

POSITION STATEMENT & 'Forwarding Statement' VCAT HEARING
FRIDAY AUGUST 24th 2007

31 August 2007

**Application 1619/2006 – Building a Safeway Supermarket in
Mount Evelyn**

The Executive of MEEPPA together with a number of Members in association with other Community Members sought to have this application fully re - notified on the 24th August 2007 at VCAT due to the unsatisfactory way in which URBIS had handled the Initial notification Process. The Shire of Yarra Ranges were also represented. Although formal Directions have not yet issued from VCAT, MEEPPA is taking the initiative to keep the community informed of what is happening with the appeal.

Synopsis

- MEEPPA now has formal standing as an objector to this application – confirmed by VCAT before the hearing.
- MEEPPA won an extra 28 days for all objectors to the Original Application to lodge a statement of grounds, and to be heard at the full hearing of the application. This is understood to be 28 days from time of VCAT notification. VCAT is expected to rule that original objectors who missed out in the Initial Notification period must submit their Grounds of Objection within 28 days if they wish to object to the development.
- MEEPPA won additional time - 30 days instead of the usual 20 days – for objectors to consider and respond to any amended plans submitted before the hearing.
- The hearing is likely to be in late November, December, or possibly early in the new year. It is expected to last for 6 days.
- The developer has said they intend to submit amended plans to VCAT – and MEEPPA will be examining these closely to see whether they are substantially the same or application or are basically a New Application. If the plans are substantially different MEEPPA will be pushing for full re-notification.
- VCAT will now determine this critical application in Mount Evelyn's future – or any amendments. Amended plans will not come back to the local Council Level for a decision, although the Shire of Yarra Ranges will have an opportunity to respond.
- MEEPPA now co-join the Shire of Yarra Ranges in the hearing and we will fight the proposal in Unison. This combined approach is a deeply significant and symbolic victory that has taken 5 long years to achieve and which is a tribute to the relationship of trust that has been built between the Council, MEEPPA, and this Community.
- MEEPPA were not successful in having the appeal dismissed.
- MEEPPA and the Mount Evelyn Community continue to advocate strongly that the community have a full opportunity to voice their concerns about both process and merit in VCAT hearings.

MEEPPA DID win an extra 28 days for all of the original Objectors (Approx 60 out of 180+) who were not notified of the appeal by UrbisJHD, consultants to the Developer. Regrettably no action was taken against UrbisJHD for the two unsatisfactory notification processes that were undertaken. Despite the public nature of this application MEEPPA continue in the view that natural justice is served when each of the original objectors is individually notified of the appeal, and supplied with subsequent material from the applicant and VCAT. Accordingly, MEEPPA will make available all material associated with the case to any member of the community who wants to review the material or obtain a copy. The MEEPPA Executive, some MEEPPA members and some community members are, however, to be provided with full documentation.

It is so critically important now for any person who objected to the original Application that they object to VCAT NOW with a Statement of their Grounds if they have not already done so! This is one part that MEEPPA has won on behalf of this Community. You will have only 28 days from this notification to do this if you do not wish Mount Evelyn to become everything you have so energetically rejected in the past. Your statement of grounds needs to focus on town planning concerns with the development, and needs to focus on any issue or concern that has not been covered, or not well covered, by other submissions. MEEPPA has available professional expertise to work with community members who wish to lodge a statement of grounds.

The most critical aspect of this Hearing for Mount Evelyn was UrbisJHD's foreshadowed amended plans – plans the Mount Evelyn community has not seen – and is unlikely to see until the VCAT mandated 30 days before the hearing date. **President Franc Smith submitted that.. 'due process'.. of the law could only be served by ensuring that UrbisJHD complied with the intent and full letter of the law with any new Re- notification of the 'Amendments' . All notifications for the amended plans MUST abide by the Directions given by VCAT at the recent hearing.**

Effectively this means that any amendment will now **ONLY** be considered at VCAT and will **NOT** go back in front of Council for a formal decision at any stage from now on. Council Officers will be in the role of 'Objectors' and the final decision will be taken out of this Community through the VCAT process. Council Representatives did however request that the tribunal members for the Final Hearing should have town planning and/or urban design expertise – which was agreed to.

MEEPPA now are able to stand shoulder to shoulder with the Yarra Ranges Shire Council and battle any inappropriate Development in Mount Evelyn together for the first time in 5 years – which is deeply significant and symbolic in itself, and shows clearly how local communities should work to protect the values that make them special places.

Only those people who objected to the original Development and who have lodged a Statement of Grounds with VCAT will be allowed to object to any **amended development at VCAT** because it will only be viewed as an **'Amendment'** to the original Application. The extent of these **so called Amendments can at times be major** and that risks changes occurring that have not had the full scrutiny of the community. Even when changes purport to reduce

problems and issues, MEEPPA believe that the full community should be able to see and comment on these changes through the process. This is vital if the community is to feel in control and be in control of its own destiny. **Mount Evelyn is an unusual community – the only one known in Victoria where community based strategic planning not only won a national award, but was accepted by the recent Planning Panel as a sufficient strategic basis for a Design and Development Overlay for Mount Evelyn.**

MEEPPA'S preferred position has always been consistent in seeking to have Amendment C 14 (*that changed 2 Residential blocks to Commercial Zoning and extinguished the Objector's rights at that time*) revisited forthwith and reviewed immediately, with a view to reverting to the original, and appropriate residential zoning.

It is unfortunate in these matters that decisions affecting communities for years to come are determined by a tribunal process that is outside those communities and where policies made by Government at state and regional level can affect what happens at the local, village level.

The process of assessing and deciding on this application has become one of attrition – however what the Developer has **never been able to do is destroy MEEPPA's incredible tenacity , and proven record, in it's ability to always motivate and educate the Community it serves at every step and meet any unfair and inappropriate proposals head on.**

In the final analysis MEEPPA considers any development that *does not have the imprimatur of our locally elected Council and the general support of the local community*, as both undemocratic and unacceptable. If, through the appeal process, a development not in accordance with community wishes occurs, we call on the Mount Evelyn community to respond in the same way as the Maleny Community in Queensland.

On behalf of MEEPPA, it's membership and all Community Objectors to this Development.

(Authorised Francis M-Smith President of Mount Evelyn Environment Protection & Progress Association MEEPPA)