

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

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

#### **MACEDON RANGES PLANNING SCHEME**

##### **AMENDMENT C132macr**

The *Planning and Environment Act 1987* (the 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 twelve months detailing the nature of each intervention.

#### **REQUEST FOR INTERVENTION**

1. Macedon Ranges Shire Council has requested that the Minister for Planning use his powers of intervention to prepare, adopt and approve Amendment C132macr to the Macedon Ranges Planning Scheme, without notice.
2. The request for an amendment is to apply the Heritage Overlay (HO377 - Carramar) to 1.74 hectares of land at 20 Bowen Street, Woodend 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 Act and the regulations in respect to Amendment C132macr to the Macedon Ranges Planning Scheme.
4. 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.
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 has requested the amendment because two planning permit applications have been received from Calibre Professional Services Pty Ltd, on behalf of the landowners, for the land at 20 Bowen Street, Woodend and are currently undecided.
7. The council has advised that regular consultation by letter, email, phone and face to face meetings has occurred with the planning consultant over the last four years in an attempt to resolve the matter, but the parties have been unable to negotiate changes to the two planning applications to protect the heritage and environmental values of the land.

8. Planning Permit Application No. PLN-2016-511 proposes to re-subdivide the existing five lots into an amended five lot configuration consistent with the Restructure Overlay, Schedule 13 (RO13 - Ladye Place Restructure Overlay) that applies to the land. The council has indicated that adhering to the requirements of RO13 may potentially result in adverse heritage and environmental outcomes on the site. Planning Permit Application No. PLN-2018-376 proposes to extend the existing dwelling on the land. Both applications include the removal of vegetation, some of which has been identified as being of local heritage significance to the Shire of Macedon Ranges.
9. In the most recent discussions at the end of last year, the council advised the planning consultant that more tailored heritage and vegetation advice could be provided if site access was granted. To date, site access has not been provided.
10. The amendment:
  - Applies the Heritage Overlay (HO337 - Carramar) to land at 20 Bowen Street, Woodend as shown on Planning Scheme Map No. 24HO.
  - Amends the Schedule to Clause 43.01 (Heritage Overlay) to insert a new heritage place (HO337 - Carramar) at 20 Bowen Street, Woodend on an interim basis for an extended period of eighteen months, due to the COVID-19 pandemic.
  - Amends the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme) to insert a new incorporated document titled '*Carramar Statement of Significance, April 2019*' in the list of incorporated documents forming part of the Macedon Ranges Planning Scheme.
11. 'Carramar' at 20 Bowen Street, Woodend has been identified in the *Macedon Ranges Shire Heritage Study: Woodend, Lancefield, Macedon & Mount Macedon, Stage 2 Final Report, Volumes 1 and 2*, April 2019.
12. 'Carramar', a house built in 1924 and designed by architects Haddon & Henderson, is of local historical, architectural and aesthetic significance to the Shire of Macedon Ranges. Other elements that contribute to the significance of the place include the original garage, the mature trees and established garden surrounding the residence and the historic driveway alignment from the south-west.
13. On 10 March 2020, the council was authorised to prepare Amendment C127macr to apply permanent heritage controls to thirty-two individual places identified with heritage significance in the *Macedon Ranges Shire Heritage Study: Woodend, Lancefield, Macedon & Mount Macedon*, April 2019, including 'Carramar' at 20 Bowen Street, Woodend.

## **BENEFITS OF EXEMPTION**

14. The benefit of exempting the amendment from notice is that it allows a prompt decision on the adoption and approval of the amendment.
15. The amendment is consistent with the following objectives of planning in Victoria as outlined in section 4(1) of the Act:
  - (d) 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.*
  - (g) balance the present and future interests of all Victorians.*
16. The amendment meets this objective by assisting to conserve and enhance a heritage place identified in the *Macedon Ranges Shire Heritage Study: Woodend, Lancefield, Macedon & Mount Macedon*, April 2019 as being of local heritage significance while a separate amendment (C127macr) to introduce permanent heritage controls is progressed.

17. Under section 46AZC(1) of the Act, the Minister must not approve an amendment to a declared area planning scheme if the amendment is inconsistent with a Statement of Planning Policy for that declared area. The *Macedon Ranges Statement of Planning Policy* was approved on 10 December 2019 and gazetted on 12 December 2019.
18. The amendment is consistent with Objective 5 of the *Macedon Ranges Statement of Planning Policy* to recognise, conserve and enhance the declared area's significant post-contact cultural heritage values. The amendment conserves and enhances a heritage place by applying a Heritage Overlay to the land at 20 Bowen Street, Woodend on an interim basis.
19. The amendment also enables the heritage values of the place to be considered in the assessment of the two planning permit applications that remain undecided.

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

20. The effect of the exemption on third parties is that they will not receive formal notice of the amendment and will not have the opportunity to make a submission on the amendment or be heard by an independent panel under Part 8 of the Act.
21. Potentially affected parties will be provided with an opportunity to make comment on the permanent controls when Amendment C127macr to the Macedon Ranges Planning Scheme is exhibited. The council was authorised to prepare this amendment on 10 March 2020.
22. The introduction of permanent heritage controls will provide a formal avenue for consultation and for the owners and affected parties to make a submission to be considered by the council and most likely by a panel, and for all parties to finally come to an agreement about this heritage place. The council advises that the planning consultant and landowners are aware of the request for interim heritage controls, but no specific comment has been made about this request.
23. The views of the council are also known, given the council has requested the interim heritage controls.

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

24. The benefits of the exemption outweigh the effects on third parties. The amendment introduces interim heritage controls that will assist with the protection of the heritage place and ensure that any proposal to subdivide the land or extend the existing dwelling considers the heritage significance of 'Carramar'. The interim heritage controls will be in place for a period of eighteen months from gazettal of the amendment, during which time it is anticipated that a decision may be made on Amendment C127macr.
25. Accordingly, I, acting under delegation from the Minister, consider that the benefits of exemption from sections 17, 18 and 19 of the Act outweigh any effects of the exemption on third parties.

#### **DECISION**

26. 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 Act and the regulations in respect of Amendment C132macr to the Macedon Ranges Planning Scheme.

## **REASONS FOR INTERVENTION**

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

28. I, acting under delegation from the Minister, 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:

- The interim heritage controls are substantially the same as those being considered as part of the proposed permanent Amendment C127macr, which is subject to a process of review and assessment.

## **SIGNED BY THE DELEGATE**

**STUART MENZIES**  
**Director**  
**State Planning Services**

Date: 18 May 2020