

REASONS FOR DECISION TO EXERCISE POWER OF INTERVENTION

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

MELBOURNE PLANNING SCHEME

PORT PHILLIP PLANNING SCHEME AMENDMENT

GC50

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 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 twelve months detailing the nature of each intervention.

REQUEST FOR INTERVENTION

1. No person other than the Minister for Planning has proposed or requested this intervention.

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 GC50 to the Melbourne Planning Scheme and the Port Phillip 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.

BACKGROUND

5. In April 2015 I approved Amendment GC29, which made me the responsible authority (rather than the MPA) for determining permit applications within Fishermans Bend over a certain threshold, and introduced mandatory interim height controls of between 4 and 40 storeys. While the revised guidelines approved as part of GC29 have assisted in guiding appropriate height, development applications have

been lodged without due consideration to the amenity of the area, with little (if any) side and rear setbacks, little diversity in the size and make up of apartments, and little regard to future employment for residents.

6. An urgent review of the planning controls, strategic framework plan and urban design guidelines is therefore required, to ensure the future liveability of the Fishermans Bend precinct.
7. Amendment GC50 to the Melbourne and Port Phillip Planning Schemes proposes to do the following:
 - Update the Fishermans Bend Strategic Framework Plan, July 2014 (amended April 2015) incorporated document by replacing the design guidance with a new design guidance. Consequential changes to update the references to the Plan in both schemes are also made.
 - Introduce a new local policy which specifies discretionary targets for dwelling diversity (i.e. a percentage of apartments with 3+ bedrooms), inclusionary zoning (i.e. affordable or social housing) and employment targets (i.e. 15% of floor space used for employment purposes).
 - Introduce a new Schedule to the Design and Development Overlay which applies mandatory height controls (transferred from the Capital City Zone), mandatory setback controls and design principles for building heights and setbacks. The new controls will be applied on an interim basis until 31 March 2018 (approximately 18 months), to allow time for permanent controls to be developed and tested by the Fishermans Bend Taskforce.
 - Remove the mandatory height controls from schedule 1 of the Capital City Zone to the Port Phillip Planning Scheme and Schedule 4 of the Capital City Zone to the Melbourne Planning Scheme as they will be within the new Design and Development Overlay's.

BENEFITS OF EXEMPTION

8. The exemption will enable prompt adoption and approval of the amendment which will in turn clarify planning policy for all planning and responsible authorities, support informed and improved decision making and protect the Fishermans Bend precinct from inappropriate, intensive development in the short term

EFFECTS OF EXEMPTION ON THIRD PARTIES

9. The effect of the exemption is that third parties will not have the opportunity to make a submission in relation to the amendment and for submissions to be considered at a panel.
10. The controls introduced by Amendment GC50 will only apply on an interim basis, to immediately ensure that new development considers the amenity of the area and protects key aspects of the public realm. The impacts of Amendment GC50 are therefore limited in time as affected land owners and other third parties will have the

opportunity provide input into the formulation of permanent controls through a subsequent exhibited amendment.

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

11. I consider that the benefits of exempting myself from Sections 17, 18 and 19 of the Act and the regulations outweigh any effects on third parties for the following reasons:

- Consultation with affected landowners and other third parties will be undertaken during the preparation of new permanent controls, to be introduced by a subsequent exhibited amendment.
- Exemption of the Amendment from notice requirements helps to protect the Fishermans Bend precinct against inappropriate development while the permanent controls go through a subsequent amendment process.
- The continued recognition of the State significance of the project, particularly its expected contribution to the achievement of key State policy objectives.
- The need for the Fishermans Bend Strategic Framework Plan to reflect the State Government's intentions for Melbourne.
- The community's desire for certainty of planning controls.

DECISION

12. I have decided to exercise my power to exempt myself from all the requirements of sections 17, 18 and 19 of the Act and the regulations in respect of Amendment GC50 to the Melbourne Planning Scheme and the Port Phillip Planning Scheme.

REASONS FOR INTERVENTION

13. I provide the following reasons for my decision to exercise the power under section 20(4) of the Act.

14. I, the Minister for Planning, am satisfied that -

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

- The amendment introduces interim mandatory built form controls only while a separate, public amendment process is undertaken, in relation to permanent controls. The interim controls will prevent inappropriate development from taking place while permanent controls are formulated.

The interests of Victoria or any part of Victoria make such an exemption appropriate because:

- The prompt approval of the amendment is necessary to ensure the Fishermans Bend precinct is immediately protected from the risk of

inappropriate intensive forms of development which may compromise the future liveability and orderly planning of the precinct.

SIGNED BY THE MINISTER

HON RICHARD WYNNE MP
Minister for Planning

Date: 7 November 2016