



**BLACKBURN VILLAGE RESIDENTS GROUP INC.**

*Protecting the distinctive features of Blackburn since 1987*

## **BULLETIN**

**No. 61**

**29 July, 2007**

### **Lake Road Land for Sanctuary—Will it falter at the finishing line?**

It is worth reflecting on how we have arrived at this point . . .

In mid 2004 the Deaf Society advised Council that it intended to sell its Lake Road site; Council decided that it would not be interested and the site was sold to Regis. When the residents became aware of the sale and Council's lack of interest, they were very concerned. The new owner proposed a large-scale development, which, after over 1000 community objections, was eventually considerably reduced in scale by Regis; and despite further objections by Council and residents, was finally approved by VCAT. The development freed eight blocks (fronting Central Road) for sale. The community lobbied Council to purchase the site for an Open Space linkage between Blackburn Lake and Morton Park. The objective of the acquisition was to preserve the area as recreational open space, which would form an extension of the Lake Sanctuary and simultaneously serve as a public thoroughfare and vegetation corridor between the Lake and Morton Park. This was made abundantly clear to all concerned by the Blackburn Lake Sanctuary Action Group (BLSAG), the umbrella organisation which led the community campaign to have the three tiers of government fund the purchase. After public meetings and endless discussions, Council passed a motion agreeing to contribute up to a third of the cost of the eight blocks if equivalent funding could be found from the Federal and State governments.

Despite all the odds and to our great delight both our State and Federal MPs (Tony Robinson and Phil Barresi) managed to secure the funding and we believed that this important addition to the Blackburn Lake Sanctuary would soon be a reality. That was more than twelve months ago.

We understand that after months of haggling between Council and the State Government the purchase agreement has been approved by both State and Federal governments and awaits Council's final approval (hopefully in the next week or so).

The proposed purchase has not been without its critics. In the broader context, however, with the population increasing in Whitehorse and the open space generally declining, there is a need for additional space. This has been recognised in the recently prepared 'Draft Open Space Strategy' for the City of Whitehorse. (More details on this strategy below.)

Whilst there is relief that this three-year process has almost been finalised, we are becoming apprehensive in case the Council reneges on their agreement at the finishing post. Members of the community are encouraged to remind Councillors of

the importance of honouring the historic three-way agreement when it is presented to Council.

On Wednesday 11 July, 2007, the Hon. Malcolm Turnbull, Federal Minister for the Environment and Water Resources, visited Blackburn with our Federal MP, Phil Barresi, and met up with committee members from the Blackburn Village Residents Group and the Blackburn Lake Sanctuary Advisory Committee outside 1 Lake Road. The Federal commitment to the purchase was made very clear and we publicly thanked Phil for all his hard work on our behalf in Canberra. As you may realise, to secure funds for that piece of land was no mean feat and we are extremely grateful to Phil that he was able to work some magic around the corridors of power.

Our State member, Tony Robinson, has been involved from the beginning in securing funding from the State Government. Without his work the project would have stalled at first base. We look forward to a speedy resolution.

## **Bulletins and Membership**

The Secretary of BVRG apologises for the delay in producing this second *Bulletin* for 2007. We had hoped to be able to have a happy conclusion to the Lake Road saga but the weeks have gone by and no resolution.

Just a note to remind you that from 1 July we entered our first complete year as an incorporated body: your subscription notice is included with this *Bulletin*. Your prompt payment will make it much easier to maintain the membership register, which we are now required to maintain as an incorporated body. In that regard, please let us know of any changes, especially in your postal or email address or phone number. While the register must list members individually we shall continue to combine in one mailing all those using the one postal or email address.

## **VCAT Hearing for 124-126 Blackburn Road**

The VCAT hearing to consider the proposed development at 124-126 Blackburn Road has been delayed again! The first hearing was scheduled for 24-25 May but that was adjourned for an administrative mention on 30 April. We thought that the developer was going to produce revised plans but nothing materialised. Then the matter was adjourned again for an administrative mention on 18 June. After that date we received notification that the matter was adjourned until 20 August.

We understand that if the plans are revised or replaced we will be given all the new documentation a month prior to any scheduled hearing. We are intrigued to know whether new plans are being developed and wonder when VCAT will decide that the developer has had enough time to revise his plans.

## **RSL Site: 64-66 South Parade, Blackburn**

As the site owned by the Returned & Services League of Australia (RSL) is now zoned residential, the change of use to a supermarket as currently proposed requires a Planning Scheme rezoning amendment. As noted in our previous *Bulletin*, the BVRG Committee, while endorsing community support for the project, is seeking to ensure that the various concerns raised by residents, notably traffic, parking and amenity, are addressed. Our submission to Council is attached to this *Bulletin* for your information.

Amendment C75 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). The proposed supermarket is to be located on the site of the disused bowling green within the northern portion of the land while the (rear) southern section, currently occupied by the RSL, will remain as it is.

## **Open Space**

While we are fortunate enough to have some outstanding public open space in Whitehorse, it is constantly under threat and a far smaller proportion of the total area than those of many other municipalities. As we have seen, in the protracted discussions over the Lake Road and SDA land, there are many views on what and where Public Open Space should be and the Draft Open Space Strategy is the first step in endeavouring to resolve its status in Whitehorse. The Draft, now available on the Council website ([www.whitehorse.vic.gov.au](http://www.whitehorse.vic.gov.au)) and in their various offices and Libraries, contains a wealth of information on the current situation and recommendations on improving and extending the City's present stock of open space.

The report, however, does not acknowledge that the municipality is well down in open space ranking nor does it satisfactorily demonstrate how more open space will be acquired to balance the increase in development envisaged by *Melbourne 2030*. Maintaining open space ratios with an increasing population is the challenge now facing Council. In the submissions from BVRG and CROWAG (Combined Residents of Whitehorse Action Group), strategies for maintaining or optimising open space were suggested. If you would like a copy of either submission, please contact the Secretary and she will either send it to you by email or provide a hard copy.

## **Deductible Gift Fund**

The Blackburn and District Tree Preservation Society (BDTS) held a Special General Meeting on Thursday 31 June at the Blackburn Lake Sanctuary Information Centre. The meeting ratified the Fund's Trust Deed and authorised the establishment of a Fund Committee of Management made up of suitable community members as detailed in the Model Rules of the Tree Preservation Society Fund Deed. BDTS is now finalising the selection of the Committee of Management, which will be followed by a formal application to be lodged with the Department of Environment. If you are interested to learn more, or know of someone who might, please contact the BVRG President.

## **Seventh Day Adventist Site**

The Whitehorse City Council has prepared Amendment C73 to the Whitehorse Planning Scheme. The land affected by the amendment is 131-173 Central Road, Nunawading. The amendment proposes to include the land in an Environmental Significance Overlay and makes consequential changes to the maps and Local Planning Policy Framework (LPPF) as well as including a new Incorporated Document in the Whitehorse Planning Scheme.

You may inspect the amendment documentations at the Whitehorse City Council, 379-397 Whitehorse Road, Nunawading, and also at the Service Centres at Box Hill and Forest Hill, all libraries within the municipality and on the Internet at

[www.whitehorse.vic.gov.au](http://www.whitehorse.vic.gov.au). It is also available at the Department of Sustainability and Environment, Planning Information Centre, Ground Floor, 8 Nicholson Street, East Melbourne. Any person who may be affected by the amendment may make a submission to the planning authority. The closing date for submissions is 6 August, 2007. The BVRG will be making a submission on your behalf.

BVRG continues to support Council to seek offsets for habitat loss in the Eastlink Freeway development applied to the environmentally significant part of the SDA site so that it comes under public ownership. We applaud the motion (moved by Councillor Aubrey, seconded by Councillor Harris) passed at the Special Committee of Council Meeting of 9 July 2007:

*“11.2.1 Seventh Day Adventist Land Exclusion as Potential Native Vegetation ‘Offset’*

*That Council:*

- 1. Strongly objects to the exclusion of the Seventh Day Adventist (SDA) land as potential native vegetation offset to the Eastlink Project, given the ‘very high’ conservation value given to it by the DSE.*
- 2. Implores the Premier and the Minister for the Environment to decree that the DSE will commit that the Eastlink offsets will fully and completely comply with all elements of the native vegetation offset legislation.*
- 3. Note that allocations of Eastlink offsets from the 4 million residents of greater Melbourne to rural Gippsland is unacceptable.*
- 4. That a copy of this resolution be forwarded to the Premier, Minister for the Environment and local State and Federal members.”*

### **Do we not (also) bleed?**

A recent VCAT decision confirms the view that in many cases residents are regarded as a ‘lesser breed without the law’, as one of the resident groups from CROWAG found when attending a hearing where a developer was using Section 87, 1.d. of the Planning & Environment Act ‘*any material change of circumstances . . . since permit granted*’ to seek an amendment to his already approved plans.

The applicant was using the ‘marketability’ concept as his reason for a ‘change in circumstance’ and based most of his submission on a previous case which included the following observation by an earlier Tribunal:

*‘The benefits of enabling permits to be amended are many. The process recognises that a permit holder’s plans and needs may change over time in response to matters such as **changed economic conditions, changes in technology or operating procedures, more detailed site investigations or simply because a permit holder has changed his mind.** Being able to amend a permit avoids the need to reopen all the issues associated with the permit and focuses only on the amendment itself. It also avoids the proliferation over time of permits for different aspects of the use and development of a single site.’* (Our emphasis).

In the case in question the Tribunal further developed that theme when finding in favour of the applicant:

*‘There has been a legislative and policy shift in the approach to the amendment of permits . . . Section 87 (I. d) should be read more broadly . . . it does not require the material change of circumstances relied on by an applicant permit holder. . . nor place an upper limit on what might be amended [ save that it must be a modification rather than a transformation]. The applicant's change of mind as to what constitutes the best development and use of the site . . . is sufficient to trigger an application to amend the permit . . .’*

As the West of Elgar Residents Group (WERA) representative commented: ‘A resident who is concerned about the marketability of his home (when an adverse structure is applied for next door or nearby) is not allowed to claim this at VCAT and certainly not to use it as a reason to request an amendment!’

## **State Parliament and Planning**

On Friday 27 July 2007, David Morrison and Aaron Baker represented the BVRG at a meeting with the Victorian Minister for Planning, Justin Madden, and the Planning Backlash Network (community groups). The mood of the meeting was tempered by the resignation earlier in the day of the Premier, Steve Bracks, and Deputy-Premier, John Thwaites.

The Minister set aside three hours to hear presentations from more than 17 residents’ groups from metropolitan Melbourne. The presentations focused on undesirable planning impacts of *Melbourne 2030* in their neighbourhoods.

A number of recurring themes cropped up from the various groups:

- Lack of structure plans and therefore little local say in development outcomes;
- Lack of height limit controls;
- Substandard development dressed up as student accommodation;
- Loss of open space and canopy trees;
- Aged care facilities in unsuitable locations;
- Development outside the activity centres that belong within;
- Need for clarity and certainty through prescriptive measures.

The Minister thanked the groups for their presentations and assured them that he was taking an open approach to his new portfolio. He didn’t however commit to including community representatives on the *Melbourne 2030* Audit.

## **National Tree Planting Day**

It was great to see so many volunteers, including many BVRG members, out in the winter sun today (Sunday 29 July) planting shrubs and trees in the parks and reserves in Blackburn. We all share the concern about the thinning canopies around the city and it is heartening to see families, young people and the not-so-young with their buckets and spades making sure that hundreds of plants are well dug in and watered. Congratulations to all the Advisory Committees of Council who organise most of the

work. And congratulations to the individuals who took the opportunity to join the community action.

### **Blackburn Library Precinct**

As previously reported, BVRG representatives participated in the recent Feasibility Study which Council conducted in order to canvass views on the possibility of changes to the community facilities available in the Library/Morton Park area. As you may be aware the consultation process has now concluded and the sole option to be presented to Council is to develop a multipurpose community room in the Branch Library. This outcome acknowledges what the Study describes as the high value the local community places on the existing open space, trees and low scale buildings in the precinct and concerns about the loss of such features plus the increase in traffic, parking and access problems which would accompany any larger scale development.

### **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).

### **Committee Members**

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