



COUNCIL MEETING AGENDA 2021/CM21 Wednesday 24 November 2021 commencing at 6.30pm

In accordance with the Minister's Good Practice Guidelines, from 1 May 2020 until 26 April 2022, Councils can conduct virtual meetings which must be streamed live through its website. Frankston City will continue to stream its Council Meetings.

To best manage the current COVID-19 impacts, this meeting will be closed to public attendance.

Verbal Submissions

If you have registered or intend to register to speak to an item on the Council Meeting Agenda, speakers now only have the option of making a verbal submission via telephone. Officers will make contact and the speaker will be greeted by the Chair who will invite the speaker to make their verbal submission.

There are no changes to the limit on speakers i.e. the limit is still a maximum of 10 speakers and it will be at the discretion of the Chair, if further speakers are permitted. Speakers still have 3 minutes to address Council, with the exception of S223 submitters who will receive 5 minutes.

Live streaming is available from the below link:

<https://www.facebook.com/FrankstonCityCouncil>



THE COUNCIL MEETING

Welcome to this Meeting of the Frankston City Council

The Council appreciates residents, ratepayers and other visitors taking their places in the Public Gallery, as attendance demonstrates an interest in your Council and community affairs. Community spirit is encouraged.

This information sheet is designed to help you to understand the procedures of Council and help you to gain maximum value from your attendance.

The law regarding the conduct of Council meetings enables the public to observe the session. However, to ensure the manageability of Council meetings, opportunities for public participation are limited to Question Time and registered submissions in accordance with Council's guidelines, which are available from Council's Councillors Office (call 9768 1632) and on our website, www.frankston.vic.gov.au. It is not possible for any visitor to participate in any Council debate unless specifically requested by the Chairperson to do so.

If you would like to have contact with Councillors or Officers, arrangements can be made for you to do so separately to the meeting. Call the Councillors Office on 9768 1632 and ask for the person you would like to meet with, to arrange a time of mutual convenience.

When are they held?

Generally speaking, the Council meets formally every three (3) weeks on a Monday and meetings start at 7.00 pm, unless advertised otherwise. **This Council Meeting will be held in the Council Chambers, Frankston Civic Centre, 30 Davey Street**. Due to the current COVID-19 restrictions, this meeting is closed to public attendance. Livestream footage can be viewed via our website, www.frankston.vic.gov.au.

Council meeting dates are posted in the Davey Street and Young Street entrances to the Civic Centre (upper level) and also on our website, www.frankston.vic.gov.au.

Frankston City Council Governance Rules (adopted 31 August 2020)

25. Chair's Duty

Any motion which is determined by the *Chair* to be:

- 25.1 *defamatory of or embarrassing to any Councillor, member of Council staff or other person;*
- 25.2 *abusive or objectionable in language or nature;*
- 25.3 *a direct negative of the question before the Chair;*
- 25.4 *vague or unclear in intention;*
- 25.5 *outside the powers of Council; or*
- 25.6 *irrelevant to the item of business on the agenda and has not been admitted as*

79. Chair May Remove

- 79.1 *The Chair may order and cause the removal of any person, including a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 78.2, or cause the removal of any object or material that is deemed by the Chair as being objectionable or disrespectful.*
- 79.2 *Any person removed from the meeting under sub-Rule 79.1 must not return to the meeting without the approval of the Chair or Council.*

It is intended that this power be exercisable by the Chair, without the need for any Council resolution. The Chair may choose to order the removal of a person whose actions immediately threaten the stability of the meeting or wrongly threatens his or her authority in chairing the meeting.

The Penalty for an offence under this clause is 2 penalty units which is \$200

Live Streaming of Council Meetings

Frankston City Council is now Live Streaming its Council Meetings.

During the COVID-19 crisis, Council is strongly encouraging residents to view the meetings via the live streaming.

Live Streaming allows you to watch and listen to the meeting in real time, giving you greater access to Council decision making and debate and improving openness and transparency.

There are three (3) fixed cameras in the Council Chambers and it is intended that the cameras will only provide vision of the Councillors who are present at the meeting.

Every care will be taken to maintain privacy and as far as practically possible, it is not intended that there be either live or recorded footage of the public or Media personnel, however, there might be incidental capture; for example footage of a person exiting the building depending on which camera is being used at the time, or audio recording of a person who interjects the meeting. Council officers who address Council will be heard on the live audio stream, and audio of them speaking will be recorded.

Archives of meetings will be published on Council's website generally within three (3) business days after the meeting date for the public's future reference. Council will make every reasonable effort to ensure that a live stream and recording is available. However technical difficulties may arise in relation to live streaming or access to Council's website.

Appropriate signage will be placed at the entrance to the meeting location notifying all attendees that the meeting will be streamed live and recorded.

It is not intended that public speakers will be visible in a live stream of a meeting. Cameras are to be positioned so that these members of the public are not visible. If you do not wish to be recorded you will need to contact the Councillors Office on telephone (03) 9768 1632 or via email councillors.office@frankston.vic.gov.au to discuss alternative options prior to the meeting.

The Formal Meeting Agenda

The Council meeting agenda is available for public inspection immediately after it is prepared, which is normally on the Thursday afternoon four (4) clear days before the meeting. It is available from the Reception desk at the Civic Centre (upper level), on our website www.frankston.vic.gov.au or a copy is also available for you in the chamber before the meeting.

The following information is a summary of the agenda and what each section means:-

- **Items Brought Forward**

These are items for discussion that have been requested to be brought forward by a person, or a group of people, who have a particular item on the Agenda and who are present in the Public Gallery.

- **Presentation of Written Questions from the Gallery**

Question Time forms are available from the Civic Centre and our website, www.frankston.vic.gov.au.

“Questions with Notice” are to be submitted before 12 noon on the Friday before the relevant Ordinary Meeting either in person at the Frankston Civic Centre, online using the Question Time web form or via email to questions@frankston.vic.gov.au.

“Questions without Notice” are to be submitted between 12 noon on the Friday before the relevant Ordinary Meeting up until 4pm on the day of the relevant Ordinary Meeting either in person via the designated Question Time box located at the Frankston Civic Centre front reception or the after-hours mail box or via email to questions@frankston.vic.gov.au.

A maximum of 3 questions may be submitted by any one person at one meeting. There is no opportunity to enter into debate from the Gallery.

More detailed information about the procedures for Question Time is available from Council's Councillors Office (call 9768 1632) and on our website, www.frankston.vic.gov.au.

- **Presentation of Petitions and Joint Letters**

These are formal requests to the Council, signed by a number of people and drawing attention to matters of concern to the petitioners and seeking remedial action from the Council. Petitions received by Councillors and presented to a Council meeting are usually noted at the meeting, then a report is prepared for consideration at the next available meeting.

- **Presentation of Reports**

Matters requiring a Council decision are dealt with through officer reports brought before the Council for consideration. When dealing with each item, as with all formal meeting procedures, one Councillor will propose a motion and another Councillor will second the motion before a vote is taken. If the members of the public wish to clarify any of the items on the Agenda, please contact the relevant manager by phoning 1300 322 322.

- **Presentation of Delegate Reports**

A Councillor or member of Council staff who is a delegate may present to Council on the deliberations of the external body, association, group or working party in respect of which he or she is a delegate or an attendee at a Council approved conference / seminar.

- **Urgent Business**

These are matters that Councillors believe require attention and action by Council. Before an item can be discussed, there must be a decision, supported by the majority of Councillors present, for the matter to be admitted as “Urgent Business”.

- **Closed Meetings**

Because of the sensitive nature of some matters, such as personnel issues, contractual matters or possible legal action, these matters are dealt with confidentially at the end of the meeting.

Opportunity to address Council

Any person who wishes to address Council must pre-register their intention to speak before 4.00pm on the day of the meeting, by telephoning Council's Councillors Office (call 9768 1632) or by submitting the online web form or by using the application form both available on the website, www.frankston.vic.gov.au.

The submissions process is conducted in accordance with guidelines which are available from Council's Councillors Office and on our website. All submissions will be limited to 3 minutes in duration, except for Section 223 submitters, who have a maximum of 5 minutes. No more than ten (10) members of the public are to be permitted to address the Council. Further speakers will be permitted to address the meeting at the discretion of the Chair. All speakers need to advise if they are speaking on behalf of an organisation and it is deemed that they have been appropriately authorised by that said organisation.

Public submissions and any subsequent discussion will be recorded as part of the meeting, and audio recordings of Council meetings will be made available to members of the public. If a submitter does not wish to be recorded, they must advise the Chair at the commencement of their public submission.

Disclosure of Conflict of Interest

If a Councillor considers that they have, or might reasonably be perceived to have, a direct or indirect interest in a matter before the Council or a special committee of Council, they will declare their interest and clearly state its nature before the matter is considered. This will be done on every occasion that the matter is considered by the Council or special committee.

If a Councillor has an interest in a matter they will comply with the requirements of the Local Government Act, which may require that they do not move or second the motion and that they leave the room in which the meeting is being held during any vote on the matter and not vote on the matter.

If a Councillor does not intend to be at the meeting, he or she will disclose the nature of the interest to the Chief Executive Officer, Mayor or Chairperson prior to the meeting commencing.

MAYOR



NOTICE PAPER

ALL COUNCILLORS

NOTICE is hereby given that a Council Meeting of the Council will be held at the Civic Centre, Davey Street, Frankston, on 24 November 2021 at 6.30pm - Hearing of Submitters.

COUNCILLOR STATEMENT

All members of this Council pledge to the City of Frankston community to consider every item listed on this evening's agenda:

- *Based on the individual merits of each item;*
- *Without bias or prejudice by maintaining an open mind; and*
- *Disregarding Councillors' personal interests so as to avoid any conflict with our public duty.*

Any Councillor having a conflict of interest in an item will make proper, prior disclosure to the meeting and will not participate in the debate or vote on the issue.

OPENING WITH PRAYER

Almighty God, we ask for your blessing upon this Council. Direct and prosper its deliberations to the advancement of your glory and the true welfare of the people of Frankston City. Amen.

ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

I acknowledge the Traditional Custodians of the land on which we meet today, the Bunurong People of the Kulin Nation, and pay my respect to Elders past, present and future. I would like to extend that respect to Elders of other communities who may be here today.

BUSINESS**1. PRESENTATION TO COMMUNITY GROUPS**

Nil

2. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Council Meeting No. CM19 held on 15 November 2021.

3. APOLOGIES

Nil

4. DISCLOSURES OF INTEREST AND DECLARATIONS OF CONFLICT OF INTEREST**5. PUBLIC QUESTIONS**

Nil

6. HEARING OF SUBMISSIONS**7. ITEMS BROUGHT FORWARD****8. PRESENTATIONS / AWARDS****9. PRESENTATION OF PETITIONS AND JOINT LETTERS**

Nil

10. DELEGATES' REPORTS

Nil

11. CONSIDERATION OF TOWN PLANNING REPORTS

Nil

12. CONSIDERATION OF REPORTS OF OFFICERS

- 12.1 43/2021/P - 6-12 Davey Street, Frankston - Demolition of heritage buildings, construction of a building with two towers of twenty-two (22) and thirty (30) storeys (plus three basement levels), use of the land for accommodation (residential hotel with 200 rooms and 4 serviced apartments and 116 apartments), a reduction in car parking requirements at clause 52.06, display internally illuminated business identification signage and panel signage and alter access to a road within a Road Zone, Category 1 - Hearing of verbal submissions3

13. RESPONSE TO NOTICES OF MOTION

Nil

14. NOTICES OF MOTION

Nil

15. REPORTS NOT YET SUBMITTED

Nil

16. URGENT BUSINESS

17. CONFIDENTIAL ITEMS

Nil

Phil Cantillon

CHIEF EXECUTIVE OFFICER

11/11/2021



Executive Summary**12.1 43/2021/P - 6-12 Davey Street, Frankston - Demolition of heritage buildings, construction of a building with two towers of twenty-two (22) and thirty (30) storeys (plus three basement levels), use of the land for accommodation (residential hotel with 200 rooms and 4 serviced apartments and 116 apartments), a reduction in car parking requirements at clause 52.06, display internally illuminated business identification signage and panel signage and alter access to a road within a Road Zone, Category 1 - Hearing of verbal submissions**

Enquiries: (Sam Clements: Communities)

Council Plan

Level 1:	4. Well Planned and Liveable City
Level 2:	4.1 Integrate land use planning and revitalise and protect the identity and character of the City

Purpose

To provide Council with an opportunity to hear submitters and the applicant in relation to planning permit application 43/2021/P, prior to the report to Council for decision at a future date.

Recommendation (Director Communities)

That Council:

1. Notes that public notification of planning permit application 43/2021/P has been undertaken in accordance with the requirements of Section 52 of the *Planning and Environment Act 1987*;
2. Notes that seventy (70) objections were received to date;
3. Hears and considers the verbal submissions in accordance with Council's Public Submission and Question Time Policy.

Key Points / Issues

- This application seeks a permit to construct a building with two towers of twenty-two (22) and thirty (30) storeys (plus three basement levels), use of the land for accommodation (residential hotel with 200 rooms and 4 serviced apartments and 116 apartments), a reduction in car parking requirements at clause 52.06, display internally illuminated business identification signage and panel signage, and alter access to a road within a Road Zone, Category 1 at 6-12 Davey Street, Frankston.
- The application seeks to permission to demolish three heritage buildings at 8 to 12 Davey Street. However, this element of the proposal has also been applied for via separate application 21/2021/P and is being considered by Council at its meeting held on 15 November 2021.
- The building design is contemporary comprising of a single podium and two towers above. The overall height of the towers are: the twenty two (22) storey tower is approximately 84.3 metres and thirty (30) storey tower is approximately 116.4 metres.
- Vehicle access is proposed via Bay Lane with egress via Davey Street. Services/loading vehicles are proposed to exit via Bay Lane.

12.1 43/2021/P - 6-12 Davey Street, Frankston - Demolition of heritage buildings, construction of a building with two towers of twenty-two (22) and thirty (30) storeys (plus three basement levels), use of the land for accommodation (residential hotel with 200 rooms and 4 serviced apartments and 116 apartments), a reduction in car parking requirements at clause 52.06, display internally illuminated business identification signage and panel signage and alter access to a road within a Road Zone, Category 1 - Hearing of verbal submissions

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- The site is situated at the southern edge of Frankston Metropolitan Activity Centre (FMAC) in a high profile location proximate to the Frankston foreshore.
- As a result of the public notification, seventy (70) objections were received. The grounds of objection are summarised in the report.
- The planning application is being reported to Council at a future date for decision. The purpose of reporting the matter to this meeting is to allow for the hearing of verbal submissions from the objectors and the applicant, if desired, in accordance with the Council's Public Submission and Question Time Policy

Financial Impact

The permit application fee paid to Council was \$58,988.00.

Consultation

1. External Referrals

The application was referred externally to the Department of Public Transport – Head, Transport for Victoria. The further information request from Department of Public Transport – Head, Transport for Victoria remains outstanding.

2. Internal Referrals

The application was referred internally to Council's Strategic Planning, Traffic Engineer, Drainage Engineer, Environment, Landscape Architect, Governance Department, Waste Management and Economic Policy and Planning. The application was also referred to three consultant Heritage Architects, and a consultant Structural Engineer.

Notification of the planning application was given pursuant to the requirements of Section 52 of the *Planning and Environment Act 1987*.

Notification was given in the form of:

- Mail to adjoining and surrounding owners and occupiers (285 letters); and
- 6 signs erected – 4 on the Davey Street frontage and 2 on Bay Lane frontage.

As a result of the public notification, seventy (70) objections were received. The grounds of objection are summarised as follows:

- The size and scale of the buildings dominating the landscape and city.
- Overdevelopment of the site.
- Perceived incompatibility with the aesthetic of a beach side city.
- Concern it will set a precedent for high buildings.
- Detract from streetscape, character and landscape values.
- No strategic justification for the divergence of increased height - no evidence of long term community benefit.
- Demolition of the contributory heritage buildings – should be incorporated.

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- Not in keeping with existing buildings in the Davey Street heritage precinct which is generally low rise buildings.
- Owner/developer should not be rewarded or able to benefit from the deliberate neglect of the buildings.
- Shadow cast over adjoining properties and public spaces, including residential properties, Plowman Place, the Frankston Oval.
- Equitable development responsibility.
- Impact to amenity of the neighbouring Horizon development (1-2 Plowman Place).
- Traffic and car parking congestion resulting from more intensive development.
- Bay Lane access and traffic safety concerns regarding one way access.
- Traffic safety concern with waste vehicles exiting onto Bay Lane.
- Unclear how on-site car parking is to be managed.
- Concerns regarding steep ramps incorporated into the basement car park design, poor visibility and traffic safety concerns.
- Consideration given to vehicles ingress Davey Street.
- Consideration given to upgrading the intersection of Davey St and Nepean Highway.
- Inadequate information to properly assess the signage.
- The large, illuminated signs at level 32 would dominate the skyline and cause additional light pollution to the area.
- Impact on the Norfolk Pine Trees.
- Photomontages incorrectly reference the Horizon building at 1 and 2 Plowman Place at 11 levels and not the approved 9 levels.
- Deep spoil planting does not meet Standard D10 of Clause 58.03-5.
- Stantec report does not address appropriate stormwater management practices and therefore does not meet Standard D13 of Clause 58.03-8.
- Concern regarding accuracy of the shadow diagram.
- Impact view lines – 6 High Street.
- Decrease the value of the Horizon apartment property.
- Contribute to carbon footprint.
- High density accommodation is associated with high transmission of infection due to shared air-conditioning, ventilation and plumbing and shared areas.
- Concerns regarding insurability of buildings over three storeys high.
- Proposal has not responded to Clause 13.05-1S – Noise Abatement and Clause 53.06 – Live Music and Entertainment Noise. Unreasonable impact upon the

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operations of the adjoining live music entertainment venue and result in significant loss of amenity.

A Residents Discussion Meeting was not held due to the volume of objections received, but an opportunity for objectors and the applicant to make a verbal submission to Council in accordance with Council's Public Submission and Question Time Policy is provided via this extra meeting of Council.

Analysis (Environmental / Economic / Social Implications)

An analysis of the environmental, economic and social implications of the planning proposal will be provided in the future Council report for a decision on the permit application.

Legal / Policy / Council Plan Impact

Charter of Human Rights and Responsibilities

The Charter of Human Rights and Responsibilities has been considered in the preparation of this report but is not relevant to the content of the report.

Legal

Council has complied with Section 52, 58, 60, 61 and 62 of the *Planning and Environment Act 1987* in the processing of the planning permit application.

There is no statutory requirement under Section 52 of the *Planning and Environment Act 1987* for the responsible authority to provide an opportunity for objectors or the applicant to make a verbal submission to the Council.

Policy Impacts

Council is assessing the planning permit application in accordance with the relevant State and Local Policy Framework provisions and the Zone and Overlays of the Frankston Planning Scheme.

Officer's Declaration of Interests

Under Section 80C of the Local Government Act 1989, officers providing advice or a report to Council must disclose any direct or indirect interest they have in a matter.

Council officers involved in the preparation of this report have no Conflict of Interest in this matter.

Risk Mitigation

There are no relevant risk implications.

Conclusion

This report is not for a decision on the planning permit application. The purpose of this item is for Council to hear verbal submissions from submitters/objectors and the applicant in accordance with Council's Public Submission and Question Time Policy.

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ATTACHMENTS

Nil

17. CONFIDENTIAL ITEMS

Section 3(1) of the Local Government Act 2020 enables the Council to close the meeting to the public if the meeting is discussing any of the following:

- (a) Council business information that would prejudice the Council's position in commercial negotiations if prematurely released;
- (b) Security information that is likely to endanger the security of Council property or the safety of any person;
- (c) Land use planning information;
- (d) Law enforcement information;
- (e) Legal privileged information;
- (f) Personal information;
- (g) Private commercial information;
- (h) Internal arbitration information;
- (i) Councillor conduct panel information
- (j) Information prescribed by the regulations to be confidential information for the purposes of this definition;
- (k) Information that was confidential information for the purposes of section 77 of the Local Government Act 2020
- (l) A resolution to close the meeting to members of the public pursuant to section 66(2)(a).

Nil Reports

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Signed by the CEO