

West of Elgar Residents' Association Inc.

Review of Victoria's Planning System

An Advisory Committee set by the Minister for Planning has consulted with the community and industry to consider all parts of the planning system. The Committee is considering the whole planning system including the provisions of the Planning and Environment Act 1987 and how it works; the State and local policy provisions; the operation of zones and overlays; the use of incorporated and reference documents; and the way permit applications and rezoning requests are dealt with.

Submissions to the committee including WERA's number almost 500. These submissions can be read on the Department of Planning and Community Development website www.dpcd.vic.gov.au.

WERA's submission emphasised that:

- Building standards, land use zones and residential development planning codes need to respond to taxing carbon production; minimising energy and water consumption to achieve sustainable land use.
- The green wedges should have legislative protection under the Planning and Environment Act because societal need for their use in passive activities is significantly greater. Green wedge areas continue to be lost for freeway and other development.
- There is a need for a proper boundary and a land use strategy as densification of the current outer suburbs cannot occur until the appropriate transport corridors, infrastructure and services are provided to these communities.
- Residential communities need certainty; i.e. that higher density development is to be restricted to such activity districts (centres), and that these districts have distinct boundaries such as the Box Hill Activity District.
- Increased responsibility for planning decisions needs to be returned to local councils, whose planning schemes support neighbourhood character and amenity. Councils should include sustainability in their planning schemes. Councils should also be able to levy ALL subdivisions with contributions going directly towards improved infrastructure that is required by this increased densification.
- *Final responsibility for single dwelling applications should return to local government, and be subject to the same local planning laws, including neighbourhood character and amenity. Such applications should also be open to appeal at VCAT*—this is not currently possible, as the Building Commission has no real power, as WERA has discovered.
- WERA acknowledges that some of the proposals put forward would mean that local councils will require some assistance in their planning areas; but there should be less reason for 'applications for review' at VCAT.
- VCAT should assess only the plans that have been refused by Council, not any subsequent amendments by the applicant. VCAT should not amend plans by acting as a 'de facto' planning authority. Expert witnesses must be independent.

Here we go again

The residents of Boisdale Street, Surrey Hills and neighbouring area will again be at VCAT on the 14 December because the developer is appealing Council's refusal to issue a permit. Initially 36 dwellings were proposed and then, after Council's refusal, amended plans for 32 dwellings were sent to the neighbourhood objectors. Even the revised proposal is totally inappropriate development for this quiet parkland area and the neighbourhood is again focussed on getting it rejected by VCAT.

There are three 3-storey building blocks overlooking the park which is privatising the park and a basement carpark beneath the floodline. There are also three 2-storey buildings across the front of the site with a very dangerous car ramp entry and exit next to the park entrance path. VCAT recommended last time that the ramp be elsewhere but the proponent has again presented the ramp in this very dangerous position. Objections to the Amended Plans need to be forwarded to VCAT no later than 28 November. Contact Marie 0425 754 266.

18 Florence Road, Surrey Hills: 45 dwellings

WERA has lodged an objection to this application which proposes to demolish the existing single level nursing home and construct 2 storey apartment buildings significantly extending the building footprint with overlooking of private space in adjoining units. The Council has also opposed the development which is to be appealed at VCAT.

WERA submitted that the proposal before Council:

- Is an overdevelopment of the site in an area of mixed single level detached houses and units.
- Intensifies demand for open space on the site when new open space is not available in the neighbouring area.
- Is not on a principal transport route or employment corridor in Melbourne 2030.
- Distance to public transport in this hilly area is likely to limit walking and increase demand for car parking on the site.
- Nearest local neighbourhood activity centre being Surrey Hills in the City of Boroondara is presently categorised as Level 3 and subject only to incremental change primarily due to physical and heritage constraints present in the centre and the desire to focus development in centres higher up in the hierarchy and the need to maintain diversity in the hierarchy of activity centres.
- Fails to respect Neighbourhood Character in that proposed building bulk does not reflect the dominant building forms in the street.
- Inappropriate concentration in use of site because of the narrowness of access into/out of Florence Road.

91 Warrigal Road, Surrey Hills: 2 level plus basement 9 dwellings

WERA and the neighbourhood were extremely disappointed that VCAT granted a permit for this proposal that was refused by Whitehorse planning department and objected to by 49 neighbouring residences and WERA. This 908 m² site presently has a single storey dwelling and a mature oak tree. Although the tree is to be retained we are concerned that root damage will occur with excavations and loss of soil permeability post construction may trigger decay.

Although the site is zoned for natural change the planning office considered that it was not on a principal transport route; an intensive development contrary to the objectives of natural change set backs and contrary to the development pattern in the neighbourhood.

The local resident objections included:

- Failure to respect Whitehorse Planning Scheme's Neighbourhood Character and Housing Strategies. - Any development at the site under review should be 'modest' infill. Yet, here there would be 9 apartments cramped into approximately 700 sq m. facing into Chester Street, which presently only has houses. All the submissions claimed it was an overdevelopment of the site, with accompanying visual bulk. In addition, some of the apartments would be only 50-60 m². [the size of a large double garage].
- Precedents in the western end of Whitehorse where applications for smaller numbers of units had been refused or reduced on the basis of the neighbourhood character and housing policy.
- The two tiered [stacked] underground car park presented a problem for several reasons. The depth and extent of the excavation required major pruning of both the roots and canopy of the oak tree, and threatened its long term survival. The steep angle of the ramp and transition to the road would cause problems.
- The oak tree was to undergo extensive pruning of its roots and canopy, which concerned the Whitehorse arborist, and other objectors.
- Overshadowing problems existed with the building to the south.

Despite these arguments, the tribunal member stated:

"The layout and massing of the built form of this proposal is acceptable.....Further I find that at a two storey scale with a massing that accommodates an acceptable degree of articulation and separation, the proposal is one that is modest.....The levels of impact from the proposed building to habitable room windows [of the building to the south]] will not be unreasonable ... [and]... The main recreational areas of the [neighbour's] yard remain unaffected by the small increase in shadowing..."

VCAT's reasons for the decision (*Ammache Architects v Whitehorse CC [2011] VCAT 1909 (30 September 2011)*) also included:

- Scale of building height and massing is not excessively larger than surroundings form and sit comfortably with surrounding scale and robustness of built form;
- Provides an acceptable degree of vertical and horizontal articulation of walls along sensitive residential interface of Chester Street to lessen perception of building mass;
- Provides a setback of 9m to Warrigal Road and varying setbacks from 3.2m to 8.5m from Chester Street; i.e. respectful of the surrounding setback patterns and staggers the building form into Chester Street; and
- Provides open front areas in which garden settings for the buildings can be established to a similar extent and structure to surrounding gardens.

There was considerable neighbourhood concern with the proposed car ramp to the basement however VCAT accepted the expert witness assessment that:

- It will be practical for cars exiting the site to slow and stop before the footpath on a grade of 1:4 (25%);
- Propping at transition before the footpath provides sufficient sight line to see pedestrians; and
- Cars can prop within the wide nature strip to assess traffic conditions before proceeding into Chester Street.

In regard to the ramp grades, VCAT noted that the expert evidence is correct in that this proposal is exempt from the requirements of Clause 52.06. Nevertheless the requirement under WHPS Clause 55.03-9 is for access that “*is safe, manageable and convenient ... and Nothing prevents reference being made to the Australian Standard, as it is an incorporated document in the Scheme however that nothing in Clause 55.03-9 requires adherence to it*”. (!!!)

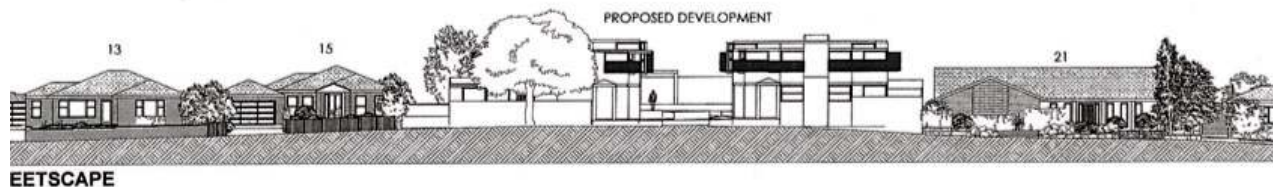
The expert did agree with the residents that in order to reduce the risk of a car reversing up the ramp, it is better to remove any intercom entry system and rely on automated entry operable by the residents for their own entry or exit or that of any visitors.

17-19 Renown Street, Burwood

This is another application for 9 units; but these are larger, being 2 and 3 bedroom units with double garages, to be erected on a double block. There were 18 objections and a community consultation meeting.

When the matter went before Whitehorse Council, it was supported by Council Officers, but voted against by Council on the basis of its amenity impact on surrounding properties. In particular, it was stated to be an overdevelopment of the site, presented unreasonable visual bulk, and so was inconsistent with neighbourhood character.

The objectors did not contact WERA until the matter was to go before VCAT. Although we were therefore unable to make a submission on their behalf, we worked with them to develop their case. At the time of writing, the main part of the Hearing has been completed, but there is a final submission to be put forward, so this will occur later in November.



The streetscape shows how different the proposal is from the prevailing neighbourhood character

Open Space in Metropolitan Melbourne

Melburnians major concern with increasing urban density and expansion is that it will negatively impact on the quantity and quality of Melbourne’s public open space and its remaining biodiversity values. This was one of the key concerns expressed by the community during the Victorian Environmental Assessment Council’s (VEAC) extensive Metropolitan Melbourne Investigation, which included the most comprehensive stocktake of Melbourne’s public land and open space.

The investigation, requested by the former Minister for Environment and Climate Change in 2008, culminated in August with the release of a final report. The report provides government with independent

information on the contribution of Crown land and other public land to Melbourne's liveability, with 24 policy/strategy recommendations and 21 public land use recommendations. A major recommendation was that a new metropolitan open space policy and strategy is required to respond to growing demands on Melbourne's open space network.

The VEAC study brought together for the first time an inventory of public open space on land owned by the Victorian Government and local councils across most of metropolitan Melbourne, providing details on the ownership and nature of more than 67,000 hectares of public open space in 29 municipalities. The inventory showed that public open space is not evenly distributed across municipalities and that established municipalities generally have less open space per capita than outer and growth municipalities. The Council urged the government to maintain the inventory and use it to inform its future metropolitan strategy and to also make it available to the community.

The study found that public open space per capita is likely to decrease over time for almost all municipalities, and that existing open space will need to be protected and new open space provided so that Melbourne's open space network can meet the needs of its growing population. WERA supports that recommendation and notes that the VEAC confirmed the data on Whitehorse in a 2002 report by the Australian Research Centre for Urban Ecology (Arcue) which placed Whitehorse number 6 in the worst 10 municipalities of Greater Melbourne in the context of availability of open space, with 54.29m² per person compared with the municipality of Melbourne with 234.7m² per person and an average across the whole of Greater Melbourne of 149m² per person.

In 2006 the Whitehorse council formulated an Open Space Strategy that was adopted in November 2007. Whitehorse's study showed that in 2006 the average open space allocation across the whole of Whitehorse was only 46.2m². Some suburbs in the western end of the municipality fall well below this average figure; e.g. Mont Albert 7m² per person, Surrey Hills 5m² per person, Box Hill South 24m² per person.

WERA is very aware of this problem and participated actively in the development of the Whitehorse Open Space Strategy with a view to addressing these inequities. We strongly supported Council's commitment to protect and extend public open space in Whitehorse given the increasing density experienced in this suburb and the loss of a '*sense of openness*' as the progressive removal of mature trees and gardens for large single dwellings; sub-division and apartment developments occurs.

Student contact

Since WERA has developed its web site, the number of students approaching us for assistance with their research projects has increased.

They are mostly tertiary level students doing research projects on areas such as environment, history or planning. In the past year the proposed Box Hill Tower, the Federation Brickworks site and Gardiner's Creek Reserve have been the main enquiries.

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