

## **Planning Permits – Development Application Assessments:**

### **Some Common Problems to be Aware of:**

- many applications don't include a copy of the current title (a requirement under the Act)
- policies aren't always followed diligently or consistently (eg, on Heritage)
- notification of applications & NODs isn't always carried out properly or fully
- due weight may not be given by staff (or at Council committees) to residents' objections
- factual evidence from objectors of significant inaccuracies in development applications is sometimes not considered or not referred to in delegation reports, contravening s60(1)(a)(i)
- proper site inspections aren't always done, so discrepancies on plans aren't detected
- final plans for endorsement often contain unrequested and unauthorised extra changes which are subsequently endorsed when over-worked council officers approve the plans, usually only having time to check that specific written conditions are mirrored in the plans. This makes any subsequent planning enforcement very difficult - legally, council can be liable for costs if it challenges aspects of a building which it has endorsed (even by error) via the final plans
- planners don't insist on crucial reference levels for ground, floor & wall heights on plans
- planners don't always assess applications diligently against Rescode standards and planning scheme provisions that have negative implications for the proposal
- Rescode guidelines still get "traded off" when all objectives should be met
- issues like turning circles, shadow diagrams, viewlines, relevance of zonings, traffic and parking impact, etc, may not be checked properly
- file records of objections, consultative meetings, heritage assessments, etc, can be "lost"; some whole files go missing
- written requests for further information to developers about applications may be sent late or informally, so the council can't (doesn't want to?) stop the 60-day assessment clock (after 60 days the applicant can appeal to VCAT for failure to act)
- extra plumbing facilities are sometimes allowed for rear studios above garages, which in a residential zone means they become "as of right" dwellings once built
- screening against overlooking may not be assessed properly - also see: [www.sos.asn.au/files/APP.2-PMS.pdf](http://www.sos.asn.au/files/APP.2-PMS.pdf)
- council planners have in some instances provided false or misleading information to residents, to councillors on committees & to VCAT, sometimes involving council lawyers

- developers may "creatively exploit" planning loopholes to "legally" achieve outcomes not intended by the planning scheme – enforcement queries to Council can be repeatedly left answered
- some enforcement assessments are incompetently carried out and inconsistent
- some permit breaches are enforced while nothing is ever done about others
- legal documents aren't always circulated in time - VCAT hearings may then be compromised
- major changes are sometimes approved to permits for large developments by incrementally allowing a sequence of individual small changes as "minor" amendments (under P&E Act s73)