

**MINISTERIAL POWERS OF INTERVENTION IN PLANNING
AND HERITAGE MATTERS**
REASONS FOR DECISION TO INTERVENE
VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
APPLICATIONS FOR REVIEW P1939/2009

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 Fulcrum Town Planners, on behalf of its client, Bent Architecture as an agent for the Director of Housing, Department of Human Services (the **permit applicant**).

THE INTERVENTION

2. Clause 58 of Schedule 1 of 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 of the VCAT Act requires that the Minister 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 *Greater Dandenong Planning Scheme* (the **scheme**) for the redevelopment of six existing residential lots and associated dwellings and construction of fifteen new dwellings.
5. The land is located at 57 – 67 Jesson Crescent and currently contains six dwellings owned and managed by the Office of Housing, Department of Human Services.
6. Greater Dandenong City Council (the **Council**) was the responsible authority for determining the permit application.

7. Notice was given of the permit application and three individuals objected to the grant of a permit (the objectors).
8. On 15 July 2009, the Council issued a Refusal to Grant a Planning Permit, due to inadequate provision for on-site car parking for both residents and visitors.
9. On 24 July 2009, the permit applicant applied to VCAT to review the Council's decision (VCAT Ref P1939/2009).
10. On 14 August 2009, the objector submitted a Statement of Grounds to VCAT to uphold the Council's decision.
11. The parties to application VCAT Ref P1939/2009 (the proceeding) are the Council, an objector and the permit applicant.
12. The matter is fixed for a hearing date on 7 December 2009 at VCAT.

CONSULTATION

13. 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.
14. One objector party has lodged a Statement of Grounds with VCAT in relation to the proceeding
15. The parties to the VCAT review 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

16. 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.
17. I am satisfied that the following criteria in the Practice Note are 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.
 - Criterion 2: The matter will give effect to an outcome where the issues have been reasonably considered and the views of affected parties are known.

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. The proceeding raises the following major issues of policy:
- *Melbourne 2030*, as outlined in Clause 12 of the scheme, 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 encouragement of energy efficient building design.
 - *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.
 - *Affordable Housing (Clause 16.05)*, specifically seeks to deliver more affordable housing closer to jobs, transport and services. Improving housing affordability by increasing choice in housing type, tenure and cost to meet the needs of households as they move through life cycle changes and to support diverse communities is a key strategy. The promotion of good housing and urban design to minimise negative environmental impacts is sought. Ensuring the redevelopment and renewal of public housing stock to better meet community needs is a major aim.
- (b) *Planning objectives*
20. The determination of the proceeding may have a substantial effect on the achievement or development of the policies in paragraph 19.
21. The determination of the proceeding may have a substantial effect on the achievement or development of:
- 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 State Planning Policy Framework, which encourages sustainable development that takes full advantage of existing settlement patterns and services, developments that meet the community's needs.
 - The purpose of the Residential 1 Zone, which specifically provides for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households.

DECISION

22. I have therefore decided to give notice to the Principal Registrar of VCAT to call in VCAT Proceeding Reference P1939/2009 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