

February 2013

WERA Newsletter
West of Elgar Residents' Association Inc.
www.wera.org.au

VCAT Fees are coming

The Government released in January a proposal to increase fees at VCAT. The objective of the proposed regulations is to ensure that users of VCAT make an appropriate contribution to the costs incurred in adjudicating their matters which:

- Recognises that the work of tribunals yields a mix of private and public benefits;
- Ensures that user contributions reflect this mix; and
- Ensures that user fees do not prevent access to justice for users.

Under the *Planning and Environment Act 1987* 3,260 were standard claims, 516 were heard in the Short Cases List and 97 were heard in the Major Cases List. VCAT Expenditure on Planning & Environment 2011-12 was \$M8.84 or 22.4%; a current cost recovery of only 15.8%.

The Regulatory Impact Statement notes that VCAT should “... *not rise to levels that effectively restrict access to it by people who have relevant disputes that require resolution. The degree of price sensitivity of VCAT users can be expected to vary significantly according to the nature of the dispute in question.*”

VCAT's purpose is to provide Victorians with a low cost, accessible, efficient and independent tribunal delivering high quality dispute resolution. We aim for service excellence by being cost effective, accessible, informal, timely, fair, impartial and consistent.”

The proposed regulation will incur for a resident objector a charge of ~\$700.00 to participate in a hearing and an additional ~\$1600 for 2nd and each other day of a hearing. How can this be equitable in cases where:

- a) Residents are supporting Council at a hearing where Council has refused a permit but the developer has appealed and hence residents are FORCED into further expense; i.e. time to prepare a submission; time off work; child minding; city parking fees.
- b) Residents often provide their evidence on Day 1 of a hearing but developers generally engage three (3) or more expert witnesses who take up endless amounts of time in subsequent days with statements that inevitably support the plans; *albeit often amended just prior to hearings and during hearings.* For a resident to be able to participate fully they have to be present on the subsequent days of the hearing to cross examine the experts who generally do not have local neighbourhood knowledge.

- c) Individual resident objectors will not be considered as a group and hence however many residents object they will **ALL** be required to pay both application and days of hearing fees. Why can objectors not be heard under one fee as presumably applies to the developer's *team of experts*?
- d) Residents are charged for the Tribunals site and neighbourhood inspection time which is often undertaken during the hearing? WERA supports that inspections are undertaken during the hearing.

The money developers are allowed to spend in this *accessible* court is the major factor in making the entire planning appeals procedure so lengthy and expensive. Increasingly the developers are overseas based and engage a local planning business to prepare the application. Even before permits are issued or VCAT proceedings are conducted the proposed residences are being SOLD off the plan to overseas investors most of whom then rent out the investment.

The process we would like to see in planning disputes is that each party to the appeal either self-represents or employs one person only to persuade the Member that theirs is the point of view that complies with the objectives and standards of applicable Planning Schemes. Cases would be shorter, cheaper and justice would not only be done but it would be seen to be done in such a level playing field if this were to happen.

Our perception of the Governments proposed VCAT fee increases is that it is a somewhat devious way of discouraging residents from joining appeals and hence cutting down the overall number of appeals and waiting times for appeals to be heard.

WERA would consider a proposal for a modest fee of ~\$100.00 for residents to participate in a hearing but no charge for subsequent days of a hearing. We have in our submission urged the Government not to proceed with the proposed fee increases. They constitute a financial barrier for residents and residents' groups and are yet another barrier for them to negotiate in seeking some degree of fairness in the planning process.

If the Government allows the proposed fee increases, the broader Victorian community which it purports to represent, will not be seen or heard at VCAT. We will however be seen and heard at the next State election.

Whitehorse Neighbourhood Character Statement and Housing Strategy Review

Council is reviewing the Whitehorse Housing Study and the Whitehorse Neighbourhood Character Study because the last review was in 2003 and also coincides with the Governments proposal for Planning Zone Reform.

The Council has:

- Concerns regarding the quality of recent residential development and passed resolutions to request amendments to the Whitehorse Planning Scheme to require the minimum lot size for new subdivisions to be increased to 320m², reduce the site coverage and hard surface coverage within the bush suburban areas, require an increase in the size of private open space areas per dwelling in new residential developments, and to modify the standard ResCode provisions to address these matters.
- Each request to prepare and exhibit a planning scheme amendment requires the approval by the Minister for Planning. On behalf of the Minister for Planning, DPCD officers advised that Council needs to provide further evidence about the impact on future housing capacity before it could support consideration of any planning scheme amendments. In particular, DPCD noted that the Housing Study was produced in 2003. It requires updating to reflect current conditions and trends and to address emerging State Government strategies, policies and new statutory tools. The Council is anticipating the number of households to be accommodated in Whitehorse is expected to grow given smaller household sizes, more diverse housing needs and ageing population.
- To respond to the anticipated changes to planning zones, including the new residential/mixed use zones. Council is including its Neighbourhood Activity Centres in this review (excluding those which already have structure plans in place). Finally, Council hopes the Review will inform its response to the development of the State Government new **Metropolitan Planning Strategy for Melbourne** (see below) both of which will be released during 2013.

Consultants have been engaged

- to update the Neighbourhood Character Study 2003, so it reflects existing characteristics and preferred future built and landscape character;
- to update the Whitehorse Housing Study 2003, to ensure that it identifies the key housing needs for Whitehorse, based on an understanding of the current characteristics of the Whitehorse community future projected population growth and change, and taking into consideration development and construction feasibility, to ensure that the housing needs are likely to be delivered and
- to consider, for the first time, the housing opportunities presented within the various neighbourhood activity areas. These are the majority of the local strip shopping or enclosed retail centres which are located across Whitehorse, many of which have already experienced development pressure.

The consultants are to review the Neighbourhood Character Study and assess the Neighbourhood Centres as the first step, in order to determine the preferred character outcome for these

locations. They are reviewing the individual character statements within Whitehorse Neighbourhood Character Study 2003, as well as the logic underpinning the character area boundaries, and examining and categorizing the different neighbourhood centres, in order to set broad built form guidelines for them.

The consultants will then review the capacity for additional housing across the municipality, considering the scale of development that can be achieved within the higher order activity centres, the feasibility of different types of development outside these areas (to address the diversity of housing needs required), and the likely achievement of these outcomes, considering the preferred character outcomes for these locations.

These processes will come together to recommend any modifications to the preferred locations for more housing change, natural housing change, minimal housing change, updated directions on elements such as the siting, form and scale, and landscape outcomes for new housing developments across the residential areas, and neighbourhood activity centres in Whitehorse.

An external reference group of 15 members has been convened comprising community representatives and individuals. The group includes representation from the 5 council wards. WERA is representing the Elgar and Riversdale Wards. The first meeting of the group was held late last year where initial submissions on the key issues in relation to neighbourhood character and housing for particular wards were discussed.

WERA's submission raised concerns about large scale apartment developments located (and supported by VCAT) in local residential streets characterised by low density housing. WERA also identified concerns with the current Neighbourhood Character Statements, given that these deliberately avoided prescriptive planning standards (e.g. number of metres setbacks from front and sides) in favour of general descriptions of character types such as "garden suburban" where none of the identified character elements is specified in measurable terms enforceable at VCAT.

The result is that in VCAT neighbourhood character is generally set aside in favour of the Melbourne 2030 policy requirements of higher density development in order to meet increasing demand for accommodation in middle ring suburbs. WERA believes that if Neighbourhood Character Statements are to preserve the most desired characteristics of our neighbourhoods they must be enforceable through variations to ResCode.

Community consultation

Between January and April 2013 the Council will be seeking feedback on its revised draft neighbourhood character statements and neighbourhood activity centre guidelines. The documents are attached to the Council meeting agenda 18 February 2013 which can be viewed on [www.whitehorse.vic.gov.au/Council meetings](http://www.whitehorse.vic.gov.au/Council%20meetings).

There will also be a chance to contribute to the revised housing strategy. Community input will be communicated through the External Reference Group and through the use of a specific website for the project which is advertised more broadly across Whitehorse.

Between May and July 2013 Council will begin broader consultation on its revised Housing Strategy and the revised Neighbourhood Character Statements.

Commentary:

WERA will actively participate in the consultation processes on the revision and redevelopment of these two important local planning documents. We will press for more prescriptive local planning standards to support the implementation of our preferred Neighbourhood Character Statements. This will require the Council to make a case to the Minister for Planning for a variation to the current ResCode planning standards which set the minimum standards for residential development. WERA will also focus on the limiting the expansion of higher density development in residential streets with a view to:

- locating these developments in more appropriate mixed use residential zones near transport and other services
- developing more prescriptive and higher quality standards and guidelines to be incorporated in the local planning framework for dual occupancy, multi-unit and apartment developments and for the protection and restoration of the exotic and indigenous trees which have been systematically removed from our streetscapes in the name of development.

Have your say:

As well as participating in the general community consultations on these planning documents as outlined above, WERA will host its own consultations with our members, through our WERA website and an online survey of our members. We will seek your ideas and comments on the Neighbourhood Character Statements, Neighbourhood Activity Centres and the Housing Strategy and the best way to ensure that we protect those features of our local neighbourhood we enjoy and limit development which undermines those features and reduces the amenity for current and future residents.

Everton Grove, Surrey Hills Consultation Forum

An application for 8 - 14 Everton Grove, Surrey Hills proposes 6 two-storey townhouses and a three-storey complex of 20 apartments. Over 100 objections to the proposal have been received by Council including WERA's objection that it is an overdevelopment of the site in an area of mixed detached houses and fails to respect Neighbourhood Character in that proposed building bulk does not reflect the dominant built forms in the street.

A public consultation forum was arranged by Council on Wednesday 13 February to hear from objectors and the developer. 56 objectors and 3 representatives of WERA attended the meeting chaired by Cr Andrew Davenport, attended by Cr Sharon Ellis, and Whitehorse Town Planners. Representatives of the developer (Gardencity) and its land-owning partners were also present. The Forum was moderated by an independent facilitator.

The main concerns raised by residents were:

- The negative impact of the proposed development on neighbourhood character
- Inappropriateness in relation to Council and State Government residential policy.
- Inappropriate building size, bulk, scale, appearance as contrary to the streetscape.

- Absence of vegetation.
- Lack of immediate access to Shopping Centres and public transport.
- Street parking issues and traffic flows in Everton Grove and surrounding streets

Towards the end of the forum the developer's representative offered to revisit the plans and to hire independent witnesses to review traffic, vegetation and other issues. The proviso was that Whitehorse Council and the residents accepted those experts and did not question them when the matter went to VCAT! This seemed to sum up where this proposal is headed. It will come before Council probably in April or May.

WERA members in attendance felt the major outcome was that Councillors, Council staff and developers in attendance were in no doubt as to the residents' opposition to this proposal.

Renown Street, Burwood Consultation Forum

An application for 11 Renown St, Burwood proposes 5 two-storey townhouses on a single allotment. Many objections to the proposal have been received by Council including WERA's objection that it is an overdevelopment of the site in an area of a lower density; fails to respect Neighbourhood Character in that total building bulk does not reflect either the older or newer built forms in the street and in-appropriate concentration in use of site which constrains both on-site parking accessibility and access into/out of Renown Street.

A public consultation forum was arranged by Council on Monday 25 February to hear from objectors and the developer. 12 objectors and a representative of WERA attended the meeting chaired by Cr Andrew Davenport. A representative of the developer and the land-owners were also present. The main concerns raised by residents were:

- The negative impact of the proposed development on neighbourhood character
- Inappropriate building size, bulk, scale, appearance as contrary to the streetscape.
- Intended moonscaping of the site and limited landscaping re-vegetation.
- On-site and street parking morning; evening and when the Church is used.
- Higher density being more appropriately located north side of Burwood Highway and at the local neighbourhood activity centre at corner of Burwood Highway and Station Street.

The developer's representative seemed inclined to revisit the plans but the owners remained mute. It will possibly come before Council in April.

Metropolitan Planning Strategy for Melbourne

In October 2012 the Minister for Planning released a Discussion Paper prepared by a Ministerial Advisory Committee established to provide oversight over the preparation of the new

Metropolitan Strategy, chaired by Prof. Roz Hansen. The new Metropolitan Strategy is to manage Melbourne's growth and change over the next 20 to 40 years and is to be a replacement of Melbourne 2030 and its update Melbourne@5 Million.

The Discussion Paper has nine principles to inform the Metropolitan Planning Strategy being:

- Principle 1: A distinctive Melbourne
- Principle 2: A globally connected and competitive city
- Principle 3: Social and economic participation
- Principle 4: Strong communities
- Principle 5: Environmental resilience
- Principle 6: A polycentric city linked to regional cities
- Principle 7: Living locally – a '20 minute' city
- Principle 8: Infrastructure investment that supports city growth
- Principle 9: Leadership and partnership

The first five of these principles are described as identifying the outcomes the Strategy needs to address. Principles 6 and 7 are described as what needs to change and the last two principles are described as how to make it happen in order that these outcomes are achieved.

Many of the issues are beyond WERA's brief but we urge members to read the strategy and make a submission at least on those aspects that are of most interest to you. Whilst we concur with the issues there is absence of a discussion of how a growing population is to be sustained; e.g.

- Water – more desalination plants;
- Food – land and water demand versus availability;
- Energy – from gas resource development or a nuclear plant in Westernport or Gippsland? Renewables such as solar on every roof be it manufacturing buildings; warehouses; offices; shops and shopping centres; residences
- Employment - growth of the service economy as manufacturing and rural employment declines.

We can wonder if our children and grandchildren will view us in the same way as we remember and admire that our parents' generation survived two world wars and a depression with a much smaller population.

The Government has released a "Community Conversation Toolkit" to assist community groups and others prepare and lodge their own submissions. This toolkit is available on the DPCD website at the following address: <http://www.planmelbourne.vic.gov.au/getinvolved/events> Submissions are to be lodged with the Department of Planning and Community Development by 28 March 2013. There will be additional opportunity to comment once the actual draft Metropolitan Strategy is released by the Minister.

As with the current metropolitan strategy, Melbourne 2030 and Melbourne@5 Million, the new Metropolitan Strategy will be an overarching State Policy. As such councils and agencies across the metropolitan region will have to have regard to the policy directions contained in that document. Until the actual new Metropolitan Strategy is completed and approved by the Minister, the full extent of the implications that this may have on Whitehorse from a policy

perspective will not be known. The Council meeting minute 18 February 2013 [www.whitehorse.vic.gov.au/Council meetings](http://www.whitehorse.vic.gov.au/Council%20meetings) records their response to the strategy.

Planning Zone Proposals

WERA has heard that over 1800 submissions were made to the State Government proposed changes to planning zones. These submissions are presently being reviewed for the Minister by a committee chaired by Geoff Underwood whom also chaired the review of the Planning & Environment Act in 20011-12. Details of WERA`s submission were commented upon in our November 2012 newsletter.

Submissions were understood to be accessible on the www.dpcd.vic.gov.au but have yet to appear. Why in our modern democracy are submissions to proposals by our State Government not available to all. WERA has put this question to both Box Hill and Burwood State MP`s, and the DPCD, but there has been NO RESPONSE. The Council`s Submission to the Proposed New Planning Zones can be accessed on www.whitehorse.vic.gov.au/Council/meetings meeting 17 September 2012 Page 65.

We expect an announcement soon on the review of submissions – an Easter surprise possibly?

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President Geoff White 9898 8205; Secretary Judy Sharples 9890 8038.