

Planning and Environment Act 1987

DAREBIN PLANNING SCHEME

AMENDMENT C140

EXPLANATORY REPORT

Who is the planning authority?

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

Land affected by the amendment

The amendment applies to:

Land burdened by two restrictive covenants contained in registered transfer of land no. 2201788 (first covenant) and in registered transfer of land no. A326370 (second covenant):

- 2 & 4 Cleeland Street and 23, 23A & 25 Edwardes Street, Reservoir; being Lot 14 on PS 20219

Land benefitting from covenants contained in registered transfer of land no. 2201788 (first covenant) and in registered transfer of land no. A326370 (second covenant):

- Road R1 on PS 20219
- 5 Viola Street, Reservoir; being Lot 21 on PS 7975
- 251-253 Spring Street, Reservoir, being Lots 1 and 2 on PS 20219 and Lot 2 on PS 344385G
- 255-261 Spring Street, Reservoir, being lot 1 on PS 344385G
- 263 Spring Street, Reservoir, being Lot 7 on PS 20219
- 265 Spring Street, Reservoir, being Lot 8 on PS 20219
- 267 Spring Street, Reservoir, being Lot 9 on PS 20219
- 269-271 Spring Street, Reservoir, being Land in CP 102017
- 273 Spring Street, Reservoir, being Lot 12 on PS 20219
- 275 Spring Street, Reservoir, being Lot 2 on PS 37275
- 277 Spring Street, Reservoir, being Land in CP 159609V
- 279 Spring Street, Reservoir, being Lot 1 on TP 104158W
- 281 Spring Street, Reservoir, being Lot 3 on PS 113069
- 283 Spring Street, Reservoir, being Lot 2 on PS 113069
- 285 Spring Street, Reservoir, being Lot 1 on PS 113069

What the amendment does

- The amendment seeks to insert Council owned land at 2 & 4 Cleeland Street, and 23, 23A & 25 Edwardes Street, Reservoir (Lot 14 on PS 20219 and Road R1 on PS 20219) in to Section 1 of the Schedule to Clause 52.02 of the Darebin Planning Scheme in order to remove two restrictive covenants. The two restrictive covenants are contained in registered transfer of land no. 2201788 (first covenant) and in registered transfer of land no. A326370 (second covenant)

Strategic assessment of the amendment

- **Why is the amendment required?**

The first covenant currently restricts the construction of any buildings on the subject land to a picture theatre whereas the second covenant prohibits the construction of shops, the use of the land for a market, auction sales and wholesale or retail commercial trade. All said land used to be owned by a picture theatre operator, which is believed to be the origin of the covenants. When the land was sold the covenants were never removed.

Council intends to relocate the Reservoir Library next to the existing civic centre at 23 Edwardes Street, Reservoir and refurbish the existing civic centre at the same time. As the covenants stand to date, Council would be in breach of such covenants when pursuing the project without their removal. Seeking an agreement with all beneficiaries has not been successful to date and as such the removal of the covenants from Council titles is sought via an inclusion into the schedule of Clause 52.02.

The removal of the restrictive covenant would ensure that any doubt over the legitimacy of the civic uses would be removed and the new library can be built, therefore resulting in a much needed improved and updated civic service to the benefit of the wider Reservoir community. Current beneficiaries are not expected to experience a material detriment as no new use is being introduced.

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

The amendment will enable the legalisation of the use of land as a civic centre and provide for the concentration of civic services in the area, including a required upgrade to the library services of Reservoir. As such, the amendment implements Objectives e), f) and g) of Section 4 (1).

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

Removing the covenants is not expected to have any environmental effects. The amendment will possibly assist in creating social benefits due to allowing the construction of a new updated library service that will provide for better learning opportunities available to the entire community. Locating the services to a central position on Edwardes Street will increase their exposure as well as increase the convenience to customers. It is also likely to increase public interaction at street level.

- **Does the amendment address relevant bushfire risk?**

The amendment applies to land in an established urban area and bushfire risk is not relevant in this instance.

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

The amendment complies with the requirements of:

- the Ministerial Direction on the Form and Content of Planning Schemes;
- Direction No.1 Potentially Contaminated Land;
- Direction No.11 Strategic Assessment of Amendments;

as the form and content of planning schemes is not proposed to be deviated from and potentially contaminated land is not known to be effected by this amendment. The amendment is being strategically assessed through this report and the attached assessment guidelines checklist.

- **How does the amendment support or implement the State Planning Policy Framework and any adopted State policy?**

The amendment supports Clause 19.02-3 – Cultural Facilities – of the State Planning Policy Framework (SPPF) as it will enable the provision of an updated cultural facility in the Reservoir Major Activity Centre.

- **How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

Municipal Strategic Statement (MSS)

The amendment supports objective 1 of Clause 21.05-6 - Element 6: Activity Centres – of the MSS by enabling an updated and better located community service facility within the Major Activity Centre of Reservoir.

Local Planning Policy Framework (LPPF)

The amendment will enable the civic centre to be integrated with the library services in the heart of the Reservoir Major Activity Centre and therefore assist in supporting a mix of activities as per objectives of Clause 22.03 – Activity Centres Policy.

- **Does the amendment make proper use of the Victoria Planning Provisions?**

It is considered that the amendment makes proper use of the VPPs as it proposed to utilise Clause 52.02 in order remove a covenant and does not duplicate an existing planning provision.

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

The amendment only affects land that benefits the relevant covenants. The views of an external agency are not required.

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

The amendment will have no impact on the transport system.

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 neither have resource nor administrative costs for the responsible authority as no additional permit trigger is proposed. Only associated costs with this amendment are costs associated with the registration of the title.

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- directions hearing: week beginning of 11 November 2013
- panel hearing: week beginning 02 December 2013

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 Street

PRESTON

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.

19/01/2006
VC37**SCHEDULE TO CLAUSE 52.02****1.0**19/01/2006
VC37
Proposed
C140**Under Section 23 of the Subdivision Act 1988**

Land	Easement or restriction	Requirement
Lots 2916, 2917, 2923, 2924, 2926 to 2944, 2947 to 2949, 2951 to 2953, 2994 to 3010, 3012 to 3030, 3033 to 3053, 3055 to 3073 on LP 8538.	Single dwelling covenant	Remove
Lots 2, 3 and 4 , LP 71210		
Lots 1, 2 and 3 on LP 94036 Lot 1900 on LP 8482	Covenant	Vary (remove single dwelling restriction)
<u>Lot 14 on PS 20219</u>	<u>Covenants</u>	<u>Remove</u>

2.019/01/2006
VC37**Under Section 24A of the Subdivision Act 1988**

Land	Person	Action
Part Park Reserve on LP8538 being all of the land contained in Certificate of Title Vol. 8561 Fol. 821	City of Darebin	Removal of reservation

3.019/01/2006
VC37**Under Section 36 of the Subdivision Act 1988**

Land	Easement or right of way	Requirement
None specified		

Planning and Environment Act 1987

DAREBIN PLANNING SCHEME

AMENDMENT C122

INSTRUCTION SHEET

The planning authority for this amendment is the Darebin City Council.

The Darebin Planning Scheme is amended as follows:

Planning Scheme Maps

No maps require changing.

Planning Scheme Ordinance

The Planning Scheme Ordinance is amended as follows:

1. In Particular Provisions – Clause 52.02, replace the Schedule with a new Schedule in the form of the attached document.

End of document