

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

REASONS FOR DECISION TO INTERVENE

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
APPLICATION FOR REVIEW P2519/2009**

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. Ratio Consultants, on behalf of its client, SPEC Property Developments 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 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 a permit application under the *Manningham Planning Scheme* (the **scheme**) for a ten level residential development comprising 85 apartments, basement car parking and bicycle spaces.
5. The land is located at 91-93 Tram Road, Doncaster and is currently used for two dwellings.
6. Manningham City Council (the **Council**) is the responsible authority for determining the permit application.

7. Notice was given of the permit application and three objections were received to the grant of a permit (the **objectors**).
8. On 28 August 2009, the Council issued a Notice of Decision to Grant a Permit, subject to 44 conditions.
9. On 18 September 2009, one objector applied to VCAT to review the Council's decision to grant a permit (VCAT Ref P2519/2009).
10. The parties to application VCAT Ref P2519/2009 (the **proceeding**) are the Council, the objector and the permit applicant.
11. VCAT has listed the matter for a hearing on 13 January 2010.

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.

Legislative criteria

16. I consider the criteria in Clause 58 of Schedule 1 of the VCAT Act are met.
 - (a) *Major issue of policy*
17. The proceeding raises the following major issues of policy - *Melbourne 2030*, *Melbourne @ 5 Million* and the policies relating to the Doncaster Hill Principal Activity Centre, as outlined in Clauses 12, 21.05, 21.09 and 37.08 of the scheme.
18. 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 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).
 - The State Planning Policy Framework that 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 and a mix of land uses in activity centres.
 - The Local Planning Policy Framework that encourages a range of residential, commercial and other uses in an Activity Centre Zone and recognises the Doncaster Hill Principal Activity Centre as an area of change and regeneration with the ability to make a significant contribution to the achievement of Melbourne 2030 policies and directions; and to create a built form that makes a positive contribution to the private and public realms.
 - *Activity Centres and Commercial Areas* (Clause 21.09), prepared to support the *Doncaster Hill Strategy (October 2002)*, envisages that the Doncaster Hill Activity Centre will be a key destination in Melbourne's East. It will be a high density, sustainable, vibrant, contemporary mixed use urban village with a strong sense of place and civic identity.
 - The Precinct Design Requirements of Precinct 7A of Schedule 1 to the Activity Centre Zone (Clause 37.08) that acknowledges the potential for higher density development.

DECISION

20. I have therefore decided to give notice to the Principal Registrar of VCAT to call in the proceeding 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:

20 NOV 2009