

## **REASONS FOR DECISION TO EXERCISE POWER OF INTERVENTION**

### **UNDER SECTION 20(4) OF THE PLANNING AND ENVIRONMENT ACT 1987**

#### **WHITEHORSE PLANNING SCHEME AMENDMENT C170**

The *Planning and Environment Act 1987* (the Act), the *Heritage Act 1995* and the *Victorian Civil and Administrative Tribunal Act 1998* provide for the intervention of the Minister for Planning in planning and heritage processes.

In exercising my powers of intervention, I have agreed to:

- Make publicly available written reasons for each decision; and
- Provide a report to Parliament at least every twelve months detailing the nature of each intervention.

#### **REQUEST FOR INTERVENTION**

1. On 23 March 2015, Tract Consultants on behalf of Australand with the support of Whitehorse City Council, requested that I exempt myself from the usual notice and consultation requirements and to prepare, adopt and approve Amendment C170 to the Whitehorse Planning Scheme in accordance with section 20(4) of the *Planning and Environment Act 1987*.

#### **WHAT POWER OF INTERVENTION IS BEING USED?**

2. I have decided to exercise my powers to exempt myself from all the requirements of sections 17, 18 and 19 of the Act and the regulations in respect to Amendment C170 to the Whitehorse Planning Scheme.
3. Section 20(4) of the Act enables the Minister for Planning to exempt an amendment which the Minister prepares from any of the requirements of sections 17, 18 and 19 of the Act or the regulations.
4. In seeking to exercise this power, section 20(4) of the Act requires that the Minister must consider that compliance with any of those requirements is not warranted or that the interests of Victoria or any part of Victoria make such an exemption appropriate. I consider that compliance with the requirements for this amendment is not warranted.

#### **BACKGROUND**

5. Amendment C170 to the Whitehorse Planning Scheme proposes to facilitate the development of the former Brickworks site in Burwood East for residential and retail purposes. The redevelopment proposes 950 dwellings, a shopping centre with 10,530 square metres of floor space and a range of public open space.
6. More particularly, the amendment rezones 78 Middleborough Road, Burwood East from Priority Development Zone to Commercial 1 Zone, Residential Growth Zone and General Residential Zone, introduces Schedule 6 to the Development Plan Overlay into the Whitehorse Planning Scheme and makes subsequent changes to Clause

22.11 – Burwood Heights Activity Centre and Clause 22.12 – Former Brickworks Site, 78 Middleborough Road, Burwood East.

7. The development is to be undertaken in six stages and completed over an eight year construction program.
8. The land forms part of the Burwood Heights Activity Centre and is identified as a major redevelopment site in the *Burwood Heights Activity Centre Structure Plan*. The structure plan encourages a mix of uses to be incorporated into the redevelopment.
9. The site has been subject to previous consultation regarding its redevelopment. Readings purchased the site in 1995 and a development plan was approved by Council in 2008 following an exhibition process and consideration by the Priority Development Panel. The approved development plan proposed a mix of residential, retail, office, entertainment and leisure uses. Readings did not act on the development framework that was introduced into the Whitehorse Planning Scheme.
10. Extensive consultation for the proposed development and draft Amendment C170 was been undertaken from 27 October to 28 November 2014 and included:
  - a) two drop-in information sessions;
  - b) notice in the local newspaper; and
  - c) a mail out to owners/occupiers and stakeholders in the area.
11. A total of 103 submissions were received following the consultation period.
12. Council considered the revised development framework and relevant planning scheme amendment at a meeting 27 January 2015 and voted to support the section 20(4) process.

### **BENEFITS OF EXEMPTION**

13. Exemption of the amendment under section 20(4) will enable a prompt decision on the adoption and approval of the amendment and will allow for the orderly and timely application of the Development Plan Overlay.
14. The amendment will avoid further notification that is considered unnecessary.

### **EFFECTS OF EXEMPTION ON THIRD PARTIES**

15. The effect of exempting this amendment from usual notice requirements will remove the opportunity for potentially affected parties to be formally notified of the amendment and to have their submissions considered by a Panel.
16. The views of relevant agencies and affected residents have been sought via informal consultation undertaken which included the draft amendment documents. Changes have been made to the amendment in accordance with concerns raised during the exhibition process.
17. Further notification will be required as part of any development plan approval as required under the Development Plan Overlay.
18. The City of Whitehorse is supportive of the amendment and will consider the Development Plan when submitted for approval. Third parties will have an opportunity to make a submission in respect of a proposed development plan, which will be considered by the Council in approving the Development Plan.

## **ASSESSMENT AS TO WHETHER BENEFITS OF EXEMPTIONS OUTWEIGH EFFECTS ON THIRD PARTIES**

19. The views of the community in relation to the development are well known and have been considered in the preparation of Amendment C170.
20. Extensive consultation regarding the proposed controls has been undertaken.
21. It is considered that following usual statutory notice and consultation requirements, including a Panel hearing, would be an unnecessary duplication of process.
22. Accordingly I consider that the benefits of exempting myself from sections 17, 18 and 19 of the Act outweigh any effects of the exemption on third parties.

## **DECISION**

23. I have decided to exercise my power to exempt myself from the requirements of sections 17, 18 and 19 of the Act and the regulations in respect of Amendment C170 to the Whitehorse Planning Scheme.

## **REASONS FOR INTERVENTION**

24. I provide the following reasons for my decision to exercise my power under section 20(4) of the Act.
25. I am satisfied that -

Compliance with any of the requirements of sections 17, 18 and 19 of the Act and the regulations is not warranted because:

- Extensive consultation has been undertaken on the proposed redevelopment and the views of the parties are known.

## **SIGNED BY THE MINISTER**

**HON RICHARD WYNNE MP**

Minister for Planning

Date: 12 August 2015