



# Ordinary Council Meeting Minutes

Held on Monday 1 March 2021 at 7 PM

Council Chamber, Malvern Town Hall  
Corner Glenferrie Road & High Street Malvern

# Ordinary Council Meeting Minutes Monday 1 March 2021 Order of Business

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**Councillors Present:**

**Cr Kate Hely, Mayor**

**Cr Alexander Lew**

**Cr Polly Morgan**

**Cr Marcia Griffin**

**Cr Matthew Koce**

**Cr Mike Scott**

**Cr Nicki Batagol**

**Council Officers Present:**

**Jacqui Weatherill**

**Annaliese Battista**

**Cath Harrod**

**Rick Kwasek**

**Daniela Mazzone**

**Alexandra Kastaniotis**

**David Taylor**

**Fiona Ford**

**Tracey Limpens**

**Judy Hogan**

The meeting began at 7:00pm.

## **1 Reading of the Reconciliation Statement and Affirmation Statement**

Good evening and welcome to the City of Stonnington Council Meeting of Monday 1 March 2021.

I'm Councillor Kate Hely, Mayor of the City of Stonnington

These meetings are an important way to ensure that the democratically elected Councillors, work for the community in a fair and transparent manner. Council business is conducted in accordance with Council's Governance Rules and must be open to members of the public in accordance with the Local Government Act 2020. However, as outlined in The Act, Council may decide the meeting, or part thereof, be closed to members of the public, if Confidential Business is to be discussed.

We are committed to doing whatever we can to protect the health and wellbeing of our community, staff and visitors. Due to the unprecedented circumstances arising from the current State of Emergency and State of Disaster due to COVID-19, and on the advice of health experts, we have made the difficult, but necessary decision, to temporarily change the way we run our Council Meeting this evening.

Whilst we have undertaken extensive planning for this virtual on-line meeting, there always remains the risk of technical issues arising beyond our control. If we experience a technical issue tonight, we will adjourn the meeting for a short time to try and resolve the issue. If the issue cannot be resolved and the meeting cannot continue, then we will adjourn to a later date, and details of the future meeting will be made available via our website as soon as possible.

We are working to keep our community safe during the COVID-19 outbreak and are closely monitoring the situation.

In accordance with the Local Government Act, Councillors must formally declare any conflicts of interest in relation to any items listed on the Agenda at the start of the meeting, and immediately prior to the item being considered.

### **About this Meeting**

The Agenda for this meeting, lists all the items to be discussed under 'General Business'. Each report is written by a Council Officer and outlines:

1. the purpose of the report;
2. relevant information and;
3. a recommended decision for Councillors.

Councillors will consider the report and either accept, reject or make amendments to the recommendation. Council decisions are adopted if they receive a majority vote from the

Councillors present. The casting vote by the Mayor may only be used if there is an equal division of votes amongst Councillors present.

A Councillor may call for a Division, which will formally record the names of individual Councillors opposing or supporting a motion, and Councillors who are absent or who are abstaining from voting.

### **Meeting Agenda**

To help you follow proceedings, the Meeting Agenda, recommended motions and Councillors' proposed alternate motions (also known as 'yellows'), are displayed on an adjacent screen.

### **Live Webcasting**

Council Meetings are streamed live and recordings are usually available on our website, within 48 hours.

Cr Koce read the following reconciliation statement:

*We acknowledge that we are meeting on the traditional land of the Boonwurrung and Wurundjeri people and offer our respects to the elders past and present. We recognise and respect the cultural heritage of this land.*

The Mayor, Cr Hely read the following Affirmation Statement:

*We are reminded that as Councillors we are bound by our Oath of Office to undertake the duties of Councillor in the best interests of the people of the City of Stonnington and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in us under the Local Government Act and any other relevant Act.*

## **2 Introductions**

The Mayor, Cr Hely introduced the Councillors and the Chief Executive Officer, Jacqui Weatherill. Ms Weatherill then introduced the Council Officers.

## **3 Apologies**

The Mayor, Cr Hely noted that apologies and leave of absence had been previously received from Crs Klisaris and Sehr for this Council meeting.

## **4 Adoption and confirmation of minutes of previous meeting(s)**

### **4.1 Minutes of the Ordinary Council Meeting held on 15 February 2021 & Confidential Minutes of the Confidential Council Meeting held on 15 February 2021**

MOTION:

MOVED: Cr Marcia Griffin

SECONDED: Cr Nicki Batagol

***That the Council confirms the Minutes of the Ordinary Council Meeting of the Stonnington City Council held on 15 February 2021 & Minutes of the Confidential Council Meeting held on 15 February 2021 as an accurate record of the proceedings.***

**Carried**

## **5 Disclosure by Councillors of any conflicts of interest**

There was no disclosure by Councillors of any conflicts of interest for this Council meeting.

## **6 Questions to Council from Members of the Public**

During Council's previous Council Meeting held on 15 February 2021 one (1) set of Questions to Council were submitted. At the time, I used my discretion available to me under Council's General Local Law to answer the questions at the meeting. As required under the Local Law, written answers were subsequently provided to the submitter.

A copy of the responses are now tabled for inclusion in the minutes of this meeting as follows:

Questions - Mr Hurlston

### **Question 1**

Why is Stonnington proposing a Councillor Code of Conduct that seeks to limit and control the free speech of elected Councillors?

### **Response**

The Councillor Code of Conduct does not limit or control free speech by elected Councillor, It merely requires Councillor actions to be courteous and respectful and is drafted in accordance with the requirements of the *Local Government Act 2020* and other relevant legislation.

### **Question 2**

Why is Stonnington proposing a Councillor Code of Conduct that is largely "bluff" and completely unenforceable under the Local Government Act?

### **Response**

It is a *Local Government Act 2020* requirement that the Council adopt a Councillor Code of Conduct and, while it is an agreed framework by Councillors on how they will conduct their behavior in the performance of their duties as a Councillor, can be enforceable.

Where a breach of the Code occurs and the requirement for compliance is reflected in the *Local Government Act 2020*, the Local Government Inspectorate has the ability to investigate and prosecute as required. Accordingly, Council does not agree with your views that it is a “bluff” and “completely unenforceable under the *Local Government Act*”.

### Question 3

Council has had 4 months to implement this - why were Council so slow and only able to implement a recommendation 9 days prior to the Act requirements deadline?

### Response

The Councillor Code of Conduct has been in development over several months and to ensure a high quality product, Council took this opportunity to undertake a complete rewrite rather than update the existing 2017 Code of Conduct.

Accordingly, this took considerable effort and involved internal discussions, consultation with Local Government Inspectorate, IBAC and finally review by legal Counsel to ensure compliance.

Other Councils and the Municipal Association of Victoria have raised concerns about the restricted timeframe allowed for Councils to develop, adopt and implement a broad range of new documents prescribed under the Act to be within 4 months from the date of the election.

### Question 4

Orrong Romanis Tennis - will Council release the full financial impact to the budget of forgone income at this site and why did Council officers instigate the discussions with Bluefit and PNA to potentially use the site for netball (as confirmed in writing by the mayor to me last week)?

### Response

Prior to considering any request for financial information full details of the requested information, timeframe and operational details would be needed.

As part of the proposed resurfacing of the tennis courts at Orrong Romanis, Council officers are reviewing the most appropriate court surface, and the options to achieve greater usage flexibility in to the future. As a part of this review it is appropriate to liaise with the incumbent management contractor. Officers also liaised with PNA as a potential future user of the courts, if they were to be made multi-purpose.

For tonight's Ordinary Meeting of Council one (1) set Questions to Council have been received for response. In accordance with Governance Rules a summary of the questions are as follows.

Three (3) questions from Mr Petropoulos



The questions related to the following topics:

- Lowering of Australian Flag on Council buildings

Council will answer the questions, but I use my discretion under Governance rules to not provide the responses this evening but to provide written responses to the submitters within 14 working days and the responses will be put into the minutes of the following meeting.

## **7 Correspondence (only if related to Council business)**

Cr Griffin tabled the following correspondence:

- email from resident regarding fully enclosed dog parks within municipality
- email from Minister Wynne regarding new planning laws
- email from Toorak Village Residents Action Group (re tabled)
- email from resident regarding ongoing lack of concern around Toorak Village
- email from resident regarding Ferrie Oval lighting
- email from disaffected ratepayer disappointed in Council meeting procedure over points of order

Cr Batagol tabled the following correspondence:

- email from Chapel Street Precinct Association regarding outdoor dining survey results

Cr Morgan tabled the following correspondence:

- emails regarding climate change declarations
- email regarding request for a change for Council library opening hours
- email regarding Gardiner Park parking and impact on traffic and noise from the facility

Cr Lew tabled the following correspondence:

- email from resident regarding removal of potentially dangerous trees

Cr Scott tabled the following correspondence:

- email from residents regarding climate change
- email from resident regarding fencing at Victory Square park
- email from resident regarding bicycle safety and rubber speed cushions

## **8 Questions to Council Officers from Councillors**

Cr Morgan asked the following questions to the Chief Executive Officer:

This set of questions relate to Stonnington's procurement policy.

I understand a review of the procurement policy was initiated as part of Council's economic response to covid. Can Council confirm that a revised procurement policy will include the principle that Council should prioritise using local businesses where this is possible (and in line with councils legal obligations under the local government act for competitive tendering)? Is there a time frame for when this revised policy be presented to council, given the urgency of the need to help support local businesses with the economic impact of the pandemic?

I'd also like to raise the issue of gender equality in our procurement policy, after a member of the community has raised this with me.

Council often uses external consulting services to undertake work for council. This work can have considerable financial value. Does council have any requirements around gender equality as part of its current procurement policy, including when working with consulting services? Does council's current procurement policy incorporate any elements of the Victorian Government's Social Procurement - Detailed guidance for women's equality and safety advice (from late 2019):

<https://www.buyingfor.vic.gov.au/detailed-guidance-womens-equality-and-safety#gender-equality-within-victorian-government-suppliers>

If our procurement policy doesn't incorporate any items regarding gender equality, can council prepare a separate report for council on this issue, so it doesn't delay any report or action on bringing a revised procurement policy supporting local businesses as part of our economic response to the COVID19 back to council?

The Chief Executive Officer responded currently conducting an update of Council's procurement processes. The focus is on thinking locally for local producers to tender and quote. Council is currently investigating new software which should be place by July 2021.

Cr Morgan asked the following questions to the Chief Executive Officer:

My questions to council relate to issues arising from the Stonnington Council 2020 elections and are:

How many complaints did the council directly receive about the 2020 election campaign?

The Chief Executive Officer noted that 12 complaints were received directly by Council but other matters were referred directly by residents to the Local Government Inspectorate and/or Victorian Electoral Commission.

Has council forwarded on all details of candidate donation returns (including which candidates failed to submit a return) to the Victorian Electoral Commission?

The Chief Executive Officer noted that candidate donation returns have been forwarded to the Local Government Inspectorate and are also available on the Council website for public viewing.

Has it forwarded on any other complaints for breaches of any rules or requirements by candidates or members of the public to the VEC and/or the Local Government Inspectorate, including issues such as incorrect authorisation of campaign materials distributed by any candidates, any individual members of the community, or any groups within the community?

The Chief Executive Officer noted that yes, breaches of any rules and all such matters have been passed to either LGI and/or VEC

Has the Victorian Electoral Commission or Local Government Inspectorate advised Council if it has taken any action on any of these complaints about alleged breaches related to the 2020 election campaign, including any failure to submit required candidate Donation Returns by any candidate?

The Chief Executive Officer noted that the LGI advised it had followed up on candidates who refused to submit returns and the returns were ultimately submitted. No advice has been received on other matters.

Will council follow up with the Victorian Electoral Commission and Local Government Inspectorate to request they take appropriate action on any complaints made to them relating to breaches of election rules relating to the 2020 Stonnington Council elections, including any failure by a candidate to submit a candidate donation return, and will Council request that the VEC and Local Government Inspectorate advise council of the outcomes of these complaints where it is possible to do so?

The Chief Executive Officer noted Council has followed up on these matters and we asked for advice on when the matter is concluded. To date the failure of unsuccessful candidates to submit their donation returns is the only matter we know has been resolved by LGI.

Will council be getting a report from the Victorian Electoral Commission on the conduct of the 2020 Stonnington council elections?

The Chief Executive Officer noted that yes we will be receiving a report from the Victorian Electoral Commission but it hasn't been received as yet. It is anticipated to be received within the next month and will be presented to Council.

Cr Scott asked the following questions to Director Community & Wellbeing

The Stonnington Children, Youth and Families 10 year Strategy was released in 2017. Council has a clear focus on improving the health and wellbeing of everyone in the Stonnington community.

Page 24 of the strategy states:

“Priority actions will be implemented over three years, at which point they will be reviewed and a new set of priority actions developed for the next three years.”

1. Can I ask if the review is underway or was the review interrupted by COVID19?
2. Can we garner any learnings from council's and the community's responses to the pandemic?
3. Will those opportunities impact the rollout of the strategy for the next 7 years?
4. Finally, will the review be made available to council and used to help inform all stakeholders of any change in direction due to COVID19?

The Director Community & Wellbeing advised that a review is currently underway and some of the planning priorities have altered due to COVID, but Council is working with its partnering agencies on this matter.

Cr Koce asked a question to the Director Environment & Infrastructure regarding the Toorak Village Traders Association Annual General Meeting and some issues of concern that had been raised. A major development is currently occurring in Village Arcade near Jackson Street carpark and how will the traffic be impacted and will Council work with parties to ensure footpath and services are in order and fixed? Will Council work with traders to assist with shop facades updates?

The Director Environment & Infrastructure took the questions on notice.

Cr Lew asked a question to the Chief of Governance regarding gossip reported in media about the municipality and what steps Council is taking regarding this.

The Chief of Governance noted he would take the question on notice.

Cr Lew asked a question to the Chief of Governance regarding a Question to Council from Members of the Public which was submitted for response at this Council meeting and what measures Council took to ensure the integrity and determine the true origin of the questions asked and whether this should be reported to Victoria Police.

The Chief Executive Officer noted that Council would always cooperate with Victoria Police.

## **9 Tabling of Petitions and Joint Letters**

No petitions or joint letters were tabled at this Council meeting.

## **10 Notices of Motion**

Nil

## **11 Reports of Special and Other Committees - Informal Meetings of Councillors**

The Chief Executive Officer tabled the informal meeting of Councillors for the following meetings:

- Councillor Briefing Session 22 February 2021
- Planning Consultative meetings – February 2021
- Council Strategy Day – 27 February 2021
- Stonnington Community Recovery Committee 17 February 2021
- Metro tunnel site visit 22 February 2021
- Stonnington Multipurpose Sport and Recreation Facility Stakeholder Reference Group 25 February 2021

The Mayor, Cr Hely noted she had attended the following:

- opening of Stonnington Service Centre at Prahran Square
- Shaping Stonnington
- meeting with the CEO of Holmesglen Institute
- Attended with Cr Koce the Toorak Traders Annual General Meeting
- Duldig Studio, Museum and sculpture garden opening

Cr Scott noted he had attended:

- COVID Recovery meeting on 17 February 2021
- Victory Square meeting on 21 February 2021
- Active Transport meeting on 24 February 2021
- Prahran Mechanics Institute meeting on 25 February 2021

Cr Morgan noted she had attended:

- Metropolitan Waste Forum induction training and tabled the minutes of the Metropolitan Waste Forum and would circulate the minutes to all Councillors

- Stonnington Disability Access Committee and noted Changing Places open at Prahran Square.

### **12 Reports by Delegates**

There was no report by delegates for this Council meeting.

### 13 Urgent Business

There was no urgent business for this Council meeting.

### 14 General Business

## 14.1 Planning Amendment 0285/17 - 22 & part 24 Toorak Road, South Yarra

MOTION:

MOVED: Cr Marcia Griffin

SECONDED: Cr Kate Hely

**Note: Bold wording below indicates amended conditions.**

***That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Section 72 Amendment to Planning Permit No: 285/17 for the land located at 22 & part 24 Toorak Road, South Yarra under the Stonnington Planning Scheme for a Restaurant and Café liquor licence associated with use of the land as a restaurant (as of right use) in an Activity Centre Zone and associated reduction in the car parking requirement subject to the following conditions:***

1. ***Before the commencement of the extended hours, one (1) electronic copy of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans date stamped 08 October 2020 and 18 May 2017 but modified to show:***
  - a) ***A revised Noise and Amenity Action Plan in accordance with the updated hours, patron numbers and red line area.***

***All to the satisfaction of the Responsible Authority.***

2. ***The plans endorsed to accompany the permit must not be amended without the written consent of the Responsible Authority.***
3. ***A maximum number of 161 patrons (139 patrons internally and 22 patrons externally) may be housed on the premises at any one time to the satisfaction of the Responsible Authority.***
4. ***Without the prior written consent of the Responsible Authority, the sale and consumption of liquor shall only occur within the licenced area between the hours of:***

***Internal area:***

- a) ***Good Friday and ANZAC Day: 12 noon and 11pm;***
- b) ***Friday and Saturday: 9am and 12am***
- c) ***Sunday to Thursday: 9am and 11pm.***

***External area (footpath trading area):***

- d) ***Good Friday and ANZAC Day: 12 noon and 11pm;***
- e) ***Any other day: 9am and 11pm***

5. The predominant activity carried out at all times on the licensed premises must be the preparation and serving of meals for consumption on the licensed premises to the satisfaction of the Responsible Authority.
6. Tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time, to the satisfaction of the Responsible Authority.
7. *The approved Noise and Amenity Action Plan forms part of the permit and the use must operate in accordance with it to the satisfaction of the Responsible Authority.*
8. Noise emanating from the subject land must comply with State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority.
9. The provision of music and entertainment on the premises must be limited to background music or entertainment by performers using non-amplified instruments unless with the written consent of the Responsible Authority.
10. Bottles and rubbish must not be removed from the premises between the hours of 11pm and 7am the following day except for Sundays and Public Holidays when bottles and rubbish must not be removed from within the premises before 9am.
11. The collection of wastes and recyclables from the premises (other than normal Stonnington City Council collection) must be in accordance with Council's General Local Laws
12. Speakers must not be located within the footpath trading area unless with the written consent of the Responsible Authority.
13. This permit will expire if one of the following circumstances applies:
  - a) The use is not started within two years from the date of this permit.
  - b) The use is discontinued for a period of two years or more.

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

**Notes:**

Background music level, in relation to premises, means a level that enables patrons to conduct a conversation at a distance of 600 millimetres without having to raise their voices to a substantial level.

This permit does not give any authority to occupy the footpath for trading without prior approval from Council's Local Laws department. A permit must be obtained for footpath trading and it must accord with the relevant Footpath Trading Code.

At the permit issue date, Section 69 of the Planning and Environment Act 1987 stated that the Responsible Authority may extend the periods referred to if a request is made in writing within the following timeframes:

- i. Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and

- ii. **Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.**

**Carried unanimously**

## **14.2 Amendment C304 Heritage Compilation Amendment Report on submissions**

**MOTION:**

**MOVED:** Cr Marcia Griffin

**SECONDED:** Cr Polly Morgan

***That Council:***

- 1. RECEIVE and NOTE submissions received in response to exhibition of Amendment C304ston;***
- 2. REQUEST the Minister for Planning to appoint a Panel pursuant to Section 23 of the Planning and Environment Act 1987 to hear and consider submissions to Amendment C304ston;***
- 3. REFER the submissions and any late submissions to the Panel appointed to consider Amendment C304ston;***
- 4. In its submissions to Panel, ADOPT a position pursuant to Section 23 of the Planning and Environment Act 1987 generally in accordance with the officer response to submissions and other minor changes as outlined in Attachments 3 and 4; and***
- 5. WRITE to the submitters to Amendment C304ston to advise them of Council's decision.***

**Carried unanimously**



## 14.3 Outdoor dining - options for extension of program

MOTION:

MOVED: Cr Nicki Batagol

SECONDED: Cr Marcia Griffin

**That Council:**

1. **APPROVE the extension of roadside dining permits free of charge until 30 June 2021 as part of a pilot for venues that:**
  - a) **Express an interest in extending their permits into the winter months**
  - b) **Have upgraded or maintained their existing roadside dining site through measures like decking, umbrellas, furniture, plants or flooring**
  - c) **Can gain consent from neighbouring businesses for this extended period**
  - d) **Can exhibit that their roadside dining site is being regularly used**
  - e) **For safety reasons can take roadside dining furniture inside when sites are not being used.**
2. **APPROVE the extension of extended footpath trading permits free of charge until 30 June 2021 for venues that:**
  - a) **Express an interest in extending their permits into winter**
  - b) **Can gain consent from neighbouring businesses for this extended period.**
3. **APPROVE the extension of waiving all footpath trading fees until 30 June 2021.**
4. **APPROVE the extension of the partial road closure and on-street dining permits at Greville Street, Prahran until April 30 2021.**
5. **NOTE that on-street dining permits for businesses in Beatty Avenue, Armadale will expire on 30 March 2021. Businesses that held an on-street dining permit in this area will be invited to take part in the extension of roadside dining if traffic conditions allow.**
6. **NOTE the evaluation of the entire pilot program will form part of a report to Council prior to 30 June outlining options for an outdoor dining program going forward**

**NOTE that officers will work with businesses on the presentation of the sites through the permitting process, including replacing barrier covers as needed.**

7:55pm Cr Koce left the Council Chamber.

7:57pm Cr Koce returned to the Council Chamber.

A Division was called by Cr Koce:

For: Cr Alexander Lew, Cr Kate Hely, Cr Marcia Griffin, Cr Matthew Koce, Cr Mike Scott, Cr Nicki Batagol, Cr Polly Morgan

Against: nil

Absent: Crs Klisaris & Sehr

**Carried unanimously**

## **15 Confidential Business**

### **15.1 Legal Issues**

There was no confidential business for this Council meeting as the listed item, legal issues was not considered.

There being no further business the meeting closed at 8:05pm.

Confirmed on 15 March 2021.

.....  
**CR KATE HELY, MAYOR**