



Minutes of the Council Meeting

Held on Monday 4 October 2021 at 7 PM

Virtual Meeting via Zoom



Council Meeting Minutes Monday 4 October 2021 Order of Business

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Councillors Present:

Cr Kate Hely, Mayor (Chair)
Cr Melina Sehr (Deputy Mayor)
C Cr Nicki Batagol
Cr Maricia Griffin
Cr Jami Klisaris
Cr Matthew Koce
Cr Alexander Lew
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 commenced 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

MOTION:

MOVED: Cr Melina Sehr

SECONDED: Cr Matthew Koce

That the apology received from Cr Morgan for non-attendance at the Council Meeting of 4 October 2021 be accepted and leave of absence granted.

Carried

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 20 September 2021

MOTION:

MOVED: Cr Mike Scott

SECONDED: Cr Matthew Koce

That the Minutes of the Meeting of the Stonnington City Council held on 20 September 2021 be confirmed as an accurate record of the proceedings subject to the addition on page 18 of Cr Griffin's name for the consideration of correspondence.

Carried

6 Disclosure of Conflicts of Interest

Cr Scott declared a conflict of interest in item 8.3 Reconciliation Action Plan 2021-2023 as he is Vice President of Reconciliation Stonnington.

The Chief Executive Officer declared a conflict of interest in item 8:11 CEO Employment and Remuneration Policy on the basis that it relates to the position of Chief Executive Officer.

7 Questions from the Community

In accordance with the Governance Rules a summary of the questions submitted to the meeting are as follows:

One question from Ms Hildenbrand

- The question relates to Gardiner Creek tree clearing.

Two questions from Ms Nguyen

- The questions relate to traffic matters in Chapel Street, Prahran.

In accordance with the Governance Rules (clause 54.6) written responses will be provided in relation to the questions submitted.

8 Business

8.1 Audit & Risk Committee Report

The Chair of the Audit & Risk Committee provided an overview of the activity of the committee for the period ended 31 August 2021.

MOTION:

MOVED: Cr Mike Scott

SECONDED: Cr Marcia Griffin

That the Council RECEIVE and NOTE the report of the Audit & Risk Committee.

Carried

8.2 Audit & Risk Committee Appointment

MOTION:

MOVED: Cr Nicki Batagol

SECONDED: Cr Melina Sehr

That the Council APPROVE the appointment of Ms Jenny Johanson to the Audit & Risk Committee for a three (3) year term ending 3 October 2024.

Carried

8.3 Reconciliation Action Plan 2021-2023

Cr Scott declared a conflict of interest in Item 8.3 Reconciliation Action Plan 2021-2023 on the basis that he is the Vice President of Reconciliation Stonnington.

(7:18pm) Cr Scott left the meeting.

MOTION:

MOVED: Cr Melina Sehr

SECONDED: Cr Alexander Lew

That the Council ENDORSE the Draft Stonnington Reconciliation Action Plan 2021-2023 for public exhibition from 5 -31 October 2021.

Carried

(7:28pm) Cr Scott returned to the meeting.

8.4 Planning Application 0977/20 - 581 Toorak Road, Toorak

MOTION:

MOVED: Cr Marcia Griffin

SECONDED: Cr Matthew Koce

That the Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 0977/20 for the land located at 581 Toorak Road, Toorak under the Stonnington Planning Scheme for the construction and display of electronic and internally illuminated signage in a General Residential Zone and a Heritage Overlay subject to the following conditions:

- 1. Before the commencement of the development, 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 advertised plans, Council date stamped 1 December 2020 but modified to show:

- a) **The easternmost sign must be relocated 500mm further west.**
 - b) **The hours of operation and illumination modified in accordance with Condition 4.**
2. **The location and details of the signs, including those of the supporting structure, must be in accordance with the endorsed plans, unless otherwise agreed in writing by the Responsible Authority.**
 3. **The signs must be maintained to the satisfaction of the Responsible Authority.**
 4. **The signs hereby permitted must only be illuminated during the following hours:**

St Peters Church Sign:

- **Winter (March 21 to September 21) 7am to 10pm.**
- **Summer (September 22 to March 20 except 24/25 December) 7am to 10pm**
- **24/25 December (Christmas Eve/Day) 24 December 7am to 25 December midnight.**

St Peters Early Learning Centre Sign:

- **Winter (March 21 to September 21) 7am to 10pm.**
- **Summer (September 22 to March 20) 7am to 10pm.**

Department of Transport Conditions start

5. **No advertisement must be displayed for less than 24 hours.**
6. **The transition from one advertisement to another must be instantaneous.**
7. **Where the graphical content or colours will change between successive advertising images, the average luminance change between the new image and the previous image must not exceed 30%.**
8. **The sign must not display content, images or text:**
 - a) **Giving the illusion of continuous movement.**
 - b) **Capable of being mistaken for traffic signals or traffic control devices, including red, amber or green circles, octagons, crosses or triangles.**
 - c) **Capable of being mistaken as an instruction to a road user, including the wording stop, give way, slow down, turn left or turn right.**
 - d) **With a flashing background, flashing text, flashing images, blinking or fading elements that create the illusion of movement.**
 - e) **Contain any animation.**
 - f) **Capable of being interpreted as projections beyond the face of the advertising screen such as through 3D technology.**
 - g) **Consisting of present time or other contemporary update information relating to news, weather or time.**
9. **The advertising area must not be split into two screens with different messages.**

10. ***The sign and any displayed advertisement must not include any ancillary extension, embellishment or accessorisation within or outside the permitted advertising area unless the Head, Transport for Victoria has agreed to in writing prior to its installation.***
11. ***The use of sound or motion to activate the sign is not permitted.***
12. ***The use of sound to interact with road users is not permitted.***
13. ***In the event of an attack by a computer hacker or similar resulting in unauthorised display of visual images or any other display malfunction, the electronic sign must shut down and cease any form of visual output until the malfunction is repaired.***
14. ***This permit expires 15 years from the date of issue, at which time the sign and all supporting structures must be removed, and the site made good to the satisfaction of the Responsible Authority.***

End of Department of Transport Conditions

15. ***This permit will expire if the sign is not erected within 2 years of the date of this permit. The Responsible Authority may extend the periods if a request is made in writing before the permit expires or within the timeframe specified in Section 69 of the Planning and Environment Act 1987.***

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. ***This property is located in a Heritage Overlay and planning permission may be required to demolish or otherwise externally alter any existing structures. External alterations include paint removal and any other form of decoration and works but does not include re-painting an already painted surface.***
- C. ***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.

- D. ***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.

Carried

8.5 Planning Application 0521/21 - 707 Orrong Road, Toorak

MOTION:

MOVED: Cr Matthew Koce

SECONDED: Cr Marcia Griffin

That the Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 521/21 for the land located at 707 Orrong Road, Toorak under the Stonnington Planning Scheme for construction of a multi-dwelling development and front fence in a General Residential Zone 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 submitted with the application (identified as Job No. 18-15, Drawing No's: PD04 to PD09, PD11 to PD18, PD28, PD29 and MS01, Council date stamped 21 June 2021) but modified to show***
 - a) The key ESD commitments reflected on the plans and/or annotations to confirm the development will incorporate all specifications detailed in the ESD report prepared by LID Consulting dated 31 May 2021.***

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. 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.***
- 4. 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.***
- 5. The existing footpath levels must not be lowered or altered in any way at the property line.***
- 6. Prior to the commencement of the development hereby approved, the permit holder must obtain approval from Council's Building and Local Laws Department to construct or modify any vehicle crossover/s providing access to the subject site. The issue of a planning permit does not provide approval for vehicular crossovers which are outside of the title boundary.***
- 7. Prior to the commencement of any works over any easement, the permit holder must obtain approval from the relevant authorities to remove and/or build over***

the easements pertaining to the site to the satisfaction of the Responsible Authority.

- 8. The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
- 9. Concurrent with the endorsement of plans, a 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 drawn to scale with dimensions and be generally in accordance with the landscape plan prepared by John Patrick Landscape Architects dated April 2021.***
- 10. 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.***
- 11. Concurrent with the endorsement of plans, a Tree Management Plan (TMP) generally in accordance with the TMP prepared by John Patrick Landscape Architects dated May 2021 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).***
- 12. 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.***
- 13. Prior to the commencement of any works on the land, each Tree Protection Zone nominated within the Tree Management Plane Plan must:***
 - a) Be fenced with temporary fencing in accordance with the attached specifications annotated in this permit to the satisfaction of the Responsible Authority.***
 - b) Include a notice on the fence to the satisfaction of the Responsible Authority advising on the purpose of the Tree Protection Zone, the need to retain and maintain the temporary fencing and that fines will be imposed for removal or damage of the fencing and trees.***
 - c) No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone without the prior written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.***
- 14. Concurrent with the endorsement of plans 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).***

15. ***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.***
16. ***Prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), the project arborist must advise the Responsible Authority in writing that the Tree Protection Fences have been installed to their satisfaction.***
17. ***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 establishment period has commenced.***
18. ***Concurrent with the endorsement of plans, a Waste Management Plan generally in accordance with the Waste Management Plan prepared by Low Impact Development Consulting dated 31/05/2021 must be submitted to and approved by the Responsible Authority. The Waste Management Plan must include:***
 - a) ***Dimensions of waste areas;***
 - b) ***The number of bins to be provided;***
 - c) ***Method of waste and recyclables collection;***
 - d) ***Hours of waste and recyclables collection;***
 - e) ***Method of presentation of bins for waste collection;***
 - f) ***Strategies for how the generation of waste and recyclables from the development will be minimized;***
 - g) ***Confirmation that residents can opt to utilise Council's green waste collection service.***

When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, 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 with the exception of runoff from any basement ramp and agricultural drains which may be 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.***
20. ***Prior to an 'Occupancy Permit' being issued, a suitably qualified Engineer must carry out a detailed inspection of the completed stormwater drainage system and associated works including all water storage tanks and detention (if applicable) to ensure that all works have been constructed in accordance with the approved design and the relevant planning permit conditions. Certification of the completed drainage from the Engineer must be provided to Council prior to a 'Statement of Compliance' being issued for the subdivision.***
21. ***The applicant must at their cost provide a stormwater detention system to restrict runoff from the development to no greater than the existing runoff based on a 1 in 10 A.R.I. to the satisfaction of Council's Infrastructure Unit.***

Alternatively, in lieu of the standalone detention system, the owner may provide stormwater tanks that are in total 5,000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.

- 22. Prior to the occupation of the building, all screening designed to limit overlooking must be installed in accordance with the endorsed plans to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.***
- 23. 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.***
- 24. 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.***
- 25. This permit will expire if one of the following circumstances applies:***
 - a) The development is not started within three years of the date of this permit.***
 - b) The development is not completed within five 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.



Carried

8.6 Bangs Street Housing Estate

MOTION:

MOVED: Cr Mike Scott

SECONDED: Cr Melina Sehr

That the Council:

- 1. NOTE the proposed design of the redevelopment of the Bangs Street Housing Estate;***
- 2. ENSURE the replacement trees along the Bendigo Street interface are larger canopy trees similar in size and scale to the trees that have been removed;***
- 3. PROVIDE setbacks to the upper 4 levels of Building A and D where they interface directly with Bendigo Street;***
- 4. ENDORSE Council's advocacy positions on rate exemptions, retention of street trees on Bangs Street, the impact of reduced car parking provision on local amenity, lack of loading/unloading facilities on site, the functionality and integration of community and commercial facilities, waste management issues, and insufficient evidence to support environmentally sustainable design claims; and***
- 5. ENDORSE technical feedback on the proposed design to the Department of Environment, Land, Water and Planning (DELWP), as shown in Attachment 2.***

Carried

8.7 Roadside Dining Fee Waiver

MOTION:

MOVED: Cr Nicki Batagol

SECONDED: Cr Melina Sehr

That the Council:

- 1. APPROVE the fee waiver and cost absorption of \$488,681 for the Roadside Dining Program for the period 1 November 2021 - 30 April 2022 (or equivalent six-month period, based on State Government restrictions).***
- 2. NOTE ongoing advocacy for additional financial support from the State Government to provide funding assistance to both businesses and Council to facilitate outdoor trading and assist in the recovery effort.***

Carried

8.8 Proposed Road Discontinuance of Road Adjoining 15-17 Somers Avenue, Malvern

MOTION:

MOVED: Cr Matthew Koce

SECONDED: Cr Jami Klisaris

That the Council, having followed the statutory procedures pursuant to sections 207A and 223 of the Local Government Act 1989 (“Act”), and pursuant to its power under clause 3 of Schedule 10 of the Act, and having received no submissions in response to the public notice regarding Council’s proposal to discontinue part of the road adjoining 15-17 Somers Avenue, Malvern, which is shown as lot 1 in Attachment 1 to this Report, being part of the land contained in certificate of title volume 5931 folio 127 (“Road”):

- 1. NOTE that the Road is no longer reasonably required for general public use;***
- 2. RESOLVE to discontinue the Road and sell the land to the adjoining owner of the common property at 15-17 Somers Avenue, Malvern; and***
- 3. DIRECT that a notice pursuant to the provisions of clause 3(a) of Schedule 10 of the Act is to be published in the Victoria Government Gazette***

Carried

8.9 Report and Consent for 18 Embling Road, Malvern

Cr Koce foreshadowed his intention to move a motion to approve the setback of the garage at 18 Embling Road, Malvern.

MOTION:

MOVED: Cr Melina Sehr

SECONDED: Cr Mike Scott

That the application to reduce the setback of the garage from the front street alignment at 18 Embling Road, Malvern pursuant to regulation 74 of the Building Regulations 2018 be deferred for one meeting cycle.

Carried

8.10 Volunteer Support and Community Engagement

MOTION:

MOVED: Cr Marcia Griffin

SECONDED: Cr Mike Scott

That the Council:

- 1. APPROVE to undertake community consultation on the need and preferences for Volunteering Support, to occur from 11 October until 15 November 2021.***
- 2. NOTE a further report on Volunteering Support will be presented by December 2021.***

Carried

8.11 CEO Employment and Remuneration Policy

(8:08pm) The Chief Executive Officer declared a conflict of interest in item 8:11 CEO Employment and Remuneration Policy on the basis that it relates to the position of Chief Executive Officer.

The Chief Executive Officer left the meeting.

MOTION:

MOVED: Cr Melina Sehr

SECONDED: Cr Marcia Griffin

That the Council defer consideration of the Chief Executive Officer Employment and Remuneration Policy for one meeting cycle.

Carried

(8:12pm) The Chief Executive Officer returned to the meeting.

8.12 Council Meeting: 1 November 2021

MOTION:

MOVED: Cr Jami Klisaris

SECONDED: Cr Melina Sehr

That the Council APPROVE the cancellation of the Council Meeting scheduled for Monday 1 November 2021.

Carried

9 Correspondence

Cr Lew indicated that the online petition regarding 173 Burke Road, Malvern East had to date recorded 1323 signatories.

10 Tabling of Petitions and Joint Letters

There were no petitions or joint letters tabled at the meeting.

11 Notices of Motion

There were no notices of motion presented to the meeting.

12 Reports by Councillors

The Chair indicated she had attended the following events and meetings.

1. Mayors Meeting – LG Planning Reforms
2. Meeting with David Davis MP
3. Meeting with Sam Hibbins MP
4. Webinar - Understanding waste to energy technology and Victorian regulations

Cr Scott indicated that he had attended as the Council delegate the meeting of the LGBTIQA+ Advisory Committee on 22 September 2021 and the Cycle Reference Group Active Transport meeting.

13 Reports by Delegates

There were no reports by delegates presented to the meeting.

14 Questions from Councillors to Council Officers

Cr Lew asked the following question of the Director Community & Wellbeing.

What were the changes discussed at the LGBTIQ+ Advisory Committee meeting held on 22 September 2021?

The Director Community & Wellbeing took the question on notice.

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

Can you provide an update on the reimbursement of Mayoral expenses?

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

Cr Scott asked the following question of the Director Environment & Infrastructure.

Has the Council any congestion busting projects to reduce congestion in the local government area?

The Director Environment & Infrastructure responded.

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

Has there been any agreement reached on the overpayment of Mayoral expenses?

The Chief Executive Officer took the question on notice.

Cr Lew sought clarification of the overpayment of Mayoral expenses.

The Chair indicated that Cr Lew's time for questions had expired.

Cr Lew called a point of order on the basis that the Governance Rules do not specify a time limit for Questions from Councillors to Council Officers.

The Chair ruled that Cr Lew's point of order was not valid.

Cr Lew indicated that there was no reference in the Governance Rules to restrict the number of questions or the timing thereof and moved a dissent motion.

Cr Hely referred to clause 42.2 of the Governance Rules which provided inter alia that the Chair has the right to limit questions.

8:24pm The Chair, Cr Hely vacated the Chair.

8:24pm The Deputy Mayor, Cr Sehr took the Chair.

MOVED: Cr Alexander Lew

SECONDED: Cr Marcia Griffin

That the Chair's ruling on the Governance Rules be dissented from.

Lost

8:30pm The Mayor, Cr Hely resumed the Chair.

15 Urgent Business

There was no urgent business considered at the meeting.

16 General Business

There was no General Business considered at the meeting.

17 Confidential Business

17.1 Services Report

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) (f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

MOTION:

MOVED: Cr Melina Sehr

SECONDED: Cr Matthew Koce

That the meeting be closed to consider confidential business.

Carried

Following the consideration of confidential business the meeting concluded at 8:34pm.

Confirmed on 18 October 2021.

.....
CR KATE HELY, MAYOR