

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

**REASONS FOR DECISION TO EXERCISE POWER OF
INTERVENTION**

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
APPLICATION FOR REVIEW P232/2009**

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 request for intervention has been made by Spade Consultants on behalf of the Meydan Group for River Horizons Pty Ltd the owner of the land at 69-77 River Street, South Yarra.

WHAT POWER OF INTERVENTION IS BEING USED?

2. Clause 58 of Schedule 1 of the Victorian Civil and Administrative Tribunal Act 1998 enables the Minister for Planning to call-in a proceeding for review of a decision under the *Planning and Environment Act 1987*, 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 for Planning must satisfy him or herself 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 proposal on the subject land is for a 16 storey residential development containing 217 dwellings and 214 car spaces in a 4 level basement.
5. Spade Consultants acting on behalf of Meydan Group for River Horizons Pty Ltd (permit applicant), has requested that I call-in planning permit application (1001/08) which is currently before the Victorian Civil and Administrative Tribunal (VCAT).

An Application for Review (ref P232/2009) has been lodged with the VCAT. No hearing date for the matter has been set by VCAT.

6. On 13 November 2008, Hassell acting on behalf of River Horizons (Widgeon Pty Ltd) lodged a Planning Permit application 1001/08 for the construction of a 16 storey residential development at 69-77 River Street, South Yarra with Stonnington City Council.
7. The applicant submitted a subsequent amendment to the Planning Permit on 11 December 2008 requesting that the proposal be amended to state, "*the construction of a multi storey building and a reduction in the statutory carparking requirements*".
8. The application was advertised and received 22 objections which summarily related to height, visual bulk, overlooking, insufficient carparking and not representative of the residential character of the area.
9. On 27 January 2009, Stonnington City Council issues a Notice of Refusal for the application on the grounds that:
 - The proposal does not respect the neighbourhood character in terms of height and bulk and represents an overdevelopment of the site.
 - The proposal does not appropriately respond to the particular features and constraints in the site's context.
 - The proposal will unreasonably impinge on amenity for dwellings at 79 River Street, South Yarra.
 - The provision of carparking is inadequate.
10. The subject site has a current Planning Permit No. 633/02 (issued at the direction of VCAT) which enables the construction of a 12 storey residential building. This Planning Permit was issued on 14 August 2003 and has been amended three times at the Tribunal (increasing dwelling numbers, internal reconfiguration and setback variations). The current Planning Permit allows for 170 dwellings.
11. The proposal is located directly east of the Forest Hill Principal Activity Centre and is immediately north of a 28 storey retail and residential development located at 670 Chapel Street, South Yarra. The subject site at 69-77 River Street has been identified as an area supportive of moderate change on Stonnington Council's *Chapel Vision Structure Plan*.

CONSULTATION

12. The views of the various parties are known and have been considered through the planning permit process and through the objections received. The Advisory Committee may further inform itself in any way it considers appropriate.

REASONS FOR INTERVENTION

13. 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.

14. 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:
 - Criteria 1: The matter will be one of genuine State or regional significance, as the determination of the application may have a substantial effect on achievement or development of State or regional planning objectives.
 - Criteria 4: The matter will raise issues of fairness or public interest, as there is a need for urgency and the public interest would be served by immediate action.
15. In accordance with the requirements of Clause 58 of Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998*, I consider that –
 - The proceeding raises a major issue of policy in that the proposal is consistent with the key directions of *Melbourne 2030* and *Melbourne @ 5 Million*; and
 - The determination of the proceeding may have a substantial effect on the achievement or development of State planning objectives, including the implementation of *Melbourne 2030* and *Melbourne @ 5 Million*.
16. In particular, the proposal will achieve the objectives of planning in Victoria as outlined in section 4 of the *Planning and Environment Act 1987*. In particular, section 4(1)(a), by providing for economic and sustainable use and development of land in a fair manner, section 4(1)(c), by securing a pleasant, efficient and safe working, living and recreational environment, section 4(1)(f), by facilitating development in accordance with the objectives in the preceding sections, and section 4(1)(g), in that it balances the present and future interests of all Victorians. The proposal will also balance the objectives of the planning framework, including the objectives in section 4(2)(e) and 4(2)(g) of the Act.
17. The proposal is supported by the principles of *Melbourne 2030* which encourages a greater proportion of new dwellings at strategic redevelopment sites (particularly in and around of Principal Activity Centres) within established metropolitan urban areas, to reduce pressure for urban expansion.
18. The proposal is consistent with *Melbourne @ 5 Million* which 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. More specifically, the proposal will facilitate more intensive residential development on land located on a major transport corridor with convenient access to public transport services and the Central Business District.
19. The proposal is also consistent with Clauses 12, 14, 16 and 19 of the State Planning Policy Framework which encourage higher density residential development on land that is well located in relation to activity centres and public transport and facilitates the orderly development of urban areas.

20. The proposal is consistent with Clause 21.03 of the Stonnington Planning Scheme which supports mixed use, higher density housing in a limited number of areas and the need to maintain housing diversity and provide housing choice to meet the needs of Stonnington's population.

DECISION

21. I have therefore decided to call in the application from the Victorian Civil and Administrative Tribunal pursuant to Clause 58(2)(a) of Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998*.

A handwritten signature in black ink, appearing to read 'Justin Madden', is written over the printed name and title below.

JUSTIN MADDEN MLC
Minister for Planning

Date: **29 APR 2009**