



## BLACKBURN VILLAGE RESIDENTS GROUP INC.

*Protecting the distinctive features of Blackburn since 1987*

# BULLETIN

No. 62

October 2007

### Annual General Meeting

The AGM will now be held on Wednesday 31 October 2007 at 8 pm in the Visitor's Centre at Blackburn Lake Sanctuary. Please note that we would welcome some new committee members so if you are interested in planning issues in Blackburn please contact the secretary for nomination papers. Thank you to those members who have already paid their subscriptions for 2007-2008. For those people who have forgotten or mislaid their payment slip, you will find a form at the end of this newsletter.

### Dinner

Please make a date in your diary for the BVRG annual dinner that takes place on Friday 30 November 2007 at the Jumbo Restaurant in Blackburn at 7.15pm. Telephone or email the Secretary (9878 7919) or Ron Grainger (9877 3348) if you would like to attend.

### Lake Road Land for Sanctuary

We are still waiting to hear the solution!!

### Melbourne 2030 Audit

Last month the residents across Victoria were given the opportunity to comment on the implementation of *Melbourne 2030* (M2030), the State planning strategy. We sent in a seven-page document highlighting our comments and concerns. The full document is available from the Secretary. One of the comments made in the BVRG's submission was about the shortage and turnover of suitably experienced urban planners since the commencement of the New Format Planning Schemes. Planners have had to cope with some commendable changes to the Planning Schemes, not least the requirement that Councils strategically justify local planning policies. We wrote:

*The administration of the Planning Scheme remains largely reliant on non-prescriptive conditions, in effect requiring officers to make subjective judgements on planning permit applications. This, together with the tasks involved in the review and revision of the new Scheme, has unavoidably increased their workload. That workload has also been influenced by Councillors who, facing an increasingly complex system, have progressively delegated more and more authority to the Council officers.*

*Ironically, staff turnover has also been affected by the attractions of working in the private sector which, largely as a consequence of Melbourne 2030 (M2030), has seen an expansion*

in planning consultancies which have taken over many of the strategic planning tasks normally carried out within Council resources, not least those associated with Major Activity Centres.

The reason for community groups such as ours is that the individual resident remains at a big disadvantage when dealing with urban planning matters. Despite the increasing amount of information available on the Internet he/she must still rely heavily on the advice of Council planning officers (or a succession of officers) who, as indicated above, are not only under pressure to perform but often have little background knowledge of the localities concerned.

For residents in a community such as ours major threats to the local environment arise both from inappropriate development within the (as yet undefined) Neighbourhood Centre and outside that Centre in the form of opportunistic 'infill' building on residential lots. Both are invariably justified by referral to M2030 'imperatives' in the form of one or more of the Eight Directions, as subjectively interpreted by Council officers. The results demonstrate the weaknesses in the system rather than with the Council that administers it.'

Our response gave a detailed analysis of the effectiveness of local government's role in the implementation of M2030, including our concerns that the 'emphasis on development, together with the diversion of strategic planning resources, leaves areas outside potential activity centres inadequately protected.'

Our conclusions were as follows:

*'BVRG believes that there are more than enough residential development opportunities and that M2030 has skewed the development activities for residential development ahead of those for public transport, a greener city, a fairer city, a great place to be, etc.'*

*The M2030 policy should:*

*(1) Provide greater planning certainty by:*

- *Moving to a more prescriptive approach to administering planning applications to reduce the impact of developments on amenity and encourage development in appropriately designated areas;*
- *A more balanced weighting of M2030 Directions.*

*(2) Facilitate housing choice around established activity centres:*

- *Provide resources for appropriate structure planning;*
- *Establishing appropriate infrastructure that would encourage development;*
- *Moving to a more prescriptive approach to administering planning applications to reduce the impact of developments on amenity and encourage development in appropriately designated areas.*

*(3) Potential of corridors/boulevards along public transport networks:*

- *BVRG has long argued for the establishment of green links that join islands of open space or remnant of indigenous plantings within the metropolitan area. This approach could be provided along all major public transport networks and would allow the movement of fauna, particularly birds. It would also enable the linkages to be utilised as attractive cycle ways also.*

*(4) Balance between housing intensification and reflecting local character:*

- *Engaging with communities to enable them to have a say in outcomes affecting their local character;*

- *Moving to a more prescriptive approach to administering planning applications to reduce the impact of developments on amenity and encourage development in appropriately designated areas;*
- *A more balanced weighting of M2030 Directions.'*

The terms of reference and the emphasis on 'fine tuning' and 'refinement' suggest that this Audit Group does not have the authority to question the fundamental assumptions on which the strategy is based. We can therefore only hope that our submission, along with those from other local communities and individuals, will lead to some sort of practical acknowledgement by State government that the uneven application of *Melbourne 2030*'s various Directions falls most unfairly on the ordinary resident. We await the report from the Audit Expert Panel with great interest.

### **Supermarket Development: 64-66 South Parade**

The proponents of this development and BVRG representatives met recently under the aegis of Council for discussion on issues raised by BVRG, agreement on the issues was reached and Council has revised the draft planning permit. The planning application is subject to Amendment C75 that proposes re-zoning of the land from Residential 1 Zone to Business 1 Zone and allowing a Planning Permit WH/2006/741 for buildings and works associated with the construction of a shop (supermarket).

Council traffic officers have also undertaken to review certain traffic and parking issues after a supermarket operation commences—although experience warns us not to be too sanguine about a satisfactory outcome in that area.

The BVRG Secretary attended a Directions Hearing for Amendment C75 on Friday 21 September 2007. As the BVRG, the other submitter (objector) and Council had reached a conciliatory position, there will be no formal Panel Hearing. The Panel will proceed to consider the submissions 'on the papers'—that is on the basis of the written material and details of the Amendment provided by the Council. We have been extremely pleased at the way Council handled this Amendment. The willingness of both the Council and the developer to discuss and address all our concerns has been most welcome. Gerard Gilfedder, Whitehorse Council's Coordinator Strategic Planning, has worked very hard behind the scenes to achieve an excellent outcome.

One possible concern beyond the ambit of the Planning Scheme is the hours of sale of packaged liquor, which comes under the jurisdiction of the Liquor Control Commission. If unchallenged, it is possible that the hours of sale from this new outlet would exceed those applying to the existing outlet in South Parade, which might be regarded by some as already sufficiently generous. We have suggested that this is one matter on which Council should be prepared to state a view and, if it is of concern to you as a local resident, you should also be prepared to make that known to your Councillors and to make a formal submission to the Commission when it considers the matter.

### **Powerful Owl Threatened by Further Development at 124-126 Blackburn Road**

The owner of the property at 124-126 Blackburn Road has withdrawn the application to VCAT. The letter stated: 'On account of family financial situation, the permit applicant has decided to sell out and not proceed with the appeal.' After a search on the Internet we find that the real estate agency is offering the property for sale at

\$2.8m with the ominous words 'The Great Potential' and 'Suite (sic) for re-development'. We contacted the agent and asked if he was aware of any of the problems that the vendor had had with his previous development applications. He claimed not to have been advised of any difficulties. He did not know about the powerful owl roosting on the site and the significance for any new owner who wishes to seek approval for multi-dwelling development of the site.

Several of our members have seen one of the owls regularly on the site, roosting during the day. There have also been sightings in gardens from Fuchsia Street, across Blackburn Road all the way to the Blackburn Lake Sanctuary. But the trees behind the house on 124-126 Blackburn Road remain the regular spot for this huge endangered owl.

For those of you who haven't seen the bird in question, it is perhaps worthwhile to give you a description. The Powerful Owl, *Ninox strenua* (Gould), belongs to the family Strigidae (or Hawk owls), which are characterised by bright-yellow, large, forward-directed eyes. The largest owl found in Australia, with an overall head-tail length of 60-65cm, the adults are mottled dark grey-brown above and white below with bold grey-brown chevrons (chest barrings); legs are feathered to the tarsus (shins), with dull yellow feet. Immature birds (owlets) are whiter, having paler back and wings, a whiter face with dark eye-patches and sparse fine dark streaks and faint barring on the flanks. The Powerful Owl has a characteristic double-note 'whoooooo-hoooooo', occasionally only a single 'whoooo', which is used to signal territory, identify its position and to maintain contact with its mate. If you see this bird please note the date, time of day and the exact location and let the Secretary of BVRG know the details so that we can notify the DNRE.

There are no reliable data on population size or densities of the Powerful Owl in Victoria or Australia. Expert opinion provided to the Scientific Advisory Committee (SAC 1994) considered that fewer than 500 pairs may exist throughout Victoria. The Powerful Owl has been listed as a threatened taxon in Schedule 2 of the *Flora and Fauna Guarantee Act 1988*.

The Department of Natural Resources and Environment Action Statement forms a key step in the Flora and Fauna Guarantee program and outlines the actions to be taken to ensure the long-term survival of the species. Three relevant points for the City of Whitehorse are as follows:

- 'Encourage and assist Municipal Councils to develop conservation mapping and GIS overlay systems within planning schemes to improve information on owl habitat and breeding sites across private land.'
- Using provisions of local planning schemes, the **Flora and Fauna Guarantee Act 1988** and the **Planning and Environment Act 1987**, seek to ensure that Municipal Councils meet objectives and obligations to protect owl habitat on private land when considering land-use change.
- Encourage private landowners to enter into voluntary agreements (e.g. *Trust for Nature* covenants, *Land for Wildlife Scheme*) to protect owl sites on private land across the species known range . . . Planning permit applications (subdivision, native vegetation clearing, mining) will be assessed in line with the major conservation objectives to protect breeding sites on private land (target number of

sites across the species range which may include some areas of private land for protection.'

The neighbours (many of whom are members of BVRG) and the Committee will be watching the sale of this property with great interest and concern. No doubt there will be further planning permit applications to which we will be responding.

### **Blackburn and District Environment Protection Fund**

This fund, under the sponsorship of the Blackburn and District Tree Preservation Society, will enable the community to contribute to the purchase and protection of land in Whitehorse, which contain important remnant vegetation with high habitat value. The Fund paperwork was lodged last month with the various state and federal departments. The committee of management has been selected and the members are John Bergin, David Berry, Mary Crouch, Andrew Lockwood and David Morrison (BVRG President). They will be meeting for the first time this month and we will keep you informed of developments. If you are interested to learn more, or have any issues you want to raise with the committee, please contact the BVRG President.

### **Seventh Day Adventist Site**

The Whitehorse City Council decided on 17 September 2007 to ask the Minister for Planning to appoint a Panel to consider Amendment C73. The amendment proposes to include the land at 131-173 Central Road, Nunawading, in an Environmental Significance Overlay. This Overlay to the site is necessary because the vegetation has a Very High Conservation value, is rare and endangered and is under threat from future urban development of the property, particular subdivision and the development of dwellings on the property. As Council minutes state: 'In addition the existing provisions, while providing adequate control for landscape protection do not provide sufficient control to retain native vegetation.' We are very supportive of this Amendment but we also have as our long-term goal the public acquisition of the site—opposite the Blackburn Lake Sanctuary—in order that it can be properly managed to enhance its natural values. In our submission we also requested that 'a thorough longitudinal flora and fauna survey at the site' be undertaken.

### **Refusal to Grant a Permit at 7 Railway Road**

We wrote to Whitehorse Councillors after their meeting on 17 September to congratulate them on overturning the recommendations from the Planning Office and refusing, for the reasons stated below, to grant a permit for four double-storey dwellings at 7 Railway Road. It has been very frustrating in the past that developers and planners have continued to ignore the concept of Neighbourhood Character and the adverse effects that inappropriate development have on surrounding residents. Inappropriate scale, bulk and height, together with the dearth of landscaping, are critical factors in destroying the ambience of a neighbourhood.

Take heart those of you who have an inappropriate planning application near you. The Council laid down the following reasons for the refusal for 7 Railway Road:

- \*1. *The proposal does not satisfactorily address the City of Whitehorse Municipal Strategic Statement and Local Planning Policies, namely Clause 21.05 Environment, Clause 21.06 Housing, Clause 22.03 Residential Development Policy and Clause 22.04 Tree Conservation Policy.*

2. *The proposal does not meet all of the Objectives of Clause 55 of the Whitehorse Planning Scheme, in particular, those that relate to neighbourhood character, building height and walls on boundaries.*
3. *The scale, bulk and height of the proposed new dwelling are inconsistent with the neighbourhood character and will have visual bulk impacts upon the adjoining lots, contrary to Clause 22.03 Residential Development Policy.*
4. *The proposed development fails to provide sufficient landscaping opportunities to conform with the preferred and prevailing landscape character due restricted setbacks from boundaries and the constrained site layout, contrary to Clause 22.04 Tree Conservation Policy.*
5. *The proposed development fails to comply with the Objectives and Standards of Clause 55.06-1 of the Whitehorse Planning Scheme with respect to detailed design and would be a discordant element within the streetscape having regard to its inappropriate scale, and massing.'*

We applaud Council taking this stand as too often Neighbourhood Character seems to be overlooked in the planning process.

## **Your Role in Planning**

While making submissions such as that on *Melbourne 2030* and on Amendments of the local Planning Scheme such as the South Parade Supermarket, the Committee has little time left to devote to the numerous planning permit applications, which adversely affect Blackburn residents every day of the week. We try to engage in some of those cases where a significant precedent might be set but otherwise can only repeat the advice in our Guide; that you should get involved in the planning process if your home environment is under threat. We will support you in every way we can.

Fortunately, recent improvements to the internet sites of the several planning authorities and these, together with the advice which you should obtain from the relevant Council planning officer will help you get a speedier appreciation of the processes involved.

Both the Whitehorse Council and the new Department of Planning and Community Development give you access to a range of basic information on permits and the Planning Scheme with maps and links to these and associated sites. Council also retains agendas and minutes of previous meetings with examples of applications, which have gone before Council. And if you contemplate going as far as the Victorian Civil and Administrative Tribunal (VCAT), their site also contains useful information on the planning appeals process and has links to determinations of past cases.

Council's Internet address is [www.whitehorse.vic.gov.au](http://www.whitehorse.vic.gov.au) the new Department is at [www.dpcd.vic.gov.au](http://www.dpcd.vic.gov.au) and the Tribunal at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

## **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](mailto:bvrg@optusnet.com.au)) or in person. Correspondence or payments may be delivered to your nearest committee member. There is a payment sheet attached to this Bulletin for your contribution this financial year (due July 2007).