



## BLACKBURN VILLAGE RESIDENTS GROUP INC.

*Protecting the distinctive features of Blackburn since 1987*

# BULLETIN

Bulletin No. 77

July 2012

## Membership

### **2012/13 Membership Renewal Form**

We have enclosed the 'hot pink' Membership Renewal Form for the 2012/13 financial year. Please complete your details and return the form as soon as possible to minimise the administrative task for our volunteers. Please return your form with payment to 55 Main Street, Blackburn, as soon as possible.

If you have already paid your 2012/13 membership – we have not included this form.

### **New Membership Form**

Please find enclosed a 'hot yellow' New Membership application form. We ask you to pass this onto your neighbours/friends who live locally who may have an interest in the activities of BVRG.

## Blackburn Activity Centre UDF - Amendment C143

The long anticipated Amendment C143, proposing the introduction of Design and Development Overlays in the MegaMile (west) and Blackburn Activity Centres and the implementation of the Urban Design Framework (UDF) by rezoning selected land within the centres, was exhibited for four weeks commencing 19 April.

Blackburn residents will recall the consultation process which preceded adoption of the UDF in July 2010 (see Council website <http://www.whitehorse.vic.gov.au/Amendment-C143.html>) and that the BVRG, while generally supporting the conclusions set out in the final version did have several important reservations, namely the failure to recognise a clear separation between the boundaries of the two centres and the adequate reflection of preferred conditions for future development in the area between the railway line and Whitehorse Road.

The amendment endeavours to provide guidance for higher density development including building heights and number of storeys. The area between the railway line and Whitehorse Road north of Blackburn station for example has a preferred maximum height of 3-4 storeys. However before the plan is even adopted taller buildings are already being proposed. The amendment does not prevent developers from ignoring the zones designated for higher density and seeking approval to place large high density developments in areas zoned for low and medium density (see article below on 104 Main Street).

A few concerns still remain, together with some new devils in the detail, in the form of proposed changes not previously canvassed and these were conveyed to Council in the BVRG submission. It is anticipated that a Panel will be appointed to consider submissions and review the Amendment.

The removal of the rail crossing will ultimately significantly affect the future shape of Blackburn, it hasn't been considered in the proposed amendment, however in the submission from the BVRG we have suggested that: Anticipating implications of major infrastructure projects - rail separation, extension of Surrey Road, managing traffic flow and that guidance should be provided for preferred building heights and designs and for alternative vehicular and pedestrian access routes in the vicinity of the crossing should the rail line go over or under the road.

## **Blackburn Rail Crossing Removal**

We thank those members who sent us their reactions to this proposal. These, along with the many comments sighted on the VicRoads website and in the Press reveal the wide range of opinions on the project, planned for completion in late 2014. No doubt many of you responded direct to the VicRoads survey and we note that Council have submitted to the Minister of Transport their support for certain preferred design outcomes and associated road diversions.

The BVRG awaits further information from VicRoads, including the results of traffic and accident research and more detailed predictions on what changes might be expected to make South Parade more readily accessible – especially to those from east of Blackburn Road - and what changes might be introduced to allow northbound vehicles to more readily enter or cross Whitehorse Road. Few such details were revealed in the somewhat optimistically termed Information sessions held earlier this month.

130 years ago the railway first came to Blackburn and 51 years ago (1961) the local Chamber of Commerce sought to have automatic booms replace the gates and gatekeeper but it wasn't for several years that that came about. A couple of decades later they led a successful community campaign to retain the special feature of the gardens south of the line, in recent years tended with additional care by the Blackburn and District Tree Preservation Society. It is unclear from the information sessions if the gardens will survive after the grade separation, certainly there is a risk that the distinctive features of the centre will be lost. We trust that VicRoads will be mindful of community concerns in the final design.

## **a plague o' both your houses**

When it comes to urban planning Melbourne residents have been poorly served by both major parties. The fine rhetoric and doubtless well intended claims about housing Victoria's burgeoning population and protecting our neighbourhoods all tend to be forgotten on exposure to the real world of vested interests and inadequate funding. And so Victoria, often acknowledged to have a sounder planning system than any other State, is in real danger of losing that accolade after failing to follow through on major strategies and employing 'quick fixes' which impact on local policies and permits. The insensitive proposals for 104 Main Street, Blackburn, and 1-5 Neil Court, Blackburn South (further article later in this *Bulletin*), are just two local examples of an increasingly complex system being exploited by developers.

We attempt a résumé of those aspects which most concern local residents.

## **State Planning Policies**

In 2002 **Melbourne 2030** was introduced as a strategy to encourage commercial and higher density residential development around a hierarchy of existing centres based on transport hubs, primarily railway stations. It incorporated nine policy directions, each embracing commendable objectives but in practice allowing precedence to be taken by one or other of those to the virtual exclusion of all others. This might not have been too problematic had it not taken so long to define the centres and their boundaries thus allowing more opportunities for the less scrupulous developers to claim the right to cram in higher density dwellings on infill residential blocks on the grounds that they are 'in or around' an Activity Centre.

Early last year we were relieved to learn that the then new State Premier, Ted Baillieu, pledged to give explicit boundaries to suburban activity centres and designate residential areas outside those boundaries as "no development zones" but we have heard nothing on that topic since. Another early promise by new Planning Minister, Matthew Guy, was to delete planning scheme support for high-density residential development on major transport routes but his revision of the relevant clause has failed to achieve that end.

In Whitehorse most Major Activity Centres (MAC) are now either defined or nearing that stage but a majority of the over sixty Neighbourhood Activity Centres (NAC) still await attention. One exception is the Blackburn NAC, for which strategic planning commenced in mid-2009, and is now preparing for implementation (see item on Amendment C143 above). It is in this comparatively advantageous position only by virtue of its proximity to MegaMile (west) MAC and to the special government funding which enabled a framework structure plan study for both Centres to proceed.

**Melbourne @5 million** was the next major strategy update, produced in 2008 in response to predictions that the population projections used for Melbourne 2030 would be reached ten years earlier than that. Its main thrust was to expedite development in what are now called Central Activities Districts, of which Box Hill is one. These were to be complemented by 'Employment Corridors' linking them to Growth Areas by means of improved public transport infrastructure. Now we are asked for input on a new **Metropolitan Planning Strategy** (for further information go to:- [www.planmelbourne.vic.gov.au](http://www.planmelbourne.vic.gov.au)).

## **Local Planning**

The planning permit process is probably the area of most immediate concern to residents. Essentially a fair and reasonable system of dealing with smaller development applications, it has for years been criticised by development interests as providing too many opportunities for objections. State planning ministers have consequently been under pressure to progressively curtail third party rights, mainly in terms of notification and objection, all in the name of 'streamlining', rather than address the fundamental problems of an inadequately resourced system, bedevilled by discretionary interpretations of non-prescriptive conditions. It is further complicated by private planners being allowed to grant certain categories of permits thus further removing effective local control. And while VCAT provides a valuable avenue of appeal against failures of due process, its ability to vary plans encourages the introduction of ambit claims.

It was therefore disappointing to read the present Minister's media release about slashing red tape, speeding up the process and fast tracking the permit system. This was making the same claims and using the same language as former Minister's, for example Minister Hulls 2006 comments on the review; *Streamlining The Planning Process: Cutting Red Tape*, that foreshadowed Amendment VC40 (August 2006) which introduced a range of planning permit exemptions for 'minor' buildings, further extended in September 2008 by VC49 so that exemption applied to sheds and other works associated with dwellings, such as pergolas, decks, swimming pools and spas. At first glance a not unreasonable situation - unless you have an inconsiderate neighbour – and one which still avoids fundamental reform.

The latest manifestation of Code Assessment 'streamlining' is VicSmart. This would give Council officers the authority to approve specified classes of what is termed 'low impact' residential

development (of which a few examples are given). The bill was announced in early June, and introduced to parliament on 20<sup>th</sup> June. The prescriptive nature of VicSmart would certainly speed up the processing of certain types of development but apparently will not, as once proposed, give resident constituencies a say in what is to apply where and will only allow the applicant a right of appeal, see - <http://www.dpcd.vic.gov.au/planning/theplanningsystem/legislation-and-regulations/vicsmart-planning-assessment-process> for further information.

In summary we quote Ian Wood, President of Save Our Suburbs (SOS), who reviewed last year as one which had again '*... been one of disappointed anticipation The new Coalition Government claimed they would consult the community on planning issues and return more planning powers to councils. Neither has yet happened in any meaningful way.*'

## **The Contaminated Sites Saga**

While things have moved on a bit locally since Colleen Hartland, MLC (Western Metropolitan) addressed the Upper House on 8<sup>th</sup> February on the subject of contaminated sites, she gave a good summary of the overall situation when citing the Auditor General's report on managing these, including his apt references to the usual lack of accountability and responsibility leading to inaction by the authorities involved.

According to *Hansard*, she went on to say; '*The Caltex site on Blackburn Road is an example of what the report calls a 'legacy site' -- that is, the former owner, Caltex, should be capable of cleaning the site, but it has become more of what the report calls an 'orphan site' which nobody is taking responsibility for it.*' (sic)

The slightly more optimistic information we now have is that, while Caltex will proceed as scheduled with their clean-up plan, their representatives were to meet again in May with those of J&J Dynamotive in order to continue discussions on joint remediation - likely to be a three or four year task.

And we note with satisfaction that the long abandoned building has finally been demolished.

## **A call for reasonable change**

Fortunately a proper sense of proportion prevailed back on 20<sup>th</sup> February when Councillors rejected the Officer's recommendation for approval of a 32 dwelling, three storey building plus basement on three average sized suburban lots at 1 - 5 Neil Court, Blackburn South.

Justification for the proposal had largely been based on its location within the Burwood Heights Major Activity Centre but, as we are all too aware in Blackburn, the fact that a development is located within or even near an Activity Centre (whether or not with defined boundaries) has often overridden all other considerations.

Change is inevitable, as is the likelihood that the applicant in this case will not suddenly disappear. But surely any new development in settled residential areas, even those designated for substantial change, should be designed so as to avoid replacement on such a dramatic scale that it unreasonably impacts on those neighbours whose homes typically represent their largest ever investment and cannot readily relocate.

## **Meanwhile**

### **The Speed of Planning Change: A case study**

In February 2011 Whitehorse Council agreed to request the Planning Minister to grant an amendment for a minimum lot size of 320 square metres for all new residential subdivisions and developments outside substantial change areas. At the time, although reportedly welcomed in principle by the Minister, we wrote that this was the sort of decision which Sir Humphrey Appleby would call 'courageous', and so it has proved to be.

In August 2011 Council agreed to write to the Minister for Planning requesting that ResCode be reviewed to allow for greater flexibility in seeking variations and to allow different standards to be applied to different areas within a Residential Zone and at the same time to introduce the interim controls relating to the 320 square metres minimum lot size as previously agreed.

In March this year it was reported that Council had yet to receive a response from the Minister. We have since learned that he subsequently responded in May to the effect that any request for such a change would only be acceptable if considerable supporting work were undertaken on Council's housing and character policies in order to establish the need for such a change. It appears that to establish a clear policy justification for the initial request will require extensive work over the next twelve months after which it will be referred back to the Minister for consideration. Watch this space.

### **Sikh Temple Expansion**

We have followed with interest the long drawn out debate on the proposed extension of buildings and facilities of the Sikh Temple on Whitehorse Road. Some minor changes to the initial proposal have been made and will be included in the re-submitted plans at the end of July.

Pope Road and John Street Residents Group and local residents are making submissions on the amendment C143 to the Whitehorse Planning Scheme that should afford some protection of residential amenity.

For further information or to assist the Pope Road/John Street Resident's Group, please contact their Chairman direct, Alan Fearn-Wannan, phone 9878 4934.

### **104 Main Street; yet another inappropriate application**

For an ordinary sized residential zone lot to accommodate 40 apartments in a solid, block like four/five storey structure, seems yet another example of insensitive overdevelopment especially as the applicant sought dispensation from car parking requirements near one of the busiest and most hazardous intersections in Blackburn.

The BVRG is extremely concerned about this proposal (even if it turns out to be a stalking horse intended to ease the way for approval of a slightly smaller building) because of the potential for a precedent to be set for future development which completely ignores neighbourhood character and the amenity of local residents. You will have received separate advice from us on this application which we also distributed to local households, urging them to consider opposing the application. In the event, more than 210 objections (representing over 250 individual residents) were received by Council.

### **Blackburn Shopping Centre Refurbishment**

Further to the reference in our last Bulletin, BVRG representatives have recently discussed aspects of the proposed refurbishment with Council officers and we await further concrete information.

## Amendments

### **C142 Retail Policy - Panel Hearing**

This Amendment proposed preparation of a Retail Sustainability Assessment to be required for significant extensions proposed to retail floor space in Major and Neighbourhood Centres. A Hearing was held on 16<sup>th</sup> April and the Panel has since reported that it recommends adoption but with significant changes. The BVRG presented concerns to the Panel about retail expansion generally and parking space in particular as it related to the local community.

### **C133 SLO changes - Approved**

The Minister's approval for changes to the schedules applicable to properties in Significant Landscape Overlay (SLO) Areas was gazetted on 8<sup>th</sup> March. As previously reported these relate to standardised exemptions from the need for a planning permit for building set-backs but in most cases now require a permit for front fences within 4 metres of protected vegetation. At the same time the definitions of pruning and lopping have been clarified. You should discuss the relevance of these changes with a planning officer if your property is in an SLO area and you are contemplating building works or tree surgery.

### **C135 Industrial Development Policy.**

Exhibited at Council Offices, Libraries and on the website from 31<sup>st</sup> May and submissions closed on 28 June.

## Committee News and Membership

Our President, David Morrison, returned in early April from a year in the Antarctic from where, with the aid of increasingly efficient internet services, he was able to retain an interest in our activities, although no real substitute for his 'on the spot' presence; we welcome him back to the local scene.

We regret to advise that Helen Taafe has had to resign as Secretary. Our thanks to her for stepping into the breach in a year when the Committee had a demanding workload. If you think that you can assist by taking on the role of Secretary, or know someone who might do so, please contact David or a member of the Committee (see contact details below).

A welcome is extended to the numerous new members and to members generally – with a reminder that your very modest subscription for 2012 - 2013 is due on 30<sup>th</sup> June and relevant renewal forms are enclosed. Please assist us by completing and returning these promptly so as to minimise the workload on our volunteer database manager.

### **Committee Members – Phone 9894 2531 or email [bvrg@ymail.com](mailto:bvrg@ymail.com)**

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