Manipulation of the planning process - Development at Zepher Place, Bonbeach

Dear Mr Willis,

I write on behalf of Inga Peulich MLC, State Member for the South Eastern Metropolitan Region asking that consideration be given to the matters that Ms Peulich raised in Parliament last week, and a month earlier regarding what may involve another manipulation of the planning process, and in this instance the rezoning process of a development site in Bonbeach.

I have attached the relevant articles and files relating to the Bonbeach development at Zepher Place Bonbeach, and Hansard extracts.

What is of concern is the report in one of the articles that a commitment had been given by VicUrban who initiated the re-zoning several years ago, had given a commitment that the abutting development of the land would not be greater than 19 units in return for the residents agreeing to forfeit their rights to object when the application is made.

VicUrban's deal with residents about the intensity or scale of the development and the undertaking it sought regarding third party appeal rights being waived to any future development is, in my view a breach of the Planning and Environment Act and constitutes a sham or hoax process at the time of the rezoning of the land from Education to Residential 1.

It is interesting that following Ms Peulich raising concerns about this process of consultation about the rezoning process, the most recent application by the developer Bonbeach Apartments Pty Ltd was withdrawn with VicUrban seemingly undertaking to work with the developer for more acceptable outcomes following local concerns raised about the breach of commitments given to residents at the time of the re-zoning.

There is clearly a lack of clarity about the processes that has been applied in this rezoning and Ms Peulich believes that this merits referral to and some independent scrutiny by the Legislative Council's Standing Committee on Finance and Public Administration, which is currently looking into Mr Madden's media plan that has unearthed this corruption of due process.

Concerns about the manipulation of the planning process need to be addressed and Ms Peulich would be grateful if the committee inquiry were able to include this in your current inquiry.

Andrew Dosen, Electorate Officer on behalf of

Ms Inga Peulich, MP
Member for South Eastern Metropolitan Region

Sent by email 29 March 2010
Residents win Bonbeach housing battle

PLANS for an 82-unit development in Bonbeach have been abandoned.

Consulting firm Urbis withdrew the three-storey proposal on behalf of developer Bonbeach Apartments Pty Ltd last Thursday following weeks of community outrage.

Resident David Notman said it was a huge win but remained cautious.

“The fight is not won yet, but we are all absolutely ecstatic they’ve withdrawn it,” Mr Notman said.

Kingston deputy Mayor Donna Bauer, who was among councillors against the proposal, said the site’s future was unclear but no more than 19 townhouses should be built as VicUrban had promised residents.

“There has been a lot of angst and concern in the community about this,” Cr Bauer said. “You hope they are dropping down to a medium density, more acceptable development.”

On the eve of the decision South Eastern Metropolitan Liberal MP Inga Peulich called for an independent committee to scrutinise why residents were denied third-party appeal rights.

“There may have been a pretend consultation at that point of time with some predetermined outcomes,” Ms Peulich told parliament.

Urbis town planner Jamie Govenlock confirmed the application had been withdrawn but declined to comment further.

The Leader understands the developer has agreed to consult with residents.
Chelse Indepandant

Crowded out at Bonbeach

BY MIKE MORRIS
23 Feb, 2010 01:18 PM

SOUTH Ward councillors of Kingston Council are holding an urgent meeting tonight with Bonbeach residents who are upset over plans to build a three-storey complex with 82 flats at the former Bonbeach TAFE site.

It is believed there will be underground parking for just 87 cars at the 4000-square metre vacant block on the corner of Brixton Street and Genoa Avenue.

Cr Donna Bauer said she and her colleagues John Ronke and Trevor Shewan knew nothing about the proposal until alerted by Bonbeach residents last Friday week. Since then she has received more than 30 phone calls and emails asking about the project and how residents could object to it.

"I know I am talking for John and Trevor in saying we will do everything in our power to stop this intense development," Cr Bauer told established and new Bonbeach residents at the site on Sunday.

But she seemed embarrassed and frustrated that she could not give them the information and guidance they wanted. She said the council's legal advisers were looking at the matter.

The councillors who had been kept in the dark have asked senior officers what options the council had to reject the development.

It seems the residents knew more about it than Cr Bauer and presumably her colleagues.

Among other things, such a development would add pressure to the already busy road network around Bonbeach.

The site is on a very tight intersection. Brixton Road is only eight metres wide.

The issue goes back to 2006 when State Government property developer VicUrban bought the 6.15-hectare former Bonbeach TAFE site.

VicUrban subdivided the land into 78 lots for homes, with the north-eastern corner marked off for medium density housing.

The individual lots, ranging from 375square metres to 594square metres, sold quickly in 2007 with prices from $218,000 to $289,000. Each was subject to specified planning and design controls. VicUrban hailed the project as a huge success.

Most of the lots have since been developed, with construction now taking place on the remainder.

They are quality, mostly two-storey homes, built by young couples to raise families next to a primary school, close to the beach and EastLink tollway.
The site earmarked for "proposed medium density" was sold last year by VicUrban to an undisclosed developer for an unspecified amount.

Bonbeach resident Stuart Littler said that when VicUrban presented its planning overlay for the entire site, the proposed medium density parcel was to be for about 19 units and this was what people who bought into the VicUrban project believed at the time. The plans before the council are four times what buyers were told.

**He said that when families bought lots in the VicUrban development, they signed an agreement not to object to proposals for the medium density parcel.**

"I don't think that's going to stop them," he said.

On Friday, senior council officers were unavailable for comment. They were attending a two-day annual workshop with councillors at Red Hill.

Angry Bonbeach residents are demanding information and action to oppose the proposal for the intense development. They were not told about the plans.

Cr Bauer said a planning panel set up to consider the amendment to change the zoning of the land in 2006 ruled that it was not necessary to advise neighbouring residents of future proposed developments. She said the council was seeking a legal opinion on whether residents would have rights to object to the medium density development.

Details of the impending development came about by chance when a resident recently saw workers on the vacant land and asked what was happening. This led to a visit to the council's planning department.

Tonight's meeting starts at 7 at the Patterson Lakes Community Centre in Thompson Road, Patterson Lakes.
Anger over Bonbeach’s ‘insane’ units plan

08 Mar 10 @ 11:00am by Jesse Wray-McCann

Angry Bonbeach residents Ian Little, Ingrid Sanderson, Brian Chapple and Gloria Chapple. Picture: CHRIS EASTMAN. N35MC212
A “LUDICROUS” 82-unit, three-storey development proposed for Bonbeach has been blasted by Kingston councillors.
Kingston’s three south ward councillors have vowed to fight the Zephyr Place proposal, while two state MPs have also offered their support to furious residents.
Cr John Ronke was livid with developers VicUrban and Bonbeach Apartments Pty Ltd after their plans were lodged with the council in January.
Cr Ronke said the size of the proposal was “insane” and went well beyond what was originally intended for the former TAFE site during a rezoning process in 2006.
“It’s just ludicrous. It was never envisaged that site would fit anything like 80 units,” Cr Ronke said.
Carrum Labor MP Jenny Lindell said the proposal was “outrageous” and implored VicUrban to abandon the project.
South Eastern Metropolitan Liberal MP Inga Peulich said the development would be a “huge jump in density” and vowed to give residents an opportunity to object.
Residents who bought land in the original subdivision were told by VicUrban the leftover 4200sq m site would see a maximum of 19 houses.
VicUrban also gave a commitment in 2006 not to sell to “another party with different development objectives”.
But after selling to Bonbeach Apartments Pty Ltd, which has proposed the 82 units, Ms Lindell said VicUrban had broken its promise and “behaved as a speculative developer”.
VicUrban spokeswoman Caroline Thurling said it was aware of residents’ concerns and was looking at options.
Kingston Council will make a decision on the proposal next month.
Units plan stalls

BY MIKE MORRIS (Mordialloc Chelsea Independent)
30 Mar, 2010 04:00 AM

BONBEACH residents, MPs and Kingston councillors have welcomed the news of developer Urbis withdrawing its plans for an 82-unit three-storey high-density residential project in Zephyr Place, Bonbeach.

But Carrum MP Jenny Lindell said it was only a round one win in what could be a lengthy battle between the developer and objectors.

"I was delighted to receive notification from VicUrban that the developer had withdrawn their plans from Kingston Council's planning department.

"This is certainly not the end of the matter, but the immediate threat has been removed.

"On Thursday, Ms Lindell received a letter from VicUrban's CEO Pru Sanderson in reply to Ms Lindell's scathing letter of February 24 to her in which she stated Bonbeach residents felt they were taken for a ride by VicUrban.

Ms Sanderson wrote that the developer had agreed to work with VicUrban on conducting a "community engagement process in relation to the redesign of the development proposal to achieve an outcome more in keeping with community expectations for the site".

Residents who bought the 78 house lots on the former Bonbeach TAFE site in 2007-08 from VicUrban - the state government's development agency - were told there would be a 19-unit medium-density development in Zephyr Place. This was confirmed in VicUrban's 2009 annual report.

But VicUrban sold the site last year. Urbis is a major planning consultant and is principal planning adviser to VicUrban. It was only by chance in February this year that the residents learnt there were plans before Kingston Council for a development of 82 units with underground parking for 87 cars on the site (The Independent, 23/2/10 and 2/3/10).

With the consent of Kingston Council, third party rights were removed when a government-appointed planning panel approved an amendment to rezone the TAFE land in June 2006. This meant the residents did not have to be told about the plans for high-density development. And it seems they cannot appeal to the Victorian Civil and Administrative Tribunal.

Last week, Ms Lindell accused VicUrban and the council of "hiding and trying to find someone to blame".

"VicUrban and the council absolutely let the people down," she said.

Ms Lindell will lead a delegation of community members to meet senior representatives of VicUrban.

Bonbeach resident Stuart Littler said this result was an improvement.
"It's a start. It's brought the matter back into play. We want to make sure we have a sensible, reasonable development of the site. We will demand that the new plans allow for no more than 19 units."
10 March 2010

IMPORTANT COMMUNITY UPDATE
PLANNED VICURBAN DEVELOPMENT AT BONBEACH

Dear Bonbeach Resident,

As one of your local MPs in the Victorian Upper House, I am writing to you regarding the planned 82 unit, three-storey development on the old Chisholm TAFE site at Bonbeach after being contacted by local residents and Ward Councillor and Deputy Mayor, Cr Donna Bauer on the 19 February 2010.

I raised this matter in the Victorian Parliament on 24 February 2010 during the last Parliamentary sitting week and I have reproduced a copy of that speech on the back of this circular.

In a letter dated 25 February 2010, Carrum MP Jenny Lindell wrote to local residents in relation to this matter informing them that VicUrban “will take whatever steps they can to ensure a much better outcome for this site.”

Furthermore, I am informed that concerned residents have been having further meetings with their South Ward Councillors and understand that the Kingston Council will be making a decision at their April meeting which, if in the negative, is appealable to VCAT by the applicant but that Bonbeach residents will not have third party appeal rights.

You may be aware that VCAT is obliged to make decisions which are in line with State Government planning policy and that the State Government’s planning policy is to densify suburbs through medium and high density developments.

To ensure your views are vigorously represented at all levels, please let me know by filling out the feedback flyer on the reverse of this letter and returning it to me via fax, email or mail, with your name and address.

I look forward to receiving your views on the development to enable me to better represent the community regarding this important issue.

Yours Sincerely,

[Signature]

INGA PEULICH MLC
State Member for South Eastern Metropolitan Region
Shadow Parliamentary Secretary for Communities
Planning: Bonbeach Development

Mrs PEULICH (South Eastern Metropolitan) -- I wish to raise a matter for the attention of the Minister for Planning. It is in relation to a VicUrban development in Bonbeach.

Concerns have been raised by local residents that as a result of some quirky rezoning process approval had been granted for the development of approximately 19 units back in 2006.

Very recently there has been an announcement that there will be an 82 unit, three-storey development built on what is known as the old Chisholm TAFE site at Bonbeach, which is very close to the Patterson River Country Club -- a very pretty part of town. Residents are concerned because there have been significant parking concessions given and obviously there are huge concerns about the overdevelopment of the site.

The issue has been picked up by both the local papers, and concerns have been expressed about whether due process has been followed because local residents have not been fully advised about the proposed development, have not had the opportunity to lodge objections and certainly have not had the opportunity to exercise their third-party appeal rights.

The concerns were well summarised by a commentator to the Mordialloc-Chelsea Leader article. She wrote:

How is this proposal open, fair and transparent if in fact the number of medium-density units has been increased from the original 19 to 82 without being advertised? A three-storey monster will not fit in with the local surroundings and landscape, not to mention the increase in traffic and noise. I do not oppose medium-density development and believe it is necessary to support the ever-increasing Melbourne population; however, council needs to reconsider scaling back this development proposal to avoid a backlash.

The proposal is actually for a VicUrban development, so I ask the minister to look at this issue, to ensure that due process is followed so that all the residents of this beautiful part of Kingston are given the opportunity to lodge objections and have their concerns addressed and to make sure that third-party appeal rights are part of the planning process.

I am concerned that this is another example of local communities being trampled over and having their rights stripped to the detriment of their amenity and neighbourhood.

I call on the minister to exercise his ministerial power to make sure that that process is reinstated, if it does not already exist.


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MAKE YOUR VIEWS KNOWN TO INGA PEULICH MP

Name: ___________________________ Phone: ___________________________

Address: ___________________________ Email: ___________________________

☐ I support the plans of State Government authority VicUrban to build an 82 unit, three-storey development on the old Chisholm TAFE site at Bonbeach.

☐ I do not support the plans of State Government authority VicUrban to build an 82 unit, three-storey development on the old Chisholm TAFE site at Bonbeach.

Why/Why Not? ___________________________

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Please feel free to append further information and return it to me either by fax on 9772 4648; via email bonbeach@ingapeulich.org or by Postal Mail (376 Nepean Highway, Chelsea VIC 3196) by Friday 19 March 2010.
IMPORTANT COMMUNITY UPDATE
STATE GOVERNMENT’S 3 STOREY DEVELOPMENT AT BONBEACH WITHDRAWN AFTER PRESSURE FROM BONBEACH COMMUNITY AND UPPER HOUSE MP INGA PEULICH

25 March 2010

Dear Bonbeach Resident,

I am writing to you with a further update regarding the planned 82 unit, three-storey development on the old Chisholm TAFE site at Bonbeach.

As you will be aware from my last letter, I raised this matter in the Victorian Parliament on 24 February 2010 and I can inform you that the issue was raised again on 24 March 2010 where I asked the Minister for Planning Justin Madden to refer the lack of clarity and the potential corrupt process in the original rezoning to the Legislative Council’s Standing Committee on Finance and Public Administration.

Just 12 hours after this request was made in State Parliament to investigate the Bonbeach TAFE Development site, VicUrban withdrew the application to the City of Kingston to develop an 82 unit, 3 storey development at the site.

This is great news for the Bonbeach community as if the development went to VCAT Bonbeach residents would not have had third party appeal rights as VCAT is obliged to make decisions which are in line with State Government planning policy and the State Government’s planning policy is to densify suburbs through medium and high density developments.

I would like to congratulate the local community residents which have kept the up the strong campaign against this development, the local Bonbeach community that returned my Community Survey to inform me of their concerns and Ward Councillor and Deputy Mayor, Cr Donna Bauer who has represented the community voice at the City of Kingston.

I have attached my Parliamentary Speech made on 24 March 2010 to the reverse of this circular which asked the Minister for Planning to refer the development to the Legislative Council’s Standing Committee on Finance and Public Administration. Please do not hesitate to contact me with any further comments relating to this or any other issue you may have.

Yours Sincerely

[Signature]

INGA PEULICH MLC
State Member for South Eastern Metropolitan Region
Shadow Parliamentary Secretary for Communities
Mrs PEULICH (South Eastern Metropolitan) -- I wish to raise a matter for the attention of the Minister for Planning in relation to a matter I raised not so long ago. It concerns the development in Zephyr Place, Bonbeach that is currently attracting quite a lot of concern among the local residents because of the scale of the proposed development and because there is some uncertainty about the process that applies and the rights of objectors not only to be notified but to be able to lodge objections with the Kingston Council, which I understand will be considering the application.

There is also uncertainty about their ability to lodge objections with the Victorian Civil and Administrative Tribunal.

It appears there is an anomaly in the manner in which this has been dealt with in the past through a rezoning process that may deny objectors the opportunity of actually exercising their third-party appeal rights.

I would like to read a contribution from Stuart Littler of Bonbeach that may have actually been in the Age. It reads:

_Justin Madden, I'm noticing a pattern with you, your department and its statutory authorities. Here in Bonbeach, VicUrban developed the old Chisholm TAFE site for 79 lots: with 78 to be single dwelling. The 79th was designated for medium density, with a maximum 19 units. Your department appointed a panel to handle objections, which removed the maximum unit number because it considered VicUrban not to be a speculative developer who would on-sell to another party with a different development objectives after the rezoning is approved. A plan is now before Kingston Council for 82 units --_

that is, from the initial 19 --

_with 87 car parks, on this 79th lot -- an outrageous expansion and clearly speculative. This is particularly so given that VicUrban sold the other 78 lots on the understanding there would be no more than 20 dwellings on the final lot._

There is clearly a lack of clarity about the processes that applied in this rezoning. I believe this would merit referral to the Legislative Council's Standing Committee on Finance and Public Administration, which is currently looking into Mr Madden's media plan that has unearthed this corruption of due process.

There are certainly concerns about this being an example of a corruption of due process, because it denies local residents their third-party appeal rights. There may have been a pretend consultation at that point of time with some predetermined outcomes. I believe that there is a need for independent scrutiny by this committee of the process, not only now but that applied in the initial rezoning. I ask the minister to refer the matter to that committee.


If you wish to receive updates on this important community matter or outline your opinion on the Bonbeach TAFE Development, please email bonbeach@ingapeulich.org with your Name, Address and comments.