Friends of Native Wildlife Inc.
info@bayfonw.org.au
12/11/2020

The Planning Department
Bayside City Council
planning@bayside.vic.gov.au

Dear Madam/Sir,

RE: SUBMISSION TO PLANNING APPLICATION FOR BASKETBALL COURTS AT 150&168-188 TULIP STREET CHELTENHAM– PLANNING APPLICATION NUMBER PP 49/2020

Executive Summary

Tulip Street Lake Reserve:

- provides a critical water source for fauna in the local area;
- is a key frog habitat in Bayside;
- is an important location for community environmental education; and,
- is a tranquil reserve for appreciation of the natural environment.

The proposal will have significant negative effects on wildlife through:

- Threatening the viability of the frog population;
- Fragmenting a wildlife corridor by severely reducing fauna access to the wetland, including frogs;
- Removing 46-65 trees which provide habitat;
- Not providing any replacement tree planting or significant landscaping; and,
- Not providing specific details of how the facility's operation (eg. Lighting) and its construction will be managed to protect the flora, fauna and water quality of the Reserve.

The proposal will have negative effects on the open space values of the Reserve through:

- A total lack of landscaping to provide additional screening of the north side of the building from views from the park;
- A colour scheme incompatible with the natural character of the area; and,
- Potential insensitively designed water outfalls into the pond.

As a result of these matters, the proposal is contrary to the Bayside Planning Scheme, in particular:

- Objective 1 of Clause 21.04 Biodiversity of Bayside Planning Scheme's Local Policy Framework which is to protect and retain native vegetation and protect habitat.
- The objective of the Clause 36.02 PPRZ which is to to protect and conserve areas of significance where appropriate.
- The objectives of the Vegetation Protection Overlay 3, in particular the maintenance and enhancement of habitat and habitat corridors.
- The objectives of Design and Development Overlay 2, particularly in regard to enhancing the public realm and minimising detrimental impact on neighbouring properties.

Under the work of the Bayside Biodiversity Action Plan, this reserve should be considered as a wildlife refuge and given greater formal conservation status recognition. We believe that the siting of this development constitutes an unacceptable risk to the frog population and the building should be re-sited. If this is not possible, we believe that substantially more attention should be given to the matters detailed below before the proposal can be considered acceptable.

Introduction to FONW

Friends of Native Wildlife Inc. (FONW) is a Bayside community group that has been operating for 25 years. Our purposes are:

a) To **promote** the conservation of native fauna in the bayside region of Melbourne
b) To **engage** and **educate** the local bayside community in taking action to help preserve our urban native wildlife.
c) To undertake **surveys** and **research** to learn more about urban bayside Melbourne native wildlife and its conservation needs
d) To **advise** local land managers, local and state government and other relevant bodies on strategies to conserve native wildlife

Key activities of FONW include fauna monitoring around Bayside and restoration of habitat for local fauna. The public are involved in these activities and learn about Bayside's local fauna through them.

Significance of Site to FONW, the Bayside Community and Frogs

The Tulip Street Lake Reserve is not particularly well known due to its secluded nature however it provides more than just a BMX track. The reserve is significant to FONW and the Bayside community because it is a key site of FONW community activities for frogs, fresh water arthropods and habitat improvement.

Frogs are a popular species to the community and are of particular interest to FONW as a local flagship species for the native fauna, as well as for their role as an indicator of environmental health.

There are only three wetlands in the Bayside municipality where frogs are usually found and which have the protection of being on public or golf course land. Of these locations, only two are easily accessible to the public and these are the best sites for Eastern Banjo frogs.

FONW has been monitoring the frogs present in the ephemeral pond in this reserve for over 15 years, providing valuable information on frogs to the Melbourne Water metropolitan wide Frog Census program. Three species of frog are commonly found breeding at the pond, including the Eastern Banjo.

FONW has organised community plantings in and around the pond to enhance habitat for frogs with the support of Bayside City Council. FONW also conducts community Water Bug activities at the pond, as an indicator of pond health. **(Refer attached photos).**

Significance of Site to Other Bayside Fauna

A range of fauna is attracted to the Tulip Street Lake Reserve wetland including birds, reptiles, possums, bats and insects.

Birds mentioned in the assessment of the ecological values of this area by Ecology and Heritage Partners in their report accompanying the application include the Bronzewing Pigeon, which is a shy bird that has become increasingly rare in Bayside, and is a frequent visitor to the Reserve.

Other birds seen roosting at the wetland but not listed in the report include: Little Pied Cormorant, Pacific Black Duck and Nankeen Night Heron.

The assessment of the ecological values in this application by Ecology and Heritage Partners was very limited and directed mainly at rare species and the Clause 52.17 net gain assessment. The assessment does not highlight that, as a body of water in an increasingly dry climate, the pond is an important biodiversity asset for many local species within the reserve and the golf course, including frogs.

In fact, the assessment completely overlooked the existence of the pond and frog species. This may be due to the ephemeral nature of the pond and also the season and time of day that frogs call. The assessment acknowledges on p.7 that the site assessment was not undertaken at the optimum time of year as follows,

3.4 Assessment Qualifications and Limitations

The field assessment was undertaken during a sub-optimal season for the identification of flora and fauna species (early summer). The 'snap shot' nature of a standard biodiversity assessment, along with sub-optimal timing of the survey, meant that migratory, transitory or uncommon fauna species may have been absent from typically occupied habitats at the time of the field assessment. In addition, annual or cryptic flora species such as those that persist via underground tubers may also be absent.

Identification of EVCs within the study area was made difficult by the highly modified nature of the vegetation present, including extensive planting of both indigenous and Australian species adjacent to and within vegetation, and extensive encroachment of the environmental weeds Coast Wattle *Acacia longifolia* subsp. *sophorae* and Coast Tea-tree *Leptospermum laevigatum* .

Targeted flora or fauna surveys were not undertaken, as this was beyond the preliminary scope of the project. Nevertheless, the terrestrial flora and fauna data collected during the field assessment and information obtained from relevant desktop sources is considered adequate to provide an accurate assessment of the ecological values present within the study area.

Impacts Of This Proposal

This proposal will have a number of negative impacts on **biodiversity** as it will:

- Remove the habitat for native fauna provided by a total of 46-65 trees;
- Impose a physical barrier along the southern boundary of the reserve making access to and from the reserve extremely difficult for fauna from the golf course requiring water. In particular for frogs which need it for breeding;
- Encroach into the reserve, reducing the habitat buffer from human disturbance around the wetland;
- Potentially harm wildlife and water quality from construction activities;
- Create potential lighting disturbance;
- Change the hydrology of the wetland.

These points are further elaborated under the following headings:

A. Impacts on the fauna that live in the reserve and the northern and eastern part of the existing golf course.
B. Direct impacts on the frogs and their habitat.

The proposal will also have negative impact on:

C. The character of the reserve.

A. Impacts on the fauna that live in the reserve and the northern part of the existing golf course.

The Tulip Street Lake Reserve adjoins the Sandringham Golf Course. Golf courses are acknowledged in Clause 21.04-1 Biodiversity in the Bayside Planning Scheme as having an important role in supporting local biodiversity. There is an increasing body of scientific research highlighting the importance of golf courses for urban biodiversity.

i. Loss of Habitat Connectivity

Clause 21.04 Biodiversity in the Bayside Planning Scheme recognises a broad corridor of habitat comprised of golf courses and reserves. A Key Issue identified is that,

"Indigenous vegetation forming part of the corridor along the sandbelt (golf club region) provides important habitat for native birds and animals."

The VPO3 supports this with the objective "*To maintain and enhance habitat and habitat corridors*".

Currently, fauna is able to move between the golf course and the Reserve to access water. The cyclone wire fence has gaps and holes in and under it allowing fauna through and trees next to the fence provide a bridge across it.

The proposed building and the removal of the Cypresses along the Reserve Road frontage will create both a physical barrier and a vegetation gap between this reserve and the golf course. The reserve will virtually become an island surrounded by two roads and two buildings. **(Refer Figure 1)**

It appears that the criteria for considering the siting of this building did not include biodiversity objectives from the outset. The application shows a lack of recognition of the importance of the wetland for wildlife in and around the golf course and the integrity of the corridor.

ii. Loss of Habitat

This proposal will remove the habitat provided by a total of somewhere between 46 and 65 trees (the total unclear due to discrepancies between the arboricultural and planning reports submitted with the application). A fewer number trigger a planning permit under the VPO3 overlay (somewhere between 13 and 25).

The VPO3 aims to minimise vegetation removal. There are a number of trees near the existing fenceline which were assessed in the arboricultural report submitted with the application as being of Moderate retention value. These could potentially be retained in the current building layout. They include a 9m tall Coast Manna Gum (Tree no.75) and a 16m tall Southern Mahogany (Tree No.78).

The VPO3 objectives include "*To promote regeneration and replanting of indigenous vegetation in the Beaumaris and Black Rock area*". As the building and car parking take up the vast majority of the

site, there has been no allowance for replacement plantings of trees on the site of the proposal. The proposed landscaping is restricted to only 4 groundcover and low shrub species in massed plantings which lacks species diversity and structure.

The application does not detail where any Clause 52.17 net gain offsets will be undertaken.

iii. Construction Works

The pond and vegetation in the reserve could be impacted from construction activities. Fauna could be directly harmed. We note that the Ecology and Heritage Partners report recommends that "*prior to any works commencing a survey for arboreal fauna and hollows be undertaken and a fauna management plan be prepared to the satisfaction of the responsible authorities.*" *p.12*

This should be a condition on any permit issued.

iv. Lighting

Our lighting comments below in relation to frogs are also applicable to other native fauna on the site.

Figure 1. Existing habitat connections and barriers for ground and arboreal fauna accessing the reserve

B. Direct Impacts on the Frogs and Their Habitat

Description of The Proposed Development

The proposed development will physically encroach into what is currently used as an open space reserve. The northernmost rooms, a ramp, and a water tank overflow pipe are proposed to be constructed within the reserve. A fire exit door is located centrally along the north side of the building. There is an additional corridor of works identified in the Biodiversity Assessment report by Ecology and Heritage Partners which is directed towards the pond like the tank overflow however it is not clear from the application what this is.

Impacts

i. Northern Access Points – Reducing Buffer

Currently the pond is not subject to much human traffic on its western and southern sides and therefore is buffered from human disturbance. There is a lack of information in the application regarding how the northern access to the building will be managed. We have been advised that it is an emergency access for the building. It is not clear whether there will be any additional pathway works to connect the ramp to the Leisure Centre for example. The ramp and any pathway should be designed , constructed and managed to avoid short and long term impacts on the wetland area such as trampling, erosion and sedimentation of the pond.

The proposal should be reviewed to confirm what works will be required for access and a revised landscape plan should be prepared if required.

ii. Construction Works

Construction works for the proposal in and adjoining the reserve have the potential to directly harm frogs present in and around the pond and their habitat and also through increased pond sedimentation.

It is critical that a Construction Environmental Management Plan be prepared for the development as recommended by Ecology and Heritage Partners (p.17) to ensure that the southern part of the reserve is protected. FONW requests that this plan be prepared in consultation with us.

iii. Lighting

Frogs are predominantly active at night. Lighting disturbs these activities and the viability of the frog population. Whilst no lighting details have been provided in the application plans, we object to any lighting on the north side of the building and its northern access which is not designed to strictly minimise light. Any lighting should be restricted to the emergency accesses and should be triggered only in an emergency.

Conditions should be placed on the permit for plans and details to provided showing any proposed lighting and its management to minimise wildlife disturbance.

iv. Hydrology

The existing sources of water for the pond are not well understood. The likely impact of the development on its hydrology and therefore the frog habitat is not assessed in the application.

C. Impact on the character of the reserve and views from Reserve Road and recommendations

i. Visual Impact of Building

There is a failure in the application to adequately respond to the visual impact of the development when viewed from a public open space and from Reserve Road.

The land is within the DDO2 which aims to ensure that tall buildings in this area have minimal visual impacts. The VPO also aims to ensure that buildings are set within a vegetated landscape. Therefore the treatment of such a large building needs to addressed sensitively.

The reserve (south of the BMX area) is a quiet space for informal recreation primarily nature appreciation, contemplation and study and picnics and barbecues. The seating areas and barbecues have an open, natural, highly vegetated outlook to the south and over the golf course.

To the west, the existing Leisure Centre provides an industrial type of outlook as the building has high walls. These walls however are painted a dull green to respond to the character of the area.

The proposed building will change the character of the open space to a much more urban industrial character. The park will have a very enclosed character being flanked by tall buildings on two sides.

The proposed colour scheme of the new building will not recede into the landscape. In particular the orange stripe calls attention to the building. All trees along the southern boundary of the reserve are proposed to be removed. There is no proposed planting to help the building recede into the landscape when viewed from either Reserve Road or the reserve.

Reserve Road in this location has a very green, treed character, characterised by almost continual trees along the property frontages. The proposal will not only create a break in the line of trees but it will construct a very large building with no landscaping proposed within the frontage.

In summary, the colours of the building should amended to be more recessive and respond to the green landscape of the area and the landscape plans should be amended to provide a dense, treed landscape buffer to the northern and eastern sides of the development.

ii. Design of the Tank Overflow Pipe and any other Connections to Pond

If not designed sensitively, the overflow pipe to the pond will be a highly detrimental feature in the landscape. There may also be other connections to the pond which are not clear from the plans.

The pond is shallow, with gently sloping banks on all sides except the north side where there is a retaining wall. **(Refer attached photos)**

The proposed overflow pipe(s?) will enter from the south and we are concerned that the appearance of the pipe will not blend with the naturalistic pond edge and natural character.

The headwall and pipe outlet should be integrated into the landform to provide a natural appearance. Naturalistic rock placement should be used to screen the headwall and pipe. Rock beaching should resemble a natural stream inflow.

A condition should be placed on the permit for a revised landscape plan and engineering plans to address these details.

MITIGATING FAUNA IMPACTS FROM DEVELOPMENT

Council's Commitments to the Environment and Sustainable Development

Bayside Council has made strong commitments to biodiversity and a sustainable and climate resilient environment in its Community Plan and various environmental strategies such as the Bayside Biodiversity Action Plan. It is surprising therefore that these commitments are not evident in the proposal.

We believe that the siting of this development constitutes an unacceptable risk to the frog population and the building should be re-sited. If this is not possible, the following should be addressed:

a) Frog friendly landscaping and plantings on the eastern and northern boundaries of the proposal to assist in restoring the habitat and corridors lost
b) Improve the frog habitat through the proposed WSUD works
c) Review of the number of trees to be removed to further minimise loss
d) Restoration works of the habitat in the reserve

a) Frog Friendly Habitat Connections

At the very minimum, a safe method for frogs and other animals to move between the golf course and reserve should be incorporated in the development. This would include a corridor with depressions, rocks and ground vegetation to provide shelter for frogs and a corridor of trees. Any fencing would need to maintain fauna access.

An amended and much more detailed landscape plan than that submitted with the application would be required.

b) Water Sensitive Urban Design

In the past, during drought years, the pond has been dry and frogs absent. As the climate becomes drier, the pond is likely to experience longer periods of dryness.

The Stormwater Report prepared for the proposal indicates that the proposal will meet minimum standards for stormwater treatment. It confirms that water from the roof will be directed to tanks which will be used for toilet flushing and any overflow will be directed to the pond in the reserve. Water from other hard surfaces, in particular, the car park, will be directed to raingardens where it will be filtered before disposal to the reticulated drainage network.

This system as currently proposed will have limited benefits for local biodiversity as the overflow from the building will only occur when there will be adequate rainfall for the pond. Water from the carpark areas, after filtration in the raingardens will be eventually lost to the drainage system.

A better approach for WSUD and to address the impacts of climate change on the pond would be to direct the water from the carpark raingardens to the pond. In addition, water from the roof could also be directed to the suggested frog corridor on the east side of the development via a series of ponds along the east side of the development.

We note also that the landscape plan provided does not provide any detail of the raingardens .

c) Further Minimising Tree Removal

There are a number of trees near the reserve's southern fenceline which should be retained if possible.

d) Offsets

In addition to tree and vegetation planting, habitat enhancements can be in the form of weed control and other actions. At the very minimum, tree logs removed as part of the proposal should be considered for placement in the landscaping of the proposal and the reserve to provide additional habitat.

The Clause 52.17 Net Gain offset should be considered to occur on the reserve as the quality of the habitat needs additional enhancement.

Conclusion

This proposal's design does not reflect Bayside Council's commitments to the environment. Environmental values were not comprehensively addressed at the site selection, site analysis and design stages. The result is a design that cannot be supported on a number of grounds but most critically due to the threat it poses to the frogs.

Greater recognition of the fauna conservation value of this site is well overdue. This site should be prioritised under the Bayside Biodiversity Action Plan Action 17 "Investigate opportunities of areas suitable for the expansion of the conservation reserve system" (p.16)

Council has an opportunity in this development to demonstrate the environmental leadership it seeks by addressing the environmental impacts of this development. This could be an opportunity to showcase to the community and developers, an appropriate type of development in Bayside.

Yours sincerely,

A Jessel

Anne Jessel
President

Photos illustrating the character of the reserve and showing community plantings for frog habitat

View East across pond

View across pond towards South and South East

View across pond to the South

View across pond to the West