

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

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

GLEN EIRA PLANNING SCHEME AMENDMENT C196GLEN

The *Planning and Environment Act 1987* (the P&E Act), the *Heritage Act 2017* 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 the Minister's powers of intervention, including action taken under delegation from the Minister for Planning, the Minister has agreed to:

- make publicly available written reasons for each decision; and
- provide a report to Parliament at least every 12 months, detailing the nature of each intervention.

REQUEST FOR INTERVENTION

1. Applies the Heritage Overlay to nine proposed heritage places and two proposed heritage precincts within the Elsternwick Activity Centre on an interim basis until 30 July 2021.
2. Amends the Schedule to Clause 43.01 (Heritage Overlay) and Planning Scheme Map 1HO to apply the Heritage Overlay on an interim basis.

WHAT POWER OF INTERVENTION IS BEING USED?

3. Under delegated authority from the Minister for Planning I have decided to exercise the power to exempt the Minister from all the requirements of sections 17, 18 and 19 of the P&E Act and the Regulations in respect to Amendment C196glen to the Glen Eira Planning Scheme.
4. Section 20(4) of the P&E 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.
5. 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.

BACKGROUND

6. The council reviewed the Elsternwick Structure Plan area to ascertain its heritage value. The review recommended heritage citations for 16 new or revised heritage overlays - nine individual sites and seven precincts (four new precincts, two which derive from an existing precinct, and one updated precinct) within the Elsternwick Structure Plan Area. The review also identifies individual places of significant heritage value within the structure plan area.
7. The Council adopted the *Glen Eira Heritage Review of Elsternwick Structure Plan Area 2019 Stage 2 Report* prepared by RBA Architects and Conservation Consultants Pty Ltd with changes and resolved to seek authorisation for Amendment C204glen to implement permanent heritage controls for individual sites and precincts within the Elsternwick Structure Plan Area.

8. The council has received applications under the provisions of the *Building Act 1993* for demolition of several buildings within the proposed heritage precincts.
9. The demolition requests represent a threat to places of potential local heritage significance to the City of Glen Eira.
10. Applying the Heritage Overlay on an interim basis to two of the proposed heritage precincts and nine individual places that are deemed significant, and/or have been assessed as having immediate development pressure, will allow protection of the integrity of those precincts and places whilst equivalent permanent controls are assessed through a separate amendment process.

BENEFITS OF EXEMPTION

11. The amendment is consistent with the objectives for planning in Victoria in section 4 of the Act, specifically 4(d) being to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.
12. The amendment will meet the objectives of the Act by ensuring that interim heritage controls apply while permanent controls are sought and assessed through the planning scheme amendment process.
13. Any further consultation will most likely result in a duplication of process

EFFECTS OF EXEMPTION ON THIRD PARTIES

14. Glen Eira City Council has requested the amendment.
15. The effect of the amendment is that landowners will be required to apply for a planning permit for demolition or for any buildings and works proposed, and any planning permit application received will be assessed by the council with regard to the heritage values of the property.
16. The effect of the exemption will be that there will be no ability for third parties to make submissions about the amendment. However, a separate process of review will be provided through proposed Amendment C204glen which will seek permanent heritage controls for the two proposed heritage precincts and nine proposed heritage places affected by amendment C196glen.

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

17. The exemption will allow the amendment to introduce interim heritage controls that will assist in protecting the integrity of proposed permanent heritage controls.
18. The exemption will allow for the protection of potential heritage places, based on a heritage assessment, which has determined potential local heritage significance.
19. The controls will be in place until 30 July 2021, during which time the views of affected parties will be sought during the public exhibition of an amendment to introduce equivalent permanent controls. An independent planning panel will consider any unresolved submissions.
20. Accordingly, I, acting under delegation from the Minister, consider that the benefits of exemption from sections 17, 18 and 19 of the P&E Act outweigh any effects of the exemption on third parties.

DECISION

21. Under delegated authority from the Minister for Planning, I have decided to exercise the power to exempt the Minister from all the requirements of sections 17, 18 and 19 of the P&E Act and the Regulations in respect of Amendment C196glen to the Glen Eira Planning Scheme.

REASONS FOR INTERVENTION

22. I provide the following reasons for my decision under delegated authority to exercise the power under section 20(4) of the P&E Act.

23. I, acting under delegation from the Minister, am satisfied that:

Compliance with any of the requirements of sections 17, 18 and 19 of the P&E Act and the Regulations is not warranted because:

- The amendment introduces the Heritage Overlay on an interim basis, while a separate process of review is undertaken through proposed Amendment C204glen to apply the same controls on a permanent basis.

SIGNED BY THE DELEGATE

Stuart Menzies
Director, State Planning Services
Department of Environment, Land, Water and Planning

Date: 20 September 2020