



GLEN EIRA CITY COUNCIL
ORDINARY COUNCIL MEETING
TUESDAY 14 AUGUST 2018

MINUTES

**Meeting was held in the Council Chambers,
Corner Hawthorn & Glen Eira Roads, Caulfield
at 7.30pm**

Present

The Mayor, Councillor Tony Athanasopoulos
Councillor Clare Davey
Councillor Mary Delahunty
Councillor Margaret Esakoff
Councillor Jamie Hyams
Councillor Jim Magee
Councillor Joel Silver
Councillor Dan Sztrajt

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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

Apology – An apology was received from Cr Taylor.

Moved: Cr Hyams

Seconded: Cr Delahunty

That the apology from Cr Nina Taylor be received and noted.

CARRIED UNANIMOUSLY

3. OATH OF OFFICE AND DISCLOSURES OF INTERESTS

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 requirement 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.

4. CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETINGS

Moved: Cr Silver

Seconded: Cr Sztrajt

That the minutes of the Ordinary Council Meeting held on 24 July 2018 be confirmed.

CARRIED UNANIMOUSLY

5. RECEPTION AND READING OF PETITIONS AND JOINT LETTERS

Nil

6. DOCUMENTS FOR SEALING

Nil

7. REPORTS BY DELEGATES APPOINTED BY COUNCIL TO VARIOUS ORGANISATIONS**7.1 DELEGATES REPORT - INSTITUTE FOR SENSIBLE TRANSPORT DUTCH STUDY TOUR**

Moved: Cr Delahunty

Seconded: Cr Magee

That Council receives and notes the Dutch Innovation Study Tour Report.

CARRIED UNANIMOUSLY

8. REPORTS FROM COMMITTEES**8.1 Advisory Committees****8.1 ADVISORY COMMITTEE**

Moved: Cr Silver

Seconded: Cr Hyams

That the minutes of the Advisory Committees as shown below be received and noted and that the recommendations of the committees be adopted with the following change to the Recreation and Leisure Advisory Committee Minutes:

- a. Sustainability Advisory Committee – 31 May 2018
- b. Community Grants Advisory Committee – 12 June 2018
- c. Recreation and Leisure Advisory Committee – 12 June 2018

- Part 11 of the Terms of Reference to read:

Executive Officers to the Committee

- Director Infrastructure, Environment & Leisure
- Manager Recreation & Open Space

CARRIED UNANIMOUSLY

8.2 Records of Assembly

8.2 ASSEMBLY OF COUNCILLORS**Moved: Cr Esakoff****Seconded: Cr Sztrajt**

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

- a. 10 July 2018
- b. 17 July 2018
- c. 24 July 2018 (pre-meeting)

CARRIED UNANIMOUSLY

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

9. PRESENTATION OF OFFICER REPORTS

9.1 VCAT WATCH

Moved: Cr Silver**Seconded: Cr Hyams**

That Council notes the applications currently before the Victorian Civil and Administrative Tribunal (VCAT), including the recent applications that have been lodged with VCAT.

CARRIED UNANIMOUSLY

It is recorded that Cr Esakoff declared an indirect conflict of interest by close association and left the Chamber at 8.07pm prior to any discussion on this matter.

9.2 2 PEARCE STREET CAULFIELD SOUTH

Moved: Cr Delahunty

Seconded: Cr Silver

That Council issues a Notice of Refusal to Grant a Planning Permit for Application No. GE/PP-31555/2018 at 2 Pearce Street Caulfield South, for the following reasons:

Grounds of Refusal:

1. The proposed development is not consistent with the Planning Policy Framework for Built Environment and Heritage (Clause 15) and Housing and Residential Development (Clause 21.04) as the substantial massing of the building does not adequately respond to its context in terms of neighbourhood character and would have an adverse impact on the amenity of adjoining properties, particularly to the south at 4 Pearce Street.
2. The proposal would not accord with the purpose of the General Residential Zone because the development does not respect neighbourhood character due to its massing and continuous built form within the site. The extent of the bulk is not considered to be adequately responsive to the sensitive interfaces of the rear yard of 4 Pearce Street.
3. 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 55.04-1 – Side and rear setbacks
 - Clause 55.04-3 - Daylight to existing windows
4. The proposed development will have an unreasonable impact on the performance of solar panels of the neighbouring property to the south.

Procedural Motion

Moved: Cr Delahunty

Seconded: Cr Silver

That Cr Hyams be granted a three minute extension of speaking time.

CARRIED UNANIMOUSLY

Moved: Cr Silver

Seconded: Cr Sztrajt

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

CARRIED UNANIMOUSLY

The Motion Moved by Cr Delahunty and Seconded by Cr Silver was
CARRIED UNANIMOUSLY

It is recorded that Cr Esakoff entered the Chamber at 8.30pm and was not present when this item was discussed.

9.3 81 DALNY ROAD, MURRUMBEENA

Moved: Cr Esakoff

Seconded: Cr Magee

That Council issues a Notice of Refusal to Grant a Planning Permit for Application No. GE/PP-31483/2017 at 81 Dalny Road, Murrumbeena, for the following reasons:

Grounds of Refusal:

1. The proposal does not accord with the Minimal Change Area Policy (Clause 22.08) of the Glen Eira Planning Scheme, as follows:
 - The enclosed front garden with solid front fence fails to respect the open landscaping setting of the streetscape;
 - The provision of three dwellings on a conventional sized lot is discouraged and the proposal will result in excessive mass and bulk impacts on the adjoining properties.
 - The extensive hard paving unreasonably limits landscaping opportunities, including canopy tree planting.
2. The proposal does not satisfy the following provisions of Clause 55 (ResCode) of the Glen Eira Planning Scheme:
 - Clause 55.02-1 – Neighbourhood character – the proposed design does not respect the existing, or contribute to, the preferred neighbourhood character, due to insufficient landscaping opportunities and the number of dwellings proposed on the lot.
 - Clause 55.02-2 – Residential policy – the proposed development does not respond appropriately to Clause 22.08 (Minimal Change Area Policy) of the Glen Eira Planning Scheme.
 - Clause 55.02-5 – Integration with the street – the proposed development fails to appropriately integrate with Dalny Road, due to the 1.8 metre high solid front fence.
 - Clause 55.03-1 – Street setback – the proposed front setback to Dalny Road does not comply with the setback requirement and fails to respond to the preferred character of the area, resulting in visually dominant built form that will unreasonably disrupt the streetscape.
 - Clause 55.03-5 – Energy efficiency – the location of south-facing secluded private open spaces fails to achieve adequate energy efficiency.
 - Clause 55.03-8 -- Landscaping – the proposed development fails to allow for a suitable level of post-construction landscaping, including canopy tree planting.
 - Clause 55.05-4 – Private open space – the proposed development fails to provide suitable areas of secluded private open space, due to the inadequate minimum dimensions provided for Townhouse 1 and 2

- Clause 55.05-5 – Solar access to open space – the proposed development fails to provide adequate solar access to the south-facing secluded private open space of Townhouse 1 and 2.
 - Clause 55.06-2 – Front fence – the height and design of the front fence fails to accord with the existing character of the area.
3. The proposed vehicle access fails to ensure that vehicles can safely egress to and from the site.

CARRIED

9.4 HERITAGE ASSESSMENT OF 8 GORDON STREET, ELSTERNWICK

Moved: Cr Delahunty**Seconded: Cr Silver**

That Council:

1. notes the Heritage Assessment of ABC TV Studios, 8 Gordon Street, Ripponlea (Heritage ALLIANCE, 2018).
2. seeks authorisation from the Minister for Planning to prepare and exhibit a Planning Scheme Amendment to apply a permanent Heritage Overlay to 8 Gordon Street, Elsternwick.
3. requests Council officers to seek the application of an interim Heritage Overlay to 8 Gordon Street, Elsternwick through a Planning Scheme Amendment in accordance with Section 20(4) of the *Planning and Environment Act 1987*.
4. provides Heritage Victoria with the Heritage Assessment and seek their consideration of adding 8 Gordon Street to the Victorian Heritage Register.
5. notifies the ABC of the values identified in the Heritage Assessment, to enable the ABC to prepare a response to the assessment and assess its obligations under the Environment Protection and Biodiversity Conservation (EPBC) Act and its own strategies.

CARRIED UNANIMOUSLY

9.5 PARTNERSHIPS AND COLLABORATION WITH SCHOOLS - SPORTS GROUNDS

Moved: Cr Hyams**Seconded: Cr Magee**

That Council

1. notes this report;
2. authorises officers to work with DEWLP on the establishment of pilot projects with schools under the Metropolitan Open Space Strategy;
3. authorises officers to maintain open communication with schools and the State Government on facilities that would provide the best opportunity for shared use for wider community benefit; and
4. authorises officers to continue to advocate for access to the Caulfield Racecourse infield to address shortage of sports fields in Glen Eira.

CARRIED UNANIMOUSLY

9.6 COMMUNITY GRANTS RECOMMENDATIONS

Moved: Cr Hyams**Seconded: Cr Esakoff****Part A**

That Council endorses the Community Services Grants and Festivals and Events Grants as detailed in attachments one and two.

CARRIED UNANIMOUSLY

It is recorded that Cr Esakoff declared an indirect conflict of interest because of conflicting duties left the Chamber at 9.33pm prior to any discussion on this matter.

Moved: Cr Hyams**Seconded: Cr Delahunty****Part B**

That Council endorses the grant to Calvary Health Care Bethlehem as detailed in attachment three.

CARRIED UNANIMOUSLY

It is recorded that Cr Esakoff entered the Chamber at 9.34pm and was not present when this item was discussed.

It is recorded that Cr Hyams declared an indirect conflict of interest because of conflicting duties left the Chamber at 9.34pm prior to any discussion on this matter.

Moved: Cr Delahunty**Seconded: Cr Esakoff****Part C**

That Council endorses grants to and auspiced by Glen Eira Adult Learning Centre as detailed in attachment four.

CARRIED UNANIMOUSLY

It is recorded that Cr Hyams entered the Chamber at 9.35pm and was not present when this item was discussed.

It is recorded that Cr Athanasopoulos declared an indirect conflict of interest because of conflicting duties left the Chamber at 9.35pm prior to any discussion on this matter

Cr Hyams to took the Chair for Part D of this item.

Moved: Cr Davey

Seconded: Cr Esakoff

Part D

That Council endorses the Festivals and Events Grants to traders associations as detailed in attachment five.

CARRIED UNANIMOUSLY

It is recorded that Cr Athanasopoulos entered the Chamber at 9.36pm and was not present when this item was discussed.

9.7 EXTENSION OF TIME REQUESTS FOR PLANNING PERMITS

Moved: Cr Hyams

Seconded: Cr Silver

That Council:

1. notes this report.
2. resolves to select Option 2 presented in this report.

CARRIED UNANIMOUSLY

9.8 LOCAL LAWS PROJECT REVIEW

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

That Council:

1. notes this report and appoints Cr Silver as Chairperson for the Local Laws Advisory Committee; and
2. resolves to amend the terms of reference for the Local Laws Advisory Committee to provide for the Committee to elect its own Chairperson.

Procedural Motion**Moved: Cr Delahunty****Seconded: Cr Sztrajt**

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

CARRIED UNANIMOUSLY**CARRIED UNANIMOUSLY****Procedural Motion****Moved: Cr Athanasopoulos****Seconded: Cr Hyams**

That the meeting be extended to conclude at 11pm.

CARRIED UNANIMOUSLY

9.9 INSTRUMENTS OF APPOINTMENT AND AUTHORISATION

Moved: Cr Hyams**Seconded: Cr Silver**

That Council in the exercise of the powers conferred by section 147(4) of the *Planning and Environment Act 1987* (Vic) and section 232 of the *Local Government Act 1989* (Vic) resolves that:

1. the staff members referred to in the attached Instruments be appointed and authorised as set out in the Instruments;
2. the Instruments come into force immediately when the common seal of Council is affixed to the Instruments and remain in force until Council determines to vary or revoke it;
3. any existing Instruments of Appointment and Authorisation under the *Planning and Environment Act 1987* to the staff members referred to in the attached Instruments be revoked effective immediately upon the Instruments referred to in the paragraph numbered 1 above coming into effect; and
4. the Instruments be signed and sealed.

CARRIED UNANIMOUSLY

10. URGENT BUSINESS**10.1 AFFORDABLE AND SOCIAL HOUSING****Moved: Cr Delahunty****Seconded: Cr Magee**

That Council considers the matter of affordable housing as an item of urgent business.

CARRIED UNANIMOUSLY

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

That Council resolves to contact the Caulfield Village Development Director Mr Matthew Reszka and :

- a. Reiterate that Council has, at all times, at each precinct application, sought to uphold the original objectives and has not, at any time wavered or moved the goal posts; and
- b. Welcome his comments noting his desire to “keep working to ensure the development benefited the broader community” and invite him to reengage on this original proposition which states that Caulfield Village is covered by the Priority Development Zone. Within a schedule to this zone is the Decision Guideline that must be considered: The provision of affordable housing in the form of social housing as defined by the Melbourne 2030 metropolitan planning strategy.

CARRIED UNANIMOUSLY

11. ORDINARY BUSINESS

11.1 Requests for reports from Officers

**11.1 Accessibility in Bentleigh
(a)****Moved: Cr Magee****Seconded: Cr Hyams**

That I call for a report on the accessibility of the Bentleigh shops in Centre Road for people with disabilities to determine what improvements Council could make to ensure people with Disabilities can be active in their community. The report should address accessibility issues related to public toilets access, footpath trading, condition of footpath's, street crossings, as well as disability parking.

The report should also consider access issues for shops and business entrances, and recommend strategies to encourage shop owners to improve shop access and layouts.

CARRIED UNANIMOUSLY

11.2 Right of reply- Nil**11.3 Councillor questions- Nil****11.4 Public questions to Council****1. Warren Green – Bentleigh**

In November 2017, Council granted an extension of permit time for 322 Centre Road Bentleigh, an 8 storey development. This decision was totally inconsistent with: Council guidelines (minuted June 2012), interim 3 and 4 storey height controls, Council's development application refusal (December 2015), extensive community objections, the adjacent heritage precinct and the draft Bentleigh structure plan progress. This decision also lacked transparency as highlighted by the Director of Planning and Councillors unaware of this decision until February 2018 and with no accessible notice to residents. A proposed revised decision-making process has been included in this Council Agenda.

- 1) How does this proposed revised extension of permit time process facilitate transparency to residents (a Community Plan 2018/19 commitment)?
- 2) What policy exists or is proposed to ensure that extension of permit time decision making is compliant with the interim controls?

Response:

1. The Council has been presented with four options for changes to the delegation of decisions where a permit holder is seeking an extension of time for a planning permit.

Officers have recommended that an approach be taken whereby the Manager of Urban Planning has delegation to make decisions on requests that have not been acted on and where the original application was decided by Council resolution or attracted significant community interest. This option balances the need for timely decisions, provides clear communication to Councillors and ensures that the decision is made by the most senior Urban Planner in the department. In terms of facilitating a transparent process, Council is developing its online register and all applications including requests for an extension of time will be available to view by the public.

2. There is no policy to pre-determine the outcome of a request for an extension of time as there are a number of factors that must be taken into consideration. Given the significance and uniqueness of Glen Eira's interim development control, these will be given the utmost weight in assessing a request for an extension of time and is a significant factor that weighs against approving a request.
-

Question taken on notice at 24 July 2018 Council meeting from Mr David Margetts of Caulfield South.

Mr Margett's question was as follows:

Considering the overarching governance principles 8.2b and 8.2c (Local Government Bill Exposure Draft, 2018) it may well be important for the Glen Eira City Council to consider the possible changes in soil hydrology from deep excavations and the possible changes in the soil's composition and structure as this could well have a major impact on the environment for future generations who reside in the City of Glen Eira. The experts in the field (hydrogeologists and edaphologists) are usually consulted to ensure good governance, especially when the ground water is so close to the surface in parts of the City of Glen Eira and the resulting salinity levels are high.

When will the Glen Eira City Council release the reports from the hydrogeologist and the edaphologist that would have been necessary to ensure that deep excavation does not impact on soil structure in the City of Glen Eira?

Response

Thank you for raising the matter of potential impacts on soil hydrology, composition and structure from deep excavations.

In addition to the earlier response provided, where we advised that Council has not commissioned reports from hydrogeologist or edaphologists for any Council projects and although we have constructed some minor underground structures, we have not undertaken any significant deep excavations as part of a Council development. As such there are no hydrogeologist or edaphologist reports to be released. There is also no obligation to look into hydrology and underground water flows when considering planning applications.

Please note that your question and the response will be included in the 14 August Council meeting minutes.

12. CONSIDERATION OF IN CAMERA ITEMS**Moved: Cr Hyams****Seconded: Cr Silver**

That pursuant to Section 89(2) of the Local Government Act 1989, the Council resolves that so much of this meeting be closed to members of the public, as it involves Council consideration of matters coming within some or all of the following categories listed in Section 89(2) of such Act.

- (a) Personnel matters;
- (b) The personal hardship of any resident or ratepayers;
- (c) Industrial matters;
- (d) Contractual matters;
- (e) Proposed developments;
- (f) Legal advice;
- (g) Matters affecting the security of Council property;
- (h) Any other matter which the Council or Special Committee considers would prejudice the Council or any person;
- (i) A resolution to close the meeting to members of the public.

12.1 Tender 2018.211 Underground Service Depthings
Local Government Act 1989 - Section 89(2) (d)

12.2 Tender 2018.222 Provision of Pool Plant Maintenance Services
Local Government Act 1989 - Section 89(2) (d)

CARRIED UNANIMOUSLY

The Mayor thanked the members of the gallery for coming to the meeting and advised that after consideration of the two confidential items the meeting will be closed.

12.1 TENDER 2018.211 UNDERGROUND SERVICE DEPTHINGS

Moved: Cr Hyams**Seconded: Cr Silver**

That Council:

1. appoints **CSA Specialised Services Pty Ltd, ACN 126 327 697**, as panel contractor under Tender number 2018.211 Underground Services Depthings in accordance with the Schedule of Rates submitted.
2. appoints **ELS Environmental Location Services Pty Ltd, ACN 068 869 769**, as panel contractor under Tender number 2018.211 Underground Services Depthings in accordance with the Schedule of Rates submitted.
3. appoints **Utility Locating Pty Ltd, trading as Sure Search, ACN 156 481 560**, as panel contractor under Tender number 2018.211 Underground Services Depthings in accordance with the Schedule of Rates submitted.
4. appoints **Utility Mapping (Aust) Pty Ltd, ACN 605 720 401**, as panel contractor under Tender number 2018.211 Underground Services Depthings in accordance with the Schedule of Rates submitted.
5. prepares the contracts in accordance with the Conditions of Contract included in the tender.
6. authorises the CEO to execute the contracts on Council's behalf.
7. incorporates this resolution in the public minutes of this meeting.

CARRIED UNANIMOUSLY

12.2 TENDER 2018.222 PROVISION OF POOL PLANT MAINTENANCE SERVICES

Moved: Cr Hyams**Seconded: Cr Esakoff**

That Council:

1. appoints Roejen Services Pty Ltd, ACN 007 332 407, as the trustee for Roejen Services Unit Trust, trading as Roejen Services Pty Ltd (ABN 30 273 382 860) as panel contractor under Tender number 2018.222 for an amount of \$856,625.00 exclusive of GST (in accordance with the Schedule of Rates submitted) for GESAC.
2. appoints ASAP Aquatics Pty Ltd, ACN 065 336 763 as panel contractor under Tender number 2018.222 for an amount of \$21,025.00 (in accordance with the Schedule of Rates submitted) for Carnegie Swim Centre.
3. appoints Commercial Aquatics Australia Pty Ltd, ACN 123 041 510 as panel contractor under Tender number 2018.222 for an amount of \$28,875.00 (in accordance with the Schedule of Rates submitted) for Booran Reserve.
4. prepares the contracts be prepared in accordance with the Conditions of Contract included in the tender.
5. authorises the CEO to execute the contract/s on Council's behalf.
6. incorporates this resolution in the public minutes of this Meeting.

CARRIED UNANIMOUSLY

13. CLOSURE OF MEETING

The meeting closed at 10.15pm.

Confirmed this 4th day of September 2018

Chairperson.....