

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

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

**GREATER GEELONG PLANNING SCHEME AMENDMENT
C414ggee**

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 my powers of intervention, I have 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. The Victorian Rail Track Corporation (VicTrack) has requested this intervention to change the planning provisions for surplus government land at 67B (part) and 67C (part) McCurdy Road, Herne Hill from Transport Zone 1 – State Transport Infrastructure (TRZ1) to Neighbourhood Residential Zone, Schedule 8 (NRZ8) and apply an Environmental Audit Overlay (EAO) and Design and Development Overlay, Schedule 14 (DDO14) to the land.

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 P&E Act and the Regulations in respect to Amendment C414ggee to the Greater Geelong Planning Scheme.
3. 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 P&E Act or the Regulations.
4. In seeking to exercise this power, section 20(4) of the P&E 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. The *Victorian Government Landholding Policy and Guidelines 2017* (LHPG) requires Victorian Government departments and agencies to review and manage their land assets on an ongoing basis. Part of this assessment includes determining if land assets are required for current and future service delivery needs. Where land is no longer needed for a public purpose, it must be declared surplus to requirements and disposed of.
6. The *Victorian Government Land Transactions Policy 2022* (VGLTP) requires that, to facilitate disposal, land zoned for public purpose must be rezoned to reflect its highest and best use prior to sale.
7. The site was determined to be surplus to transport requirements on 27 September 2018. No government agencies or departments expressed an interest in acquiring the site during the First Right of Refusal period.

8. The Department of Transport declared in writing on the 27 September 2018 that the land was no longer required for transport and supported the sale of the land subject to the retention of the existing bicycle and pedestrian corridor known as the Tom McKean Linear Park.
9. The site is currently zoned Transport Zone 1 (TRZ1), which reflects its former use as a railway corridor for the transport of materials to the Fyansford Cement Works. Since the closure of the Fyansford Cement Works the land is no longer needed for transport purposes.
10. The site is flat and predominately vacant except for various trees, a telecommunications facility and a community garden. The Tom McKean trail runs along the eastern and southern boundaries of the site. The trail provides connection to North Geelong via the continuation of the former railway line to the north. Established residential properties and the Kevin Kirby Reserve are located to the east. McCurdy Road is located to the west.
11. VicTrack has requested changes to the planning provisions for the site to reflect its highest and best use prior to sale.
12. The Government Land Standing Advisory Committee (Advisory Committee) was established to provide independent advice for proposals to change the planning provisions for government owned land. The site was referred to the Advisory Committee for consideration.
13. The formal referral of the site to the Advisory Committee triggered a six-week public consultation period from 28 June 2021 to 6 August 2021 to give the opportunity to the public to review the amendment and to allow the public to make a submission on the changes proposed. A notice was placed in the *Geelong Advertiser* on 3 July 2021 and the *Geelong Independent* on the 9 July 2021, and letters were sent to landowners and occupiers and interest groups who may be materially affected by the amendment, prescribed Ministers, and Greater Geelong City Council.
14. The Advisory Committee considered the amendment, the submissions made and the views of people who presented at public hearings. This consideration resulted in a report submitted to the Minister for Planning on 5 November 2021 with the Advisory Committee's advice on the proposed changes to planning provisions for the affected site.
15. The Advisory Committee recommended:
 - i. *A planning scheme amendment be prepared and approved for 67B and 67C McCurdy Road, Herne Hill, to:*
 - a) *rezone the site to Neighbourhood Residential Zone (Schedule 8)*
 - b) *apply the Design and Development Overlay (Schedule 14)*
 - c) *apply the Environmental Audit Overlay over the entire site.*
 - ii. *Consolidate all current titles and apply easements and a reserve as proposed by the site owner, before sale.*
16. After the then Minister for Planning received the Advisory Committee's report on 5 November 2021, Amendment VC205 was gazetted and came into operation on 20 January 2022. This amendment introduced a new Transport Zone to replace the Road Zone and Public Use Zone 4 in all Victorian Planning Schemes. The changes under Amendment VC205 were made to facilitate the delivery of state transport projects and do not materially impact Amendment C414ggee.
17. A further change to the amendment was submitted after the Advisory Committee's report was received, removing several land parcels from the southern portion of the amendment land. This change was requested by VicTrack in response to advice from the Department of Transport, now the Department of Transport and Planning (DTP), indicating that the land was required for an upgrade of the intersection of McCurdy Road and Hyland Street.

18. Greater Geelong City Council advised the Department of Transport and Planning that it has certified a plan of subdivision that consolidates all current titles and includes an easement and road reserve in accordance with the Advisory Committee's recommendations.
19. The amendment implements the Advisory Committee's recommendations with respect to the proposed planning provisions.
20. The amendment varies from the amendment considered by the Advisory Committee to the extent that since its report was received, amendment VC205 rezoned the subject land from PUZ4 to Transport Zone 1 (TRZ1) and parcels of land were removed from the southern portion of the site to facilitate the proposed upgrade of the intersection.
21. The land affected by Amendment C414ggee is one of six sites where the Government is unlocking more surplus land with the potential to deliver up to 350 homes, including a minimum 10 per cent affordable housing component, as part of the second tranche of Development Victoria's *Small Sites* program.
22. The number of homes delivered on this site will be subject to further approvals, with construction (if approved) anticipated to commence in 2027.

BENEFITS OF EXEMPTION

23. The key benefit of exemption of the amendment from the requirements of sections 17, 18 and 19 of the Act and the regulations is to enable the amendment to be delivered sooner.
24. The exemption will enable a prompt decision to be made on the adoption and approval of an amendment which facilitates timely changes to planning provisions affecting surplus government land.

EFFECTS OF EXEMPTION ON THIRD PARTIES

25. The effect of the exemption is that third parties will not receive formal statutory notice of the amendment in accordance with sections 17, 18 and 19 of the Act and the regulations and will not have the opportunity to make a submission or be heard by an independent panel in relation to the amendment.

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

26. Informal, non-statutory public consultation on the planning provision changes for this site has occurred. Community and stakeholder views are generally known and have been independently considered by the Advisory Committee.
27. I consider that the benefits of exempting the amendment from the formal notice requirements outweigh the effects on third parties and consider that the outcome of the amendment would be unlikely to change if formal notice was required.
28. Exemption from notice will allow the disposal of the land in a timely manner and for it to be developed in a manner consistent with its highest and best use and provide for the reinvestment of funds to support the delivery of new infrastructure and services across Victoria.
29. Accordingly, I 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

30. I have decided to exercise my power to exempt myself from all the requirements of sections 17, 18 and 19 of the P&E Act and the Regulations in respect of Amendment C414ggee to the Greater Geelong Planning Scheme.

REASONS FOR INTERVENTION

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

32. I 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:

- Non-statutory consultation has occurred with the council, the community, and stakeholders in respect of the proposed changes to the relevant planning provisions. Their views are adequately understood and have been considered during the preparation of the amendment.
- The amendment is compatible with state policy and further consultation would be reasonably unlikely to identify any new issues or result in changes to the amendment.

SIGNED BY THE MINISTER

HON SONYA KILKENNY MP
Minister for Planning

Date: 22 January 2026