

**MINISTERIAL POWERS OF INTERVENTION IN PLANNING
AND HERITAGE MATTERS**

REASONS FOR DECISION TO INTERVENE

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
APPLICATIONS FOR REVIEW P2269/2009, P2371/2009 &
P2373/2009**

The *Planning and Environment Act 1987* (PE Act), the *Heritage Act 1995* and the *Victorian Civil and Administrative Tribunal Act 1998* (VCAT Act) provide for the intervention of the Minister for Planning (the **Minister**) in planning and heritage processes.

In exercising my powers of intervention, in accordance with the *Ministerial Powers of Intervention in Planning and Heritage Matters Practice Note* (November 2004) (the **Practice Note**), I have agreed to:

- Make publicly available written reasons for each decision to intervene (an **intervention**).
- Report to Parliament at least every twelve months detailing the nature of each intervention.

REQUEST FOR INTERVENTION

1. The request for intervention has been made by Urbis, on behalf of its client, Epworth HealthCare (the **permit applicant**).

THE INTERVENTION

2. Clause 58 of Schedule 1 to the VCAT Act enables the Minister to call in a proceeding for review of a decision under the PE Act from the Victorian Civil and Administrative Tribunal (VCAT).
3. In seeking to exercise this power, Clause 58(1) of Schedule 1 to the VCAT Act requires that the Minister must consider that:
 - The proceeding raises a major issue of policy; and
 - The determination of the proceeding may have a substantial effect on the achievement or development of planning objectives.

BACKGROUND

4. The proceeding concerns 2 permit applications under the *Yarra Planning Scheme* (the **scheme**) for the redevelopment of part of the Epworth Hospital Richmond.
5. The land is known as 32 Erin Street, Richmond and the site is occupied by the existing hospital.
6. Yarra City Council (the **Council**) is the responsible authority for determining the permit applications.

7. Notice was given of the permit application and thirty one individuals objected to the grant of the permits (the objectors).
8. On 10 August 2009, the Council issued two Notices of Decision to Grant a Planning Permit, for the two stage proposal.
9. On 28 August 2009, an objector (on behalf of themselves and 5 residents) applied to VCAT to review the Council's decision (VCAT Ref P2269/2009).
10. On 7 September 2009, the permit applicant applied to VCAT to seek a review of a number of conditions on the Notices of Decision (VCAT Ref P2371/2009 and P2373/2009).
11. The parties to application VCAT Ref P2269/2009, P2371/2009 and P2373/2009 (the proceedings) are the Council, an objector (as an authorised representative) and the permit applicant.
12. VCAT has fixed a hearing date for 1 February 2010 for this matter.

CONSULTATION

13. The request for intervention was made on behalf of the permit applicant. There has been no consultation with any other parties, in relation to the call in of these proceedings.
14. Consultation has occurred in relation to the planning applications.

REASONS FOR INTERVENTION

Practice Note criteria

15. The Practice Note states the criteria that will usually be relevant in the Minister's decision about whether or not to intervene. The Practice Note emphasises that an overriding consideration on a decision to intervene is Clause 58(1) of Schedule 1 to the VCAT Act, the legislative provision in question.
16. I am satisfied that the following criterion in the Practice Note is met:
 - Criterion 1: The matter is one of genuine State or regional significance, as the proceeding raises a major issue of policy and the determination of the proceeding may have a substantial effect on achievement or development of planning objectives.
17. My basis for forming that view is set out below, under the heading 'Legislative criteria'.

Legislative criteria

18. I consider the criteria in Clause 58 of Schedule 1 of the VCAT Act are met based on the following grounds.
 - (a) *Major issue of policy*
19. A major issue of policy, raised by the proceeding, is the extent to which Melbourne 2030, as outlined in Clause 12 of the scheme, supports the intensification of significant health facilities in and around Principal and Major Activity Centres, particularly in

situations where the subject site includes land in a Residential 1 Zone, and where the intensification of the use or development may cause adverse amenity impacts on neighbouring residents.

(b) *Planning objectives*

20. The determination of the proceeding may have a substantial effect on the achievement or development of the following planning objectives:
- The objectives of planning in Victoria in section 4 of the PE Act, especially sections 4(1)(a), (c), (f) and (g) and s 4(2)(e) and (g).
 - the encouragement of sustainable development that takes full advantage of existing settlement patterns and services and developments that meet the community's needs, as encouraged by clause 12.01-2 of the planning scheme.
 - The provision of significant health facilities in the vicinity of Activity Centres, as encouraged by clause 12 of the planning scheme.
 - The development of community facilities in appropriate locations and to encourage intensive development for community uses, respectively, as encouraged by the purposes of the Residential 1 Zone and Business 1 Zone.
 - The prompt determination of the matter is in the public interest.

DECISION

21. I have therefore decided to give notice to the Principal Registrar of VCAT to call in VCAT Proceedings Reference P2269/2009, P2371/2009 and P2373/2009 pursuant to Clause 58(2)(a) of Schedule 1 of the VCAT Act for determination by the Governor in Council.

JUSTIN MADDEN MLC
Minister for Planning

Date: 13 NOV 2009