



**GLEN EIRA CITY COUNCIL**  
**ORDINARY COUNCIL MEETING**  
**TUESDAY 16 JUNE 2020**  
**MINUTES**

**Meeting was streamed live via Council's website  
at 7.31pm**

Present

The Mayor, Councillor Margaret Esakoff  
Councillor Tony Athanasopoulos  
Councillor Anne-Marie Cade  
Councillor Jamie Hyams  
Councillor Jim Magee  
Councillor Joel Silver  
Councillor Dan Sztrajt

---

**INDEX**

<b>1.</b>	<b>ACKNOWLEDGEMENT .....</b>	<b>4</b>
<b>2.</b>	<b>APOLOGIES.....</b>	<b>4</b>
<b>3.</b>	<b>REMINDER OF DECLARATION BY MEMBERS OF ANY DIRECT AND INDIRECT CONFLICT OF INTEREST OR PERSONAL INTEREST IN ANY ITEMS ON THE AGENDA.....</b>	<b>4</b>
<b>4.</b>	<b>CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING OR MEETINGS .....</b>	<b>5</b>
<b>5.</b>	<b>RECEPTION AND READING OF PETITIONS AND JOINT LETTERS.....</b>	<b>5</b>
	Nil	
<b>6.</b>	<b>REPORTS BY DELEGATES APPOINTED BY COUNCIL TO VARIOUS ORGANISATIONS.....</b>	<b>5</b>
	Nil	
<b>7.</b>	<b>REPORTS FROM COMMITTEES AND RECORDS OF ASSEMBLY .....</b>	<b>6</b>
	<b>7.1 Advisory Committees .....</b>	<b>6</b>
	Nil	
	<b>7.2 Records of Assembly.....</b>	<b>6</b>
	Nil	
	<b>10.4 Written public questions to Council .....</b>	<b>6</b>
<b>8.</b>	<b>OFFICER REPORTS (AS LISTED).....</b>	<b>9</b>
	<b>8.1 Public Submissions on the 2020-21 Draft Budget.....</b>	<b>9</b>
	<b>8.2 Submissions received on the Council and Community Plan commitments 2020-2021 and Draft Strategic Resource Plan 2020-2021 to 2029-2030.....</b>	<b>9</b>
<b>9.</b>	<b>URGENT BUSINESS NIL .....</b>	<b>10</b>
<b>10.</b>	<b>ORDINARY BUSINESS .....</b>	<b>10</b>
	<b>10.1 Requests for reports from a member of Council staff - Nil .....</b>	<b>10</b>
	<b>10.2 Right of reply - Nil .....</b>	<b>10</b>

10.3 Councillor questions - Nil ..... 10

10.4 Written public questions to Council ..... 10

  

11. CONFIDENTIAL ITEMS..... 10

Nil

  

12. CLOSURE OF MEETING..... 10



The Mayor welcomed Councillors, council officers, Glen Eira residents and other community members to the 16 June 2020 virtual Council Meeting. Cr Esakoff advised of the process that would be followed should Council encounter technical difficulties livestreaming the meeting.

The Mayor then confirmed that the Councillors could be recorded as present by ensuring they met the following three criteria:

- They can hear proceedings;
- They can see other members in attendance and can be seen by other members; and
- They can be heard (to speak).

#### 1. **ACKNOWLEDGEMENT**

The Mayor read the acknowledgement.

Glen Eira City Council respectfully acknowledges that the Boon Wurrung people of the Kulin nation are the traditional owners of the land now known as Glen Eira. We pay our respects to their Elders past, present and emerging and acknowledge and uphold their continuing relationship to and responsibility for this land.

#### 2. **APOLOGIES**

**Moved: Cr Silver**

**Seconded: Cr Magee**

That the apologies from Cr Clare Davey and Cr Mary Delahunty be received and noted.

**CARRIED UNANIMOUSLY**

#### 3. **REMINDER OF DECLARATION BY MEMBERS OF ANY DIRECT AND INDIRECT CONFLICT OF INTEREST OR PERSONAL INTEREST IN ANY ITEMS ON THE AGENDA**

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.

**Procedural Motion****Moved: Cr Esakoff****Seconded: Cr Silver**

That Council:

1. considers the meeting to be adjourned for 10 minutes from the commencement of any technical problem which prevents Council from livestreaming the meeting;
2. adjourns the meeting to be reconvened on Wednesday 17 June at 7.30pm via livestreaming on Council's website, in the event livestreaming cannot be resumed within 30 minutes from the commencement of the technical problem which prevents livestreaming on Council's website.
3. notes that the Deputy Mayor, Cr Sztrajt will Chair the meeting in accordance with section 21(a) of the Local Government Act 2020 and clause 21(3)(a) of the Council Meeting Procedure Local Law if the Mayor is unable for any reason to attend the Council meeting or part of the Council meeting. The Mayor will resume as Chair of the meeting upon return, unless a vote is being taken at the time. The Mayor to resume as Chair after the Deputy Mayor declares the result of the vote.

**CARRIED UNANIMOUSLY****4. CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING OR MEETINGS****Moved: Cr Hyams****Seconded: Cr Sztrajt**

That the minutes of the Ordinary Council Meeting held on 9 June 2020 be confirmed.

**CARRIED UNANIMOUSLY****5. RECEPTION AND READING OF PETITIONS AND JOINT LETTERS**

Nil

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

Nil

---

**7. REPORTS FROM COMMITTEES AND RECORDS OF ASSEMBLY**

---

**7.1 Advisory Committees**

---

Nil

**7.2 Records of Assembly**

---

Nil

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

That Council changes the order of business to deal with item 10.4  
Written public questions to Council at this stage of the meeting.

**CARRIED UNANIMOUSLY****10.4 Written public questions to Council****1. Therese Green – Bentleigh**

The heritage guidelines propose that any level one development for a contributory dwelling should not be viewable from the street. This is a substantial change from the previous approach with many heritage properties in Glen Eira having first storey developments that can be seen from the street. In my street more than 50% of properties have viewable second storey developments with an eight storey commercial development also viewable. This heritage guideline approach will restrict development options for owners of heritage properties to either ground floor developments or level one developments that are set back so far effectively making them totally impractical. This guidelines is proposed even though it doesn't make any sense. What is Council actually trying to achieve by discouraging or preventing first storey developments for contributory properties that can be seen from the street? Why hasn't Council been responsive to community feedback to allow them?

**Response:**

It is important to note that the Glen Eira Heritage Guidelines 2020 (Guidelines) are intended to assist with the application and interpretation of the requirements already with the Glen Eira Planning Scheme at Clause 22.01. The Glen Eira Heritage Policy (Heritage Policy) at Clause 22.01 was approved in October 2018. Information within the Guidelines merely explains how to achieve a design within a heritage area that is in keeping with the objectives of the policy.

The Guidelines clearly state they are not intended to provide a design solution for every individual design issue that may arise, but they do reinforce the principles of the Heritage Policy, which seeks to maintain the prominence of the original buildings by setting back a new addition and reducing its visibility so that it does not overwhelm or dominate the original building.

The Guidelines are not mandatory but express a 'starting point' for designing house extensions. The development of the Guidelines reflects the community aspirations for a document to help demonstrate the outcomes that are sought under the Heritage Policy.

Ultimately, each individual site and proposed design will be assessed on the site context and its individual merits.

---

## 2. Warren Green – Bentleigh

- (1) The 9th June Council Meeting Agenda noted that Planning Scheme Amendment C184, which includes the Bentleigh Structure Plan, received authorisation from the Minister for Planning on 23 March 2020. Given that this is now over two months ago, what are the specific timeframes for the public exhibition and the process beyond?
- (2) When considering extension of permit time requests, Council has previously had an endorsed and clear position of the following: "if, planning controls/policy have changed in the intervening period the principle that is applied is that the request to extend the permit would be refused". Why is this position no longer applied by Council Officers when considering extension of permit time requests?

### **Response:**

- (1) Council received conditional authorisation from the Minister for Planning on 1 April 2020. This required officers to work through the conditions with DELWP which resulted in a slight delay to the original program.

Council is working towards exhibition of Amendment C184 commencing late July 2020. Following exhibition, public submissions are expected to be tabled in a report scheduled for the December Council meeting. A Panel Hearing is likely for March 2021 and the timing of the process from March will depend on when the panel report is issued.

- (2) There are a number of planning considerations that must be taken into account when considering a request to extend a planning permit. These are derived from two key planning cases being *Kantor v Murrindindi Shire Council (1997) 18 AATR 285* (Kantor Principles) and *52 Bay Road Pty Ltd v Moonee Valley CC [2018] VCAT 39* (Bay Road Principles).

These principles set out a guiding framework that requires consideration of many factors including any change in planning policy, matters of natural justice and equity, the intervening circumstances and economic burden, amongst other things.

For reference, a summary of the relevant principles are as follows:

#### Kantor Principles

- Whether there have been any changes to relevant planning controls or planning policy;
- The likelihood of a permit being granted if a fresh application was made for the proposal;
- The total elapsed time, taking into account whether the originally imposed time limit was adequate;

- Whether the landowner is seeking to 'warehouse' the permit (that is, store the permit without intending to act upon it);
- Intervening circumstances, including:
  - Action taken by the applicant in the context of any legislative and policy uncertainties, including under other jurisdictions;
  - Whether conditions on adjoining land may have changed in a way that would affect the proposal; and
- The economic burden imposed on the landowner by the permit, including whether the cost of having to comply with the permit conditions was so onerous that the time available for compliance was inadequate.

#### Bay Road Principles

- An applicant should provide good reasons for a request for an extension of time and a request should not be approved simply because it has been requested;
- The Kantor tests are not mandatory or exhaustive;
- There may be other relevant considerations to those contained in the Kantor tests, such as matters of natural justice and equity;
- That a development would now be prohibited does not make the refusal of a request mandatory but, in many cases, it would be a very important factor; and
- Each case must be considered on its own merits as to whether and how the development would undermine changes to planning policy or planning controls.

Council officers are required to consider relevant material when forming positions on planning items. This includes an analysis of the context of the area and the planning history that includes decisions of the Victorian Civil and Administrative Tribunal, amongst other things.

With the more recent 'Bay Road' case, it would be inappropriate for Council to take a simplistic, blanket approach to refuse any extension of time request on one factor alone, such as in circumstances where planning policy has changed.

-----

### **3. Geoff Langford – Bentleigh**

The Officer's Report in the previous Council meeting for the 277 Centre Road recommended an extension of permit time that the Councillor's rejected. The Officer's report stated that the development is well-designed and will make a positive contribution to the area which is generally consistent with the objectives of the Structure Plan. This Officer's summary is totally inconsistent with previous Council assessments of this and other developments in the area, extensive community feedback over a 5 year period, the interim four storey mandatory height for the site and the direction of Structure Plan. In recommending an extension of permit time, on what basis is the Council Officer varying from this extensive background and stating that the development will make a positive contribution to the area and is generally consistent with the Structure Plan?

#### **Response:**

Council officers are required to consider relevant material when forming positions on planning items. This includes an analysis of the context of the area and the planning history that includes decisions of the Victorian Civil and Administrative Tribunal, amongst other things. This building was approved and subsequently the planning permit was extended through VCAT processes. These processes recognised the development as being an acceptable outcome within the Bentleigh Major Activity Centre. The authorised planning scheme policy context has not changed since these decisions and therefore the planning officer recommended to Council that the outcome was appropriate.



**8. OFFICER REPORTS (AS LISTED)**

---

**8.1 PUBLIC SUBMISSIONS ON THE 2020-21 DRAFT BUDGET**

---

In the order in which the submissions were received, the Mayor invited the seven submitters who requested to speak in support of their submission, to come forward when called. All submitters addressed Council.

Submission 1 – Blair Warman

*It is recorded that Cr Athanasopoulos vacated the virtual meeting at 7.29pm.*

Submission 2 – Belinda Haydon

Submission 3 – Cathy McNaughton on behalf of the Glen Eira Bicycle User Group

*It is recorded that Cr Athanasopoulos entered the virtual meeting at 8.12pm.*

Submission 4 – Bruce Cutts

Submission 5 – Helen Millicer

Submission 6 – Bernadette Pierce

Submission 7 – David Margetts

*It is recorded that Cr Magee vacated the virtual meeting at 8.19pm and re-entered at 8.22pm.*

---

**Moved: Cr Hyams**

**Seconded: Cr Silver**

That the *2020-21 Draft Budget* public submissions be received and noted.

**CARRIED UNANIMOUSLY**

---

**8.2 SUBMISSIONS RECEIVED ON THE COUNCIL AND COMMUNITY PLAN COMMITMENTS 2020-2021 AND DRAFT STRATEGIC RESOURCE PLAN 2020-2021 TO 2029-2030**

---

**Moved: Cr Hyams**

**Seconded: Cr Athanasopoulos**

That Council note the submissions for the *Draft Community Plan Commitments 2020-2021* and the *Draft Strategic Resource Plan 2020-2021 to 2029-2030*.

**CARRIED UNANIMOUSLY**

**9. URGENT BUSINESS NIL**

**10. ORDINARY BUSINESS**

**10.1 Requests for reports from a member of Council staff - Nil**

**10.2 Right of reply - Nil**

**10.3 Councillor questions - Nil**

**10.4 Written public questions to Council**

This item was dealt with at an earlier stage of the meeting.

**11. CONFIDENTIAL ITEMS**

Nil

**12. CLOSURE OF MEETING**

The meeting closed at 8.59pm.

Confirmed this 30 day of June 2020

**Chairperson.....**