



BLACKBURN VILLAGE RESIDENTS GROUP INC.

Protecting the distinctive features of Blackburn since 1987

BULLETIN

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Lake Road Land for Sanctuary

Hot off the press! The legal process is still taking place for the transfer of the land bordering Lake and Central Roads but unfortunately at this late stage in the negotiations trouble is brewing on two fronts. The first is in the Upper House. Bruce Atkinson MLC, a former Councillor of Nunawading, has a motion on the table in the Legislative Assembly to move on Tuesday 27 February 2007 to have funds diverted from 1 Lake Rd to the Seventh Day Adventist site.¹

“That this House calls on the State Government to —

- (1) *abandon its agreement with the Federal Government and the Whitehorse City Council to acquire land adjoining a private nursing home on the corner of Central and Lake roads, Blackburn, which is near the Blackburn Lake Sanctuary because the land to be purchased under the agreement has no community or environmental benefit; and*
- (2) *enter into immediate negotiations with the Federal Government and the Whitehorse City Council to redirect the funds that were to have been applied to the purchase of that land on the corner of Central and Lake roads to the acquisition of land of notable conservation value and community benefit on a site owned by the Seventh Day Adventist Church in Central Road, Nunawading, which is subject to subdivision development plans currently under review by the Church and the relevant planning authorities.”*

Confident that the Lake Road land purchase was in its final stages of completion, BVRG and other community groups have been working to secure also the high conservation value areas of the SDA site. David Morrison and other community group leaders, unaware of this new move by Bruce Atkinson, held a meeting this morning (Friday 23 February) with Paul Kearsley, Whitehorse Manager for City Development, to seek council officers' views on a way to encourage State Government to meet its policy obligations regarding offsets that could be applied to secure the high value parts of the SDA site. If negotiations could be facilitated successfully with the State Government, SEITA and other stakeholders on the offset arrangements, Councillors could be assured that SDA site could be secured without cost to ratepayers. The BVRG committee has written to Bruce Atkinson urging him to revise his motion to one that encourages the State Government to meet its policy obligations and apply offsets to the site from similar high value conservation land lost to the Eastlink freeway extension.

Secondly we have learned that Council is seeking options to have future development allowed on the Lake Road land. We believe that this has come about because of the problems encountered in trying to find a home for the Avenue Neighbourhood House. However

¹ Legislative Council: Notice Paper No.6, Tuesday, 27 February 2007

Council has now committed significant funding to move the Neighbourhood House to Ely Road. Our sources say that Council does not have a plan developed for this change of heart. The negotiated agreement between the three levels of government for the Lake Road land was on the basis of the site being guaranteed as open space linkage to the Sanctuary. The community is very proud of the agreement between the State, Federal and Local governments to secure that small strip of land as a green linkage between Morton Park and the Sanctuary and, to put it mildly, would be very concerned if at this late stage it was torpedoed.

Tony Robinson MLA has advised us that Council's 11th hour effort to modify the agreement risks undoing the entire proposal, and he hopes that Council will rethink this move in order that the transaction can be finalised as soon as possible.

You will notice that the Regis nursing home is currently being demolished in preparation for rebuilding and a fence has been erected along its boundary. We hope that the financing agreement can be finalised quickly so that management plans for the community land can be developed and implemented.

VCAT Hearing for 124-126 Blackburn Road

Council refused to grant a permit for the 124-126 Blackburn Road proposed development, which we wrote about in the last *Bulletin* (October 15, 2006). To recap what is proposed by the owner: four large double storey dwellings (4 bedrooms plus study) to be built with inadequate set backs that don't comply with the SLO2 guidelines; 21 protected trees and shrubs to be removed; considerable damage to be caused to other protected trees due to the buildings and works being within four metres of the trees. The proposed houses will be over eight metres in height. The site contains important vegetation for the area and is the home for the Powerful Owl and although a proportion of the block will retain trees, the mass of building together with the loss of vegetation constitutes a threat to the habitat. There were 41 objectors including one from the BVRG, the Blackburn and District Tree Preservation Society and the Department of Sustainability and the Environment. A small action group has been set up to co-ordinate the residents submissions for the VCAT Hearing and the BVRG committee will be attending the hearing and making a submission on behalf of its members. This is likely to take place in April.

Council refused to grant the planning permit on the following grounds:²

1. "The proposal fails to satisfy the objectives and requirements of Clause 15.09 (Conservation of native flora and fauna) as it does not assist in the protection and conservation of important habitat for a Powerful Owl which roosts at the site, and is identified as a threatened species under the *Flora and Fauna Guarantee Act 1988*.
2. The proposal does not adequately address the requirements of Clause 15.09 (Conservation of native flora and fauna) in relation to the Native Vegetation Management Framework in which a Net Gain Analysis for the site is required. The proposal in its current form is inconsistent with Net Gain policy, particularly as no offsets have been identified on the plans.
3. The proposal fails to meet the purposes and objectives of Council's Municipal Strategic Statement and Local Policy Framework, in particular Clause 21.05 Environment, Clause 21.06 Housing, Clause 22.03 Residential Development and Clause 22.04 Tree Conservation of the Whitehorse Planning Scheme.
4. The proposal fails to meet the objectives and decision guidelines of the Significant Landscape Overlay (Schedule 2) due to tree removal. Adverse impact on existing trees, does not protect wildlife habitat, the excessive scale of the built

² (See City of Whitehorse Refusal to Grant a Planning Permit issued on 10 November 2006)

form will dominate the landscape and fails to retain and inconspicuous profile, the setbacks from the south boundary are inadequate and do not allow for landscaping, fails to retain the dominance of vegetation cover, and there is insufficient space for planting of new canopy trees and other vegetation throughout the site to contribute to the long-term tall tree canopy of the Bellbird area.

5. The proposal fails to adequately meet the standards and objectives of Clause 55 with regard to the following standards and associated objectives:

B1 Neighbourhood character
B2 Residential policy.”

The developer should have a difficult fight ahead unless VCAT decides to ignore all the State and local planning objectives. But, of course, the worry for residents (and Council) is that on planning issues VCAT has the reputation for arbitrariness and has been known to ignore or be selective about the purposes and objectives of local planning policies. While VCAT and Ministerial interpretations of *Melbourne 2030* seem to show a clear bias towards urban consolidation and scant regard for those Directives concerned about the liveability and environment of the suburbs, residents and Councils will continue to be frustrated. Watch this space for further news on the VCAT Hearing. Please contact us if you would like to hear directly from us about the date of the VCAT Hearing so that you can attend. The more residents showing up at the Hearing to support our case, the better.

No Bias on This Green

In late October last year the Blackburn RSL made the long awaited public announcement of their plans to develop a 950m² IGA supermarket on the former bowling green in front of their South Parade clubrooms. While the thought of once more being able to shop locally for groceries got the immediate support of many in the local community, others were more doubtful of the chances of its success or were worried about traffic and other amenity issues

With opinions divided among members your Committee decided to canvass the views of the entire local community and, as well as promoting the information session held at the RSL, gave all households and businesses in the potential catchment area an opportunity to record their preferences and concerns in relation to development of the site. We received an impressive 14% response from the 1500 households and businesses surveyed and as you are no doubt aware these revealed that 63% were in favour of the proposal and 30% against.

As the site is now zoned residential the change of use requires a Planning Scheme rezoning amendment. This will be exhibited in due course and submissions invited. As part of that process the Committee, while endorsing community support for the project, will be seeking to ensure that the various concerns raised by respondents, notably traffic, parking and amenity, are addressed. If you are personally interested in the future of this area, you should register your views in writing when the application is exhibited.

The Combined Residents of Whitehorse Action Group (CROWAG)

Some of the anomalies and contradictions in the planning system were aired at a meeting on 15 February at Box Hill Town Hall of the coalition of Whitehorse community planning groups, three Councillors and senior Planning Officers from the City, at which your BVRG representatives attended. Councillor Helen Harris chaired the meeting. David Morrison, President BVRG, spoke on two issues: firstly, the concerns we have over lack of height controls in Blackburn; and secondly about the need to address problems of climate change within the planning system. Four resident group members presented case studies on recent VCAT determinations that caused problems in Whitehorse and demonstrate that *Melbourne 2030* provides no certainty for residents—indeed, there is nothing to stop high density

development wherever VCAT decides, irrespective of the City of Whitehorse's housing policy. Tony Hogg from Mitcham Residents Group not only contributed to the latter discussion (Mitcham Towers) but also gave an amusing if depressing account of the slow process of developing the Nunawading Mega Mile/ Mitcham Activity Centre Structure Plan. (Ten drafts so far.) Also present was Ian Quick, President of Save Our Suburbs, who gave a lively and informative talk on the status of *Melbourne 2030*. Among many of the issues he discussed was that the review currently being undertaken by the DSE on *Melbourne 2030* was likely to be a whitewash. He noted that there is a strong push from the State to get rid of all planning power from Councils and instead operate a centralised planning system. Paul Kearsley, Whitehorse Manager for City Development, gave an excellent report on the two major issues facing Councils under *Melbourne 2030*: the lack of respect by VCAT and DSE for local planning policies and the widely varying decisions of VCAT members. He stated that if the system doesn't allow Council to protect what it ought to be protecting then the system is at fault and needs changing.

The Combined Groups will be making appropriate representations on some of the issues discussed at the meeting to the Minister and Whitehorse Council.

Deductible Gift Fund

For some time local community groups have been talking about the virtues of having a way for locals to contribute funding to projects at a local level that support the protection of the environmental qualities of sites in Whitehorse. BVRG along with the BLEEP group encouraged Council to support the set up of such a fund.

Council in a motion at its 20th February 2006 agreed to fund some legal expenses for the set up of such a fund, providing it was supported and managed by the Whitehorse community. A working group consisting of members of various community groups has been established to steer the establishment of a Tax Deductible Gift Fund. The Blackburn and District Tree Preservation Society committee have agreed to become a sponsor of the fund, subject to membership ratification. The working group is at present finalising the wording of the Deed and other documents.

The objectives of the fund are to provide the community with opportunities to contribute to the protection of important remnant habitat or enhancement of degraded habitat that supports the long-term stability of existing high value habitat in the Blackburn and District areas.

What's next? – Following ratification by the B&DTPS membership, a Fund management committee made up of suitable community members will be established as detailed in the Model Rules of the Blackburn and District Tree Preservation Society and the Fund Deed. A formal application will then be lodged with the Department of Environment. David Morrison, supported by Meg Probyn, is representing BVRG.

State Parliament and Planning

Late November saw the return of the Labor Government with a slightly reduced majority, a situation reflected in our local electorate of Mitcham. Justin Madden was later appointed Minister for Planning. The preceding election campaign did little to warm the hearts of those seeking an improved and enlightened urban planning system. Most candidates made impractical undertakings on planning related initiatives—and the two major parties have already demonstrated how easily such undertakings can be ignored—while Labor's planning policy barely acknowledges the faults in the present system. Their policy contained a lot of generalities, which will do little to address resident concerns. Apart from some additional funding, much of which will undoubtedly finish up with planning consultants, the local planning scene looks set to retain many of the same old impediments, some of which will be swept under the carpet in the name of cutting red tape.

As SOS said in response to the Planning Policy released in November, if the State Government were serious about improving the planning system they could do a number of things, including:

- Allow prescriptive planning policies for basic local controls like ResCode amenity standards and development overlays, and ensure they can't be overridden by VCAT;
- Change the role of VCAT to that of overseeing council planning processes, not acting as another planning authority;
- Withdraw *Melbourne 2030* until all the fundamental requirements it is based on have been properly defined and funded, and until councils have had time to develop proper controls for areas of higher-density development.³

The Old Caltex Site

In case people are wondering what is happening to the old Caltex site (22-24 Blackburn Road), there have been two Planning Permits issued for the site. The first approval for a two-storey building with dwellings and shops WH/13055 was issued in 2003, extended in January 2005 and expired on 12/1/07. (A request to extend this permit can be made up to 12/4/07.) The most recent WH/2005/606 issued in June for a single storey building for use as seven shops with parking dispensation. Plans for this development were approved in June and the permit allows for development to be commenced by May 5, 2008, unless extended. It will be interesting to see when any work commences. At the moment the area is becoming a haven for birds and providing an unusual annual nesting place for a pair of eastern rosellas. (As one of our members commented: 'It's a sad reflection of the local area that there aren't enough natural tree hollows for them to nest in.') We hope that the new development will include a landscape plan that will enhance that corner of Blackburn and continue to provide a habitat for birds.

Heights of Absurdity

In November, Ron Grainger, on behalf of BVRG, made yet another direct appeal to Council to bring some sanity into the absurd situation whereby the local community can do nothing to govern the height of new buildings in Blackburn and other 'medium sized' Neighbourhood Activity Centres even when, as a Senior Victorian Civil and Administrative Tribunal Member pointed out last July when referring to Blackburn, a policy vacuum exists in relation to built form in much of the (as yet undefined) centre. We hope both the Council and the new Minister will do everything in their power to rectify this undemocratic situation. But Council officers have been told that Interim Overlays for Blackburn would not be acceptable unless backed by a Structure Plan. Until that is produced, we have requested Council not to permit the height of any redevelopment to exceed the height of the existing building to be replaced in the Blackburn shopping centre.

AGM and Incorporation

At the Annual General Meeting held on 2 November 2006, David Morrison was elected President, Ian Swann Vice-President and Meg Probyn and Aaron Baker re-elected Secretary and Treasurer respectively. It was also decided that the annual subscription per member be \$5 and the admission fee for new members \$5. These rates will apply from the 2007-2008 year commencing on 1 July 2007 and is the reason we have been contacting some members is to ensure that we have correctly recorded their names. Where more than one person per household is a member we ask that separate membership details be provided. The Model

³ SOS response to ALP Election Planning Policy released 22.11.06

Rules do not allow for family membership as existed prior to incorporation for some households. We apologise for some of the inevitable glitches encountered in getting it right. Please contact the Secretary if you know of someone wishing to join and she will provide the simple application form now required by the rules.

While we have previously retained the names of supporters who overlooked payment of their annual subscription the new rules require that from next financial year only financial members can be retained on the list and we ask for your co-operation in making prompt payment when notice is sent for the next financial year in order to reduce the necessity of reminders and the inconvenience of reapplying for membership.



Twenty-Up

It is worth noting that on March 16 it will be the twentieth anniversary of the formation of the BVRG. We acknowledge the sterling contribution made then and since by many individuals who have developed this Group dedicated to retaining the best features of Blackburn. It would be interesting to count the hours spent by members in producing submissions, attending hearings (Planning Panels and VCAT), discussing issues with Council and Council officers, meeting in working parties to develop strategies. We sometimes wonder what keeps us going but there's always the next planning issue to worry about and to ensure that the community's interests are safeguarded as best as possible. To all our former committee members we pay a tribute and thank them for their work and dedication. Raise a glass on March 16 and toast the BVRG.

Blackburn Village Residents Group Committee

If you wish to discuss any planning issues with the committee, please contact them either by the email (bvrg@optusnet.com.au) or in person. Any correspondence or payments may be delivered to your nearest committee member. We have enclosed a payment sheet for those of you who have not yet paid your contribution this financial year (due 1 July 2006). Sincere thanks to those of you who have already paid.

Committee Members

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