

**Planning and Environment Act 1987**

**DAREBIN PLANNING SCHEME**

**Notice of Preparation of Amendment**

**Amendment C115**

**Authorisation A01958**

The Darebin City Council has prepared Amendment C115 to the Darebin Planning Scheme.

In accordance with section 8A(3) of the *Planning and Environment Act 1987*, the Minister for Planning authorised the Darebin City Council as planning authority to prepare the amendment.

The land affected by the amendment is 195-209 St Georges Road Northcote.

The amendment proposes to rezone the land from the Industrial 3 Zone to the Business 2 Zone, apply a new Schedule to the Business 2 Zone to a site specific maximum leasable floor area for office use above which a planning permit is required, and to apply a Design and Development Overlay and an Environment Audit Overlay to the land.

You may inspect the amendment, any documents that support the amendment and the explanatory report about the amendment, free of charge, at the following locations:

- During office hours, at the office of the planning authority, Darebin City Council, First Floor, 274 Gower Street, Preston 3072
- At the Department of Planning and Community Development web site [www.dpcd.vic.gov.au/planning/publicinspection](http://www.dpcd.vic.gov.au/planning/publicinspection).

Any person who may be affected by the amendment may make a submission to the planning authority.

The closing date for submissions is 15 August 2011. A submission must be sent to Submission to Amendment C115, Strategic Planning Unit, Darebin City Council, PO Box 91, Preston Vic 3072.

**Rasiah Dev**  
**Chief Executive Officer**

## **DAREBIN PLANNING SCHEME**

### **AMENDMENT C115**

#### **EXPLANATORY REPORT**

#### **Who is the planning authority?**

This amendment has been prepared by the Darebin City Council, which is the planning authority for this amendment.

The amendment has been made at the request of Ratio Consultants Pty Ltd on behalf of Seventh Mirage Pty Ltd, the owners of 195-209 St Georges Road Northcote.

#### **Land affected by the amendment**

The amendment applies to land at 195-209 St Georges Road, Northcote (the 'subject site').

#### **What the amendment does**

The amendment seeks to change the Darebin Planning Scheme by:

- Rezoning the subject site from the Industrial 3 Zone to the Business 2 Zone.
- Applying a new schedule to the Business 2 Zone to a site specific maximum leasable floor area for office use above which a planning permit will be required.
- Applying the Design and Development Overlay to the subject site.
- Applying an Environmental Audit Overlay to the subject site.

A draft Section 173 Agreement forms part of the exhibited planning scheme amendment documentation which will require future development of the site to incorporate a social housing component. Council has resolved to process the planning scheme amendment subject to the owner of the land entering into an agreement to make provision for social housing on the land.

#### **Strategic assessment of the amendment**

##### **• Why is the amendment required?**

The amendment is required to allow for the redevelopment of the site for a wider range of uses than is presently allowed pursuant to the provisions of Industrial 3 Zone. The provisions of the Industrial 3 Zone prohibit the establishment of viable alternative uses for the site including residential and commercial land uses.

An amendment to the Darebin Planning Scheme from the Industrial 3 Zone to the Business 2 Zone is required to facilitate future alternative land uses for the site. The proposed Business 2 Zone will encourage a combination of residential, commercial, industrial, and other uses to complement the mixed-use function of the locality.

Rezoning the subject site to the Business 2 Zone will allow for the regeneration of the site in accordance with the State and Local Planning Policy Framework of the Darebin Planning Scheme that supports mixed use development on strategic redevelopment sites close to public transport.

- **How does the amendment implement the objectives of planning in Victoria?**

The amendment assists in implementing the following objectives of planning in Victoria as outlined in Section 4 (1) of the Planning and Environment Act 1987:

- *'To provide for the fair, orderly, economic and sustainable use, and development of land.'*
- *'To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.'*
- *'To balance the present and future interests of all Victorians.'*

Council's Industrial Land Use Strategy (2001) identifies the site as a poor location for new industrial activity. The Windsor Smith factory ceased manufacturing some five years ago when manufacturing shifted off shore to China. The owner of the land has not been able to attract a suitable replacement tenant.

A rezoning of the site will allow for the establishment of a mix of uses and including space for new business in growing economic sectors. The establishment of residential land use will assist in supporting existing commercial activity in the area.

The amendment will allow for the optimum use and development of the site which is located close by to a tramway, fixed rail and the Northcote Major Activity Centre.

The rezoning of the site will assist in regenerating the area. It will allow the conversion of the existing redundant industrial land use, to a mix of uses including residential and commercial, which have the potential to create a more pleasant and prosperous environment with access to fixed rail transport.

- **How does the amendment address the environmental effects and any relevant social and economic effects?**

The amendment will result in positive social, environmental and economic outcomes and an overall net community benefit.

A rezoning of the site will have a positive economic outcome replacing a redundant use with a zone control that will allow for the establishment of a mix of uses, including space for new businesses in growing economic sectors. The establishment of new residential and commercial development will contribute to the vitality of the area, support existing commercial activity and provide opportunities for local employment.

The amendment will promote development that takes advantage of existing urban zoned land and exhibits high quality urban design.

The application of the Environmental Audit Overlay will ensure that the condition of the land will be suitable before accommodating sensitive land uses. The application of the EAO will result in an improvement to any potential existing environmental land contamination.

- **Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?**

The form and content of this report is consistent with Ministerial Direction No. 11 'Strategic Assessment of Amendments'.

The amendment is also consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* under section 7 (5) of the Act.

Ministerial Direction No. 1 'Potentially Contaminated Land' requires that, in preparing an amendment that will have the effect of allowing potentially contaminated land to be developed for a sensitive use, a planning authority must satisfy itself that the environmental conditions of the land are or will be suitable for that use.

The application of the Environmental Audit Overlay (EAO) to the land is consistent with Ministerial Direction No. 1. The overlay will require that the environmental conditions of the land are suitable before any sensitive use or development commences.

Ministerial Direction No. 9 – 'Metropolitan Strategy' requires all planning authorities to have regard to 'Melbourne 2030 – planning for sustainable growth'. In relation to the directions of Melbourne 2030 the following is noted:

#### Direction 1: A More Compact City

The amendment will facilitate development that takes full advantage of existing urban land and infrastructure. The mixed use redevelopment of the site will allow scope for higher density housing in proximity of the Northcote Major Activity Centre and existing tram route 112.

#### Direction 2: Better Management of Metropolitan Growth

The amendment seeks to allow increased housing and commercial development in an area well serviced by public transport and infrastructure. It will serve to assist in limiting outward pressure for growth.

#### Direction 4: A More Prosperous City

The amendment will not result in the loss of viable industrial land and has the potential to facilitate new commercial uses that will contribute to the local economy.

#### Direction 5: A Great Place to Be

The amendment will allow for the establishment of quality urban development which if well designed, will assist in creating a sense of place that is safe, attractive, walkable and diverse.

#### Direction 8: Better Transport Links

Located close by to Tram route 112 and nearby Croxton and Northcote rail stations, the amendment will assist in integrating land use and transport.

#### Ministerial Direction No. 11 – 'Strategic Assessment of Amendments'

All requirements to be met under the direction have been considered and met in the preparation of the amendment.

### • **How does the amendment support or implement the State Planning Policy Framework?**

The amendment supports the following aspects of the SPPF:

- Clause 11.02 'Urban Growth' – as the amendment will provide for residential and commercial zoned land where it is able to take advantage of existing infrastructure in close proximity to Northcote Major Activity Centre.
- Clause 13.03 'Soil Degradation' - the amendment will assist in the clean up of potentially contaminated land through the application of the Environmental Audit Overlay (EAO).

- Clause 16.01 'Residential Development' – as the amendment will encourage the facilitation of additional housing supply, increase the supply of housing and make better use of existing under-utilised land.
  - Clause 16.01 'Residential Development' – as the amendment will encourage higher density housing on a strategic redevelopment site close by to Northcote Major Activity Centre and with good access to public transport.
  - Clause 17.01 'Commercial' - the amendment will facilitate commercial services and net community benefit in relation to accessibility and efficient infrastructure use.
  - Clause 17.02 'Industry' – as the amendment will not result in the loss of any viable industrial zoned land.
  - Clause 18.01 'Integrated Transport' – the amendment will allow for residential and commercial development in close proximity to public transport, thus meeting the intent of encouraging increased use of public transport.
- **How does the amendment support or implement the Local Planning Policy Framework?**

The amendment supports the following provisions of the Darebin LPPF:

- Clause 21.02-8 'Housing' – the amendment will contribute to the expected growth of 110,000 households in the 'northern region' of municipalities in the next 20 years.
  - Clause 21.05-2 'Element 2: Housing' – the amendment will allow for future residential development to accommodate the projected 70,000 additional persons for Darebin as nominated by Council's Integrated Housing Strategy.
  - Clause 21.05-2 'Element 2: Housing' – the amendment will allow for future mixed use development on a strategic redevelopment site with access to tram route 112, Croxton and Northcote rail stations, and proximity to community facilities including the Northcote Major Activity Centre, nearby parks and a school.
  - Clause 21.05-5 'Element 5: Economic Development' – as the proposal will not result in the loss of core industrial land and will facilitate the re-use of redundant industrial land to more appropriate commercial and residential uses.
  - Clause 21.05-9 'Element 9: Transport and Access' – the amendment will encourage higher density housing close to a tram route and within close proximity to two train stations, thus increasing the proportion of residents who can easily access public transport.
  - Clause 22.07 'Industrial and Commercial Activity' – as the proposal will not undermine existing viable core and secondary industrial areas and will allow for the transition of an under-utilised site to more suitable economic uses.
  - The recommendations of the *Industrial Land Use Strategy – A Framework for Decision Making (2001)* which identifies the site as a poor location for future industrial uses and appropriate for a residential/office mixed use development.
- **Does the amendment make proper use of the Victoria Planning Provisions?**

The Business 2 Zone, Environmental Audit Overlay and Design and Development Overlay are legitimate tools within the VPPs. These tools are appropriate controls for the subject site and will assist in achieving mixed-use regeneration consistent with state and local planning policies.

The Environmental Audit Overlay will give effect to the requirement that the environmental conditions of the land must be suitable before a sensitive use or development commences.

The Design and Development Overlay will set in place a framework to guide the future form of development on the site.

The amendment also proposes a site specific maximum combined leasable floor area for an office of 2,000 m<sup>2</sup> for the land through an amendment to the Business 2 Zone Schedule.

- **How does the amendment address the views of any relevant agency?**

Referrals to any relevant agency and opportunities to consider their views will be undertaken through the amendment process.

The amendment can be referred to the Environmental Protection Authority for comments during the public exhibition period. The proposed Environmental Audit Overlay can adequately ensure that any potential contamination on the land will be remediated prior to any sensitive use commencing.

- **Does the amendment address relevant requirements of the Transport Integration Act 2010?**

The amendment is unlikely to have a significant impact on the transport system as defined by Section 3 of the Transport Integration Act 2010.

Whilst the proposed amendment would encourage increased patronage of public transport, the proposal is unlikely to have a significant impact on the transport system. Future additional vehicular movements will not significantly impact on the transport system objectives of the Act.

## **Resource and administrative costs**

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The amendment will not have any significant impact upon the resources and administrative costs of the Council. Any development application that results as a consequence of this amendment can be absorbed by the existing resources within Darebin City Council.

## **Where you may inspect this Amendment**

The amendment is available for public inspection, free of charge, during office hours at the following places:

Darebin City Council  
274 Gower St  
PRESTON VIC 3072

The amendment can also be inspected free of charge at the Department of Planning and Community Development website at [www.dpcd.vic.gov.au/planning/publicinspection](http://www.dpcd.vic.gov.au/planning/publicinspection).

*Planning and Environment Act 1987*

**DAREBIN PLANNING SCHEME**

**AMENDMENT C115**

The planning authority for this amendment is Darebin City Council.

The Darebin Planning Scheme is amended as follows:

**Planning Scheme Maps**

The Planning Scheme Maps are amended by a total of three attached maps:

***Zoning Maps***

1. Planning Scheme Map 13 is amended in the manner shown on the attached map marked 'Darebin Planning Scheme, Amendment C115'.

***Overlay Maps***

2. Planning Scheme Map 13DDO is amended in the manner shown on the attached map marked 'Darebin Planning Scheme, Amendment C115'.
3. Planning Scheme Map 13EAO is amended in the manner shown on the attached map marked 'Darebin Planning Scheme, Amendment C115'.

***Planning Scheme Ordinance***

4. In Zones – following Clause 34.02, insert an amended Schedule in the form of the attached document.
5. In Overlays – following Clause 43.02, insert a new Schedule 15 in the form of the attached document.

End of document

# Amendment C115

## List of changes to the Darebin Planning Scheme

Clause / Map Numbers	Change	Comment
<b>PLANNING SCHEME MAP CHANGES</b>		
Map No.13	Amend Planning Scheme Map No. 13 to re-zone the land at 195-209 St Georges Road, Northcote from the Industrial 3 Zone to the Business 2 Zone.	Amend planning scheme map to rezone land to Business 2 Zone.
Map No.13 DDO	Amend Planning Scheme Map No. 13DDO to apply a Design and Development Overlay Schedule 15 to the land.	Amend planning scheme map to include land within Design and Development Overlay Schedule 15.
Map No.13 EAO	Amend Planning Scheme Map No. 13EAO to apply an Environmental Audit Overlay to the land.	Amend planning scheme map to include land within Environmental Audit Overlay.
<b>ZONES</b>		
Clause 34.02	Following Clause 34.02, insert a new schedule to the Business 2 Zone in the form of the attached document.	Introduces a new schedule to the Business 2 Zone.
<b>OVERLAYS</b>		
Clause 43.02 Schedule 15	Following Clause 43.02, insert a new Schedule 15 in the form of the attached document.	Introduces a new Schedule 15 to the Design and Development Overlay.
<b>LIST OF AMENDMENTS</b>		
List of Amendments	Insert: Amendment number C115, in operation from, <DATE> with the brief description: Rezones the land at 195-209 St Georges Road, Northcote from the Industrial 3 Zone to the Business 2 Zone. Apply a new schedule to the Business 2 Zone to a site specific maximum leasable floor area for office use above which a planning permit is required. Applies a Design and Development Overlay Schedule 15 to the land. Applies the Environmental Audit Overlay to the land.	Updates list of amendments to the Darebin Planning Scheme.

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C--**SCHEDULE TO THE BUSINESS 2 ZONE**

<b>Land</b>	<b>Maximum combined leasable floor area (m2) for office.</b>	<b>Maximum combined leasable floor area (m2) for shop.</b>
Plenty Road (west side) between Garnet Street and Bell Street Preston.	None specified	1000m <sup>2</sup>
195-209 St Georges Road, Northcote	2,000m <sup>2</sup>	None specified

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## SCHEDULE 15 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO15**

### **195-209 ST GEORGES ROAD, NORTHCOTE**

#### **1.0 Design objectives**

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To support the integrated redevelopment of the site.

To encourage the creation of a high quality public realm through quality architectural design and attractive frontages.

To ensure that the height, siting and design of new development does not adversely impact on the amenity of neighbouring residential properties.

To ensure redevelopment provides a high level of amenity for site occupants.

To limit unreasonable visual bulk of new development to the public realm and adjacent properties through appropriate scale, form and articulation.

To promote environmentally sustainable design.

To ensure that development does not adversely impact on local traffic conditions and promotes a safe pedestrian friendly environment.

#### **2.0 Buildings and works**

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Buildings and works should be constructed in accordance with the following requirements:

##### **Building height and setbacks**

- Building height and building setbacks to all frontages and boundaries should generally comply with the Preferred Building Envelope plan forming part of this schedule.
- Development proposals which seek to exceed the Preferred Building Envelope plan forming part of this schedule must be of exemplary design standard and demonstrate compliance with the design objectives of this schedule.
- Rooftop building, plant or equipment should be located and designed to minimise its visibility from any adjoining road and residential properties to the satisfaction of the responsible authority.

##### **Building form**

- Development should be orientated towards street frontages with an appropriate degree of articulation and variation of materials and finishes.
- Ground level frontages to St Georges Road should be attractively designed, with glazing and articulation enabling passive surveillance to the street, and clearly defined pedestrian entry points.
- Development is to step down in height to the western boundary and generally comply with the Preferred Building Envelope plan forming part of this schedule, to minimise impacts on adjacent residential properties.
- Development should be designed to avoid unreasonable impacts on the amenity of adjoining residential properties in terms of visual bulk, overshadowing, overlooking and noise.
- The design and layout of development should provide appropriate levels of amenity to occupants of the site, including protection of residential or other noise-sensitive uses from excessive noise, provision of adequate ventilation and access to natural daylight.

**Pedestrian access and movement**

- Pedestrian entry (s) to any development should be provided from main street frontages via a central lobby (s) that is easily identifiable and visible.

**Car parking and vehicle access**

- Car parking or loading areas should not dominate the streetscape or building design and should, where possible, be located in basements or to the rear of the site away from the St Georges Road frontage.
- Access to car parking should be provided via the side streets or where practical utilising the rear right of way.
- The number of access points to the site should be minimised and vehicle access directly off St Georges Road should be avoided.

**Environmentally sustainable design**

- Development should incorporate innovative design that achieves high standards of environmental sustainability. Opportunities for passive solar design, natural ventilation and cooling, natural lighting, integrated water management and water sensitive urban design principles are strongly encouraged to be incorporated into any new development.
- The responsible authority may require an Environmentally Sustainable Development Management Plan as a means of documenting and delivering sustainability outcomes.

**5.0 Application Requirements**

Any application to develop the site must include:

- An Environmentally Sustainable Development Management Plan that demonstrates how the development provides for environmentally sustainable design in relation to:
  - Passive solar design.
  - Natural ventilation.
  - Water conservation and re-use.
  - Energy efficiency.
  - Orientation and layout of the development.
  - Materials.
- An Amenity Impact Assessment that demonstrates how the amenity of occupants of any residential and other noise-sensitive use in the development are not detrimentally affected by other uses on the site.

The Responsible Authority may waive or reduce any of these application requirements if in its opinion the application is minor in nature or a requirement is not relevant to the evaluation of the application.

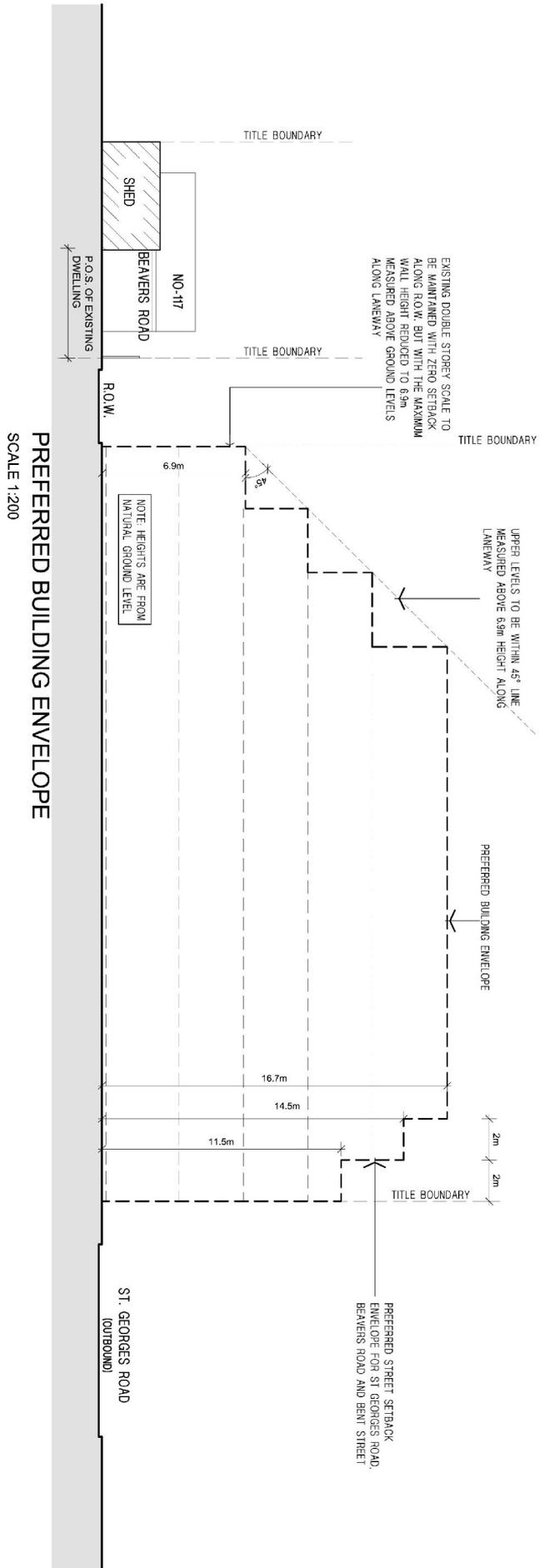
**6.0 Decision guidelines**

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Before deciding on an application, the responsible authority must consider:

- The design objectives of this schedule.
- The architectural quality and innovative response of the building design.
- The proposed streetscape design.
- The layout and appearance of areas set aside for car parking, vehicular access and loading and unloading.
- The design and location of pedestrian and vehicular access and egress from the site.
- The effect of new development on the amenity of neighbouring residential properties.

- The height and form of development to the public realm.
- The environmental performance of the development.
- The extent to which the development achieves the design objectives set out in the *Design Guidelines for Higher Density Residential Development* published by the Department of Sustainability and Environment (2004).



# DAREBIN PLANNING SCHEME LOCAL PROVISION



Part of Planning Scheme Map 13

## LEGEND

 B2Z BUSINESS 2 ZONE

# AMENDMENT C115

# DAREBIN PLANNING SCHEME LOCAL PROVISION



Part of Planning Scheme Map 13DDO

## LEGEND

**DDO15** DESIGN AND DEVELOPMENT OVERLAY  
- SCHEDULE 15

# AMENDMENT C115

# DAREBIN PLANNING SCHEME LOCAL PROVISION



Part of Planning Scheme Map 13EAO

## LEGEND

 EAO ENVIRONMENTAL AUDIT OVERLAY

# AMENDMENT C115



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Date / /

### **Agreement under Section 173 of the Planning and Environment Act 1987**

Subject Land: The Land listed in Schedule 1

Darebin City Council  
and

Seventh Mirage Pty Ltd  
ACN 006 251 529





H. The parties enter into this Agreement:

- to facilitate the Planning Scheme Amendment process; and
- to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

## The Parties Agree

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### 1. Definitions

In this Agreement the words and expressions set out in this clause have the following meanings unless the context admits otherwise:

**Act** means the Planning and Environment Act 1987.

**Agreement** means this agreement and any agreement executed by the parties expressed to be supplemental to this agreement.

**Date** means the earliest date on which the Owner first offers any Dwelling constructed or to be constructed on the Subject Land for sale.

**Dwelling or Dwellings** has the meaning provided in the Planning Scheme.

**Housing Act** means Housing Act 1983.

**market price** means the sum which any Dwelling constructed or to be constructed on the Subject Land, if it were held for an estate in fee simple unencumbered by any lease, mortgage or other charge, might be expected to realize at the Date if offered for sale on any reasonable terms and conditions which a genuine seller might in ordinary circumstances be expected to require.

**Mortgagee** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Subject Land or any part of it.

**Owner** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple of the Subject Land or any part of it and includes a Mortgagee-in-possession.

**party or parties** means the Owner and Council under this Agreement as appropriate.

**Planning Scheme** means the Darebin Planning Scheme that applies to the Subject Land.

**Planning Scheme Amendment** means Amendment C115 to the Planning Scheme.

**Registered housing association** has the meaning provided in the Housing Act 1983.

**Registered housing provider** has the meaning provided in the Housing Act 1983.

**Subject Land** means the land situated at 195 - 209 St Georges Road, Northcote being the land referred to in Schedule 1 to this Agreement and any reference to the Subject Land in this Agreement includes any lot created by the subdivision of the Subject Land or any part of it.

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## 2. Interpretation

In this Agreement unless the context admits otherwise:

- 2.1 The singular includes the plural and vice versa.
- 2.2 A reference to a gender includes a reference to each other gender.
- 2.3 A reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law.
- 2.4 If a party consists of more than one person this Agreement binds them jointly and each of them severally.
- 2.5 A term used in this Agreement has its ordinary meaning unless that term is defined in this Agreement. If a term is not defined in this Agreement and it is defined in the Act it has the meaning as defined in the Act.
- 2.6 A reference to an Act, Regulation or the Planning Scheme includes any Acts, Regulations or amendments amending, consolidating or replacing the Act, Regulation or Planning Scheme.
- 2.7 The introductory clauses to this Agreement are and will be deemed to form part of this Agreement.
- 2.8 The obligations of the Owner under this Agreement, will take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land provided that if the Subject Land is subdivided, this Agreement must be read and applied so that each subsequent owner of a lot is only responsible for those covenants and obligations which relate to that owner's lot.

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## 3. Specific obligations of the Owner

The Owner covenants and agrees that except with the prior written consent of the Council:

- 3.1 The Owner will sell not less than 10 per cent of all Dwellings to be constructed on the Subject Land to a Registered housing association or Registered housing provider for a sum which does not exceed more than 80 per cent of the market price of each Dwelling to be sold pursuant to this clause.
- 3.2 The Dwellings which the Owner will construct for sale in accordance with clause 3.1 of this Agreement:
  - 3.2.1 must be integrated with the balance of the Dwellings to be constructed on the Subject Land to the satisfaction of Council; and
  - 3.2.2 must not be constructed differently from all the other Dwellings to be constructed on the Subject Land including in terms of size, type, materials and finishes except that:
    - (a) the Owner does not have to provide a car park to each of these Dwellings; and
    - (b) the number of bedrooms in the Dwellings to be sold in accordance with clause 3.1 of this Agreement may comprise a mix which reflects the mix of Dwellings in terms of bedroom numbers across the whole of the Subject Land.

- 3.3 Following the transfer of ownership from the Owner to a Registered housing association or Registered housing provider of the Dwellings referred to in clause 3.1 of this Agreement (**Social housing**):
- 3.3.1 except with the prior written consent of Council, the Social housing must continue to be owned by a Registered housing association or Registered housing provider; and
  - 3.3.2 except with the prior written consent of Council, the ongoing management of the Social housing must be undertaken by a Registered housing association or Registered housing provider.
- 3.4 Even if the development on the Subject Land occurs in stages, the requirement in clause 3.1 applies to the whole of the Subject Land and not separately to each stage.

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#### **4. Further obligations of the Owner**

##### **4.1 Notice and Registration**

The Owner further covenants and agrees that the Owner will bring this Agreement to the attention of all prospective purchasers, lessees, mortgagees, chargees, transferees and assigns.

##### **4.2 Further actions**

The Owner further covenants and agrees that:

- 4.2.1 the Owner will do all things necessary to give effect to this Agreement;
- 4.2.2 the Owner will consent to Council making application to the Registrar of Titles to make a recording of this Agreement in the Register on the Certificate of Title of the Subject Land in accordance with Section 181 of the Act and do all things necessary to enable Council to do so including signing any further agreement, acknowledgment or document or procuring the consent to this Agreement of any mortgagee or caveator to enable the recording to be made in the Register under that section.

##### **4.3 Council's Costs to be Paid**

The Owner further covenants and agrees that the Owner will immediately pay to Council, Council's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, drafting, finalisation, engrossment, execution, registration and enforcement of this Agreement which are and until paid will remain a debt due to Council by the Owner.

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#### **5. Agreement under Section 173 of the Act**

Council and the Owner agree that without limiting or restricting the respective powers to enter into this Agreement and, insofar as it can be so treated, this Agreement is made as a Deed pursuant to Section 173 of the Act, and the obligations of the Owner under this Agreement are obligations to be performed by the Owner as conditions subject to which the Subject Land may be used and developed.







