



Whitehorse City Council

AGENDA

Council Meeting


on

Monday 8 August 2022

at 7:00pm

Members: Cr Liu (Mayor), Cr Massoud (Deputy Mayor), Cr Barker, Cr Carr, Cr Cutts, Cr Davenport, Cr Lane, Cr McNeill, Cr Munroe, Cr Skilbeck, Cr Stennett

Mr Simon McMillan, Chief Executive Officer



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AGENDA

1 Prayer

1.1 Prayer for Council

We give thanks, O God, for the Men and Women of the past whose generous devotion to the common good has been the making of our City.

Grant that our own generation may build worthily on the foundations they have laid.

Direct our minds that all we plan and determine, is for the wellbeing of our City.

Amen.

1.2 Aboriginal Reconciliation Statement

“Whitehorse City Council acknowledges the Wurundjeri Woi-wurrung people of the Kulin Nation as the traditional owners of the land we are meeting on and we pay our respects to their Elders past, present and emerging and Aboriginal and Torres Strait Islanders from communities who may be present today.”

2 Welcome

3 Apologies

4 Disclosure of Conflict of Interests

5 Confirmation of Minutes of Previous Meetings

Minutes of the Council and Confidential Council Meeting 25 July 2022

RECOMMENDATION

That the minutes of the Council and Confidential Council Meeting 25 July 2022 having been circulated now be confirmed.

6 Public Presentations

7 Petitions and Joint Letters

8 Public Question Time

9 Notices of Motion

9.1 NOM 164 - Cr Carr - Review and Criteria and Procedures for Naming Council facilities after Individuals

That

1. Council review the 'Criteria & Procedures for Naming Council Facilities after Individuals'.
2. The review to include consideration and criteria for naming facilities after living people with proven exceptional character while maintaining an ongoing link to Council.
3. A report on the review of the 'Criteria & Procedures for Naming Council Facilities' be presented to Council.

10 Urgent Business

11 Council Reports

**11.1 7-9 Barter Crescent, FOREST HILL (Lots 130 & 131 LP 50918)–
Construction of six double storey dwellings and one single
storey dwelling, and associated tree removal**

City Planning and Development
Director City Development
FILE NUMBER: WH/2021/836
ATTACHMENT

SUMMARY

This proposal requires a planning permit to construct multiple dwellings on a site within the General Residential Zone Schedule 1 (GRZ1) and the Significant Landscape Overlay Schedule 9 (SLO9). This application originally proposed the construction of seven double storey dwellings over the two lots of the subject site, but the application was subsequently amended after the Consultation Forum to convert one dwelling from double to single storey.

The application was advertised and 17 objections were received. The objections raised concerns regarding amenity impacts to the surrounding residential lots, including overlooking, overshadowing and building bulk. Neighbourhood character impacts of increased built form and loss of landscaping, and increases in on-street car parking and traffic along Barter Crescent were other key concerns.

A Consultation Forum was held online via Zoom on 9 February 2022, chaired by Councillor Lane, at which the issues were explored, however no resolution was reached between the parties.

Subsequently to the Forum, and in response to concerns raised by Council Officers and objectors, the applicant formally submitted amended plans. These redesigned Dwellings 3 and 4, in particular by increasing the setback of Dwelling 3 from the north boundary, deleting the first floor of Dwelling 4 and reducing it to a two bedroom dwelling with a single car space, removing the visitor car space, and increasing the upper level setback of Dwelling 5 from the eastern boundary.

The amended plans were re-advertised and three further objections were received from original objectors, all reiterating their original concerns, and raising new concerns regarding the loss of the visitor car space, and overshadowing of solar panels on the property to the south.

The application was referred to internal Council departments for comments. Council's Arborist has no objection to the proposed tree removal and buildings and works, subject to conditions to minimise the construction impacts on the health of trees within the neighbouring lots, and the Asset Engineer and Transport Engineer have reviewed the proposed development and have no objection subject to conditions.

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The amended site layout achieves a high level of compliance with Clause 55, and is responsive to the preferred Garden Suburban Area Precinct 6 neighbourhood character. It provides generous secluded private open space areas which generally align with similar spaces on surrounding lots, allows for the planting of canopy trees throughout the site, and maintains a garden setting for the new dwellings. The upper levels are well-articulated and well-setback from ground level footprints, providing good transitions to surrounding single storey dwellings, and the site frontage can support trees and garden plantings consistent with the streetscape. The required car spaces are provided on site and vehicles can manoeuvre on site to exit in a forwards direction.

This report assesses the application against the relevant provisions of the Whitehorse Planning Scheme, including the provisions of the General Residential Zone Schedule 1, Significant Landscape Overlay Schedule 9, Residential Development Policy, Tree Conservation Policy, Clause 55 (ResCode), and Clause 52.06 (Car Parking), as well as the objector concerns. Conditions are recommended to address a number of issues raised in the report.

RECOMMENDATION

That Council:

- A. Being the Responsible Authority, having caused Application WH/2021/836 for 7-9 Barter Crescent, FOREST HILL (Lots 130 & 131 LP 50918) to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for the construction of six double storey dwellings and one single storey dwelling, and associated tree removal is acceptable and should not unreasonably impact the amenity of adjacent properties.
- B. Issue a Notice of Decision to Grant a Permit under the Whitehorse Planning Scheme to the land described as 7-9 Barter Crescent, FOREST HILL (Lots 130 & 131 LP 50918) for the construction of seven dwellings , and associated tree removal, subject to the following conditions:
 1. Before the development starts, or vegetation is removed, amended plans in a digital format must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:
 - a) The locations of Tree Protection Zones described in condition 5, with all nominated trees clearly identified and numbered on both site and landscape plans, and the requirements of conditions 5 and 6 to be annotated on the development and landscape plans.

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- b) The site cut and retaining wall along the west boundary beside Dwellings 1 and 2 to be modified so that no more than 10% of the TPZs of Trees 5 and 6 will be impacted.
- c) The bedroom 4 window of Dwelling 7 on the south elevation to be modified to prevent overlooking in accordance with Standard B22 (Overlooking) of Clause 55.
- d) The plans to demonstrate and include an annotation that there will be no excavation and/or fill greater than 300mm within the easements.
- e) The schedule of cladding materials, colours and finishes, updated to specify:
 - a. All obscured glazing be manufactured obscured glass. Obscure film being applied to clear glazing will not be accepted.
- f) Double garage doors for Dwellings 1-3 and 5-7 dimensioned to be 5.2 metres wide to facilitate compliant vehicle turning movements.
- g) All obstructions within the sight line triangle (including letter boxes, meter boxes and side boundary fencing) to be no more than 0.9 metre in height, or be relocated clear of the sight line triangle in accordance with Clause 52.06-9.
- h) The location, height and appearance of all meters (gas, electricity and water) to be shown on the plans. These structures must demonstrate a high quality appearance and/or enclosure from views outside of the subject site;
- i) Development plans to reflect all sustainability features indicated in the Sustainable Design Assessment required by condition 16.
- j) A landscape plan in accordance with condition 3, including the following:
 - i. The planting of at least 14 canopy trees of various of a species from the list within the Permit Notes, with a minimum mature height of 8 metres, including:
 - One tree within the secluded private open space of each dwelling
 - One tree to the north of Dwelling 7 beside the central accessway
 - Two trees within the frontage of Dwelling 7 positioned on either side of the accessway
 - Four trees will within the frontage of Dwelling 1.
 - i. Canopy trees to be located within designated garden beds.
 - ii. All trees are to have a minimum height of 1.5 metres at the time of planting and must be planted clear of easements.

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- iii. The planting of shrubs with a minimum mature height of 3 metres along the north and east boundaries.
- iv. The planting of shrubs and significant understorey plantings beside the accessway to the north of Dwelling 7.
- v. Avoid small lawns that will be onerous to maintain, and utilise pinebark mulch planted with ground covers if required. Artificial lawn will not be accepted.

All of the above requirements must be to the satisfaction of the Responsible Authority.

Once approved these plans and documents become the endorsed plans of this permit.

- 2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.

Landscaping

- 3. Prior to endorsement of plans, a landscape plan prepared by a suitably qualified and experienced person or firm must be submitted to and endorsed by the Responsible Authority. This plan when endorsed must form part of this permit. This plan must show:
 - a) A survey of all existing vegetation, abutting street trees, natural features and vegetation.
 - b) Buildings, outbuildings and trees in neighbouring lots that would affect the landscape design.
 - c) Planting within and around the perimeter of the site comprising trees and shrubs capable of:
 - i. Providing a complete garden scheme,
 - ii. Softening the building bulk,
 - iii. Providing some upper canopy for landscape perspective,
 - iv. Minimising the potential of any overlooking between habitable rooms of adjacent dwellings.
 - d) A schedule of the botanical name of all trees and shrubs proposed to be retained and those to be removed incorporating any relevant requirements of condition 1.
 - e) The proposed design features such as paths, paving, lawn and mulch.
 - f) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant.

Landscaping in accordance with this approved plan and schedule must be completed before the dwellings are occupied.

Once approved these plans become the endorsed plans of this permit.

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4. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. If any planted trees or shrubs die or are removed, they must be replaced within two months and maintained to the satisfaction of the Responsible Authority.

Tree Protection

5. Prior to the commencement of any building and or demolition works on the land, a Tree Protection Zone (TPZ) must be established and maintained on the subject land (and nature strip if required) during and until completion of all buildings and works including landscaping, around the following trees in accordance with the distances and measures specified below, to the satisfaction of the Responsible Authority:
 - a) Tree Protection Zone distances:
 - i. Tree 3 (*Betula pendula*) – 3.0 metre radius from the centre of the tree base.
 - ii. Tree 4 (*Melaleuca quinquinervia*) – 2.2 metre radius from the centre of the tree base.
 - iii. Tree 5 (*Melaleuca armillaris*) – 4.4 metre radius from the centre of the tree base.
 - iv. Tree 6 (*Hakea salicifolia*) – 3.6 metre radius from the centre of the tree base.
 - v. Tree 7 (*Hakea salicifolia*) – 3.6 metre radius from the centre of the tree base.
 - vi. Tree 8 (*Melaleuca quinquinervia*) – 2.5 metre radius from the centre of the tree base.
 - vii. Tree 9 (*Hakea salicifolia*) – 4.2 metre radius from the centre of the tree base.
 - b) Tree Protection Zone measures are to be established in accordance to Australian Standard 4970-2009 and including the following:
 - i. Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres in height held in place with concrete feet.
 - ii. Signage placed around the outer edge of perimeter the fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.
 - iii. Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary watering in summer months as required.

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- iv. No excavation, constructions works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the Responsible Authority.
 - v. All supports and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.
 - vi. All sub surface utilities and utility connection points, inspection pits and associated infrastructure trenching and installation are to be designed so that they are located outside the TPZs of retained trees, to the satisfaction of the Responsible Authority. Utility conduits can be located beneath TPZs but must be installed using trenchless excavation (eg: boring) and installed to a minimum depth of 0.6 metres below natural grade.
 - vii. Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.
 - viii. Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorised person only during approved construction within the TPZ, and must be restored in accordance with the above requirements at all other times.
6. During the construction of any buildings or works, the following tree protection requirements must be carried out to the satisfaction of the Responsible Authority:
- a) A project arborist must be appointed by the applicant or builder. Project arborist qualifications must read 'Arboriculture' for example 'Diploma in Horticulture (Arboriculture)'. The project arborist must have a minimum Diploma qualification in arboriculture to be appointed as the project arborist.
 - b) The Project Arborist must supervise all approved works within the TPZs of Trees 4, 5, 6 and 7. The project Arborist must ensure that all buildings and works (including site demolition) within the TPZs do not adversely impact the health and / or stability of the trees now or into the future.
 - c) The removal of the sections of the existing driveway and garage where within the TPZs of Trees 4, 5, 6 and 7 must be undertaken with the supervision and direction of the project arborist. The exposed areas must then be mulched in accordance with the TPZ fencing conditions listed in this permit, which must be maintained until such time as the treatment approved for that section is installed.

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- d) Dwellings 1 and 2, where within the TPZs of Trees 5 and 6, must be constructed above the existing soil grade, with no grade change within greater than 10% of the TPZs. A Geotechnical Engineer must assess the soil type and provide the results to a Structural Engineer so that appropriate footings and foundations can be designed so that they are not affected by soil movement.
 - e) For Trees 3, 4, 5, 6, 7, 8 and 9, no roots greater than 40mm in diameter are to be cut or damaged during any part of the construction process.
 - f) All buildings and works for the demolition of the site and construction of the development (as shown on the endorsed plans) must not alter the existing ground level or topography of the land (which includes trenching and site scrapes) within greater than 10% of the TPZs of Trees 3, 4, 7, 8 and 9.
 - g) No trenching is allowed within the TPZs of Trees 3, 4, 5, 6, 7, 8 and 9 for the installation of utility services. All utility services must be bored to a depth of 600mm below natural ground level where within the TPZs of these trees and the entering points for the boring works must be outside the TPZs.
 - h) The builder / site manager must ensure that any buildings and works within or adjacent to the TPZs of Trees 3, 4, 5, 6, 7, 8 and 9 do not adversely impact their health and / or stability now or into the future.
 - i) The builder / site manager must ensure the TPZ Fencing Conditions and the Tree Protection Conditions for Trees 3, 4, 5, 6, 7, 8 and 9 are being adhered to throughout the entire building process, including site demolition, levelling, and landscape works
 - j) Any tree pruning is to conform to AS4373-2007 Pruning of Amenity Trees and the work is to be performed by a suitably qualified arborist (AQF Level 3, minimum).
7. The existing street trees must not be removed or damaged, without the prior written consent of Council (refer Permit Notes).

Asset Engineering

8. All stormwater drains and on-site detention systems are to be connected to the legal point of discharge to the satisfaction of the Responsible Authority prior to the occupation of the building/s. The requirement for on- site detention will be noted on your stormwater point of discharge report, or it might be required as part of the civil plans approval.

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9. Detailed stormwater drainage and/or civil design for the proposed development are to be prepared by a suitably qualified civil engineer and submitted to the Responsible Authority for approval prior to occupation of the development. Plans and calculations are to be submitted with the application with all levels to Australian Height Datum (AHD). All documentation is to be signed by the qualified civil engineer.
10. Stormwater that could adversely affect any adjacent land must not be discharged from the subject site onto the surface of the adjacent land.
11. Prior to works commencing the Applicant/Owner is to submit design plans for all proposed engineering works external to the site. The plans are to be submitted as separate engineering drawings for assessment by the Responsible Authority.
12. The Applicant/Owner is responsible to pay for all costs associated with reinstatement and/or alterations to Council or other Public Authority assets as a result of the development. The Applicant/Owner is responsible to obtain all relevant permits and consents from Council at least 7 days prior to the commencement of any works on the land and is to obtain prior specific written approval for any works involving the alteration of Council or other Public Authority assets. Adequate protection is to be provided to Council's infrastructure prior to works commencing and during the construction process.
13. The qualified civil engineer when undertaking civil design must ensure that the landscape plan/s and drainage plan/s are compatible. The stormwater drainage and on site detention system must be located outside the tree protection zone (TPZ) of any trees to be retained.
14. Floor levels must be amended if vehicle access to the garage cannot be achieved. The architect and/or designer must ensure that vehicle access is to conform to the Australian Standards for Off-Street Parking (AS/NZS 2890.1:2004).
15. The legal point of connection may be external to the site and as such a stormwater drainage network will need to be constructed at the applicants cost.

Environmentally Sustainable Development

16. Prior to the endorsement of plans, a Sustainable Design Assessment (SDA) in accordance with the requirements of Clause 22.10 Environmentally Sustainable Development Policy must be submitted to and approved by the Responsible Authority.

Once submitted and approved to the satisfaction of the Responsible Authority, the SDA will form part of the endorsed plans under this permit.

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The requirements of the SDA must be demonstrated on the plans and elevations submitted for endorsement. Prior to the occupation of the development, the development must be constructed in accordance with the endorsed Sustainable Design Assessment to the satisfaction of the Responsible Authority, and the approved dwellings must operate in accordance with this document, to the satisfaction of the Responsible Authority. No alterations to the Sustainable Design Assessment may occur without the written consent of the Responsible Authority.

Waste Management

17. Prior to the commencement of any buildings or works, a Waste Management Plan must be submitted to and approved by the Responsible Authority. This Waste Management Plan must include the following:
 - a) Details of waste generation volumes.
 - b) Total bin numbers and capacities (size), including general waste and recycling.
 - c) Details of the proposed collection arrangements – to include:
 - Collection from the street kerb as shown on the development plans.
 - If collection to be carried out by a private contractor or Council.
 - Frequency of collections.
 - Details of on-site management of bin storage and bin placement/retrieval.

Once submitted and approved to the satisfaction of the Responsible Authority, the Waste Management Plan will form part of the endorsed plans under this permit.

The requirements of the Waste Management Plan must be implemented by the dwelling owners and occupiers, to the satisfaction of the Responsible Authority. No alterations to the Waste Management Plan may occur without the written consent of the Responsible Authority.

18. Mobile Garbage Bin (MGB) placements on Barter Crescent for on-street bin collection service must not cause any obstruction to any infrastructure or cause any danger to traffic/pedestrians. Bins are not to be placed within 1 metre of any infrastructure and are to have a height clearance of 4 metres for collection.

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Construction Management Plan

19. Prior to the commencement of buildings or works on the land, a Construction Management Plan, detailing how the owner will manage the environmental and construction issues associated with the development, must be submitted to and approved by Council.

The Construction Management Plan must be prepared and managed by a suitably qualified person who is experienced in preparing Construction Management Plans in accordance with the City of Whitehorse Construction Management Plan Guidelines.

When approved the Construction Management Plan will form part of this permit and must be complied with, to the satisfaction of the Responsible Authority. The owner of the land is to be responsible for all costs associated with the works to be undertaken in accordance with the requirements of the Construction Management Plan.

General Requirements

20. Prior to the occupation of the development, all walls on site boundaries facing adjoining properties must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
21. All treatments to prevent overlooking must not include 'Translucent film' on windows and must be in accordance with Standard B22 of Clause 55.

Expiry

22. This permit will expire if one of the following circumstances applies the:
- a) Development is not commenced within two years from the date of issue of this permit,
 - b) Development is not completed within four years from the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing pursuant to the provision of Section 69 of the *Planning and Environment Act 1987*.

Permit Notes:

- General Notes
 - A. The construction or reinstatement of crossovers is to be to Council standards and at the full cost of the permit holder.
 - B. The design and construction of letterboxes is to accord with Australian Standard AS-NZ 4253-1994.
 - C. The lot/unit numbers on the "Endorsed Plan" are not to be used as the official street address of the property. All street addressing enquiries can be made by contacting our Property Team on 9262 6470.

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- **Asset Engineering**

- D. The design and construction of the stormwater drainage system up to the point of discharge from an allotment is to be approved by the appointed Building Surveyor. That includes the design and construction of any required stormwater on-site detention system. The Applicant/Owner is to submit certification of the design of any required on-site detention system from a registered consulting engineer (who is listed on the Engineers Australia National Professional Engineer Register or approved equivalent) to Council as part of the civil plans approval process.
- E. The requirement for on-site detention will be noted on the stormwater point of discharge report, or it might be required as part of the civil plans approval.
- F. Report and consent – Any proposed building over the easement is to be approved by the Responsible Authority prior to approval of the building permit. If Report and Consent contradicts with the Planning Permit, amendment of the Planning Permit might be required.
- G. The Applicant/Owner is to accurately survey and identify on the design plans all assets in public land that may be impacted by the proposed development. The assets may include all public authority services (i.e. gas, water, sewer, electricity, telephone, traffic signals etc.) and the location of street trees or vegetation. If any changes are proposed to these assets then the evidence of the approval is to be submitted to Council and all works are to be funded by the Applicant/Owner. This includes any modifications to the road reserve, including footpath, nature strip and kerb and channel.
- H. The Applicant/Owner must obtain a certificate of hydraulic compliance from a suitably qualified civil engineer to confirm that the on-site detention works have been constructed in accordance with the approved plans, prior to Statement of Compliance is issued.
- I. There is to be no change to the levels of the public land, including the road reserve or other Council property as a result of the development, without the prior approval of Council. All requirements for access for all-abilities (Disability Discrimination Access) are to be resolved within the site and not in public land.
- J. Redundant vehicle crossings must be removed at the same time as the construction of any new vehicle crossings, prior to the completion of development works and where access to a property has been altered by changes to the property.

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- **Street Tree Removal**

- K. The two street trees on Barter Crescent beside the subject site may be removed and replaced by Council, subject to making a separate application to Council's Parks and Natural Environment Department. All works for removal of the street trees and any re-planting must be undertaken by Council's Parks and Natural Environment Department.

- **Preferred Tree Species**

- L. The replacement trees are to be selected from the lists below, or any other species to the satisfaction of the Responsible Authority:

Large canopy trees, greater than 12m in height at maturity:

Botanical Name	Common Name	Origin
<i>Angophora costata</i>	Smooth-barked Apple	AN
<i>Angophora floribunda</i>	Rough-barked Apple	AN
<i>Cedrus deodara</i>	Himalayan Cedar	Ex.
<i>Eucalyptus baxteri</i>	Brown Stringybark	VN
<i>Eucalyptus cephalocarpa</i>	Mealy Stringybark	VN
<i>Eucalyptus globoidea</i>	White Stringybark	VN
<i>Eucalyptus goniocalyx</i>	Long-leaved Box	VN
<i>Eucalyptus leucoxylon</i>	Yellow Gum	VN
<i>Eucalyptus melliodora</i>	Yellow Box	VN
<i>Eucalyptus polyanthemos</i>	Red Box	VN
<i>Liriodendron tulipifera</i>	Tulip tree	Ex.
<i>Quercus palustris</i>	Pin Oak	Ex.

11.1
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Medium sized trees, 8 - 12m in height at maturity.

Botanical Name	Common Name	Origin
<i>Acacia dealbata</i>	Silver Wattle	VN
<i>Acacia mearnsii</i>	Black Wattle	VN
<i>Allocasuarina torulosa</i>	Forest She-oak	AN
<i>Betula pendula</i>	Silver Birch	Ex.
<i>Corymbia eximia</i>	Yellow Bloodwood	AN
<i>Eucalyptus scoparia</i>	Wallangara white gum	AN
<i>Eucalyptus yarraensis</i>	Yarra Gum	VN
<i>Eucalyptus leucoxylon</i> subsp. <i>connata</i>	Melbourne Yellow Gum	VN
<i>Fraxinus excelsior</i> 'Aurea'	Golden Ash	Ex.
<i>Fraxinus ornus</i>	Manna Ash	Ex.
<i>Nyssa sylvatica</i>	Tupelo	Ex.
<i>Tilia cordata</i>	Small-leaved Lime	Ex.
<i>Ulmus parvifolia</i>	Chinese Elm	Ex.
<i>Waterhousea floribunda</i>	Weeping Lilly Pilly	AN
<i>Zelkova serrata</i>	Japanese Zelkova	Ex.

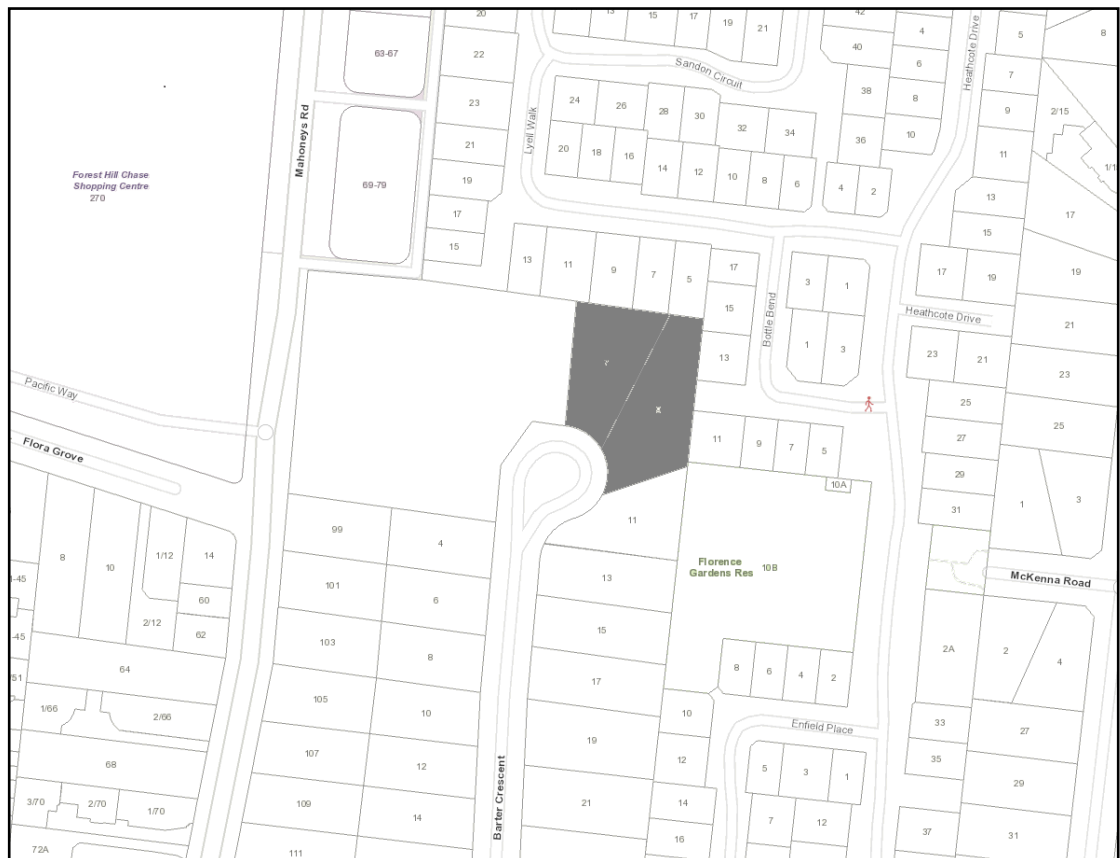
VN – Victorian Native; **AN** – Australian Native; **Ex.** – Exotic

- C. Has made this decision having particular regard to the requirements of Sections 58, 59, 60 and 61 of the Planning and Environment Act 1987.

MELWAYS REFERENCE 62 D2

Applicant:	Indev Projects Pty Ltd
Zoning:	General Residential Zone Schedule 1
Overlays:	Significant Landscape Overlay Schedule 9
Relevant Clauses:	
Clause 11.01-S	Settlement
Clause 12.05 -2S	Landscapes
Clause 15.01	Built Environment
Clause 16.01-1S	Housing Supply
Clause 21.05	Environment
Clause 21.06	Housing
Clause 22.03	Residential Development
Clause 22.04	Tree Conservation
Clause 32.08	General Residential Zone Schedule 1
Clause 42.03-2	Significant Landscape Overlay Schedule 9
Clause 52.06	Car Parking
Clause 55	Two or More Dwellings on a Lot or Residential Buildings
Clause 65	Decision Guidelines
Ward:	Mahoneys

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Subject site

BACKGROUND

History

There have been two previous Planning Permit applications for this site:

- WH/2015/292 allowing the construction of three, double storey dwellings at 9 Barter Crescent was issued on 6 May 2016. The commencement expiry date of this Permit was extended to 6 May 2022, but a further extension was refused on the grounds that the Permit was being warehoused.
- WH/2018/517 allowing the development of 7 Barter Crescent for three dwellings and tree removal was issued on 14 January 2019. The commencement expiry date of this Permit has been extended to 14 January 2023.

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Processing History

This application originally proposed seven, double storey dwellings. Subsequent to the Consultation Forum, a Section 57A Amendment was lodged on 25 May 2022 to address issues raised by the objections and Council Officers, amending the plans to show/include:

- Deletion of the first floor of Dwelling 4 and reducing this to a two bedroom dwelling with a single car space;
- Increasing the setback of Dwelling 3 from the north boundary from a minimum 1.25 to a minimum 2.06 metre setback, and altering the dwelling layout to extend the length of the 5.2 metre wide secluded private open space from 5 to 7 metres beside this boundary.
- Increasing the upper level setback of Dwelling 5 from the east boundary from 3.2 to 4.7 metres.
- Deletion of the visitor car space from the site's frontage to Barter Crescent.

The S57 Amendment Plans were readvertised to the original objectors and surrounding lots. The amended plans form the decision plans assessed under this report.

The Site and Surrounds

The subject site comprises two lots located at the north end of the Barter Crescent court bowl, in Forest Hill. The site has a curved frontage of approximately 27.8 metres to Barter Crescent, and has an irregular shape with a total site area of approximately 2027m².

The site has a slope down from north to south, falling 1.3 metres across the site. A 1.83 metres wide drainage easement is located along the northern and eastern boundaries.

No. 7 Barter Crescent currently contains a single storey, brick detached dwelling and several canopy trees. The details of these trees will be outlined in more detail under the below.

No.9 Barter Crescent is vacant and has been cleared of all trees, as allowed by Planning Permit WH/2015/292.

The Forest Gardens Estate adjoins the site to the north and east, and is developed with predominantly attached comprising a mix of single and double storey dwellings. This former school site was re-developed approximately 20 years ago and has a relatively dense site layout, including limited front and rear boundary setbacks for many dwellings, narrow roadways, and the use of row and semi-detached dwelling layouts minimising spacing between the dwellings.

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The properties surrounding the subject site are developed as follows:

- To the west is a car park serving Forest Hill Chase Shopping Centre which is required to be provided in accordance with the Development Plan Overlay Schedule 1 (Forest Hill Activity Centre). Pedestrian access to this car park (and then to Forest Hill Chase) is provided from Barter Crescent opposite the subject site.
- To the north, No's 5, 7, 9 and 11 Lyell Walk are all single storey and have their secluded private open space areas abutting the subject site. These dwellings form part of the Forest Gardens Estate and are all attached, aside from a 3 metre wide separation between No, 7 and 9. Lyell Walk.
- To the east, No's 11, 13 and 15 Bottle Bend adjoin the subject site and are all single storey dwellings. No's 13 and 15 Bottle Bend are attached. A small reserve on Bottle Bend also abuts the common boundary, and the Florence Gardens Reserve has a small interface with the subject site at the south-east corner of 9 Barter Crescent.
- A single storey, brick dwelling at No. 11 Barter Crescent abuts the south boundary of the subject site. The vehicle accessway and two garages serving this dwelling are positioned beside the common boundary.

Further afield, the surrounding land to the south and south-west of the subject site is developed for residential purposes, comprising a mix of original style detached dwellings and later infill density development. To the west and north-west are Forest Hill Shopping Centre and commercial properties fronting Mahoneys Road.

There is no standing on the one-way roundabout at the end of Barter Crescent beside the subject site.

The subject site is located within the Principal Public Transport Network area.

Planning Controls

The proposal triggers the need for a Planning Permit under the following clauses of the Whitehorse Planning Scheme:

General Residential Zone Schedule 1 (GRZ1)

Pursuant to Clause 32.08-6 (General Residential Zone) of the Whitehorse Planning Scheme, a Planning Permit is required for the construction of two or more dwellings on a lot. A development must meet the requirements of Clause 55.

Significant Landscape Overlay Schedule 9 (SLO9)

Pursuant to Clause 42.03-2 a permit is required for the removal of protected trees and buildings and/or works within 4 metres of protected trees, as summarised in the tables below.

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Tree No.	Species and Common Name	Height (m)	Condition	Location	Permit Trigger
2	<i>Gleditsia tricanthos</i> Golden Honey Locust	5	Moderate retention value	Nature strip of 7 Barter Crescent	Proposed removal
3	<i>Betula pendula</i> Silver Birch	9	Low retention value	5 Lyell Walk	Proposed buildings and works within 4 metres
4	<i>Melaleuca quinquinervia</i> Broad-leaved Paperbark	5	Low retention value	Car park to the west	Proposed buildings and works within 4 metres
5	<i>Melaleuca armillaris</i> Giant Honey Myrtle	6	Low retention value	Car park to the west	Proposed buildings and works within 4 metres
6	<i>Hakea salicifolia</i> Willow Hakea	6	Low retention value	Car park to the west	Proposed buildings and works within 4 metres
7	<i>Hakea salicifolia</i> Willow Hakea	6	Low retention value	Car park to the west	Proposed buildings and works within 4 metres
8	<i>Melaleuca armillaris</i> Giant Honey Myrtle	7	Low retention value	Car park to the west	Proposed buildings and works within 4 metres
9	<i>Hakea salicifolia</i> Willow Hakea	6	Low retention value	Car park to the west	Proposed buildings and works within 4 metres
11	<i>Callistemon viminalis</i> Weeping Bottlebrush	5	Low retention value	Subject site north boundary	Proposed removal
12	<i>Syzygium smithii</i> Lilly Pilly	5	Low retention value	Subject site north boundary	Proposed removal
13	<i>Acacia pravissima</i> Ovens Wattle	8	Moderate retention value	Subject site north boundary	Proposed removal

11.1
(cont)

Tree No.	Species and Common Name	Height (m)	Condition	Location	Permit Trigger
14	<i>Pittosporum tenuifolium</i> Kohuhu	5	Low retention value	Central to subject site	Proposed removal
15	<i>Betula pendula</i> Silver Birch	9	Low retention value	Subject site frontage	Proposed removal

A second street tree (Tree 1) is a 2 metre high *Gleditsia tricanthos* (Golden Honey Locust), located on the naturestrip, which is not protected by the SLO9, but is a Council asset and also proposed to be removed.

Clause 52.06 – Car Parking

Pursuant to Clause 52.06-5, car parking is required to be provided at the following rates for a site located within the Principal Public Transport Network area:

- To each one or two bedroom dwelling: 1 car space
- To each dwelling with three or more bedrooms: 2 car spaces
- Visitor parking: Not required

PROPOSAL

The application proposes the construction of one single and six double storey dwellings and associated tree removal. The key features of the proposal include:

- Site layout:
 - Dwellings 1, 2 and 3 are arranged in tandem along the west boundary and Dwellings 4-7 positioned on the along the east boundary. The garages of Dwellings 1 and 2 and of Dwellings 4 and 5 are attached at the ground level. All of the dwellings are separated at the upper level between 2.6 metres and 3.3 metres.
 - Dwellings 1-6 share a common driveway, whereas Dwelling 7 is served by a separate accessway towards the south-eastern corner of the site frontage. Two new crossovers are proposed to serve these accessways, and both existing street trees are proposed for removal.
- Parking allocation:
 - Dwellings 1, 2, 3, 5, 6 and 7 have four bedrooms and are all served by double garages.

11.1

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- Dwelling 4, positioned at the north-east corner of the site, is single storey and comprises two bedrooms and is served by a single car garage.
- Boundary setbacks
 - Given the curved frontage of Barter Crescent, the setbacks of Dwellings 1 and 7 vary, with a minimum 7 metre front setback provided, ranging to a maximum 10 metre setback at the south boundary.
 - On the south boundary of the subject site, adjacent to No. 11 Barter Crescent, Dwelling 7 includes a garage wall and boundary, with the balance of this dwelling setback between 1.16 and 1.70 metres from this boundary, at the ground level. The upper floor of Dwelling 7 is setback a minimum of 1.80 metres from the south boundary.
 - Along the east boundary, Dwellings 4, 5 and 6 are setback between 1.93 and 2.11 metres from the boundary at the ground floor level, with these dwellings all stepping back in places between 7 and 8.7 metres from the east boundary to provide for secluded private open space areas which are positioned along this interface. The upper levels of Dwellings 5 and 6 are setback a minimum of 4.73 and 3.70 metres respectively from this boundary, and are separated from each other by 3.34 metres.
 - To the north, the single story Dwelling 4 will be setback a minimum of 2.34 metres from the boundary, stepping back to 5.7 metres to provide for the secluded private open space at the north-east corner. A 3.9 metre separation is provided between Dwellings 3 and 4. The double storey Dwelling 3 is setback a minimum of 2.06 metres at the ground floor level, opening up to a 5.7 metre wide setback at the north-west corner to provide for secluded private open space. Dwelling 3 is setback from the north boundary between 3.08 and 5.47 metres at the first floor.
- Secluded private open space:
 - The secluded private open space areas, with a minimum dimension of five metres, serving the new dwellings range in size between 38.8m² for Dwelling 7 and 46m² for Dwelling 6.
- Development details:
- No front fence is proposed.
- The proposed dwellings are provided with black pitch tiled roofs and will be clad with face brick to the ground level and a combination of white and grey render at the upper level.
- The maximum dwelling height is 8.6 metres (at the peak of the Dwelling 7 roof).

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- A site coverage of 49.2% and permeability of 38.8%.
- Garden Area 38.8%.

CONSULTATION

Public Notice

The application was first advertised by mail to the adjacent and nearby property owners and occupiers and by erecting two notices to the Barter Crescent frontage. Following the advertising period 17 objections were received.

The issues raised are summarised as follows:

- Amenity impacts:
 - Overlooking
 - Overshadowing
 - Unsightly waste bin storage and placement on-street on collection days. Waste collection trucks will block the street and visibility.
- Neighbourhood Character:
 - Excessive building bulk and density
 - Gas, electricity and water meters could be unsightly
- Car parking and traffic:
 - Insufficient on-site car parking for likely numbers of residents and visitors.
 - Increased traffic and on-street parking on Barter Crescent
- Landscaping:
 - Tree removal. Trees have already been removed from No. 9 Barter Crescent
 - Insufficient landscape areas for tree planting
- Not Compliant with Planning Policies
- Non-planning matters:
 - Negative impact on surrounding property values
 - Set an undesirable precedent
 - Tenure of occupants- likely to be rented and subleased
 - Construction impacts
 - Increased drainage and flooding problems

11.1
(cont)

The S57 Amendment plans were readvertised to the 17 objectors and to the owners and occupiers of surrounding lots on 3 June 2022, and three further submissions were received from original objectors. New issues raised in these submissions include overshadowing of solar panels and loss of the previously proposed visitor car space.

Consultation Forum

A Consultation Forum was held via Zoom on 9 February 2022, chaired by Cr Lane. Approximately 13 objectors, the applicant and two planning officers attended the meeting.

At the Forum, the objectors expanded on the concerns they had raised in writing. Additional points raised included:

- Children play on the road along Barter Crescent, and will be impacted by the increased traffic.
- Potential conditions (should a Permit issue) were discussed for :
 - Overlooking screening to upper level south facing windows.
 - Ensuring asset engineering prevented increased overland flows of water to surrounding lots.
 - Planted trees to be at a mature size to speed the creation of green screening.
- The Applicant indicated that they would be willing to frost or relocate the south-facing bedroom 4 of Dwelling 7 window, and noted that drainage for the new development would be resigned by a drainage engineer and would likely require a stormwater detention system to ensure that the existing stormwater system is not overwhelmed.

No resolution of the issues raised was reached at the Forum.

Referrals

External

This application was not required to be referred externally.

Internal

Engineering and Environmental Services Department

- Transport Engineer

No objection. Vehicle turning movements are satisfactory. There will be no loss of on-street parking associated with the new crossovers, the increased traffic can be accommodated in the existing transport network, and compliant on-site car parking is provided for a site within the Principal Public Transport Network. Double garage doors must be 5.2 metres wide to facilitate compliant vehicle turning movements.

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- Assets Engineer

The plans must demonstrate no excavation and/or fill greater than 300mm within the easement. The dwellings on the western boundary of 7 Barter Crescent must be constructed at least 350mm above the proposed finished ground levels. These dwellings must not have a lower floor level than the adjacent western properties ground level (as the adjacent car park is flood prone). These changes will be discussed further below.

In addition, standard conditions are required.

Planning Arborist

Tree 10 is an Environmental Weed species under SLO9, and may be removed as-of-right.

No objection to the removal of Trees 11-15.

With conditions the proposal can be supported in relation buildings and works within 4 metres of Trees 3, 4, 5, 6, 7, 8 and 9 on surrounding lots. In particular, the proposed site cut along the west boundary must be relocated so that there are no soil level changes within greater than 10% within the TPZs and SRZs of Trees 5 and 6.

Parks and Natural Environment Arborist

No objection to the removal of street Trees 1 and 2, subject to usual approval process required by Parks and Natural Environment.

DISCUSSION

Consistency with State and Local Planning Policies

The construction of seven dwellings on this site is consistent with Planning Policy Framework directions which encourage higher density development within established residential areas that have good access to shops, recreation facilities and public transport. In particular, Clause 16.01-1S Housing Supply includes Strategies to increase the proportion of housing in established urban areas to reduce the demand for dwellings on greenfield sites and the urban fringe.

The subject site is located within 150 metres of the Forest Hill Chase Shopping Centre, which is on the SmartBus network. Whitehorse's Activity Centre Policy at Clause 22.06 of the Planning Scheme designates Forest Hill Chase as an Activity Centre, and this commercial area provides a range of shopping and community services. Direct pedestrian access is provided from the end of Barter Crescent opposite the subject site to the adjacent car park and then to Forest Hill Chase.

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The site also adjoins the Florence Gardens Reserve, and there are several schools located within 2km of the site. The proposal accords with The Strategies under Clause 16.01-1S which seek to ensure housing stock matches changing demand by widening housing diversity; encourage the development of well-designed new infill housing that makes better use of existing infrastructure. Clause 15.01-5S Neighbourhood Character requires new development to be respectful of the existing and preferred neighbourhood character and to appropriately respond to the valued landscape features of the area.

In the Local Planning Policy Framework, Clause 21.06 Housing) of the Local Planning Policy Framework is informed by Council's Housing Strategy 2014, and identifies the site within a Natural Change Area. This policy indicates that modest housing growth and a variety of housing types are anticipated within Natural Change Areas, and housing growth and diversity is to be promoted in locations within walking distance of public transport, local shops and services.

Whitehorse's Residential Development Policy at Clause 22.03, applies to all applications for development within the residential zones. This policy is used to supplement the neighbourhood character and residential policy requirements of Clause 55 (ResCode). The relevant objectives of Clause 22.03 are:

- To ensure that residential development within the City of Whitehorse is consistent with the built form envisaged for the relevant category of housing change.
- To ensure development contributes to the preferred neighbourhood character where specified.
- To ensure that new development minimises the loss of trees and vegetation.
- To ensure that new development provides adequate vegetation and gardens consistent with the preferred neighbourhood character.
- To recognise that areas of substantial and natural change will make a significant contribution to increases in housing stock.

The Neighbourhood Character Study 2014 further defines the preferred future character of precincts within the City. The subject site is located within the Garden Suburban Precinct 5. The preferred character statement for this precinct is outlined at Clause 22.03-5 as follows:

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The modest, pitched roof dwellings will sit within well-established garden settings and will not dominate the streetscape due to consistent siting patterns and substantial planting. The rhythm of dwelling separation will appear regular from the street, even with buildings occasionally built to one side boundary. The streets will have a spacious and leafy feel, which is complemented by tall trees in the public and private realm, visible front lawn areas due to the frequent lack of or low front fencing and grass nature strips

Variations to Clause 55 to address the relevant requirements of the Garden Suburban Precinct 5 Guidelines, are set out in the applicable Schedule 1 to the General Residential Zone.

The proposal balances the urban consolidation outcomes of the Planning Policy Framework with the preferred landscape outcomes in the objectives and decision guidelines of the General Residential Zone Schedule 1, the Significant Landscape Overlay Schedule 9, Clause 22.03 (Residential Development) and Clause 22.04 (Tree Conversation).

The proposed development has been fully assessed against and is considered, subject to conditions discussed below, to satisfy the relevant standards and objectives of Clause 55 (Two or more dwellings on a lot) of the Whitehorse Planning Scheme. The following discussion covers the key issues raised during the application process.

Design and Built Form

Site Layout and Neighbourhood Character

The development proposes a site coverage of 49.2%, which is within the preferred maximum 50% site coverage as specified for Standards B8 in Schedule 1 to the General Residential Zone. The proposed permeable area of 38.8%, significantly exceeds the minimum 30% requirement of the varied Standard B9. This demonstrates the development's ability to meet the preferred character and respond to the features of the site.

The 8.6 metre maximum height of the proposed double storey development is well below the mandatory 11 metre and three storey height limits identified within the General Residential Zone Schedule 1, ensuring that the building heights are consistent with the neighbourhood.

The proposed 7 metre front setback to Barter Crescent for Dwellings 1 and 7 is greater than the 6 metre setback of the adjoining dwelling to the south, and as such complies with the requirements of Standard B6 (Street Setback of Clause 55, and will ensure the development maintains consistency with the streetscape presentation to Barter Crescent..

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The existing lots each have a vehicle crossover to the Barter Crescent court bowl, and the proposed development retains two crossovers, albeit in different locations. The provision of two vehicle crossovers into Barter Crescent is compliant with Standard B14 (Access), and these crossovers will take up 21% of the 27.9 metre long frontage, which is less than the 33% allowed under Standard. The proposed crossover arrangement will ensure that the majority of the site frontage is unpaved and remains available for landscaping and tree planting to support the preferred and prevailing neighbourhood character.

Dwelling 7 has sole use of one of the accessways, and the garage of Dwelling 7 is the only wall proposed to be constructed on the south boundary, consistent with Standard B18 (Side and Rear Setbacks) of Clause 55. The adjoining lot to the south at No. 11 Barter Crescent also includes garages built to the common boundary, and the Dwelling 7 garage will abut these, and therefore limit the amenity impacts to the south.

The use of pitched roof forms with eaves at both the ground and upper levels softens the transitions between the ground and upper floors and provides design detail consistent with the surrounding neighbourhood character. Dwellings in the surrounding area typically have light grey or brown coloured roofs, and a condition will require the proposed black roof colour to be amended to a lighter colour.

Landscaping Opportunities

Given the curve along Barter Crescent and the offset of the common accessway alignment from the street, the central paved spine serving the proposed dwellings will have limited visibility to the streetscape, and the landscaping within the frontage setback will frame the key views of the subject site.

Dwelling 7 is set on an angle following the south boundary, offering a landscaping and tree planting opportunity between 4 and 7 metres wide east of the common vehicle accessway. A condition will require the establishment of a canopy tree and understorey plantings in this location, which will further soften the presentation of the accessway through the centre of the subject site and screen views of Dwellings 5 and 6 from Barter Crescent.

The central accessway provides a building break through the centre of the subject site, and the decision plans include a 3.9 metre wide separation between Dwellings 3 and 4, providing an open garden view at the end of the accessway. Several additional landscaping areas, between 1.5 and 2.2 metres wide, are provided along this accessway, which will provide for lower level landscaping to soften the extent of paving through the centre of the development.

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Boundary Interfaces

The subject site adjoins residential properties to the north and east that are part of the Forest Gardens Estate, which is a fairly densely developed former school site that provides the secluded private open space areas of several dwellings abutting the subject site. The presence of a 1.83 metre wide easement along the north and east boundaries has ensured the dwellings are setback at least 1.83 metres from this interface, with the proposed dwelling footprints typically stepping back further to provide for secluded private open space areas generally aligned with the most sensitive adjacent areas.

The north boundary of the subject site abuts No's 5, 7, 9 and 11 Lyell Walk, all of which are provided with south-facing, secluded private open space (SPOS) areas. The SPOS for No's 5 and 7 Lyell Walk are particularly compact, being between 4 and 4.5 metres wide, and situated to the south of these dwellings. A later building extension to No. 9 Lyell Walk into its SPOS has also reduced the SPOS for this dwelling to a 5 metre width, oriented north-south along the long axis. No. 11 Lyell Walk is provided with a generous secluded private open space area a minimum of 12 metres wide to the south of this dwelling that will experience limited impact from the proposed development, owing to its short (4 metre) abuttal with the subject site and the presence of a substantial upper canopy tree within the SPOS serving this dwelling.

The current single storey form for Dwelling 4 ensures that this dwelling would not result in excessive building bulk to No's 5 and 7 Lyell Walk. The provision of the SPOS area for Dwelling 4 at the north-east corner of the site and the break between Dwellings 3 and 4 provide adequate building separation for visual relief and tree planting opportunities when viewed from the SPOS areas associated with these neighbouring dwellings.

Dwelling 3, has a compact upper level positioned opposite the building footprint to No. 9 Lyell Walk to the north, and generally limits its interface to the SPOS areas associated with this neighbouring dwelling. The secluded private open space of Dwelling 3 would be located adjacent to the open space areas for No's 9 and 11 Lyell Walk. This arrangement provides the widest SPOS areas and greatest tree planting opportunities at the north-east corner of the proposed development adjacent to the neighbouring SPOS areas, thereby minimising the proposed built form impacts to these sensitive interfaces to the north.

The single-storey form of Dwelling 4 and provision of its SPOS at the north-east corner of the site minimises the impacts to No. 15 Bottle Bend, in association with the location of the secluded private open space for Dwelling 5, which also limits the built form and amenity impacts to the open space of No. 13 Bottle Bend.

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The closest points of Dwellings 5 and 6 to the eastern boundary are generally positioned beside the common property park within the Forest Gardens Estate and beside the built form of No. 11 Bottle Bend. Conversely, the secluded private open space of Dwelling 7 adjoins the most sensitive secluded private open space area for No. 11 Bottle Bend. In this way, the rhythm of secluded private open spaces for the proposed development responds to the most sensitive interfaces, and limits the building bulk impacts to these areas. Trees will be able to be planted, clear of easements, within the secluded private open space areas along the boundary.

With the exception of a section of the south elevation of Dwelling 7 opposite the neighbouring garage built to the common boundary, the upper levels are generally setback from the ground floor footprints, providing visual interest and good articulation of the dwelling forms. The presentation of the double storey dwelling forms to the surrounding lots is broken up by the 2.6 – 3.3 metre wide separations between the upper levels of the proposed dwellings.

The boundary setbacks of the proposed dwellings comply with the Standard B17 (Side and Rear Setbacks) of Clause 55, which seeks to ensure that the height and setbacks of buildings respect the existing character and limit the impact on the amenity of existing dwellings.

The site frontage will remain open and a condition will require landscaping within the front setback to provide tall trees and understory plantings for a complete garden scheme consistent with the preferred and surrounding neighbourhood character.

Secluded Private Open Space Areas

The site layout provides for the secluded private open space areas for the proposed dwellings to exceed the minimum 35m², meeting Standard B28 as varied by Schedule 1 of the General Residential Zone and provide areas between 38.8m² and 46m². Even accounting for the presence of easements within many of the secluded private open space areas, ample space is provided to establish upper canopy trees within these areas which will have mature canopies largely clear of the proposed dwellings.

The secluded private open space areas serving Dwellings 1, 2, 5, 6 and 7 are located to the south of adjacent dwellings on the subject site, but all will achieve compliant access to northern light in accordance with Standard B29 (Solar Access to Open Space).

Overall, the proposed development will achieve a high level of compliance with Clause 55 and a strong landscape character to support the Garden Suburban characteristics of the area.

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Amenity

Overshadowing

At 9am on the September Equinox, shadows of the proposed development would fall over the subject site and the car park to the West. Overshadowing impacts at noon and 3pm on the Equinox are discussed in relation to the affected dwellings below.

Dwelling 7 would cast shadows over the garages on the common boundary to the south at noon, and at 3pm these shadows would extend over the garages to the open space behind them, but this overshadowing would fall generally within the existing shadows cast by the adjacent garages and common boundary fence, and the bulk of the open space for No. 11 Barter Crescent would be unaffected.

At 3pm, the shadow of Dwelling 6 would fall largely within the shadows of the existing fence and vegetation within the open space of No. 11 Bottle Bend, and will not unreasonably intrude into the SPOS area for this dwelling. The shadow of the single storey Dwelling 4 will fall into the open space of No. 13 Bottle Bend, but this shadow will fall entirely within the shadow of the common boundary fence, and therefore will not result in a loss of sunlight to this space.

Thus, when tested against Standard B21 (Overshadowing Open Space), the development will not cause any unreasonable shadowing to adjoining areas of secluded private open space.

Overshadowing of Solar Panels

The decision guidelines of the GRZ require assessment of the impact of an application on existing rooftop solar energy systems. Solar panels were not seen on the roof of the adjacent dwelling to the south in a site visit on 6 July 2022. The shadow diagrams for the Equinox shows the shadow line well clear of the adjacent dwelling, so the proposed overshadowing to the south will not unreasonably compromise solar panels that may be installed on the roof of this dwelling.

Overlooking

Subject to conditions, the proposed development would not cause any unreasonable overlooking to surrounding lots in accordance with Standard B22 of Clause 55. There are limited upper level windows provided to the north and east elevations of Dwellings 3, 5, 6 and 7, and these windows typically have either obscure glazing or high sills to 1.7 metres above finished floor level to prevent unreasonable overlooking.

Dwelling 7 includes a clear glazed window serving bedroom 4 on the south elevation, and this window has the potential to unreasonably overlook the secluded private open space of No. 11 Barter Crescent to the south. A condition will require this window to be modified to prevent overlooking in accordance with Standard B22 (Overlooking) of Clause 55.

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The existing 1.8-2.0 metre high north boundary fences are to be retained, and the existing 1.6 and 1.65 metre high south and east boundary fences are proposed to be replaced with new 1.95 metre high timber paling fences, which will effectively screen views from ground level windows and open spaces to the adjacent lots.

Sustainable Design Assessment

Conditions will require a Sustainable Design Assessment (SDA) in accordance with Clause 22.10 Environmentally Sustainable Development Policy to ensure that the proposal achieves best practice sustainable design.

Asset Engineering

Although the car park to the west is a non-sensitive interface, this adjacent lot is flood prone. Dwelling 3 is proposed to be constructed at the existing site level, however the plans show a shallow excavation along the west boundary beside Dwellings 1 and 2. Council's Asset Engineers have indicated that alterations to the Finished Floor Levels (FFLs) of Dwellings 1-3 may be required to ensure that the new dwellings adjacent to the west boundary do not flood. This matter will be addressed through the Building Permit process and if major alterations are required to the floor levels or heights of these dwellings in order to resolve potential flooding concerns, the applicant will be required to seek a S72 Amendment to the plans.

Landscaping and Tree Impacts

The Decision Guidelines of the Significant Landscape Overlay Schedule 9 at Clause 42.03, require consideration to be given to 'the need to retain trees that are significant due to their species, health and/or growth characteristics', while further requiring that: 'If retention cannot be achieved, or a tree is considered appropriate for removal, consider whether the site provides adequate space for offset planting of trees that can grow to a mature height similar to the mature height of the tree to be removed'.

Council's Planning Arborist has reviewed the trees proposed for removal and has raised no objection, on the grounds that the existing trees are common species that can be replaced with replanting.

In addition, Council's Planning Arborist has advised that the site cut and retaining wall proposed along the west boundary will unreasonably impact on the health of Trees 5 and 6 located in the adjacent car park, and that this retaining wall must be relocated to limit the incursion into the TPZs of Trees 5 and 6. The applicant has advised that they can achieve all of Council's Arborist's requirements, which will form conditions should a Permit issue.

Council's Parks and Natural Environment Arborist has no objection to the removal of the two street trees, however it is noted that a separate application direct to the Parks and Natural Environment Department will be required.

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Standard B13, as modified by the General Residential Zone Schedule 1, requires the planting of two 8 metre high trees per dwelling. A Permit condition will require a landscape plan showing the planting of 14 x 8 metre high trees, including one tree within the secluded private open space of each dwelling, one small tree at the end of the accessway to the rear of the garages of Dwellings 3 and 4, one tree to the north of Dwelling 7 beside the central accessway. Two trees will be required within the frontage of Dwelling 7- one on either side of the accessway, and three trees will be required in front of Dwelling 1. Council's Planning Arborist has recommended suitable tree species, and a complete garden scheme including shrubs and understory plantings will be required.

Objectors have also expressed concern regarding the lack of landscaping proposed along the north boundary interface with dwellings along Lyell Walk. A 1.83 metre wide easement runs along this boundary, and Clause 22.04 Tree Conservation Policy requires new trees to be planted clear of easements, hence the provision of a screen of shrubs will be required to soften the presentation of the development at the north and east boundary interfaces.

Car Parking

Dwellings 1-3 and 5-7 provide the required two car spaces, and Dwelling 4 provides the single car space required under Clause 52.06 - Car Parking. There is no requirement for visitor parking to be provided on site as the site is located within the Principal Public Transport Network area. It is noted that immediately west of the subject site pedestrian access is provided to the Forest Hill Chase car park on Mahoneys Road and nearby bus routes along Canterbury Road.

The application has been reviewed by Council's Transport Engineer, who has supported the proposal on traffic and car parking grounds, subject to a condition to ensure that the double garage doors are 5.2 metres wide to ensure vehicles can manoeuvre on site to exit in a forwards direction.

It is noted that vehicle movements in the roundabout within the court bowl of Barter Crescent are one way only and no parking is allowed within this section of the street. The proposed development provides two crossovers, which is consistent with the number of crossovers currently existing on the subject site. Importantly, vehicles exiting the site from Dwellings 1 to 6 are able to turn on site to exiting in a forwards direction, which will assist with managing driver sight lines and vehicle safety within the roundabout.

Although the proposal will increase vehicle movements in Barter Crescent, Council's Transport Engineer is comfortable that the increased traffic and on-street parking demand resulting from the proposed development can be absorbed by the local street network.

11.1

(cont)

From the points raised in the objections and the Forum discussion, it is apparent that the potential for increased vehicle movements and on-street car parking is a key concern for the surrounding residents. No on-street parking is allowed within the court bowl of Barter Crescent which will ensure the free flow of cars and waste vehicles past the subject site. Council's Waste Engineer has advised that bins can be collected from the site frontage to Barter Crescent and partially in front of the adjacent public car park to the west, and that a Waste Management Plan will be required to formalise this arrangement.

Given the limited site frontage and its position on a curved roundabout where no stopping is allowed, a condition will require a Construction Management Plan, which will require consideration of the site access and construction vehicle and worker parking, as well as other potential residential amenity impacts associated with the construction processes.

Objectors Concerns not Previously Addressed

- Increased noise

Concerns have been raised regarding the potential noise generated from the dwellings after occupancy. The consideration of this planning application is confined only to the construction of the dwellings, the residential use of the dwellings does not require a planning permit. Residential noise associated with dwellings is both normal and reasonable in a residential setting.

- Construction of Dwelling 7 garage wall on boundary

The construction method and building details of the wall on boundary located beside an existing wall will be resolved at the Building Permit stage, should a Planning Permit issue.

- Gas, electricity and water meters could be unsightly and should be shown on the plans

The meter box is shown on the plans behind the letterboxes beside the shared accessway, and clear of driver sight lines, but a condition will require the details of the appearance of this and other meters to be shown on the plans.

- Increased on-street parking, obstructing traffic and driver sight lines.

As discussed earlier in this report, the proposed car parking provision and layout is compliant with the requirements of Clause 52.06 of the Planning Scheme.

11.1

(cont)

- Trees have already been removed from No. 9 Barter Crescent.

The trees on 9 Barter Crescent were allowed to be removed in accordance with the previous Planning Permit WH/2015/292 issued for the development of three double storey dwellings. These trees were assessed by Council's Arborist in association with that earlier application, and were deemed acceptable to remove and replace. Should the current application be approved, replacement planting at a rate of two trees per dwelling will be required in association with the development of the site.

- Negative impact on surrounding property values

Claims that a proposal will reduce property values are difficult, if not impossible to gauge and of no assistance to the determination of a planning permit application. It is considered the impacts of a proposal are best assessed through an assessment of the amenity implications rather than any impacts upon property values. This report provides a detailed assessment of the amenity impacts of this proposal and is found to achieve acceptable outcomes.

- Set an undesirable precedent

Each planning permit application is decided on its own merits and against the relevant planning policies and provisions and cannot be considered against precedent.

- Tenure of occupants- likely to be rented and subleased

The tenure of proposed dwellings is not a planning consideration.

- Increased drainage and flooding problems

Standard drainage conditions will be included on any permit issued, which will require the site to be properly drained to the satisfaction of Council's Asset Engineers.

CONCLUSION

The proposal for construction of construction of six double storey dwellings and one single storey dwelling, and associated tree removal is an acceptable response that satisfies the relevant provisions contained within the Whitehorse Planning Scheme, including the State and Local Planning Policies, the General Residential Zone Schedule 1, the objectives and decision guidelines of the Significant Landscape Overlay Schedule 9 and Clause 55 (ResCode).

A total of 17 objections were received as a result of public notice and all of the issues raised have been discussed as required.

It is considered that the application should be approved.

ATTACHMENT

- 1 7-9 Barter Crescent A3 Council Report Plans

11.2 Amendment C220 Residential Corridors Built Form Study Planning Scheme Amendment Re-authorisation

City Planning and Development
Director City Development
FILE NUMBER: SF19/379
ATTACHMENT

SUMMARY

This report seeks Council's approval to submit a request to the Minister for Planning to re-authorise Amendment C220 to the Whitehorse Planning Scheme.

Council at its meeting on 29 January, 2019 adopted the *Whitehorse Residential Corridors Built Form Study* (the Study), and resolved to seek authorisation from the Minister to undertake Amendment C220 to implement the Study. The Study provides built form *guidelines* for major road corridors in the municipality that are predicted to experience substantial housing growth, yet interface with less intense residential development areas.

Following an extensive review of the proposed key planning control, the Design and Development Overlay – Schedule 11 (DDO11), the request for authorisation was submitted to the Minister on 11 October 2019. A letter of authorisation with conditions was issued by the Department of Environment Land Water and Planning (DELWP) on 17 February 2021.

The authorisation conditions sought a number of changes to the proposed DDO11. A report was submitted to Council on 20 September 2021 outlining DELWP's conditions and officers' response, and included a revised DDO11. The revised DDO11 addressed most of the conditions requested by DELWP except two conditions. Conditions that sought to remove the objective that seeks to achieve '*equitable development rights*' and to remove the mandatory requirement for the side and rear setbacks were not addressed. Officers believed that these were reasonable requirements to be included in DDO11. Council supported officers' recommendation and resolved to submit the revised DDO11 to the Minister for re-authorisation to exhibit the amendment.

The revised DDO11 and the associated amendment documents were submitted for authorisation on 4 October 2021 under a new amendment number C239. On 21 December 2021, DELWP issued a refusal to authorise Amendment C239 (Attachment 1). The reason for the refusal is that the revised DDO11 failed to comply with the above mentioned two conditions sought at authorisation for the initial Amendment C220. Further clarification received from DELWP via email, explained that using mandatory rear and side setback requirements in DDO11 will limit narrower sites to be able to develop to their full capacity and undermine opportunities to use alternative site responsive design options where needed. With regards to '*equitable development rights*', DELWP highlighted that the concept is not yet available within the *Victoria Planning Provisions* (VPP) and speculative future developments should not be used to limit proposed developments.

11.2
(cont)

DELWP officers also indicated that the Department was otherwise satisfied with the improved drafting of revised DDO11 submitted with C239, however those two outstanding conditions must be addressed. The Department suggested that the amendment could be re-authorised under the initial Amendment C220 by submitting the revised DDO11 subject to the two outstanding conditions being addressed.

This report provides a summary of these two issues and how they can be addressed and recommends that Council resolves to submit the revised DDO11 (Attachment 2) to the Minister for Planning for re-authorisation to exhibit the initial Amendment C220.

Upon receipt of authorisation, public exhibition on the amendment will be undertaken seeking feedback from the Whitehorse community and other stakeholders.

RECOMMENDATION

That Council:

1. Submit a revised planning scheme amendment C220whse as shown in Attachment 2 to the Minister for Planning for re-authorisation to exhibit in accordance with the Planning and Environment Act1987.
2. Authorise the Director, City Development to make changes to the amendment to meet any conditions of re-authorisation from the Department of Environment, Land, Water and Planning, where the changes do not affect the purpose or intent of the Amendment prior to submitting the amendment to the Minister for Planning for exhibition.

Key Matters

In October 2014 new residential zones came into effect with gazettal of Amendment C160. Council had initially included a 3 storey (11 metres) mandatory maximum for Residential Growth Zone 1 (RGZ1) and a 4 storey (13.5 metres) mandatory maximum for Residential Growth Zone 2 (RGZ2). The mandatory heights were removed by the Minister for Planning when approving Amendment C160 and therefore the current controls within the Whitehorse Planning Scheme do not reflect the Council's intentions.

Since the introduction of the new zones, concern has been raised about the planning outcomes in these areas, particularly where the RGZ1 and RGZ2 have been applied along main road corridors and interface with more traditional residential development in the Neighbourhood Residential Zone (NRZ), and to a lesser extent the General Residential Zone (GRZ) that allows for moderate change. Where a 3 or 4 storey outcome was intended, the Victorian Civil Administrative Tribunal (VCAT) has been approving developments greater than these heights (up to 6 storeys), and in some cases, with unsympathetic built form and limited landscaping outcomes.

11.2
(cont)

Council undertook the *Whitehorse Residential Corridors Built Form Study, 2019*, which provides appropriate built form guidelines for the key residential growth road corridors being Burwood Highway and Whitehorse Road.

The proposed Amendment C220 to the Whitehorse Planning Scheme seeks to implement the outcomes of the above Study and can ensure high quality development outcomes for the growth corridors while respecting the character and amenity of low-rise residential areas abutting the corridor.

Implementing Amendment C220 will provide the necessary statutory effects to the built form guidelines within the planning scheme and will result in a more appropriate development outcomes along these key road corridors.

Council's approval is sought to request the Minister for Planning to re-authorise Council to prepare and exhibit the amendment.

STRATEGIC ALIGNMENT

The project supports *Strategic Direction 2* within the *Council Plan 2017-2021 (2017)*, which is to "*Maintain and enhance the built environment to ensure a liveable and sustainable city*". In particular it supports Direction 2.1.1 "*Development which respects our natural and built environments and neighbourhood character while achieving a balanced approach to growth in accordance with relevant legislation*". The proposed DDO11 will seek to achieve Council's and the community's aspirations for the City of Whitehorse especially along and interfacing with, the growth corridors along Burwood Highway and Whitehorse Road. It proposes built form controls that seek to ensure high quality development that respects the character and amenity of adjacent low-rise residential development.

Policy

The amendment will respond to the local planning provisions within the Whitehorse Planning Scheme especially in Clauses 21.06 (Housing) and 22.03 (Residential Development) which identify areas for substantial change including housing growth along key transport corridors.

BACKGROUND

Council at its meeting on 29 January 2019 adopted the *Whitehorse Residential Corridors Built Form Study*. The Study produced draft built form guidelines for the key east-west growth road corridors of the municipality (Burwood Highway and Whitehorse Road). The Residential Growth Zone land within these growth corridors interfaces with land in the Neighbourhood Residential Zone and the General Residential Zone. When adopting the Study, Council also resolved to seek authorisation from the Minister for Planning to prepare and exhibit Amendment C220 to implement the recommendations of the Study into the Whitehorse Planning Scheme.

11.2
(cont)

Following a significant review of the proposed planning controls, a request for authorisation was submitted to the Minister in October 2019. The Authorisation received from DELWP in February 2021 contained a number of conditions seeking amendments to the proposed DDO11. Below is a summary of the conditions imposed by DELWP regarding proposed DDO11, including those that are addressed or outstanding:

- The form and content should be consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* - addressed.
- Provisions are worded consistently with the head provision – addressed.
- Include permit exemptions for small scale buildings and works – addressed.
- Shadowing requirement should refer to ‘additional’ shadowing of adjacent ‘public’ open spaces – addressed.
- Include a new design objective encouraging lot consolidation – addressed.
- Remove the *equitable development rights* design objective – outstanding condition.
- Amend the mandatory side and rear building setback requirement to be discretionary- outstanding condition.
- Revise the Explanatory Report to reflect any changes made to the amendment in response to the authorisation conditions – the Explanatory Report was revised reflecting the above changes made to DDO11.

The revised DDO11 improved the wording of the schedule in general and addressed most of the conditions imposed by DELWP, except for two conditions noted above.

The revised DDO11 and amendment documents were considered by Council at its meeting on 20 September 2021. Council resolved to seek authorisation from the Minister for Planning on the revised amendment documents. The amendment documents were submitted to the Minister under a new amendment number C239 seeking authorisation.

On 21 December 2021 DELWP issued a refusal to authorise Amendment C239, as the revised DDO11 did not address all of the conditions requested by DELWP when authorising C220. DELWP suggested that, a re-authorisation request for the initial Amendment C220 could be submitted with a revised DDO11 but addressing all the conditions. DELWP also indicated that if all the conditions are addressed, the re-authorisation could be done under delegation in a timely manner.

Council officers revised the DDO11 addressing the two outstanding conditions from DELWP. The revised DDO11 along with other amendment documents for C220 are submitted for Council’s approval to seek re-authorisation from the Minister.

11.2
(cont)

Discussion and Options

The DDO11 has been revised to address DELWP's outstanding conditions that were seeking to remove the inclusion of *equitable development rights* objective and amend the mandatory side and rear setbacks requirement to discretionary.

Mandatory side and rear setbacks

The previous version of the DDO11 sent for authorisation contained a mandatory front, rear and side setback requirements, as well as a mandatory building height. While DELWP is supportive of keeping the front setback and building height requirement as mandatory, it authorised C220 on the basis that Council amend the mandatory side and rear setback requirements to be discretionary.

DELWP referred to the *Planning Practice Note 59 - The role of mandatory provisions in planning schemes*, which indicates that the Victorian planning system is predominantly performance based, and that mandatory provisions are an exception. The Practice Note allows the use of mandatory requirements only in situations where it can be clearly demonstrated that discretionary provisions are insufficient to achieve the desired outcomes. Under the performance based approach, planning proposals should be assessed against the intended outcomes of the objectives, as opposed to prescriptive mandatory requirements. The Department believed that the mandatory side and rear setback requirements in DDO11 will limit the narrower sites to be developed to their capacity and to use site responsive designs. For example, sites abutting laneways could have reduced setback or could even build on a boundary. However, mandatory setback requirements prevent these alternative options. Where mandatory requirements limit site responsive options, there could be unintended outcomes, such as, the development potential of sites are restricted or developers consider lower heights (under developments) to avoid permit triggers under DDO11.

In order to comply with DELWP's condition and progress the amendment, DDO11 has been revised to amend the side and rear setbacks to discretionary. Although discretionary, the requirements still seek a side setback of minimum 4.5 metres with an additional 4.5 metres to levels above 4 storeys, and rear setback of a minimum 9 metres for all buildings to provide space for tree planting and avoid overlooking to adjoining development and to more sensitive NRZ and GRZ interfaces. However, having these requirements as discretionary will provide flexibility where needed and appropriate.

11.2

(cont)

The DDO11 also includes landscaping requirements including deep soil plantings in the front, side and rear setbacks. In addition to DDO11 (and as set out in the report to Council on 20 September 2021), applications will be assessed under the planning provisions as listed below, which among other things include requirements to ensure amenity of adjoining properties, including setbacks, overlooking and overshadowing requirements.

Development scenario	Planning controls apply
3 storeys and under	<ul style="list-style-type: none">• ResCode (Clause 55 of the Planning Scheme)• DDO11 does not apply
4 storeys	<ul style="list-style-type: none">• ResCode (Clause 55 of the Planning Scheme)• Landscaping, overshadowing and pedestrian interface elements of DDO 11 apply
5 storeys and above	<ul style="list-style-type: none">• Clause 58 - Apartment Guidelines (of the Planning Scheme -). Among other things include setback and amenity requirements to limit views into the private open space and habitable room windows of dwellings within a development.• All of the requirements under DDO 11 apply.

The revised DDO11 will ensure maximum building height for the road corridors, mandatory front setback, appropriate rear and side setbacks, deep soil landscaping with medium and large trees at front, side and rear setbacks and visual prominence of landscaping.

Equitable development rights objective

The objective aims to achieve equitable development rights of adjoining sites within the DDO11 area. DELWP indicated that the concept of *equitable development rights* is not adopted or defined in the VPP. However, the VPP contains provisions particularly in *ResCode* (Clause 55) and in Clause 58 achieving some of the outcomes that equitable development rights requirements could achieve, these include provisions limiting views to new and existing dwellings, overshadowing and amenity of existing and proposed dwellings.

In the proposed DDO11, it is DELWP's view that when the *equitable development rights* objective is combined with the mandatory side and rear setbacks requirements, it restricts the ability of narrower sites being developed to their capacity and excludes alternative solutions to *equitable development rights*. In addition, DELWP believes that in an established suburban context, it is difficult to restrict development of sites based on the possibility of future redevelopment of an adjoining site. DELWP considers that this approach will also lead to unnecessary objections for future planning proposals.

11.2
(cont)

The revised DDO11 removes this objective as per DELWP's condition. However, the Decision Guidelines in the revised DDO11 still include a number of requirements that will help to ensure amenity of adjoining sites is protected. The Decision Guidelines are considered when assessing and making decisions on future planning proposals under DDO11. Relevant requirements in the Decision Guidelines include that:

- Future developments provide adequate sunlight, daylight and privacy, and outlook from habitable rooms, for both existing and proposed developments.
- Future developments maintain a mid-rise scale that enhances the sense of openness, maintains access to expansive sky views along the corridor and allow maximum solar access to low-rise residential development in the adjoining and adjacent areas.
- Ensure appropriate transition to an adjoining residential zone or public open space, maintaining a sense of openness to the expansive sky views along the corridors.
- Future developments allow for maximum solar access to low-rise residential development on the adjoining areas, appropriate built form interface with the public realm, non-dominant streetscape, plus front, side and rear setbacks to allow for deep soil planting,

Other

DELWP has also advised that the changes proposed to the Local Planning Policy Clause 22.03 (Residential Development) that were part of the Amendment C239 authorisation request can be included, subject to two conditions:

- Remove references to preferred heights of 4 and 5 storeys from the local policy changes and replace this with more suitable wording as it is not appropriate for a local policy to prescribe heights. DELWP confirmed that building heights should be in a DDO, noting that proposed DDO11 includes the maximum mandatory height of 6 storeys as per the Study.
- The local policy changes need to be drafted with the Planning Policy Framework translation (PPF) in mind. The PPF translation is yet to be completed for the Whitehorse Planning Scheme

The revised Clause 22.03 is in Attachment 3.

Next steps

If Council resolves to proceed with seeking re-authorisation from the Minister for Planning, a request for authorisation will be submitted in mid-August 2022. DELWP officers indicated, if all the conditions attached to the initial authorisation for the amendment are met, authorisation can be issued under delegation in a timely manner.

11.2
(cont)

Upon receiving authorisation, public exhibition of the proposed amendment will commence in accordance with the requirements of the *Planning and Environment Act, 1987*. The amendment will be placed on public exhibition for a minimum period of one month.

On completion of the public exhibition, a report to Council will be submitted outlining the nature of submissions received and Council's options with the amendment.

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

If Council resolves to proceed with seeking re-authorisation from the Minister for Planning to prepare and exhibit Amendment C220whse, Council will be required to adhere to the set timeframes and steps specified in Ministerial Direction No.15 The Planning Scheme Amendment Process.

Council must also adhere to the relevant sections of the *Planning and Environment Act 1987* with respect to the planning scheme amendment process.

Equity, Inclusion, and Human Rights Considerations

It is considered that the subject matter does not raise any human rights issues.

The proposed DDO11 will provide the necessary amenity protection for the sensitive residential areas from the higher-growth residential road corridors.

Community Engagement

The *Whitehorse Residential Corridors Built Form Study* was introduced to the community in the study area in late March 2018 and included a short survey to identify what residents value about their area, which was collated as part of the background analysis to inform the Study. The second phase of engagement was held from mid-July to mid-August 2018, and included two drop-in information sessions which were attended by 92 people. Relevant internal teams were consulted throughout the study.

The community will be able to provide formal comments during the Public Exhibition period of Amendment C220. The timing of the proposed exhibition will be subject to re-authorisation by the Minister for Planning. If authorisation is given, the exhibition period could commence shortly after.

Financial and Resource Implications

The Study was included as a new budget initiative in the 2017/2018 budget. Costs associated with the planning scheme amendment process, such as exhibition costs and statutory fees, are typically covered by the ongoing operational budget of the Strategic Planning Unit.

11.2
(cont)

Charges for the independent Panel vary depending on the duration of the Panel Hearing and the number of Panel members appointed. Other costs associated with the Panel Hearing include Council's legal representation and advice and expert witnesses (as required). Refer to the table below for budget details:

Projected budget and expenditure

Item	Expenditure (excl. GST)
Exhibition costs	
• Direct notification	\$6,000
• Publicity material and social media	\$2200
• Notice on the Government Gazette and The Age	\$2500
Statutory fees	
• Approval of the amendment by the Minister	\$488
Planning Panel cost	
• Charges from Planning Panels Victoria (including panel member fees, travel, accommodation and project support)	\$40,000
Planning Panel other costs	
Legal representation and advice and expert witness	\$40,000
TOTAL	\$91,188

Innovation and Continuous Improvement

The implementation of the proposed DDO11 will provide opportunities for innovative designs in new developments while maximising development yield. Design innovation will be involved in a number of aspects including amenity, appearance, landscaping, built form interface with adjoining low-rise developments, adequate sunlight, daylight and privacy, and outlook from habitable rooms, for both existing and proposed developments.

Collaboration

The development of the *Whitehorse Residential Corridors Built Form Study, 2019* required input from the community and various internal departments of Council. Consultation and input have informed the drafting of the Study and the proposed DDO11. Continued collaboration with the community and internal teams will be required during the planning scheme amendment process.

11.2
(cont)

Council officers worked closely with DELWP's Regional Planning Team, during the authorisation process and revising the proposed DDO11. Officers will continue to work with DELWP throughout the planning scheme amendment process.

Conflict of Interest

Council officers involved in the preparation of this report have no conflict of interest in this matter.

Conclusion

The proposed DDO11 is intended to facilitate orderly and high quality built form outcomes for RGZ1 and RGZ2 zones along the growth corridors of Burwood Highway and Whitehorse Road while maintaining the amenity and appropriate built form interface with adjoining development in other zones including low-rise residential developments within NRZ areas. The requirements in the proposed DDO11, among other things, will ensure maximum building height for the growth corridors, mandatory front setbacks, appropriate rear and side setbacks, deep soil landscaping with medium and large trees at front, side and rear setbacks, visual prominence of landscaping, high quality public realm and public open spaces.

The conditions imposed by DELWP at authorisation are to ensure the proposed planning controls at local level do align with the State planning policies and directions, and a balanced approach is employed for growth corridors that facilitate appropriate growth in identified areas while protecting the character and amenity of areas of modest growth and low-rise developments.

Implementing the DDO11 into the Whitehorse Planning Scheme will provide the statutory effect to the *Whitehorse Residential Corridors Built Form Study, 2019* and achieve the above outcomes. This will prevent inappropriate developments that have been occurring and approved by VCAT especially at the low-rise development interfaces abutting these corridors.

A re-authorisation from the Minister is required to progress with Amendment C220. This report seeks Council approval to submit a further revised DDO11 for re-authorisation.

Upon receipt of authorisation, public exhibition of the amendment will commence shortly thereafter. On completion of the public exhibition, a report to Council will be submitted outlining the submissions received.

ATTACHMENT

- 1 Whitehorse Planning Scheme Amendment C239 Authorisation refusal letter 21-12-2021
- 2 Amendment C220whse Revised DDO11
- 3 Revised Clause 22.03 - C220

11.3 Audit and Risk Committee Matters - Extension of Chairperson's Term and Independent Member's Fee Review

Governance and Integrity
Director Corporate Services

SUMMARY

1. The Audit and Risk Committee Charter outlines that Council provide final approval for appointment of independent members for the Audit and Risk Committee.

In accordance with the Charter and terms of appointment, Mr Michael Said's final term concludes on 30 August 2022. Mr Said was appointed as the Audit and Risk Committee's Chairperson in August 2021. It is recommended that Mr Said's term be extended by one month to allow for the close out of Council's annual accounts normally undertaken in August annually. This year the accounts will be considered at the September meeting.

Council is currently recruiting for a new Independent member to commence in September to coincide with the end Mr Said's term.

2. The Audit and Risk Committee Charter outlines that the independent members are to be remunerated in accordance with rates periodically set by Council resolution.

The last remuneration for independent members was set in 2017 and there has not been any increase since. A benchmarking exercise of remuneration costs for independent members was conducted in July 2022 covering seven Victorian Councils. After taking into account the rate cap increase since 2017, an increase in remuneration is recommended.

RECOMMENDATION

That Council:

1. Extend Michael Said's appointment as Independent Member of the Audit and Risk Committee to 19 September 2022.
2. From 1 September 2022, approve remuneration for the Chairperson of the Audit and Risk Committee at \$2,100 per meeting for a maximum of five meetings per annum.
3. From 1 September 2022, approve remuneration for the independent members of the Audit and Risk Committee at \$1,600 per meeting for a maximum of five meetings per annum.

Key Matters

1. Due to change in dates for presentation of the annual accounts to the Audit and Risk Committee, it is important for Mr Said to be present at the September 2022 Committee meeting as the Chairperson.

11.3

(cont)

2. A review of Independent member's fees should be undertaken on a regular basis to ensure Council remunerates accordingly.
3. Council has not increased member's fees since 2017.
4. After taking into account benchmarking and no increase in Independent member's fees since 2017; an increase in remuneration for independent members is recommended based on the rate cap of each year.

STRATEGIC ALIGNMENT

Council Plan Objective 8.3: Good Governance and Integrity

Policy

Audit and Risk Committee Charter.

Discussion and Options

Extension of Independent Member

The Audit and Risk Committee Charter outlines that Council provide final approval for appointment of independent members for the Audit and Risk Committee.

In accordance with the Charter and terms of appointment, Mr Michael Said's final term concludes on 30 August 2022. Mr Said was also appointed the Audit and Risk Committee's Chairperson in August 2021.

Council's year-end external audit is normally conducted during July for approval at the August Audit and Risk Committee meeting. From the 2021/22 financial year, the Victorian Auditor General's Office outsourced the Council's external audit to an audit service provider, RSD Audit. With the changes in auditors, the Audit and Risk Committee was advised that the normal timelines are not practical for this first year of the contract and that the annual accounts be presented to the Audit and Risk Committee during September 2022.

The charter also requires the Chairperson to be appointed at the conclusion of the meeting that discusses the year end audit. Given the change in meetings and to ensure continuity it will be important for Mr Said to be present at the September 2022 Committee meeting as the Chairperson.

Independent Members remuneration

In 2017, remuneration for an independent member of the Audit and Risk Committee was approved at \$1,400 per meeting (for 5 meetings) or \$7,000 per annum. For the elected Chairperson, remuneration was approved at \$1,750 per meeting (for 5 meetings) or \$8,750 per annum.

11.3

(cont)

A benchmarking exercise of remuneration costs for Independent Audit and Risk Committee members was conducted in July 2022 covering seven Victorian Councils. The results were as follows:

	Chairperson fees per meeting	Independent member fees per meeting
Average Council	\$1,908	\$1,444
Highest Council	\$2,621	\$2,097
Whitehorse City Council – Current Remuneration	\$1,750	\$1,400
Whitehorse City Council – Recommended Remuneration	\$2,100	\$1,600

Applying the rate cap to each year since 2017 the remuneration would increase for the Chairperson to \$2,100 and for Independent Members to \$1,600 per meeting. This would take the fees above the average of the Council's benchmarked. The Audit and Risk Charter is currently being reviewed and will include a process to undertake a regular review of fees for independent members.

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

There are no legal or risk implications arising from the recommendation contained in this report.

Equity, Inclusion, and Human Rights Considerations – required

It is considered that the subject matter does not raise any human rights issues.

Community Engagement

No community engagement was required for this report.

Financial and Resource Implications (Required)

Increasing remuneration for the Chairperson to \$2,100 will result in an increase of \$250 per meeting and for Independent Members to \$1,600 an increase of \$200 per meeting.

Innovation and Continuous Improvement

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.

11.3
(cont)

Collaboration

Other Victorian Councils were contacted for benchmarking the independent member's remuneration.

Conflict of Interest

Council officers involved in the preparation of this report have no conflict of interest in this matter.

Conclusion

Given the changes to the Audit and Risk Meetings and consideration of the annual accounts the September meeting, it is recommended to extend Mr Said's term as the Audit and Risk Committee's Chairperson until 19 September 2022.

A review of fees for the Audit and Risk Committee Independent Members has been undertaken. It is recommended that from 1 September 2022 that the remuneration for the Committee's Chairperson be increased to \$2,100 and for Committee's Independent Members to \$1,600 per meeting.

11.4 Procurement Extension Report (Contract 30045) - Public Bin Collection

City Services
Director Infrastructure

SUMMARY

The purpose of this report is to seek approval to amend the maximum expenditure threshold that was approved when the tender for Contract 30045 – Public Bin Collection was accepted.

The approval amends the previous maximum expenditure threshold contained in the tender evaluation report approved by Council on 23 April 2018 by an additional \$150,000 including GST to \$1,811,310 including GST. The Contract ends on 30 June 2023.

The services provided under this Contract have increased since the Contract was awarded in 2018, primarily due to additional bins being installed and additional collections required over the past two years during COVID-19 restrictions as a result of the increased use of public places, as well as increased service required at various locations at other times.

All expenditure is in accordance with the Contract schedule of rates and in accordance with the annual budget allocations.

RECOMMENDATION

That Council approve an amended maximum expenditure threshold by \$150,000 for Contract 30045 – Public Bin Collection to \$1,811,310 including GST.

Key Matters

An extension is required to the maximum expenditure threshold available against Contract 30045 – Public Bin Collection.

This approval amends the previous maximum expenditure threshold that was approved when Council accepted the tender for Contract 30045 – Public Bin Collection on 23 April 2018 by an additional \$150,000 including GST to \$1,811,310 including GST.

The services provided under this Contract have increased since the Contract was awarded in 2018, primarily due to additional bins being installed and additional collections required over the past two years during COVID-19 restrictions as a result of the increased use of public places, as well as increased service required at various locations at other times.

All expenditure is in accordance with the Contract schedule of rates and in accordance with the annual budget allocations.

11.4
(cont)

STRATEGIC ALIGNMENT

The provision of public bins relates to the following from the Council Plan 2021-2025:

Strategic Direction 4: Our Built Environment; Movement, and Public Places
Objective 4.3: Provide active public spaces which are accessible by all, where people feel safe and connected with others in the community.

Background

Contract 30045 is for the provision of public bin collections. It is a schedule of rates contract. Public use bins are installed in various shopping centres, shopping strips, open spaces and public meeting areas throughout the municipality to help keep these areas tidy. The Contract ends on 30 June 2023.

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

There are no legal or risk implications arising from the approval for this plan.

Consultation

There has been no public consultation regarding this increase in expenditure threshold. The increased levels of service were driven by customer requests and evidence of increased use of public spaces.

Council's Procurement team have been consulted extensively to ensure that the procurement is compliant with the Procurement Policy.

Collaboration

No collaboration was required for this report.

Financial and Resource Implications

There are no financial implications associated with this report. All expenditure incurred against this contract is funded from relevant adopted budgets.

Conflict of Interest

Council officers involved in the preparation of this report have no conflict of interest in this matter.

Conclusion

The increase to the maximum expenditure threshold is required to continue the litter bin collection service up to the completion of the Contract on 30 June 2023.

11.5 Records of Informal Meetings of Councillors

RECOMMENDATION

That the record of Informal Meetings of Councillors be received and noted.

Councillor Informal Briefing 25.07.22 6.30pm - 6.45pm		
Matter/s Discussed:	Councillors Present	Officers Present
<ul style="list-style-type: none"> Public Presentations Public Questions 11.5 Energy Management Fund and Carbon Neutrality 13.1 Confidential Reports: CEO Employment Matters Independent Advisor Appointment 	Cr Liu (Mayor & Chair) Cr Massoud (Deputy Mayor) Cr Lane Cr McNeill Cr Skilbeck Cr Stennett Cr Munroe Cr Barker Cr Cutts Cr Davenport <u>Apologies</u> Cr Carr	S McMillan L Letic S Cann S White V Ferlaine K Woods N Jones
Disclosures of Conflict of Interest	Councillor Cr Liu disclosed an general indirect conflict of interest in Item 11.4 - Whitehorse Community Grants Report due to her honorary advisor role to the Taiwanese Business Association of Melbourne. The matter was not discussed in the Councillor Informal Briefing. Simon McMillan disclosed a general conflict of interest in Item 13.1.	
Councillor /Officer attendance following disclosure	Simon McMillan, CEO left the room at 6.40pm and did not return to the meeting.	

11.5
(cont)

Councillor Community Leadership Workshop 01.08.22 6.30pm - 8.40pm		
Matter/s Discussed: <ul style="list-style-type: none">Councillor Community Leadership Workshop	Councillors Present	Officers Present
	Cr Liu (Mayor & Chair) Cr Massoud (Deputy Mayor) Cr Lane Cr McNeill Cr Skilbeck Cr Munroe Cr Barker Cr Carr Cr Cutts Cr Davenport <u>Apologies</u> Cr Stennett	<u>External</u> Nick Petrucco,- Petruc.Co
Disclosures of Conflict of Interest	None Disclosed	
Councillor /Officer attendance following disclosure	None Disclosed	
Councillor Briefing 01.08.22 8.42pm – 9.10pm		
Matter/s Discussed: <ul style="list-style-type: none">Draft Council Agenda	Councillors Present	Officers Present
	Cr Liu (Mayor & Chair) Cr Massoud (Deputy Mayor) Cr Lane Cr McNeill Cr Skilbeck Cr Munroe Cr Barker Cr Carr Cr Cutts Cr Davenport <u>Apologies</u> Cr Stennett	S McMillan S Cann J Green K Marriott A Egan P Sutton S Belmore V Ferlaine J Samy
Disclosures of Conflict of Interest	None Disclosed	
Councillor /Officer attendance following disclosure	None Disclosed	

12 Councillor Delegate and Conference / Seminar Reports

12.1 Reports by Delegates

(NB: Reports only from Councillors appointed by Council as delegates to community organisations/committees/groups)

RECOMMENDATION

That the reports from delegates be received and noted.

132.2 Reports on Conferences/Seminars Attendance

RECOMMENDATION

That the record of reports on conferences/seminars attendance be received and noted.

143 CONFIDENTIAL REPORTS

Nil

15 Close Meeting