

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

REASONS FOR DECISION TO INTERVENE

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
APPLICATIONS FOR REVIEW P3356/2009**

The *Planning and Environment Act 1987 (PE Act)*, the *Heritage Act 1995* and the *Victorian Civil and Administrative Tribunal Act 1998 (VCAT Act)* provide that the Minister for Planning (the **Minister**) may intervene 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. Urbis Pty Ltd, on behalf of its client, Wadhawan Holdings Pty Ltd (the **permit applicant**) requested the intervention.

THE INTERVENTION

2. Clause 58 of Schedule 1 of the VCAT Act empowers 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. If the Minister decides to intervene, Clause 58(1) of Schedule 1 of the VCAT Act requires that the Minister for Planning must consider that:
 - The proceeding raises a matter 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 a permit application under the *Melbourne Planning Scheme* (the **scheme**) for a 30 storey mixed use development comprising 207 apartments and retail space, building services and resident gymnasium. The permit application also includes 39 car parking spaces and 102 bicycle parking spaces.
5. The land is located at 248-254 City Road, Southbank. It is included in the Mixed Use Zone, and affected by Design and Development Overlay - *Schedule 38 Southbank Central Core*, and *Schedule 18 Southbank Plot Ratio*. It is also affected by the *Land Subject to Inundation Overlay*.

6. Melbourne City Council (the **Council**) was the responsible authority for determining the permit application.
7. Notice was given of the permit application and one person objected to the grant of a permit (the **objector**).
8. On 20 November 2009, the Council issued a Notice of Decision to Grant a Permit.
9. On 11 December 2009, the objector applied to VCAT to review the Council's decision to grant a permit (VCAT Ref P3356/2009).
10. The parties to applications VCAT Ref P3356/2009 (the **proceeding**) are the Council, the objector and the permit applicant.
11. VCAT has not yet listed a hearing date.

CONSULTATION

12. The views of owners and occupiers of land to whom the grant of a permit may cause material detriment were sought and obtained by the Council following the giving of notice of the permit application.
13. The parties will be given the opportunity to be heard in respect of any submission they may wish to make about the determination of the proceeding before I make a recommendation to the Governor in Council.

REASONS FOR INTERVENTION

Practice Note criteria

14. 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.
15. I am satisfied that the criteria in the Practice Note are met for the intervention because:
 - 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.
16. The basis for forming my view is set out below under the heading 'Legislative criteria'.

Legislative criteria

17. 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*
18. The proceeding raises the major issues of policy in relation to the implementation of *Melbourne 2030* and *Melbourne @ 5 Million*. In particular:
 - *Melbourne 2030* encourages the location of a substantial proportion of new housing in or close to activity centres, promotes good urban design to make the

environment more liveable and attractive, and the need to recognise and protect cultural identity.

- *Melbourne @ 5 million* identifies a need for an additional 600,000 dwellings over the next 20 years of which almost 316,000 dwellings are anticipated to be in Melbourne's established areas.

(b) *Planning objectives*

19. The determination of the proceeding may have a substantial effect on the achievement or development of the following planning objectives – the State Planning Policy Framework, the Local Planning Policy Framework (including the *Vision for Southbank* included in the Municipal Strategic Statement Clause 21.08, Design and Development Overlays 18 and 38, and those in section 4 of the PE Act.
20. In particular:
 - The State Planning Policy Framework encourages sustainable development that takes full advantage of existing settlement patterns and services, developments that meet the community's needs for retail, entertainment, community facilities etc, and a mix of land uses in activity centres.
 - The Local Planning Policy Framework *Vision for Southbank (Clause 21.08-3)* identifies Southbank as one of the major residential growth areas within the City of Melbourne providing significant residential development opportunities for high density, medium to high rise dwellings; and predicts the local population to increase significantly by 2011. Clause 21.08-3 specifically supports residential development in this locality and encourages increased residential densities with lesser proportions of low density commercial development.
 - The built form objectives of Schedule 18 and 38 to the Design and Development Overlays (DDO18 and DDO38) encourage high density residential development mixed with low density commercial development to complement and support the function of the city and service the local area.
 - The objectives of planning in Victoria in section 4 of the PE Act, especially s 4(1)(a), (c), (f) and (g) and s 4(2)(e) and (g).

DECISION

21. I have therefore decided to give notice to the Principal Registrar of VCAT to call in VCAT Proceeding Reference P3356/2009 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:

22 MAR 2010