

**Item 9.4     INTERIM HEIGHT CONTROLS FOR BENTLEIGH & CARNEGIE ACTIVITY CENTRES PLANNING SCHEME AMENDMENTS C147 and C148**

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**File No:**                    N/A

**Attachments:**                    *Proposed Design and Development Overlay Maps*  
                                          *Draft schedules to the Design and Development Overlay*

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**PURPOSE AND SUMMARY**

The purpose of this report is for Council to consider Glen Eira Planning Scheme Amendments C147 and C148. These amendments propose *interim* height controls for commercially zoned land in the Carnegie and Bentleigh Activity Centres.

The proposed interim controls consist of new Schedules of the Design and Development Overlay to all land zoned Commercial 1 or Mixed Use within the Bentleigh and Carnegie Activity Centres.

The intent of the overlay is to introduce built form controls, particularly maximum building heights, to preserve the neighbourhood character of the urban villages and minimise amenity impacts while a comprehensive structure plan is prepared for each centre.

It is proposed that the Minister for Planning implements the amendments through a 'fast track' process seeking exemption from exhibition and notice requirements.

**RECOMMENDATION**

That Council:

- Requests the Minister for Planning to prepare, adopt and approve Planning Scheme Amendment C147 and C148 in accordance with Section 20(4) of the *Planning and Environment Act 1987*.

**BACKGROUND**

At the Ordinary Council Meeting of 9 August 2016, the Planning Scheme Review 2016 Report and its corresponding Work Plan was adopted by Council. The Work Plan specified three structure plans to be implemented for Council's activity centres within the first four years.

In addition to adopting the Work Plan, Council also resolved to:

*"Advocate to the Minister for Planning for interim height controls in the Bentleigh and Carnegie activity centres."*

**ISSUES AND DISCUSSION**

As a result of community consultation carried out for the recent Planning Scheme Review, overwhelming feedback was received indicating that there was a sense of

overdevelopment within Glen Eira's activity centres leading to a loss of character and subsequent amenity impacts on surrounding residential areas. This feedback has led to the adoption of the abovementioned Work Plan, including proposed structure plans for activity centres.

The preparation of comprehensive structure plans will involve extensive technical analysis and significant community and stakeholder engagement. During this period, interim height controls can help preserve the prevailing built form, scale and amenity of an activity centre.

Bentleigh Activity Centre - Amendment C147 (Attachment 1) proposes an interim built form control which includes:

*Land north of Centre Road:*

- A discretionary 5 storey height limit for commercially zoned land north of Centre Road.
- A 4 storey mandatory height limit north of Centre Road where commercially zoned land abuts the Neighbourhood Residential Zone.

*Land south of Centre Road:*

- A 4 storey mandatory height limit for commercially zoned land along the southern side of Centre Road between Mavho Street and Robert Street.
- A discretionary 4 storey height limit for commercially zoned land south of Centre Road, east of Robert Street.
- A mandatory 3 storey height limit south of Centre Road where commercially zoned land abuts the Neighbourhood Residential Zone (west of Mavho Street).

Carnegie Activity Centre - Amendment C148 (Attachment 2) proposes an interim built form control which includes:

*Land north of the railway line:*

- A discretionary 7 storey height limit for commercially zoned land north of the railway line.

*Land between Neerim Road and the railway line:*

- A discretionary 6 storey height limit for commercially zoned land located between the railway line and Neerim Road.

*Land south of Neerim Road:*

- A mandatory 4 storey height limit for commercially zoned land south of Neerim Road.

#### Discretionary vs Mandatory Height Controls

As it currently stands, there are no planning provisions for commercially zoned land in these centres which prescribe a specific height limit.

According to the Department of Environment, Land, Water and Planning:

*"The application of discretionary controls, combined with clear design objectives is the preferred form of height and setback controls. Discretionary controls are more likely to facilitate appropriate built form outcomes than mandatory controls by providing more flexibility to accommodate contextual variations and innovative design. This preferred form of height control has been supported through a number of planning panels, more so than mandatory controls.*

...  
*Mandatory height and setback controls (that is, controls that cannot be exceeded under any circumstance) will only be considered in exceptional circumstances.*

...  
*Even where exceptional circumstances are identified, mandatory height and setback controls should only be applied where they are absolutely necessary to achieve the built form objectives or outcomes identified from the comprehensive built form analysis."*

(DELWP Planning Practice Note 60)

## **FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS**

The proposed amendments will be prepared and managed internally.

## **POLICY AND LEGISLATIVE IMPLICATIONS**

Amendments C147 and C148 seek an exemption from exhibition and notice requirements pursuant to Section 20(4) of the *Planning and Environment Act 1987*. *In a case such as this, the Minister is requested to concurrently prepare, adopt and approve the Amendments.*

## **COMMUNICATION AND ENGAGEMENT**

Extensive community consultation was carried during April and May 2016 for the purpose of the Planning Scheme Review 2016 with overwhelming feedback indicating that overdevelopment was a major issue within Council's activity centres. It was also evident that structure plans are a top priority for the Glen Eira community.

During the two month consultation period, around 247 people attended six scheduled Community Engagement Meetings, 68 people participated via the *Have Your Say* online forum and 122 written submissions were received.

Amendments C147/C148 are proposed to be implemented via a 'fast track' process that seeks exemption from exhibition and notice requirements. It is considered that this process is necessary to manage development within the Bentleigh and Carnegie Activity Centres *while a more comprehensive study is undertaken.*

The final structure plans will inform more specific planning controls which will undergo full exhibition and notice requirements prior to being implemented.

## **LINK TO COUNCIL PLAN**

### Town Planning and Development

To manage the rate and extent of change to the built environment consistent with State and local planning policies to achieve a diversity of housing as sympathetic as possible to neighbourhood character.

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

**CONCLUSION**

An interim built form control will help protect the character of each activity centre while more comprehensive structure planning is carried out.

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C147**SCHEDULE 8 TO THE DESIGN AND DEVELOPMENT OVERLAY**Shown on the planning scheme map as **DDO8**.**BENTLEIGH URBAN VILLAGE**

1.0

**Design objectives**--/-/20--  
C147

- To ensure that development makes a positive architectural contribution to the low scale, retail village.
- To ensure that development enhances the character of Bentleigh Urban Village, including the scale, shape and rhythm of built form and the variety of building heights, roof forms, setbacks and building designs.
- To ensure that retail development that abuts a rear-ward facing car park provide pedestrian access to both the car park and Centre Road.
- To ensure that development along any residential interface be sympathetic to the scale and amenity of the residential area.
- To ensure that development is designed to maintain safe and efficient vehicle movements.
- To ensure development optimises principles of environmentally sustainable design.
- To ensure high quality internal amenity for future residents.

2.0

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C147**Buildings and works****No permit required**

A permit is not required for any of the following:

- The installation of an automatic teller machine.
- An alteration to an existing building façade but only if:
  - The alteration does not include the installation of an external roller shutter; and
  - At least 80 per cent of the building facade at ground floor level is maintained as an entry or window with clear glazing.
- An awning that projects over a road, but only if it is authorised by the relevant public land manager.

*Note:**The Mandatory requirements of this schedule also apply.***Permit required**

The following general and mandatory requirements apply, as appropriate, to all buildings and works.

**General requirements**

- An application to construct a building that exceeds a building height of 10.5 metres should be accompanied by a site context and design response report that demonstrates how the proposal achieves the design objectives and the requirements of this schedule.
- Buildings should be of a high quality in terms of architecture and urban design, make a positive contribution to the Bentleigh Urban Village and reinforce that character in all other streetscapes.

- Buildings on the North side of Centre Road to be designed and articulated so that they do not overshadow onto the footpath on the southern side of Centre Road at the September equinox at noon.
- Buildings should be designed to demonstrate respect for the existing scale and character of streetscapes when viewed from the pedestrian network.
- Buildings should be designed to face all adjoining street and open space reserves and buildings should facilitate continuous active frontages at ground level and weather protection along key pedestrian links. Blank, inactive frontages should be avoided.
- Buildings should be designed to minimise visual bulk to the street, with adequate detailing and articulation of facades, setbacks to upper levels, as well as an adequate use of materials and colours.
- Buildings should be designed to optimise opportunities for basement car parking and should not include car spaces at ground level that are exposed to the public realm.
- Buildings should be designed in a way that optimises principles of environmentally sustainable design.
- Residential development should be designed to provide a recognisable and accessible pedestrian access point from the street to the residential component of the building.

*Note:* **The Mandatory requirements of this schedule also apply.**

#### **Height and setback general requirements**

- A building should not exceed the maximum building height and the number of storeys specified in Column 2 of the Table to this schedule. This does not apply to architectural features, masts, building services or enclosed stairwells that do not exceed any required height limit by more than 4 metres. The combined floor area of these features should not exceed 10% of the gross floor area of the top storey of the building.

#### **Height and setback mandatory requirements**

- A building must not exceed the maximum building height and the number of storeys specified in Column 3 of the Table to this schedule. This requirement cannot be varied with a permit. This does not apply to alterations to or extension of a lawfully existing building but only if all of the following requirements are met:
  - The existing building has a building height of more than that specified in Column 3 of the Table to this schedule.
  - The maximum building height is not exceeded.
  - The footprint of the upper storey, existing at the approval date, is not increased by more than 10%.

**These requirements cannot be varied with a permit.**

### **3.0**

#### **Decision guidelines**

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C147*

Before deciding on an application the responsible authority must consider:

- The extent to which proposed buildings respect the preferred scale and form of development, particularly when viewed from the pedestrian network.
- Whether proposed buildings are compatible with and respect the character of neighbouring buildings within the same streetscape.
- Whether proposed buildings on sites that are in the vicinity of a heritage place are respectful of that heritage place.
- The extent to which any roof deck is integrated with the architectural style and form of the building and minimises the visual impact on the street and adjoining properties.

- Whether proposed buildings are designed to avoid views into secluded private open spaces and habitable room windows of dwellings on adjacent land.
- The extent to which the design of buildings optimises principles of environmentally sustainable design.
- Whether the design provides for a high level of amenity for future occupants.

### Table to schedule 8

In this Table references to storeys do not include any basement.

The Areas referred to in Column 1 of this Table are the areas shown on Map 1 forming part of this Schedule.

Column 1 Areas	Column 2 Maximum general building height	Column 3 Maximum mandatory building height
DDO8-1	N/A	14 metres, comprising up to 4 storeys
DDO8-2	N/A	11 metres, comprising up to 3 storeys
DDO8-3	17 metres, comprising up to 5 storeys	N/A
DDO8-4	14 metres, comprising up to 4 storeys	N/A

### Map 1 to Schedule 8

Shaded areas within the map are referred to in Column 1 of the table to Schedule 8.



### 4.0

#### Expiry

-/-/20-

C147

This provision will expire on 30 September 2019.

# GLEN EIRA PLANNING SCHEME



## LEGEND

DDO8 DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 8

Part of Planning Scheme Map 3DDO

**AMENDMENT C147**

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C148**SCHEDULE 9 TO THE DESIGN AND DEVELOPMENT OVERLAY**Shown on the planning scheme map as **DDO9**.**CARNEGIE URBAN VILLAGE**--/20--  
C148**1.0 Design objectives**

- To ensure that development enhances the character of Carnegie Urban Village, including the scale, shape and rhythm of built form and the variety of building heights, roof forms, setbacks and building designs.
- To ensure that retail development that abuts a rear-ward facing car park provide pedestrian access to both the car park and Koornang Road.
- To ensure that development along any residential interface be sympathetic to the scale and amenity of the residential area.
- To ensure that development is designed to maintain safe and efficient vehicle movements.
- To ensure development optimises principles of environmentally sustainable design.
- To ensure high quality internal amenity for future residents.

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C148**2.0 Buildings and works****No permit required**

A permit is not required for any of the following:

- The installation of an automatic teller machine.
- An alteration to an existing building façade but only if:
  - The alteration does not include the installation of an external roller shutter; and
  - At least 80 per cent of the building facade at ground floor level is maintained as an entry or window with clear glazing.
- An awning that projects over a road, but only if it is authorised by the relevant public land manager.

*Note: The Mandatory requirements of this schedule also apply.***Permit required**

The following general and mandatory requirements apply, as appropriate, to all buildings and works.

**General requirements**

- An application to construct a building that exceeds a building height of 10.5 metres should be accompanied by a site context and design response report that demonstrates how the proposal achieves the design objectives and the requirements of this schedule.
- Buildings should be of a high quality in terms of architecture and urban design, make a positive contribution to the Carnegie Urban Village and reinforce that character in all other streetscapes.
- Buildings should be designed to demonstrate respect for the existing scale and character of streetscapes when viewed from the pedestrian network.

- Buildings should be designed to face all adjoining street and open space reserves and buildings should facilitate continuous active frontages at ground level and weather protection along key pedestrian links. Blank, inactive frontages should be avoided.
- Buildings should be designed to minimise visual bulk to the street, with adequate detailing and articulation of facades, setbacks to upper levels, as well as an adequate use of materials and colours.
- Buildings should be designed to optimise opportunities for basement car parking and should not include car spaces at ground level that are exposed to the public realm.
- Buildings should be designed in a way that optimises principles of environmentally sustainable design.
- Residential development should be designed to provide a recognisable and accessible pedestrian access point from the street to the residential component of the building.

*Note: The Mandatory requirements of this schedule also apply.*

#### **Height and setback general requirements**

- A building should not exceed the maximum building height and the number of storeys specified in Column 2 of the Table to this schedule. This does not apply to architectural features, masts, building services or enclosed stairwells that do not exceed any required height limit by more than **4 metres**. The combined floor area of these features should not exceed 10% of the gross floor area of the top storey of the building.

#### **Height and setback mandatory requirements**

- A building must not exceed the maximum building height and the number of storeys specified in Column 3 of the Table to this schedule. This requirement cannot be varied with a permit. This does not apply to alterations to or extension of a lawfully existing building but only if all of the following requirements are met:
  - The existing building has a building height of more than that specified in Column 3 of the Table to this schedule.
  - The maximum building height is not exceeded.
  - The footprint of the upper storey, existing at the approval date, is not increased by more than 10%.

These requirements cannot be varied with a permit.

**3.0**  
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C148

#### **Decision guidelines**

Before deciding on an application the responsible authority must consider:

- The extent to which proposed buildings respect the preferred scale and form of development, particularly when viewed from the pedestrian network.
- Whether proposed buildings are compatible with and respect the character of neighbouring buildings within the same streetscape.**
- Whether proposed buildings on sites that are in the vicinity of a heritage place are respectful of that heritage place.**
- The extent to which any roof deck is integrated with the architectural style and form of the building and minimises the visual impact on the street and adjoining properties.
- Whether proposed buildings are designed to avoid views into secluded private open spaces and habitable room windows of dwellings on adjacent land.
- The extent to which the design of buildings optimises principles of environmentally sustainable design.
- Whether the design provides for a high level of amenity for future occupants.

**Table to schedule 9**

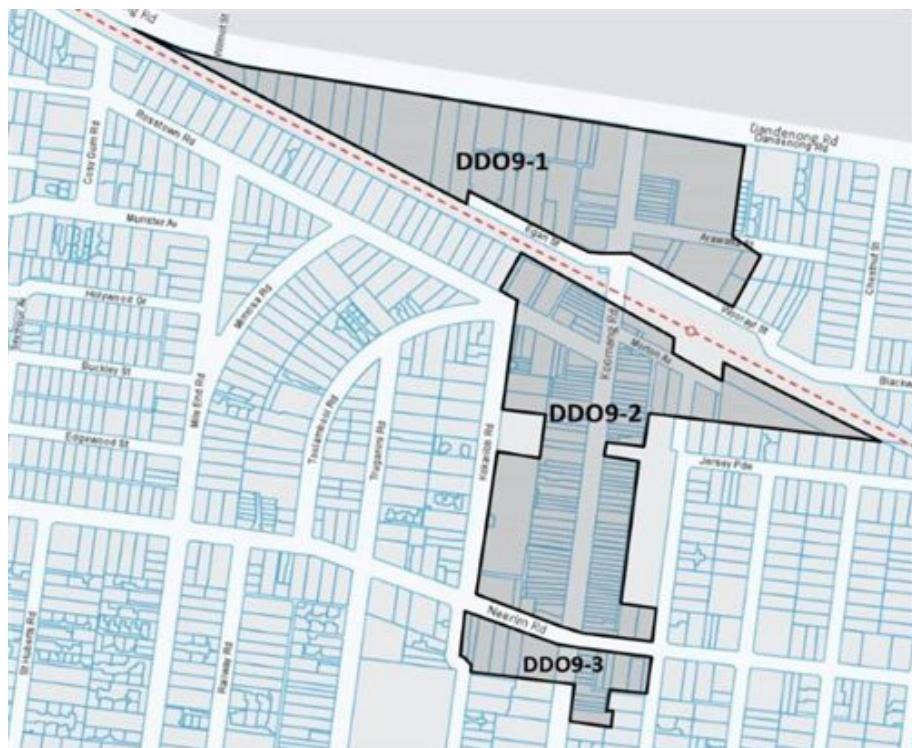
In this Table references to storeys do not include any basement.

The Areas referred to in Column 1 of this Table are the areas shown on Map 1 forming part of this Schedule.

Column 1 Areas	Column 2 Maximum general building height	Column 3 Maximum mandatory building height
DDO9-1	23 metres, comprising up to 7 storeys	N/A
DDO9-2	20 metres, comprising up to 6 storeys	N/A
DDO9-3	N/A	14 metres, comprising up to 4 storeys

**Map 1 to Schedule 9**

Shaded areas within the map are referred to in Column 1 of the table to Schedule 9.

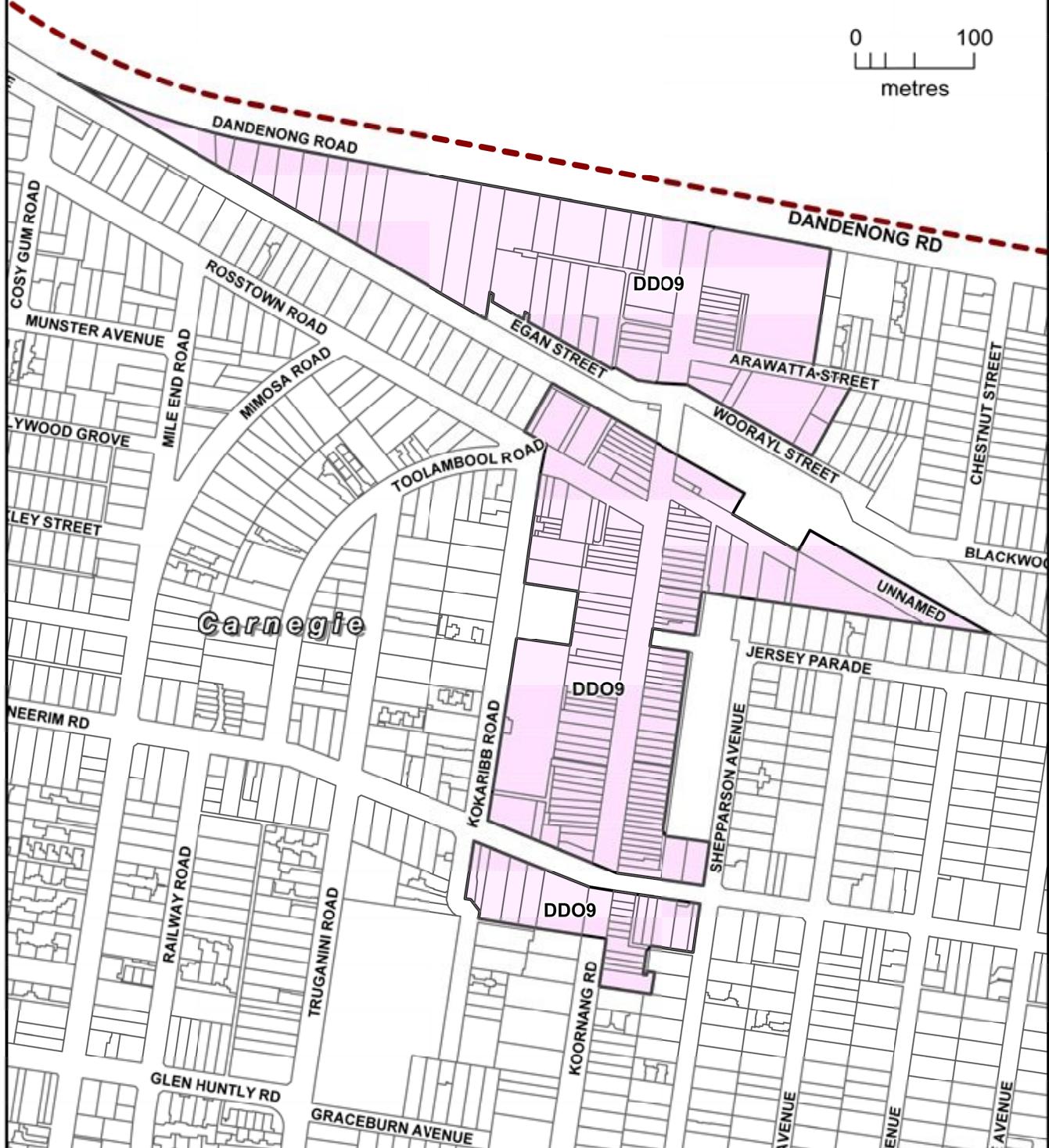
**4.0****Expiry**

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C148

This provision will expire on 30 September 2019.

## GLEN EIRA PLANNING SCHEME



### LEGEND

Part of Planning Scheme Map 2DDO

DDO9 DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 9

**AMENDMENT C148**

