



**GLEN EIRA CITY COUNCIL**  
**ORDINARY COUNCIL MEETING**  
**TUESDAY 4 FEBRUARY 2020**

**AGENDA**

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

*"The primary object of a Council  
is to endeavour to achieve  
the best outcomes for the local community  
having regard to the  
long term and cumulative effects of decisions."*

- s3c(1) Local Government Act

**Councillors:** The Mayor, Councillor Margaret Esakoff  
Councillor Tony Athanasopoulos  
Councillor Anne-Marie Cade  
Councillor Clare Davey  
Councillor Mary Delahunty  
Councillor Jamie Hyams  
Councillor Jim Magee  
Councillor Joel Silver  
Councillor Dan Sztrajt

**Chief Executive Officer:** Rebecca McKenzie



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## 8.7 BENTLEIGH AND CARNEGIE STRUCTURE PLANS PLANNING SCHEME AMENDMENT C184

**Author:** Aidan Mullen, Manager of City Futures

**Trim No:** 20/17924

**Attachments:**

1. Proposed Amendment C184 to the Glen Eira Planning Scheme [↓](#)
2. Bentleigh Structure Plan Addendum February 2020 [↓](#)
3. Carnegie Structure Plan Addendum February 2020 [↓](#)
4. Letter to Glen Eira from the Minister for Planning [↓](#)
5. List of changes from the original C184 Amendment December 2018 [↓](#)
6. Letter to Glen Eira from DELWP on Amendment C184 [↓](#)

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### PURPOSE AND SUMMARY

This report provides Council with an update on the status of proposed *Amendment C184 to the Glen Eira Planning Scheme* (Implementation of the *Bentleigh* and *Carnegie Structure Plans*) and advises of alterations that have been undertaken to the amendment documentation in order to progress the *Amendment*.

This report recognises that the most recent resolution of Council from the 26 November 2019 Ordinary Council Meeting authorised the Chief Executive Officer to make changes to the *C184* documentation as required to gain authorisation to prepare and exhibit the *Amendment*.

This report has been prepared to inform Council of the proposed changes to the documentation and for Council consideration of these proposed changes.

### RECOMMENDATION

That Council:

1. Endorses the documentation for proposed *Amendment C184 to the Glen Eira Planning Scheme*, to lodge with the Minister for Planning for the purposes of obtaining authorisation to prepare and exhibit a planning scheme amendment;
2. Adopts the *Bentleigh Structure Plan Addendum February 2020* and *Carnegie Structure Plan Addendum February 2020*; and
3. Authorises the Manager City Futures to undertake minor changes to the *Amendment*, including changes requested by the Minister for Planning or the Department of Environment, Land, Water and Planning in order to receive authorisation, where the changes do not affect the purpose or intent of the Amendment; and
4. Subject to receiving authorisation from the Minister for Planning, places the *Amendment* on public exhibition for a period of at least one month.

### BACKGROUND

At the Ordinary Council Meeting 18 December 2018, Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit proposed *Amendment C184 to the Glen Eira Planning Scheme*.

In line with this resolution, Officers submitted the request to the Minister on 15 January 2019.

On 4 November 2019, the Minister responded.

In this letter, Council's significant strategic planning work and extensive community consultation in the preparation of the *Bentleigh* and *Carnegie Structure Plans* was recognised. However, the letter highlighted certain aspects of the *Amendment* as requiring alteration to more closely align with State policy and practice direction, with a focus on housing provision.

A report was prepared and considered at the Ordinary Council Meeting 26 November 2019 that provided a copy of the Minister's letter, and a comprehensive background description on the evolution of *Amendment C184*. It was resolved:

"That Council:

1. Notes the letter from the Minister for Planning dated 4 November 2019 on the Proposed Glen Eira Planning Scheme Amendment C184.
2. Authorises the Chief Executive Officer to:
  - a. Make such changes to the Planning Scheme Amendment as are necessary to obtain authorisation from the Minister for Planning; and then submit the Amendment to the Minister for Planning for authorisation."

In order to properly understand the Minister's requirements, workshops were conducted with the Department of Environment, Land, Water and Planning (DELWP) and Council officers. Council subsequently received a letter from DELWP that provided advice to guide officers in their preparation of changes to the amendment documentation. This letter is provided as Attachment 6 to this report.

The full suite of amended documentation for *Amendment C184* is provided as Attachment 1. A summary of these proposed changes from the original *Amendment C184* package is provided as Attachment 5.

## ISSUES AND DISCUSSION

### The letter from the Minister for Planning

The Minister for Planning has given advice on the requirements to enable his authorisation to be given so Council can prepare and exhibit proposed *Amendment C184* (see Attachment 4).

The key issue for the Minister relates to managing housing growth and diversity. Put simply, the State Government is forecasting significant population growth for Glen Eira and the Minister needs to be satisfied that the housing needs of Glen Eira's future population are catered for with Glen Eira's strategies and planning scheme amendments.

The State Government has released updated housing projections, titled *Victoria in Future* (VIF 2019), which show that from 2016 to 2036, Glen Eira will experience an influx of 16,540 households from 58,960 to 75,500 households. This translates to a predicted population increase of 39,630 people, to 188,630 as a total population.

The Minister views '*Activity centres as part of managing housing growth and diversity*' as a key element in achieving this.

Glen Eira's housing growth and diversity is proposed to be managed through specific changes to the Activity Centre, Housing and Local Economy Strategy, which is covered under a separate report in this meeting agenda.

### Activity centres as part of managing housing growth and diversity

A requirement of DELWP is to ensure sufficient residential land within the Bentleigh and Carnegie Activity Centres is contributing to housing provision.

In order to achieve this and respond to the Minister's direction, there is an expansion to where the 'housing growth' residential zones are applied and a corresponding change to where three storey and four storey residential development is allowed.

The result has been the expansion of residential areas covered by the proposed Design and Development Overlay, with a corresponding increase in permissible heights, limited to a single storey increase.

Summary of officer recommended changes:

- Expansion of General Residential (3 storeys) and Residential Growth Zone (4 storeys) land within the activity centres.

### **Other key issues in the Minister for Planning's letter**

The key issues relating to C184 are:

1. Extent of mandatory height controls, having regard to *Planning Practice Note 60*.
2. The use of background documents.
3. The provision for 'uplift' and development contributions.
4. The new residential zone schedules.
5. The use of design guidelines.

#### **1. Extent of mandatory height controls**

Council officers have regarded the advice of the Minister for Planning and DELWP officers and considered this advice along with analysis of built form, including the review of recently approved permits.

In this context, and when combined with the DELWP advice, Officers embarked on further investigations which centred around modelling possible alternate height controls and the subsequent off-site impacts for all land within the commercial and mixed used section of the activity centres.

The result has been a mid-point between the heights proposed by Council, and those advanced by DELWP.

The application of mandatory provisions are subject to the direction provided by DELWP *Planning Practice Notes 59 and 60*. Planning scheme provisions are typically performance based, which means that objectives are set and proposals are determined against these measures. An exception to this prevailing model is the use of mandatory provisions, which set a prescriptive maximum requirement, with no variations allowed.

*Planning Practice Note 60* contemplates the use of mandatory controls "*where they are supported by robust and comprehensive strategic work or where exceptional circumstances warrant their introduction.*" Further, the Minister for Planning acknowledged in his letter dated 4 November 2019 "...the significant strategic planning work your council has undertaken and the extensive consultation with the local community and businesses in Bentleigh and Carnegie. The orderly planning of these centres will enable each to be a focus of new development in metropolitan Melbourne, while protecting local amenity, heritage and neighbourhood character."

Through the further review of the commercial/mixed use areas it is recommended that the following changes in heights and mandatory controls be put to the Minister in order to achieve authorisation on the *Amendment*.

Officers have reviewed mandatory heights with respect to whether they meet the criteria specified in *Planning Practice Note 60*.

### Bentleigh

All strategic sites proposed to change from mandatory 5 storey maximum height to discretionary 5 storey maximum height, but with mandatory shadow controls in relation to protecting public open space and key public space.

Discretionary shadow controls applying to the southern side of the footpath on Centre Road.

### Carnegie

In the adopted *Carnegie Structure Plan*, strategic sites have proposed heights of preferred 6 storeys and mandatory maximum of 8 storeys. The officer recommendation is to change this to a discretionary maximum of 8 storey for strategic sites.

In the adopted *Carnegie Structure Plan*, urban renewal sites have preferred heights of 8 storeys and mandatory maximum of 12 storeys. The officer recommendation is to change this to a discretionary maximum of 8 storey for strategic sites and 12 storeys for urban renewal areas.

The shadow controls have been amended to be mandatory in nature in relation to protecting the public open spaces and key public spaces only, with the shadow controls affecting the residential land as discretionary.

Summary of officer recommended changes:

- Extent of mandatory controls in the commercial areas has been amended so that they are not blanket across the major activity centres. The Urban renewal and strategic sites are now proposed to have discretionary heights.

## **2. The use of background documents**

A change in application has occurred in relation to what were previously referred to as reference documents, and now known as background documents, as part of the Victorian planning provision reforms. Accordingly, it is proposed to change so that only the structure plans reports are now proposed for inclusion as background reports as part of the *Amendment C184* documentation.

The *Quality Design Guidelines* (February 2018) were developed to encourage high-quality built form outcomes. DELWP has stated that the *Quality Design Guidelines* should not be referred to in the planning scheme, but relevant sections can be translated into the zone and overlay controls. Officers concur with this recommendation. This will be used to inform the preparation and consideration of development proposals.

Summary of officer recommended changes:

- The *Quality Design Guidelines* is no longer a background document to this Amendment.

## **3. The provision of uplift and development contributions**

The concept of floor area uplift, sometimes referred to as development or density bonuses, refers to the method whereby wider-community beneficial elements of new developments (e.g. social and affordable housing) are offset by a greater height or density.

This approach was proposed to be utilised under the Design and Development Overlay and a new local policy - *Floor Area Uplift and Delivery of Significant Community Benefit for Carnegie*.

DELWP has advised that the proposed means to achieve community benefit will not be supported except via a *Development Contributions Plan*.



Incorporating a *Development Contributions Plan* into the Planning Scheme for Carnegie will not be able to be undertaken as part of *Amendment C184* due to the length and complexity of this process and may be worth examining at a later date.

Summary of officer recommended changes:

- Removal of the uplift provision for Carnegie that would return community benefit where a height is proposed to be above a preferred height.

#### **4. The new residential zone schedules**

*Planning Practice Note 91* released in December 2019 provides information and guidance about how to:

- use the residential zones to implement strategic work
- use local policies and overlays with the residential zones
- make use of the key features of the residential zones.

Summary of officer recommended changes

- Updating the schedules to the residential zones in order to respond to the guidance in the *Planning Practice Note*

#### **5. The use of the guidelines - *Glen Eira Quality Design Guidelines***

DELWP has advised that the residential zones cannot dictate what type / form of housing is acceptable in each location.

A clear message from the State Government in releasing *Planning Practice Note 90* and *91*, is that Council's housing strategy cannot be based on preferred building typologies. The *Activity Centre, Housing and Local Economy Strategy Review* report discusses this in detail.

Summary of officer recommended changes:

- Housing typologies no longer exist.

### **FINANCIAL, RESOURCE, RISK AND ASSET MANAGEMENT IMPLICATIONS**

The alterations referred to in this report can be completed within the approved operational budget.

### **POLICY AND LEGISLATIVE IMPLICATIONS**

Authorisation is required from the Minister for Planning to formally commence the Planning Scheme amendment process.

### **COMMUNICATION AND ENGAGEMENT**

The proposed planning controls form the implementation phase of the Bentleigh and Carnegie activity centre structure planning process.

Full exhibition of all amendment documents will follow authorisation

### **LINK TO COUNCIL AND COMMUNITY PLAN**

Theme One: Liveable and Well Designed

A well planned City that is a great place to live.

### **OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

**CONCLUSION**

The preparation of proposed *Amendment C184* has been characterised by extensive research and a robust and comprehensive consultation program involving community and stakeholders.

As designated Major Activity Centres in the State Government's overarching planning strategy *Plan Melbourne*, planning for Bentleigh and Carnegie needs to embody the State imperatives for suburban focal points for services, employment, housing and social interaction that have good transport connections.

It is considered that the updates to the proposed Amendment strike a reasonable balance between State Government's strategic planning imperatives and those of Glen Eira. The updates to the Amendment, and the accompanying updates to Glen Eira's 'City Plan' (separately covered in this OCM Agenda), increase the likelihood that the Minister for Planning will grant Glen Eira authorisation to commence the first formal step in the planning scheme amendment process for Bentleigh and Carnegie.