



# **GLEN EIRA CITY COUNCIL**

## **ORDINARY COUNCIL MEETING**

### **MINUTES**

**17 October 2017**

**7.30pm**

Present

Cr Mary Delahunty (Mayor)  
Cr Tony Athanasopoulos  
Cr Clare Davey  
Cr Margaret Esakoff  
Cr Jamie Hyams  
Cr Jim Magee  
Cr Dan Sztrajt  
Cr Nina Taylor

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**Minutes of the Ordinary Meeting of Council  
held in the Council Chamber, Glen Eira Council Offices,  
Corner Hawthorn Road and Glen Eira Road, Caulfield  
on Tuesday 17 October 2017 at 7.30pm**

**1. ACKNOWLEDGEMENT**

The Mayor read the acknowledgement

In the spirit of respect, Council acknowledges the people and elders of the Boon Wurrung people of the Kulin Nation past and present, who have traditional connections and responsibilities for the land on which Council meets.

**2. APOLOGIES –** An apology was received from Cr Silver

**Moved: Cr Magee**

**Seconded: Cr Hyams**

That the apology from Cr Silver be received and noted.

**CARRIED UNANIMOUSLY**

**3. OATH OF OFFICE AND DISCLOSURE OF INTEREST**

Oath of Office

The Mayor read the Oath of Office.

Councillors are reminded that we remain bound by our Oath of Office to undertake the duties of the office of Councillor in the best interests of the people of the municipal district of Glen Eira and to faithfully and impartially carry out the functions powers, authorities and discretions vested in us under the Local Government Act or any other Act to the best of our skill and judgement.

Councillors are also reminded of the requirements for disclosure of conflicts of interest in relation to items listed for consideration on the Agenda, or which are considered at this meeting, in accordance with Sections 77 to 79 of the Local Government Act.

The Mayor requested all mobile phones be switched off or placed on silent whilst in the gallery and also mentioned that under the Local Law a permit is required if wishing to film on Council land.

#### **4. CONFIRMATION OF THE MINUTES OF THE PREVIOUS COUNCIL MEETINGS**

##### **4.1 Confirmation of the Minutes**

**Moved: Cr Esakoff**

**Seconded: Cr Hyams**

That the minutes of the Ordinary Meeting held on 26 September 2017 be confirmed.

**CARRIED UNANIMOUSLY**

#### **5. RECEPTION AND READING OF PETITION AND JOINT LETTERS**

##### **5.1 – Objection to Elsternwick Draft Concept Plans (88 signatures)**

We the undersigned residents request that Council: STOP THE ELSTERNWICK HIGH RISE RE-ZONE, we reject and oppose the proposed high rise re-zone of the residential area between the Elsternwick Railway line and Nepean Highway as detailed in the Glen Eira Council's Elsternwick Draft Concept Plans.

The plans propose to remove the existing 'Neighbourhood Residential Zone' with 2-storey height limits and replace it 4 and 12 storey height limits; and remove the existing 'Residential Growth Zone' (in the streets closer to Hotham Road) with existing 4-storey height limits and replace it with 12 storey height limits.

This part of Elsternwick has a rich architectural history with many original Victorian houses dating back to the 1880s. These changes are designed to allow for high rise development and are expected to increase the overall Elsternwick population by at least 20 per cent.

The Glen Eira Council has not consulted with impacted property owners of this historic village area, despite being 5 stages through an 8 stage consultation process. Residents have also not received correspondence that the council claims was issued six weeks ago.

These draft plans are in conflict with Glen Eira Council's vision 'that Elsternwick will be a safe, accessible and liveable centre that embraces its historic character and strong cultural and village feel'.

**Moved: Cr Delahunty**

**Seconded: Cr Hyams**

That Council:

1. receives and notes the petition; and
2. considers the petition in conjunction with the Elsternwick Draft Structure Plan consultation process.

**CARRIED UNANIMOUSLY**

**6. DOCUMENTS FOR SEALING**

There were no documents for sealing submitted to the meeting.

**7. REPORTS BY DELEGATES APPOINTED BY COUNCIL TO VARIOUS ORGANISATIONS**

There were no reports by delegates presented to the meeting.

## 8. REPORTS FROM COMMITTEES

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### 8.1 Advisory Committees

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#### PART A

**Moved: Cr Hyams**

**Seconded: Cr Athanasopoulos**

That the minutes of the Community Consultation Committee be received and noted and that the recommendations of this Committee be adopted. The Minutes of the Recreation and Leisure Advisory Committee Meeting of 14 September will be presented to a future Council meeting.

- a. Community Consultation Committee Meeting – 4 September 2017
- b. Recreation and Leisure Advisory Committee Meeting – 14 September 2017

**CARRIED UNANIMOUSLY**

*It is recorded that Cr Jamie Hyams declared an indirect conflict of interest in item 8.1 Part B and vacated the Chamber at 7.39pm.*

*It is further recorded Cr Hyams was not present for the discussion on this item.*

#### PART B

**Moved: Cr Athanasopoulos**

**Seconded: Cr Taylor**

That the minutes of the following Committees be received and noted and that the recommendations of these Committees be adopted.

- a. Community Grants Committee Meeting – 19 September 2017

**CARRIED UNANIMOUSLY**

*It is recorded that Cr Hyams entered the Chamber at 7.43pm and was not present for the vote on this item.*

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## **8.2      *Records of Assembly***

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**Moved: Cr Esakoff**

**Seconded: Cr Athanasopoulos**

That the Record of the Assemblies as shown below be received and noted.

- 22 August 2017
- 29 August 2017
- 5 September 2017 (pre meeting)

**CARRIED UNANIMOUSLY**

The Mayor advised that at this stage of the meeting, we will invite members of the community to participate in the meeting under clause 230(1) Public Participation of the Glen Eira Local Law.

## **Section 9      Presentation of Officers Reports**

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### **9.1      VCAT Watch**

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**Moved: Cr Hyams**

**Seconded: Cr Esakoff**

That Council notes:

1. The reported planning decisions of the Victorian Civil and Administrative Tribunal (VCAT) including the commentary provided.
2. The newly lodged planning appeals that have been lodged with VCAT.

**CARRIED UNANIMOUSLY**



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## 9.2 48 Thomas Street, Brighton East

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**Moved: Cr Hyams**

**Seconded: Cr Athanasopoulos**

That Council forms a position that it would have issued a Notice of Refusal to Grant a Planning Permit for Application No. GE/PP-30113/2016 for the construction of two double storey dwellings at 48 Thomas Street, Brighton East on the following grounds:

1. Unit 2 would have an adverse visual bulk impact on the amenity of the adjoining properties.
2. The proposal would not accord with the following Character Element of the Minimal Change Area Policy at Clause 22.08 of the Glen Eira Planning Scheme.
  - Street Setbacks – The inadequate front setback of Unit 1 would detract from the garden character of the area.
  - Two storey or Multiple Storey Dwellings – Unit 2 would have an adverse visual bulk impact on the amenity of the adjoining properties.
3. The proposal would not accord with the purpose of the Neighbourhood Residential Zone because the development does not respect neighbourhood character in relation to the double storey built form at the rear of the site.
4. The proposal does not satisfy the following objectives of Clause 55 (ResCode) of the Glen Eira Planning Scheme:
  - Clause 55.02-1 – Neighbourhood character.
  - Clause 55.02-2 – Residential policy.
  - Clause 55.03-1 – Street setback.
  - Clause 55.03-8 – Landscaping.
  - Clause 55.04-1 – Side and rear setbacks.
  - Clause 55.04-2 – Walls on boundaries.
  - Clause 55.04-6 – Overlooking.
  - Clause 55.05-6 – Storage.
5. The car parking layout would not adequately accord with Design Standard 1 - Accessways of Clause 52.06 (Car Parking) of the Glen Eira Planning Scheme due to the lack of full corner splays and an inadequate internal radius for access to the Unit 2 garage.

**CARRIED UNANIMOUSLY**

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### 9.3 Bentleigh & Carnegie Interim Height Controls Extension

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**Moved: Cr Athanasopoulos**

**Seconded: Cr Taylor**

That Council:

1. revises their adopted timeframes for the Carnegie, Bentleigh and Elsternwick Structure Plan program to extend consultation to a 6 week process between 30 October and 11 December 2017.
2. revises the adopted timeframes for the East Village Structure Plan program to begin a 4 week consultation process between 18 November and 18 December 2017.
3. receives a report for consideration of adoption of these four structure plans along with Quality Design Guidelines in February 2018.
4. requests the Minister for Planning to approve a 12 month extension of the Carnegie and Bentleigh interim height controls in accordance with Section 20(A) of the *Planning and Environment Act 1987*.
5. requests the Minister for Planning to correct a minor error regarding a Public Acquisition Overlay (PA04) applied to 93 Mimosa Road and 11 Mile End Road for future Public Open Space in accordance with Section 20(A) of the *Planning and Environment Act 1987*.
6. requests the Minister for Planning to correct a minor word error in the Minimal Change Policy Clause 22.08-3.1 in accordance with Section 20(A) of the *Planning and Environment Act 1987*.

**CARRIED UNANIMOUSLY**

## 9.4 Transforming Murrumbeena Consultation Report

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**Moved: Cr Davey**

**Seconded: Cr Esakoff**

That Council adopts Option 5 of the report - *Two way traffic on Neerim Road, southern tree line planting, no link road* and

1. Commences planning to implement additional local area traffic treatments on Murrumbeena and Neerim Road only (shown in orange) and Railway Parade (shown in yellow in attachment 5) including seeking VicRoads approval where required; and
2. Writes to the Minister for Public Transport, The Hon Jacinta Allan MP and Kevin Devlin, CEO of the Level Crossing Removal Authority (LXRA) requesting that:
  - a) That the land set aside for the construction of the link road be used to create additional parking; and
  - b) The proposed Integrated Development Opportunity be shifted to the east to allow the creation of a village green in the heart of Murrumbeena consistent with recent community consultation.

**Moved: Cr Delahunty**

**Seconded: Cr Davey**

That Cr Athanasopoulos be granted a two minute extension of speaking time.

**CARRIED UNANIMOUSLY**

The Motion Moved by Cr Davey and Seconded by Cr Esakoff was PUT and  
**CARRIED**

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**9.5      *Municipal Public Health & Wellbeing Plan 2017-2021***

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**Moved: Cr Taylor****Seconded: Cr Davey**

That Council adopts the *Municipal Public Health & Wellbeing Plan 2017-2021* and the *Action Plan for the Glen Eira Municipal Public Health & Wellbeing Plan 2017/18*.

**CARRIED UNANIMOUSLY**

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**9.6      *Citizen of the Year Awards Advisory Committee***

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**Moved: Cr Hyams****Seconded: Cr Davey**

That Council appoints the following two community representatives to be on the Citizen of the Year Awards Advisory Committee 2018:

- Mr Jon Charlton, Principal of Kilvington Grammar School; and
- Mrs Gwen Brown, Secretary of DJ Coakley East Bentleigh Senior Citizens Club and recipient of the Citizen of the Year Award in 2017.

**CARRIED UNANIMOUSLY**

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**9.7      *Annual Report 2016-17***

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**Moved: Cr Delahunty****Seconded: Cr Magee**

*It is recorded that Cr Davey vacated the Chamber at 8.57pm and re-entered at 8.59pm*

That the *2016-17 Annual Report* be adopted by Council and be published as an online version accessible via Council's website.

**CARRIED UNANIMOUSLY**

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## 9.8 Webcasting / Live Streaming of Council Meetings

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**Moved: Cr Magee**

**Seconded: Cr Athanasopoulos**

*It is recorded that Cr Sztrajt entered the Chamber at 9.06pm.*

That Council:

1. appoints InterStream to provide webcasting / livestreaming at a total cost of \$30,498 including 16 microphones and a controller for Ordinary and Special Meetings of Council;
2. prepares the contracts in accordance with the conditions of the contract; and
3. executes the contracts in an appropriate manner.

**CARRIED**

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## 9.9 Review of Advisory Committees

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**Moved: Cr Davey**

**Seconded: Cr Athanasopoulos**

That Council adopts the reviewed Terms of Reference for the following Advisory Committees:

1. Arts & Culture Advisory Committee
2. Audit Advisory Committee
3. CEO Employment Matters Committee
4. Citizen of the Year Advisory Committee
5. Community Consultation Advisory Committee
6. Community Grants Advisory Committee
7. Local Laws Advisory Committee
8. Recreation & Leisure Advisory Committee
9. Strategic Transport Advisory Committee
10. Sustainability Advisory Committee

**CARRIED UNANIMOUSLY**

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## **9.10 Community Engagement Policy**

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**Moved: Cr Hyams**

**Seconded: Cr Sztrajt**

That Council adopts the Community Engagement Policy attached to this report.

**CARRIED UNANIMOUSLY**

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## **9.11 Council Policy - Investments**

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**Moved: Cr Davey**

**Seconded: Cr Athanasopoulos**

That Council review and approve the amended Investment Policy shown in Attachment 1.

**CARRIED UNANIMOUSLY**

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## 9.12 Changes to Council Instruments of Delegations

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**Moved: Cr Delahunty**

**Seconded: Cr Taylor**

That Council approves the following Delegations and the Instruments of Delegation in attachments 1, 2, 3 and 4:

### 1 Instrument of Delegation to CEO

In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (**the Act**), Council resolves that:

- (a) there be delegated to the person holding the position, 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 Council is affixed to the instrument;
- (c) on the coming into force of the instrument all previous delegations to the Chief Executive Officer are 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 Council that it may from time to time adopt; and
- (e) it is noted that the instrument includes a power of delegation to members of Council staff, in accordance with section 98(3) of the Act.

### 2 Planning and Environment Act 1987

In exercise of the powers conferred by section 98(1) of the Act and under section 188 of the *Planning and Environment Act 1987*, Council resolves that:

- (a) the existing delegation to Council staff be revoked effective immediately upon the Instrument of Delegation referred to in sub-paragraph 2(b) coming into effect;
- (b) there be delegated to specified Council staff the powers, discretions and authorities set out in the attached Instrument of Delegation (as amended) (Attachment 2);
- (c) the powers, discretions and authorities conferred on the specified Council staff by the Instrument of Delegation must be exercised in accordance with the delegations, procedures and limitations set out in the Instrument of Delegation and in accordance with any guidelines or policies Council may from time to time adopt;
- (d) the Instrument of Delegation be sealed; and
- (e) the Instrument of Delegation:
  - i. comes into force immediately the seal of Council is affixed to it; and
  - ii. remains in force until Council determines to vary or revoke it.

### 3 Road Management Act 2004

In exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* and section 118(1) of the *Road Management Act 2004* Council resolves that:

- (a) the existing delegation to Council staff be revoked effective immediately upon the Instrument of Delegation referred to in sub-paragraph 3(b) coming into effect;
- (b) there be delegated to specified Council staff the powers, discretions and authorities set out in the attached Instrument of Delegation (as amended) (Attachment 3);

- (c) the powers, discretions and authorities conferred on the specified Council staff by the Instrument of Delegation must be exercised in accordance with the delegations, procedures and limitations set out in the Instrument of Delegation and in accordance with any guidelines or policies Council may from time to time adopt;
- (d) the Instrument of Delegation be sealed; and
- (e) the Instrument of Delegation:
  - i. comes into force immediately the seal of Council is affixed to it; and
  - ii. remains in force until Council determines to vary or revoke it.

#### **4 Food Act 1984**

In exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* and under section 58A of the *Food Act 1984* Council resolves that:

- (a) the existing delegation to Council staff be revoked effective immediately upon the Instrument of Delegation referred to in sub-paragraph 4(b) coming into effect;
- (b) there be delegated to specified Council staff the powers, discretions and authorities set out in the attached Instrument of Delegation (as amended) (Attachment 4);
- (c) the powers, discretions and authorities conferred on the specified Council staff by the Instrument of Delegation must be exercised in accordance with the delegations, procedures and limitations set out in the Instrument of Delegation and in accordance with any guidelines or policies Council may from time to time adopt;
- (d) the Instrument of Delegation be sealed; and
- (e) the Instrument of Delegation:
  - i. comes into force immediately the seal of Council is affixed to it; and
  - ii. remains in force until Council determines to vary or revoke it.

**CARRIED UNANIMOUSLY**



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### **9.13 Receipt of and Response to Community Open Space Expert Panel Report**

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**Moved: Cr Athanasopoulos**

**Seconded: Cr Davey**

That Council:

1. writes to the Minister for Public Transport, Hon. Jacinta Allan MP, and Kevin Devlin, Chief Executive Officer of the Level Crossing Removal Authority (LXRA) expressing its support for the recommendations from Community Open Space Expert Panel (COSEP) and calling on the State Government to implement these recommendations including:
  - a) Protecting Woorayl Street Reserve and the trees on it as open space for the Carnegie community;
  - b) Setting high standards for maintenance of both the open spaces and station precincts in this rail corridor;
  - c) Ensuring that community spaces and carparks are multi-purpose, and can be used for events in off-peak times;
  - d) Returning canopy trees to the corridor wherever possible;
  - e) Investing in connections into the path and facilities nearby to improve accessibility and safety;
  - f) Including a green town square at Murrumbeena Village; and
2. ask the community to support its requests by also emailing and writing to the Minister for Public Transport, Hon. Jacinta Allan MP.

**CARRIED UNANIMOUSLY**

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### **9.14 MAV State Council Motions**

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**Moved: Cr Esakoff**

**Seconded: Cr Taylor**

That Council notes this report.

**CARRIED UNANIMOUSLY**

## 10. URGENT BUSINESS

**Moved: Cr Magee**

**Seconded: Cr Athanasopoulos**

That Council considers the matter of the public statements made on crime in Bentleigh as an item of urgent business.

**CARRIED UNANIMOUSLY**

**Moved: Cr Magee**

**Seconded: Cr Athanasopoulos**

That Council:

1. writes to the Hon Mr Matthew Guy and Mr Asher Judah requesting a retraction or a clarification of statements made regarding crime and graffiti in Bentleigh, pointing out that the location at which the video was taken shows graffiti on State Government Land. The letter should also point out that that it is well proven that when graffiti is not addressed it is added to, and
2. welcomes any intervention to remove graffiti from State government assets in a more timely manner.

### **Procedural Motion**

**Moved: Cr Delahunty**

**Seconded: Cr Magee**

That the meeting be extended to finish at 11pm.

**CARRIED UNANIMOUSLY**

The Motion moved by Cr Magee and Seconded by Cr Athanasopoulos was PUT and a **DIVISION** was called:

**DIVISION:**   **FOR:**       Crs Athanasopoulos, Davey, Magee, Taylor and Delahunty (5)  
**AGAINST:** Crs Esakoff, Hyams and Sztrajt (3)

**CARRIED**

## **11. ORDINARY BUSINESS**

- 11.1 Requests for reports from Officers - NIL**
- 11.2 Right of Reply - NIL**
- 11.3 Councillor questions – NIL**
- 11.4 Public Questions to Council**

### **1. Markus Oswald - Carnegie**

- a) Is Council aware of the size, height and/or nature of the proposed Integrated Development Opportunities at Carnegie & Murrumbeena as part of the level crossings removal project?
- b) Is Council aware of discussions between state government agencies and possible purchasers/developers of proposed Integrated Development Opportunities as part of the Caulfield - Dandenong level crossing removal project? Is Council involved in those discussions?

#### **Response:**

- a) Council has not received details of the size, height or nature of the proposed Integrated Development Opportunities at Carnegie & Murrumbeena as part of the level crossing removal project. Recent enquiries to the State Government indicates that this level of detail has not yet been resolved.
- b) Council is not aware of the details of discussions between State Government agencies and possible purchasers/developers as part of the project, however Council has been advocating to the State Government to abandon their plans to convert the green space at Carnegie into a development and retain it as a green heart of Carnegie. Council is also calling for the State Government to shift the location of the proposed development at Murrumbeena further to the east to allow for the creation of a village green in Murrumbeena.

**12. CONFIDENTIAL BUSINESS**

There were no items of confidential business submitted to the meeting.

**13 CLOSURE OF MEETING**

The Mayor closed the meeting at 10.07pm.

Confirmed this 8 Day of November 2017

Chairperson: .....