

MINISTERIAL POWERS OF INTERVENTION IN PLANNING AND HERITAGE MATTERS

REASONS FOR DECISION TO EXERCISE POWER OF INTERVENTION

MOYNE PLANNING SCHEME - PLANNING PERMIT APPLICATIONS PL04/232

The *Planning and Environment Act 1987*, the *Heritage Act 1995* 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, in accordance with the *Ministerial Powers of Intervention in Planning and Heritage Matters Practice Note*, I have agreed to:

- Make publicly available written reasons for each decision, including an explanation of how the circumstances of the matter respond to the Practice Note and the legislative criteria for that action.
- Provide a report to Parliament at least every twelve months detailing the nature of each intervention.

REQUEST FOR INTERVENTION

1. The Minister for Environment and Climate Change has requested this intervention.

WHAT POWER OF INTERVENTION IS BEING USED?

2. I have decided to exercise my powers under section 97B of the *Planning and Environment Act 1987* to call in planning permit application PL04/232 made pursuant to the Moyne Planning Scheme.
3. Section 97B of the Act allows the Minister to direct a responsible authority to refer an application to the Minister.
4. The responsible authority must comply with the direction without delay and must not proceed further with the application.

BACKGROUND

5. The subject land comprises Crown Allotments 32 and Parts 33 and 34, 228 Griffiths Street Port Fairy.
6. Application has been made to the Moyne Shire Council for approval to subdivide Residential 1 zoned land at the above address to create 28 lots.
7. The land comprises an area of approximately 4 hectares of coastal sand dunes located on the eastern fringe of Port Fairy. The land is potentially vulnerable to coastal erosion processes and flooding from the Moyne River.
8. The proposed residential subdivision raises concerns with the strategic planning for coastal areas, in particular the State Planning Policy Framework clause 15.08 Coastal Areas and the Victorian Coastal Strategy 2002.

CONSULTATION

9. The proponent has not been consulted about this intervention.

REASONS FOR INTERVENTION

10. The *Ministerial Powers of Intervention in Planning and Heritage Matters Practice Note* requires the Minister for Planning to meet certain criteria in the exercise of Ministerial powers of intervention. As an overriding consideration, Ministerial powers will only be exercised having regard to and within the confines of, the legislative provision in question.
11. I am satisfied that the circumstances for Ministerial intervention and the nature of the proposed amendment satisfy the relevant criteria in *the Ministerial Powers of Intervention in Planning and Heritage Matters Practice Note* on the following basis:
- Criterion 1 – The matter is one of genuine State or regional significance.
 - Criterion 4 – There is a need for urgency and the public interest would be served by immediate action.

Legislative criteria for exercising power of discretion

12. Section 97B of the Act allows the Minister to direct a responsible authority to refer an application to the Minister, if it appears to the Minister:
- (a) that the application raises a major issue of policy and that the determination of the application may have a substantial effect on the achievement or development of planning objectives; or
 - (b) that the decision on the application has been unreasonably delayed to the disadvantage of the applicant; or
 - (c) that the use or development to which the application relates is also required to be considered by the Minister under another Act or regulation and that consideration would be facilitated by the referral of the application to the Minister.
13. I am satisfied that the applications meet the criteria of Section 97(1)(a) and (1)(c), in that:
- The proposal raises a major issue of policy, and
 - The consideration of the matter will be facilitated by the referral of the application to me.

DECISION

I have therefore decided to exercise my power under section 97B of the Act to call in Moyne Shire Planning Scheme planning permit application PL04/232.


JUSTIN MADDEN MLC
Minister for Planning

Date:

08 JAN 2008