



Whitehorse City Council

AGENDA

Council Meeting

on

Monday 30 January 2023 at 7.00pm

Members: Cr Mark Lane
Cr Prue Cutts
Cr Blair Barker
Cr Raylene Carr
Cr Andrew Davenport
Cr Tina Liu
Cr Denise Massoud
Cr Amanda McNeill
Cr Andrew Munroe
Cr Trudy Skilbeck
Cr Ben Stennett

Mayor
Deputy Mayor

Officers: Simon McMillan
Stuart Cann
Jeff Green
Lisa Letic
Steven White
Siobhan Sullivan
Vivien Ferlaino
Carolyn Altan

Chief Executive Officer
Director Corporate Services
Director City Development
Director Community Services
Director Infrastructure
Executive Manager Transformation
Manager Governance and Integrity
Manager Strategic Communications
and Customer Service

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AGENDA

1 Welcome

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.

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 Apologies

3 Disclosure of Conflict of Interests

4 Confirmation of Minutes of Previous Meetings

Minutes of the Council Meeting held 12 December 2022.

RECOMMENDATION

That the minutes of the Council Meeting held 12 December 2022 having been circulated be confirmed.

5 Urgent Business

6 Public Presentations

7 Public Question Time

8 Petitions and Joint Letters

9 Notices of Motion

9.1 Notice of Rescission - Cr Davenport - Customer Service Centres

NOTICE OF RESCISSION

It is the intention of Councillor Davenport to move at the Council Meeting to be held on 30 January 2023 that the Council Resolution for Item 11.3 – Customer Services Centres from the Council Meeting held on 12 December 2022 as follows:

That Council:

1. Affirm that the main location for in-person Customer Service will continue to be at the Council Office at Nunawading.
2. Reduce hours at the Forest Hill Customer Service Centre from January 2023 and close the service on 30 June 2025.
3. Close Box Hill Customer Centre from January 2023
4. Endorse the Director Corporate Services to commence implementation of changes, and communications to Community and staff.

be rescinded and subject to that motion being carried in its place, Councillor Davenport proposes to move the following Notice of Motion.

9.2 Notice of Motion - Cr Davenport - Box Hill and Forest Hill Customer Service Centres

That Council:

1. Affirm that the main location for in-person Customer Service will continue to be at the Council Office at Nunawading.
2. Reduce operating hours at Box Hill and Forest Hill Customer Service Centres from 1 March 2023.
3. Close Box Hill and Forest Hill Customer Service Centres on or by 30 May 2023.
4. Endorse the Director Corporate Services to commence implementation of changes, and communications to Community and staff.

10 Council Reports

**10.1 22 Neville Street, BOX HILL SOUTH (LOT 184 LP 7124 10)–
Amendment to Planning Permit WH/2019/1227**

City Planning and Development
Director City Development
FILE NUMBER: WH/2019/1227/A
ATTACHMENT

SUMMARY

This proposal seeks to amend Planning Permit WH/2019/1227 (22 Neville Street, Box Hill South) which approved two double storey dwellings, removal of protected trees and buildings and works within 4 metres of protected trees. This application seeks permission to allow the two previously approved dwellings to be used as 'rooming houses', each containing seven bedrooms. Minor modifications to the approved built form and internal layout are also proposed.

Pursuant to clause 52.23-3, use of land as a 'rooming house' does not trigger the need for a Planning Permit if the building size is less than 300sqm, no more than twelve persons are accommodated and a maximum of nine bedrooms are proposed. In this instance the total number of bedrooms proposed is 14, which results in a permit being triggered for the use.

A Planning Permit is not required for any car parking reduction as the statutory requirements for the provision of car spaces on site have been met.

This application has been advertised, and a total of eight objections were received. The objections raised concerns regarding impacts on amenity (noise, lack of a management plan), car parking and traffic (including insufficient provision, impact on street parking, safety concerns for street users), overdevelopment (number of people), inadequate open space, precedent, impact on infrastructure, property devaluation and the transient/undesirable nature of the residents.

A Consultation Forum was held online via Zoom on 2 November 2022, chaired by Councillor Davenport and attended by Planning Officers, at which the issues were explored, however no resolution was reached between the parties.

The application was referred to Council's Waste Services Officer who is supportive of the proposal, subject to conditions.

This report assesses the application against the relevant provisions of the Whitehorse Planning Scheme, including the provisions of the Neighbourhood Residential Zone Schedule 5, Residential Development Policy, Clause 55 (ResCode) Clause 52.06 (Car Parking) and Clause 52.23 (Rooming House), as well as the objector concerns.

10.1
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The redevelopment of the site for two dwellings has already been approved and only modest modifications are proposed to the built form. These changes are in accordance with Clause 55, as well as the preferred Garden Suburban Area Precinct 3 and neighbourhood character. Subject to conditions, the proposed Rooming House use is appropriate in the residential setting in which the site lies – being in proximity to Deakin University and also located with the Principal Public Transport Network (PPTN). Sufficient car parking is provided on-site to meet the requirements of Clause 52.06. The management of the premises, including potential amenity issues, will be suitably addressed through conditions, including the requirements for a comprehensive management plan and Waste Management Plan.

It is recommended that the application be supported, subject to conditions.

This application has been called in by Councillor Davenport.

RECOMMENDATION

That Council:

- A** Being the Responsible Authority, having caused Application WH/2019/1227/A for 22 Neville Street, BOX HILL SOUTH (LOT 184 LP 7124 10) to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for the Amendment to Planning Permit WH/2019/1227 (originally issued for 'The development of the land for two (2) double storey dwellings, the removal of protected trees and buildings and works within 4 metres of protected trees') to allow for the use of the two buildings as two (2) rooming houses, as well as modifications to the previously approved built form is acceptable and should not unreasonably impact the amenity of adjacent properties.
- B** Issue a Notice of Decision to Grant an Amendment to Planning Permit WH/2021/1227 under the Whitehorse Planning Scheme to the land described as 22 Neville Street, BOX HILL SOUTH (LOT 184 LP 7124 10) updating the Plans, Preamble and Conditions as follows:

Amend Preamble:

- The use and development of the land for two (2) rooming houses, the removal of protected trees and buildings and works within 4 metres of protected trees.

Amend Conditions:

- Condition 1a) – deleted
- Condition 1b) – deleted
- Condition 1m) –

An amended landscape plan to correspond with the revised ground floor layout associated with the Rooming House.

10.1
(cont)

Condition 1 – add part n):

- n) Deletion of Bedroom 1 of Unit 2 and the reuse of this space adjacent to the car port as part of the communal facilities, such as a laundry or storage.

Condition 1 – add part o):

- o) Correction of drafting and labelling errors for all bedrooms and bathrooms as follows:
 - (i) The room on the ground floor of Unit 2 labelled 'Bed 3' to be relabeled as 'bathroom'
 - (ii) All bedrooms renumbered to correctly reference the total number of bedroom in each dwelling.

Condition 1 – add part p):

- p) A Rooming House Operational Management Plan in accordance with Condition 17

Add the following new Conditions to the Permit, after Condition 16 and re-numbered accordingly:

- 17. Prior to the commencement of any buildings or works, an amended Rooming House Management Plan must be submitted to and approved by the Responsible Authority. This Rooming House Management Plan must be generally in accordance with the Rooming House Management Plan submitted with the application, but amended to include the following:
 - a) Induction of residents to be familiar with the behaviour requirements of the Management Plan.
 - b) A log for recording residents and visitor details.
 - c) All issues or complaints that arise must be recorded and must include details of actions taken to address the issue or complaint.
 - d) Details of how noise levels and resident behaviour will be managed for the use to reduced impacts on adjoining residential properties.
 - e) Landscaping maintenance.
 - f) The rooming house buildings and associated garden and open space areas must be maintained in a tidy condition.
 - g) Waste Disposal must occur in accordance with the waste management conditions of this permit.
 - h) The owner/managers of each rooming house must provide a copy of the Rooming House Management Plan clearly displayed in prominent locations within each rooming house for residents.

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(cont)

When the plan is approved by the Responsible Authority, the use must therefore be conducted in accordance with the Management Plan. The Management Plan may be amended by the Responsible Authority after a written request by the owner or the operator of the use

18. The total number of bedrooms within Unit 1 must not exceed seven (7) and six (6) bedrooms within Unit 2 except with the further written consent of the responsible authority.
19. No more than one (1) tenant is permitted per room.
20. The telephone number or numbers with 24 hour access to the operator/ manager of the residential building must be displayed on the front door entry so that any neighbouring residents can register a complaint or address any other matter arising from the use of the site.
21. For so long as these premises operate as rooming houses, it must be managed by an experienced operator, to the satisfaction of the Responsible Authority.
22. Within one month of the commencement of the use, the owner/ manager of the site must advise the Responsible Authority in writing of the contact details of the Property Manager. The Responsible Authority must be advised in writing of updated contact details any time the Property Manager changes.
23. The management must, as required by the Responsible Authority, make statements on its behalf to any officer of the Responsible Authority concerning the conduct of the premises.
24. Goods must not be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.
25. The subject land must be maintained in an orderly and neat manner at all times and its appearance must not, in the opinion of the Responsible Authority, adversely affect the amenity of the locality.
26. The site must not cause nuisance or be detrimental to the amenity of the neighbourhood including by the emission of noise. In this regard the emission of noise must comply with the provision of the Environment Protection Act 2017 (as amended) and the policies of the Environment Protection Authority.
27. The requirements of the endorsed Waste Management Plan (WMP) must be implemented by the owners and occupiers of the site for the duration of the development's operation in accordance with this permit, to the satisfaction of the Responsible Authority. Any revision of the WMP or changes to the approved waste system of the development require Council approval.

10.1
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28. Any MGB (Mobile Garbage Bin) placements proposed on Neville Street 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.
 - a. If the criteria for the on-street bin collection services is unable to be met and the service is rendered inoperable, then the waste collection service will revert to an external Private waste collection service and a WMP must be resubmitted to Council for approval.
29. Waste collections for this development are to be completed externally by Council's waste collection contractor.
30. Council issued bins will be required for this development.
31. MGB usage is based on individual usage by the occupiers of the development.
32. All bins and receptacles must be screened from view and be maintained in a clean and tidy condition and free from offensive odour.
33. Car spaces must not be used for any other purpose other than the parking of vehicles in association with residents of and visitors to the land, to the satisfaction of the Responsible Authority.
34. The car parking areas and access ways as shown on the endorsed plans must be formed to such levels so that they may be used in accordance with the plan, and shall be properly constructed, surfaced, drained and line-marked (where applicable). The car park and driveways must be maintained to the satisfaction of the Responsible Authority.

Construction Management Plan

35. 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.

This plan is to be to the satisfaction of the Responsible Authority and must be prepared in accordance with the City of Whitehorse Construction Management Plan Guidelines.

Once submitted to and approved by the Responsible Authority the Construction Management Plan will form part of the documents endorsed as part of this planning permit.

10.1
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When approved the Construction Management Plan will form part of this permit and must be complied with, to the satisfaction of the Responsible Authority, to the extent that this is in the control of the owner of the land. 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.

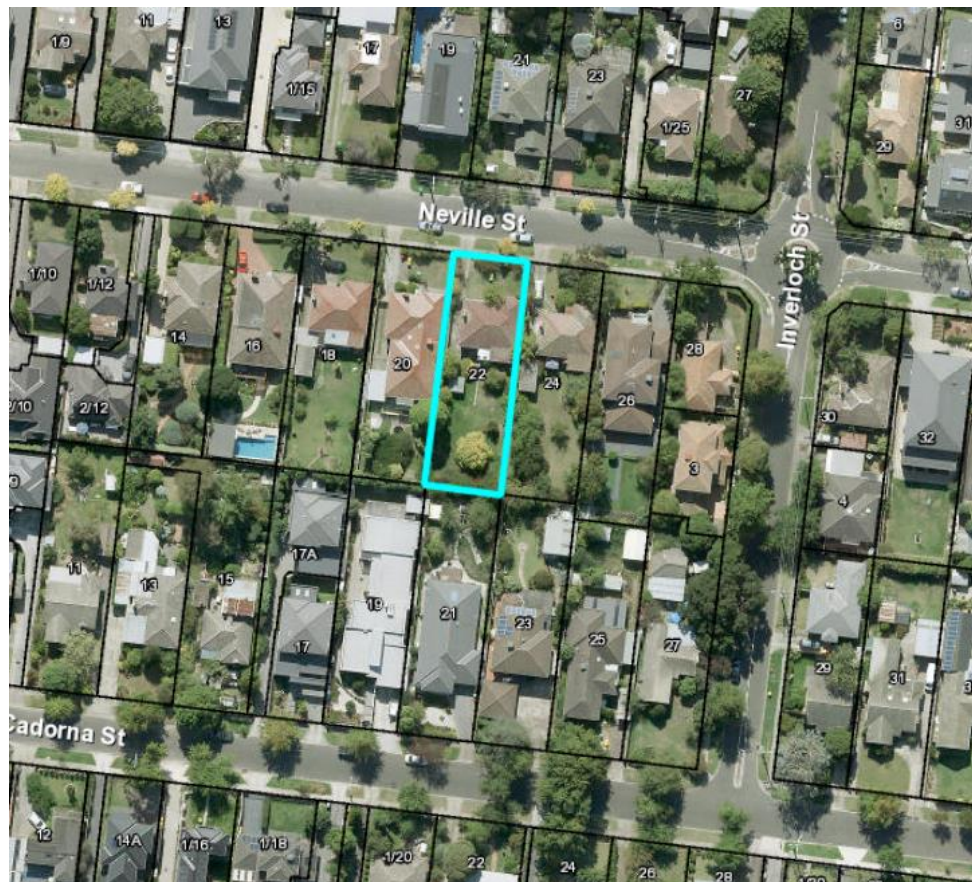
-Subsequent conditions renumbered.

- 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 61 A3

Applicant:	Hartland Group Pty Ltd
Zoning:	Neighbourhood Residential Zone Schedule 6
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 32.09	Neighbourhood Residential Zone, Schedule 5
Clause 42.03-2	Significant Landscape Overlay Schedule 9
Clause 52.06	Car Parking
Clause 52.23	Rooming House
Clause 55	Two or More Dwellings on a Lot or Residential Buildings
Clause 65	Decision Guidelines
Ward:	Wattle

10.1
(cont)



Subject Site

BACKGROUND

History

Planning Permit WH/2019/1227 was issued under delegation on 5 October 2020 allowing construction of two double storey dwellings, removal of protected trees and buildings and works within 4 metres of protected trees. This permit was extended on 24 October 2022 to set the date by which the permit must be commenced to be 5 October 2024. Works have not yet commenced.

The Site and Surrounds

The subject site is located on the southern side of Neville Street in Box Hill. The site has a frontage of 15.24 metres, a maximum depth of 47.55 metres, and a total site area of 725sqm.

The site is rectangular in shape with a north-south orientation and has a slope of 2.15 metres from front to rear. The site currently contains a single storey standalone brick dwelling with associated outbuildings. The subject site includes a number of scattered trees and smaller shrubs around its periphery. There are no easement or assets encumbering the site.

10.1
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The subject site is within proximity to a number of public reserves and facilities, including Wattle Park 200 metres to the west, Gardiners Creek Trail, 400 metres to the east, Deakin University 650 metres to the south, the Elgar Road neighbourhood activity centre 420 metres to the north-west and the Box Hill MAC 2.5 kilometres to the north.

The site is located within proximity to a number of key arterial roads and transportation routes including Elgar Road 200 metres to the west, Riversdale Road 250 metres to the north, and Burwood Highway 1 kilometre to the south as well as tram routes on both Riversdale Road and Burwood Highway. The site is located within the Principal Public Transport Network area. There are car parking restrictions in place for the north side of Neville Street, limiting the parking of vehicle on Monday to Fridays to one hour between 8am to 6pm inclusive.

The surrounding properties are typically residential, comprising a mix of single and double storey standalone dwellings. There are number of established and recent multi-dwelling developments evident in the area.

The immediately adjoining dwellings are described further below:

- The dwelling to the east of the subject site at 20 Neville Street contains a single storey standalone brick dwelling, with an accessway and separate garage located to the western boundary. The dwelling has one habitable room window (separated by the accessways) facing the subject site, as well as the secluded private open space to the rear of the property.
- The dwelling to the west of the subject site at 24 Neville Street contains a single storey standalone brick dwelling, with an accessway and separate garage located to the western boundary. This dwelling has a number of habitable room windows facing the subject site, as well as the secluded private open space to the rear of the property.
- The dwelling to the south of the subject site at 21 Cadorna Street contains a single storey standalone brick and render dwelling. The rear SPOS of this dwelling abuts the subject site.

Planning Controls

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

Clause 32.09 – Neighbourhood Residential Zone Schedule 5

Pursuant to Clause 32.09-2 a Rooming House is a Section 1 – Permit not required use subject to meeting the requirements of Clause 52.23-2. As the requirements of this clause are not met by this application (by virtue of exceeding the maximum number of bedrooms allowed without a permit), then a Rooming House becomes a Section 2 – Permit required use.

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A Planning Permit is also required for the construction of two or more dwellings on a lot and residential buildings (which includes Rooming House). A development must meet the requirements of the Clause 55.

Clause 52.06 – Car Parking

Pursuant to Clause 52.06-5, car parking for a Rooming House is required to be provided at the rate of 1 car parking space to each four bedrooms for a site located within the Principal Public Transport Network. Fourteen bedrooms and four car spaces are proposed, which meets this requirement.

Clause 52.23 – Rooming House

Pursuant to Clause 52.23-2 any requirement of the Neighbourhood Residential Zone to obtain a permit to use land for a rooming house does not apply if all of the following requirements are met:

- Any condition apposite the use 'rooming house' in the table of uses in the zone or schedule to the zone is met.
- The total floor area of all buildings on the land, measured from outside of external walls or the centre of party walls, does not exceed 300 square metres, excluding outbuildings.
- Not more than 12 persons are accommodated.
- No more than 9 bedrooms are provided.

In this instance a total of 14 bedrooms are proposed, which means that a permit is required for the use under the provisions of the Neighbourhood Residential Zone.

PROPOSAL

The application proposes to make modifications to the approved built form and alter the use from 'Dwelling' to 'Rooming House'.

Ground floor modifications

- Access ramps added to both porch entries
- No change to the ground floor footprint of Unit 1
- Unit 2 external storage relocated from the garage to an external shed
- Internal layout changes resulting in minor modifications to window positions.

First Floor modifications

- Minor alterations to the first floor footprint of Unit 1 at the eastern and southern ends.
- Minor alterations to the first floor footprint of Unit 2 on the eastern and western sides.
- Internal alterations to increase from four bedrooms to five bedrooms
- Minor modifications to window positions to reflect internal layout changes.

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Rooming House

- Each building will continue to be provided with two car spaces – in a double garage for Unit 1 and a double carport for Unit 2.
- The management of the premises is to be under the control of a single operator.
- A total of 14 bedrooms are proposed – seven in each building
- Waste is to be collected via Council's waste collection service.
- The draft Operational Management Plan sets out house rules relating to noise, behaviour, visitors, parties (not allowed), pets (not allowed), cleaning and maintenance responsibilities.

CONSULTATION

Public Notice

The application was advertised by mail to the adjacent and nearby property owners and occupiers and by erecting one notice on the Neville Street frontage. Following the advertising period eight objections were received.

The issues raised are summarised as follows:

- Amenity concerns
 - Noise from tenants
- Car parking and traffic
 - Lack of on-street / off street parking available
 - Increased traffic in the street
 - Safety concerns for street users
- Neighbourhood character
- Landscaping
 - Tree removal
 - Inadequate open space provided for each building
- Lack of Management Plan
- Overdevelopment of use – number of people
- Non-planning matters
 - Precedent (other rooming houses may come into the street)
 - Impact on infrastructure of area
 - Property devaluation
 - Transient/undesirable nature of residents
 - Benchmarking/standards
 - Other rooming houses in the area

10.1
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Consultation Forum

A Consultation Forum was held via Zoom on 2 November 2022, chaired by Cr Davenport. Approximately eight objectors attended the meeting, together with the applicant and two planning officers.

At the Forum the objectors expanded on the concerns they had raised in writing. 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

No objection to the submitted Waste Management Plan, subject to conditions being placed on the permit.

DISCUSSION

Amendments to the Existing Planning Permit

The proposed amendment seeks to introduce a rooming house use, as well as modifications to the approved built form.

To allow for the new use the existing permit preamble requires updating to replace the wording referencing 'dwellings' to 'rooming houses'.

The existing permit conditions would largely be retained, apart from conditions 1a) and b) as these relate to modifications that were required to the first floor footprint that are no longer relevant. A number of new permit conditions would be required that specifically relate to the rooming house use.

This report is limited to the new components of the approved development – being the new rooming house use and the modifications to the approved built form.

Use for Rooming Houses

Rooming house is a residential use that is nested under 'Residential Building' and the 'Accommodation' uses in the Planning Scheme. Under Clause 32.08-2 a rooming house is a Section 1 use provided it meets the requirements of Clause 52.23-2. As stated above, these requirements are not met, therefore a Permit is triggered for the use.

Clause 32.09-6 of the Scheme requires the assessment of residential buildings (including rooming houses) against Clause 55 - ResCode. In this instance, the built form has already been approved, to which only minor modifications are proposed. As such, the assessment against Clause 55 is limited to those new aspects of the built form only.

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General guidance to the exercise of discretions under the Planning Scheme is provided by Clause 65. It provides that consideration is to be given to various matters including the Planning Policy and Local Planning Policy Framework, the orderly planning of the area, the purpose of the zone, overlay or other control, and the effect of the proposal on the amenity of the neighbourhood.

Clause 65 in turn refers to the components of the Local Planning Policy Framework. Clause 21.06 sets out Councils strategic planning objectives for 'Housing'. Under Clause 21.06-2, the Vision' in the City is:

- *To ensure that housing in the City of Whitehorse meets residents' needs in terms of location, diversity, sustainability, accessibility, affordability and good design. There are a number of key challenges facing the City of Whitehorse in relation to housing.*

These challenges are (where applicable to the application):

- *Accommodating an additional 12,997 dwellings to house the projected population growth in the City to 2036.*
- *Ensuring established residential areas continue to play an important role in providing additional housing.*
- *A higher demand for private rental housing, a proportion of which will need to be affordable to low-income tenants.*
- *A higher proportion of lone person households may require smaller housing types including town houses, units and apartments. However in some instances, these housing types are more costly to buy or rent than older housing stock, and can contribute to housing affordability problems.*
- *The need to provide more accommodation for students, and accommodation which better meets their needs in terms of quality and affordability in areas near Deakin University Burwood Campus and Box Hill Institute of TAFE.*

Clause 21.06-4 deals with Housing Diversity. The key issues (applicable to this application) include:

- *Meeting the continuing high demand for private rental accommodation, which puts pressure on housing affordability.*
- *Providing high quality and accessible housing to meet the needs of the students that will continue to be attracted to Deakin University Burwood Campus and Box Hill Institute of TAFE and will require housing with high quality accessibility and services.*
- *Encouraging a broader range of housing types to meet the differing needs of the future population through the lifecycle*

10.1

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Clause 21.06-5 addresses Housing Affordability. The key issue and subsequent objectives (applicable to this application) includes:

- *Meeting an increasing demand for more affordable housing across the municipality.*
- *To increase the supply and distribution of affordable housing in the City of Whitehorse.*
- *To reduce housing stress in the City of Whitehorse.*

Clause 22.14 contains the 'Student Accommodation' policy which applies to applications to use land for the accommodation of students attending a tertiary institution. Whilst the subject proposal is not explicitly for student accommodation, as per separately defined in the Whitehorse Planning Scheme, this policy provides useful locational guidance, with the relevant objective in this regards being:

- *To locate student accommodation that is convenient to tertiary institutions, local service and public transport.*

Amongst other Policy objectives within the Planning Scheme, there is an emphasis on ensuring an adequate provision of alternative and affordable accommodation to low-income persons. On this basis, the proposal meets Policy objectives and a clear demand. The subject site is located within convenient walking distance of Deakin University, and is approximately 500 metre from the Riversdale Road Number 70 tramline. Therefore the proposed location provides good accessibility to public transport and key facilities, consistent with policy direction.

The Planning Scheme does not allow consideration of the tenure of residential accommodation, the occupation or circumstances of tenants (student, holiday maker or otherwise) or the concentration of similar uses in an area. The proposed rooming houses will add to the diversity of accommodation and will reduce housing stress over the municipality when considered as a whole. The provision of rooming house accommodation is appropriate in this location given the site's proximity to public transport and Deakin University.

Design and Built Form

The proposed modifications to the approved building envelope are modest in scope and would not add any unreasonable bulk to the first floor level. Further, the modifications to the first floor footprint would continue to meet the Standard B17 – *Side and Rear* setback requirements and will not cause detriment to neighbouring properties.

The modifications to the footprint are a result of modifications to the internal layout and this has resulted in changes to the location of some windows. However all windows have been appropriately positioned or treated to prevent any off site impacts by way of overlooking, in accordance with the Standard B22 - *Overlooking* requirements.

10.1
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External changes to the entries of each dwelling involve the provision of access ramps directly linking to the communal driveway to front doors. This modification is necessary to meet the requirements of the relevant building regulations for access to this type of accommodation. These additions will necessarily require a change to the previously endorsed landscape plan through removal of a small garden bed for each dwelling. The loss of these garden beds is not substantial as they do not impact on the provision of new canopy trees on the site, nor reduce the amount of soft landscaping by a significant amount. The continued provision of a landscaped front setback will enable the buildings to sit in a garden setting consistent with the Garden Suburban 3 preferred character objectives for the neighbourhood in which the site lies.

Car Parking and Traffic

It is noted that objectors raised particular concern that the proposal will create traffic, safety and parking problems within Neville Street.

Pursuant to Clause 52.06 – *Car parking*, there is no statutory requirement for visitor car parking spaces associated with a Rooming House. Clause 52.06 prescribes the provision of car parking to be no less than one (1) car parking space for every four bedrooms. As there are four car parking spaces within the subject site, the proposed development and use complies with requirements of Clause 52.06.

Notably, the ‘student accommodation’ car parking rate specified in the ‘Student Accommodation’ policy at Clause 22.14 recommends a rate of 0.25 spaces per bed – which for fourteen proposed bedrooms equates to 3.5 spaces. As such, the proposal also meets this policy direction.

Given the one hour parking restriction on the north side of Neville Street, construction worker parking has need for management during the construction process to ensure residents are not unreasonably impacted. For this reason, a Construction Management Plan will be required for this development.

Subject to these conditions, the proposal will provide compliant car parking on site and will not result in excessive traffic impacts within the street.

On-site Amenity

Whilst internal layout changes to the approved form are proposed, the number of bedrooms that are proposed for each building is only one above the approved layout. The proportion of ground floor communal living area closely matches that of the original approval and there is no reduction proposed to the secluded private open space areas. As such, the provision of communal open space for end users is considered to be satisfactory.

10.1
(cont)

It is noted that the reconfigured bedroom locations on the ground floor of Unit 2 has resulted in one of the bedrooms having its external window with an outlook directly into the double carport. Standard B27 – *Daylight to windows*, at Clause 55.05-3 specifies a window in a habitable room /may face a carport “*provided it has two or more open sides and is open for at least one third of its perimeter*”. However, given that this carport is associated with a shared accommodation use, the amenity for any future occupant of this bedroom would be poor given that the proposed window is shown to be a highlight window, which further restricts access to light and ventilation, combined with the comings and goings of vehicles from the car port by other occupants of the rooming house.

Overall this bedroom would have a poor level of amenity and it is recommended that this room not be used for habitation. As such, a condition is recommended to require the deletion of this bedroom and the reuse of this space as part of the communal facilities, such as a laundry or other non-habitable room space.

It is also noted that there are a number of room labelling errors on the plans. Specifically the bedroom number inaccurately suggests each building contains eight individual bedrooms, rather than seven, and a ground floor Unit 2 stand-alone bathroom is inaccurately labelled as a bedroom. A permit condition is recommended to correct these drafting errors.

Rooming House Operation

Many of the objectors concerns relate to operational matters associated with the rooming house such as noise from tenants, site and building maintenance, waste storage and collection, allocation/management of car parking spaces and complaints procedures. While critical, these matters can be readily addressed under an Operation Management Plan. A draft version of such a plan was included in the application material on public exhibition. A permit condition is recommended to require an updated Operation Management Plan to be prepared to also capture dealing with complaints, reducing noise impacts on neighbouring properties and landscape maintenance.

Furthermore, Council’s Waste Officer has supported the Waste Management Plan submitted with the application for collection via Council’s waste service.

The on-going rooming house use requires Planning approval and it is therefore appropriate to require noise emissions from rooming house residents and overall residential behaviour in the Operation Management Plan.

The total number of residents has not been explicitly stated by the applicant so, in the absence of this detail, it is considered appropriate to include a permit condition to limit the number of tenants to a maximum of one per room. This will ensure that the total number of occupants is compatible with the amount of communal area and facilities provided in each building.

10.1

(cont)

The sizes of the lodging rooms and the communal living areas, disability access compliance and fire safety will also be further considered through a Building Permit process. The provided communal living and dining areas allow for all anticipated residents to eat together and congregate, which will facilitate the creation of social bonds between residents.

Objectors Concerns not Previously Addressed

- Tree removal

Tree removal was previously considered in the granting of the original permit for the site. This amendment application proposes no further tree removal beyond that which has already been approved.

- Overdevelopment of use – number of people

A total of fourteen bedrooms are proposed (to be reduced to thirteen for the reason described earlier in this report). This is only one bedroom more than is already approved for the redevelopment of the site as two dwellings. As such the total number of people residing on site is not deemed to be excessive.

- Precedent (other rooming houses may come into the street)

Each Planning Permit application is decided on its own merits and against the relevant planning policies and provisions, and cannot be considered against the precedent of other developments.

- Impact on infrastructure of area

There is no information to suggest that the sewerage and drainage capacity of the area would be unreasonably impacted by the proposed use.

- Property devaluation

The Victorian Civil and Administrative Tribunal and its predecessors have generally found subjective 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 impact of this proposal which were found to be acceptable as outlined throughout this report.

- Transient/undesirable nature of residents

Potential antisocial or criminal behaviour of residents is not a matter which can be addressed through the Whitehorse Planning Scheme. The requirement for an Operation Management Plan will address behaviours of tenants within the Rooming Houses to an extent which addresses the amenity of the area.

10.1

(cont)

- Other rooming houses in the area

Each Planning Permit application is decided on its own merits and against the relevant planning policies and provisions, and cannot be considered against the precedent of other developments. However, the provision of this type of accommodation is consistent with the objectives of Clause 21.06 to increase the diversity and affordability of housing within the municipality.

CONCLUSION

The proposal for an amendment to Planning Permit WH/2019/1227 (issued for 'The development of the land for two (2) double storey dwellings, the removal of protected trees and buildings and works within 4 metres of protected trees') to allow for the use of the two buildings rooming houses, as well as modifications to the previously approved built form is an acceptable response that satisfies the relevant provisions contained within the Whitehorse Planning Scheme, including the Planning Policy Framework, the Local Planning Policies and the Neighbourhood Residential Zone Schedule 5.

A total of eight 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 Proposed Plans
- 2 Previously Approved Plans
- 3 Proposed Operational Management Plan

10.2 Investigation into the Mont Albert Avenue of Honour

City Planning and Development
Director City Development
FILE NUMBER: SF21/1541
ATTACHMENT

SUMMARY

The State Government's Level Crossing Removal Project (LXRP) at Mont Albert station stirred interest and concern amongst the local community about the impacts of the construction phase. A small number of these community members also had concerns about the potential removal of trees in Churchill Street, Mont Albert, which anecdotally form an avenue of honour.

In response to this perceived threat, at its meeting on 22 November 2021, Council considered a Notice of Motion (NoM) in relation to the Churchill Street Avenue of Honour. At the meeting, it was resolved that Council:

1. Note the recent correspondence to the Minister for Transport Infrastructure, Minister for Planning and Minister for Veteran Affairs urging the State Government to protect and retain the Avenue of Honour in Mont Albert, being a World War 1 commemorative avenue of nine trees in Churchill Street.
2. Appoint suitably qualified heritage consultants to assess the Avenue of Honour planting to determine whether there is sufficient strategic justification to warrant the inclusion of the trees in a Heritage Overlay in the Whitehorse Planning Scheme.
3. Subject to the outcome of this heritage assessment, authorise Council officers to:
 - Request the Minister for Planning to intervene by preparing and approving an amendment to the Whitehorse Planning Scheme under section 20 (4) of the Planning and Environment Act 1987 (the Act) to apply the Heritage Overlay on an interim basis to the Commemorative Avenue of Honour in Churchill Street, Mont Albert comprising nine trees
 - Concurrently seek authorisation from the Minister for Planning under section 8(a) of the Act to prepare and exhibit an amendment to the Whitehorse Planning Scheme to apply the Heritage Overlay to the Commemorative Avenue of Honour on a permanent basis.

In order to address dot point 2 Council appointed GML Heritage to assess the Churchill Street Avenue of Honour planting to establish whether it met the threshold for inclusion in a local heritage overlay. The assessment by GML Heritage found that the trees in Churchill Street are of historical and social significance to the City of Whitehorse and should be protected through a Heritage Overlay (HO) in the Whitehorse Planning Scheme.

10.2
(cont)

In December 2021, the LXP removed three of the nine trees forming the Churchill Street Avenue of Honour to facilitate station works (see photo 1 below). At this point GML Heritage had only just concluded their preliminary assessment of the trees. The preliminary assessment determined that there was a measure of social value evident in the function of the tree group as a memorial of importance to the local community. The preliminary assessment found that further research would be required to test the place against the HERCON (Heritage Convention) Criterion G and threshold for local significance to support inclusion in the Heritage Overlay of the Whitehorse Planning Scheme.

RECOMMENDATION

That Council:

1. Note the findings and recommendations of the *Churchill Street Memorial Trees, Mont Albert* prepared by GML Heritage, June 2022 (updated December 2022) at Attachment 1.
2. As per the Council resolution on 22 November 2021, seek Authorisation from the Minister for Planning to prepare and exhibit an amendment to Whitehorse Planning Scheme under Section 8A of the *Planning and Environment Act 1987* (the Act) to apply a Heritage Overlay to the Avenue of Honour Trees.

Key Matters

The key matters addressed in this report include:

- Background to the Avenue of Honour heritage assessment project.
- Constraints of the Avenue of Honour heritage assessment project.
- History and description of the Mont Albert Avenue of Honour.
- Assessment and findings of the Avenue of Honour heritage assessment.

BACKGROUND

In response to the NoM on 22 November 2021, Council officers engaged GML Heritage to undertake an assessment of the Churchill Street Avenue of Honour Trees. GML Heritage was engaged specifically because of their expertise of relevance to avenues of honour in Victoria and experience in assessing social value in the heritage context.

Although not identified in any previous City of Whitehorse Heritage Studies, the local community recognised this stand of trees as commemorating the local lives lost at the landing at Gallipoli. Members of the local community reported that the avenue originally consisted of nine trees (eucalypts) planted on Anzac Day in 1965. The planting was to commemorate the 50th anniversary of the Gallipoli landing, in memory of four brothers of the Head family who lived in Leopold Street, Mont Albert, one of whom died in the landing along with five of their friends.

10.2
(cont)

A plaque on one of the trees states that the citizens of Mont Albert planted the trees in memory of the four brothers of the Head family who all enlisted in the Great War. One of the brothers, William Head, died at Gallipoli on 25 April 1915. The plaque described the trees as a 'grove', rather than an avenue, suggesting that the original planting may not have had a linear formation.

There has been considerable community interest in the trees in Churchill Street, particularly with the impact of the works by the Level Crossing Removal Authority (LXRA). In December 2021, the LXRP removed three of the trees in the study area (see figure 1 below) leaving six of The Avenue of Honour trees, to facilitate the level crossing removal and station relocation works.



Figure 1: Trees removed by the LXRP

Limitations of the project

The project was constrained by the following limitations:

- Inability to locate supporting documentary evidence of the planting of the trees in Churchill Street, such as contemporary newspaper reports or local histories.
- Inability to obtain first-hand testimony to verify the 1965 planting date, for example from residents who were living in Churchill Street in 1965 or from family members of the men for whom the trees were planted.

10.2
(cont)

- Inability to access a contact for the Mont Albert Masonic Lodge which no longer exists and inability to locate any records of the Mont Albert Masonic Lodge. Discussion about the relevance of the Masonic Lodge is further below in this report.
- Little to no supporting information that the Mont Albert Masonic Lodge was involved in the planting in 1965, apart from second-hand testimony.
- Inability to obtain a copy of photograph of the original plaque (which the current plaque was based on).

Avenue of Honour history and description

Churchill Street, Mont Albert runs parallel to the southern side of the Belgrave/Lilydale railway line in proximity to the Mont Albert railway station. The subject group of trees occupies a section of a reserve east of Mont Albert railway station, in front of 36–52 Churchill Street, on the north side of Churchill Street (see Figure 2 below).



Figure 2: The location of the group of trees in Churchill Street (north side), Mont Albert.

A plaque affixed to one of the trees in Churchill Street notes that a grove of nine trees was planted in Churchill Street, Mont Albert, on 25 April 1965 to commemorate the 50th anniversary of the Gallipoli landing (25 April 1915) and to honour the local men who served in the First World War. One of these men was William Head who was killed in action at Gallipoli on 25 April 1915 (see Figures 3 and 4 below).

10.2
(cont)



Figure 3: Plaque attached to 'tree number 4'

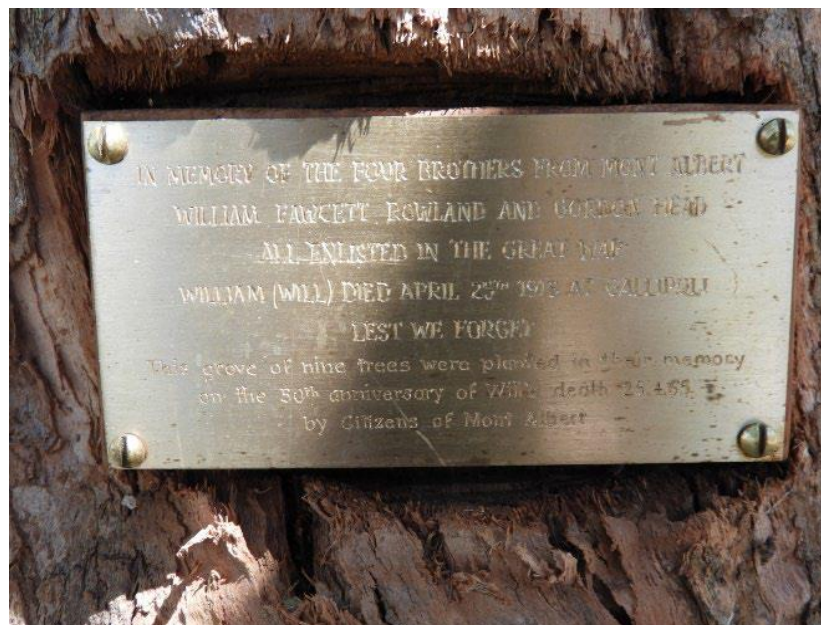


Figure 4: Details of plaque attached to 'tree number 4'

The text on the plaque reads as follows:

IN MEMORY OF THE FOUR BROTHERS FROM MONT ALBERT
WILLIAM FAWCETT ROWLAND AND GORDON HEAD
ALL ENLISTED IN THE GREAT WAR
WILLIAM (WILL) DIED APRIL 25TH 1915 AT GALLIPOLI
LEST WE FORGET
This grove of nine trees were planted in their memory
on the 50th anniversary of Will's death 25.4.65
by Citizens of Mont Albert.

10.2
(cont)

There is anecdotal evidence from local Mont Albert residents that members of the Mont Albert Masonic Lodge planted the memorial trees. One of the members of the lodge was George Chapman, a former World War II fighter pilot who lived at 50 Churchill Street. Several years ago (c1990s), Chapman had passed on the story of the trees being an avenue of honour to a current local resident and asked that he 'look after them'.

From aerial photographs of the site from 1945 to the 1970s it would appear that trees were in this location by 1945, making it possible that the trees were 'memorial' trees already in existence in 1965 rather than planted in 1965. The trees were recognised locally as an avenue of honour, which was associated specifically with nine local men who served in the Great War, including William Head who was killed in action during the landing at Gallipoli by the AIF on 25 April 1915.

William Head lived at 14 Leopold Street, Surrey Hills. He was one of four brothers, all of whom served in the First World War. Head enlisted in mid-August 1914, which was very early in the war, making him amongst the first Australians to enlist.

Local residents placed great value on civic duty and military service. Surrey Hills State School trained a cadet corps from the 1890s. Many of its former students enlisted for the Great War. The school provided many of the recruits who were part of the 2nd Brigade that landed at Gallipoli on 25 April 1915. Ardent support for the war and the war effort translated into a strong commitment at home to remember and honour those who had served, and in particular those who lost their life.

Originally said to have consisted of nine trees, in late 2021 (at the time of the study) six trees with a linear form remained extant. The trees that remain are of varying ages suggesting not all trees have survived, with some replanted or new trees added at different times since 1965. Historical aerial photographs evidence this.

Because of tree losses in December 2021 (removed as part of works by the LXRA), the group comprises two clusters of trees of mixed ages - two trees at the west end, and four trees at the east end. Although the tree grouping is not intact, the surviving trees retain their purpose as a war memorial for local community members.

In the row of trees, there are some hallmarks of an avenue of honour, in terms of the linear form, resulting from planting at regular distances from the road's edge, and regular spacing. However, because of tree losses and the mixed age, size and species in the tree group, it does not read strongly as an avenue of honour.

10.2

(cont)

There is stronger integrity (more easily recognisable) at the east end of the group, because of the size and maturity of the trees in this location, in particular two Red-flowering Gum trees, and the plaque affixed to one of the Red-flowering Gum trees. While recent tree losses have affected the integrity of the war memorial trees, replanting could restore this.

Assessment of Significance

GML Heritage did an assessment of significance against the HERCON criteria. The HERCON criteria are used for heritage assessments across Australia and provide a standard measure by which places are assessed. Assessment of places against the criteria will include considerations such as historical significance, rarity and aesthetic characteristics. Table 1 below indicates the potential for significance against each of the HERCON criteria.

HERCON Criteria	Significance
Criterion A: Importance to the course or pattern of our cultural or natural history (historical significance).	✓
Criterion B: Possession of uncommon, rare or endangered aspects of our cultural or natural history (rarity).	
Criterion C: Potential to yield information that will contribute to understanding our cultural or natural history (research potential).	
Criterion D: Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).	
Criterion E: Importance in exhibiting particular aesthetic characteristics (aesthetic significance).	
Criterion F: Importance in demonstrating a high degree of creative or technical achievement at a particular period (technical significance).	
Criterion G: Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions (social significance).	✓
Criterion H: Special association with the life or works of a person, or group of persons, of importance in our history (associative significance).	

Table 1: Indication of potential for significance against the HERCON criteria.

10.2
(cont)

The GML Heritage report has found that the war memorial trees in Churchill Street Mont Albert are of local historical and social significance to the City of Whitehorse. They serve as a memorial to nine local men who fought in the First World War and to honour the death of William Walter Head, who lost his life at the Gallipoli landing on 25 April 1915. These trees are important to the local community for representing the efforts of local men who fought in World War I, and also for demonstrating the strong local impulse to commemorate and honour those who served, in particular the war dead (Criteria A and G).

Discussion and Options

The Notice of Motion from the Council Meeting on 22 November 2021 proposed seeking both interim and permanent controls; however, the removal of the three trees appears to have been the extent of removal and the threat has now passed.

Work by the LXP is progressing and has recently involved the relocating of services and piles driven into the ground. The LXP are currently occupying the rail reserve and part of Churchill Street but it is unlikely that there will be any further tree removal in Churchill Street.

Once all of the civil works are completed, a program of tree replacement in consultation with Council's Parks and Natural Environments Department will take place. For every tree the LXP has removed, they will replace with 2-3 trees and the memorial plaque on one of the trees will remain in situ. In short, the threat to the Avenue of Honour has now abated. It therefore considered unnecessary to pursue the interim HO sought in Council's 22 November 2021 resolution.

Although GML Heritage has recommended that a permanent heritage overlay be imposed to protect the Avenue of Honour, the report does raise some questions about the adequacy of the evidence in relation to the planting of the trees (eg: supporting documents) and whether the anecdotal evidence is enough to substantiate a heritage overlay.

However, Council officers chose GML Heritage specifically to undertake this heritage assessment given their experience in studies of avenues of honour. GML Heritage (under their former trading name Context) was engaged to carry out the Victoria's Avenue of Honour Project (2021), for the Department of Premier and Cabinet (Veterans Branch). The report included the preparation of a contextual history of avenues of honour in Victoria, and an audit of the more than 472 extant, remnant and 'lost' avenues of honour planted in Victoria (the largest concentration of avenue of honour plantings occurred between 1916 and 1920). The study also included consideration of more recent replacement of avenues of honour as well as newly planted avenues of honour.

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(cont)

The trees are not located on private property but are located in the road reserve, which Council maintains. This being the case there is no threat of removal of further trees by private citizens, as there may be if they were located on private property. A Significant Landscape Overlay (SLO9) also offers a level protection for these trees. Under the SLO9 exemptions, a permit was not required for the LXP to remove the three memorial trees as follows:

- *The removal, destruction, or lopping of a tree to the minimum extent necessary:*
 - *To maintain the safe and efficient function of a Utility Installation to the satisfaction of the responsible authority or the utility service provider; or*
 - *By or on behalf of a utility service provider to maintain or construct a Utility Installation in accordance with the written agreement of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987); or*
 - *To maintain the safe and efficient function of the existing on road public transport network (including tramways) to the satisfaction of the Department of Transport.*

The SLO9 also provides an exemption from a permit to remove, destroy or lop a tree on public land or in the road reserve by or on behalf of Whitehorse City Council. However, this heritage investigation has raised the awareness of this group of trees with the Planning, Parks and Natural Environment and Major Projects Departments within Council, ensuring there is sensitivity around the future maintenance of these commemorative trees. Concerned members of the community have also added the trees to the Avenues of Honour on-line database. TREENET designed this project for the communities Australia wide to document, preserve and reinstate the original Avenues of Honour and to establish new Avenues of Honour across Australia.

Going forward, there are two options available to Council as follows:

1. As per Council's resolution of 22 November 2021 and based on the advice provided by GML Heritage, seek authorisation from the Minister for Planning to prepare and exhibit a planning scheme amendment to apply a heritage overlay to the grouping of trees that forms the Churchill Street 'Avenue of Honour'.
2. That Council, in the absence of a HO, maintain the Churchill Street 'Avenue of Honour' as a local community memorial and retain the existing commemorative plaque affixed to one of the trees.

10.2
(cont)

While option 1 provides the certainty of the protection of a HO, it is still dependent on the support of Department of Transport and Planning, and ultimately the Minister for Planning.

STRATEGIC ALIGNMENT

Policy

Planning Policy Framework

Clause 15 of the Whitehorse Planning Scheme refers to Built Environment and Heritage. The objective at Clause 15.03-1S is to ensure the conservation of places of heritage significance. The strategies to achieve this objective that are of relevance to this report are:

- Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.
- Provide for the protection of natural heritage sites and man-made resources.
- Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance.
- Encourage the conservation and restoration of contributory elements of a heritage place.
- Ensure an appropriate setting and context for heritage places is maintained or enhanced.

The proposal to apply a Heritage Overlay to the Mont Albert 'Avenue of Honour' trees aligns with all of the above-mentioned strategies as it seeks to preserve the historic and social significance of the group of trees that provides a link to members of the Mont Albert community that served and lost their lives in World War 1.

Local Planning Policy Framework

The Environment objectives are listed at Clause 21.05. An objective that relates to this report is at Clause 21.05-3 and states:

- To protect and enhance areas with special natural, environmental, cultural or historic significance for the future enjoyment of the community.
- The strategies at Clause 21.5-4 to achieve this objective include:
- Providing controls to protect and enhance areas of environmental significance.
- Identifying those buildings, structures and features of historical significance within the municipality.

10.2

(cont)

These strategies will implemented by:

- Applying a Heritage Overlay to the buildings and structures listed on the Victorian Heritage Register and identified in City of Whitehorse heritage reviews.

Council sought expert heritage advice from GML Heritage to determine whether the Avenue of Honour trees in Churchill Street Mont Albert should be included in a Heritage Overlay. This action pro-actively addresses the strategies at Clause 21.5-4.

Whitehorse Council Plan 2021-2025

Strategic Direction 4 of the Council Plan 2021-2025 is: *Our Built Environment, Movement and Public Places*.

Objective 4.1 of the Council Plan relates to:

Assets, facilities and urban design of a quality that provides the highest levels of utility and enhances the connection between the built, natural, heritage and social environments.

The Strategy to achieve this Objective is:

4.1.2: Prepare strategies and guidelines that set expectations for the quality of development and urban design outcomes for a place.

The Avenue of Honour trees are located on Council owned land. The recommended curtilage (for discussion) is the area of land on the north side of Churchill Street, Mont Albert, opposite numbers 36 to 52 Churchill Street, including the trees that have been lost, and sufficient land within the reserve to protect the surviving and future replacement trees and provide for the function of the war memorial.

Whitehorse 2040 Community Vision

The following themes and key priorities of the Whitehorse 2040 Community Vision are relevant to this report:

Theme 2: Movement and Public Spaces

Key Priority 2.4 is relevant to this report – *Facilitate opportunities for the community to interact and immerse with natural and built environments*. Preserving the significance of the Churchill Street 'Avenue of Honour' through the application of a Heritage Overlay will ensure that a living commemoration of the local soldiers who fought in World War 1 is protected into the future.

10.2
(cont)

Theme 6: Whitehorse is an Empowered Collaborative Community

Key Priority 6.1 is relevant to this report – *Engage with the community collaboratively to hear their views on what needs to be done*. The Community will have the opportunity to make a submission about a future Planning Scheme Amendment during the Exhibition period.

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

This report is based on the legislative requirements of the Planning and Environment Act 1987 and Practice Notes PPN1 Planning and Applying the Heritage Overlay.

As the heritage advice sought at the request of Council (Notice of Motion dated 22 November 2021) recommends the inclusion of 'The Avenue of Honour' in a local heritage overlay, there may some reputational risk in ignoring this expert advice.

It is unlikely that there will be any further tree losses due to the LXP construction project.

Equity, Inclusion, and Human Rights Considerations

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the *Charter of Human Rights and Responsibilities Act 2006*. It is considered that the subject matter does not raise any human rights issues.

Community Engagement

Although no formal period of community engagement was required for this report, GML Heritage sought the input of various community members and organisations throughout their investigation. Should the Minister for Planning grant Authorisation for the preparation of a Planning Scheme Amendment there will be a period of public Exhibition allowing submissions from the community.

Financial and Resource Implications

The following table outlines the future expenditure associated with this Amendment if the recommendation of this report is supported. This budget allows for costs associated with the consideration of submissions and associated Planning Panel costs although it is unlikely that that Council would receive any submissions objecting to the proposed overlay. This expenditure is included in the Strategic Planning operational budget.

10.2

(cont)

Item	Estimated Expenditure (excluding GST)
Notification	\$100
Notice in The Age (at exhibition and gazettal)	\$4,400
Notice in the Government Gazette	\$177
Panel Hearing costs (if needed)	\$15,000
Potential Expert Evidence at a Panel Hearing	\$16,000
Statutory Fee: Consideration by the Minister of a request to approve the amendment in accordance with section 35 of the Act, and for giving notice of approval of the amendment under section 36(1) of the Act.	\$497
Total Estimated Expenditure	\$36,174

Innovation and Continuous Improvement

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

Collaboration

No collaboration was required for this report.

Conflict of Interest

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

Conclusion

The extensive Heritage Assessment provided by GML Heritage recommends including the Churchill Street Avenue of Honour in a HO. Despite that the threat of the tree removal has now arguably passed, Council's resolution of 22 November 2021 sought to apply the HO based on the outcome of an investigation. On this basis, the amendment can commence by seeking authorisation from the Minister for Planning.

If Council does not proceed with the HO, it is noted that the trees are on a Council road reserve and various departments within Council have been involved in discussions about their commemorative nature and value to the local community. On-going maintenance and care of the trees would be mindful of this.

ATTACHMENT

- 1 Churchill Street, Mont Albert - Heritage Assessment of Trees - June 2022 FINAL, updated 19 December 2022

10.3 Audit and Risk Committee Charter

Governance and Integrity
Director Corporate Services
ATTACHMENT

SUMMARY

Under Section 53(1) of the *Local Government Act 2020* (Act), a Council must establish an Audit and Risk Committee (ARC).

Further, in accordance with the Section 54(1) of the Act, Council must prepare and approve an ARC Charter.

The ARC Charter must specify the functions and responsibilities of the ARC including the following:

- a) Monitor the compliance of Council policies and procedures with—
 - (i) The overarching governance principles; and
 - (ii) This Act and the regulations and any Ministerial directions;
- b) Monitor Council financial and performance reporting;
- c) Monitor and provide advice on risk management and fraud prevention systems and controls; and
- d) Oversee internal and external audit functions.

The ARC Charter was reviewed and endorsed by the ARC at the November 2022 ARC meeting. Key changes to the Charter are described are outlined in the report.

The revised ARC Charter is now presented to Council for approval pursuant to Section 54(1) of the Act.

RECOMMENDATION

That Council approve the Audit and Risk Committee Charter.

Key Matters

Whitehorse City Council has established an ARC pursuant to Section 53 of the Act to support Council in discharging its oversight responsibilities related to financial and performance reporting, risk management, fraud and corruption prevention systems and controls, maintenance of a sound internal control environment, assurance activities including internal and external audit and Council's performance with regard to compliance with its policies and legislative and regulatory requirements.

The ARC acts in this capacity by monitoring, reviewing and advising on the above matters, as set out in the Charter.

STRATEGIC ALIGNMENT

This report aligns with Objective 8.3: Good Governance and Integrity of the Council Plan.

10.3
(cont)

Policy

The ARC Charter was prepared as required under Section 54(1) of the Act.

BACKGROUND

The ARC Charter was last reviewed and updated in August 2020.

The Charter provides the framework for the conduct of the Audit and Risk Committee at Council. It sets out the purpose, authority, composition, terms of office, chair requirements, fees, induction, responsibilities, meetings, reporting to Council, performance evaluation, committee member regulatory obligations and administration of the ARC.

Discussion and Options – Key Changes to the ARC Charter

The key changes to the ARC Charter include:

- Greater alignment of the Charter with Section 54(2) of the Act and the ARC's responsibilities;
- Sub-headings have been added to align with the Act and clauses moved to the relevant headings;
- Headings have been streamlined to reflect what is required of the ARC;
- New clause to ensure regular reviews of the fees for independent members
- Election of Chair procedure simplified, and
- Title changes as per the new Organisation Chart.
- The Charter shall be reviewed every four years or earlier if decided by the ARC, previously every two years.

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

The ARC Charter was prepared as required under Section 54(1) of the Act.

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

Equity, Inclusion, and Human Rights Considerations

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

There are no financial or resource implications arising from the recommendation contained in this report.

10.3
(cont)

Innovation and Continuous Improvement

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report, other than the 'Key Changes to the ARC Charter' detailed above.

Collaboration

Audit and Risk Committee members were consulted in the review of the ARC Charter.

The ARC Charter was developed and updated with reference to the Audit and Risk Committee Charters of various other organisations.

Conflict of Interest

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

Conclusion

Council to approve the ARC Charter pursuant to Section 54(1) of the Act.

ATTACHMENT

- 1 Audit and Risk Committee Charter

**10.4 Authority to Access Additional Vendors under Panel Contract
30341 Recruitment, Training and Associated Services (PA
Contract 2312-0618)**

Finance and Corporate Performance
Director Corporate Services
ATTACHMENT

SUMMARY

Council, like many organisations, makes use of agency and specialist skill providers to supplement its workforce responding to changed demands, unanticipated gaps, project and short-term initiatives to ensure business continuity and service delivery.

In accordance with Council's Procurement Policy 2021-2025, Council accesses such recruitment, training and associated services under contractual arrangements provided by Procurement Australia (PA). PA is an amalgamator of services. PA undertakes procurement on behalf of many government and non-profit organisations across the country. Organisations such as PA are focused on achieving better procurement outcomes by aggregating demand and achieving improved commercial and service outcomes.

Entering into arrangements through the Procurement Australia panel does not commit Council to an exclusive arrangement with Procurement Australia or the successful tendering companies, nor does it prevent Council from reviewing this arrangement at a future date and pursuing its own tendering arrangements.

On 22 November 2021 Council endorsed the tender evaluation report for Contract 30341 Recruitment, Training and Associated Services (PA Contract 2312-0618) on a schedule of rates basis for a period of three (3) years. Council authorised the Chief Executive Officer to award a further two (2) years subject to review of the contractors' performance and Council's business needs at the conclusion of the first term. A (select) list of preferred vendors across all categories was provided for Council's consideration and endorsement, however it did not include all vendors on the panel for PA Contract 2312-0619.

In the current labour market, obtaining short-term staff in high demand areas such as finance, environmental health, people & culture and children's services is very challenging. Council would benefit from having a broader range of vendors to approach. There are other vendors on the contract that can also provide the services required.

It is recommended Council provides a blanket approval to have the option to utilise all and any suppliers on the panel of the PA contract, where:

- The expenditure is necessary, within approved operating budgets, and approved by the relevant delegate; and
- The PA contract represents best value for money.

10.4

(cont)

The 13 categories of the PA contract cover a broad range of Human Resources related services. The blanket approval will enable Council officers to access all vendors under the PA contract and obtain the best possible commercial advantage for Council and ratepayers. The full list of the vendors under contract with Procurement Australia and available for Council's use is shown in Attachment One to this report.

RECOMMENDATION

That Council:

1. Endorse a blanket approval to use all vendors on the panels of the Procurement Australia contract No. 2312-0618 for Recruitment, Training & Associated Services.
2. Authorise the Manager People and Culture via the CEO delegation to determine when new vendors are activated under the contract in accordance with operational requirements.

Key Matters

Without the extended access to the full panels of vendors under the Procurement Australia contract; Council's People & Culture department, or an individual hiring manager, would be left to negotiate terms with a recruitment agency each time a need arose, or based on an estimated need. Both scenarios put Council in a weak negotiating position (given the need to fill each vacancy is often urgent, and unpredictable) and limits Council's ability to create competitive tension between agencies. It would not be an efficient use of staff time nor would this process create best value for Council.

Strategic Alignment This report is consistent with Council's commitment to 'Customer First' principles as it allows continuity of service delivery with little or no disruption.

Policy

This report is consistent with Council's Procurement Policy and is aligned with the *Local Government Act 2020*.

BACKGROUND

On 22 November 2021 Council endorsed the tender evaluation report for Contract 30341 Recruitment, Training and Associated Services (PA Contract 2312-0618) on a schedule of rates basis for a period of three (3) years and authorised the Chief Executive Officer to award a further two (2) years subject to review of the contractors' performance and Council's business needs at the conclusion of the first term. A list of (select) preferred vendors was provided for Council's consideration and endorsement.

10.4
(cont)

Over the past twelve months Council has been faced with difficulty in sourcing and retaining a contingent workforce to undertake urgent and short-term employment (including specialist skills) for the provision of services to the community. The impacts of COVID have increased the need for agency staff to backfill in critical operational areas, including staff that were on mandatory leave, and more recently an increase in staff leave taken due to limited opportunities available during COVID restrictions.

The previous report endorsed by Council limited access to the panel to those vendors listed and approved at the time. This report recommends access to the remainder of the panel to increase Council's options for contingent staffing arrangements.

Discussion and Options

The benefits for Council are:

- Greater breadth of options for staff to engage contingent assistance under an already established contract with a known set schedule of rates
- Opt in capability on an as needs basis – staff would only activate vendors as required
- Agency staff usage will continue to be with a consistent group of suppliers and Council will be able to accurately capture expenditure for the use of Agency staff.
- Strict adherence with Local Government Act 2020, probity and due diligence procedures.

Once Council has established the panel of providers and advised relevant suppliers via PA, Council can access the additional panel members on an as-needed basis subject to their satisfactory performance. The panel arrangement does not prevent Council seeking alternative or additional suppliers on resources or services outside the scope of the current agreement.

Accessing all the vendors under this panel has the advantage of providing the continuity of service obligation to the community where there are strict training and accreditation requirements. Agency staff are therefore used on occasion to meet these contingent needs. These proposed spends are indicative only and the services will be obtained by various Departments and Units around the Council as required..

Council will also investigate over the life of this tender future mechanisms to manage and control costs associated with Agency staff.

10.4
(cont)

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

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the *Charter of Human Rights and Responsibilities Act 2006*.

Community Engagement

No community engagement was required for this report.

Financial and Resource Implications

This report does not propose additional or new spending, rather it governs and makes more efficient, Council's spend on contingent labour within existing operational budgets and allows Council greater access to the existing Panel Contract to meet its operational needs. To that end, the adoption of each year's budget is a related Council decision and there are no financial or resource implications arising from the recommendation contained in this report.

Innovation and Continuous Improvement

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

Collaboration

This piece of work was the result of collaboration with People & Culture, Procurement and Continuous Improvement.

Conflict of Interest

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

Conclusion

Extending the existing panel contract as per the above recommendation will enable Council to activate the vendors on an as needs basis effective immediately.

ATTACHMENT

- 1 Agency Vendor Summary

10.5 Extension (Contract 30062) Bulk Fuel, Fuel Card Services and Oils, Lubricants and Vehicle Care Products

City Services
Director Infrastructure

SUMMARY

Council has an ongoing requirement to purchase fuel, oils, lubricants and vehicle care products for its fleet of vehicles, plant and equipment.

The purpose of this report is to consider a recommendation received from Municipal Association of Victoria (MAV), trading as MAV Procurement to extend the National Procurement Contract NPN 1.17 – Bulk Fuel, Fuel Card Services and Oils Lubricants and Vehicle Care Products (Contract 30062), on a Schedule of Rates basis for a period of one year commencing on 31 January 2023 and to consider the estimated expenditure over the term of the contract extension.

RECOMMENDATION

That Council accepts the recommendation from Municipal Association of Victoria (MAV), trading as MAV Procurement to extend the National Procurement Contract NPN 1.17 – Bulk Fuel, Fuel Card Services and Oils Lubricants and Vehicle Care Products (Contract 30062), with the following three contractors, on a Schedule of Rates basis for a period of one year commencing on 31 January 2023:

- BP Australia Pty Ltd (ABN 53 004 085 616 of 360 Elizabeth Street, Melbourne VIC;
 - Ampol Australia Petroleum Pty Ltd (ABN 17 000 032 128) if Level 24, 2 Market Street, Sydney NSW; and
 - Castrol Australia Pty Ltd (ABN 87 008 459 407) of 132 McCredie Road, Guilford NSW.
-

Key Matters

Council has an ongoing requirement to purchase fuel, oils, lubricants and vehicle care products for its fleet of vehicles, plant and equipment.

Fuel is purchased by a fuel card service, and in bulk to fill a diesel storage tank at the Whitehorse Recycling and Waste Centre for the plant used at that site.

Oils, lubricants and vehicle care products such as transmissions fluids and brake fluids are predominately purchased and used by staff at Council's workshop at the Operations Centre as part of fleet maintenance activities.

This report considers the extension of the National Procurement Contract NPN 1.17 – Bulk Fuel, Fuel Card Services and Oils Lubricants and Vehicle Care Products (Contract 30062).

10.5
(cont)

Council resolved to participate in this Contract on 19 February 2018 with the following contractors:

- BP Australia Pty Ltd (ABN 53 004 085 616 of 360 Elizabeth Street, Melbourne VIC;
- Ampol Australia Petroleum Pty Ltd (ABN 17 000 032 128) of Level 24, 2 Market Street, Sydney NSW; and
- Castrol Australia Pty Ltd (ABN 87 008 459 407) of 132 McCredie Road, Guilford NSW.

The original five year term of the Contract will expire on 31 January 2023. The Municipal Association of Victoria (MAV), trading as MAV Procurement has recommended that participants in the Contract extend the current Contract for a further 12 months.

Council currently has fuel cards from BP Australia Pty Ltd that can be used at any BP service station with convenience and security. Bulk fuel is currently purchased from Ampol Australia Petroleum Pty Ltd. The Contract provides for a discounted price for fuels purchased at service stations, with no card or transaction fees. Discount rates for bulk fuel products are described in the Contract.

Oils, lubricants and vehicle car products are currently purchased from Castrol Australia Pty Ltd. The range and quality of products that are supplied meet the servicing requirements for the Operations Centre workshop. The Contract provides discounted rates for frequently used products.

SUPPORTING REPORT DETAILS

Legislative and Risk Implications

There are no legal or risk implications arising from the approval of this contract extension.

Consultation

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

Collaboration

This is a nationwide Contract administered by the MAV in Victoria. It is used by a range of local government and other government agencies across all States and Territories. The West Australia Local Government Association (WALGA) is the lead agency for the National Procurement Network (NPN) for the contract. Collaboration has ensured the best value for all participating agencies.

10.5
(cont)

Financial and Resource Implications

An assessment of the benefits of the current Contract has been made and it is considered that extending for a further 12 months is warranted as the advice from the MAV is that the current benefits under the Contract are unlikely to be bettered in the current market.

Council has no obligation to use any particular supplier or to spend any amounts under the contract.

Using the preferred suppliers from the national contract provides Council with a cost effective financial outcome and a service to meet the business needs.

The total expenditure under the contract to date is around \$4.0 million (over five years), excluding GST. The expenditure will increase up to \$5.5 million if the option to extend the contract is agreed.

The costs incurred under this contract will be charged to the relevant recurrent budgets.

Discussion and Options

Council does have the option of tendering for these services alone. This would have the additional costs of preparing the tender, evaluating the tender and managing the contract. There are greater opportunities for discounts in joining a collaborative contract.

During 2023, an evaluation will be done to determine how the next fuel Contract should be constructed. While the MAV is proposing to again participate in the national contract, options to consider other group purchasing schemes will be assessed.

Conflict of Interest

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

Conclusion

The recommendation allows Council to continue to receive the discounts offered to purchase fuel, oils, lubricants and vehicle care products for its fleet of vehicle, plant and equipment.

10.6 Records of Informal Meetings of Councillors

RECOMMENDATION

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

Councillor Informal Briefing – 12 December 2022 6.30pm - 6.58pm		
Matter/s Discussed:	Councillors Present	Officers Present
<ul style="list-style-type: none"> Notice of Motion No. 179 – Whitehorse Active Transport Action Group Request Urgent Business – Traffic Management, Fellows Street, Mitcham Council Agenda Items 28 November 2022 	Cr Lane (Mayor) Cr Cutts (Deputy Mayor) Cr McNeill Cr Skilbeck Cr Munroe Cr Barker Cr Massoud Cr Stennett Cr Carr Cr Davenport	S McMillan J Green L Letic S Cann S Sullivan S White V Ferlaine K Woods S Lozsan P Cumming
Disclosures of Conflict of Interest	None Disclosed	
Councillor /Officer attendance following disclosure	None Disclosed	

Councillor Briefing 23 January 2023 6.30pm – 8.50pm		
Matter/s Discussed:	Councillors Present	Officers Present
<ul style="list-style-type: none"> Venue Hire Fees & Charges Report Sporting Clubs in Whitehorse Aquatics Review ERP update Draft Council Agenda items 30 January 2023 	Cr Lane (Mayor) Cr Cutts (Deputy Mayor) Cr Liu Cr Skilbeck Cr Munroe Cr Barker Cr Massoud Cr Davenport	S McMillan L Letic S Cann S Sullivan S White I Kostopoulos V Ferlaine K Woods T Jenvey Z Quinn B Brewin C Clarke
Disclosures of Conflict of Interest	None Disclosed	
Councillor /Officer attendance following disclosure	None Disclosed	

11 Councillor Delegate and Conference / Seminar Reports

11.1 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.

11.2 Reports on Conferences/Seminars Attendance

RECOMMENDATION

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

12 CONFIDENTIAL REPORTS

12.1 Whitehorse Sport and Recreation Reference Group – Appointment of Members

12.2 ERP Project Contingency

RECOMMENDATION

That in accordance with Section 61 (1) and 66 (2)(a) of the *Local Government Act 2020* the Council should resolve to go into camera and close the meeting for the consideration of this item, as the matter to be discussed is confidential information for the purposes of section 3 (1) of the *Local Government Act 2020*.

This ground applies because the matter concerns applicant names that have not been advised that they have been successful for the position nor have they provided approval for their names to be published.

13 Close Meeting