



Minutes of the Council Meeting

Held on Monday 20 September 2021 at 7 PM

Virtual Meeting
via Zoom

Ordinary Council Meeting Minutes Monday 20 September 2021 Order of Business

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Councillors Present:

Cr Kate Hely, Mayor (Chair)
Cr Melina Sehr Deputy Mayor
Cr Jami Klisaris
Cr Alexander Lew
Cr Polly Morgan
Cr Marcia Griffin
Cr Matthew Koce
Cr Mike Scott

Council Officers Present:

Jacqui Weatherill	Chief Executive Officer
Annaliese Battista	Director Planning & Place
Cath Harrod	Director Community & Wellbeing
Rick Kwasek	Director Environment & Infrastructure
Greg Curcio	Director Customer & Technology
Tracey Limpens	Chief of Staff
Tony Mcilroy	Manager Councillor & Civic Support
Julia Gallace	Chief Financial Officer
Judy Hogan	Civic Support Officer

The meeting commences at 7:02pm.

1 Reading of the Reconciliation Statement

The Mayor, Cr Hely read the following reconciliation statement:

We acknowledge we are meeting on the Traditional Lands of the Kulin Nations and pay our respects to their Elders past, present and emerging. We extend that respect to all Aboriginal and Torres Strait Islander peoples.

2 Reading of Statement of Commitment

The Mayor, Cr Hely read the following Statement of Commitment:

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.

3 Apologies

It was noted that Cr Batagol had previously been granted leave of absence for the meeting.

4 Introductions of Councillors & Executive Staff

The Chair introduced the Councillors and the Chief Executive Officer introduced the Council Officers present.

5 Confirmation of the Minutes of the previous meeting

5.1 Minutes of the Council Meeting held on 6 September 2021

MOTION:

MOVED: Cr Matthew Koce

SECONDED: Cr Jami Klisaris

That the Minutes of the Meeting of the Stonnington City Council held on 6 September 2021 be confirmed as an accurate record of the proceedings.

Carried

6 Disclosure of Conflicts of Interest

Cr Sehr declared a conflict of interest in item 8.3 Perth Street, Prahran Permanent One Way Flow as she resides in close proximity.

Cr Scott declared a conflict of interest in item 8.7 as he is employed by an organisation which has submitted an application for a community grant.

Cr Griffin declared a conflict of interest in an item she wished to raise for consideration under Urgent Business as the correspondence from the Local Government Inspectorate relates to her.

7 Questions From the Community

There were no questions from members of the community.

8 Business

8.1 Planning Application 0992/20 - 39-43 Newry Street, Windsor

MOTION:

MOVED: Cr Melina Sehr

SECONDED: Cr Mike Scott

That a Notice of Decision to Grant a Planning Permit No: 992/20 be issued for the land located at 39-43 Newry Street, Windsor under the Stonnington Planning Scheme for construction of four dwellings in a Neighbourhood Residential Zone and Special Building Overlay and a reduction of the car parking requirements subject to the following conditions:

1. ***Before the commencement of the development, 1 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 prepared by ev-d and known as Project WQ2020, Drawing No's: TP010, TP021, TP050, TP100 through TP109, TP120, TP201, TP202, TP203, TP250 and TP300, Council date stamped 29 July 2021 but modified to show:***
 - a. ***Pedestrian access to Townhouse 4 must only be provided from Newry Street. An internal connection must be provided between the study within the existing shop front of Townhouse 4 to the rear section of the proposed dwelling.***
 - b. ***The eastern most service gate to Townhouse 4 deleted and replaced with fixed fencing along the southern boundary.***
 - c. ***All three north facing windows at 37 Newry Street to be identified on the plans as habitable.***
 - d. ***Townhouse 4 must be setback at first floor from the north facing windows at 37 Newry Street to comply with Standard B20, this can be achieved by a reduction in the wall height and / or increased setbacks without reducing any other setbacks.***
 - e. ***The wall on boundary associated with the entry to Townhouse 4 must be setback to align with the southern setback to the living/meals area on the western side of the ground floor or at a minimum be setback to comply with Standard B20.***

- f. The garden shed/studio to Townhouse 4 must be reduced in height so that the walls on boundaries are a maximum of 3.2 metres.**
- g. The convex mirror for the rear car parking spaces is to be relocated to the south of the car parking garage to Townhouse 3, facing north to the satisfaction of Council's Transport Department.**
- h. The screening notation to the west facing first floor windows of Townhouses 1, 2 and 3 amended to refer to 'horizontal' screen.**
- i. Roof plan to show 1.7m high vertical timber screening on the northern, western and southern sides of the roof decks to Townhouses 1 and 2 and balustrading on the eastern side.**
- j. Fully dimensioned design detail for the vertical timber screen for the roof terraces demonstrating that the screen is no more than 25% transparent and complies with Standard B22.**
- k. Fully dimensioned design detail for the hit and miss brickwork to Townhouse 4 demonstrating that the screening is no more than 25% transparent and complies with Standard B22.**
- l. The hit and miss brickwork to the first floor balcony to Townhouse 4 must be dimensioned on the elevations to a minimum height of 1.7m above finished floor level.**
- m. Any changes required by Condition 3 (Landscape Plan) and Condition 5 (Sustainable Design Assessment).**
- n. The floor to ceiling levels to the first floor of Townhouse 4 to be reduced to 2.7m and a subsequent reduction in the overall building height.**

All to the satisfaction of the Responsible Authority.

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.**
- 3. Prior to the endorsement of any plans in accordance with Condition 1, an amended landscape plan must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be generally in accordance with the Landscape Concept Plan prepared by memLa as advertised February 2021, but modified to include:
 - a. Amended to reflect the changes to the architectural plans as per the Section 57A revision submitted to Council on 29 July 2021.**
 - b. Any changes required by Condition 1 or 5.****
- 4. Before the occupation of the development, the landscaping works as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Landscaping must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.**

5. ***Prior to the endorsement of any plans in accordance with Condition 1, an amended Sustainable Design Assessment (SDA) in accordance with Clause 22.05 must be submitted to and approved by the Responsible Authority. Upon approval the SDA will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SDA to the satisfaction of the Responsible Authority. Recommendations of the SDA must be incorporated into the plans required under Condition 1. The SDA must be generally in accordance with the response prepared by Sustainable Development Consultants as advertised February 2021, but modified to include:***
 - a. ***Amended to reflect the changes to the architectural plans as per the Section 57A revision submitted to Council on 29 July 2021.***
 - b. ***The Water Sensitive Urban Design (WSUD) response included within the SDA amended to include all impermeable surfaces as shown on the landscape plan (Condition 3) and continue to achieve a minimum STORM rating of 100%.***
 - c. ***Any changes required by Condition 1 or 3.***
6. ***All works must be undertaken in accordance with the endorsed Sustainable Design Assessment to the satisfaction of the Responsible Authority. No alterations to the Sustainable Design Assessment may occur without written consent of the Responsible Authority.***
7. ***The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
8. ***Prior to the endorsement of any plans in accordance with Condition 1, a Tree Management Plan prepared by a suitably qualified arborist must be submitted to and approved by the Responsible Authority. When approved, the tree management plan will form part of this permit and all works must be done in accordance with the tree management plan (AS 4970).***

The tree management plan must detail measures to protect and ensure the viability of the *Melaleuca styphelioides* (Prickly Paperbark) and *Lophostemon confertus* (Queensland Box) street trees.

Among other things, the tree management plan must include the following information:

- a. ***Pre-construction (including demolition) – details to include a tree protection zone, height barrier around the tree protection zone, amount and type of mulch to be placed above the tree protection zone and method of cutting any roots or branches which extend beyond the tree protection zone. A plan must be submitted detailing any tree protection fencing, where the fencing is clearly identified and dimensioned.***
- b. ***During-construction – details to include watering regime during construction and method of protection of exposed roots.***

- c. Post-construction – details to include watering regime and time of final inspection when barrier can be removed and protection works and regime can cease.**

Pre-construction works and any root cutting must be inspected and approved by the Responsible Authority's Parks Unit. Removal of protection works and cessation of the Tree Management Plan must be authorised by the Responsible Authority's Parks Unit.

- 9. Prior to the endorsement of any plans in accordance with Condition 1 and prior to any development commencing on the site (including demolition and excavation whether or not a planning permit is required), the owner/developer must enter into a Deed with the Responsible Authority and provide it with a bank guarantee of \$16,240 + GST as security against a failure to protect the health of *Melaleuca styphelioides* (Prickly Paperbark) and *Lophostemon confertus* (Queensland Box) street trees. The applicant must meet all costs associated with drafting and execution of the Deed, including those incurred by the responsible authority. Once a period of 12 months has lapsed following the completion of all works at the site the Responsible Authority may discharge the bank guarantee upon the written request of the obligor. At that time, the Responsible Authority will inspect the trees and, provided they have not been detrimentally affected, the bank guarantee will be discharged.**
- 10. Prior to the endorsement of any plans in accordance with Condition 1 or prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), whichever occurs sooner, a letter of engagement must be provided to the Responsible Authority from the project arborist selected to oversee all relevant tree protection works. The project arborist must be an appropriately experienced and qualified professional (minimum Cert IV or equivalent in experience).**
- 11. The project arborist must maintain a log book detailing all site visits. The log book must be made available to the Responsible Authority within 24 hours of any request.**
- 12. Before the development (including excavation and demolition) starts, tree protection fencing must be erected around the *Melaleuca styphelioides* (Prickly Paperbark) and *Lophostemon confertus* (Queensland Box) Street trees in front of the site. Fencing is to be compliant with Section 4 of AS 4970. Signage identifying the need for approval from Council's Parks Unit for any root cutting (prior to it occurring) must also be displayed on the fence.**
- 13. The permit holder / developer must advise Council in writing that a Certificate of Occupancy has been issued in respect to the development and that the 12 month period in relation to the protection of the street trees has commenced.**
- 14. All plant and equipment (including air-conditioning units) shall be located or screened so as to minimise visibility from any of the surrounding footpaths and from overhead views and shall be baffled so as to minimise the emission**

of unreasonable noise to the environment in accordance with Section 48A of the Environment Protection Act 1970 to the satisfaction of the Responsible Authority.

- 15. Any poles, service pits or other structures/features on the footpath required to be relocated to facilitate the development must be done so at the cost of the applicant and subject to the relevant authority's consent.**
- 16. All utility services to the subject land and buildings approved as part of this permit must be provided underground to the satisfaction of the Responsible Authority by completion of the development.**
- 17. Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required Standard B22 of Clause 55.04-6 in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.**
- 18. Prior to the occupation of the building, the walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.**
- 19. Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all 'recommendations' and requirements contained in that report. All drainage must be by means of a gravity-based system and not pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations. (Please do not state drainage design to satisfaction of Council, that is the responsibility of the relevant building surveyor to check and approve in accordance with the report and 'recommendations' for the legal point of discharge).**
- 20. The existing Newry Street footpath levels must not be raised nor altered in any way at the property line (to facilitate the garage access ramp).**

Start Melbourne Water Conditions

- 21. The dwellings must be constructed with finished floor levels set no lower than 26.82 metres to Australian Height Datum (AHD), which is 300mm above the applicable flood level of 26.52 m to AHD.**
- 22. The garages must be constructed with finished floor levels set no lower than 26.67 metres to Australian Height Datum (AHD), which is 150mm above the applicable flood level of 26.52 m to AHD.**

23. ***A setback of 1m is required from the eastern property boundary, maintained at natural surface level and free of obstructions, with the exception of 39 Newry St.***
24. ***No fill is permitted outside of the building footprint with the exception of minimal fill required for ramping to garages, provided this is outside of any required setbacks.***
25. ***Prior to the commencement of works a separate application direct to Melbourne Water, must be made and approved of 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.***

End Melbourne Water Conditions

26. ***This permit will expire if one of the following circumstances applies:***
 - a. ***The development is not started within two years of the date of this permit.***
 - b. ***The development is not completed within four years of the date of this permit.***

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:

- A. ***This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.***
- B. ***Nothing in this permit hereby issued shall be construed to allow the removal of, damage to or pruning of a significant tree (including the roots) without the further written approval of Council.***

“Significant Tree” means a tree or palm:

- a) ***with a trunk circumference of 140 cm or greater measured at 1.4 m above its base;***
- b) ***with a total circumference of all its trunks of 140 cm or greater measured at 1.4 m above its base;***
- c) ***with a trunk circumference of 180 cm or greater measured at its base; or***

d) with a total circumference of all its trunks of 180 cm or greater measured at its base.

Please contact the Council Arborists on 8290 1333 to ascertain if permission is required for tree removal or pruning or for further information and protection of trees during construction works.

C. Nothing in the permit hereby issued may be construed to allow the removal of, damage to or pruning of any street tree without the further written consent of the Stonnington City Council. Contact the Council Arborists on 8290 1333 for further information.

D. The owners and occupiers of the dwellings hereby approved are not eligible to receive "Resident Parking Permits".

E. Council has adopted a zero tolerance approach in respect to the failure to implement the vegetation related requirements of Planning Permits and endorsed documentation. Any failure to fully adhere to these requirements will be cause for prosecution. This is the first and only warning which will be issued.

F. 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

8.2 Planning Application 0277/21 - 627 Chapel Street, South Yarra

MOTION:

MOVED: Cr Marcia Griffin

SECONDED: Cr Alexander Lew

That the Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 277/21 for the land located at Ground and Floor 1 (Tenancy 'A' and 'B'), 627 Chapel Street, South Yarra under the Stonnington Planning Scheme for use of the land (ground and first floor retail tenancies) for the sale and consumption of liquor (two restaurant and cafe liquor licenses) in association with the use of the tenancies as food and drink premises (restaurant and cafe) (as of right) in the Activity Centre Zone and a reduction in the bicycle parking requirement subject to the following conditions:

- 1. The plans endorsed to accompany the permit must not be amended without the written consent of the Responsible Authority.***
- 2. The approved Noise and Amenity Action Plans form part of the permit and both tenancies must operate in accordance with the applicable plan to the satisfaction of the Responsible Authority.***
- 3. A maximum of 461 patrons may be housed on the premises at any one time to the satisfaction of the Responsible Authority, comprising of:***
 - a) Tenancy 'A':***
 - 150 patrons at ground floor;***
 - 30 patrons in the external dining area on Chapel Street; and***
 - 195 patrons at first floor.***
 - b) Tenancy 'B':***
 - 62 patrons internally; and***
 - 24 patrons in the external dining area on the Daly Street frontage.***
- 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 following hours:***
 - a) Internal areas:***
 - 7am to midnight, seven days a week.***
 - b) Footpath trading / external areas:***
 - 7am to 11pm, seven days a week.***
- 5. The predominant activity carried out at all times on the licensed premises must be the preparation and serving of meals to be consumed on the premises to the satisfaction of the Responsible Authority. The kitchen must remain open at all times the premises is operating.***

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 in each area at any one time, to the satisfaction of the Responsible Authority.***
7. ***There must be no patron queueing outside the venue to the satisfaction of the Responsible Authority.***
8. ***Internal sound systems within both tenancies must be fitted with a noise limiter capable of octave band control housed in a tamper proof enclosure. Noise limiters must be installed and calibrated by a suitably qualified acoustic engineer to achieve compliance with Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Environment Protection Authority, November 2020), to the satisfaction of the Responsible Authority.***
9. ***No speakers are to be located externally.***
10. ***Noise emanating from the subject land must comply with Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Environment Protection Authority, November 2020), to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels from the premises are in compliance with this policy must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.***
11. ***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.***
12. ***Bottles and rubbish must not be removed from within the premises to the waste storage area between the hours of 11pm and 7am the following day.***
13. ***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.***
14. ***The use must be managed so that the amenity of the area is not detrimentally affected 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.***
15. ***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, the Responsible Authority may extend the periods referred to if a request is made in writing within the prescribed timeframes, where the use allowed by the permit has not yet started.

NOTES

- A. This permit is for the use of the land and/or buildings and does not constitute any authority to conduct a business requiring Health Act/Food Act registration without prior approval from the Council's Health Services.**
- B. This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.**
- C. Unless a permit is not required under the Stonnington Planning Scheme, signs must not be constructed or displayed without a further planning permit.**
- D. 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.**
- E. 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.**
- F. 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.****

Cr Koce foreshadowed his intention to move a motion to change the hours of operation to conclude at 9:30pm

MOTION:

MOVED: Cr Alexander Lew

SECONDED: Cr Matthew Koce

That Cr Klisaris be granted an extension of one minute to speak.

Carried

The motion was put and declared

Lost

MOTION:

MOVED: Cr Matthew Koce

SECONDED: Cr Jami Klisaris

That a Notice of Decision to Grant a Planning Permit No: 277/21 for the land located at Ground and Floor 1 (Tenancy 'A' and 'B'), 627 Chapel Street, South Yarra under the Stonnington Planning Scheme for use of the land (ground and first floor retail tenancies) for the sale and consumption of liquor (two restaurant and cafe liquor licenses) in association with the use of the tenancies as food and drink premises (restaurant and cafe) (as of right) in the Activity Centre Zone and a reduction in the bicycle parking requirement subject to the following conditions:

- 1. The plans endorsed to accompany the permit must not be amended without the written consent of the Responsible Authority.***
- 2. The approved Noise and Amenity Action Plans form part of the permit and both tenancies must operate in accordance with the applicable plan to the satisfaction of the Responsible Authority.***
- 3. A maximum of 461 patrons may be housed on the premises at any one time to the satisfaction of the Responsible Authority, comprising of:***
 - a. Tenancy 'A':***
 - 150 patrons at ground floor;***
 - 30 patrons in the external dining area on Chapel Street; and***
 - 195 patrons at first floor.***
 - b. Tenancy 'B':***
 - 62 patrons internally; and***
 - 24 patrons in the external dining area on the Daly Street frontage.***
- 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 following hours:***
 - a. Internal areas:***
 - 7am to midnight, seven days a week.***
 - b. Footpath trading / external areas:***
 - 7am to 9.30pm, seven days a week.***
- 5. The predominant activity carried out at all times on the licensed premises must be the preparation and serving of meals to be consumed on the premises to the satisfaction of the Responsible Authority. The kitchen must remain open at all times the premises is operating.***
- 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 in each area at any one time, to the satisfaction of the Responsible Authority.***
- 7. There must be no patron queueing outside the venue to the satisfaction of the Responsible Authority.***

8. ***Internal sound systems within both tenancies must be fitted with a noise limiter capable of octave band control housed in a tamper proof enclosure. Noise limiters must be installed and calibrated by a suitably qualified acoustic engineer to achieve compliance with Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Environment Protection Authority, November 2020), to the satisfaction of the Responsible Authority.***
9. ***No speakers are to be located externally.***
10. ***Noise emanating from the subject land must comply with Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Environment Protection Authority, November 2020), to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels from the premises are in compliance with this policy must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.***
11. ***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.***
12. ***Bottles and rubbish must not be removed from within the premises to the waste storage area between the hours of 11pm and 7am the following day.***
13. ***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.***
14. ***The use must be managed so that the amenity of the area is not detrimentally affected 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.***
15. ***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, the Responsible Authority may extend the periods referred to if a request is made

in writing within the prescribed timeframes, where the use allowed by the permit has not yet started.

NOTES

- A. ***This permit is for the use of the land and/or buildings and does not constitute any authority to conduct a business requiring Health Act/Food Act registration without prior approval from the Councils Health Services.***
- B. ***This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.***
- C. ***Unless a permit is not required under the Stonnington Planning Scheme, signs must not be constructed or displayed without a further planning permit.***
- D. ***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.***
- E. ***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.***
- F. ***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.***

A Division was called :

Voting For: Cr Jami Klisaris, Cr Kate Hely, Cr Matthew Koce, Cr Melina Sehr, Cr Mike Scott and Cr Polly Morgan

Voting Against: Cr Alexander Lew and Cr Marcia Griffin

The motion was declared

Carried

8.3 Perth Street, Prahran - Permanent Implementation of One-Way Flow Consultation

Cr Sehr declared a conflict of interest in item 8.3 Perth Street, Prahran Permanent One Way Flow as she resides in close proximity.

(7:34pm) Cr Sehr left the meeting.

MOTION:

MOVED: Cr Mike Scott

SECONDED: Cr Jami Klisaris

That the Council:

- 1. APPROVE the permanent implementation of one-way flow arrangement in the southbound direction in Perth Street, Prahran between Commercial Road and Greville Street.***
- 2. APPROVE the permanent implementation of one-way flow arrangement in the northbound direction in Perth Street, Prahran between High Street and Greville Street.***
- 3. APPROVE the undertaking of civil works at the Commercial Road, High Street and Greville Street intersections with Perth St and notify affected properties.***
- 4. AUTHORISE officers to conduct traffic surveys, in a period not affected by COVID-19 lockdowns, in all local streets previously surveyed (bounded by Commercial Road, Punt Road, High Street and Porter St) following the completion of the works in Recommendation 3.***
- 5. NOTE that the results of the surveys outlined in Recommendation 4 will be considered at a future Council Meeting***
- 6. NOTE that subject to the survey outcomes, the community will be engaged on any proposed improvements.***
- 7. AUTHORISE officers to notify those who made a submission as part of the consultation process of this decision.***

Carried

(7:40pm) Cr Sehr returned to the meeting.

8.4 Devorgilla Avenue, Toorak - Traffic and Pedestrian Concerns

MOTION:

MOVED: Cr Matthew Koce

SECONDED: Cr Marcia Griffin

That the Council:

- 1. NOTE the results of speed and volume counts undertaken in Devorgilla Avenue, Toorak, and that no further action is required to attenuate traffic speed;***
- 2. NOTE the matter will be referred to the Council's Infrastructure Unit for the investigation of a footpath in Devorgilla Avenue, Toorak; and***
- 3. NOTE that officers will advise the lead resident of the outcome and Council's determination accordingly.***

Carried

8.5 Percy Treyvaud Multipurpose Sports and Recreation Facility - Project Update

MOTION:

MOVED: Cr Jami Klisaris

SECONDED: Cr Alexander Lew

That the Council:

- 1. NOTE the revised Project Budget of \$49.90M for the Percy Treyvaud Multi-Purpose Facility Development Project;***
- 2. NOTE the Project Program for the Percy Treyvaud Multi-Purpose Facility Development Project;***
- 3. NOTE that a subsequent report will be brought to Council to award the contract for Principal Contractor at the completion of the procurement process.***

A Division was called:

Voting For: Cr Alexander Lew, Cr Jami Klisaris, Cr Kate Hely, Cr Marcia Griffin, Cr Matthew Koce, Cr Melina Sehr, Cr Mike Scott and Cr Polly Morgan

Voting Against: No votes recorded

The motion was declared

Carried

8.6 COVID Recovery Fund - Recommended Expenditure

MOTION:

MOVED: Cr Polly Morgan

SECONDED: Cr Marcia Griffin

That the Council:

- ***APPROVE the drawdown of \$790,285 against the remaining balance of the COVID Response/Recovery Fund within the 2021/22 Budget;***
- ***NOTE that after this drawdown the remaining balance within the COVID Response/Recovery Fund will be \$757,845; and***
- ***NOTE that as the COVID environment continues to evolve over the next few months the Council will consider further targeted community support initiatives that will be relevant to address the community need at the time.***

A Division was called :

Voting For: Cr Alexander Lew, Cr Jami Klisaris, Cr Kate Hely, Cr Marcia Griffin, Cr Matthew Koce, Cr Melina Sehr, Cr Mike Scott and Cr Polly Morgan

Voting Against: No votes recorded

The motion was declared

Carried

8.7 Community Grants Program 2021/22

Cr Scott declared a conflict of interest in item 8.7 as he is employed by an organisation which has submitted an application for a community grant.

(8:09pm) Cr Scott left the meeting.

MOTION:

MOVED: Cr Jami Klisaris

SECONDED: Cr Melina Sehr

That the Council:

- 1. APPROVE the recommendations for Community Capacity Building (annual) grants funding for the Community Grants Program 2021/2022 as shown in Attachment 1;***
- 2. APPROVE the recommendations for Partnership (triennial) grants funding for the Community Grants Program 2021/2022 for the first of three years funding (subject to the annual budget and accountability provisions) as shown in Attachment 1;***
- 3. APPROVE the allocation of Ethnic Meals Program subsidies to community groups for 2021/2022 as shown in Attachment 2, noting this is a restricted historical program not available to new groups;***
- 4. NOTE any applicant unable to expend the grant during the 2021/22 financial year will be required to return unspent funds to the Council;***
- 5. NOTE grant recipients, including funding amount and project description, will be publicised on the Council's website; and***
- 6. NOTE that the remaining balance of funding will be made available for Quick Response grants.***

MOTION:

MOVED: Cr Marcia Griffin

SECONDED: Cr Jami Klisaris

That Cr Lew be granted an extension of one minute to speak.

Carried

A Division was called :

Voting For: Cr Jami Klisaris, Cr Kate Hely, Cr Marcia Griffin, Cr Matthew Koce, Cr Melina Sehr and Cr Polly Morgan

Voting Against: No votes recorded

It was noted that Cr Alexander Lew abstained from voting.

The motion was declared

Carried

(8:24pm) Cr Scott returned to the meeting.

8.8 Advisory Committees - New Member Appointments

MOTION:

MOVED: Cr Polly Morgan

SECONDED: Cr Melina Sehr

That the Council APPROVE the following appointments to the below listed Committees of Council:

- a. Wendy Stone to the Community Recovery Committee.***
- b. Liza Coburn to the Disability Access Committee.***
- c. Melanie Jeffries to the Disability Access Committee.***
- d. Alexander Batsis to the LGBTIQ+ Advisory Committee.***

Carried

8.9 Climate Emergency Action Plan

MOTION:

MOVED: Cr Mike Scott

SECONDED: Cr Jami Klisaris

That the Council:

- 1. APPROVE the Climate Emergency Action Plan 2021-2024;***
- 2. NOTE that a quarterly report will be brought to Council to provide an update on the implementation of the Climate Emergency Action Plan; and***
- 3. NOTE the Sustainability Snapshot 2020-21 report and the achievements of Council and the community in working towards the goals of the Sustainable Environment Strategy 2018-2023.***

MOTION:

MOVED: Cr Alexander Lew

SECONDED: Cr Melina Sehr

That Cr Morgan be granted an extension of one minute to speak.

Carried

MOTION:

MOVED: Cr Marcia Griffin

SECONDED: Cr Polly Morgan

That Cr Lew be granted an extension of one minute to speak.

Carried

MOTION:

MOVED: Cr Polly Morgan

SECONDED: Cr Alexander Lew

That Cr Griffin be granted an extension of one minute to speak.

Carried

A Division was called :

Voting For: Cr Jami Klisaris, Cr Kate Hely, Cr Matthew Koce, Cr Melina Sehr, Cr Mike Scott and Cr Polly Morgan

Voting Against: Cr Alexander Lew and Cr Marcia Griffin

The motion was declared

Carried

8.10 Yarra Integrated Water Management Plan

MOTION:

MOVED: Cr Jami Klisaris

SECONDED: Cr Polly Morgan

That the Council ENDORSE the Yarra Catchment Integrated Water Management Plan.

Carried

8.11 Roadside Dining Policy and Handbook

MOTION:

MOVED: Cr Mike Scott

SECONDED: Cr Jami Klisaris

That the Council:

- 1. APPROVE the Roadside Dining Policy, updated after consultation with the resident and business community, noting necessary amendments may be made from time to time;***
- 2. NOTE the Roadside Dining Handbook updated after benchmarking noting necessary amendments may be made from time to time; and***
- 3. NOTE the Beatty Avenue community and business engagement.***

Carried

8.12 State Government Planning Reforms - Council Advocacy

MOTION:

MOVED: Cr Polly Morgan

SECONDED: Cr Melina Sehr

That the Council:

1. ***NOTE the Victorian Government has made a number of changes to the planning system in the last 18 months which have reduced the community's third-party public notice and appeal rights and the Council's role as responsible planning authority.***
2. ***NOTE the Victorian Government is currently considering further significant planning reform through the Planning Reform Program 2020-2024.***
3. ***ADVOCATE to the Victorian Government for the Stonnington community to retain its right to influence local planning outcomes through:***
 - a) ***consultation with community and the Council on any reform proposals occurring before reforms are considered or introduced.***
 - b) ***the community's voice remaining central in planning decisions.***
 - c) ***strong community consultation remaining a core process to inform major planning decisions.***
 - d) ***retaining a transparent planning system that strengthens local neighbourhoods and economies.***
4. ***ADVOCATE to the Minister for Planning that:***
 - a) ***full consultation with the Council and the community takes place prior to consideration of any planning reforms.***
 - b) ***ensure appropriate time is provided for feedback, including consideration of council meeting cycles.***
5. ***WRITE to the Municipal Association of Victoria (MAV) and the Victorian Local Governance Association (VLGA) to advocate on behalf of all Victorian Councils about the Planning Reform Program.***
6. ***WRITE to the Minister for Planning and the Shadow Minister for Planning to outline the Council's position.***
7. ***AUTHORISE the Chief Executive Officer or their delegate to collaborate with other Councils on a shared advocacy position on the Planning Reform Program.***
8. ***REQUEST a report to the Council within one month with an update and advice on any further action the Council can take to advocate effectively on this matter.***

Carried

8.13 Instrument of Delegation from Council to Chief Executive Officer (S 5)

MOTION:

MOVED: Cr Matthew Koce

SECONDED: Cr Melina Sehr

That the Council:

1. ***RESOLVE to exercise the power conferred by s 11 (1)(b) of the Local Government Act 2020 (the Act) that:***
 - a. ***there be delegated to the person holding the position, or acting in or performing the duties, of Chief Executive Officer the powers, duties and functions set out in the attached Instrument of Delegation to the Chief Executive Officer, subject to the conditions and limitations specified in that Instrument.***
 - b. ***the Instrument comes into force immediately the common seal of the Council is affixed to the Instrument.***
 - c. ***on the coming into force of the Instrument the previous Instrument of Delegation to the Chief Executive Officer that was executed on 6 July 2020 is revoked.***
 - d. ***the duties and functions set out in the Instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of the Council that it may from time to time adopt.***

Carried

8.14 Toorak Park Cricket Nets Plaque

MOTION:

MOVED: Cr Mike Scott

SECONDED: Cr Melina Sehr

That the Council APPROVE the purchase of a new plaque to commemorate the official opening of the Toorak Park Cricket Nets on 11 February 2021.

Carried

9 Correspondence

Cr Morgan indicated that she had received numerous themes of correspondence relating to a proposed planning application for 173 Burke Road, Malvern East.

Cr Lew indicated that he had received numerous themes of correspondence relating to a proposed planning application for 173 Burke Road, Malvern East and also a change.org petition with 900 signatures.

Cr indicated that she had received an email from a resident regarding Como Oval renovation works.

10 Tabling of Petitions and Joint Letters

Cr Klisaris tabled a petition with 36 signatures requesting the Council to retain the blossom trees in Dundonald Avenue, Malvern East.

MOTION:

MOVED: Cr Jami Klisaris

SECONDED: Cr Polly Morgan

That the petition be received and noted for report.

Carried

11 Notices of Motion

There were no notices of motion presented to the meeting.

12 Reports by Councillors

Cr Griffin indicated she had attended the Economic & Place Development Bi-Monthly meeting held on 1 September 2021.

The Mayor, Cr Hely indicated she had attended the following events and meetings.

1. Local Government Mayoral Advisory Panel – presentation on Council Culture
2. Citizenship Ceremonies – online with 78 new Australians
3. Chapel Street Precinct Association AGM
4. Meeting with Dr Katie Allen MP
5. M9 Mayors and CEO group meeting
6. Meeting with the Glenferrie Road Malvern Business Association

13 Reports by Delegates

There were no reports presented to the meeting.

14 Questions to Council Officers

Cr Griffin asked the following questions of the Director Environment & Infrastructure.

Will the park area in Como park entrance from Como Avenue be open for use?

When will the dog park construction in north Como begin?

Will the lower area in North Como be available for use?

Is it possible to delay the commencement of the dog park to allow residents maximum use while the lockdown continues?

The Director Environment & Infrastructure responded.

Cr Lew asked the following question of the Chief Executive Officer.

Is the Council considering having an independent arm's length investigation into the issues surrounding a complaint made to the Council by the Chapel Street Precinct Association?

The Chief Executive Officer responded to the question.

Cr Lew asked a question to the Chief Executive Officer.

I have been approached by traders of Chapel Street who are concerned with the breakdown of the relationship between the Council and the Chapel Street Precinct Association. Does the Council have a plan to improve its relationship with the Chapel Street Precinct Association?

The Chief Executive Officer responded.

Cr Lew asked a question of the Chief Executive Officer.

The Mayor told the Herald Sun that she would pay back what she saw as an overpayment for mentoring and training costs. Has the mayor made any such repayment to the Council?

The Chief Executive Officer responded that no reimbursement had been made.

15 Urgent Business

Cr Scott indicated he had a matter of urgent business for consideration regarding the Local Government Inspectorate correspondence dated 2 July 2020 which required a response from the Council.

Cr Griffin declared a conflict of interest in the item proposed to be considered under Urgent Business as the correspondence referred to relates to her.

(9:18pm) Cr Griffin left the meeting.

MOTION:

MOVED: Cr Mike Scott

SECONDED: Cr Melina Sehr

That the item regarding the Local Government Inspectorate correspondence dated 2 July 2021 be admitted for consideration under Urgent Business.

Carried

MOTION:

MOVED: Cr Mike Scott

SECONDED: Cr Melina Sehr

Following an investigation from the Local Government Inspectorate (LGI) in reference to a complaint made by City of Stonnington staff in July 2020 which referenced communications that were made by Cr Griffin which formed the basis of the complaint the Council:

- 1. NOTE a response to the LGI recommendations must be made by 2nd October, 2021***
- 2. NOTE a letter signed by a number of councillors to staff acknowledging the inappropriate behaviour***
- 3. NOTE actions being taken to improve Council's framework for governing councillor and staff interactions***
- 4. NOTE the apology made at the Council Meeting of 6 September 2021 by Cr Griffin in response to the findings of the LGI investigation was incorrect in that:***
 - Cr Griffin asserted the car was abandoned when it wasn't. It was fully registered and parked legally.***
 - Cr Griffin said that the finding of the LGI "...was the end of the matter, so far as it concerns me personally". The LGI has indicated that the Council should determine if Cr Griffin's behaviour constitutes a breach of the Code of Conduct***
- 5. We URGE that Cr Griffin make a fulsome apology consistent with addressing the findings of the LGI investigation***
- 6. ASK that the issue be referred back to the next Audit and Risk Committee meeting to track and monitor progress in line with the LGI recommendations***
- 7. We recognise the impact of this behaviour on Council Staff***
- 8. We THANK Council Staff for their bravery and encourage all staff to hold Councillors to account where there is inappropriate conduct and hope that we can continue to work collaboratively.***

A Division was called :

Voting For: Cr Jami Klisaris, Cr Kate Hely, Cr Matthew Koce, Cr Melina Sehr, Cr Mike Scott and Cr Polly Morgan

Voting Against: Cr Alexander Lew

The motion was declared

Carried

(9:34pm) Cr Griffin returned to the meeting.

The Chair foreshadowed that a report would come to the next Council meeting to cancel the Council meeting to be held on Monday 1 November 2021.

16 General Business

Cr Griffin indicated that she wished to make a statement as she was aware of an issue which had been the subject of discussion amongst Councillors concerning the Local Government Inspectorate complaint.

I needed to recuse myself from the item but am aware of the detail, as this material was sent to all Councillors at around 5.30pm this afternoon.

I think it is a matter of natural justice that I speak to this item.

This matter relates to my attempt to get a van removed from my street.

The van was there for around 3 months before it became vandalized and remained there for around another 7 months.

My neighbours became increasingly concerned.

I corresponded these concerns to Council Officers and it is around this correspondence that the matter was reported to the Local Government Inspectorate.

Now to quote from the Local Government Inspectorate whilst the Inspectorate identified no offence under the Act but we did identify deficiencies in the Council's relevant policy and procedures.

The Local Government Inspectorate provided me with the entirety of the evidence in respect of my conduct.

My fellow Councillors have not asked to see that at any stage even though I made a public apology about this at the last meeting so I would now like to read these emails that constitute this evidence. It won't take very long, there weren't many of them because I believe in transparency. I have made an apology but I don't think we have gone quite far enough yet in terms of natural justice so Mayor if you will bear with me I would now like to read these emails. I have to be careful as I don't want to put any names in so I am just going to use the words neighbour and officer if you will bear with me.

The Chief Executive Officer interjected and informed Cr Griffin that it was inappropriate to proceed with discussing the nature of the emails as Council staff had made complaints to the Local Government Inspectorate on a confidential basis.

Cr Lew raised a point of order that Cr Griffin was not allowed procedural justice under the Councillor Code of Conduct.

The Chair ruled against the point of order.

Cr Lew indicated he wished to move a motion " That the ruling of the Chair on the breach of the Code of Conduct be dissented from".

MOTION:

MOVED: Cr Alexander Lew

SECONDED: Cr Marcia Griffin

That the ruling of the Chair on the breach of the Code of Conduct be dissented from.

The motion was not put to the vote and the meeting was adjourned to seek clarification of the Governance Rules.

9:40pm The meeting was adjourned.

9:45pm The meeting resumed.

The Chair requested that Cr Griffin not read out the confidential emails, however invited her to sum up the matter.

17 Confidential Business

MOTION:

MOVED: Cr Melina Sehr

SECONDED: Cr Mike Scott

That the meeting be closed to the public to consider confidential business.

Carried

17.1 Toorak Open Space

The Confidential report is circulated separately under the Local Government Act.

The document is confidential information under Section 66 (2) (a) of the Local Government Act 2020. The matter is deemed to be confidential under Section 3 (1) (c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values.

The meeting concluded at 9:55pm following consideration of Confidential business.

Confirmed on 4 October 2021

.....
CR KATE HELY, MAYOR