

20 February 2020



Cassie Hannam  
State Project Facilitation  
Department of Environment, Land, Water & Planning

By email: [cassie.hannam@delwp.vic.gov.au](mailto:cassie.hannam@delwp.vic.gov.au)

Dear Ms Hannam,

### **Amendment C321boro - Markham Avenue Estate Renewal Project**

I refer to the email from Ms Clare Willis on 11 November 2019, informing Council of a request from the Department of Health and Human Services (DHHS) for a section 20(4) amendment to the Boroondara Planning Scheme to facilitate the redevelopment of the Markham Avenue public housing estate.

#### **Key Issues**

Council has reviewed the content of the amendment documents, including the proposed *Markham Housing Estate Incorporated Document, November 2019*, and the process proposed by DHHS and raise the following key issues of concern for your consideration:

- The proposed Incorporated Document has a number of critical omissions, including failing to define “public housing” or “mixed tenure”;
- The development proposes to segregate public and private apartments into separate buildings, rather than adopt ‘salt and pepper’ distribution;
- The conditions described in the Incorporated Document, including maximum building heights and minimum setbacks, are discretionary rather than mandatory;
- The Incorporated Document does not embed many of the commitments espoused by DHHS in support of their Amendment, including details of the minimum rate for the supply and allocation of car parking, details of which trees are proposed to be removed/retained and equitable access to amenities/facilities between the different residential tenures;
- The development will result in unreasonable traffic congestion within Markham Avenue, requiring a traffic management solution which is not proposed by DHHS (widening of the road carriageway and relocation of the Gardiners Creek Trail Shared Path to partially within the subject site);
- The building envelope of Building A will cause unreasonable overshadowing of No. 93A Ashburn Grove;
- The building envelope of Building C will cause unreasonable visual bulk impacts on the secluded private open space of dwellings in Ashburn Grove;
- The building envelope of Buildings D and E will cause unreasonable overshadowing of the Markham Reserve children’s playground and Ashburton Community Garden;
- The provision of car parking at a rate of 0.6 spaces per dwelling for public housing apartments is inadequate, will entrench disadvantage, will cause

unreasonable off-site amenity impacts and is inconsistent with a 'tenure blind' approach to the delivery of mixed-tenure housing projects;

- The development will cause a significant increase in demand for access to services and local facilities, but does not propose any development contribution;
- Conditions in the Incorporated Document relating to privacy screening are inadequate;
- There is no reasonable basis for the removal of Council in its ordinary role as responsible authority;
- The proposed use of section 20(4) of the Act to by-pass the usual public notice (exhibition) and independent scrutiny (panel hearing) is inappropriate and a denial of natural justice in circumstances where:
  - There has never been any formal public consultation or independent review of the form and content of the Incorporated Document;
  - The proposed controls are discretionary, rather than mandatory;
  - The Incorporated Document does not embed many of the commitments espoused by DHHS in support of their Amendment, putting their delivery at risk;
  - The Clause 55 Assessment included with the Amendment documents contains errors or mis-statements in relation to claimed compliance with some Rescode Standards;

## **Response to Key Issues**

Council is of the view a number of fundamental flaws and omissions in the Incorporated Document need addressing. The recommended modifications include:

- a) Changing controls within the Incorporated Document from discretionary to mandatory, including maximum building heights and minimum building setbacks expressed in the Building Envelope Plan and compliance with the objectives and standards of Clause 55;
- b) Requiring the localised widening of Markham Avenue to facilitate simultaneous two-way vehicle movement, to relieve congestion. This includes the consequential relocation of the Gardiners Creek Trail Shared Path partially into the subject site;
- c) The vehicle accessway designed in accordance with the recommendations of Council's Traffic Engineers, to ensure the crossing over the Gardiners Creek Trail Shared Path is safe and prioritises pedestrians and cyclists;
- d) Requiring a Tree Protection Plan and the retention of all 'moderate' and 'high' value trees;
- e) Defining 'public housing' and 'mixed tenure';
- f) Requiring the development to be a 'salt and pepper' mix of public and private apartments, rather than segregated in separate buildings;
- g) Requiring the provision and fit-out of a communal multi-purpose room for use by all residents and the local community;
- h) A requirement for a Communal Open Space Strategy to ensure equitable access to communal facilities and to define maintenance, management and financial responsibilities;

- i) The supply and allocation of resident car spaces in full compliance with Clause 52.06;
- j) Resident parking to be accommodated within enclosed basements;
- k) The envelopes of Buildings D and E modified to ensure there will be no net increase in the extent or duration of overshadowing of the Markham Reserve children's playground or the Ashburton Community Garden between the hours of 9am-3pm at the September Equinox and the Winter Solstice;
- l) The envelope of Building A modified to ensure there will be no net increase in the extent or duration of overshadowing of the secluded private open space of No. 93A Ashburn Grove between the hours of 9am-3pm at the September Equinox;
- m) The envelope of Building C modified to have a maximum height of 2-storeys at its western-most end, rising to a maximum of 4-storeys;
- n) Privacy screening of any west-facing habitable room window or balcony/terrace in Building A and the western-most west elevation of Building C;
- o) All building facades to be articulated;
- p) All buildings to incorporate rainwater harvesting for re-use in toilet flushing and garden irrigation, and for irrigation of the Ashburton Community Garden;
- q) Increased detail in the documentation to be submitted to the responsible authority for approval;
- r) A requirement for copies of the plans and documentation for approval to be provided to Boroondara City Council for review and comment not less than six weeks prior to being submitted to the responsible authority, with any comments provided by Council to be taken into consideration before a decision is made;
- s) A requirement for a section 173 Agreement dealing with:
  - i. The provision, fit-out, ownership, maintenance and management of a multi-purpose community room;
  - ii. Re-investment of any proceeds from the sale of any dwellings on the land by the Director of Housing in the supply of new public housing located within the City of Boroondara;
  - iii. The widening of Markham Avenue and relocation of the Gardiners Creek Trail Shared Path partially into the subject site to be carried out at the full cost of the developer to the satisfaction of Boroondara City Council and ownership of the land occupied by the relocated shared path to be transferred (gifted) to Council at no cost to Council (including preparing and registering title) prior to the occupation of the development;
- t) A requirement for a cash 5% open space contribution payable to Council;
- u) The Building Envelope Plan amended to express building heights in storeys and metres.

To assist with your assessment, Council has prepared and adopted a tracked-changes version of the Incorporated Document, which addresses each of the matters raised above (enclosed).

Subject to the implementation of Council's adopted tracked-changes to the Incorporated Document, Council has formed the view the development will achieve

an acceptable fit in the neighbourhood, will not cause unreasonable off-site amenity impacts and will make an acceptable contribution to addressing the chronic shortage of public housing in Victoria.

Officers would be pleased to meet with you to discuss or clarify any matters raised in this submission.

Should you have any further questions, please contact Seuna Byrne on 9278 4806. Alternatively, Ms Byrne may be contacted by email at [seuna.byrne@boroondara.vic.gov.au](mailto:seuna.byrne@boroondara.vic.gov.au)

Yours sincerely,



Seuna Byrne  
**PRINCIPAL PLANNER - STATUTORY PLANNING**

Encl.

1. Council-adopted recommended tracked-changes to C321boro - Markham Incorporated Document - November 2019
2. Urban Planning Special Committee (UPSC) Officers' report, 17 February 2020
3. UPSC Meeting Minutes, 17 February 2020

cc

- Hon. Richard Wynne, MP, Minister for Planning
- Hon. Will Fowles, MP, Member for Burwood
- Submitters