

Moved Cr Lake

Seconded Cr James

That Council:

- 1. establish a committee consisting of the Mayor and Glen Waverley Ward councillors, and supported by the CEO, Director City Development, Director Community Services and other staff as required, to provide:***
 - a. high level advice, direction and input to Council into major projects and development in the Glen Waverley Activity Centre including the Montclair Multideck Car Park project, implications for Council and the activity centre arising from the State Government's Suburban Rail Loop project, the redevelopment and reinvigoration of Kingsway (with an increased focus on pedestrians and outdoor dining), a new library and community meeting spaces for Glen Waverley, the establishment of a town square in Kingsway, future options for the Central Car Park site, replacement car parking and any other issues relating to the Glen Waverley Activity Centre; and***
 - b. a conduit for consultation and engagement between Council and the Glen Waverley Traders Association, local residents and other traders and key stakeholders in the Glen Waverley Activity Centre; and***
- 2. appoints Cr Lake as chair of the Committee.***
- 3. adopts the attached terms of reference for the Committee.***

The amendment was accepted by the mover, seconder and all Councillors. The amendment became the substantive motion.

CARRIED

SUBSTANTIVE MOTION

The substantive motion and was put to the vote and declared carried.

CARRIED

PROCEDURAL MOTION

Moved Cr James

Seconded Cr Fergus

That Council move to Confidential Business to discuss item 9.3.

CARRIED

9. CONFIDENTIAL BUSINESS

Moved Cr McCluskey

Seconded Cr Fergeus

That Council, having reviewed and considered the certificate in relation to the matter listed for confidential business, and being satisfied that it is appropriate and necessary to consider this matter at a closed meeting, resolves to close the meeting to the public in accordance with section 66(2) of the Local Government Act 2020 for the reasons specified in the certificate.

CARRIED

Council moved to confidential business at 8:19pm.

RESUMPTION OF OPEN COUNCIL MEETING

Council moved back to the open meeting at 8:21pm.

6.5 Prohibition on Smoking Local Law – Cr Lake

Moved Cr Lake

Seconded Cr Little

That Council:

- 1) notes that Local Law No.4 – Prohibition on Smoking (the current Local Law) commenced in 1 October 2011 and will sunset on 30 September 2021;*
- 2) notes that since the commencement of the current Local Law, the Tobacco Act 1987 (Vic) (the Act) has undergone a series of amendments that have significantly expanded no smoking areas to the extent that parts of the Local Law may now be inoperative;*
- 3) directs officers to draft a new Local Law that retains relevant provisions of the current Local Law and which enables Council to prescribe smoke-free areas in the municipality from time to time;*
- 4) notes an intention, which is subject to further community and stakeholder consultation, that should the new Local Law be made, Council will use the new Local Law to remove smoking in outdoor public spaces in its activity centres;*
- 5) directs officers to present a Community Impact Statement and draft Local Law to the January 2021 Council meeting;*
- 6) directs officers to review and update its Footpath Trading and Access Policy (the Policy), including amending the guidelines for assessment and determination, to clarify that Council, in making these public areas available for trade, intends to require that food must be made available for consumption at all times when these areas are in use. For the avoidance of doubt, this change would have the effect of requiring all outdoor public dining areas to be smoke free and prevents a potential loophole following the adoption of a new Local Law whereby smoking*

-
- is banned in all other public spaces in activity centres but is possible in outdoor dining areas which are designated as outdoor drinking areas; and*
- 7) notes that, subject to community consultation and Council's further consideration, it is the current intention of Council that any changes will be implemented on 1 July 2021.*

AMENDMENT

Moved Cr Paterson

Seconded Cr Fergeus

That Council:

- 1) notes that Local Law No.4 - Prohibition on Smoking (the current Local Law) commenced in 1 October 2011 and will sunset on 30 September 2021;*
- 2) notes that since the commencement of the current Local Law, the Tobacco Act 1987 (Vic) (the Act) has undergone a series of amendments that have significantly expanded no smoking areas to the extent that parts of the Local Law may now be inoperative;*
- 2A) acknowledges the current rollout underway of enhanced outdoor public dining in Monash as a consequence of the State Government's grant to Council of \$500,000 to increase outdoor public dining space in Monash as part of Victoria's response to COVID-19 and Council's work to provide these increased outdoor dining spaces across the municipality on suitable roadways, pathways and other areas;*
- 3) directs officers to draft a new Local Law that retains relevant provisions of the current Local Law and which enables Council to prescribe smoke-free areas in the municipality from time to time;*
- 4) notes an intention, which is subject to further community and stakeholder consultation, that should the new Local Law be made, Council will use the new Local Law to remove smoking in outdoor high-activity public spaces in its activity centres where an issue with passive smoke impacts is identified. However, the new Local Law will be limited to only applying in areas other than designated outdoor trading areas. For the avoidance of doubt, the Local Law will not apply to any areas that are expressly regulated by the Act such as permitted outdoor trading areas;*
- 5) directs officers to present a Community Impact Statement and draft Local Law to the January 2021 Council meeting;*
- 6) directs officers to review and update its Footpath Trading and Access Policy (the Policy), including amending the guidelines for assessment and determination, to clarify that Council, in making these public areas available for trade, requires that food must be made available for consumption at all times when these areas are in use. This change would have the effect of ensuring all outdoor public dining areas are smoke free, consistent with the objectives of the recent amendments to the Act;*
- 7) notes that, subject to community consultation and Council's further consideration, it is the current intention of Council that any changes will be implemented on 1 July 2021; and*

8) resolves that it is Council's express intention that the new Local Law and changes to the Policy will be lawful and consistent with the objectives and operation of the Act.

The amendment was accepted by the mover and seconder but not all Councillors. After further debate, the amendment was voted on. A division was called and the amendment was declared carried to become the substantive motion.

DIVISION

For: Crs Lake, Paterson, de Silva, McCluskey, James, Little, Fergeus, Luo

Against: Crs Zographos, Samardzija

CARRIED

SUBSTANTIVE MOTION

The substantive motion and was put to the vote and declared carried.

CARRIED

7. COMMITTEE REPORTS

7.1 Early Years – Proposed Multiple Leases to YMCA

Moved Cr McCluskey

Seconded Cr Samardzija

That Council:

1. Receives this report from the Committee established by Council pursuant to Section 223 of the Local Government Act 1999 (S.223 Committee) to hear and consider any submissions received to Council's public notice in respect of the proposal to lease to the YMCA of Ballarat Youth Services Inc. (YMCA) the following Council owned sites:

***Ashwood Memorial Kindergarten – 17A Arthur Street, Ashwood
Brandon Park Preschool – 7 Collegium Avenue, Wheelers Hill
Clayton Community Centre Kindergarten – 9-15 Cooke Street, Clayton
Columbia Park Preschool – 26-28 Columbia Drive, Wheelers Hill
Dover Street Preschool – 19 Dover Street, Oakleigh East
Germain Street Kindergarten – 1 Germain Street, Oakleigh South
Glendal Preschool – 3 Lucerne Street, Mount Waverley
Mt Waverley Preschool – 35 Sherwood Road, Mount Waverley
Mulgrave Park Preschool – 68 Albany Drive, Mulgrave
Nara Preschool – 2 Stanley Avenue, Mount Waverley
St John's Preschool – 2 Carmichael Road, East Oakleigh***

*Tally Ho Preschool – 24 Martin Place, Glen Waverley
Ward Avenue Kindergarten – 4 Ward Avenue, Oakleigh South
Waverley Foothills Preschool – Gladstone Drive, Mulgrave
Wayburne Preschool – 579 Waverley Road, Glen Waverley*

2. *Notes the S.223 Committee met on Tuesday 8 December 2020 to hear and consider submissions received in respect of the proposal and notes that there were no submissions received.*
3. *Accepts the Committee’s recommendation to grant a lease to the YMCA for the following sites:*

*Ashwood Memorial Kindergarten – 17A Arthur Street, Ashwood
Brandon Park Preschool – 7 Collegium Avenue, Wheelers Hill
Clayton Community Centre Kindergarten – 9-15 Cooke Street, Clayton
Columbia Park Preschool – 26-28 Columbia Drive, Wheelers Hill
Dover Street Preschool – 19 Dover Street, Oakleigh East
Germain Street Kindergarten – 1 Germain Street, Oakleigh South
Glendal Preschool – 3 Lucerne Street, Mount Waverley
Mt Waverley Preschool – 35 Sherwood Road, Mount Waverley
Mulgrave Park Preschool – 68 Albany Drive, Mulgrave
Nara Preschool – 2 Stanley Avenue, Mount Waverley
St John’s Preschool – 2 Carmichael Road, East Oakleigh
Tally Ho Preschool – 24 Martin Place, Glen Waverley
Ward Avenue Kindergarten – 4 Ward Avenue, Oakleigh South
Waverley Foothills Preschool – Gladstone Drive, Mulgrave
Wayburne Preschool – 579 Waverley Road, Glen Waverley*

4. *Having complied with its obligations under S.223 of the Local Government Act, directs the Chief Executive Officer or her delegate to progress the finalisation of the lease document;*
5. *Authorises the Chief Executive Officer or her delegate, on behalf of Council, to sign all documentation required to effect a lease to the YMCA for the above-mentioned sites.*

CARRIED

8. URGENT BUSINESS

Nil.

9. CONFIDENTIAL BUSINESS

Moved Cr McCluskey

Seconded Cr James

That Council, having reviewed and considered the certificates in relation to the matters listed for confidential business, and being satisfied that it is appropriate and necessary to consider these matters at a closed meeting, resolves to close the meeting to the public in accordance with section 66(2) of the Local Government Act 2020 for the reasons specified in the certificates.

CARRIED

The meeting moved into confidential business at 8:41pm and returned to open Council at 9:19pm.


10. PERSONAL EXPLANATIONS

Nil.

11. COUNCILLORS' REPORTS

Nil.

The Mayor declared the meeting closed at 9:20pm.

MAYOR: 

DATED THURSDAY THE 22ND DAY OF APRIL 2021