Victorian Civil & Administrative Tribunal

Administrative Division

Planning & Environment List

VCAT Reference No: P2261/2015
Re: Permit Application – City of Whitehorse no. WH/2015/346

Application for Planning Permit for Use and construction of approximately 116 - 120 Place Child Care centre, Vegetation removal, and alteration of access to a road Zone, Category 1.

Applicant: Simgar Pty Ltd

Subject Land: 199 Canterbury Road, Blackburn. Victoria 3130.

VCAT Hearing commencing 10 February, 2016.

Prepared by:

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Introduction – Statement of Grounds for objection specific to vegetation component including:

The Blackburn and District Tree Preservation Society Inc. objects to the removal of mature, significant trees and vegetation from 199 Canterbury Road and the subsequent over-development of the site that is contrary to the provisions of the Whitehorse Planning Scheme including:

- Clause 21 (Municipal Strategic Statement) - Clauses 21.05 (Environment) and 21.06 (Housing)
- Clause 22 (Local Planning Policies) - Clauses 22.03 (Residential Development) and 22.04 (Tree Conservation)
- Clause 32.09 (Neighborhood Residential Zone) with particular reference to the Guidelines and Schedule for NRZ1 ‘Bush Environment’
- Clause 42.03 (Significant Landscape Overlay) with particular reference to the SLO 2 Schedule and Guidelines.

At least nine significant trees have been removed from the site in recent years and a requirement for Council's approval for their removal was that the trees be replaced with suitable species. However, only four Eucalypts were re-planted and the tree society contends that an additional five trees are required just to replace those lost a number of years ago. This underlines the low value placed on the vegetation by property owners.

With the site abutting the Masons Road Retarding Basin the wildlife corridors that form part of this area need proper management and enhancement, not destruction. Removal of more protected trees will further degrade these corridors that are essential for the protection of the fauna whose habitat is under enough stress now.

The proposed development and associated non-porous surface areas represent real and continuing threats to the viability of the trees to be retained on the site in addition to those trees the proponent plans to plant on the site.

Preamble: The Tree Preservation Society

The Blackburn & District Tree Preservation Society (B&DTPS) of over 100 members was formed more than fifty years ago after the residents became concerned at the loss of the treed amenity of the newly developed area in which they had chosen to live. People gained affinity with the place with its natural landscape and were prepared to fight to preserve it.

The Society has maintained that emphasis in the importance of preserving that landscape. It continues to encourage sensitive development with the protection of the environment paramount. It became the voice of many, offering expert advice and information, including to Council, to retain the
treed aspect as well as protection for the remaining flora and fauna.

Running seminars, conducting workshops and many hands on activities to educate and encourage a vision that helps to embrace and enhance the natural landscape in which Whitehorse is renowned.

Highlighting corridor enhancement and creating biolinks has become the platform for many of our submissions required in the protection of the precious remnants left.

The Blackburn & District Tree Preservation Society Inc. and its many concerned residents and members were crucial in the original campaign that lobbied for and were ultimately successful in attaining tree and vegetation controls for Blackburn and surrounding suburbs in the City of Nunawading (now the City of Whitehorse) in the 1980s. Residents who moved into this very special part of Blackburn realised that something needed to be done to impose protection and to prevent inappropriate development in this very special area that contains significant urban tree canopy and indigenous vegetation. This process was one of the earliest examples of the establishment of tree and vegetation protection controls within Victoria.

The scheme has undergone several name changes over the years from the early Landscape Development Scheme to the Special Residential Zone (which encompassed 6 Blackburn streets originally, then 59). More recently many more neighbourhoods have been added in suburbs such as Mitcham, Forest Hill, Blackburn South, Vermont and Mont Albert North.

These controls were brought in to preserve and enhance the natural character of Blackburn by controlling the wholesale removal of (largely) indigenous trees and vegetation in the name of residential development. It became clear that the majority of significant mature trees were in private gardens and that it was imperative that tree controls were implemented to protect both public and private vegetation as well as to provide a reasonable corridor for associated birdlife and habitats for small marsupials and reptiles. This significant landscape overlay (SLO) is an area of minimal change surrounding significant environmental assets such as the Blackburn Lake Sanctuary and linear parklands and waterways such as the Blackburn Creeklands, Masons Road Retarding Basin and Wandinong Sanctuary (see below for map of SLO-2).
Ultimately, by the turn of the century these areas became Significant Landscape Overlays (SLO 1 through 5) that are now an integral part of the Whitehorse Planning Scheme.

**The Subject Site - 199 Canterbury Road, Blackburn**

Currently the site has a 2 storey house which has a small building envelope which is evident in the aerial photos in the report from SJB Planning. Also, as mentioned in this report, the house is largely screened from the Canterbury Road frontage by existing vegetation. The site is surrounded by residential homes that are heavily vegetated, especially on the western side and it is very close to Lagoona Court, a quiet cul de sac which is very heavily vegetated.

It’s situated within the NRZ-1 which equates to a Bush Environment Area as described in the Whitehorse Planning Scheme, as well as being within the Significant Landscape Overlay (SLO2). There has been no regard in recent years for the replanting of trees lost or damaged.

**Tree Removal Permit in July, 2008**

Until 2008, this property was densely treed. In July, 2008, City of Whitehorse issued a planning permit for removal of 9 protected trees and some pruning of others, with a condition of the permit by the City of Whitehorse to include the compulsory planting of 8 trees capable of reaching 15 metres from the following species: Yellowbox, Mealy Stringybark, Eucalyptus ovata, Narrow Leave Peppermint or Long Leaved Box. In 2009, only 4 Eucalypts were planted and after 7 years of growth, they are still deemed as “juvenile trees” in the arborist’s report, being only 3 metres high. The 2 on the western boundary have been identified as worthy of retention but the other 2 are in the North West corner and are described as “of little note.” These 2 small
eucalypts are surrounded by suckers from the roots of the Golden Elm (Tree #22).

Trees replanted after tree removal can take over 25 years at least to provide some form of canopy. There are 20 remaining trees on the site, plus the 4 saplings. In Mr. Galbraith’s arborist report he is recommending the retention of the 2 Eucalypts on the western boundary, however their size puts them at threat during construction.
The Proposal:
- To build and operate a large commercial development (116-120) childcare centre within the NRZ-1 and within the Significant Landscape Overlay-2 (SLO2).

The Significant Landscape Overlays set out the requirements that underpin the nature and key elements of landscape and the landscape character to be achieved as stated in the Whitehorse Planning Scheme. These requirements include permit provisions for building and other works (e.g. fences), vegetation protection, built form (site coverage, height, setbacks, pervious surface area, fence height and type etc).

Reasons for objection to the proposed development at 199 Canterbury Road, Blackburn 3130:

1. Incompatibility with the Zoning and the SLO-2

The purpose of this submission from the Blackburn and District Tree Preservation Society is to object to the proposal to build and operate a large commercial development being located in a zone and in an overlay that is contrary to this proposal, namely the NRZ 1 (Bush Environment) and the SLO. This is in a Limited Change Area and a Significant Landscape area.

In the Municipal Strategic Statement Clause 21.06 (Housing) it states that Tree Preservation and Environmental Integrity is considered the highest priority for this area.

In clause 22.05 of the City of Whitehorse Municipal Strategic Statement, it also states that “non residential uses being in existing residences rather than in purpose built facilities” is more acceptable for commercial operations.
Whilst there has been an attempt to comply with the conditions and restrictions of the zone and overlay, this kind of development is incompatible with these planning controls.

2. The scale and intensity of the development is inappropriate in the SLO-2

The overdevelopment of the site and the lack of garden areas will put stress on existing trees and will seriously hamper any future planting on the site. The potential to revegetate would be dramatically reduced due to the large building footprint. The actual building takes up 38% of the site, with at least another 28% of the site being a mix of permeable and non permeable man made surfacing for car parking and paving, waste removal bays as well as decking and soft fall for children’s play spaces, etc. This means that over 66% is unable to be used for garden soil for planting. Over time, there will be rapid compaction of the parking bays with the parking and driving of cars and waste and delivery vans totaling over a 136 vehicles per day (20 staff and 116 parents) utilising the car park twice daily. Trees and underplanting cannot be achieved in soft fall where there will also be sand pits, play equipment and climbing equipment.

3. Building too close to protected trees

Existing and replacement trees will be stressed. On the western side where the indigenous trees provide broad canopy, the building is 4.1 to 7.7 metres from the western boundary and within 4 metres of protected trees, all surrounded by paving, decking and soft fall.

4. This proposal is non residential and is inconsistent with surrounding neighbourhood character

The Applicant’s Town Planning Reports (both Ratio and BJB) describe the area as “mixed residential and non residential usage along both sides of Canterbury Road, close to the site.”

However, it is important to point out that on the north side of Canterbury Road, which is in the SLO-2 from Forest Road in the east to Lalwa Street, west of Blackburn Road, there are only 2 non residential facilities. They are the small osteopathic clinic at 213 Canterbury Road and Covenant House, an aged care facility on the corner of Canterbury and Blackburn Roads. These were both in operation prior to the SLO-2 being gazetted in 1988. No further commercial developments have been built on the Northern side of Canterbury Road, since the SLO-2 in 1988 in order to protect the area. There are 2 side streets, namely Deanswood and Drummond Streets, opposite the site on the south side of Canterbury Road that are in the SLO-2. The south side of Canterbury Road unfortunately is not in the SLO-2 and hence a medical
precinct has emerged. However, they are primarily operating in existing residential houses.

There is a comment in Mr Twite’s Report that implies that this proposal might be acceptable because it is on a busy road frontage. However, many residents live happily amongst the tree canopy on this small stretch of Canterbury Road with its rear gardens blending with the Masons Road Retarding Basin (see below).

Recent VCAT Decisions upholding the City of Whitehorse refusal to grant permit for non residential developments in the SLO-2

- In September 2014, VCAT no. P718/2014 upheld the City of Whitehorse refusal for a place of worship on the basis that the site was in a minimal change area and the scale and bulk of the development was unreasonable in such a zone. Also that the intent of the SLO-2 seeks an outcome of tall trees in a garden setting. Further, that the planning scheme seeks to provide the development and residential community confidence in likely outcomes.

- In August 2014, VCAT no.P433/2015 refused a permit for a childcare centre at 50-52 Blackburn Road, Blackburn. The refusal was based on size and frontage and not meeting the overlay’s objective “to ensure that a reasonable proportion of the lot is free from buildings to provide for the planting of tall trees in a natural garden setting.” Also, parking for 104 place child centre was at grade in the frontage and there were too many spatial demands on the site.

These 2 proposals were similar to the current application as they were also on Main roads but located in the NRZ1 and the SLO-2.

Compare this area to the east side of Forest Road to understand the protection that this zoning and overlay provides.
The MSS Clause 22.05 Non residential uses in Residential Area: This requires the written explanation as “Why the non residential use is unable to be located in a nearby commercial zone or centre.” There is no reason why this particular proposal cannot be located at a more appropriate site that is close to other facilities that are not in this environmentally sensitive area, sites that are without the tension between duty of care to children and trees that this site poses?

Whilst there is an Australia wide shortage of childcare places, they need to be situated on more appropriate sites than in the SLO-2. There are many other sites in this municipality that are highly suitable.

5. Removal and substantial lopping of protected trees

This analysis of the proposed tree removal by no means reduces our view that the development is inappropriate in a zone aiming to protect Tree Preservation and Environmental Integrity.

The Tree Preservation Society undertook a detailed analysis of the vegetation at 199 Canterbury Road, Blackburn from the expert witness reports, including the arboricultural and Landscape reports supplied by the applicant in addition to visiting the site and adjoining residential gardens as well as the Masons Retarding Basin, to identify the location and general condition of the trees and vegetation contained on the site.

Tree removal of any 50 year old tree will take another 50 years to grow and reach the size of those being removed.

There are large trees on the site that are very significant indigenous protected trees. These are on the western side and will be impacted by the built environment.

There is agreement that there are 20 existing trees currently on the site. There is some discrepancy between Mr Galbraith’s report and SJB Planning as
to the number of trees to be removed. Counting Mr Galbraith’s report there are 11 trees for removal and retention of 9.

SJB Planning record retention of 11 existing trees and removal of 10 (page 20).

Tree Analysis of Numbered Trees: – 199 Canterbury Road, Blackburn

**Tree #2: Eucalyptus ovata** - over 50 years old. Mr Galbraith recommends the removal of Tree 2. However, this is still shown on the photo montages prepared by Mr Stephen Schutt.

A large limb fell from this tree in November 2015 and it is still visible from the road. This tree is indigenous to the area with a high habitat value with a large canopy therefore should be retained at all costs. With qualified professional expertise all the tree requires is some delicate tree surgery for the fallen limb plus weight reduction. It is in the front south-west corner and not located near any proposed buildings but offering a vegetation buffer for the built form proposed.

**Tree #5: Eucalyptus ovata** - poor management practices previously has impacted on its viability sadly and needs to be replaced. This would be happily able to provide canopy and habitat in a private garden but not in a commercial childcare centre.

**Tree #7: Lophostemon conferta** - Australian Brush box
A very healthy native and of high quality offering a buffer for the street vista and should be retained. It has a worthy of retention (WOR) value of 5 and is important for the Canterbury Road frontage. However, it is proposed for removal for the cross over driveway.

**Tree #8: Eucalyptus Leucocylon Rosea** Australian Native Tree - to be retained.
Tree #9: *Eucalyptus citriodora* – this tree is in the neighbouring property at 201 Canterbury Road and is protected and is definitely under threat, as outlined in the Council Delegate’s report. As a “last tree standing”, it has been exposed to reduced protection from high winds, unlike trees that are densely planted. It has been subjected to branch loss and Mr Galbraith states it “will need to have what is left of its western canopy pruned back heavily to minimise the risk of branch failure onto car parks.” It overhangs by 5 metres.

Tree #14 *Eucalyptus cephalocarpa* - this is a magnificent example of a mature indigenous species that requires minor attention in weight reduction and should be retained. With those works, it would have a long and healthy life expectancy. The recommendation from Mr Galbraith to lop the more easterly major branch at the 4 metre fork will take out almost 50% of its extensive tree canopy.

Eucalyptus cephalocarpa at risk of losing substantial amount of canopy
Tree #16: *Eucalyptus ovata* - a mature indigenous species requiring some minor works but with a high retention rate. A canopy tree with high habitat value.

Mr Galbraith mentions that tree #14 and #16 are susceptible to losing branches and that they require tree surgery as well as pruning of the Eucalyptus ovatas in No 1 Lagoona Court. The Eucalyptus ovatas, commonly known as swamp Gums as their name suggests, like moisture. The decking and paving around an extensive tree root system and the care and irrigation required during and after construction leaves them at sever risk of dying or at least not thriving well, being more of a danger to children.

Tree #19: No objection to removal of environmental weeds but they need replacement.

Tree #20: *Eucalyptus cephalocarpa* - scheduled for removal and is under stress. From inspection this could be relieved by the removal of the weed species nearby (Tree 19). Classified high retention value after minor works.
**Tree #21 Eucalyptus cephalocarpa** – WOR 6 high value, scheduled for retention. Indigenous tree with habitat value to be retained.

These indigenous trees, #14, #16, and #21 along with the recommendation to retain trees #2 and #20, that are scheduled for removal, offer the much needed vegetation for the wildlife corridor enhancement to the retarding basin. However, they are at risk due to the building and artificial surfacing being too close to the roots. This proposal includes the necessary lopping neighbour’s trees.

**Tree #25: Eucalyptus botryoides** - scheduled for removal. A native non-indigenous tree. It is over 5 metres high and is offering some habitat value and value to the Mason Road Basin on a denuded site.

The following retained significant indigenous trees will be threatened due to the care and attention required during construction and the fact that there is built form within 4 metres of these retained protected trees. In addition, compaction will occur and they will be stressed by the coverage of soft fall with play areas under the trees.

In summary, the Tree Society has no issue with the removal of the following trees: 5, 6, 10, 11, 12, 13 and 19.
Recommendation: To retain trees 2, 7, 20 and 25.

**6. The Landscape Plan**

The Tree Society believes that the Landscape plan for such a large site is unacceptable. The opportunity to replant is severely reduced and the open garden beds are a tiny proportion of the site. It is a plan that borrows from the landscape, relying on plantings in neighbouring properties and especially on the planting in the Masons Retarding Basin whilst requiring the pruning in those neighbouring properties.

**Revegetation in the Landscape Plan**

Mr Vernon in the Landscape plan on page 13 states there will be a total of 12 trees capable of reaching a height of 15 metres. The replanting of only 5 additional large canopy trees for the loss of 10 trees would not conform to the minimum planting requirement of the SLO-2, which is 1 large tree per 150 square metres. There needs to be **16.933 trees over 15 metres** as a minimum on this site.

Also, it is problematic to include trees that are non indigenous such as tree #1 and tree #22. They are exotic species and slow growing.
The NRZ-1 and the SLO-2 require new developments to at least reach the minimum formula of 1 canopy tree per 150 square metres, making the total 17 and not 12. In addition, the 2 juvenile Eucalypts midway along the western boundary are replacements from the last permit. The 5 large canopy trees proposed to be replanted, (Red Box or *Eucalyptus polyanthemos*) will take over 25 years to reach the height in the photo montages. Lightwoods *acacia implexa* (only 5 to be replanted) only grow to 8 metres as they are suitable for planting under powerlines and cannot be counted in the 17 required.

There is a discrepancy in Mr Twite’s report (page 20) stating that 2 trees will be planted forward or at the rear of the new front fence and the Landscape plan shows 3 large trees. We assume it is 3.

Whilst acknowledging the proposed landscape plan does include some indigenous species, it is imperative that replacement canopy trees for those removed (i.e. trees 2, 5, 6, 7, 10, 11, 12, 13, 19, 20 and 25) are indigenous and of local provenance sourced from local nurseries. In addition, the three shrubs that collectively make up #19, to be removed, must be replaced by suitable indigenous small trees and shrub species.

**Pergolas to prevent branch drop**

It is proposed in Mr Galbraith’s report that strong pergolas could be placed around the retained trees in the children’s play areas (western section) in the “unlikely event of branch drop,” especially Tree #22 for safety from falling branches. If tree branches fall, a pergola will not be sufficient to prevent severe damage to both the pergola and anything underneath.

**7. The new commercial development is adjacent to a bushland reservation: the Masons Road Retarding Basin**

This proposal abuts the Masons Road Retarding Basin. This linear parkland stretches from Lagoona Court to one property from Forest Road, which is the
area of Canterbury Road in the SLO-2. Although described by Mr Twite of SJB Planning, as a park “not identified as a local environmental asset,” this flood basin is heavily treed and is an essential bird and wildlife corridor in the SLO-2, linking with the Blackburn Lake Sanctuary, the Blackburn Creeklands and Wandinong Sanctuary. Bushland enhancement has occurred with the involvement of residents and the Tree Society over many years. In the last 2 years, the City of Whitehorse has planted over 500 trees and shrubs to enhance this natural landscape, clearly demonstrating its importance and an asset in the landscape.

This park is used for passive recreation by residents for walking, bird watching, nature photography and dog exercise. It is highly valued for wildlife.

This is an environmentally sensitive interface. The NRZ1 Bush Environment Precinct Preferred Design Response Guidelines specifically outlines design responses for adjacent bushland reservations and adjacent creeklands as Sensitive Landscape environs.

Neighbourhood Character Guidelines for properties adjacent to parks and waterways

“Buildings and hard surfacing will occupy a very low proportion of the site.” New developments require minimisation of site coverage adjoining sensitive landscape environs.”

“The design of the building should provide a positive interface with any adjoining parks and open spaces”.

“Properties abutting and close to creeks and lake environs will contain more
indigenous trees and shrubs that act as wildlife corridors.”

This Landscape plan borrows the planting in the Park with only 1 large tree surrounded by a park bench on the north west boundary and a tiny garden bed for any other planting. This is not compliant with neighbourhood character and is unacceptable. It adds no value to the parkland and relies on the parkland planting to provide the buffer.

Birds and wildlife

In the SLO-2 it states "The SLO-2 contributes to the area “as a valuable bird and wildlife corridor.” It aims “to ensure a reasonable proportion of a lot is free of buildings to provide for the planting of tall trees in a natural garden setting.” More dense planting is encouraged when the property abuts a bush parkland.

The value of wildlife corridors and linear parks with their unique biolinks are enhanced by indigenous species and rely on the goodwill and understanding of all who reside in these areas to enhance and replace lost species. Birdlife requires upper canopy trees and native vegetation to provide essential flight corridors.

The Masons Road Retarding Basin is an important corridor for prolific birdlife. Frequent sightings of species include kookaburras, eastern and crimson rosellas, tawny frogmouths, rainbow lorikeets, musk parrots, butcher birds, gang gang cockatoos, magpies, blue wrens and infrequent sightings of black cockatoos and king parrots plus many more species.

Fencing adjacent to the Masons Basin

All residences that are adjacent to the Masons Retarding Basin have chain mesh fencing. This has been a Yarra Valley Water requirement along flood basins to ensure water is not trapped. This fencing also provides a positive interface between the trees in the park and those in private property. Merging back gardens and the park together, blending as one not only provides a seamless visual effect but also affords a magnificent ‘borrowed view’ for residents from their back gardens.

The proposal is for a 1.8 metre high solid timber fence which will be visually jarring and inappropriate in the SLO-2. However, it will be the only site with a solid timber fence for the entire flood basin. Vegetation will be separated and will not be able to blend together through as solid fence.
8. Past history of tree retention or tree replanting as a condition of granting a permit

Past history demonstrates repeatedly that strict permit conditions give limited protection to tall trees and is heavily reliant on goodwill and education of residents.

There are many examples of permit approval containing provisions for tree retention and protection. Frequently, a development is completed within 4 metres of a protected tree and following the completion of the development, the trees are seen as a nuisance and an application for tree removal ensues. Reasons given are issues such as the tree overhanging the roofs of residences, the need to build external sheds, leaf litter in gutters or on grass or paths, or alternatively the trees become stressed and die due to lack of available water. Saplings can be planted and then removed.

An example of this is the former Blackburn South Primary School site situated between Hone Ave and Branksome Road. In 1990, it was sold for subdivision and a new housing estate was developed. There were 17 trees mature indigenous Eucalypts identified for protection by an environmental caveat from State and local government following lobbying from a community group. No matter the protection and entreaties to the new residents about the importance of these trees, they were all removed within 5 years of residential development completion!

Reasons for removal would have been many and varied but 'dangerous', 'close proximity' to built structures, 'excessive' leaf and bark litter, ignorance of the value of trees (particularly indigenous habitat trees) and to make way for other garden structures or plants would have been the reasons for removal.

This shows that vegetation protection requires much more than tree retention as a condition of granting a permit. Protection needs a holistic approach encompassing community education, good will, collective community
responsibility, a high regard for the value of trees in the landscape and vigorous prosecution of local laws and conservation covenants by local authorities.

9. Incompatibility of large canopy trees and small children in care

Nature is untidy and branches (small and at times large), fall randomly without warning; not only in high winds, heavy rain or drought. This is a reality for those of us who live in a heavily treed bushland setting.

There will be pressure regarding the presence of leaves, falling twigs and branches and possum droppings daily. Trees and little children playing under these trees in the care of a private company, may well be deemed an unacceptable occupational health and safety risk and a potential trigger for future litigation, no matter how romantic the proposal may be. Any trees on the site or overhanging branches may pose a danger to little children so there is a major risk of further applications for tree removal once the child care centre is operational.

The applicant’s mission is in the commercial business of child care and their mission is not about gardening, tree maintenance or future planting. Most child care centres are moonscaped as the existence of tall trees is an occupational health and safety issue. Therefore, they usually consist of built form, car parking, delivery and waste vehicles and play areas covered in synthetic material. This is inappropriate in the SLO-2.

10. Other considerations in this environmentally sensitive area

The development will also include signage, security lighting, up to 136 cars coming and going twice daily. There are no details given about signage except for the 2 indicating the car park is full and the no right turn sign. Security lighting has not been outlined but may interfere with nocturnal small marsupials if it is extensive. It cannot be described as minimal change.

Hours of Operation: 6:30am until 6:30pm

Pressure to meet needs of shift workers and policies related to more flexible hours will also put pressure on childcare centres to provide care for longer than what is proposed.

Needs Assessment

Although the Child Care Needs Report is describing a completely different address than the proposed site, there is no argument regarding the need for childcare centres Australia wide. City of Whitehorse is well served compared to other areas of Australia. Similarly there is an acute shortage of acute
hospital beds and aged care places. It is important that they are located in appropriate zones.

**In Summary**

Any decision in favour of the proposed development will have a significant deleterious impact on the surrounding properties and the rear of the property will impact significantly on the Masons Road Retarding Basin, which now has a maturing bush environment due to regular Council plantings and maintenance. It will certainly impact neighbourhood character of the area and in particular the surrounding bush environment. This site is in a locality designated as for ‘Minimal Change’ under Clause 32.09 of the Whitehorse Planning Scheme. As such any vegetation removal must be avoided and only a limited level of change is desirable as per the relevant Schedules of NRZ 1 and SLO2.

Increased noise, protracted construction works and greater traffic volumes and issues of parking will detrimentally impact the local residents and wildlife of the neighbourhood.

Policy Objectives in a limited change area is to provide certainty to the community and to resist pressures from increased development. The approval of this proposal would set an unfortunate precedent in the NRZ 1 and the SLO-2 and would make these local planning schemes of little consequence.

Whilst there has been an attempt to comply with the planning controls for the site, this proposal is a very inappropriate proposal both in the intent and application of the NRZ 1 and the SLO-2. It provides no certainty for residents or developers alike and would set a very unfortunate precedent for future commercial development in this area of landscape significance, especially along Canterbury Road. An overturning of Council’s refusal would make a complete mockery of the objectives and intent of the SLO-2 and the NRZ-1 and would demonstrate the failure of these planning schemes being in existence.

**Conclusion**

The Blackburn and District Tree Preservation Society Inc. opposes the application for a Planning Permit for use and construction of a 116 -120 place child care centre, vegetation removal, and alteration of access to a road zone, Category 1 by Simgar Pty Ltd at 199 Canterbury Road, Blackburn, Victoria

Specifically, the Blackburn and District Tree Preservation Society Inc. objects to the removal of mature, significant trees and vegetation from 199 Canterbury Road and the subsequent over-development of the site that is contrary to the provisions of the Whitehorse Planning Scheme including:
- Clause 21 (Municipal Strategic Statement) - Clauses 21.05 (Environment)
and 21.06 (Housing)
- Clause 22 (Local Planning Policies) - Clauses 22.03 (Residential Development) and 22.04 (Tree Conservation)
- Clause 32.09 (Neighborhood Residential Zone) with particular reference to the Guidelines and Schedule for NRZ1 ‘Bush Environment’
- Clause 42.03 (Significant Landscape Overlay) with particular reference to the SLO 2 Schedule and Guidelines.

At least nine significant trees have been removed from the site in recent years and a requirement for Council's approval for their removal was that the trees be replaced with suitable species. However, only four Eucalypts were re-planted and the tree society contends that an additional five trees are required just to replace those lost a number of years ago. This underlines the low value placed on the vegetation by property owners.
With the site abutting the Mason's Road Retarding Basin the wildlife corridors that form part of this area need proper management and enhancement, not destruction. Removal of more protected trees will further degrade these corridors that are essential for the protection of the fauna whose habitat is under enough stress now.

The proposed development and associated non-porous surface areas represent real and continuing threats to the viability of the trees to be retained on the site in addition to those trees the proponent plans to plant on the site.

Yours sincerely

Dianne Tribe
Life member and former Committee Member of the BDTPS
Appendix 1: Profile of the Blackburn and District Tree Preservation Society Inc.

The Tree Society is a not-for-profit incorporated environmental organization with over 100 members managed by an honorary committee of four members. The Society concerns itself with issues involving the natural landscape within the City of Whitehorse and also regional, statewide and national environmental concerns.

Local issues of interest to the society include:
- Protection and enhancement of the city’s natural landscape
- Planning in relation to preserving vegetation and limiting over-development
- The built landscape
- Streetscape character
- The management of municipal parks and open spaces.

The Society was started in 1959 when a group of Blackburn residents, concerned about the loss of local bush character, banded together to lobby council to reserve areas of remnant vegetation and open space for parkland. The Society has been instrumental in supporting the election of ‘green’ Councilors, actively promotes the planting of indigenous plants and has published regular newsletters, plant guide booklets and an indigenous plants poster.

In the early to mid-1980s, the Society was instrumental in the creation of the Special Residential Zone (now the Significant Landscape Overlay) in Blackburn with its tree control provisions and has provided crucial support for establishing community Bushland Park Advisory Committees unique to Whitehorse.

Statement of Purpose of the Society
1. To investigate the present and potential areas of parklands and sanctuaries within the City of Whitehorse and to have selected bushland areas reserved as sanctuaries and parklands, preserving their natural amenity.
2. To encourage and participate in the planting of indigenous trees and plants in parks and sanctuaries and along streets, especially in denuded areas.
3. Foster a general interest in the native flora of the City of Whitehorse, to encourage the retention of existing indigenous trees and plants, and, in particular, to encourage the use of indigenous plants in private gardens.
4. To stimulate an interest in the history of the City of Whitehorse, in particular by accumulating, disseminating and preserving information on the natural history of the area.
5. To concern itself with wider conservation issues, although the interests of the Society lie mainly within the City of Whitehorse.