

BLACKBURN & DISTRICT

TREE PRESERVATION SOCIETY INC.

P.O. Box 5, Nunawading, 3131



Residential Zones Standing Advisory Committee: Whitehorse draft Amendment C174

Submission by the Blackburn and District Tree Preservation Society Inc.

Before: Mr Michael Kirsch (Chair) and Ms Gaye McKenzie

Prepared by:

**David Berry
Blackburn & District Tree Preservation Society Inc.
34 Indra Road
Blackburn South, 3130
Tel: (03) 9890 7915**

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Preamble and Assumptions

- NRZ1 = Bush Environment Areas & NRZ3 = Traditional Bush Suburban Areas
- These comments are confined to the NRZ1 and NRZ3 areas in Blackburn, Blackburn South, Forest Hill and a small part of Nunawading
- NRZ1 encompasses the areas afforded Significant Landscape Overlay (SLO1 or SLO2) planning and development controls
- It is assumed that Amendment C174 does not compromise the current requirements and future application of Significant Landscape Overlays Schedule 1 and 2 in Neighbourhood Residential Zone 1. Specifically these SLOs set out the requirements that underpin the 'Statement of nature and key elements of landscape' as stated in section 1.0 of Schedules 1 and 2 and the landscape character to be achieved as detailed in section 2.0 of each Schedule. 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.).

Comments

The Blackburn & District Tree Preservation Society Inc. was crucial in the original campaign that lobbied for, and was ultimately successful in attaining, tree and vegetation controls for Blackburn and surrounding suburbs in the (then) City of Nunawading, now the City of Whitehorse.

This process started way back in the early 1980s and was one of the earliest examples of the establishment of tree protection controls within Victoria.

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.

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. 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.

SLO1 takes in most/all of the proposed NRZ1 Schedule and as such there must be no dilution of the planning requirements for the built and natural landscape in these neighbourhoods. In other words SLO1 must retain the same planning requirements as it does now.

In addition the proposed NRZ3 will allow for more control of inappropriate development and vegetation destruction (including significant canopy trees) in adjoining suburbs including neighbourhoods in Blackburn South, Forest Hill, Nunawading and Blackburn.

The Tree society committee fully endorses Amendment C174 with minor caveats (see attached submission).

Comments on Schedule 1 to Clause 32.09 Neighbourhood Residential Zone (i.e. NRZ1) = Bush Environment

Requirements	Comment
Minimum lot size for subdivision = 650 square metres	Agree
Minimum front setback = 'None specified'	SLO 1 and 2 permit trigger requirements are 'set back at least 9 metres from the front boundary for any single storey building or 11 metres for a two storey building.' Recommendation: Include SLO1 and 2 requirements in the Schedule
Site coverage = maximum 40%	Permit triggers: SLO1 = less than 42% and SLO2 = less than 50% Agree
Permeability = minimum 40%	Permit triggers for SLO1 = 58%, SLO2 = 50% Disagree - should be at least 58%
Landscaping: Provision of at least two x 12 metre high canopy trees (species native and preferably indigenous)	The Tree Society recommendation is for at least 4 substantial trees on residential blocks in NRZ1. There should be 2 x 12 metre and 2 x 8-10 metre high trees plus a generous shrub and understorey coverage of indigenous vegetation (preferably)
Landscaping: 2 nd paragraph on retention and/or tree planting	Agree
Landscaping: statement re development provide for replacement of any significant trees removed in the 3 years prior to lodgment of application	Query re how this would be administered???
Side and rear setbacks	Disagree with draft Schedule requirements. Distances should be as for existing SLO1 and SLO2 requirements (which are more generous)
No walls to be constructed on boundaries	Agree (although this appears to contradict the 'Walls on boundaries' requirement which is listed as 'None specified') in the following section
Private open space requirements	Agree
Front fence height =1 m.	Agree though options should include no fence/fence < 1 metre
Number of dwellings on lot = 'None specified'	Clause 32.09-3 of NRZ states that if not specified in the Schedule then the number of dwellings on a lot must not exceed two Agree - and recommend that it be included in the Schedule
Maximum building height requirement = 'None specified'	<ul style="list-style-type: none"> Clause 32.09-8 of NRZ states that if not specified in the Schedule then the building height must not exceed 8 metres with a variation for sloping sites. Height requirements for SLO1 and SLO2 have a permit trigger of 'no higher than 2 storeys or 9 metres'. Agree with NRZ mandatory height requirement and recommend that it be included in the Schedule.

Comments on Schedule 3 to Clause 32.09 Neighbourhood Residential Zone (i.e. NRZ3) = Traditional Bush Suburban Areas

Requirements	Comment
Minimum lot size for subdivision = 320 square metres	Disagree – should be 650 square metres as for NRZ1
Minimum front setback = 'None specified'	Recommendation: Include minimum front setback = 5 metres in Schedule
Site coverage = maximum 40%	Agree
Permeability = minimum 40%	Disagree – should be at least 50%
Landscaping: Provision of at least two x 12 metre high canopy trees (species native and preferably indigenous)	The Tree Society recommendation is for at least 3 substantial trees on residential blocks in NRZ3. There should be 2 x 12 metre and 1 x 8-10 metre high trees plus a generous shrub and understorey coverage of indigenous vegetation (preferably)
Landscaping: 2 nd paragraph on retention and/or tree planting	Agree
Landscaping: statement re development should provide for replacement of any significant trees removed in the 3 years prior to lodgment of application	Query re how this would be administered???
Side and rear setbacks	Agree
Walls on boundaries = 'None specified'	Disagree – should be ' No walls to be constructed on boundaries '
Private open space requirements	Agree
Front fence height = 1 metre or 1.8 metre with at least 50% transparency	Agree though options should include no fence or fence < 1 metre
Number of dwellings on lot = 'None specified'	Clause 32.09-3 of NRZ states that if not specified in the Schedule then the number of dwellings on a lot must not exceed two Agree- and recommend that it be included in the Schedule
Maximum building height requirement = 'None specified'	<ul style="list-style-type: none"> Clause 32.09-8 of NRZ states that if not specified in the Schedule then the building height must not exceed 8 metres with a variation for sloping sites. Agree with NRZ mandatory height requirement and recommend that it be included in the Schedule.

Appendix:

Lobbying for Tree Controls in Whitehorse - Local Development Scheme & Special Residential Zones leading to Significant Landscape Overlays in Whitehorse (1982 to 2010)

In 1982 a sub-committee of the Blackburn & District Tree Preservation Society Inc. (the 'tree society') developed and forwarded a detailed submission to the Victorian State Government Minister for Planning and Conservation to investigate the possible introduction of tree protection controls in suburban areas.

A copy of the submission was sent to (the then) Nunawading Council.

A public meeting was held in October 1982 on the topic:

'The degree of control considered necessary or desirable for residential development in the municipality including the question of two houses on the one allotment and tree controls in environmentally significant areas of the municipality'.

Over **350 people** attended the meeting with another 30-40 people unable to gain entry to the venue.

A panel of seven speakers covered the topic followed by a lively discussion and question and answer session.

The meeting attendees passed a Motion ('almost unanimously') in support of the concept of a local development scheme to protect the 'bell-bird and lake areas from over-development'. The Motion also called for the preservation of streetscapes and the unique treed character of these areas and called on Nunawading Council to work with residents to prepare a local development scheme.

The tree society provided council with several examples of planning schemes currently in operation whose main objective was to protect the local natural landscape including trees. An example of a tree preservation order for Ku-ring-gai Council in Sydney was reproduced in the November 1982 newsletter.

In late 1982 Nunawading Council appointed an Advisory Committee on:

'Areas of Landscape Conservation, Value and Means of Conserving and Enhancing these Areas'.

The committee consisted of two Councillors, two Town Planning staff, an Architect, a Real Estate Agent (who resigned after two meetings) and five residents, including a representative from the tree society.

The committee reported to council in February 1983 identifying areas of special significance and recommendations on tree and building development controls within these areas.

Council approved the report and council's Town Planning Department then proceeded to prepare a **Local Development Scheme** that required a three-month statutory public exhibition phase before any further action could occur.

In August 1983 sample surveys were taken of residents living in the areas of special significance proposed for inclusion in the Local Development Scheme to gain feedback on the proposal. The tree society committee congratulated council on its constructive approach to the issue and urged full speed ahead so as to minimize the ever-worsening tree destruction via ignorance and over-development in the areas of special significance in Blackburn.

During early 1984 the Local Development Scheme (LDS) was put on informal public display and a series of meetings held and residents' opinions sought.

The society called on members and residents of other areas of special significance to nominate their suburb or neighbourhood for inclusion in the scheme.

In spite of the LDS enjoying a great deal of support from the community, Nunawading Council decided to defer the scheme in late April 1984 because of a minority of people who opposed the introduction of tree protection and building development controls as framed in the scheme.

Councillors opposing the scheme called supporters 'rat-bags' and people who 'prefer trees to people'.

Council came in for strong criticism for delaying the introduction of the LDS in the face of widespread community support. Even the State Minister for Planning, the Hon Evan Walker expressed his concern at the delay.

At the May 1984 council meeting the deferment proposal was reversed and at the June General Purpose meeting a version of the LDS (much-diluted by amendments) was carried such that the LDS would be passed on to the Melbourne Metropolitan Board of Works (MMBW) to be processed following ratification at the full council meeting on 25th June.

The LDS now only applied to the six National Trust streets in Blackburn (i.e. Jeffery, Hill and Linum Streets, Boongarry and Acacia Avenues and Laurel Grove between Fuchsia Street and the creek), and not the 59 streets intended in the original version of the scheme.

The tree society urged members and residents to make it known to council that the original area for the scheme must be restored. The tree society prepared a detailed submission to the MMBW in support of the 59 streets being incorporated in the LDS. The submission was reproduced in the November 1984 tree society newsletter.

Whilst the proposed planning controls (including strict controls on indigenous tree removals) for the six National Trust streets were supported by the society, it was opposed to the controls being confined to these streets.

The controls were designed to preserve the natural character of the 59 streets in Blackburn as well as limit the possibility and impact of higher density development. It was considered that the restriction of the LDS to the 6-street area would be a disaster for the wider area where overdevelopment would be possible to the detriment of Blackburn's natural character.

Originally the tree society recommended that eight areas throughout the City of Nunawading were worthy of inclusion in the scheme on the basis of their substantial retention of indigenous tree species.

The Minister for Planning and Environment announced the introduction of the 6-street planning scheme in Blackburn in October 1985.

The scheme was the first of its kind in Melbourne and re-zoned properties in the 6 'Bellbird Area' streets of Blackburn, the objective being to recognize the special character of the area by protecting the environment via a series of controls over new buildings (size, height, footprint etc.) and tree removals.

Nunawading Council received around 400 submissions when the 6-street amendment was formally exhibited with over 80% supporting the expansion of the scheme to the original 59 streets within Blackburn.

The Panel's final conclusion supported extending the area to which the Special Residential (Nunawading) No. 5 Zone applied to cover all 59 streets.

The Minister for Planning & Environment, Mr. Evan Walker, subsequently rejected this recommendation.

In 1986 it was reported that council intended to monitor the operation of the scheme in the 6 streets for 18 months until September 1987 before considering any expansion to other areas in the municipality.

The tree society committee set up a monitoring program for the 53 streets that were not incorporated in the scheme and requested that members report any proposed developments within these streets and submit individual objections to council for inappropriate developments and tree removals or lopping where justified.

It was noted that monitoring to date had emphasized problems and frustrations of developers and builders rather the positive gains to residents by reduced tree removal in the 6 streets.

However examples were given demonstrating the scheme was working and council's 'awareness' of the importance of the city's natural character was being raised including:

- Council requirement for the re-submission of plans for a development in Linum Street to minimize the impact on the trees on site;
- Opposition to a council proposal to allow higher-density multi-unit developments
- The retention of a magnificent Yellow Box on a multi-unit development site opposite Forest Hill Shopping Centre.

Following tree society committee concerns, council officers developed and circulated guidelines to residents of the 6 street 'trial' area to explain how the planning controls operate and their benefits. It was hoped that the guidelines would be circulated more widely within Blackburn.

In November 1986 the tree society committee announced to its members that the Minister for Planning & environment, Mr. Jim Kennan, had initiated an expansion of the 6-street planning scheme in Blackburn to the original 59-street area.

This action was fully supported by the tree society and members were asked to actively lobby neighbours, councilors, council officers and the state government to help achieve this outcome.

In addition the Glenburnie Road Residents' Association negotiated with council to obtain similar controls for Glenburnie Road in Mitcham, an action fully supported by the tree society to prevent inappropriate over-development and limit tree removal in Mitcham.

The closing date for the formal display period for the enlargement of the planning scheme area and receipt of submissions by council was late December 1986.

The tree society's submission strongly supported the proposed expansion, as did many residents from the 59-street area.

Prior to Christmas 1986 the tree society distributed newsletters and copies of 'The Choice is Yours' to the 1600 residences in the 59 streets providing information for the proposed expansion of the scheme and calling for community support.

An Independent Panel Hearing was held in March 1987.

Four days of hearing submissions on Amendment 387 occurred during March and April 1987. The amendment proposed to expand the Blackburn Planning Scheme from 6 to 59 streets. The tree society made a detailed submission in support of the amendment as did many other community groups (including the Blackburn Residents' Association) and individuals.

In June 1988 the Minister for Planning & Environment, Mr. Tom Roper, announced the expansion of the Blackburn Planning Scheme to cover another 53 streets within Blackburn - a big win for the tree society and Blackburn residents. The expansion represented a major breakthrough in urban environmental planning and demonstrated that people wanted a say in the planning and development of their neighbourhoods.

It was also significant for the tree society as attempts were initially made by the society in the 1960s to initiate tree controls in the city.

The expansion of the Blackburn Planning Scheme resulted in identical tree controls for the 59 streets however less restrictive site controls were introduced for the 53 'new' streets.

The society wrote to the minister offering its congratulations on the expansion of the scheme in Blackburn.

During March 1993 the tree society was involved in the Nunawading City Council review of the Blackburn Special Residential Zone (SRZ).

The tree society supported:

- Removal of environmental weed species from the tree controls
- Restrictions on developments near the creek behind the Jeffery St. properties

The society opposed:

- Increasing the minimum size of trees to be protected
- Reducing the required tree coverage.

The society also emphasized the need to reduce red tape involved in obtaining a permit and the requirement for improved resident education on the SRZ particularly tree canopy retention.

Subsequent to the review of the SRZ (Nunawading) Zone No. 5, the resulting amendments were approved by the Minister for Planning in January 1995. The outcome was pleasing because there was some concern following the introduction of VicCode 2 that the planning scheme may have been compromised to the detriment of the trees in Blackburn

The SRZ guidelines were tested early in 1996 when local residents, the Blackburn Village Residents Group (BVRG) and tree society held a joint public meeting to discuss multi-unit developments within the zone. This reaction was in response to a proposed 3-storey unit development in Glen Ebor Avenue that went to the Administrative Appeals Tribunal in February-March 1996. The new Whitehorse council had no policy on these types of developments and meeting supported two motions:

- Defer any considerations regarding medium-density developments in the SRZ pending resident consultation regarding appropriate controls and
- Request that council introduce variations to the Good Design Guide to ensure that the provisions of the SRZ were included in the consolidated residential zones.

A follow-up meeting as held with council in July 1996

A workshop on Whitehorse council's new Planning Scheme was jointly held by the tree society and BVRG in August 1997. Speakers at the workshop (including Ron

Grainger, Jim Lambert and David Morrison) provided a wealth of information for attendees to include in their submissions to council on the scheme.

The tree society's submission on the Draft Planning Scheme to council in September 1997 listed a number of issues requiring council's deliberation and action including:

- Creation of wildlife corridors throughout the city
- Tree controls throughout Whitehorse
- Further protection in the scheme (via Overlays) for remnant bushland patches, creek verges and bushland reserves
- Extension of the Blackburn Zone (ex-SRZ) locally and eventually city-wide within specified time-lines
- Adoption of tree and vegetation replacement regulations for residential properties within Whitehorse
- Use of the Street Tree Strategy to increase indigenous plantings in Whitehorse
- Promotion of education strategies to raise community awareness about council's policies on the city's natural environment
- Appointment of a council Conservation Officer.

The draft Whitehorse Planning Scheme was considered by council in early 1998 and the tree society organized a public meeting in late May to discuss the revised scheme. The meeting assessed the revised scheme against the one exhibited in 1998 and noted those issues raised by the society that had been supported by council and those that had not. The meeting also considered issues and material to be included in the society's submission to the forthcoming Panel Hearing scheduled for early June 1998.

In summary a number of public meetings were held and many submissions written by tree society members and the committee in response to the draft Whitehorse Planning Scheme culminating in the tree society presenting a detailed and well-argued presentation at the Panel Hearing in June 1998

The Whitehorse Planning Scheme was approved and adopted by Council in 1999.

A comprehensive review of the Scheme was conducted in 2001/2002 and implemented through the preparation and gazettal of Amendment C50 (part 1) in August 2006.

A subsequent review of the Whitehorse Planning Scheme was completed and adopted by Council in 2010.

David Berry
Blackburn & District Tree Preservation Society Inc.

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