

## Frequently Asked Questions

### 1. What is Amendment C72?

Amendment C72 seeks the removal of the restrictive covenant from each of the following properties:

- 16 Hepburn Road, Doncaster
- 18 Hepburn Road, Doncaster
- 20 Hepburn Road, Doncaster
- 22 Hepburn Road, Doncaster
- 24 Hepburn Road, Doncaster
- 1 Short Street, Doncaster

All of these properties are located within the Doncaster Hill Activity Centre which is identified as a Principal Activity Centre in the State Government's planning policy *Melbourne 2030*. The removal of the restrictive covenants will enable the subject properties to be developed in accordance with the planning scheme controls applying to the respective properties and enable development to occur consistent with the objectives of the Doncaster Hill Strategy (October 2002 and revised October 2004).

### 2. What is the Doncaster Hill Strategy?

The Doncaster Hill Strategy provides a strategic framework that outlines the pattern of future land use and development in the Doncaster Hill Activity Centre.

The Doncaster Hill Strategy aims to create a 21<sup>st</sup> century, 'state of the art', sustainable, high-density, mixed-use urban village for 8,300 residents and provide 10,000 employment opportunities by 2020.

### 3. What is restrictive covenant?

A restrictive covenant is a restriction affecting a parcel of land. A restrictive covenant is a private arrangement between a land owner and other land owners and also binds any future owners of the land. It is generally in the form of a private legal agreement entered into by a purchaser and owner and is registered on the Certificate of Title.

The issue of covenants and their removal frequently raises complicated questions of property law and planning law. While Council officers can assist with the amendment procedure it is recommended that land owners obtain independent legal advice on specific matters relating to restrictive covenants.

### 4. Who is a beneficiary?

In this case a beneficiary is generally a land owner whose lot was still part of the parent title on the day the covenant was created, and as such benefits from the restrictive covenant. As part of the amendment process, Council is required to notify all beneficiaries.

### 5. Why is Council seeking to remove the restrictive covenants within the Doncaster Hill Activity Centre?

The properties subject to this amendment have planning scheme controls that permit multi-storey development, however the presence of the single dwelling covenant on all the properties, except 20 Hepburn Road, (which relates to use of specified building materials) are inconsistent with the existing planning scheme controls.

In a report prepared by the Priority Development Panel (PDP) to the Minister for Planning, entitled '*A Performance Review of the Doncaster Hill Strategy*' (December 2007), the PDP advised that These covenants are inappropriate for a centre identified for significant change.

Furthermore, the Report recommends that a planning scheme amendment is the best approach to seek their removal.

#### **6. What type of development could occur on the subject sites if the covenants are removed?**

The sites at 1 Short Street, and 20, 22 and 24 Hepburn Road are located in a precinct where the specified maximum building height is 40 metres, whereas 16 and 18 Hepburn Road are in a precinct where the maximum building height is 14.5 metres. The removal of the restrictive covenants will provide opportunities for high density development to occur as well as providing a range of housing options within the Doncaster Hill Activity Centre.

These building heights were introduced into the Manningham Planning Scheme as part of Amendment C33, approved on 26 February 2004 by the Minister for Planning. The Planning Panel appointed to consider Amendment C33, concluded that:

*"...the principles of the Doncaster Hill Strategy as expressed in Amendment C33 have a sound strategic basis and should be supported." (pg 5 Panel Report September 2003 Amendment C33 Doncaster Hill Activity Centre)*

This has been reinforced by the PDP who concluded in their report dated December 2007 that the underlying policy assumptions of the Doncaster Hill Strategy are sound.

#### **7. Does the amendment set a precedent to remove restrictive covenants outside the Doncaster Hill Activity Centre?**

No. Council is only seeking to remove the restrictive covenants from the specified six properties to ensure that all land within Doncaster Hill has the potential to be redeveloped, in accordance with the Doncaster Hill Strategy (October 2002 and revised October 2004).

#### **8. What is the process from here?**

Amendment C72 is on exhibition from 17 April 2008 to 27 May 2008.

If you would like to make a written submission, please send it to:

Teresa Dominik  
Manager, Economic and Environmental Planning  
Manningham City Council  
PO Box 1  
DONCASTER VIC 3108

Or email to [eepadmin@manningham.vic.gov.au](mailto:eepadmin@manningham.vic.gov.au)

#### **9. Where can I get further information?**

Amendment C72 documentation is available

- on the Council web-site at [www.manningham.vic.gov.au](http://www.manningham.vic.gov.au)
- 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).

Copies are also available for viewing at:

Manningham Municipal Offices, 699 Doncaster Road, Doncaster and all the Municipal Libraries.

Please direct your queries to Gabrielle O'Halloran or Lydia Winstanley, Economic and Environmental Planning Unit on 9840 9467 or 9840 9133.