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Mitcham Towers decision highlights need for reform of VCAT and the Planning Act

The president of residents' lobby group Save Our Suburbs, Ian Quick, today described the Supreme Court decision on the Mitcham Towers as a fiasco and a dangerous precedent for all suburban areas anywhere near a public transport route.

"This decision highlights the fact that the Government should have allowed councils both the time and resources to put structure plans and other controls in place first to regulate M2030 before it became operational.

"The Minister is trying to claim that Whitehorse Council should have already had structure plans and interim height controls in place to stop this sort of development, but structure plans take several years to produce with on-going community consultation, and the interim mandatory height controls that SOS had argued for were only made available for councils late last year."

"On top of that, departmental guidelines for development higher than three storeys weren't even formally adopted until last November - a bit late in this case given that the Towers were appealed to VCAT ten months earlier!"

"It's a farce to introduce new planning laws that require detailed strategic planning responses from councils without allowing time for those controls to be developed and put in place first. "

Mr Quick pointed out that at the same time, the Government is taking a piece-meal approach to planning reform by continually "band-aiding" the planning legislation, which allows further exercise of discretion, more avenues for appeals to VCAT and less certainty. This just adds to the complexity of planning assessments and makes it harder for council planners to meet the statutory deadline.

“This is despite the fact that all parties - councils, residents and developers - want more certainty. The Planning Act of 1987 is now way out of date and needs to be re-written with more mandatory provisions, not just continually patched up with layer after layer of discretionary guidelines.”

“And the Minister has missed the point when he talks about planning for Melbourne to evolve into a compact European city instead of a Los Angeles sprawl - it’s really about the sensitive location and scale of higher density development and the prior provision of local public transport, open space, social facilities and other services. The Government’s own description of neighbourhood centres, like the Mitcham Towers site, is only for three or four storey buildings”.

Mr Quick said that the Mitcham decision also highlighted the need to amend the role of VCAT to one of overseeing the integrity of council procedures, instead of acting as a central planning authority.

“Local policies can only become law after community consultation, appraisal by a panel and the approval of the Minister - which also means they mustn’t conflict with State policies. VCAT’s role should be to ensure that these properly established local policies are followed,” he said.

“Instead, in some cases VCAT overturns these local policies in favour of general state urban consolidation policies.”

“This makes a mockery of Mr Hulls’ claim that councils and their communities must work to develop these local policies if they want to have some control over their own neighbourhoods,” Mr Quick explained.

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