



Town Planning, Development and Management Consultants

ABN 82 006 363 088

Email: russellhocking@yahoo.com.au Web: www.cityshire.com.au

The Principal Registrar
Planning and Environment List
Victorian Civil and Administrative Tribunal

21 July 2023

c.c. Whitehorse City Council & All Other Parties

Dear Sir

RE: VCAT FILE NO P373/2023

APPLICATION FOR REVIEW BY THE PERMIT APPLICANT

Whitehorse City Council Application No WH/2022/705

Address: 35 HAY STREET BOX HILL SOUTH VIC 3128

Lot and Plan Number: Lot 2 PS508073

Local Government Area (Council): WHITEHORSE

Proposal: Amended to Seven (7) Dwellings and Vegetation Removal (4 trees)

Zone: NEIGHBOURHOOD RESIDENTIAL ZONE - SCHEDULE 8 (NRZ8)

Overlays: SIGNIFICANT LANDSCAPE OVERLAY - SCHEDULE 9 (SLO9)

**CIRCULATION OF AND FORESHADOWED APPLICATION TO SUBSTITUTE PLANS
PURSUANT TO VCAT PRACTICE NOTE PNPE9**

I refer to the above matter. I continue to act on behalf of the Respondent Permit Applicant who is now the Applicant for Review.

I refer also to the VCAT Merits Hearing set down for 11 & 12 September 2023.

We have now again reviewed the Notice of Refusal issued by Whitehorse City Council and the relevant areas of the Planning Policy Framework in a reasoned, logical and fair manner and my client has made a decision to prepare amended plans.

We now confirm that at the commencement of the Merits Hearing on 11 September 2023 or earlier with the consent of all parties, we will seek leave of the Tribunal to amend our Application and substitute the amended plans now circulated and the subject of this foreshadowed Application - for the plans refused under the original Application.

The most significant changes revolve around a reduction in the number of dwellings proposed on the subject site from 8 down to 7 and the provision of significant spacing and separation between what are now the 3 remaining dwellings proposed over the southern portion of the subject site. The number of street crossings onto the subject site has been reduced down to 1 and Dwelling 1 has been redesigned so its garage comes off the east-west driveway. Dwelling 4 is now proposed as 'reverse living' A full List of Changes is attached.

The amended plans are now filed and served as required by the VCAT Practice Note PNPE9 with the amended plans and a List of Changes prepared by the Office of Petridis Architects.

We will complete the online Form A setting out the statutory detail and confirming that 21 August 2023 is the closing date to seek leave for third parties to be joined as a Party if they wish.

The List of Changes confirms that amongst other things, the amendments generally reduce the dwelling numbers, modulate the built form, vary the dwelling typologies, separate dwellings and clarify access onto the site.

The changes made are intended to specifically address the issues raised by Whitehorse City Council, acknowledge fairly the prevailing locational attributes and the Policy Framework, provide a site responsive design appropriate to its context and ensure an acceptable "planning outcome" for the residential development of the subject site. What is sought is a fair and sensible balance between competing planning objectives based on a realistic assessment of the site location, the site influences, the prevailing built form in the area and the character of the neighbourhood. The Planning Scheme does not require "more of the same".

The amended plans are also attached.

We note that further copies of the amended plans or other amendments to the application and any supporting material may be accessed by:

- (i) inspecting them during business hours at the main office of the responsible authority; or
- (ii) requesting us as the Applicants to provide copies (using the details in Form A).

A Statement of Service will be provided shortly and will include a List of Persons Notified being formally advised by mail of this PNPE9 Application.

As always, if there are any queries please contact me.

Yours sincerely



Russell Hocking
CITYSHIRE PLANNING Pty Ltd



Town Planning, Development and Management Consultants

ABN 82 006 363 088

Email: russelhocking@yahoo.com.au Web: www.cityshire.com.au

TO: All Persons who were originally notified of this Town Planning Application
or persons who originally Objected
to this Town Planning Application
and therefore required to be renotified by VCAT
(as advised by Whitehorse City Council)

21 July 2023

Dear Sir/Madam

RE: VCAT FILE NO P373/2023

APPLICATION FOR REVIEW BY THE PERMIT APPLICANT

Whitehorse City Council Application No WH/2022/705

Address: 35 HAY STREET BOX HILL SOUTH VIC 3128

Lot and Plan Number: Lot 2 PS508073

Local Government Area (Council): WHITEHORSE

Proposal: Amended to Seven (7) Dwellings and Vegetation Removal (4 trees)

Zone: NEIGHBOURHOOD RESIDENTIAL ZONE - SCHEDULE 8 (NRZ8)

Overlays: SIGNIFICANT LANDSCAPE OVERLAY - SCHEDULE 9 (SLO9)

**CIRCULATION OF AND FORESHADOWED APPLICATION TO SUBSTITUTE PLANS
PURSUANT TO VCAT PRACTICE NOTE PNPE9**

I refer to the above matter. I act for the Permit Applicant, now the Applicant for Review

You were originally first notified of this Town Planning Application by Whitehorse City Council
and you may or may not have objected.

Council Refused the Application for a Planning Permit. The Permit Applicant has commenced
proceedings at VCAT seeking review of that decision and since the original Order of the Tribunal
was issued, has been in negotiations with the Responsible Authority in terms of modifications
and changes with a view to finding an appropriate development and an acceptable “planning outcome”
for the subject site.

We now confirm that at the commencement of the Merits Hearing on 11 September 2023
(if that Merits Hearing is needed noting negotiations will continue with all Parties) we will
formally seek leave of the Tribunal to amend our Application and substitute the amended plans
now circulated for the plans accompanying the original Application which was refused
by the Responsible Authority.

The most significant changes revolve around a reduction in the number of dwellings proposed on the subject site from 8 down to 7 and the provision of significant spacing and separation between what are now the 3 remaining dwellings proposed over the southern portion of the subject site.

The number of street crossings onto the subject site has been reduced down to 1 and Dwelling 1 has been redesigned so its garage comes off the East – West driveway. Dwelling 4 is now ‘reverse living’. A full List of Changes is attached.

We are required by VCAT to provide you the attached statutory information – which is self explanatory.

It includes a Form A setting out the statutory detail and confirming that 21 August 2023 is the closing date to seek leave to be joined as a Party if you wish. A List of Changes which confirms that the amendments generally reduce the building numbers, modulate the built form, vary the dwelling typologies, separate dwellings and clarify access including the Proposed Road which will be vested in Council.

If you are not a party to the Tribunal proceeding but wish to be, or if you are already a party and want to amend your Statement of Grounds, you must lodge a completed Statement of Grounds Form with the Tribunal (electronically and as also available on the VCAT website).

The blank Statement of Grounds Form can be found online on the VCAT website.

<https://www.vcat.vic.gov.au/documents/forms/statement-grounds-planning>

As noted, the date by which Statement of Grounds Form must be lodged with the Tribunal is no later than 21 August 2023 and copies must be provided to both Whitehorse City Council and ourselves as Representatives of the Applicant of Review.

The List of Changes confirms that amongst other things, the amendments generally reduce the dwelling numbers, modulate the built form, vary the dwelling typologies, separate dwellings and clarify access.

The changes made are intended to address the issues raised by Whitehorse City Council, acknowledge fairly the prevailing locational attributes and the Policy Framework, provide a site responsive design appropriate to its context and ensure an acceptable “planning outcome” for the development of the subject site. What is sought is a fair and sensible balance between competing planning objectives based on a realistic assessment of the site location, the site influences, the prevailing built form in the area and the character of the neighbourhood. The Planning Scheme does not require “more of the same”.

Please also find attached a copy of the most recent VCAT Initiating Order which confirms:-

- The matter will be heard as a Major Cases List Hearing on 11 & 12 September 2023; over 2 full Hearing Days (10AM-4:30PM);
- The amended Closing Date for the lodging of Statement of Grounds is 21 August 2023 – a copy of your Statement must be provided to Council and ourselves as the Permit Applicant.

We note that copies of the amended plans or other amendments to the application and any supporting material may be accessed by:

- (i) inspecting them during business hours at the main office of the responsible authority; or
- (ii) requesting us as the Applicants to provide copies (using the details in Form A).

As always, if there are any queries please contact me.

Yours sincerely

A handwritten signature in black ink, appearing to be 'RH', written in a cursive style.

Russell Hocking
CITYSHIRE PLANNING Pty Ltd

VCAT FILE NO P373/2023

APPLICATION FOR REVIEW BY THE PERMIT APPLICANT

Whitehorse City Council Application No WH/2022/705

Address: 35 HAY STREET BOX HILL SOUTH VIC 3128

Lot and Plan Number: Lot 2 PS508073

Local Government Area (Council): WHITEHORSE

Council File No WH/2022/705

Proposal: Eight (8) Dwellings and Vegetation Removal (4 trees)

Zone: NEIGHBOURHOOD RESIDENTIAL ZONE - SCHEDULE 8 (NRZ8)

Overlays: SIGNIFICANT LANDSCAPE OVERLAY - SCHEDULE 9 (SLO9)

LIST OF CHANGES

KEY THEMES

Reduction in the number of dwellings from 8 to 7; Removal of Dwelling 7; The provision of significant spacing and separation between Dwellings 4 and 5, between Dwellings 5 and 6 – which has been redesign and between Dwelling 6 and the southernmost dwelling, Dwelling 7; Redesign of Dwelling 4 to be “reverse living”; Redesign of Dwelling 1 to provide vehicle access off the East–West driveway and the removal of the separate street crossing; Retention of Tree 20 and a shift of the new Dwelling 6 approximately 1.2 metres west; Clarification of the visitor car space and passing bay at the entrance to the site;

LIST OF DESIGN CHANGES

Dwelling 1...redesign of ground floor so that garage 1 is accessible from internal east-west accessway and not from Hay Street, that building is setback completely from northern side boundary (3035mm and 2380mm), rather than construction being proposed along the side boundary, incorporation of storage area directly off garage, plus all the resulting internal rearrangements; redesign of first floor to accommodate ground floor design changes, including central stair, narrower building envelope facing Hay Street, and deletion of front balcony; first floor building envelope to incorporate greater setback from northern boundary increased to 3940mm and 4200mm, in lieu of previous 3110mm. Dwelling 1 front fence set further back from Hay Street frontage; previous small shrubs in courtyard facing Living/Dining area deleted, for greater lawn space; landscape area around dwelling 1 driveway "shaved" for greater vehicle turning space. Provide clear physical and visual break between dwellings 1 and 2. Increase clearance/ accessway space between dwellings 1 and 2, and dwellings 3 and 4.

Dwelling 2....slight articulation in ground floor building envelope and increase in size of kitchen, laundry and powder rooms at back of house, and subsequent decrease in setback from northern side boundary to 1800mm and 2400mm (from previous one-off setback of 2400 mm); incorporation of storage area directly off garage; maintenance of break between dwellings 1 and 2; slight articulation in first floor building envelope along northern elevation and subsequent amendments in setback to 2760mm and 3195mm (from previous one-off setback of 3195mm); slight internal redesign of plan, in particular arrangement of ensuite and walk-in-w'robe.

Dwelling 3....ground floor building envelope generally retained as is, with minor redesign of kitchen, laundry, powder room and stair; increase in side clearance between dwellings 3 and 5, and provision of side paling fence between dwellings, to be setback 2000mm from dwelling 3; redesign of first floor so that proposed balcony now faces reserve, Box Hill golf club and Gardiners Creek rather than internal accessway; balcony to be accessible from rumpus area.

Dwelling 4....complete redesign, including "reverse-living" arrangement, with 3 bedrooms and 2 bathrooms on ground floor, and garage made accessible from north-south internal accessway rather than previous east-west accessway; incorporation of storage area directly off garage; first floor balcony introduced, with views towards reserve, Box Hill Golf Club and Gardiners Creek, and direct access from living room.

Dwelling 5....ground floor building envelope generally retained as is, but moved across to the south so that it attaches to dwelling 6; clearance between dwellings 5 and 3 increased to 4050mm (previous 3000mm); dwelling 5 now has a 2050mm width service area and access way to northern side, in lieu of previous zero lot alignment; and a run of northern-oriented windows has been introduced to dining room and kitchen, and a glazed external door introduced to laundry; incorporation of storage area directly off garage; first floor design streamlined such that there are no protrusions to the proposed external bathroom wall, and an increase in the clearances to dwelling 3 (6100mm in lieu of previous 5085mm), and to dwelling 4 (6100mm again, in lieu of 2600mm); run of northern-oriented windows introduced to first floor; proposed balcony reduced in width to maintain previous clearance to adjacent balcony 6.

Dwelling 6....Dwelling 6 brought forward toward the driveway and redesigned; break between dwellings 5 and 6 provided to 3000mm minimum; Tree T20 to now be retained, as encroachment into its TPZ reduced to less than 10%; ground floor building envelope generally retained as is, but rear half moved across further to the south; clearance between dwellings 6 and 5 increased slightly to 3030mm (previous 3000mm), clearance between dwellings 6 and 7 increased slightly to 3090mm (previous 3000mm), dwelling 6 now has a 1980mm width service area and access way to northern side, in lieu of previous zero lot alignment; and a run of northern-oriented windows has been introduced to dining room and kitchen, and a glazed external door introduced to laundry; incorporation of storage area directly off garage; first floor design streamlined such that there are no protrusions to the proposed external bathroom wall; run of northern-oriented windows introduced to first floor; proposed balcony reduced in width to increase previous clearance (proposed: 6130mm, previous: 4150mm).

Dwelling 7...ground floor building envelope retained generally as is; first floor building envelope retained generally as is; run of northern-oriented windows introduced to first floor, also to ground floor bedroom 3; relocation of storage area to be closer to rear garage door.

Facade treatment....general contemporary/modern facade treatment maintained, but details amended to reflect plan changes noted above. Series of one-off 3D design studies undertaken for dwellings 1, 4, 5, 6 and 7, also including incorporation into current streetscape views.

Introduction of vehicle turning circle analysis by EB Traffic Engineering.

Introduction of landscape concept design by Justin Hutchison.

AREA ANALYSIS

SITE AREA 2425.6 m²

PROPOSED 7 No DWELLINGS,
ie 1 No DWELLING PER 346.5m² SITE AREA

DWELLING 1

GROUND FLOOR		123.4	m ²	
FIRST FLOOR		84.4	m ²	
OVERALL		207.8	m ²	223 sq
PRIVATE OPEN SPACE	COURTYARD	52.5	m ²	
	BALCONY	N/A	m ²	
	(OVERALL)	52.5	m ²	

DWELLING 2

GROUND FLOOR		118.5	m ²	
FIRST FLOOR		79.5	m ²	
OVERALL		198.0	m ²	213 sq
PRIVATE OPEN SPACE	COURTYARD	120.7	m ²	
	BALCONY	N/A	m ²	
	(OVERALL)	120.7	m ²	

DWELLING 3

GROUND FLOOR		114.8	m ²	
FIRST FLOOR		80.1	m ²	
OVERALL		194.9	m ²	210 sq
PRIVATE OPEN SPACE	COURTYARD	72.9	m ²	
	BALCONY	13.7	m ²	
	(OVERALL)	86.6	m ²	

DWELLING 4

GROUND FLOOR		121.5	m ²	
FIRST FLOOR		69.2	m ²	
OVERALL		190.7	m ²	205 sq
PRIVATE OPEN SPACE	COURTYARD	32.8	m ²	
	BALCONY	13.3	m ²	
	(OVERALL)	46.1	m ²	

DWELLING 5

GROUND FLOOR		139.5	m ²	
FIRST FLOOR		79.7	m ²	
OVERALL		219.2	m ²	236 sq
PRIVATE OPEN SPACE	COURTYARD	134.3	m ²	
	BALCONY	12.3	m ²	
	(OVERALL)	146.6	m ²	

DWELLING 6

GROUND FLOOR		128.5	m ²	
FIRST FLOOR		79.2	m ²	
OVERALL		207.7	m ²	224 sq
PRIVATE OPEN SPACE	COURTYARD	153.4	m ²	
	BALCONY	12.3	m ²	
	(OVERALL)	165.7	m ²	

DWELLING 7

GROUND FLOOR		108.2	m ²	
FIRST FLOOR		73.0	m ²	
OVERALL		181.2	m ²	195 sq
PRIVATE OPEN SPACE	COURTYARD	212.0	m ²	
	BALCONY	7.4	m ²	
	(OVERALL)	219.4	m ²	

DWELLING 8

DELETED

OVERALL BUILDING AREA 13997m² 150.7sq

BUILDING SITE COVERAGE 854.4m² 35.2%

IMPERVIOUS PAVING AREA 161.3m² 6.6%

PERMEABLE SITE AREA 58.2%

GARDEN AREA 1049.5m² 43.2%