

Council Meeting

Agenda

Tuesday, 14 February 2023

Council Chamber - Civic Centre and via
Videoconference

Information for Councillors and the community

ACKNOWLEDGEMENT OF COUNTRY

We respectfully acknowledge the Traditional Owners, the Wurundjeri People, as the Custodians of this land. We also pay respect to all Aboriginal community Elders, past and present, who have resided in the area and have been an integral part of the history of this region.



COUNCIL VISION

Whether you live here or visit, you will see how much we care for country, how inclusive and connected our communities are, and how sustainable balanced growth makes this the best place in the world.

VALUE OF HISTORY

We acknowledge that history shapes our identities, engages us as citizens, creates inclusive communities, is part of our economic well-being, teaches us to think critically and creatively, inspires leaders and is the foundation of our future generations.

COUNCILLOR COMMITMENT

We'll be truthful, represent the community's needs, be positive and responsive and always strive to do better.

OUR COUNCILLORS

Billanook Ward: Tim Heenan
Chandler Ward: David Eastham
Chirnside Ward: Richard Higgins
Lyster Ward: Johanna Skelton
Melba Ward: Sophie Todorov

O'Shannassy Ward: Jim Child
Ryrie Ward: Fiona McAllister
Streeton Ward: Andrew Fullagar
Walling Ward: Len Cox

CHIEF EXECUTIVE OFFICER & DIRECTORS

Chief Executive Officer, Tammi Rose
Director Communities, Jane Price
Director Corporate Services, Andrew Hilson

Acting Director Built Environment & Infrastructure,
Kim O'Connor
Director Planning & Sustainable Futures,
Kath McClusky

GOVERNANCE RULES

All Council and Delegated Committee meetings are to be conducted in accordance with Council's Governance Rules, which can be viewed at: <https://www.yarraranges.vic.gov.au/Council/Corporate-documents/Policies-strategies/Governance-rules>

PUBLIC PARTICIPATION IN MEETINGS

Members of the community can participate in Council meetings in any of the following ways:

- making a verbal submission for up to 5 minutes on matters not listed on the agenda.
- submitting a question.
- speaking for up to 5 minutes to a specific item on the agenda. For planning applications and policy issues, the Chair will invite one person to speak on behalf of any objectors and one person to speak on behalf of the applicant. For other matters on the agenda, only one person will be invited to address Council, unless there are opposing views. At the discretion of the Chair, additional speakers may be invited for items of large interest.
- speaking for up to 5 minutes to a petition to be presented at a meeting.

For further information about how to participate in a Council meeting, please visit: <https://www.yarraranges.vic.gov.au/Council/Council-meetings/Submissions-questions-petitions-to-Council>

LIVE STREAMING AND RECORDING OF MEETINGS

Council and Delegated Committee meetings will be live streamed and recorded with the video recording being published on Council's website. Council will cease live streaming at the direction of the Chair or prior to any confidential items being considered.

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The Minutes produced after each Council Meeting form the official record of the decisions made by Yarra Ranges Council..

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In the case of an emergency during a meeting held at the Civic Centre, 15 Anderson Street, Lilydale, you should follow the directions given by staff and evacuate the building using the nearest available exit. You should congregate at the assembly point at Hardy Street car park.

CONTACT US

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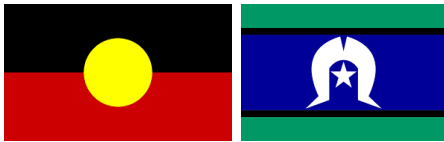
YARRA RANGES COUNCIL

**AGENDA FOR THE 574TH COUNCIL MEETING TO BE HELD ON TUESDAY
14 FEBRUARY 2023 COMMENCING AT 7.00PM IN COUNCIL CHAMBER, CIVIC
CENTRE, ANDERSON STREET, LILYDALE / VIA VIDEOCONFERENCE**

1. MEETING OPENED

2. ACKNOWLEDGEMENT OF COUNTRY

We respectfully acknowledge the Traditional Owners, the Wurundjeri People, as the Custodians of this land. We also pay respect to all Aboriginal community Elders, past and present, who have resided in the area and have been an integral part of the history of this region.



3. INTRODUCTION OF MEMBERS PRESENT

OUR COUNCILLORS

Billanook Ward: Tim Heenan
Chandler Ward: David Eastham
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Director Communities, Jane Price
Director Corporate Services, Andrew Hilson
Acting Director Built Environment & Infrastructure, Kim O'Connor
Director Planning & Sustainable Futures, Kath McClusky

4. APOLOGIES AND LEAVE OF ABSENCE

An apology for this meeting was received from Councillor Tim Heenan.

5. MAYORAL ANNOUNCEMENTS

6. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the Council Meeting held Tuesday 31 January 2023, as circulated, be confirmed.

7. CONFLICTS OF INTEREST

In accordance with Chapter 7, Rule 4, of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.

The Local Government Act 2020 defines two categories of conflict of interest:

- *a general conflict of interest, which is defined as "...a relevant person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty", and*
- *a material conflict of interest, which is defined as "...a relevant person has a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter. The benefit may arise or the loss incurred (a) directly or indirectly; or (b) in a pecuniary or non-pecuniary form."*

In accordance with section 130 of the Local Government Act 2020, a conflict of interest must be disclosed in the manner required by the Governance Rules and the relevant person must exclude themselves from the decision-making process.

No Conflicts of Interest have been received prior to the Agenda being printed.

8. QUESTIONS AND SUBMISSIONS FROM THE PUBLIC

In accordance with Chapter 3, Rules 57 and 59, of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.

A person may make a submission to Council on matters that are not listed on the Agenda. A submission may be on any matter except if it:

- (a) is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
- (b) is substantially the same as a submission made to a Council meeting in the preceding 12 months;
- (c) relates to confidential information as defined under the Act;
- (d) relates to the personal hardship of any resident or ratepayer; or
- (e) relates to any other matter which the Council considers would prejudice the Council or any person.

There were no Questions to Council or Submissions from the Public received prior to the Agenda being printed.

9. PETITIONS

In accordance with Chapter 3, Rules 60, of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.

A person may submit a petition to Council on matters that are not listed on the Agenda. Every petition or joint letter submitted to Council must:

- a) identify a 'Lead Petitioner' who Council can correspond with;
- b) be legible and in permanent writing;
- c) be clear and state on each page the matter and action sought from Council. Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter;
- d) not be derogatory, defamatory or objectionable in language or nature;
- e) not relate to matters outside the powers of Council; and
- f) clearly state the names and addresses of at least seven (7) people who live, work, study or do business in the Municipal district.

There were no Petitions received prior to the Agenda being printed.

YR-2022/452 - 20 DAVID HILL ROAD, MONBULK- PLANNING REPORT**APPLICATION DETAILS**

Site Address	20 David Hill Road, Monbulk Lot 2 on Plan of Subdivision 007432.
Application No.	YR-2022/452
Proposal	Use and development of the land for a childcare centre, removal of vegetation, display of business identification signage and reduction in car parking
Existing Use	Residential dwelling
Applicant	Ratio Consultants
Zone	Low Density Residential Zone
Overlays	Significant Landscape Overlay - Schedule 22 Bushfire Management Overlay - Schedule 1
Permit trigger/s	Clause 32.03 - Low Density Residential Zone <ul style="list-style-type: none"> • Use and Development of the land for a Childcare Centre Clause 42.03- Significance Landscape Overlay - Schedule 22 <ul style="list-style-type: none"> • Removal of vegetation • To construct a building or construct or carry out works when the site coverage exceeds 30 percent, and the impervious area is more than 50 percent Clause 44.06- Bushfire Management Overlay-Schedule 1 <ul style="list-style-type: none"> • To construct a building or construct or carry out works – Childcare centre Clause 52.05 - Sign <ul style="list-style-type: none"> • Display of business signage Clause 52.06 – Car parking <ul style="list-style-type: none"> • Reduction of carparking requirement
Objections	20 objections, and one submission in support
Encumbrances on Title (Covenants/Section 173 Agreements)	No
Reason for Council Decision	More than 10 objections
Ward	Chandler

SUMMARY

- The proposal provides for an essential community infrastructure for Monbulk and surrounding communities in a location that is both compatible and commonplace within a residential area.
- Exhibiting positive social and economic advantages to current and future residents of the township, the proposal is an exemplary example of contributing to the township's community sustainability and is designed respectfully for its semi-rural low density landscape character.
- The design response is of high standard and consideration in addressing special attention to minimising negative impacts to adjoining neighbours. Effective layout, human scaled building form and design detailing appropriately responds to the constraints and characteristics of the site and surrounds.
- The proposed use and development are suitably aligned with the purpose of the zone and its decision guidelines which point to consideration of the Municipal Planning Strategy and the Planning Policy Framework. In particular, the proposal is strongly aligned to the relevant sections of the Municipal Planning Strategy and the Planning Policy Framework.
- The proposal received 20 objections and one letter of support. For the objections, the primary concerns raised were land use appropriateness, accumulative amenity impacts, accumulative traffic impacts including nominating Coolwyn's Nursery trucks frequently traversing Victoria Avenue, increase in traffic, increase in car noise and fumes, decreased traffic/pedestrian safety and potential for poor driving behaviour.
- The application was reviewed by the Country Fire Agency (CFA) and internally by Council's Engineering Traffic and Drainage departments and Council's Arborist. All referral assessments determined no overarching concerns with the proposal, subject to standard and non-standard conditions.
- Overall, the proposal is considered worthy of support, subject to conditions.

RECOMMENDATION

That Council resolve to approve Planning Application YR-2022/452 for Use and development of a childcare centre, removal of vegetation, display of business identification signage and reduction in car parking at 20 David Hill Road, Monbulk and issue a Notice of Decision to Grant a Permit subject to the conditions in Attachment 1 to the report.

DISCLOSURE OF CONFLICT OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

CULTURAL HERITAGE SIGNIFICANCE

The application has been checked against the requirements of the *Aboriginal Heritage Act 2006* and Aboriginal Heritage Regulations 2007 (Vic) as to the need for a Cultural Heritage Management Plan. It has been assessed that a Cultural Heritage Management Plan is not required.

EXTRACTIVE INDUSTRY

The subject site is not located within 500 metres of land on which a work authority has been applied for or granted under the *Mineral Resources (Sustainable Development) Act 1990*.

HUMAN RIGHTS CONSIDERATION

The application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Yarra Ranges Planning Scheme), reviewed by the State Government and which complies with the Victorian Charter of *Human Rights and Responsibilities Act 2006*.

ENCUMBRANCES ON TITLE

The subject site includes a 1.54 metre wide drainage easement that extends along the rear southern boundary.

There are no other encumbrances on the Certificate of Title.

SITE LOCATION AND DESCRIPTION

The subject site:

- Is a corner allotment located on the southern side of David Hill Road and western side of Victoria Avenue, approximately 245 metres to the east of Monbulk Road, Monbulk;
- Is rectangular in shape with a frontage to David Hill Road of 31.39 metres and 57.30 metres to Victoria Avenue, with an overall land area of approximately 1,798 square metres;
- Has a significant slope of approximately 2.50 metres from north-west to south-east direction;
- Currently has a single storey weatherboard dwelling with a pitched roof;

- The site has two vehicle access crossovers, one is located at the north-west corner to David Hill Road and the second vehicular access is to the east from Victoria Avenue; and
- Has a moderate level of vegetation and canopy trees scattered throughout the site (See Figures 1, 2, 3 and 4):



Figure 1 - Subject site



Figure 2 - Facing east from Victoria Avenue



Figure 3 - Facing north-east on the corner of Victoria Avenue and David Hill Road



Figure 4 - Facing north-west from David Hill Road

SURROUNDING AREA

The immediate surrounding area consists of an established low-density area, includes a mix of residential and non-residential land uses being a primary school; commercial uses; sporting clubs and a place of assembly (See Figure 5).

The surrounding properties include:

- To the site's immediate north is David Hill Road which is a Transport 3 Zone road. On the northern side of David Hill Road is land located within the Low-Density Residential Zone and consists primarily of residential dwellings;
- To the north-west is land used as a primary school within a Public Use Zone;
- Yarra Ranges Shire Community Link is located west adjacent to the primary school within a Public Use Zone;
- To the site's immediate south is 2 Victoria Avenue. The property is occupied with an elevated single storey weatherboard dwelling. Vehicle access to the site is via a south side crossover. Secluded private open space is located to the rear of the dwelling;
- Victoria Avenue is land within a Low Density Residential Zone and primarily used for dwellings;
- Further to the southeast are several large land holdings within a Green Wedge Zone currently used primarily for agricultural growing of nursey plants by Coolwyn's Nursery. Coolwyn's Nursery is accessed from Kenny's Lane and Victoria Avenue;
- To the site's immediate west is 18 David Hill Road. The property is occupied with a single storey weatherboard dwelling. Vehicular access to the site via a crossover north-west site crossover from David Hill Road, which provide access to a shed and carport built on the shared title boundary with the subject site. Secluded private open space is located to the rear of the dwelling; and
- Approximately 250 metres further west is the Monbulk Town Centre which provides a variety of commercial uses and facilities servicing the township and wider surrounding communities.



Figure 5 - Subject site and surrounds

PROPOSAL

The proposal (see Figures 6-11) comprises a change of use and development on the land as described in the table below:

Use - Childcare Centre	
Number of Children	80 Children
Operating hours	6.30am - 6.30pm Monday and Friday
Development - Childcare Centre (Figure 6 and 7)	
Indoor space	Child room 1: Capacity 8 (Floor Area 27 square metres)
	Child room 2: Capacity 12 (Floor Area 40 square metres)
	Child room 3: Capacity 16 (Floor Area 53 square metres)
	Child room 4: Capacity 22 (Floor Area 72 square metres)
	Child room 5: Capacity 22 (Floor Area 72 square metres)
Outdoor space	Outdoor play areas wrap around the building
	Proposed Area - 565 square metres
	Required Area - 560 square metres
General Characteristics (Figures 8 and 9)	
Number of storeys	Two storey built form
Maximum building height	8.5 metres
Materials/colours	Materials

	<ul style="list-style-type: none"> ▪ Exterior walls - Weatherboard ▪ Roofing – Metal Sheeting <p>Colours</p> <ul style="list-style-type: none"> ▪ White and light grey
Site coverage	31.3 percent
Impervious area	55.6 percent
Boundary Fencing	<p>North - 1.2 metre high aluminium batten fencing.</p> <p>South - 3.0 metre high acoustic treated timber paling wall.</p> <p>East - Mix of 2.0 metre high timber paling fence and 1.2 metre high aluminium batten fencing.</p> <p>West - Mix of 2.0 metre high retaining wall and 2.2 metre high fencing.</p>
Vehicle Access	via Victoria Avenue
Bicycle storage	Four bicycle storage spaces

Carparking space reduction			
Carparking Rates Childcare - 0.22 spaces per child			
Proposed	16 spaces		
Required	17 spaces		
Short fall	1 space		
Business Identification Signage (Figure 10)			
Sign 1	Text – ' <i>Journey Early learning</i> ' Size - 0.9 metres x 2.64 metres Not illuminated		
Sign 2	Text – ' <i>Journey Early learning, logo and other business information</i> ' 3.0 metres x 1.0 metres (Not illuminated)		
Permit required for removal of 17 trees (Figure 11):			
Tree number	Species	Origin	Arboricultural value
Tree 2	<i>Pittosporum eugenioides</i> 'Variegatum' - Lemonwood	Exotic	Medium
Tree 3	<i>Photinia robusta</i> - Red-leaf Photinia	Exotic	Low
Tree 4	<i>Liquidambar styraciflua</i> - Liquidambar	Exotic	Low
Tree 5	<i>Pittosporum eugenioides</i> 'Variegatum' - Lemonwood	Exotic	Low
Tree 6	<i>Prunus persica</i> var. <i>nucipersica</i> - Nectarine	Exotic	Low
Tree 8	<i>Fraxinus angustifolia</i> - Narrow-leaved Ash	Exotic	Low
Tree 9	<i>Betula pendula</i> - Silver Birch	Exotic	Medium
Tree 10	<i>Pittosporum eugenioides</i> 'Variegatum' - Lemonwood	Exotic	Low
Tree 11	<i>Fraxinus angustifolia</i> - Narrow-leaved Ash	Exotic	Low
Tree 12	<i>Morus alba</i> - Mulberry	Exotic	Low
Tree 13	<i>Corymbia ficifolia</i> - Red Flowering Gum	Native	Medium
Tree 17	<i>Quercus robur</i> - English Oak	Exotic	Low

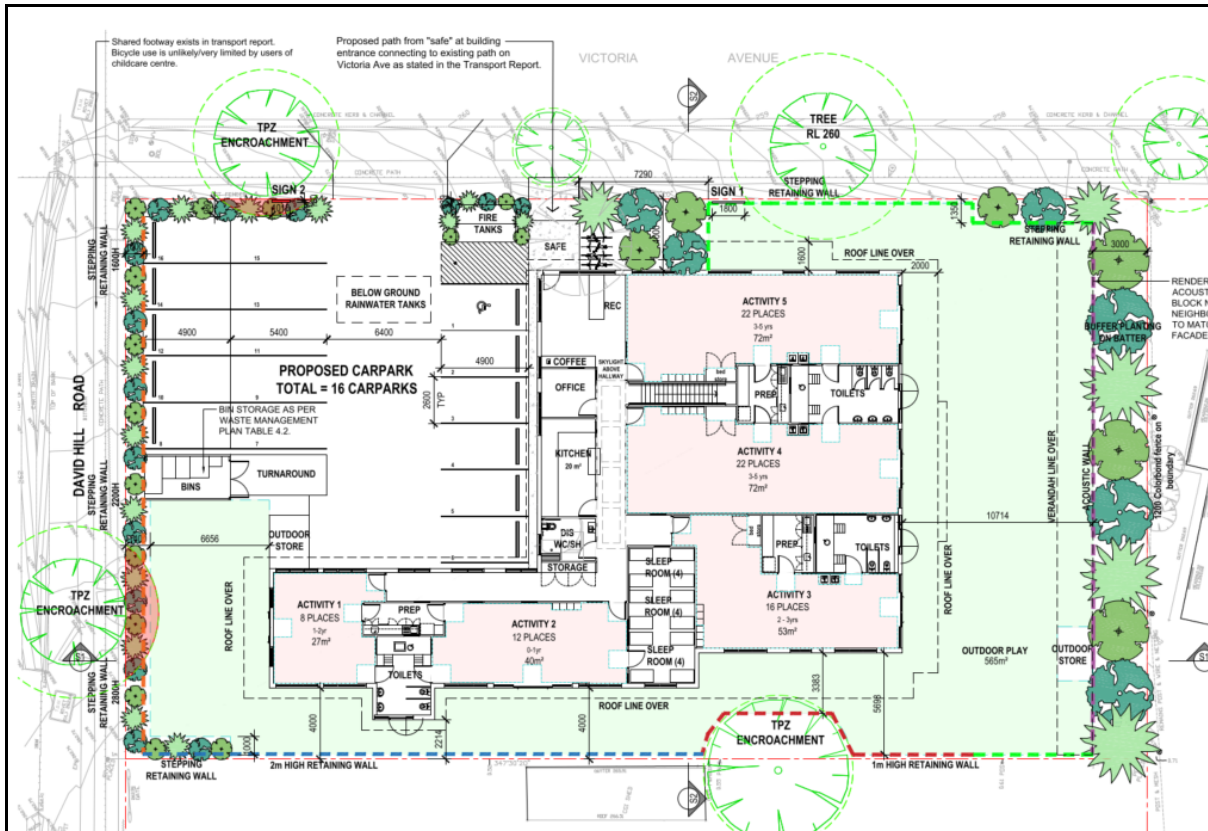


Figure 6 - Proposed Ground Floor Plan

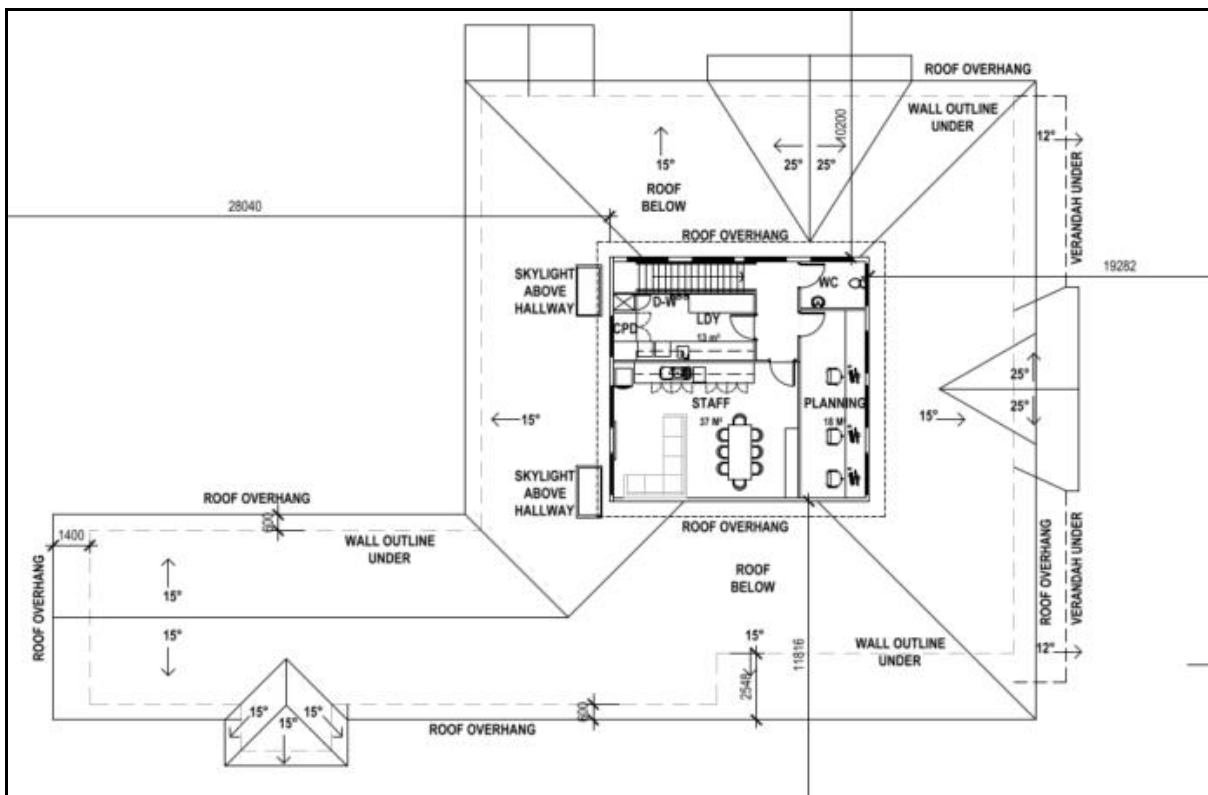


Figure 7 - Proposed First Floor Plan



Figure 8 - Artistic Impression - Victoria Avenue



Figure 9 - Artistic Impression - David Hill Road

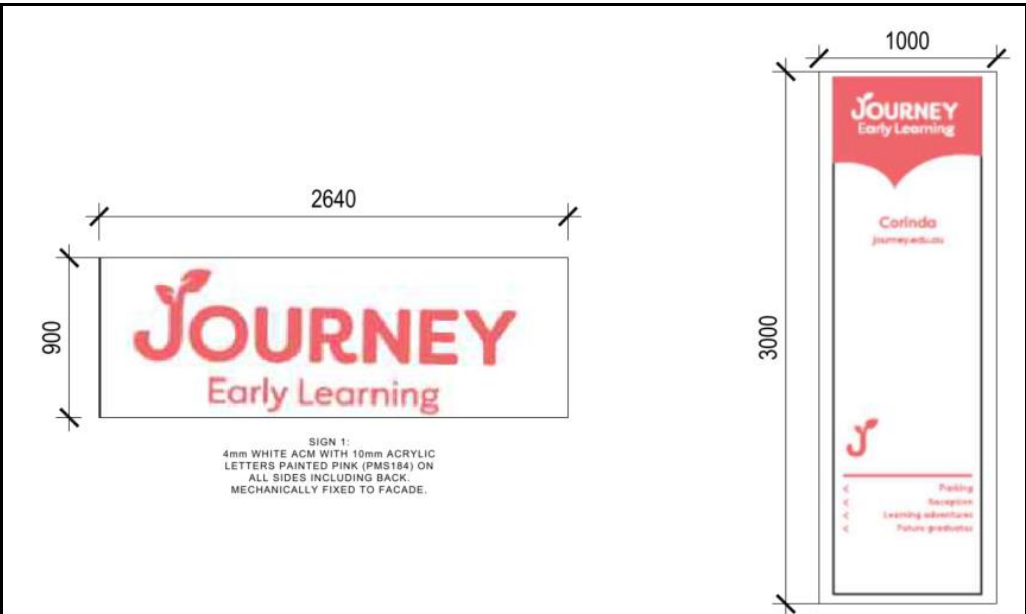


Figure 10 - Proposed Signage Plan

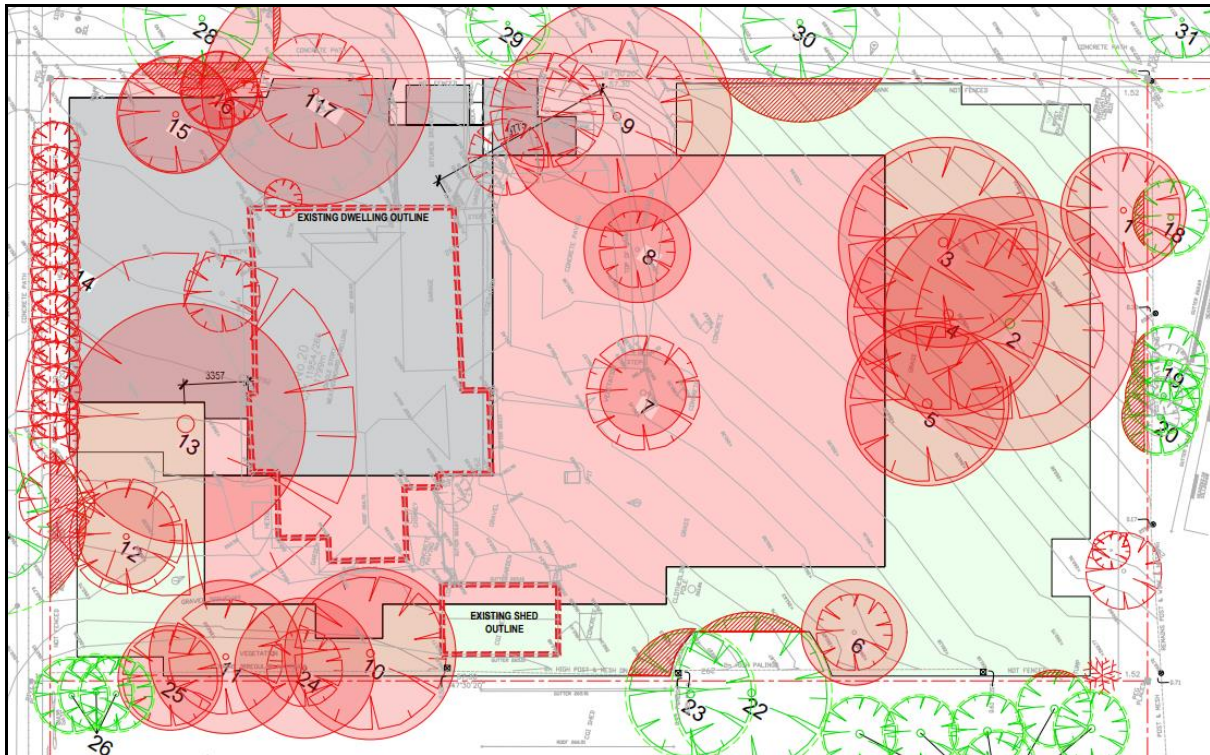


Figure 11 - Proposed tree removal

HISTORY

A search of Council records revealed no planning history.

PLANNING CONTROLS

Zoning:	Clause 32.03 - Low Density Residential Zone
Overlay:	Clause 42.03 - Significance Landscape Overlay
Planning Policy:	<p>Clause 02 Municipal Planning Strategy:</p> <ul style="list-style-type: none"> ▪ Yarra Ranges will lead the way in sustainably meeting the evolving needs of a growing community without compromising its natural assets. ▪ Support well-designed and integrated activity centres that service the needs of local residents and visitors and contribute to a sense of local identity. ▪ Provide opportunities in residential zones for non-residential land uses that respond to local community needs and retain the residential character of the area.

	<p>Clause 11 Settlement:</p> <ul style="list-style-type: none"> ▪ Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. <p>Clause 12 Environmental and Landscape Values</p> <ul style="list-style-type: none"> ▪ Protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environment. <p>Clause 13.02 Environmental Risks and Amenity – Bushfire:</p> <ul style="list-style-type: none"> ▪ Strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life. <p>Clause 13.05 Environmental Risks and Amenity - Noise:</p> <ul style="list-style-type: none"> ▪ Ensure that development is not prejudiced, and community amenity and human health is not adversely impacted by noise emissions. ▪ To ensure development generated noise emissions does not adversely impact community amenity and human health using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area. <p>Clause 13.07-1S Land use compatibility:</p> <ul style="list-style-type: none"> ▪ To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts <p>Clause 15 Built Environment and Heritage:</p> <ul style="list-style-type: none"> ▪ Require development to respond and protect to its context in terms of neighbourhood character, cultural identity, natural features, surrounding landscape and climate. ▪ Ensure development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility and providing for inclusiveness. ▪ Ensure that development provides landscaping that supports the amenity, attractiveness and
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	<p>safety of the public realm.</p> <ul style="list-style-type: none"> ▪ Ensure that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment ▪ Adopt housing and settlement strategy detailing need and identify locations for rural residential development <p>Clause 17.01 Employment:</p> <ul style="list-style-type: none"> ▪ Protect and strengthen existing and planned employment areas and plan for new employment areas. Improve access to jobs closer to where people live. ▪ Support rural economies to grow and diversify. ▪ To encourage development that meets the community's needs for retail, entertainment, office and other commercial services. <p>Clause 18.01-1S Land use and transport integration:</p> <ul style="list-style-type: none"> ▪ To facilitate access to social, cultural and economic opportunities by effectively integrating land use and transport. ▪ Plan movement networks and adjoining land uses to minimise disruption to residential communities and their amenity. <p>Clause 19.02-2S Education Facilities:</p> <ul style="list-style-type: none"> ▪ Integrate of education and early childhood facilities with local and regional communities. ▪ Locate childcare, kindergarten and primary school facilities to maximise access by public transport and safe walking and cycling routes ▪ Ensure childcare, kindergarten and primary school and secondary school facilities provide safe vehicular drop-off zones.
Clause 51.03:	N/A
Schedule to Clause 51.03:	N/A
Particular Provisions	<p>Clause 52.02 Signage</p> <p>Clause 52.06 Carparking</p>
Other Requirements:	<p>Clause 53.02 - Bushfire Planning</p> <p>Clause 65 - Decision guidelines</p> <p>Clause 71.02-3 - Integrated Decision Making</p>

For further information on the planning controls refer to Attachment 2.

CONSULTATION***External Referrals***

This application was referred to the following statutory referral authority for advice on particular matters. The following is a summary of the relevant advice:

Referral Authority	Consent/Objection Summary of Response	Officer comment
Country Fire Authority (Recommending referral authority)	No objection, subject to standard conditions to endorse the submitted Bushfire Management Plan and provide Bushfire Emergency Plan	Suggested conditions are supported and recommended to be included to any permit granted.

Internal Referrals

This application was referred to various business units or individuals within Council for advice on particular matters. The following is a summary of the relevant advice:

Department	Summary of Response	Officer comment
Traffic Engineer	No objection subject to standard conditions, and non-standard conditions Some of non-standard conditions relate to additional information placed on development plans. Information relates to: <ul style="list-style-type: none"> • Notation for sealed crossover • Increase crossover width to 6.4 metres • Relocate road reserve shared path sign to a location to the satisfaction of the responsible authority Nominated a minimum of four spaces for quick 15 minute drop/pick up activities	Recommending conditions to be inserted to any permit granted.
Drainage Engineer	No objection subject to standard conditions	Recommending conditions to be inserted to any permit granted
Arborist	Overall, no objection subject to standard conditions related to	Recommending conditions to be

	<p>installing tree protection zones fencing during construction and set timeframes for new planting.</p> <p>Additional comments provided:</p> <ul style="list-style-type: none"> • The removal of trees # 1–17 and 26 are not contested; and • Trees # 23, # 24 and #25 have greater than 10 percent Tree Protection Zone encroachment by the proposed retaining wall. These trees will be adversely affected. <p>This matter not satisfactory and resolved by amended design to not exceed 10 percent encroachment into listed trees' Tree Protection Zone and works to be outside Structural Root Zone of listed trees.</p> <p>The applicant's arboricultural report recommends construction techniques for the retaining wall adjacent to neighbouring boundary trees #23, #24 and #25 to minimise tree impact, however these recommendations not supported.</p>	<p>inserted to any permit granted.</p>
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Public Notification and Consultation

Notification of the application was undertaken by:

- Placing of two (2) signs on the land
- Mailing notices to owners and occupiers of adjoining and/or nearby properties

Twenty (20) objections and one (1) letter of support were received:

Concerns are summarised as:

- Location appropriateness;
- Out of character for a residential area;
- Various traffic impacts and traffic safety matters;
- Amenity (noise/health);
- Devaluation of the property; and
- Change in habitat for local birds and animals

Support submission summarised as:

- A need for a childcare centre; and
- Convenient location

ASSESSMENT/ KEY ISSUES

The proposal has been assessed to be consistent with the applicable Zone and Overlay provisions, the Planning Policy Framework, Particular Provisions and Decision Guidelines of the planning scheme.

The proposed use and development are suitably aligned with the purpose the zone and its decision guidelines which point to consideration of the Municipal Planning Strategy and the Planning Policy Framework.

In particular, the proposal is strongly aligned to the relevant sections of the Municipal Planning Strategy and the Planning Policy Framework.

Use

Clause 02 & Clause 19.02 seeks to ensure that a proposed use is suitably located in proximity to an activity centre and other education facilities, providing a local community infrastructure to support on-going community needs. Childcare centres are commonplace in a residential environment. They are considered to be an important local community facility that is generally considered suitable in a residential zone. They can contribute to developing a sense of belonging to a local area because of its readily accessibility.

The proposed childcare centre within this location provides a strong, positive and necessary local community infrastructure to the long-term community needs. Expansion of the existing education facilities found within the local area in turn contributes to strengthen the overall education infrastructure for the long-term community needs.

Clause 17.01 & Clause 19.2 seeks to allow for an increase in accessibility and choice to early childhood facilities and improve education sector job opportunities with local access. The proposed development and use are in proximity to an existing residential community and other educational facilities with planned road networks and pedestrian pathways, and located on the periphery of a commercial activity area.

Built form

Clause 15.01 Urban design seeks to ensure the proposal adequately responds to its context in terms of character, natural features and surrounding landscape. Clause 15.01- 1S Urban design & Clause 15.01- 2S Building design seeks to ensure the proposal adequately responds to minimise detrimental impacts on neighbourhood properties amenity, natural and built environment and on the safety and efficiency of roads.

The overall design of the building and orientation is predicated on reflecting the appearance of a residential building. Fronting two streets, adopting a mix of

bungalow and post-war dwelling architectural features with a modern style, mix of gable and hipped roofs, integrated wide porches, fretwork, brackets, and proportional and appropriately sized portrait window openings.

The development is surrounded by boundary landscape treatments with staggered setback permeable timber paling fence. The building is constructed using a weatherboard exterior and sheeted metal roofing in a colour palette of white with light grey roofing and accents. The building style, design details and landscaping are contemporary and sympathetic to the local character area.

The building siting and overall layout is largely dictated by the natural fall of the land. In keeping with the natural land grades at best, the carparking and entrance is located along Victoria Avenue at grade level, whilst the bulk of the building is orientated to the rear and an upper floor level is inserted. These listed design measures minimise cut and fill on the land. Staggered boundary fencing heights and setbacks strongly communicate a positive responsiveness to the street character. The proposed development layout, siting and fencing details adequately respond to the site's natural land terrain and streetscape.

Views in and out of the subject site, aided by appropriate permeable fencing, provide a positive public realm pedestrian experience. A visible and dedicated pedestrian access is provided from Victoria Avenue.

The overall scale of the building, generous setbacks from side and rear boundary and the effective use of landscaping and screening buffers ensure the protection of residential amenity.

The static water tanks sited along eastern boundary will need to be suitably treated to ensure they are properly screened by either vegetation or a hard screen. A condition has been recommended to be placed on any permit granted to obtain an updated landscape plan that takes this into account.

Amenity impacts

Clause 13.05-1S Noise & Clause 13.07-1S Land use compatibility, requires Council to ensure development and uses are compatible with surrounding uses and minimises adverse off-site impacts through suitable building siting and design (including orientation), urban design and land use separation techniques. Clause 02 MPS seeks to ensure the proposal responds acceptably to minimise adverse effect on the amenity of residential neighbourhoods through car parking and traffic.

The proposed use and development will have hours of operation between 6.30am and 6.30pm Monday to Friday. The hours are commonly applied to a use such as this, and are considered to be generally compatible with residential living, as they do not extend into the higher amenity sensitive times of evenings and weekends. The 6.30am start time allows for opportunity to support a wider resident demand, for a work life balance, and spreads the movement of vehicles and people over a longer period of time in the morning and night.

The Acoustic Report, prepared by Waston Moss Growcott (Attachment 4) includes a detailed assessment of potential noise impacts, including general land use, building

services and waste collection and uses the commonly applied Association of Australasian Acoustical Consultants (AAAC) for Child Care Centres Guidelines and *Environment Protection Act 2017 (Vic)*.

The assessment and recommendations outlined in point 10.6 of the Acoustic Report, states the need to install acoustic barriers around south, east and west perimeter of the site, to be made of and to particular material specifications (See Figure 12). Installation of acoustic barriers would also assist in resolving objector's noise amenity impacts concerns.

A three metre high acoustic wall with a cantilevered two metre wide fin along the southern elevation is recessed three metres from the title boundary and is to be buffered by dense evergreen landscaping. The structure height is not dissimilar to what is ordinarily found in residential areas, for a veranda or alike. The structure height is necessary to curb noise for the neighbouring elevated dwelling (Figure 12).

The proposed development plans do not clearly illustrate what is required to achieve this. A condition has been included to secure clearer notations on the development plans to show this detail.

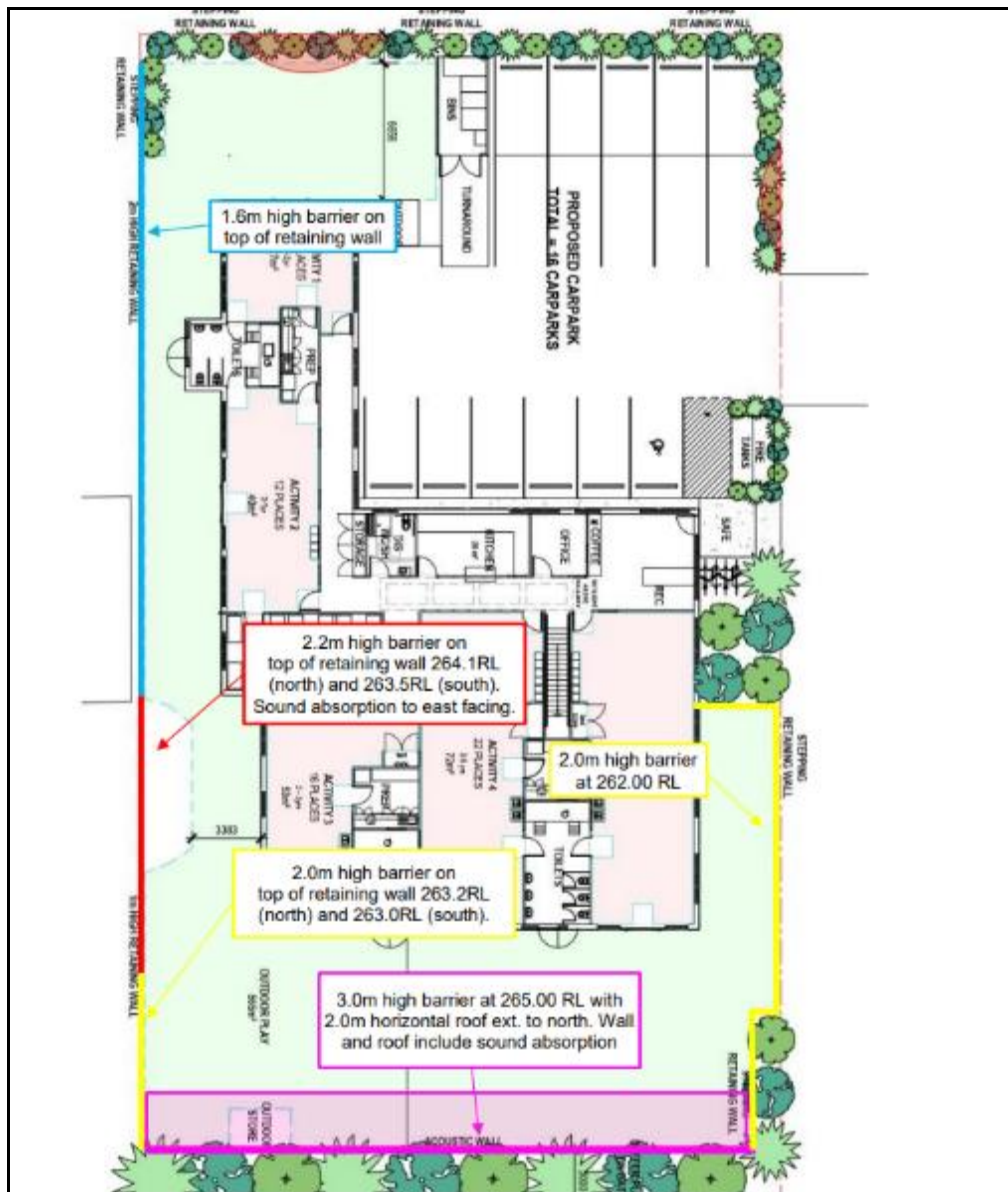


Figure 12 - Acoustic barriers (Source - Acoustic report)

The on-site carparking area is strategically located towards the site frontage; furthest distance possible from the immediate adjoining properties, their dwelling and their outdoor recreational spaces. Notably, there is no vehicle parking allowed within the first 10 metres of the Victoria Avenue and David Hill Road intersection.

David Hill Road is one of the primary thoroughfares into the commercial precinct and caters for other education and outdoor recreational land uses. David Hill Road is already a highly used localised traffic route and any likely increase in additional traffic generated by this proposal would not impose unreasonable amenity impact beyond what currently exists.

Officers are recommending that the standard amenity conditions to be included to any permit granted.

Building and works – Significance Landscape Overlay – Schedule 22

Clause 12.05-2S and Clause 42.03 seeks to ensure the proposal adequately addresses landscape characteristics and contributes to the character, identity and sustainable environments of the existing area. The Significant Landscape Overlay identifies the Monbulk area as being sited within forested hills made up of generous sized blocks with a garden setting character comprising a mix of low-level gardens and mature trees, native and non-native dominating the skyline.

The proposal satisfactorily responds to objectives and strategies of the overlay, as it maintains a sense of spaciousness with generous setbacks, promotes landscaping characteristics with strategic landscape provision at public vantage points across two street frontages and rear boundary and adopts a building profile that emulates a residential building style that is often synonymous in a residential environment. The proposal effectively blends into its built environment and natural landscape and is a positive design response to achieve the proposed use.

Vegetation (tree) removal - Significance Landscape Overlay

A number of the proposed nominated trees for removal are located centrally on site (not close to boundaries) and are of low retention value. The proposed use has specific design and function requirements that require the trees to be removed. A balanced approach therefore needs to be considered as to which is more important, the childcare centre or protection of trees.

By supporting the proposed use and development essentially gives less weight to tree retention. Unfortunately, the trees nominated for removal are not capable of being retained. To offset this loss, the proposal provides landscaping provisions around the site perimeter. In the medium to long term, the replacement vegetation planting proposed on the landscape plan will achieve a similar level and quality of landscaping as presently exists.

Carparking / Traffic / Transport

Subject to conditions, the proposal provides safe access and egress for pedestrians, cyclists, and vehicles that Clause 15.01-2S, 18.01-1S, 18.02-1S, 18.02-2S and 52.06-10 seeks to do. The proposal provides a sufficient number of on-site carparking spaces to meet demand, alternative transport options and suitable internal access to minimising amenity of the locality.

Clause 18.01-1S & 18.02-1S and Clause 65 all seek to ensure that any proposal aligns with objectives to facilitate the use of cycling and walking, within existing well used network connections and promotes sustainable land use and transport integration.

As stated above, the location of the subject site is considered especially appropriate for use of a childcare due to its proximity to a residential community and other educational facilities. The current road infrastructure linkages of mid-level roads to employment bases, residential surrounds and reusable collocation of existing education facilities and commercial core only 180 metres west adds to the

accessibility that the childcare centre can be assessed by multi-daily use circular trips, avoiding environmental and economic impacts to single use trip activities.

Clause 52.06 (Car Parking) is relevant to the consideration of this application.

Carparking rate assessment

Land use	Required	Proposed	Shortfall
Childcare centre rate - 0.22 per 1 child (80 children)	17	16	1

Council's Engineering Traffic department reviewed the application, including the request for a one car space reduction, access ingress/egress and carparking layout, and likely traffic generated impact. The following comments were provided:

- There is significant justification to support a reduction of one (1) carparking space for this application. Noting, the proposal offers four (4) bicycle parking spaces and pedestrian footpath collections;
- The carparking area is designed for internal vehicle movements and allowance for tandem parking arrangements which is an increasing common carparking arrangement substantiated by responding to site constraints;
- Achieving an effective and efficient use of this carparking area arrangement, it is recommended a minimum four (4) single bay car spaces are dedicated purely for quick high turnover drop/pick up activities;
- Likely traffic generated by this use is acceptably managed through an existing planned road network capable of absorbing additional traffic movements. As childcare centres generally attract local residents, and those residents would quite often access Childcare centres via another daily commute to works or activities, it is not expected that will be a noticeable increase in traffic within the immediate area that is solely generated by this childcare centre land use alone; and
- The carparking layout design standards comply with Clause 52.06 carparking layout design standards.

Signage

The subject site is located within a Category 3 High Amenity Area. The intent of the high amenity area controls is to keep signage in these areas to a minimum, compatible with residential use and ensure the signage is fit-for-purpose. Childcare centres attract local, repeat residents and the need to provide signage under these circumstances it extremely minimal.

The application for two (2) business identification signs is deemed excessive in number and proposed size for the use and is considered to be incompatible with the local road's street character.

To achieve an acceptable outcome, it is recommended Sign 1 (the smaller sign) is removed and Sign 2 (the free-standing pylon sign) is reduced to two (2) metres in height. The recommended permit conditions will achieve these changes.

Bushfire Management / Bushfire Protection

The proposal suitably responds to the bushfire management objectives and strategies to mitigate bushfire risk and prioritise the protection of human life which Clauses 13.05, 44.06, 53.02 and 71.02-3 seek to achieve.

The application is accompanied by a bushfire management statement and bushfire management plan prepared by TM Terramatrix to respond to bushfire risks. The proposal has demonstrated how they will mitigate bushfire risk to an acceptable level having regard to the following:

- The subject site and immediate surrounding area can be sensibly categorised as urbanised;
- The development is exposed only to low threat vegetation;
- The development can meet the defendable space and construction objective by use of alternative measure item 3.6;
- The development need to only achieve BAL-12.5 construction standard (lowest rating);
- Accessing the site is via wider sealed road network; and
- Static water storage is strategically located and visually screened (See Figure 13).

CFA has reviewed the application, and indicated support subject to the submitted Bushfire Management Plan endorsement and a Bushfire Emergency Management Plan to be prepared. Additionally, CFA have requested careful attention to new landscaping planting complies with Clause 53.02-5 Bushfire Planning Table 6.

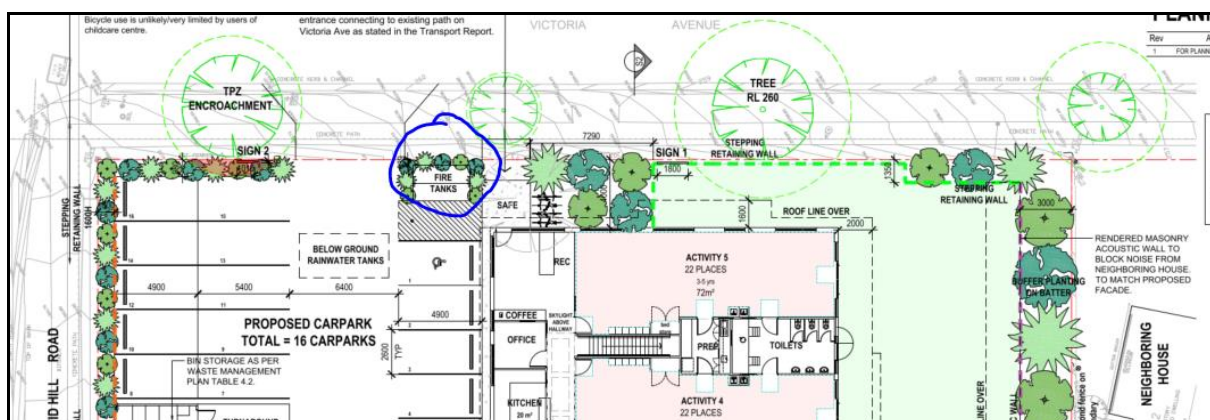


Figure 13 - Static water supply for fire-fighting purposes

Response to Submitters concerns

Concern	Officer response
Use	
Location appropriateness	See main assessment for a response to this concern.
Use out of character for a residential area	See main assessment for a response to this concern.
Traffic Impacts	
<p>Generally unhappy with Coolwyn's Nursery (south) current use of Victoria Avenue, with their constant large volume of commercial traffic (Semi / B-double trucks) traversing back and forth along Victoria Avenue.</p> <p>Peak hours of vehicle movement are stated to be between 6.30-7.30am and 3.30-4.30pm.</p>	<p>Traffic impacts listed were the primary concern raised by many objectors.</p> <p>The submitted Traffic Report was completed by suitably qualified person and neither the applicant's Engineer nor Council's Engineering traffic team raised concerns with traffic management.</p> <p>Understandably, a childcare centre land use operates an extended morning and late afternoon/early evenings drop off and pick up period. There is consideration to be had that parents/carers would adjust their drop off and pick up timeframes to increase their chances of access convenience.</p>
Victoria Avenue and David Hill Road is already a busy intersection generated by the nurse, nearby school and others.	<p>On the evidence submitted by the applicant it is considered that the road network is suitable, and can handle, the additional traffic generated by the use and development.</p>
Decrease traffic movements	
Decrease traffic safety / dangerous intersection	
<p>Already trucks traversing Victoria Avenue disturbs my dog (barking). More cars and people along the street will increase dog disturbance.</p>	<p>As stated above in the report the likely traffic generated by this use is acceptably managed through an existing planned road network capable of absorbing additional traffic movements.</p> <p>As childcare centres generally attract local residents, and those residents would quite often access Childcare centres via another daily commute to works or activities, it is not expected there be a noticeable increase in traffic within the immediate area that is solely generated by this childcare centre land use alone.</p>

Concern	Officer response
Insufficient on-street parking	<p>The proposal supplies sufficient carparking spaces on site for staff and patrons.</p> <p>The proposed design layout and access points encourage use of on-site carparking, rather than on-street parking. Based on the figures supplied and Councils engineering assessment there is sufficient parking on site that addition of site parking is not required.</p>
Patrons will use driveway to turn around along Victoria Avenue	<p>There is sufficient room onsite, according to the proposed traffic layout, for vehicles to turn around to exit in a forward direction. As there is sufficient parking on the site there should be no requirement for vehicles to park on the street or use private driveways to turn around.</p>
Need for more pedestrian safety	<p>The site is accessed by a series of pedestrian footpaths connected to Victoria Avenue and David Hill Road, which is considered sufficient for the proposed use and development. It is expected pedestrian access to the site will be much lower than vehicle access, as parents will mostly likely drop their children off at the centre when travelling to and from work.</p> <p>Officers have referred these comments to Council traffic department for future consideration.</p>
Does not support the information contained within the submitted Traffic Impact Report	<p>Traffic Report was completed by suitably qualified person.</p> <p>Council's Traffic Engineering department have reviewed the report and not raised any concerns with the content.</p>
Seeking <i>'no standing/local resident parking only'</i> signs to be erected along crossovers interfacing the subject site to prevent blocked driveways.	<p>Council Traffic Engineering section has advised that Parking across the crossover is against the Victorian Road Rules and Council does not reiterate the road rules using signage.</p>
Amenity	
Seeking acoustic wall fence along the southern boundary to be constructed	<p>An updated landscape plan will be required by a condition on the proposed</p>

Concern	Officer response
with colourbond and have evergreen planting.	<p>permit. The condition will require that the updated Landscape plan show how the proposed plantings will visually conceal the approved acoustic barrier fence.</p> <p>Acoustic barrier material will need to align with acoustic engineer's recommending specification to be fit-for-purpose however, it also needs to be visually appealing.</p> <p>The acoustic report has stated that "suitable materials will include 25mm thick timber, 6mm glass, 15mm polycarbonate, 9mm cement sheet, or 3 layers of 0.48mm Colorbond steel sheeting. Masonry options including brickwork and precast concrete will also be acceptable. Other materials must be reviewed prior to approval."</p> <p>A proposed condition will require plans to be submitted for endorsement prior to the acoustic walls being constructed.</p>
Remove quiet enjoyment Increase noise experienced	<p>As stated above the proposal is accompanied by acoustic treatment to minimise potential adverse noise impacts on the surrounding area.</p> <p>The proposed use will have hours of operation between 6.30am and 6.30pm Monday to Friday. The hours are considered to be generally compatible with residential living, as they do not extend into the higher amenity sensitive times of evenings and weekends. The 6.30am start time allows for opportunity to support a wider resident demand, for a work life balance, and spreads the movement of vehicles and people over a longer period of time in the morning and night.</p>
Health risks with car fumes	<p>As the expected level of traffic movement, to and from the site, and the likely dispersal of traffic, from 6.30am to 6.30pm, is expected to ensure that no unreasonable concentrations of emissions result from the congregation of vehicles.</p> <p>As the development does not have any enclosed vehicles areas or requirements for extraction fans there will be no</p>

Concern	Officer response
	concentration of emissions to any single area of the site.
Other	
Devaluation of the property	<p>Valuations of property can be affected by a range of site specific and locality specific factors which require a significant degree of experience and expertise to assess. The submitter has not presented any evidence or submissions to form a view that the granting of a permit on the subject site would lead to a devaluation of their property.</p> <p>Further to this even though the potential impact of a development on valuations can be considered generally by Council, it is not a relevant planning consideration</p>
Change the habitat of local birds and animals	<p>The subject site has not been identified as a place with high natural environmental significance. The arborist report has demonstrated that the vegetation on site can be removed for the development to proceed.</p> <p>In the medium to long term, the replacement vegetation planting proposed on the landscape plan will achieve a similar level and quality of habitat as presently exists.</p>
Overall design and acoustic wall fencing is not in keeping with residential zoning of the area	<p>As stated in the assessment part of the report the proposal responds appropriately to the subject site terrain and urban landscape characteristics in presenting a high standard well-designed built form that fits comfortably on the land.</p> <p>The Acoustic wall to the rear has been designed to take the form of a verandah with a wall and colorbond overhang to give it that appearance. Further to this the acoustic wall is setback three metres from the boundary to allow for a significant landscape that will soften the walls appearance.</p> <p>See main assessment for a more detailed response to this concern.</p>

Concern	Officer response
Out of character for a residential area	See main assessment for consideration and response to this concern.

CONCLUSION

The proposal provides for an essential community infrastructure for Monbulk and surrounding communities in a location that is both compatible and commonplace within a surrounding residential area. Exhibiting positive social and economic advantages to current and future residents of the township, the proposal is an exemplary example of contributing to the township's community sustainability and is designed respectfully for its semi-rural low density landscape character.

The design response is of high standard and consideration in addressing special attention to minimising negative impacts to adjoining neighbours. Effective layout, human scaled building form and design detailing respond adequately to the constraints and characteristics of the site and surrounds.

The use and development application has been assessed in accordance with Section 60(1) of the *Planning and Environment Act 1987* and all relevant instruments and policies. The proposal is considered to be consistent with the objectives of planning policies, and the relevant zone and overlay provisions of the Planning Scheme.

As such, approval is recommended.

ATTACHMENTS

- 1 Planning Permit Conditions
- 2 Planning Report
- 3 Transport Report.
4. Acoustic Report
5. Arborist Report
6. Use and Development Plans
7. Planning Policies

YR-2022/356 - 2420 WARBURTON HIGHWAY, YARRA JUNCTION - PLANNING REPORT

APPLICATION DETAILS

Site Address	2420 Warburton Highway (Crown Allotment 1) & 1A Township of Yarra Junction Parish of Woori Yallock) Yarra Junction
Application No.	YR-2022/356
Proposal	Use and development of the land for an unattended service station (fuel sales), automatic car wash, associated dog wash and vacuum areas, removal of vegetation, business identification signage (including internally illuminated and electronic) and alteration to a road in a Transport Zone 2
Existing Use	Mechanic automotive repairs and servicing
Applicant	AP Planning (Annabel Paul)
Zone	GRZ1 - General Residential Zone - Schedule
Overlays	DDO8 - Design and Development Overlay - Schedule 8 SLO22 - Significant Landscape Overlay - Schedule 22 BMO - Bushfire Management Overlay
Permit triggers	<p>Clause 32.08 - General Residential Zone</p> <ul style="list-style-type: none"> • Section 2 (Service Station) use <p>Clause 32.08 - General Residential Zone</p> <ul style="list-style-type: none"> • Section 2 (Car wash) use <p>Clause 32.08- General Residential Zone</p> <ul style="list-style-type: none"> • To construct a building or construct or carry out works <p>Clause 43.02- Design & Development Overlay – Schedule 8</p> <ul style="list-style-type: none"> • To construct a building or construct or carry out works <p>Clause 42.03- Significance Landscape Overlay - Schedule 2</p> <ul style="list-style-type: none"> • To construct a building or construct or carry out works when the site coverage exceeds 30% and the impervious area is more than 50% • Remove vegetation <p>Clause 44.06- Bushfire Management Overlay</p> <ul style="list-style-type: none"> • To construct a building or construct or carry out works associated with a Service Station <p>Clause 52.05- Signs</p> <ul style="list-style-type: none"> • To construct or put up for display a sign in Section 2. Business Identification signage (including internally illuminated and electronic signage) <p>Clause 52.29 - Land adjacent to a Principal Road Network</p>

	<ul style="list-style-type: none"> To alter access to a road in a Transport Zone 2
Objections	two (2) objections
Encumbrances on Title (Covenants/Section 173 Agreements/easements)	Lot 2 (1A Township of Yarra Junction Parish of Woori Yallock) Yarra Junction) is Crown Land
Reason for Council Decision	Councillor Call – In
Ward	O'Shannassy

SUMMARY

- The proposal seeks approval for an unattended Service Station (6x fuel pumps) and Carwash (2 x bays) operating 24 hours a day, seven days a week, with ancillary vacuums and a dog wash activity with reduced operation hours;
- The proposal does to not achieve the objectives and strategies of numerous planning policies, including Municipal Planning Strategic (Clause 02) and fails to align with the purpose of the Zone;
- The application has failed to satisfactorily demonstrate that the proposal provides any net community benefit/need and that residential amenity and character won't be negatively affected;
- A review of the application, the subject site and the current relevant provisions of the Yarra Ranges Planning Scheme makes clear that this site is simply not suitable for a service station and car wash land uses and sought-after operation of 24 hours per day, 7 days per week;
- The commercial needs should not replace the limited supply for housing and accommodation opportunities afforded to the local community unless there is strong benefit to community as a whole;
- The subject site is located in a sensitive residential context that will create ongoing conflicts between residents and the proposed uses and development;
- The proposal will generate unreasonable noise (day and night) and light pollution (night). While some measures could be implemented to counter these impacts, such as baffling lighting and acoustic rated boundary fencing, these standard amenity protection measures would be insufficient to provide a suitable level of amenity protection for this residential area;

- The proposal fails to consider retention of highly valued significant trees, these will be lost through the proposed development, or include provision for new tree planting or significant landscaping;
- The subject site is located within a high amenity area and the proposed extent of signage and signage illumination within the prominent streetscape represents an unacceptable visual clutter and visual disturbance to the township character; and
- The proposal received two (2) objections. The primary issues raised were amenity, traffic, health, safety and no community land use need.

RECOMMENDATION

That Council resolve to refuse Planning Application YR-2022/356 for Use and development of the land for an unattended service station (fuel sales), automatic car wash, associated dog wash and vacuum areas, removal of vegetation, business identification signage (including internally illuminated and electronic) and alteration to a road in a Transport Zone 2 at 2420 Warburton Highway (Crown Allotment 1) & 1A Township of Yarra Junction Parish of Woori Yallock) Yarra Junction and issue a Notice of Refusal subject to the grounds in Attachment 1 to the report.

DISCLOSURE OF CONFLICT OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

CULTURAL HERITAGE SIGNIFICANCE

The application has been checked against the requirements of the Aboriginal Heritage Act 2006 and Aboriginal Heritage Regulations 2007 (Vic) as to the need for a Cultural Heritage Management Plan (CHMP). It has been assessed that a CHMP is not required.

EXTRACTIVE INDUSTRY

The subject site is not located within 500 metres of land on which a work authority has been applied for or granted under the Mineral Resources (Sustainable Development) Act 1990.

HUMAN RIGHTS CONSIDERATION

The application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Yarra Ranges Planning Scheme), reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

SITE LOCATION AND DESCRIPTION

The subject site is located in the township of Yarra Junction, on the south-western corner of the intersection of Warburton Highway and Station Street (refer to Figure 1).

The subject site comprises of two parcels of the land; one parcel (Crown Allotment 1) is a corner allotment with access points at Warburton Highway and Station Street with a total site area of 1,417 square metres. The second parcel of land (1A Township of Yarra Junction Parish of Woori Yallock) is directly abutting to the west, is owned by Department of Environment, Land, Water and Planning (DELWP) and has underground drainage running through which is managed by Yarra Valley Water. Both DELWP and Yarra Valley Water have been made aware of the application.

The site currently contains:

- a single storey building, sited close to and facing Warburton Highway frontage;
- two vehicle access points along Warburton Highway and one point on Station Street;
- several high significant valued trees and an open grassed area; and
- a notable 3.5 metre fall across the land running in a downward direction from southwest to northeast towards the Warburton Highway. See Figure 2, 3 and 4



Figure 1 - Subject Site Aerial



Figure 2 - Existing building on subject site viewed from Warburton Highway



Figure 3 - View of subject site from Station Street looking north-west



Figure 4 - View of subject site from Linden Avenue looking north

SURROUNDING AREA

The subject site is located on edge of the existing commercial area, within an area zoned for residential use as can be seen in Figure 5.



Figure 5 - Planning zones of the subject site and surrounds.

Immediately adjoining:

- To the west is a commercial building and beyond this residential properties;
- To the east is the Yarra Junction commercial strip and the heritage listed Cunningham Hotel;
- To the north is the Yarra Junction Recreation Reserve; and
- To the south a Childcare Centre and residential properties beyond this.

PROPOSAL

The key components, as shown in Figure 6 and 7, of the proposal are:

Use, Buildings and works	
Service station (fuel bowzers)	<ul style="list-style-type: none"> • Six fuel bowzers • Installation of new 90,000L underground fuel tanks • Canopy structure of over fuel bowzers achieving varied maximum building heights of 5.0 metres to 6.8 metres • The use and development of an unattended service station operating 24 hours a day, seven days a week.
Car wash	<ul style="list-style-type: none"> • Varied maximum building height of 5.5 metres - 6.7 metres • operating 24 hours a day, seven days a week
Vacuums	<ul style="list-style-type: none"> • 4.5 metres maximum building height • The vacuum bays will be available between 5am and 10pm
Dog wash	<ul style="list-style-type: none"> • Undisclosed building height • Dog wash will be available between 7am and 10pm
External lighting	<ul style="list-style-type: none"> • Three 6 metre high light poles sited along Station Street • Other lighting under car wash and fuel bowser canopies.
Fencing	<ul style="list-style-type: none"> • Install two metre high acoustic rated fencing on a western title boundary interfacing the residential area.
Signage	<ul style="list-style-type: none"> • An illuminated double-sided sign located in the Warburton Highway frontage - 4.9 metres height x 1.4 metres width. • Two illuminated signs on the canopy for the fuel bowzers - 7.0 metres x 0.6 metres. • A panel sign on the canopy of the vacuum bay – 7.3 metres by 0.9 metres • White lettering on the car wash building forming two signs – 6.8 metres by 0.6 metres and 4.7 metres by 1.1 metres. • Two direction signs near the Station Street access – 2.4 metres by 0.9 metres.
Tree removal	<ul style="list-style-type: none"> • The removal of four eucalyptus trees, three of which are high valued

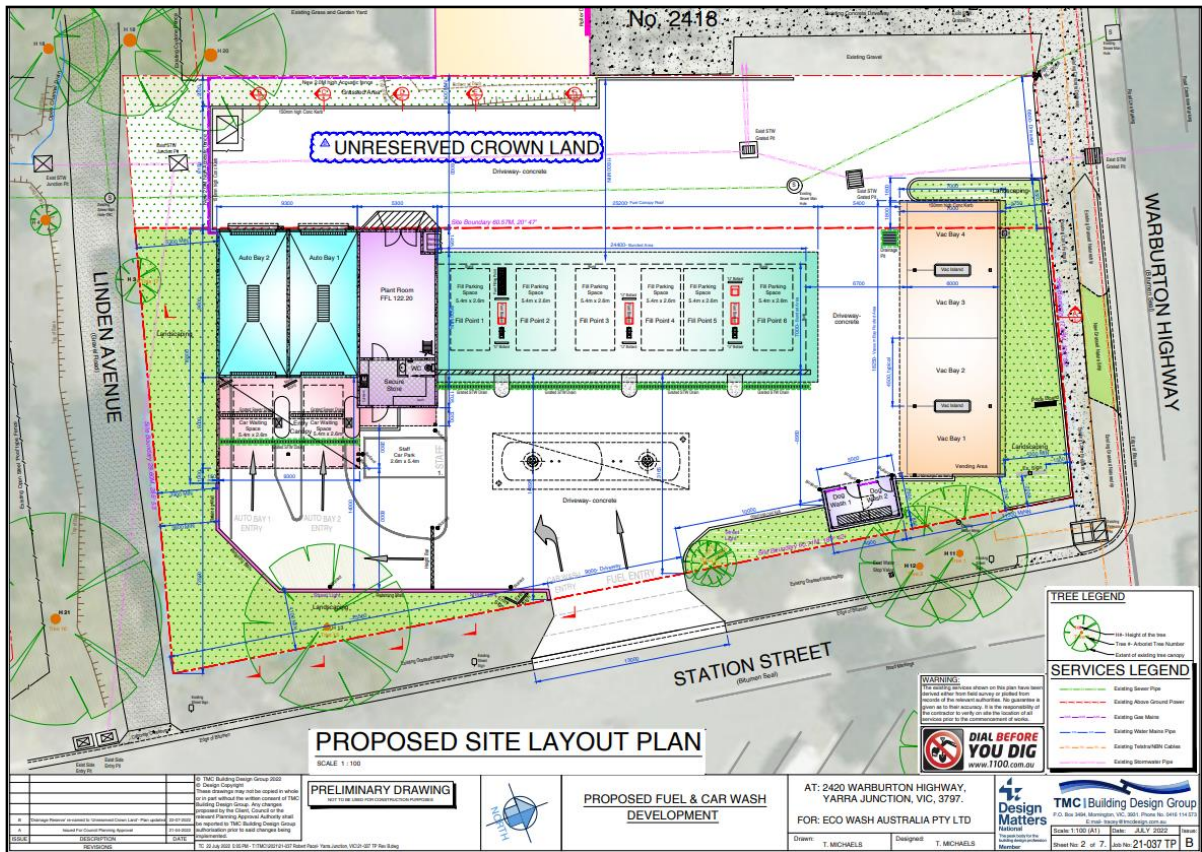


Figure 6 - Proposed Site Plan

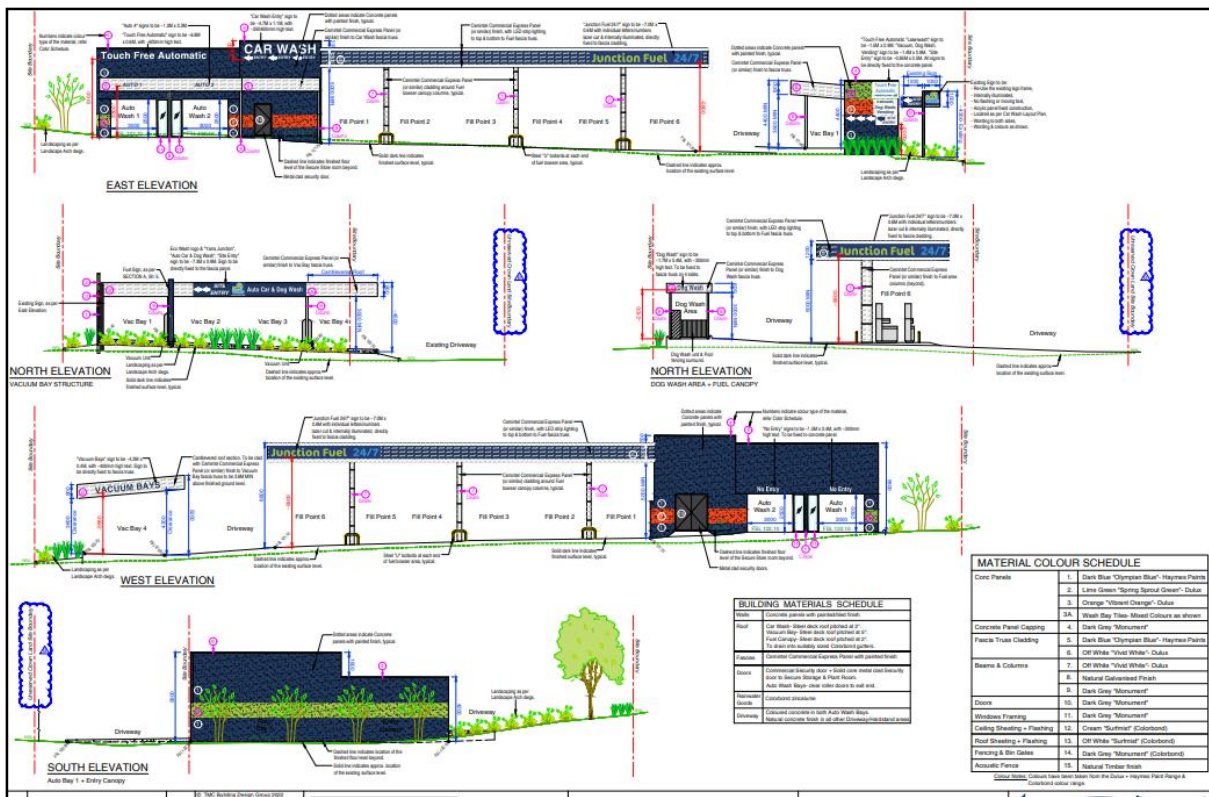


Figure 7 - Proposed Elevation

HISTORY

A search of Council records revealed no planning history.

PLANNING CONTROLS

Zoning:	<p>Clause 32.08 General Residential Zone</p>
Overlay:	<p>Clause 42.03 Significance Landscape Overlay - Schedule 22</p> <p>Clause 43.02 Design & Development Overlay – Schedule 8</p> <p>Clause 44.06 Bushfire Management Overlay</p>
Planning Policy:	<p>Clause 11 (Settlement) seeks for:</p> <ul style="list-style-type: none"> • Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. <p>Clause 12 (Environmental and Landscape Values) seeks to:</p> <ul style="list-style-type: none"> • Protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environment. <p>Clause 13.02 (Environmental Risks and Amenity – Bushfire) seeks to:</p> <ul style="list-style-type: none"> • Strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life. <p>Clause 13.05 (Environmental Risks and Amenity - Noise) seeks to:</p> <ul style="list-style-type: none"> • Ensure that development is not prejudiced, and community amenity and human health is not adversely impacted by noise emissions. <p>Clause 13.07-1L (Non-residential uses in residential areas) seeks to:</p> <ul style="list-style-type: none"> • Discourage the incremental encroachment of commercial uses into residential neighbourhoods

- Discourage non-residential uses from forming ribbon development along land abutting a Road Zone and forming a quasi-commercial area.
- Design use and development to be compatible with the surrounding character and amenity of residential neighbourhoods.
- Set back non-residential development from common boundaries and provide effective landscaping and screening buffers to protect residential amenity of abutting and nearby residential land.

Clause 13.07-1S (Land use compatibility) seeks to:

- To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts

Clause 15 (Built Environment and Heritage) seeks to:

- Protect the visual amenity of valued rural landscapes and character areas along township approaches and sensitive tourist routes by ensuring new development is sympathetically located.
- Require development to respond and protect to its context in terms of neighbourhood character, cultural identity, natural features, surrounding landscape and climate.
- Ensure development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility and providing for inclusiveness.
- Ensure that development provides landscaping that supports the amenity, attractiveness and safety of the public realm.
- Ensure that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment
- Adopt housing and settlement strategy detailing need and identify locations for rural residential development

Clause 17 (Economic Development) seeks to:

- Protect and strengthen existing and planned employment areas and plan for new employment areas. Improve access to jobs closer to where people live.
- Support rural economies to grow and diversify.

	<ul style="list-style-type: none"> To encourage development that meets the community's needs for retail, entertainment, office and other commercial services. Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.
Clause 51.03:	Nil
Schedule to Clause 51.03:	Nil.
Particular Provisions:	<p>Clause 52.05 - Signs</p> <p>Clause 52.29 - Land adjacent to a Principal Road Network</p>
Other Requirements:	Clause 65 – Decision guidelines

For further information on the planning policies refer to Attachment 2.

External Referrals

This application was referred to the following statutory referral authorities for advice on particular matters. The following is a summary of the relevant advice:

Referral Authority	Consent/Objection Summary of Response	Officer comment
CFA <i>Recommended referral authority</i>	No objection subject to conditions	Recommending conditions to be inserted to any permit granted
Environment Protection Agency <i>Recommended referral authority</i>	No objection.	No conditions
Worksafe <i>Recommended referral authority</i>	No objection subject to conditions	Recommending conditions to be inserted to any permit granted
VicRoads <i>Determining referral authority</i>	No objection subject to standing conditions	Recommending conditions related to crossover upgrades and vehicles to enter and exit in a forward direction.

This application was referred to various business units or individuals within Council for advice on particular matters. The following is a summary of the relevant advice:

Department	Summary of Response	Officer comment
Traffic Engineering	No concerns raised with traffic flows, subject to standard conditions seeking no entry from Warburton Highway	Recommending conditions to be inserted to any permit granted
Drainage Engineering	No concerns raised subject to standard conditions	Recommending conditions to be inserted to any permit granted
Strategic Planning	Not supported On balance, it is considered that the application is contrary to planning policies and should not be supported	While the nature of the proposed development is not in itself unreasonable in a town environment, the proposed site is unsuitable, and it is considered that there is more strategic and policy guidance against the proposal than in favour of it.

Public Notification and Consultation

Notification of the application was undertaken by placing two signs on site and mailing notices to properties in the surrounding area.

Two (2) objections were received. Matter of concerns raised were:

- Health Affects;
- Traffic Congestion;
- Amenity issues;
- Devaluation of properties in close proximity;
- Drainage;
- No demand for Service Station; and
- The unmanned petrol station will increase the crime rate and unsavoury behaviour.

ASSESSMENT/ KEY ISSUES

This subject site currently operates an existing commercial land use (motor vehicle repairs) which has been operating for a number of years however, a review of the application material, the subject site and the current relevant provisions of the Yarra Ranges Planning Scheme makes clear that this site is simply not suitable for a service

station and car wash land uses and sought-after operation of 24 hours per day, 7 days per week.

As such the assessment below discusses these concerns and the reasons for recommending Refusal for the proposed application.

PLANNING POLICY AND ZONE

The proposal has been assessed as not being in accordance with the applicable Zone and Overlay provisions, the Planning Policy requirements, Particular provisions and Decision Guidelines of the planning scheme.

Relevant policies of concerns are as follows:

Clause 02 (Strategic Direction) Yarra Junction is nominated as a Large Neighbourhood Activity Centre. Some key strategic directions and strategies supporting the Vision include:

- The identity and rural town character of settlements is enhanced by their location in a rural landscape setting and distinct separation from other urban areas;
- Neighbourhood Activity Centre to serve as catchments that extends into the rural hinterland, perform a significant role in the provision of community and civic services, with some also providing a range of retail, commercial, entertainment, community service, facilities and services for tourists;
- Land adjoining these centres is generally an appropriate location for additional housing;
- Non-residential business uses in residential zones uses that meet local community needs;
- Discourage activity centre functions in out of centre locations;
- Support housing within and adjoining activity centres; and
- Support well-designed and integrated activity centres that service the needs of local residents and visitors and contribute to a sense of local identity.

The proposal fails to demonstrate a local need and benefit to the community sought by Clause 02.03.3 (Environmental Risks and Amenity - Amenity), Clause 17.02-1S (Business) and the purpose of Clause 32.08 (General Residential Zone) of the Yarra Ranges Planning Scheme;

The listed policies and zone emphasise the key words 'local' and 'need' in the context of community benefit. Quite specifically, the relevant purpose of General Residential Zone states "To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations".

Notably, service stations and car washes fall into the category of non-residential uses. These land uses tend not to be an essential daily service, with service stations and car washes usually found in commercial and industrial zoned areas, or located within a residential zoned area adjacent to a commercial area or main road provided there is a strong justification for a local community need and benefit.

In supporting the proposal, the applicant's notable arguments were:

- Commentary detailing an absence of the proposed land uses within Yarra Junction Township's specific township boundaries, relying heavily upon the absence being translated as an automatic unmet local community need;
- Commentary stating that the proposal also supports a broader community and in particular the farming communities to the south-east of Gladysdale, Three Bridges, Gilderoy and Powelltown, which heavily rely on Yarra Junction for daily needs and don't have a fuel offering in their local towns; and
- An accompanied Traffic Report prepared by Traffix Group, details evidence of documented VicRoads 2020 traffic volume data via Warburton Highway in the vicinity of Station Street to be 8,100 vehicles per day (two-way) with 9.8% commercial vehicles (CV). Vehicles movement appears to signify a possible customer demand. The report further includes estimated traffic volumes of 176 vehicle movements per hour (88 inbound and 88 outbound movements) for the proposed uses. There is no mention of peak or off-peak timeframes for the proposed traffic estimates.

Council Officers are not satisfied there is sufficient reasoning and justification to suggest there is current and/or future local unmet community need. The commercial needs should not replace the limited supply for housing/accommodation opportunities afforded to the local community unless there is strong benefit to the community as a whole.

Yarra Junction is characterised as a Large Neighbourhood Activity Centre under Clause 02.03, with no foreseeable population growth. Accordingly, Council's subscribed population forecasting analysis prepared by Id.Consulting Pty Ltd which details a minor population increase over the next 20 years (2041) to be 341 persons. Population forecast found on Council's website. <https://forecast.id.com.au/yarra-ranges/population-summary>. This analysis notably draws consideration to the fact that Yarra Junction's available residential area is mostly shared between Low Density Residential and Neighbourhood Residential zoning which inherently limits infill housing growth potential afforded.

Within minutes of Yarra Junction Township, the outer neighbourhood activity areas on either side of the Yarra Junction Township along Warburton Highway supply several service stations that operate 7 day a week, up to 11pm with break out areas, food and drinks purchases (see *Figure 8*). There appears no shortage of available service stations catering for the Yarra Junction local community and broader communities.

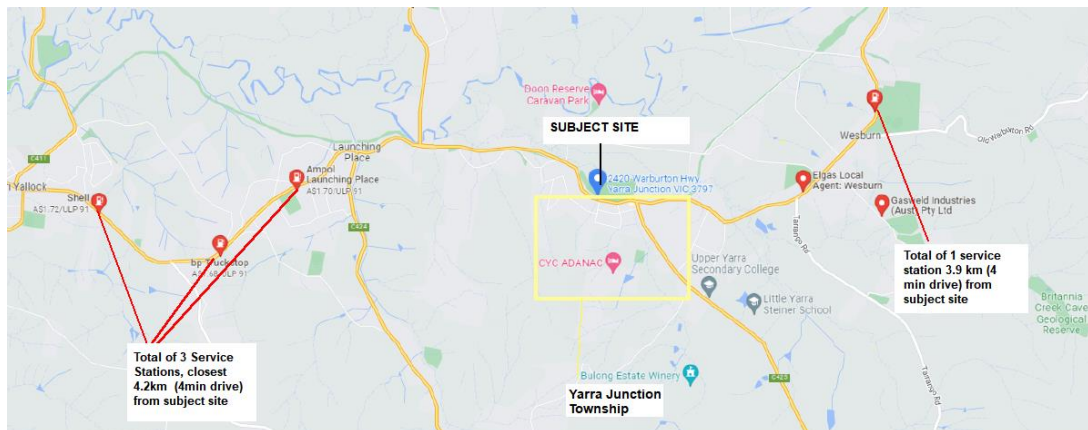


Figure 8 – Existing Service Stations nearby

Broader communities such as Gladysdale have access to the Wesburn service station operating 7 day a week, up to 11pm. Reaching this existing service station is indifferent by same physical distance and road, when compared with Gladysdale to the proposed service station.

The Yarra Junction township commercial area is generally inactive beyond the traditional daytime business hours, except for the Cunningham Hotel and Woolworths further east, closing at 10pm. The proposed 24/7 operation appears to not benefit or form a nexus with the localised economy, supporting commercial resilience.

The application material fails to demonstrate a local community need for a 24-hour service station and car wash. From observing indicators of population size, locality, proximity to wider employment areas and local commerce, all indicators conclude there is no overwhelming need for 24/7 access to fuel and car washing in Yarra Junction.

Overall, the application material fails to substantiate the proposed land uses resolve an unmet 'local' community need and the location be appropriate in lieu of the intended well-appointed housing opportunities for Yarra Junction.

The proposal fails to align with objectives and strategies of Clause 02 (Built Environment and Heritage), Clause 12.05 (Significance Environment and Landscapes), and Clause 15.01-1S (Urban design), 15.01-2S (Building Design), of the Yarra Ranges Planning Scheme, demonstrating a development scale, appearance and layout that is incongruous and disrespectful to the rural township character and identity, streetscape character and wider residential character;

The subject site is located in a sensitive residential context that will create ongoing conflicts between residents and the proposed uses and development.

The buildings and works required will bring about a substantial change to this location, with problematic features including:

- Large hard stand areas;
- High building site coverage, comprising a large main canopy above the fuel bowsers as well as the car wash facilities, vacuum bays and dog wash facilities;
- Necessitate the illumination of the hard stand areas, car wash and other features during the night, via a 24/7 operation;
- Placement of machinery and carparking along frontage to gateway into the township
- Introduction of bold large coloured and lit surfaces;
- limited landscaping opportunities; and
- The removal of trees with a high significance retention value

The proposed commercial use and development in this location encourages the commercial ribbon effect to an abutting Road Zone and forms a quasi-commercial area.

A 24/7 operation within a streetscape that consistently operates traditional business hours is not in character with the identity of the township. The proposal fails to respond appropriately to the following strategies from Clause 15.01-2S:

- *Ensure development responds and contributes to the strategic and cultural context of its location;*
- *Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm;*
- *Encourage development to retain existing vegetation; and*
- *Ensure development provides landscaping that responds to its site context, enhances the built form, creates safe and attractive spaces and supports cooling and greening of urban areas.*

The proposed colours and colour tones of blue, green and orange palette and application of across the entire built form surfaces results in non-complementary visual outcome against the prominent existing colours/colour tones found in the immediate area. The proposal will have a visually discordant appearance that is at odds with the low key, informal, significant landscape character of Yarra Junction.

The proposal fails to align with objectives and strategies of Clause 13.07-1S (Land use compatibility) and Clause 13.07-1L (Non-residential Uses in Residential) of the Yarra Ranges Planning Scheme with a use and development that is incompatible with the surrounding neighbourhood;

The proposal will generate unreasonable noise (day and night) and light pollution (night). While some measures could be implemented to counter these impacts, such as baffling lighting and acoustic rated boundary fencing, these standard amenity

protection measures would be insufficient to provide a suitable level of amenity protection for this residential area.

The proposed 24/7 operation would result in an overnight commercial lighting within a residential area, and within a rural township core streetscape that is otherwise absent of any such lighting attributes. Council requested a site lighting spill plan to assist in properly assessing the potential lighting impacts, but the applicant did not supply this plan to address this concern.

The lighting requirements for the development has the potential to create a detrimental impact on the streetscape and residential character of the area. The development will deliver an unreasonable amount of lighting pollution at both at an eye level and at an elevated level. The light pollution is excessive and unnecessary and there will be no overwhelming community benefit to substantiate a dramatic introduction of overnight commercial lighting to the township's characteristic features.

In addition to noise and lighting considerations, there is also likely to be rubbish and odour associated with the operations of an unmanned service station and cash wash. It is considered that all these impacts will combine to create detrimental amenity impacts of a kind that are unreasonable in this residential context.

The proposal fails to align with the objectives and Strategies of Clause 12.05 (Significant Environment and Landscape Values), Clause 42.02 (Significant Landscape Overlay – Schedule 22) and Clause 43.02 (Design and Development Overlay - Schedule 8) of the Yarra Ranges Planning Scheme by not incorporating meaningful landscaping provisions to soften built form and activities and not incorporating tree replacement provisions to assist the development integrations into its identified surrounding landscape character;

The proposal fails to consider retention of highly valued significant trees or include provision for new tree planting. This lack of consideration is considered to be an inherent nature of these types of land uses. The landscape value of the site and the massing of the trees with neighbouring vegetation all contributes to the significant landscape character and values of the area more broadly, and these will be lost through the proposal.

The proposal fails to achieve the landscaping design outcomes of Design and Development Overlay Schedule 8 in that street frontages should provide sufficient area for the retention and planting of canopy trees. Developments should be designed to retain existing trees where possible and provide at least two canopy trees (with a maturity height of no less than 8 metres) in the front setback.

Warburton Highway is a prominent streetscape to the Township's identity and the proposal responds poorly by proposing minimal landscaping setbacks at the property boundaries. The 4.0 metre high vacuum structures proposed within the Warburton Highway frontage is an inappropriate design response and for an interface to the gateway into the Yarra Junction township core. The new landscaping opportunities afforded along Warburton Highway frontage is limited to low lying shrubs, which will fail to make a significant contribution to the streetscape character.

The vegetation removal will further open up views of the site, particularly to the south and west where the residential hinterland is located and abuts Station Street and Linden Avenue.

The proposed signage fails to achieve an appropriate response in a Category 3 - High amenity area in that the proposal is promoting excessive visual clutter and visual disturbance to the streetscape character and Yarra Junction township rural character.

The subject site is located within a high amenity area and the proposed extent of signage and signage illumination within the prominent streetscape Represents an unacceptable visual clutter and visual disturbance to the township character. There has been no attempt by the applicant to explore an appropriate signage design response for a local context.

Notable signage attributes that generate concern include:

- All building surfaces occupy signage;
- High volume of signage repetition;
- Majority of signage is illuminated; and
- Colour palette comprises brightly toned dark blue background and florescent bright green and orange text and images. Neither colours or colour tones are complementary to the immediate rural natural landscape character.

Safety

The proposal seeks an unattended carwash and ancillary activities. This operation type is common business operation particularly within a metropolitan area context.

The proposal seeks unattended service station. This operation is generally less common, however in recent times businesses are opting for pay-first option after services 10pm – overnight – with or without an employee present on site.

The proposal seeks to operate with 1 employee for maintenance and deliveries during the daytime hours. This employee is not guaranteed every day.

For safety operations this business will have an emergency number 13 Operator printed in prominent on-site locations for customers to call for any concerns. This number is linked to a 24hour call centre to direct to maintenance or emergency services. This is a common practiced for unattended cash washand service station businesses.

Clause 71.03-2 Integrated decision making

A service station is a Section 2 use in the General Residential Zone, and as such, pursuant to Clause 71.03-2 of the Planning Scheme, it does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the Municipal Planning Strategy, the

Planning Policy Framework, the purpose and decision guidelines of the zone and any of the other decision guidelines in Clause 65.

Clause 71.02-3 (integrated decision making) of the Planning Scheme requires responsible authorities '*to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations*'. In making this judgement, it should be acknowledged that the subject site is at the edge of the Yarra Junction core commercial area. The development of a service station and car wash will provide a service to passing motorists in the area and not just locals. However, it will result in a land use that will be inconsistent with the existing adjacent land uses compromising primarily of residential uses. This will cause a disruption in the land use character of the town centre which is located to the east of the site along the southern side of the Warburton Highway. The proposed use and development will not provide a community benefit that will outweigh the issues of concern with the proposal.

CONCLUSION

The development and land use application has been assessed in accordance with Section 60(1) of 'The Act' and all relevant instruments and policies. The proposal is considered to be inconsistent with the objectives of the relevant planning policies, and the relevant zone and overlay provisions of the Planning Scheme. As such, refusal is recommended.

ATTACHMENTS

Appendix 1 Refusal grounds

Appendix 2 Planning Policies

Appendix 3 Use and Development Plans

Appendix 4 Town Planning Report

Appendix 5 Traffic Impact Report

Appendix 6 Arborist Report

Appendix 7 Acoustic Report

AMENDMENT C208: 27-33 OLD HEREFORD ROAD, MOUNT EVELYN

Report Author: Executive Officer Strategic Planning
 Responsible Officer: Director Planning and Sustainable Futures
 Ward(s) affected: Billanook;

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

At the Ordinary Council Meeting of 14 May 2022 Council resolved to prepare and exhibit a combined Planning Scheme Amendment C208 and Planning Permit application (YR-2022/512) for 27-33 Old Hereford Road, Mount Evelyn (the site).

Amendment C208 proposes to apply Schedule 2 of the Low Density Residential Zone (LDRZ) the site, to allow the subdivision of the land into one 2200sqm and one 2967sqm lot.

The amendment proposes a concurrent planning permit (YR-2022/512) for a two-lot subdivision under Section 96A (combined amendment and permit process) of the *Planning and Environment Act 1987*.

The amendment was exhibited between 13 October 2022 to 13 November 2022 with a total of 7 submissions received during the exhibition period. Of the 7 submissions, the one opposing submission was subsequently withdrawn.

RECOMMENDATION***That Council***

- 1. Consider the submissions made in response to the exhibition of Planning Scheme Amendment C208 and Planning Permit Application YR-2022/512.***
- 2. Adopt Amendment C208 to the Yarra Ranges Planning Scheme generally in accordance with the Attachments to this report.***
- 3. Submit Amendment C208 to the Yarra Ranges Planning Scheme to the Minister for Planning for approval.***
- 4. Notify the proponent and submitters of Council's decision.***

RELATED COUNCIL DECISIONS

At the Council Meeting of 14 June 2022, Council resolved to:

- *Seek authorisation from the Minister for Planning to prepare and exhibit the combined Planning Scheme Amendment C208 and Planning Permit application (YR-2022/512) for the two-lot subdivision of 27-33 Hereford Road, Mt Evelyn;*
- *Pending the Minister's authorisation, exhibit the combined Planning Scheme Amendment C208 and Planning Permit application (YR-2022/512); and*
- *Receive a further report considering submissions.*

At the Council Meeting of 28 October 2014, Council resolved an amended motion in relation to Amendment C143 that proposed to reduce the minimum lot size in the Low Density Residential Zone in the Yarra Ranges Planning Scheme as follows:

That Council:

1. *Write to the Minister for Planning advising him of Council's decision to support the removal of the schedule to the Low Density Residential Zone to enable consideration of subdivision of land from a minimum lot size of 4000 square metres to 2000 square metres provided it is connected to reticulated sewer in all Low Density Residential Zone areas with the exception of:*
 - (a) *The suburbs of Belgrave, Belgrave Heights, Belgrave South, Tecoma, Upwey, Selby and Upper Ferntree Gully*
 - (b) *Areas within the Bushfire Management Overlay as shown in Attachments 3-10 with the exception of Warburton (Attachment 5).*
 - (c) *Areas within the Erosion Management Overlay that are susceptible to debris flow, shown in Attachment 11.*
 - (d) *Areas of uniform subdivision as identified in Attachment 8*
 - (e) *The Bickleigh Vale subdivision (HO75), shown in Attachment 8*
 - (f) *12 lots outside of the Urban Growth Boundary shown in Attachment 3*
2. *Request the Minister for Planning implement the associated Planning Scheme amendment to introduce the changes to the Yarra Ranges Planning Scheme outlined in this report.*
3. *Request the Minister for Planning implement any associated amendment that may be required to the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan to achieve consistency with Council's decision.*
4. *Direct staff to review existing policy on subdivision to address further subdivision of low-density areas, with a view to amending the Planning Scheme via the Planning Scheme Review and rewrite of the Municipal Strategic Statement.*
5. *Write to all submitters advising them of Council's decision.*

The subject site was not included in 1(b) at the time of the 2014 resolution, however, was subsequently added into the Bushfire Management Overlay through a Ministerial Amendment.

DISCUSSION

Purpose

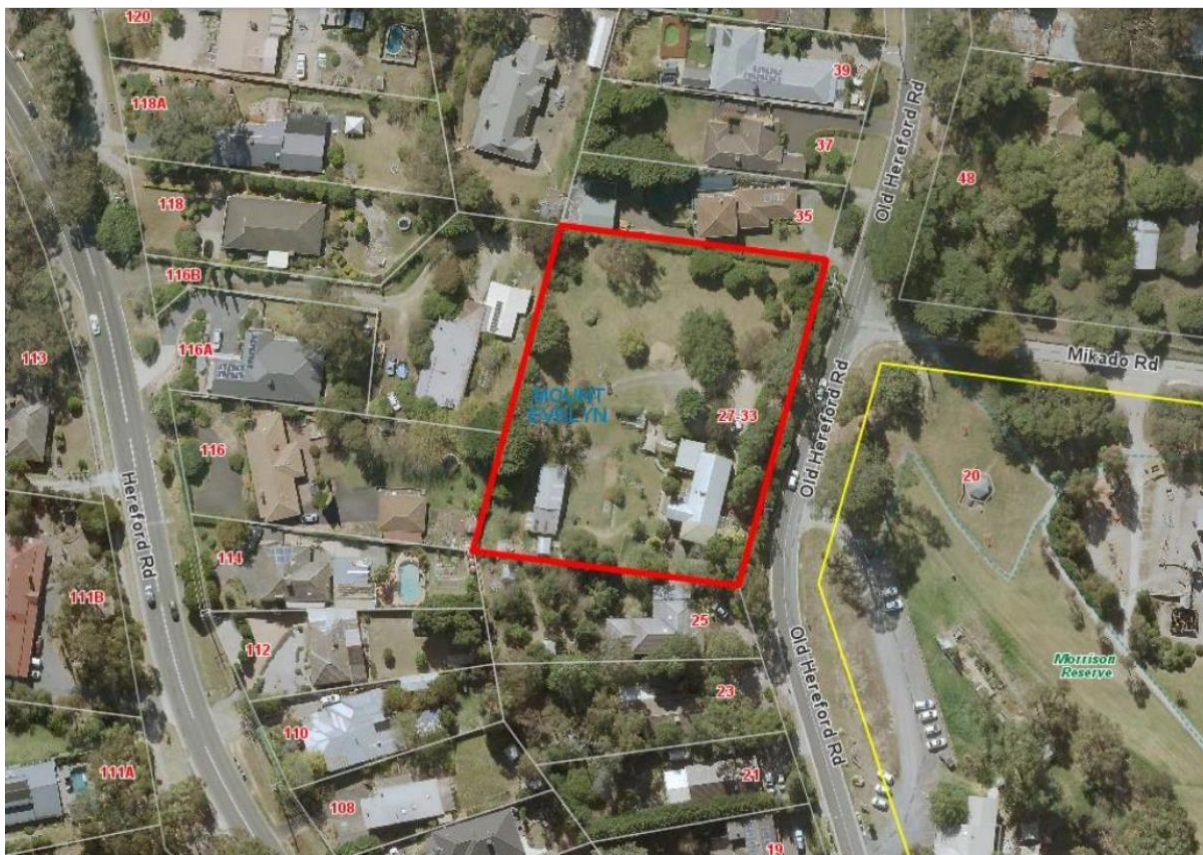
The combined Planning Scheme Amendment C208 and Planning Permit application (YR-2022/512) was exhibited from 13 October 2022 to 13 November 2022.

The purpose of this report is to discuss the submissions received during the exhibition period and outline the next steps to enable approval of the amendment.

Background

The owner of 27-33 Old Hereford Road, Mount Evelyn, has requested that Council amend the Yarra Ranges Planning Scheme to allow subdivision of the site.

The land is 5,160 square metres in size, and in accordance with the provisions of the Low Density Residential Zone, is unable to be subdivided into two lots of at least 4000 square metres each. A combined amendment and planning permit application is required to facilitate the subdivision and creation of a lot (2200m²) to accommodate a new dwelling previously approved by YR 2018/1032.



Planning Permit YR-2018/1032

In April 2019, Council approved a planning permit to allow a second dwelling at 27-33 Old Hereford Road, Mount Evelyn. The land already contained an established dwelling.

In the LDRZ, it is permissible to apply for a second dwelling on a single lot. It does not, however, enable subsequent subdivision of the land.

As part of the permit application, a bushfire assessment was submitted, showing the land could safely accommodate a new dwelling, providing the new dwelling was constructed to a Bushfire Attack Level of at minimum BAL-29, which has been applied as a construction response to a characteristic within the landscape. This requirement now forms part of the planning permit.

At the time of approval, the policy at Clause 21.04-1 of the Yarra Ranges Planning Scheme also directed that a second dwelling in the LDRZ “should” only be constructed on a site which has an area of at least 8000 square metres. Hence the granting of a permit was possible even if it does not meet the minimum lot size policy.

An extension of time has now been approved for this permit, specifying that the development must commence by 15 May 2023 and be completed by 15 May 2025. Under this permit the land-owner can build a second dwelling regardless of whether an amendment to the planning scheme to enable subdivision is progressed.

Amendment C143

In July 2013, the Minister for Planning amended the minimum subdivision size for lots in the Low Density Residential Zone (LDRZ) from 4000 to 2000 square metres through Amendment VC100. Concurrent with the change, the Minister introduced a schedule to the LDRZ in the Yarra Ranges Planning Scheme to retain the 4000 square meter subdivision size on an interim basis to allow Council time to further consider the change and develop the required rigorous strategic justification to support applying the reduction in Yarra Ranges.

An analysis, that included community consultation, was subsequently undertaken. The report concluded that some areas of Yarra Ranges should retain a 4000 square metre minimum lot size due to a range of factors such as environmental hazard, heritage and neighbourhood character. At this stage the subject site was not affected by one of these factors.

Council subsequently resolved on 28 October 2014 to apply the new 2000sqm lot size to several areas that at the time were outside the Wildfire Management Overlay (now Bushfire Management Overlay), including parts of Mount Evelyn.

Amendment C143 to implement the Council resolution was subsequently prepared as a Ministerial amendment request. The Minister for Planning agreed to consider

the amendment and appointed an Advisory Committee to provide advice and consider written submissions on C143.

The Committee report, dated 13 September 2017, recommended that:

- The CFA and the Council should jointly review the proposed LDRZ2 areas together with any proposed or anticipated BMO schedules at a 'desk top' level;
- Where, without the need for further analysis, it is considered that a satisfactory outcome will be achieved through the combination of the LDRZ2 and the BMO, the areas can be included in the LDRZ2; and
- Where further analysis is considered necessary, the areas should not be included in the LDRZ2 until that analysis is undertaken and the outcome demonstrated to be satisfactory.

After considering the recommendations of the Advisory Committee's Report (that was provided directly to the Minister and not Council), the Minister wrote to Council in November 2017 advising that he had determined to refuse Amendment C143, primarily due to the need to prioritise the protection of human life from bushfire. By this time, the Minister had approved an amendment that increased the application of the BMO to a number of areas including 27-33 Old Hereford Road, Mount Evelyn, which by implication placed the site back into the minimum 4,000sqm areas.

The Minister, in refusing Amendment C143, also advised Council to review:

- The housing strategy to identify the need for additional housing in specific towns or areas better suited for growth, rather than a broad application (of LDRZ changes) across most of Yarra Ranges' townships; and Page 113 Agenda Item 10.2 Council Meeting Agenda 14 June 2022
- Review the appropriateness of locating more housing in LDRZ areas at a township level rather than site specific level before considering any additional subdivision.

Department of Environment, Land, Water and Planning (DELWP) Advice on the Amendment Proposal

Prior to the Minister authorising the amendment for exhibition, and consistent with the Minister's decision on Amendment C143, DELWP advised that changes to the LDRZ to allow for more housing should be considered at a strategic level, rather than a site level.

The department advised that the Minister is unlikely to support any amendment to reduce the current minimum lot requirement without a detailed township-level assessment that demonstrates the need for additional housing and identifies the most suitable locations, taking into account bushfire risk.

In response to DELWPs advice, the proponent subsequently provided appropriate strategic justification that was satisfactory to enable the Minister to authorise exhibition of the amendment.

Bushfire Risk

In submitting an amendment for land in an identified area of bushfire risk, a proposal must address Clause 13.02-1S Bushfire Planning of the Planning Scheme, which includes a number of assessment criteria.

One of the criteria in Clause 13.02 states that population should be directed to low risk locations, being those with a radiant heat flux of 12.5 kilowatts/square metre. The applicant has submitted a bushfire report that suggests the site can adhere to this requirement.

Based on the potential for bushfire risk, the draft planning permit for subdivision also includes a condition that the new lot include a building envelope that is capable of achieving a setback from a bushfire hazard to enable construction standard of BAL 12.5. Other conditions relating to bushfire risk management have also been included in the draft permit.

The amendment and planning permit were sent to the CFA for formal comment during the exhibition period. The feedback is included in the submission section below and summarised in Attachment 1 to this report.

Key Issues

Submissions

A total of seven submissions were received in response to the amendment. A summary of submissions is at Attachment 1 and further discussed below.

Submission 1: Yarra Valley Water

The amendment was referred to Yarra Valley Water as a referral authority.

Yarra Valley Water consents to the granting of a planning permit subject to the owner of the subject land entering into an agreement with Yarra Valley Water for the provision of water and sewerage services, as well as providing a copy of the Plan of Subdivision to Yarra Valley Water prior to certification.

Response to submission: Yarra Valley Water's position is noted.

Recommendation: No change required,

Submission 2: Environment Protection Authority

The amendment was referred to the Environment Protection Authority (EPA) as a referral authority. They deemed the proposal to be low risk in relation to risk of harm from pollution or waste and advised they will not be making a submission.

They have requested no further communications in respect of this proposal.

Response to submission: The EPA's position is noted.

Recommendation: No change required,

Submission 3: AusNet

The amendment was referred to AusNet as a referral authority. AusNet does not object to the issue of a planning permit provided:

- The plan of subdivision is submitted for certification and must be referred to AusNet Electricity Services Pty Ltd.
- The applicant enters into an agreement with AusNet Electricity Services Pty Ltd for the extension, upgrading or rearrangement of the electricity supply to lots on the plan of subdivision, including a payment to cover the cost of such work will be required.
- The applicant provides electricity easements internal and external to the subdivision in favour of AusNet Electricity Services Pty Ltd to service the lots on the plan of subdivision and/or abutting lands as required by AusNet Electricity Services Pty Ltd. The provision of reserves for electricity substations may also be required.

Response to submission: AusNet's position is noted. Draft permit condition address the matters raised in AusNet's submission.

Recommendation: No change required.

Submission 4: Melbourne Water

The amendment was referred to Melbourne Water as a referral authority. Melbourne Water stated they do not object to the proposed subdivision.

Response to submission: Melbourne Water's position is noted.

Recommendation: No change required.

Submission 5: Supporting subdivision of 27-33 Old Hereford Road

Submitter 5 supports a subdivision of 27-33 Old Hereford Road. The submitter believes this property and other similar properties should have been able to be subdivided when Amendment C143 was consulted on. The submitter states that the process was costly and believes the Minster should not have refused Amendment C143.

Response to submission: Submitter 5's support is noted.

Recommendation: No change required.

Submission 6: Submission withdrawn

Submitter 6 objected to the amendment on the basis of concerns with current onsite stormwater management and a lack of downpipes and drains on the site's existing structures. The primary concern was that further development on the site would

exacerbate the existing stormwater management issues and lead to increased surface water runoff into their property.

Response to submission:

Following discussion with the proponent and submitter, the proponent was able to provide a Certificate of Compliance relating to drainage works undertaken on the property to address the existing issues.

The Certificate was provided to Submitter 6 for review. The submitter advised in writing that they were satisfied that the drainage works undertaken addressed their concerns and withdrew their submission.

Recommendation: No change required – withdrawal of submission noted.

Submission 7: CFA – Feedback on Permit Conditions

The amendment was referred to CFA as a referral authority that advised in relation to the draft permit conditions:

- As per previous advice, that when Council considers site-based exposure, that consideration is had as to whether the site can achieve a radiant exposure of less than 12.5 kW/m².
- Any dwelling on the land be constructed to BAL-29, as Schedule 2 to the Bushfire Management Overlay applies to the land.
- A minor spelling error within Section B is noted.

The CFA stated they are supportive of all other drafted permit conditions.

Response to submission: CFA's position is noted. The planning permit previously granted for the construction of a second dwelling has an associated Bushfire Management Plan which states that the dwelling must be constructed to a minimum Bushfire Attack Level of BAL 29. There are no changes to this plan or this existing Permit YR-2018/1032.

Recommendation: Rectification of minor spelling error.

Options considered

Option 1 – Adopt the planning scheme amendment and submit the combined amendment and draft planning permit to the Minister for approval

The proponent has worked with Council over the past two years to prepare a site-specific amendment request and has addressed matters relating to strategic justification, bushfire, and most recently drainage. The Minister authorised the combined amendment and draft planning permit for exhibition, and there are now no opposing submissions.

During Exhibition a copy of the draft planning permit was circulated to the relevant authorities for comment and feedback to ensure appropriate permit conditions are included in the final draft permit to be sent to the Minister.

Should the Minister approve the amendment, she will direct the grant of the planning permit. The permit must then be issued by the responsible authority within seven days after the direction by the Minister has been received.

Option 2 – Delay the Amendment until the completion of a new Housing Strategy

Council officers are currently preparing a new Housing Strategy to replace the existing 2009 Strategy. A planning scheme amendment will be prepared to implement the land use actions of the Strategy following its adoption by Council.

The strategy will provide a clear strategic framework for where further residential development should be located in Yarra Ranges. DELWP advised prior to providing authorisation to proceed with exhibition that it would prefer Council prepare a township-level assessment that demonstrates the need for additional housing and identifies the most suitable locations, rather than a site-specific approach.

Recommended option and justification

It is recommended Option 1 be pursued. The proponent has responded to previous feedback and provided the strategic justification and amendment documentation to support the request at the standard required.

The combined amendment and planning permit have been exhibited, with the exhibition resulting in no opposing submissions. It is reasonable that the amendment now be adopted and submitted to the Minister for Planning for approval.

FINANCIAL ANALYSIS

As the request is sought by an individual (rather than initiated by Council) all costs associated with the amendment, including statutory fees required under the Planning and Environment (Fees) Regulations 2016 and advertising costs must be paid for by the proponent.

Use of Council resources will be limited to Council officer time.

APPLICABLE PLANS AND POLICIES

The proposal relates to the following objective of the Council Plan 2021-2025 and Council policies:

- Quality Infrastructure and Liveable Places - Quality facilities and infrastructure meets current and future needs. Places are well planned and are hubs of activity that foster wellbeing, creativity, and innovation.
- Clause 02.03-1 Settlement of the Yarra Ranges Planning Scheme: The subdivision is with a Large Neighbourhood Activity Centre - Land within and

adjoining these centres is generally an appropriate location for additional housing.

- Housing Strategy 2009. While the Strategy does consider Mount Evelyn suitable for housing growth, the area of Mount Evelyn described for growth in the Strategy did not include LDRZ land. Council is now preparing a new Housing Strategy which will consider future housing need across the municipality.

RELEVANT LAW

The proposed planning scheme amendment has been prepared in accordance with the legislative requirements of the *Planning and Environment Act 1987*.

SUSTAINABILITY IMPLICATIONS

Economic Implications

The approval of the application would have negligible economic impacts on Mount Evelyn.

Social Implications

There would be no direct social impacts of the proposal, if approved. However, a precedent of inappropriate subdivision within the LDRZ may result in an undesirable development pattern.

Environmental Implications

The proposal must address bushfire risk in an acceptable way as discussed above. No other environmental implications are anticipated.

COMMUNITY ENGAGEMENT

The amendment was placed on public exhibition for a month from 13 October 2022 to 13 November 2022. The following notification was carried out:

- Sign on the site for the duration of the exhibition period;
- Notification in the local Star Newspaper;
- Letters to neighbouring property owners and occupiers;
- Direct notification to relevant government agencies and departments.

In addition, information was made available from Council's and the Department of Environment, Land, Water and Planning's websites.

As discussed above, a total of seven written submissions were received.

Throughout the exhibition period one phone enquiry was received regarding the combined amendment and planning permit application.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

In preparing the amendment, Council and the proponent both informally consulted with the CFA on the Bushfire report prepared to support the amendment request.

During the public exhibition, Council sought formal comments from the CFA which have been detailed above in the 'submissions' section of this report and listed in Attachment 1 to this report as submission 6.

RISK ASSESSMENT

If the amendment proceeds and is approved, there is a risk that other site-specific amendments of a similar nature may follow, creating a precedent. Considering these issues on a site by site and piecemeal way, would be contradictory to the Minister's letter directing Council to consider the issues on a broad strategic level.

The preparation of a new Housing Strategy that is currently underway, will consider future housing need across the municipality at a broader strategic level.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

1. Submission summary
2. Amendment C208 Explanatory Report
3. YR-2022/512 Draft Planning Permit

SUMMARY OF WRITTEN SUBMISSIONS TO COMBINED AMENDMENT C208 & PERMIT APPLICATION YR-2022/512

The below table provides a summary of the written submissions, together with an officer response to the submission and recommendations.

Submitter No.	Theme	Summary of submission	Response to submission
1	Permit Conditions (<i>Yarra Valley Water</i>)	<p>The combined amendment and planning permit application was referred to Yarra Valley Water as a referral authority.</p> <p>Yarra Valley Water consents to the granting of a planning permit subject to the owner of the subject land entering into an agreement with Yarra Valley Water for the provision of water and sewerage services.</p> <p>Yarra Valley also requires a copy of the Plan of Subdivision to be provided to Yarra Valley Water prior to certification.</p>	<p>Thank you for making a submission. In response to your submission, we advised that your support is noted.</p> <p>Recommendation: No change required to the amendment.</p>
2	General (<i>EPA</i>)	<p>The combined amendment and planning permit application was referred to the EPA as a referral authority.</p> <p>They deemed the proposal to be low risk in relation to risk of harm from pollution or waste and advised they will not be making a submission.</p> <p>They have requested no further communications in respect of this proposal.</p>	<p>Thank you for your response. We note you will not be making a submission and you request for no further communications in respect to this proposal.</p> <p>Recommendation: No change required to the amendment.</p>
3	Permit Conditions (<i>AusNet</i>)	<p>The combined amendment and planning permit application was referred to the AusNet as a referral authority.</p> <p>AusNet does not object to the issue of a planning permit provided:</p>	<p>Thank you for making a submission. In response to your submission, we advised that your position is noted.</p> <p>Recommendation: No change required to the amendment.</p>

Submitter No.	Theme	Summary of submission	Response to submission
		<ul style="list-style-type: none"> - The plan of subdivision is submitted for certification must be referred to AusNet Electricity Services Pty Ltd. - The applicant enters into an agreement with AusNet Electricity Services Pty Ltd for the extension, upgrading or rearrangement of the electricity supply to lots on the plan of subdivision, including a payment to cover the cost of such work will be required. - The applicant provides electricity easements internal and external to the subdivision in favour of AusNet Electricity Services Pty Ltd to service the lots on the plan of subdivision and/or abutting lands as required by AusNet Electricity Services Pty Ltd. The provision of reserves for electricity substations may also be required. 	
4	General <i>(Melbourne Water)</i>	<p>The combined amendment and planning permit application was referred to Melbourne Water as a referral authority.</p> <p>Melbourne Water does not object to the proposed subdivision.</p>	<p>Thank you for making a submission. In response to your submission, we advised that your position is noted.</p> <p>Recommendation: No change required to the amendment.</p>
5	Previous subdivision in area	<p>Submitter 5 supports a subdivision of 27-33 Old Hereford Road.</p> <p>The submitter believes this property and others similar should have been able to subdivide when Amendment C143 was consulted on. The Advisory Committee that considered the Amendment recommended that the Minister support the subdivision of these types of</p>	<p>Thank you for making a submission. In response to your submission, we advised that your support is noted.</p> <p>Recommendation: No change required to the amendment.</p>

Submitter No.	Theme	Summary of submission	Response to submission
		<p>properties, based on consultation and submissions by a number of residents.</p> <p>The submitter stated the exercise described was costly and that the Minster should not have overturned the advisory committee findings.</p>	
6 <i>(Submission withdrawn)</i>	Drainage	<p>Submitter 6 objected to planning scheme amendment C208 and planning permit application YR-2022/512 27-33 Old Hereford Road Mt Evelyn</p> <p>The submitter raised concerns over the current onsite stormwater management and a lack of downpipes and drains on the site's existing structures. Their primary concern was that further development on the site would exacerbate the existing stormwater management issues and surface water runoff into their property.</p>	<p>Thank you for making a submission. In response to your submission, we followed up with the landowner who then provided a Certificate of Compliance relating to drainage works undertaken at the property.</p> <p>An additional dwelling has already been approved at YR-2018/1032, Under this permit the landowner can build a second dwelling regardless of whether an amendment to the planning scheme to enable subdivision is progressed.</p> <p>Officers contacted Submitter 6 to further discuss their concerns and provide a copy of the Certificate of Compliance from the landowner relating to the rectification of existing drainage issues on the property. On this basis the submitter withdrew their submission.</p> <p>Recommendation: No change required to the amendment.</p>
7	BAL Rating (CFA)	<p>The combined amendment and planning permit application was referred to CFA as a referral authority.</p> <p>As per previous advice, CFA requested that when Council considers site-based exposure, that consideration is had as to whether the site can achieve a radiant exposure of less than 12.5 kW/m².</p>	<p>Thank you for making a submission. In response to your submission, we advised that your support is noted.</p> <p>The planning permit previously granted for the construction of a second dwelling has an associated Bushfire Management Plan which states that the dwelling must be constructed to a minimum Bushfire Attack Level of BAL 29.</p>

Submitter No.	Theme	Summary of submission	Response to submission
		<p>CFA recommend that any dwelling on the land be constructed level of BAL-29, as Schedule 2 to the Bushfire Management Overlay already applies to the land.</p> <p>CFA also note there is a spelling error at section B dot point 5 of the permit 'Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.'</p> <p>CFA are supportive of all other drafted permit conditions</p>	<p>There are no changes to this plan or this existing Permit YR-2018/1032.</p> <p>Recommendation: Rectify minor spelling error</p>

YARRA RANGES PLANNING SCHEME

AMENDMENT C208

PLANNING PERMIT APPLICATION YR-2022/512

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Yarra Ranges Council which is the planning authority for this amendment.

The amendment has been made at the request of Mr John & Lucia Baulch (owners) of 27-33 Old Hereford Road, Mount Evelyn.

Land affected by the amendment

The amendment applies to Lot 1 TP 187625X, being 27-33 Old Hereford Road Mount Evelyn.



What the amendment does

The amendment applies Schedule 2 to the land zoned Low Density Residential Zone (LDRZ) allowing subdivision with a minimum lot size of 0.2 hectares rather than the 0.4 hectares currently required.

The new schedule will enable the creation of a 2200m² site subject to a permit, to facilitate the construction of a dwelling approved by planning permit YR2018/1032. The existing dwelling is to be retained on a site of 2967m² in area.

Concurrent with the preparation of the planning scheme amendment a planning permit application is made pursuant to Section 96A(1)(a) of the Planning and Environment Act 1987.

Division 5 of Part 4 of the Act provides for a combined permit and amendment process. This provides for a planning authority to consider an application for a planning permit concurrently with an amendment to a planning scheme.

The permit is for the subdivision of Lot 1 TP 187625X, being 27-33 Old Hereford Road Mount Evelyn into two lots.

The planning permit is attached as a separate document to this Explanatory Report.

Strategic assessment of the amendment

Why is the amendment required?

The amendment is required to facilitate the subdivision and creation of a lot (2200m²) to accommodate a new dwelling as approved by YR 2018/1032.

How does the amendment implement the objectives of planning in Victoria?

The Amendment supports the following objectives of planning in Victoria, set out in Section 4 (1) of the *Planning and Environment Act 1987*:

- *To provide for the fair, orderly, economic and sustainable use, and development of land.*
- *To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
- *To balance the present and future interests of all Victorians.*

The amendment implements these objectives by allowing for the sustainable use and development of an approved dwelling on the land within an established low density residential zone.

How does the amendment address any environmental, social and economic effects?

There would be no detrimental environmental effects as a result of the proposed two lot subdivision to facilitate the development of an approved dwelling. The delineation of a new title boundary will not have any social or economic effects.

Does the amendment address relevant bushfire risk?

The amendment is supported by a detailed Bushfire Assessment (*Tree Wishes - September 2021*). The addendum to the Bushfire Management Assessment (12 May 2022) specifically responds to the criteria in Clause 13.02-1S (Bushfire Hazard Identification and Assessment) that requires bushfire hazards (such as vegetation, topographic and climatic conditions) are identified and that an appropriate risk assessment is performed.

Specifically, and as required by Clause 13.02-1S, this has now been performed at the following scales:

- Landscape conditions up to 20km
- Local conditions up to 1km
- Neighbourhood conditions up to 400m

- The site

The assessment is included in Addendum 1 of the 'Tree Wishes' report.

The bushfire assessment demonstrates that the subject land is exposed to a relatively low bushfire risk, with the overall Bushfire Attack Level (BAL) for the site determined as BAL-Low (12.5) given:

- Residential landscape surrounded to the north, west and south by higher density residential landscape;
- Vegetation assessments indicate a low threat in all directions within 150 m of site;
- Landscape scenario – type 2 'broader landscape type' representing the second lowest landscape risk;
- Defendable space is being provided for a distance of 50 metres, or the property boundary whichever is the lesser, for buildings constructed to all bushfire attack levels;
- Access to and from Mt Evelyn;
- Morrison Public Reserves lies to the immediate south east; and,
- A neighbourhood safe place is located within 100m of the site.

Conditions ensuring how bushfire risk is managed for the proposed dwelling have been placed within the existing planning permit for development as recommended by the CFA. Permit conditions ensuring how bushfire risk is managed for the proposed two lot subdivision have been included in the draft planning permit for subdivision in consultation with the CFA.

This approach is consistent with Clause 13.02-1S (Bushfire Planning), Strategies, Protection of human life which gives priority to directing development into low-risk locations and ensuring the availability of and safe access to area where human life can be protected. The approach is also consistent with conditions included in recent amendments supported by DELWP to address bushfire risk (Casey C231-DPO24; Campaspe C118 – DPO11).

Based on the potential for bushfire risk, the draft planning permit for subdivision to the site requires (among other things), that the new lot includes a building envelope that is capable of achieving a setback from a bushfire hazard to enable construction standard of BAL 12.5; or that it be located a sufficient distance from the hazard vegetation that a building may be sited on the lot to achieve compliance with a BAL 12.5 construction standard.

The site is considered to be of sufficient size and dimensions to incorporate any appropriate bushfire design responses.

The CFA has been consulted on the proposal and formally notified of the amendment and given the opportunity to provide comment at exhibition.

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

Ministerial Direction on Form and Content of Planning Schemes

The amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes pursuant to section 7(5) of the *Planning and Environment Act 1987*.

Ministerial Direction No. 9 Metropolitan Planning Strategy

The Amendment is affected by Ministerial Direction No. 9 – Metropolitan Strategy under Section 12 of the *Planning and Environment Act 1987*. Plan Melbourne is the adopted Metropolitan Strategy for the Melbourne region and Yarra Ranges Council. The amendment is consistent with the following Directions within Plan Melbourne:

Direction 4.5 Plan for Melbourne's green wedges and peri-urban areas

- Avoid development in locations where there is risk to life, property, the natural environment and infrastructure from natural hazards such as bushfire and flooding.
- Accommodate additional housing and employment in established towns that have the capacity for growth.

Ministerial Direction No. 11

The requirements of Ministerial Direction No. 11 - Strategic Assessment of Amendments have been considered in the preparation of Amendment C208Yran and form the basis of this Explanatory Report.

Ministerial Direction No. 17 – Yarra Ranges Localised Planning Statement (27 June 2017)

The Yarra Ranges Localised Planning Statement applies to all land in Yarra Ranges Council. The Amendment is consistent with Section 6.1 of the Statement which seeks to:

- Provide and support a density of housing across Yarra Ranges urban areas;
- Ensure development within existing settlements will be of a type and scale that respects the existing character of each area.

How does the amendment support or implement the Planning Policy Framework and any adopted State policy?

The amendment is consistent with the following state policies:

11 Settlement:

- *Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social, community and commercial infrastructure and services.*

11.01-1S Settlement Strategies

- *Limit urban sprawl and direct growth into existing settlements.*
- *Promote and capitalise on opportunities for urban renewal and infill redevelopment.*

16.01-2S Location of Residential Development

- *Facilitate residential development that is cost effective in infrastructure provision and use, energy efficient, water efficient and encourages public transport use.*
- *Identify opportunities for increased residential densities to help consolidate urban areas.*

16.01-5S Rural Residential Development

- *Encourage the consolidation of new housing in existing settlements where investment in physical and community infrastructure and services has already been made.*

In respect to these state policies, the following is relevant:

- The site at 27-33 Old Hereford Road is located within a fully developed residential precinct of Mt Evelyn (population 9700) connected to reticulated infrastructure (water, sewerage, power, telecommunications) and close to social and community infrastructure.
- The subdivision of the site:
 - Takes full advantage of the existing Mt Evelyn residential area, within the UGB;
 - Allows subdivision within existing residential areas;
 - Is consistent with the consolidation of development in existing settlements that are serviced with physical and community infrastructure.

The amendment is consistent with the following local policies:

11.01-1L-01 Settlement:

- *Support residential infill development in the consolidation areas of large neighbourhood activity centres or where appropriate to the role of the town or suburb consistent with Table 2 to Clause 2.03-1.*

11.03-1L-01 Activity Centres - Large neighbourhood activity centres

Support development in large neighbourhood activity centres that provides for additional housing.

15.01-3L Residential subdivision design

- *Design subdivisions to respond to existing physical, environmental, and visual characteristics of a site and the surrounding area.*
- *Support flexibility and diversity in residential subdivision design in consolidation areas.*
- *Support a variety of lot sizes outside of consolidation areas where it will assist in retaining significant vegetation and other valued neighbourhood characteristics.*
- *Design subdivisions to enable lots to have a strong street presence and to be conveniently accessible from the street.*

The clause has policy guidelines for providing a street frontage of at least 8 metres in the Low Density Residential Zone.

This part of Mount Evelyn, in contrast to other foothills areas, is a fully developed residential precinct and is connected to both reticulated sewer and water.

The proposal is considered consistent with these clauses in that:

- The subdivision of the site to create a site for a single storey dwelling is consistent with the residential strategies of the planning scheme of containing infill development within established residential areas.
- The “character” of Old Hereford, Hereford & Kookaburra Lane is a fully developed residential precinct consisting of 53 lots which range in area from 1000-1500m². The creation of a new lot (2200m²) for the approved dwelling is consistent with the existing settlement pattern of this fully developed residential precinct.
- The subdivision and subsequent development of a dwelling cannot change the character of this developed residential precinct.
- The subdivision of the site to create a 2200m² lot is consistent with the zone of low-density single dwelling residential use.
- The proposal allows for the subdivision of an approved dwelling at a density consistent with the neighbouring properties.
- The design of the subdivision for the location of the approved dwelling is within the established garden area of the site and lower than road level (19m setback) which ensures no impact on any landscape values of the SLO22.
- It provides for a range of lot sizes in appropriate locations to meet the needs of a diverse range of household types. The creation of a 2200m² lot is consistent with the existing settlement pattern of this precinct.

The proposal is also consistent with the “Policy guidance” for subdivision in residential areas by providing a development plan showing the building envelope and how development arising as a result of subdivision addresses existing feature, such as slope, terrain, substantial areas and any vegetation.

As detailed below under the MPS section of this report, Mount Evelyn is identified in table 2 as a Large Neighbourhood Activity Centre. The role for this Activity centre type includes that land within and adjoining these centres is generally an appropriate location for additional housing.

Clause 42.03 Significant Landscape Overlay Schedule 22 – Foothills and Rural Township

The creation of a 2200m lot within SLO22 is also consistent with the Significant Landscape Overlay which identifies that the foothill areas at the base of the Dandenong Ranges contain houses which, although occurring at more suburban densities, are well integrated into an environmental setting.

How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

Not applicable

Is the amendment consistent with the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan?

Section 46F of the *Planning and Environment Act 1987* requires that any amendment to the Yarra Ranges Planning Scheme must not be inconsistent with the *Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan* (RSP). The site is located within Township A and clause 3.14 subdivision for Township Policy Areas applies to the subdivision of land:

- Ensure that all subdivision is compatible with the special features and character of the township policy areas;
- Provide a range of lot sizes which allow for the creation of diverse and interesting township areas and to improve housing choice;
- Maintain environmental and landscape qualities and residential amenity;
- Adequately control subdivision of land which is subject to environmental constraints and/or which cannot be adequately serviced;
- Ensure the efficient utilisation of existing hydraulic and human services and the adequate provision of new services;
- Protect sites of natural significance and/or sites of cultural significance; and
- Ensure subdivision is of a scale and in locations that will not generate traffic demands that would lower the environmental amenity in the locality of in the region.

The approval of the site for the use and development of the land for a second dwelling addressed the issues of environment and landscape constraints, and gave detailed consideration to the overlays that apply to the site (BMO2 & SLO22).

Clause 3.14 Subdivision Policies also identifies the need for lots to be connected to reticulated sewerage and provision of underground services (power, telecommunication). This developed residential precinct is already connected to all urban infrastructure, with reticulated sewerage being provided to this residential precinct in 1985.

It is considered that the amendment is consistent with the above policies of the Regional Strategy Plan.

How does the amendment support or implement the Municipal Planning Strategy?

The amendment is consistent with the following elements of the Municipal Planning Strategy:

02.03-1 Settlement *Yarra Ranges' network of activity centres (shown in Table 2 below and on the Economic Activity Plan at 02.04-3) plays an important role in providing a range of services and employment opportunities and a complementary range of housing types, commercial services and community infrastructure.*

Mount Evelyn is identified in table 2 as a Large Neighbourhood Activity Centre. The role for this Activity centre type details that land within and adjoining these centres is generally an appropriate location for additional housing.

02.03-3 Environmental Risk and amenity

Council's strategic directions for environmental risks are to:

- *Discourage additional dwellings, subdivision and other sensitive land uses in bushfire prone areas and where the required defensible space would necessitate significant removal of high-quality indigenous vegetation.*

02.03-5 Built Environment and Heritage

The identity and rural town character of many Yarra Ranges settlements is enhanced by their location in a rural landscape setting and distinct separation from other urban areas. The quality and presentation of buildings and public places in Yarra Ranges' activity centres also plays a significant role in creating a sense of place for local communities.

Council's strategic directions for the built environment and heritage are to encourage development that contributes to a sense of place and adds to the character and identity of the distinct localities in Yarra Ranges.

02.03-6 Housing

- *Contain residential subdivision within the existing Urban Growth Boundary.*

Does the amendment make proper use of the Victoria Planning Provisions?

The amendment makes the proper use of the VPP's through the use of an additional schedule to the Low Density Residential Zone.

Have the views of any relevant agency been addressed?

The prescribed government agencies have been notified of the amendment and given an opportunity to make a submission.

The CFA were consulted on the approved dwelling application and have also been consulted on the proposed two lot subdivision during the exhibition period.

Does the amendment address relevant requirements of the Transport Integration Act 2010?

Public transport to the township of Mount Evelyn is provided by bus routes which provide connection to the Principal Public Transport Network. The Amendment reinforces the consolidation of residential areas served by public transport.

Resource and administrative costs

What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

The Amendment is not expected to generate additional resource and administrative costs, as it is limited to one site.

Where you may inspect this amendment

The Amendment is available for public inspection, free of charge, during office hours at the following Yarra Ranges Community Link Centres:

- Lilydale – 15 Anderson Street, Lilydale
- Monbulk – 21 Main Road, Monbulk
- Healesville – 110 River Street, Healesville
- Upwey – 40 Main Street, Upwey
- Yarra Junction – 2442-2444 Warburton Hwy, Yarra Junction

The Amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.planning.vic.gov.au/public-inspection

PLANNING PERMIT

GRANTED UNDER SECTION 96I OF THE
PLANNING AND ENVIRONMENT ACT 1987

Permit No.: YR-2022/512

Planning scheme: Yarra Ranges

Responsible authority: Yarra Ranges Council

ADDRESS OF THE LAND: 27-33 OLD HEREFORD ROAD, MOUNT EVELYN

THE PERMIT ALLOWS: THE SUBDIVISION OF LOT 1 TP 187625X INTO TWO LOTS (Lots 1 and 2)

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Prior to the Certification of the Plan of Subdivision, a plan must be submitted for approval to the satisfaction of the Responsible Authority to show a building envelope 9 x 15 metres and adherence to Clause 53.02-4.4 of the Yarra Ranges Planning Scheme and will be required as a component of the Section 173 Agreement required under Condition 4 of this Permit.
2. The subdivision as shown on the endorsed plans must not be altered unless with the further written consent of the Responsible Authority.
3. This permit will expire if one of the following circumstances applies:
 - a. The Plan of Subdivision is not started within two (2) years of the date of this permit, as evidenced by the plan of subdivision being certified (all stages) by the Council within that timeframe; or
 - b. The registration of the subdivision is not completed within five (5) years of the date of certification.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

4. Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987 and make application to the Registrar of Titles to have the agreement registered on the title to Lot 2 under Section 181 of the Act. The agreement must include the following conditions:

- *State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Yarra Ranges Planning Scheme.*

Date issued:

Date permit comes into operation:

(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

Signature for the responsible authority:

- *Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.*
- *State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.*

The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.

Before certification is issued, a Bushfire Management plan must be prepared and approved by the CFA and Responsible Authority to show the following:

- a. Within the defensible space, vegetation (and other flammable materials) must be modified and managed in accordance with the following requirements:
 - Grass must be short cropped and maintained during the declared fire danger period.
 - All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
 - Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
 - Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
 - Shrubs must not be located under the canopy of trees.
 - Individual and clumps of shrubs must not exceed 5sq metres in area and must be separated by at least 5 metres.
 - Trees must not overhang or touch any elements of the building
 - The canopy of trees must be separated by at least 5 metres.
 - There must be a clearance of at least 2 metres between the lowest branches and ground level.
- b. Access requirements for Lot 2 must meet the following requirements:
 - Curves must have a minimum inner radius of 10m
 - The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50m).
 - Have a minimum trafficable width of 3.5m of all-weather construction.
 - Be clear of encroachments for at least 0.5m on each side and 4m above the accessway.

Date issued:

Date permit comes into operation:

(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

Signature for the responsible authority:

- Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.
- c. 10,000 litres of effective water supply for fire fighting purposes which meets the following requirements:
 - Is stored in an above ground water tank constructed of concrete or metal.
 - All fixed above-ground water pipes and fittings required for fire fighting purposes must be made of corrosive resistant metal.
 - Include a separate outlet for occupant use.
- d. The water supply must also:
 - Incorporate a ball or gate valve (British Standard Pipe (BSP) 65mm) and coupling (64mm CFA 3 thread per inch male fitting).
 - Be located within 60 metres of the outer edge of the approved building.
 - The outlet/s of the water tank must be within 4m of the accessway and be unobstructed.
 - Be readily identifiable from the building or appropriate identification signage to the satisfaction of the CFA must be provided.
 - Any pipework and fitting must be a minimum of 65mm (excluding the CFA coupling).
- e. A building envelope and defensible space envelope to achieve a Bushfire Attack Level of 12.5.
- 5. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with that authority's requirements and relevant legislation at the time.
- 6. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
- 7. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with Section 8 of that Act.
- 8. Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must enter into an agreement with and provide written confirmation from:

Date issued:	Date permit comes into operation: (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	Signature for the responsible authority:
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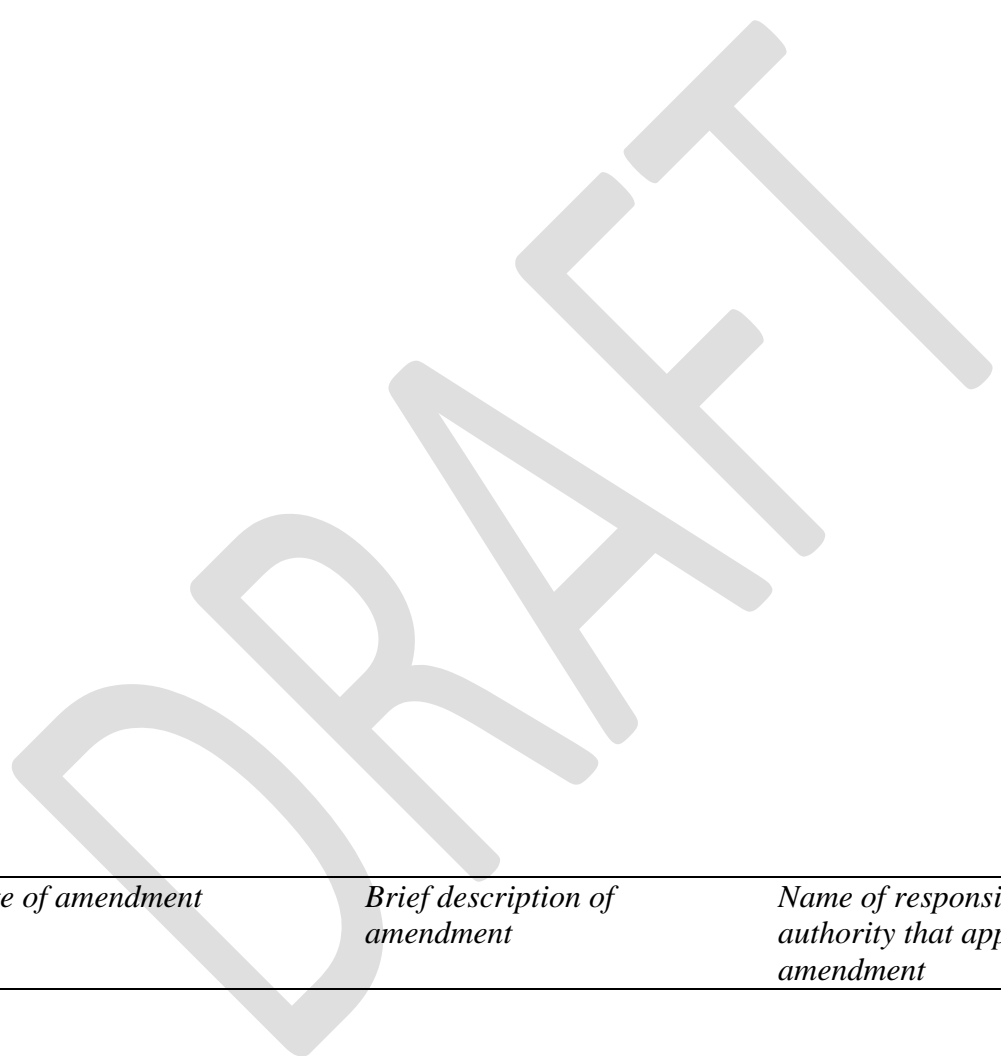
- a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and
 - a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
9. Prior to a Statement of Compliance being issued, piped drainage must be constructed to drain all impervious areas of all lots incorporating Water Sensitive Urban Design features, to the satisfaction of the Responsible Authority.
 10. Prior to Statement of Compliance being issued, the construction of all civil works within the site, including detention system must be fully completed and subsequently inspected and approved by a suitably experienced at the arrangement and expense of the owner/developer. This person must supply written certification that the works have been constructed in accordance with this permit and to relevant standards to the satisfaction of the Responsible Authority.
 11. Prior to Statement of Compliance being issued, a stormwater detention system must be constructed to control all surface runoff from the subdivision to ensure the maximum discharge from the property does not exceed the existing discharge, the satisfaction of the Responsible Authority.
 12. Prior to a Statement of Compliance being issued, Development Stormwater Drainage Engineering Plans and Computations must be submitted to, and approved by, the Responsible Authority. Development Stormwater Drainage Engineering Plans and Computations must be consistent with all requirements of the approved point of discharge certificate.

<https://www.yarraranges.vic.gov.au/Development/Roads-drains/Applications-and-permits/Submit-stormwater-drainage-and-computations>
 13. Prior to a Statement of Compliance being issued, the owner/developer must demonstrate to the satisfaction of the Responsible Authority that stormwater runoff exiting the land has been designed and constructed to meet the current best practice performance objectives for stormwater quality, as contained in the Urban Stormwater - Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999) as follows:
 - a. 80% retention of the typical annual load of suspended solids;
 - b. 70% reduction of the typical annual load of gross pollutants;
 - c. 45% retention of the typical annual load of total phosphorous; and
 - d. 45% retention of the typical annual load of total nitrogen.
 14. The management of Stormwater is to be in accordance with the Approved Point of Stormwater Discharge. Please apply for Approved Point of Stormwater Discharge through Council’s webpage.

Date issued:	Date permit comes into operation: (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	Signature for the responsible authority:
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<https://www.yarraranges.vic.gov.au/Development/Roads-drains-footpath/Applications-and-permits/Apply-for-point-of-discharge>

15. Prior to Statement of Compliance being issued, the new 3.5 metre crossover for Lot 1 must be fully constructed to the satisfaction of the Responsible Authority.



<i>Date of amendment</i>	<i>Brief description of amendment</i>	<i>Name of responsible authority that approved the amendment</i>

Date issued:	Date permit comes into operation: (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	Signature for the responsible authority:
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IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit. The permit was granted by the Minister under section 96I of the **Planning and Environment Act 1987** on approval of Amendment No. *[insert amendment number]* to the *[insert name of planning scheme]*.

WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
 - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
 2. A permit for the use of land expires if—
 - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - the use is discontinued for a period of two years.
 3. A permit for the development and use of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
 - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
 4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision—
 - the use or development of any stage is to be taken to have started when the plan is certified; and
 - the permit expires if the plan is not certified within two years of the issue of the permit.
 5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.
-

WHAT ABOUT REVIEWS?

- In accordance with section 96M of the **Planning and Environment Act 1987**, the applicant may not apply to the Victorian Civil and Administrative Tribunal for a review of any condition in this permit.

CT7095 KERBSIDE COLLECTION SERVICES INCLUDING MOBILE BIN AND LID PURCHASING AND DISTRIBUTION

Report Author: Executive Officer - Waste Management
 Responsible Officer: Director Planning and Sustainable Futures
 Ward(s) affected: (All Wards);

CONFIDENTIALITY

Confidential information is contained in the attachments to this report. This information relates to contractual matters and contains commercially sensitive information including, but not limited to, the name of tendering parties, the evaluation panel members, the tendered prices and the evaluation of the tenders received against the published evaluation criteria.

Any disclosure of the information included within the confidential report could be prejudicial to the interests of the Council or other parties. Report is confidential in accordance with Section 3(1)(g)(i)(g)(ii) of the Local Government Act 2020. This report provides details regarding approval to award a contract that complies with the Section 108 of the Local Government Act 2020.

SUMMARY

This report and attachment inform Council on the Tender Process for the CT7095 Kerbside Collection & Mobile Bin Supply and Distribution tender, which closed on 21 October 2022 and seeks approval to award the tender to the preferred tenderer as per the recommendations within the confidential evaluation report.

The timing of the report relates to ensuring the transition of services can be appropriately managed which relies on delivery of the Letter of Offer by February 2023. This will ensure all contract resources, such as trucks and bins, are in place for the commencement of services in October 2023.

RECOMMENDATION

That

1. ***Council accepts the tender and awards a schedule of rates contract for CT7095 Kerbside Collection Services Including Mobile Bin and Lid Purchasing and Distribution to JJ Richards & Sons Pty Ltd for an estimated value of \$160,826,000, (excl. GST) for a ten (10) year term, subject to the resolution of proposed contract departures and inclusive of all negotiated cost savings, schedule of rates and any provisional items detailed in the Confidential Attachment to this report.***

2. ***The Director Planning and Sustainable Futures be delegated the authority to finalise negotiations and sign the contract documents and future extension options.***
3. ***The confidential attachments to this report remains confidential indefinitely as it relates to matters specified under Section 3(1) (g)(i), (g)(ii) of the Local Government Act 2020.***

RELATED COUNCIL DECISIONS

There are no related Council decisions to this item.

DISCUSSION

Purpose and Background

The purpose of this report is to award Contract CT7095 Kerbside Collection Services Including Mobile Bin and Lid Purchasing and Distribution to commence on 1 October 2023 for ten (10) years.

Council's current kerbside collection services of household garbage, recyclables and garden organics with the Incumbent Provider JJ Richards have been in place since October 2014 and is due to expire on 30 September 2023.

A tender process has been undertaken to assist in establishing a new contract for future waste collection services for the Yarra Ranges Community which will align with the state governments four stream service as outlined in the States Recycling Victoria- A New Economy Policy.

As part of the evaluation process, a Tender Evaluation Panel (TEP) that crossed directorates was established to ensure a range of Council's service areas were covered when evaluating the tenders.

The TEP was established in accordance with Council's Procurement Guidelines and an independent Probity Auditor reviewed and signed off the process. The Panel consisted of independent consultants with expertise in the field, in addition to Council's representatives.

For further information please refer to the attached evaluation and probity reports.

Options considered

The tender process has been carried out in accordance with Council's Procurement Policy. Options considered are based upon the tenders received.

Further information on this process is included within the attached draft evaluation report.

The timing of glass collection introduction was considered, and prices requested to assist in determining best outcomes for the community. At this stage, there is no

clear benefit to alter the decision to implement this service earlier than the current proposal of 2025/26 year.

When establishing the tender specifications, the contract term was considered to ensure best value is provided to community. Details on this are outlined in the Financial Analysis section of this report.

Recommended option and justification

Following an extensive evaluation process, the evaluation panel are unanimous in their decision as detailed in the Confidential Attachment to this report.

The evaluation panel request that Council support the recommendation to award the contract to the preferred tenderer as detailed in the Tender Evaluation report.

FINANCIAL ANALYSIS

To ensure best value for community, the contract has been set for a fixed ten (10) year term. In past contracts the terms were set with a seven (7) year term plus a two year extension.

By running a fixed ten (10) year contract term, the contractor is in a position to amortise the infrastructure over the full contract term, instead of seven (7) as in previous contracts which spreads that cost out over a longer period to provide a better contract rate for the community.

The contract pricing for collections is based on schedule of rates for the contract term with Indices & Transport rate adjustments which include CPI and fuel.

For further financial information, refer to the financial section of the confidential Draft Evaluation report & attached financial spreadsheet.

APPLICABLE PLANS AND POLICIES

This report contributes to the following strategic objective(s) in the Council Plan:

- Protected & Enhanced Natural Environment - A healthier environment for future generations; and
- Develop a Municipal Waste Plan, education programs and pursue innovative waste processing technologies to maximise waste resource recovery for a more sustainable future.

RELEVANT LAW

This report seeks Council approval to award a contract that complies with the Section 108 of the Local Government Act 2020.

The works and outcomes associated with this report relate directly to the requirements outlined in the State Governments Recycle Victoria – A New Economy Policy.

The services identified under this tender align with Council's Draft Community Waste Resource Recovery Plan.

SUSTAINABILITY IMPLICATIONS

Economic Implications

Considering the economic ramifications of selecting different timing for the glass service allows Council to consider expenditure and the impact on the community as these costs are recovered through the Waste Service Charge on property rates.

Social Implications

Local and social sustainability was considered as part of the evaluation process and was weighted 5% of the overall qualitative evaluation.

Environmental Implications

Waste Management Services are a key sustainability function.

The contract specifications and contract obligations are in place to ensure services are provided to maximise recovery and reduce our reliance on landfill.

COMMUNITY ENGAGEMENT

No specific community engagement has occurred directly associated with this confidential tender process. However, there has been extensive community consultation associated with the Draft Community Waste Resource Recovery Plan which relates directly to this service provision.

There will be future community engagement as part of the extensive education programs and information that will be available to community prior to the transition period as well as following the introduction of the services in October 2023. The contractor is required to assist in education programs which will include extensive auditing of bins with education materials being provided.

These programs and support by the contractor will assist in ensuring the services are being used correctly to maximise recovery and reduce material going to landfill.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

Prior to the preparation of the specifications and advertising of this tender, the EO Waste Management had extensive conversations with a number of Councils in the attempt to establish a joint procurement process. Due to different Council's timeframes and priorities, a joint procurement model did not eventuate beyond the sharing of specifications.

Innovation was reviewed as part of the evaluation process with new technologies being proposed within the tenders.

RISK ASSESSMENT

The evaluation criteria were targeted to understand and mitigate Council risk with a focus on strong management structures, processes and systems that support the process, including strong stakeholder communications and the ability to report in real time for Yarra Ranges.

In particular, the risk around transitioning the service, within the constrained timeline formed an element of the evaluation. To help offset this Council is establishing its own internal transition team to support the transition activities for the contractor and community.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

1. Evaluation Report
2. Probity Report
3. Financial Summary
4. Financial Detail

Confidential Item

Confidential Item

Confidential Item

Confidential Item

KILSYTH RECREATION RESERVE MASTER PLAN FOR COMMUNITY CONSULTATION

Report Author: RAL - Project Manager - Recreational Planning

Responsible Officer: Director Built Environment and Infrastructure

Ward(s) affected: Walling;

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

This report seeks to inform Council of the draft Kilsyth Recreation Reserve Master Plan (the draft Master Plan) that has been developed following extensive consultation with the local Kilsyth residents, Kilsyth Community Action Group, sports clubs and the broader Yarra Ranges community. The draft Master Plan provides a 10+ year strategic approach to improve sport and recreation facilities at the reserve in response to identified community needs, including repurposing of aged infrastructure.

Improvements recommended include the removal of the redundant tennis courts to provide a multi-generational playspace, multi-purpose court and junior pump track. An upgrade to the oval irrigation and lights is proposed plus the inclusion of a community plaza and oval viewing space. The community will also benefit from an improved path network and 'chillout' spaces.

RECOMMENDATION

That Council

- 1. Consider the recommendations of the draft Kilsyth Recreation Reserve Master Plan.***
- 2. Council approval to release the draft Kilsyth Recreation Reserve Master Plan for community consultation.***

RELATED COUNCIL DECISIONS

The phasing of the draft Master Plan implementation has taken into consideration the proposed purchase of 150 Cambridge Road, Kilsyth. It is understood that the purchase of this land will constrain the amount of public open space funding attributable to the Walling Ward for several years. Hence, the majority of proposed upgrades commence planning and construction in 2026-35.

DISCUSSION

Purpose and Background

Kilsyth Recreation Reserve is located on the eastern side of Colchester Road, which forms the boundary between Yarra Ranges Walling Ward and Maroondah Council. To the north, the Reserve connects with the Kilsyth Memorial Hall and abuts four disjointed shopping precincts; the main ones being the Churinga Shopping Centre and the collection of independently owned shops combined with a Dan Murphy's outlet (formerly Coles). On the eastern boundary are residential properties and a large retirement village connects to the south of the Reserve.

The Kilsyth Recreation Reserve is the base and offices for the Kilsyth AFL Centre of Excellence, that plays an important part in the development of elite AFL football players in the region. The venue is host to the Yarra Ranges female football finals competition. The broader Reserve is underutilised with little to attract community usage.

Several years ago, the tenant tennis club merged with another and now play at the Kiloran Park facility. Since then, a local coach has leased the courts with a diminishing number of participants. The five en-tous-cas courts are at end of life, in a state of disrepair and are recommended for removal. The two synthetic courts have a limited life before they too become unplayable. Current community use is limited to general walking, dog walking and use of the oval when not being used for football purposes.

Other than football, the predominant use of the reserve is as a thoroughfare to the shops from the adjacent retirement village and some usage of two tennis courts for coaching. Overall, the Reserve fails to meet community expectations as a desirable place to meet, relax and take part in recreation activities or watch football.

Five of the seven tennis courts have laid dormant for many years, are an eyesore and waste of valuable open space. Subject to available funding it is recommended that in 2023-24, the old tennis clubhouse is demolished, and the five en-tous-cas courts are returned to open space. The lease on the other two courts will cease in May and be prepared for community use.

The draft Master Plan aims to maximise future use of the reserve by sporting clubs and the community through upgrades to existing facilities and offerings at the reserve. Actions of the master plan are supported through the initial community

feedback, and consultation with the tenant sporting clubs and the Kilsyth Community Action Group.

Options considered

The Background Report (Attachment 1) provides details of the site analysis study, issues and opportunities identified through research and extensive internal and external consultation feedback. Issues and opportunities identified have underpinned the development of the draft Kilsyth Recreation Reserve Master Plan (Attachment 2) that address the current needs and support increased participation and usability of the Reserve and its infrastructure.

Recommended option and justification

The Draft Kilsyth Recreation Reserve Master Plan (Attachment 2) considers the current and future demographics of the area, community feedback and internal recommendations informing the development of the draft Master Plan.

Proposed improvements identified in the draft Master Plan for the Reserve and oval areas include, but are not limited to:

- Sport Precinct
 - Ground and lighting upgrade (irrigation, LED sports lighting)
 - Coach/player and timekeeper boxes
 - removal of redundant buildings
 - extending access to the public toilet at the sports pavilion, and
 - improved traffic flow, parking and path network.
- Plaza precinct
 - Multi-use plaza space with landscaping and terrace seating area, and
 - Improved interface with the Kilsyth Memorial Hall.
- Recreation Precinct
 - Removal of redundant (5) en-tous-cas tennis courts, and
 - Installation of a recreation hub, to include:
 - local level playspace with picnic shelters
 - netball sized court, multi-lined for various ball sports and suitable for netball finals matches
 - pump track
 - additional landscaping and a nature play area
 - public art/sculpture feature at the interface with the shopping centre, and
 - seating and path connections through the Reserve.

FINANCIAL ANALYSIS

The implementation of the draft Master Plan does not have an allocated budget.

The Cost Plan (Attachment 3) has been developed to show estimated costs and a potential funding model, summarised in the Table below. These costs have included a 15% premium from the original (2021) opinion of probable costs to factor in the recent escalation in prices attributable to materials supply and construction.

Full details of the financial implication over the period of the master plan are provided in Attachment 4.

		Potential Funding Contributions			
Activity Area	Estimated Cost	Council	State / Federal Government Grant	Yarra Ranges Community Grant	Outer East FNL / Eastern Ranges
Sports Precinct	\$1,079,350	\$563,275	\$436,075	\$15,000	\$65,000
Plaza Precinct	\$400,300	\$205,900	\$194,400		
Recreation Precinct	\$2,410,975	\$1,572,900	\$832,825	\$5,250	
TOTAL	\$3,890,625	\$2,342,075	\$1,463,300	\$20,250	\$65,000

The tenant groups at Kilsyth (Outer East Football Netball League and Eastern Ranges) have indicated that there is a strong likelihood that they/AFL could assist with funding of the sport related items. Based on required contribution from sports clubs to timekeeper's room/scoreboard and coach boxes, an AFL contribution of \$45,000 is expected. A further \$20,000 contribution towards a new storage shed and nets behind goals would be sought. These contributions would be consistent with that expected of other Yarra Ranges based clubs.

The Kilsyth 'Centre of Excellence' is the pinnacle in development for local rising football stars in the region, especially young females. Of the 90 girls and 120 boys based at Kilsyth Recreation Reserve, approximately 60% are Yarra Ranges residents. In addition to the unique role the centre plays in local football development, the reserve serves as a community football backup venue when other grounds are out of action or being redeveloped. Most recently Kilsyth Recreation Reserve was used by the Mt Evelyn and Powelltown football/netball clubs during renovations. Therefore, due to the community usage that occurs at the reserve, it is appropriate that a community contribution approach be applied to the regular tenant groups for the oval based improvements recommended in the Master Plan.

The funding contribution split for the Plaza and Recreation Precinct is based on a favourable outcome of applications to Sport and Recreation Victoria and Growing Suburbs Funds. In the detailed phasing of projects (Attachment 4), elements have been grouped to support a funding application(s) approach.

Of Council funds, the majority is anticipated to come from Public Open Space funding, (\$1.02 million) or Asset New & Improved Reserve (\$610,000), with approximately \$37,000 from Asset Renewal Revenue (ARR), attributable to the demolition of the public toilet block, old youth hall and the tennis clubhouse.

An Asset Maintenance Plan (Attachment 5) has been developed to identify maintenance costs attributable to the improvements proposed in the draft Master Plan. It is anticipated that there will be a total maintenance cost to Council of \$375,000 and the AFL Outer East \$88,500 over the 15 years. Transfer of 67% of toilet cleaning responsibility to Council to increase community access to the pavilion public toilets, in lieu of building an additional facility, means an estimated savings for the AFL Outer East of over \$100,000 over the 15 years.

APPLICABLE PLANS AND POLICIES

This report contributes to the following strategic objectives in the Council Plan:

- Connected and Healthy Communities; and
- Quality Infrastructure and Liveable Places

The provision of improved facilities at Kilsyth Recreation Reserve, through careful community consultation and master planning, will deliver facilities and infrastructure that meets the growing and diverse needs of our community.

Health and Wellbeing Plan 2021-2025

- increase active living; and
- improve mental wellbeing and social connection

New and improved facilities will contribute to improved health and wellbeing with increased opportunities to socialise and exercise.

Recreation and Open Space Strategy 2013 - 2023

The Recreation and Open Space Strategy 2013-2023 sets out directions for creating healthy and active environments and services in Yarra Ranges and provides a framework to guide future development and management of Council's recreation reserves, parks and community spaces, including Kilsyth Recreation Reserve.

Equity, Access and Inclusion Strategy 2013-2023

Through this Strategy, Council recognises that inclusion for people with a disability in all aspects of community life is a human right that also brings many social, cultural and economic benefits for the wider community. It further states as one of the goals that Council buildings and infrastructure are accessible to everyone in our community. Improvements to the amenities and increased ease of mobility through the Kilsyth Recreation Reserve is a key deliverable of this draft Master Plan and will promote broader Reserve use by the residents of the 198 units of Walmsley Retirement Village, abutting the Reserve.

Child and Youth Strategy 2014-2024

This Strategy has the vision that Yarra Ranges will be a place where every child and young person will be able to thrive, reach their potential and actively participate in

decision making. Outcome 2 has the most relevance to this draft Master Plan, recommending that “Adequate Infrastructure exists to meet the needs of children, young people and their families.” The re-establishment of a playspace at Kilsyth Recreation Reserve was a dominant request from the long-term residents and the new family groups that officers spoke to at the pop-up sessions and in survey responses. The inclusion of a playspace at this location has been added to the revised Playspace Strategy for construction in 2025/26.

RELEVANT LAW

Gender Impact Assessment

This policy/program/service/strategy is considered to have a direct and significant impact on the Yarra Ranges community, so a gender impact assessment will be undertaken as part of this work.

A Gender Impact Assessment will be undertaken in collaboration with Council’s Gender Equity Team, in parallel with the community consultation process planned for early 2023. The feedback received will inform the findings of the Gender Impact Assessment and help shape any required modifications of the Master Plan prior to adoption by Council.

The draft Master Plan has however been developed from a whole of community perspective, including consideration of equitable opportunities for use of the reserve by women, men and gender diverse people. Underpinning the recommendations is the objective to provide a reserve that encourages people of all ages, abilities, gender preference and cultural background with a space that is safe, welcoming and has the potential to improve individual health and wellbeing. Current use of reserve facilities is predominantly male and to a lesser extent female AFL football participants. Older adults use the reserve to access the shopping complex and stop briefly to rest as required. There is little to attract general community usage.

Refer to the following Table for a summary of the proposed improvements and the target groups that will benefit most.

Proposed improvement	Target age group	Benefit
Playspace	Young children	New facility for young people and families
Picnic area with shelters	Everyone, especially families and older adults	New plaza area suitable for older community members, families and youth to meet and socialise.
Netball court	Mainly females	New training and competition court for the local football/netball clubs to utilise
Multipurpose court	Children, youth, adults, families	New multi-lined court for local youth to play (at no cost) a range of social sports. Additional netball court to provide a second court to support competition use by local

		clubs
Pump track	Children	New pump track for children starting out, learning the skills before advancing to more challenging facilities elsewhere.
Path network	Everyone	New path network and open space area for walking, dog walking and exercise suited to all ages. Where possible paths will be fully accessible and provide a safer path of travel within the reserve and to the shops.
Sports	Male and female AFL football participants, officials and spectators	Improvements to lighting quality, ground improvements, coach's boxes, etc to increase the quality of facilities to further support the development of elite male and female footballers in Yarra Ranges. Provision of a terraced viewing area will improve the viewing experience for AFL spectators.
Car park	Reserve users	Realignment and formalisation of the car park to support the anticipated increased usage of the reserve.

SUSTAINABILITY IMPLICATIONS

Economic Implications

Through future development the Kilsyth Recreation Reserve will become a local community activity hub and the anticipated increased use will have a flow on effect for the abutting shops. Families will couple shopping with a visit to the playspace, pump track or other options proposed. Similarly, the additional visitations the Reserve will attract has the potential for increased sales for the local businesses.

The construction phase of the Reserve improvement delivery is expected to contribute to the local economy through employment opportunities and as a source of materials and equipment.

Social Implications

Kilsyth has a population of 9,956 (ABS 2020). Compared with the Yarra Ranges average, there is a high percentage of older adults over 60 years (26.3%) and the young workforce group aged 25 to 34 (15.1%). The under 17-year age group (20.6%) is slightly lower than the Yarra Ranges average, however growth is shown in the babies and under 11 years cohorts. Hence this draft Master Plan has a focus to ensure that older residents and the emerging young people in the community are catered for.

There are strong links to social and community impacts resulting from the development and improvement of local reserves such as Kilsyth Recreation Reserve, which include:

1. Enhanced community access to infrastructure that encourages alternative health and wellbeing outcomes;
2. Revitalisation of local communities;
3. Reduction of social isolation;
4. Increased visitor footprint; and
5. Increased female participation in sports.

Other than elite football training, the Kilsyth Recreation Reserve lacks elements to attract people to socialise or be active. The focus of the draft Master Plan has been to provide a plan that will invigorate the area and make it a desirable destination that people of all ages will want to spend time. Older people that we spoke to reminisced about the old playspace and having somewhere to walk, sit and interact with others. Young families craved a local playspace and somewhere for their children to ride bikes and play with friends. For local residents, the closest playspace is located over a kilometre away on the northern side of busy Mt Dandenong Road, at either Kiloran Park or Elizabeth Bridge Reserve.

The Health and Wellbeing Strategy identifies high levels of obesity, dementia and poor mental health as significant issues for our community. Provision of walking and cycling opportunities are important contributors to improved health.

The inclusion of a multi-purpose court will encourage a variety of social ball games for children and youth, plus provide a competition netball court for finals of the football/netball competitions.

A multi-generational playspace will enhance family integration and provide exercise opportunities for older adults that will complement the active recreation activities to be delivered in the new Walmsley Community Centre currently under construction (bocce, table tennis, carpet bowls).

Environmental Implications

A highly valued aspect of the Kilsyth Recreation Reserve is the opportunity to walk, exercise or just sit and take in the view, watch the children play or a game of football. A consistent message through the consultation was the condition of the old tennis courts and how they detract from the ambiance of the Reserve.

The preservation, enhancement and accessibility for people of all ages and abilities is a key driver for improvement underpinning recommendations, particularly through the Reserve. Opportunity exists to turn the boggy south-east corner into a water sensitive urban design area with a focus on nature play for local children. This will be complimented by a sensory garden walk.

Conscious of the proximity and elevation of the proposed pump track to the neighbouring Walmsley Village residents, the addition of strategic planting of trees and bushes will be important. A sensory walk has also been recommended.

COMMUNITY ENGAGEMENT

The draft Master Plan development involved extensive community consultation through a direct mail-out to local residents, an online survey and pop-up stations at the two main shopping centres. The current user groups were engaged i.e. Outer East Football/Netball League, tennis coach, and Axicom Pty Ltd (owners of the telecommunications tower).

Other stakeholders contacted for their insights to the current and future use of the site included tenant groups of the Kilsyth Memorial Hall, Walmsley Retirement Village management, the owner of the Churinga Village Shopping Centre and Coles franchise and the Disability Advisory Committee. An onsite workshop with the Kilsyth Community Action Group was also conducted.

Officers from across Council were engaged early in the process to identify issues and opportunities and later to provide feedback to enable refinement of the draft Master Plan.

Pop-up community consultations were undertaken in late 2019; one in the Churinga Village, the other on the Coles side of the Kilsyth Shopping Centres. An online

survey attracted 58 responses. Refer to the Background Report (Attachment 1, pp26-34) for details.

Key findings to emerge from consultation included:

- Improve linkages and accessibility between the shopping precinct and the Reserve
- Maintain and improve the connectivity to the Reserve and Kilsyth Shopping Centre from the retirement village
- Strengthen opportunities for more passive recreation opportunities for all age groups, particularly in the existing tennis court areas
- Improve pedestrian access and circuit within the Reserve
- Removal of the underutilised tennis courts to create opportunities for other activities
- Explore methods of enhancing its presence through strengthening community use, and enhancing its qualities as a 'place'
- Maintaining the existing sportsground facilities
- Maintaining the view to the Dandenong Ranges, and
- Increase the diversity of tree planting for habitat and natural shading.

The next step for the draft Master Plan is for it to be released, informing the public of the proposed Reserve improvements and to seek feedback on the draft concept layout (Attachment 1, pp 9-10).

The next phase of community consultation will confirm that we have captured the key concerns and ideas provided through the Master Planning consultation process. Taking into account the demographics of the area, consultation will target key user and reference groups to ensure the range of improvements proposed are appropriate.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

Internal collaboration has been ongoing throughout the research and development phases of the draft Master Plan development. Officers from across Council were asked for their input on the issues and opportunities they saw for the site. Additional comment was sought from the Kilsyth Community Action Group and the Disability Advisory Committee to help shape the early concept design, refine the content and layout of the design included in the draft Master Plan (p9).

The relationship of the Kilsyth Memorial Hall and Town Centre shopping centres to the Kilsyth Recreation Reserve was discussed during the Master Plan development. It was, however, considered beyond the scope of the Reserve Master Plan but identified for future town planning, with an emphasis on improving sense of presence and connectivity between the shopping, community and recreation spaces in the future.

RISK ASSESSMENT

On major game days sufficient parking is an issue. The removal of aged, redundant buildings will free up space to improve traffic flow and provide additional parking to cater for increased usage of the Reserve.

Access to Council POSF and external funding in the timeframe proposed is the greatest risk and some flexibility in the implementation may be required.

Frequent requests from unhappy community members supports the early delivery of access to the pavilion public toilet and the removal of the redundant tennis courts to usable grassed open space. The remaining two courts could be opened for community no-cost casual usage. These short term/low cost items would enable early implementation of master plan initiatives. The cost to implement these items is approximately \$30,000. Construction of major cost elements have been delayed in the implementation plan to allow for the purchase of 150 Cambridge Road, Kilsyth. This provides time to rebuild funds in the Walling POSF and position for external funding co-contributions.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

1. Kilsyth Recreation Reserve Master Plan - Background Report
2. Kilsyth Recreation Reserve DRAFT Master Plan
3. Kilsyth Recreation Reserve Master Plan - Draft Cost Plan
4. Kilsyth Recreation Reserve Master Plan - Draft Implementation Plan
5. Kilsyth Recreation Reserve Master Plan - Draft Asset Maintenance Plan

PURCHASE OF 13 GREEN STREET, HEALESVILLE PROGRESS TO COMMUNITY ENGAGEMENT

Report Author: Coordinator Property
Responsible Officer: Director Built Environment and Infrastructure
Ward(s) affected: Ryrie;

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

Council has been offered opportunity to purchase 13 Green Street, Healesville (Lot 2 PS641028), a 1695m² section of vacant land from Victrack for a price equivalent to half its market value, on the provision the land remains for public open space.

Until 2018, the land had been leased by Council and maintained as a community open space, passive recreational area and meeting space, and as the site of a monthly Community Market.

In 2017, a community survey undertaken by Council indicated that 89.7% of community respondents supported Council purchasing the land at a price in the vicinity of \$400k, while 67.2% supported its purchase at a price of \$1.185 million (the market value of the land at that time).

More recent negotiation has seen Victrack now making a formal offer to Council to purchase the land for \$675,000 plus GST, which represents a discount of 50% on the current market value, on the provision that a restrictive use covenant is applied to the land restricting its use to a community open space. The proposed purchase could be funded entirely using Open Space Funds available to Ryrie ward.

It is recommended that Council commence community engagement via a Notice of Intent and seek the community views in respect of the potential purchase of the land in accordance with provisions of section 112 of the Local Government Act 2020.

At its conclusion, a report detailing submissions received through the engagement process would be presented to Council for a final decision on the proposed purchase.

RECOMMENDATION

That Council

1. ***Initiate engagement with the community on the proposed purchase of 13 Green Street, Healesville pursuant to section 112(3) of the Local Government Act 2020.***
2. ***Receive a further report on submissions received through community engagement to allow a final decision on the proposed purchase of 13 Green Street, Healesville.***
3. ***Support in principle to the formal offer from Victrack to acquire 1695m² of land at 13 Green Street, Healesville (Lot 2 PS641028), for its ongoing use as public open space at a cost of \$675,000.00 (exclusive of GST).***
4. ***Propose that the purchase be funded utilising Public Open Space Funding available to Ryrie Ward.***

RELATED COUNCIL DECISIONS

13 December 2016 - Consideration of Planning Scheme Amendment C108 – 13 Green Street, Healesville – This report considered 13 Green Street's inclusion as part of Planning Scheme amendment C108.

12 December 2017 - Possible Purchase of Victrack Land, 13 Green Street, Healesville – The report considered the purchase the land at the full asking price (highest and best use value) of \$1.185 million, having undertaken 2 community surveys seeking community feedback on the matter. Council resolved to withdraw from the First Right of Refusal process, and continue with purchase only if a price not exceeding \$500,000 could be achieved.

10 December 2019 - Proposed Rezoning Victrack Land, 13 Green Street, Healesville – This report considered Victrack's proposal to rezone the land from Public Use Zone to a Commercial Zone.

DISCUSSION

Purpose and Background

Council has been formally offered the opportunity to purchase from Victrack 1695m² of land at 13 Green Street, Healesville (Lot 2 PS641028), for \$675,000 plus GST which represents a discount of 50% on the current market value, on the provision that a restrictive use covenant is applied to the land restricting its use to a community open space.

Council was first made aware of Victrack's intention to sell 13 Green Street in July 2017, with Council at that time occupying and maintaining the open space under a tenancy arrangement which expired in 2018. Since the conclusion of the lease, Council has not managed or maintained the site.

Council has engaged in various negotiations with Victrack since 2017 to have the land retained as community open space through either a new long term lease, or by acquiring ownership of the land for a favourable price. Community surveys undertaken to obtain community interest in Council purchasing the site highlighted a strong community connection with the land and desire to see the land retained as community open space. Though Council supported acquiring the land in-principle, its resolution to cap its financial offer to a maximum \$500,000.00 meant an agreement could not be reached at the time. Subsequent planning processes undertaken by Victrack saw the land rezoned from a Public Use to a Commercial Zone (C1Z) in order to ready the land for sale.

Renewed negotiations with Victrack throughout 2022 has resulted in a new formal offer being made to Council to purchase the property at a 50% discounted price, on the basis that Council retain the land for municipal use/open space. A valuation by the Valuer General Victoria, ordered jointly by Council and Victrack and received in January 2023, delivered a market valuation of \$1,350,000.00 (GST Exclusive), meaning the land is available for Council to purchase for \$675,000.00 (GST Exclusive).

With the valuation having been confirmed and the formal offer now received, Council is in a position to re-engage with the community to obtain feedback on a proposal to purchase the land. At the conclusion of the engagement period, a report containing a summary of submissions received would be presented to Council for a decision on whether or not the land will be purchased.

The land measures 1,695 sq. metres and has a 60 metre (approximately) frontage to Green Street on its eastern boundary, a 30 metre frontage to River Street to the north, and is bordered by a laneway (Taber Lane) to its south. It lies directly adjacent to a 0.5 hectare section of Council owned land (80 River Street), which has been developed as an asphalted carpark. While a small section of the site adjacent to Taber Lane is used for parking, the vast majority of the site is vacant, grass covered open space.

The land is currently zoned Commercial 1 Zone (C1Z), in line with adjacent commercial properties, and located approximately 55 metres north of Maroondah Highway. The land is subject to a Land Subject to Inundation Overlay (LSIO) and Design and Development Overlay 12 (DDO12). Environmental testing has also found the land to carry moderate levels of contamination due its historical railyard and motor mechanic use, which is detailed in the Environmental Implications section of this report. While the levels of contamination present would require further human health investigation where 'sensitive' use was proposed, such as for child-care or residential development, it does not cause an impediment to the land being used for its current and proposed future use as a community open space.

Until 2018, Council was a long-term lease holder for the land, which it held as a community open space. Over time, the local community has become accustomed to

using the as a community gathering space and as the site for the Healesville Community Market which has been held one day per month for over 30 years.. If Council opted not to purchase, the site would likely be sold by Victrack on the open market for commercial use, which would result in commercial development and the open space being lost.

Options considered

- That Council commence a community engagement process seeking feedback on a proposal to purchasethe land.

In preparation for this report, Council has engaged with Victrack to undertake a joint revaluation of the land by the Valuer General Victoria.

If Council supports in-principle a proposal to acquire the land, a community engagement process would be undertaken through which Council would receive community feedback regarding the proposal.

Any purchase from Victrack would be on the basis that the land would be sold for 50% of current market value, conditional on the land remaining as community accessible open space in perpetuity.

- That Council elect not purchase the land.

Council could elect to notify Victrack that it is not interested in purchasing the land, thus allowing Victrack to progress its original plans to sell the land on the open market as a commercial property. Sale of the land would likely eventuate in some form of commercial development of the land leading to the community open space being lost.

Public Open Space funds available to Ryrie Ward could be utilised for alternative recreation or open space projects within the ward, in line with provisions of the Subdivision Act 1988.

Recommended option and justification

It is recommended that Council commence a community engagement process pursuant to section 112 of the Local Government Act 2020, seeking community feedback on its proposal to purchase the land for the following reasons:

- Strong community feedback received in recent years to have the land retained as community accessible open space, as demonstrated through Council led community surveys and structure planning processes.;
- Purchasing the land would help to address projected open spaced deficiencies in the region, identified by principles of the Public Open Space Strategy and Healesville Structure Plan. The proposed restriction on the land to remain as public open space does not impede Council's proposed future use of the site as a community space; and

- The land purchase could be funded entirely through available Public Open Space Funds for Ryrie ward, which is an appropriate use of these funds under provisions of the Subdivision Act 1988.

If Council elects to pursue the purchase, a community engagement process would be commenced in the following weeks to seek community views on the proposal, which would then result in a further report being presented to Council for a final decision on whether or not it will purchase the land.

FINANCIAL ANALYSIS

In January 2023, the Valuer-General Victoria valued the land at 13 Green Street at \$1,350,000.00 (GST Exclusive).

Council has been offered the the opportunity to purchase the land for \$675,000.00, which represents a 50% discount from current market value, on the basis the land remain as a community space in perpetuity.

The purchase price of the property could be covered entirely using Public Open Space fund for Ryrie Ward, which as of 30 June 2022 had a baalance of \$1,470,000.00 (around \$62,000 of which is currently allocated for alternate projects in Ryrie ward this financial year).

Current trends indicate that Ryrie Ward generates approximately \$155,000.00 per annum in Public Open Space funding.

Public Open Space Fund

The Subdivision Act 1988 has provisions in place enabling Council to either obtain land or cash in lieu from subdivisions up to a value of 5 percent of the land. In accordance with the Subdivision Act 1988, Council must use any payment towards public open space it receives to;

- buy land for use for public recreation or public resort, as parklands or for similar purposes; or
- improve land already set aside, zoned or reserved (by the Council, the Crown, a planning scheme or otherwise) for use for public recreation or public resort, as parklands or for similar purposes.

Council has adopted the practice of funding the purchase of land for public open space with public open space contributions derived from the ward in which that land is located. The rationale behind this practice is that the public open space contributions collected in areas which have experienced increased housing density through subdivision will enjoy the benefits of new or improved open spaces funded by the public open space contributions collected from developers subdividing land in those areas. Council has received legal advice confirming there is nothing improper about this practice.

Ongoing costs if purchased

The proposed purchase of the site will lead to ongoing costs associated with routine maintenance. General mowing of the area can be absorbed within the current Parks & Bushlands operations.

APPLICABLE PLANS AND POLICIES

The Healesville Structure Plan (the Plan), adopted by Council in August 2016, identifies the land as a potential strategic acquisition, with Action 4.9 of the Plan being that Council:

“Investigate the feasibility of purchasing the Victrack land on the corner of Green Street and River Street or entering into a long term lease to provide an open space area abutting the River Street carpark”

A long-term lease was previously sought by Council, but not agreed to by Victrack at the time. The Plan also identifies the land’s role as open space and a venue for the community market:

“The Victrack land on the south-west corner of Green St and River St is the subject of Amendment C108 to the Yarra Ranges Planning Scheme. It is proposed to rezone the land to Commercial 1 (now completed). However this land currently provides open space adjacent to car parking areas and forms part of the land used for the community market. Further discussions with Victrack are proposed with a view to retaining the land as open space.”

Council’s Recreation and Open Space Strategy does not specifically identify the land as a key strategic acquisition site, however, makes the following general observations about recreational open spaces in the Healesville and Yarra Glen district:

“Healesville and Yarra Glen areas have enough open space to meet existing demand. Open space takes the form of sporting reserves, outdoor courts and community parks offering social recreation and relaxation opportunities and retarding basins.”

“The quality of existing open space in the Healesville and Yarra Glen precinct needs to be improved to offer more varied recreation.”

The implementation plan relating to open spaces in the district includes the following action listed as ‘ongoing’:

“Improve the quality and diversity of recreation opportunities at local social recreation parks”.

While Healesville is served well by Coronation Park to north and Queens Park to the east, this is the largest piece of open space within the activity precinct.



RELEVANT LAW

The purchase of land is undertaken under the provisions of the Local Government Act 2020. Section 112(3) of the Local Government Act 2020 requires that Council undertake a community engagement in line with its Community Engagement Policy before purchasing or acquiring land for municipal use.

Council's obligations regarding the use of proceeds from the sale of public open spaces are defined under section 20 of the Subdivision Act 1988.

SUSTAINABILITY IMPLICATIONS

Economic Implications

Aside from the land having traditionally been used for a monthly community market, there are no particular economic implications associated with the acquisition of this property.

Social Implications

Community surveys conducted in recent years reveal that 13 Green Street is particularly valued by the local community as a popular meeting place and quiet retreat just off the often-busy commercial strip.

Open space, such as 13 Green Street, provides a much-needed place for people to exercise and escape from their homes supporting both physical and mental health. It also offers opportunities for social connection. As Covid restrictions eased, parks allowed for small groups to socially distance outdoors and further supported reconnection and the increased physical and mental health of people.

Parks are often used as gathering places for people of all ages, further demonstrating their value in social connection. Large parks over 1600sq.m. have proven to encourage people to walk further distances, and diversity of activity within parks attracts greater numbers to use the space.

The Healesville Structure plan and subsequent community surveys results revealed a strong local community sentiment toward the land remaining as open space for community use, with submitters citing the land's role as a community gathering space and its utilisation by the popular Healesville Community Market one day per month for over 30 years. Some of those in opposition to purchasing the land however expressed strong views on the need for other improvements in and around Healesville Township where they suggest funds would be better utilised, that the purchase price is excessive, and that the township already possesses adequate open space.

Environmental Implications

The land is predominantly a vacant grassed area and does not contain any particular environmental or habitat value.

In 2011, a Phase 1 and 2 Environmental Site Investigation report was undertaken by Victrack to establish land contamination risk, given the site's history as railway land and the site or a motor mechanic's workshop, understood to have been burnt down in 1985.

Although the report noted that surface fill materials showed evidence of ash and elevated levels of some heavy metals, levels are considered within acceptable limits for 'non-sensitive' uses such as commercial or recreation. A follow-up investigation (Phase 2) found that the past uses have not led to pollution of the local groundwater.

The Phase 2 assessment concludes (in part):

"Maximum lead concentrations suggest that a further human health investigation would be required where the future land use is 'sensitive', however, metal concentrations are all considered acceptable for recreational or business purposes."

'Sensitive' uses include such things as residential dwellings or child-care facilities, none of which would be proposed uses of the land by Council. If Council chose to purchase the land, the effect of applying a restrictive covenant to limit the use of the site to being a community open space, and/or having the land re-zoned to Public Park and Recreation Zone (PPRZ) would limit the opportunity for any 'sensitive' use from being inadvertently applied to the site in the future.

Any subsequent future proposal to re-zone the land back to a zone which would facilitate sensitive use would require further environmental site assessments at that time.

COMMUNITY ENGAGEMENT

In 2017, Council undertook two community surveys to gauge community interest in obtaining the land. Both were undertaken prior to the more recent negotiated position to purchase at 50% market value.

Community Survey 1 (Jul-Aug 2017)

Proposal for Council to acquire the land, based on Victrack's initial estimated sale price assessment of around \$400,000, which since proved to be an inaccurate estimation of the value.

Of 184 respondents:

In support of Council purchasing the land	89.7%
Oppose purchasing the land	7.6%
Undecided	2.7%

Written submissions were also received from the Healesville Community Market and Healesville Action Group, both in favour of Council purchasing the land.

Community Survey 2 (Oct-Nov 2017)

Proposal to purchase based upon a formal valuation issued by the Valuer General Victoria of \$1.185 million (Oct 2017).

Of 131 respondents:

In support of Council purchasing the land	67.2%
Oppose purchasing the land	31.3%
Undecided	1.5%

Of the 41 negative responses, 20 were Healesville residents, with the remainder residing outside Healesville.

Proposed Community Engagement – In line with s112(3) of the Local Government Act 2020

With Council now having received a formal offer from Victrack to transfer the land to purchase the land for a 50% discounted rate of \$675,000, officers propose to commence a community engagement process, as required under provisions of the Local Government Act, to obtain community feedback on the proposal.

Section 112(3) of the Local Government Act 2020 requires that a purchase or acquisition of land must be undertaken in accordance with the Council's community engagement policy.

Council's community engagement policy recognises that community engagement plays a critical role in ensuring Council decisions reflect the needs and expectations of the community and other stakeholders. The policy is guided by the International Association of Public Participation (IAP2) Spectrum. This identifies five levels of engagement and details Council's promise to the community for each level of engagement ensuring that both the community and Council have shared expectations.

In line with the policy, it is proposed that Council undertake Participatory Engagement with the community, which typically involves either informing the community using methods such as fact sheets, information sessions or website updates or consulting with community using methods such as surveys, inviting submissions, drop-in sessions, and polling.

In this instance, officers propose to seek community views on the proposal through issuing a Notice of Intent through local newspaper and social media advertising, website page, onsite signage and local letter drop where relevant, and inviting public submissions can be submitted to Council through a 'Have Your Say' page set up on Council's website.

A report, summarising submissions received would then be presented to Council for decision on whether or not Council should purchase the land from Victrack for a price of \$675,000.00 (excluding GST), on the basis that the land be protected for public open space in perpetuity.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

Not relevant.

RISK ASSESSMENT

Ryrie ward's Open Space Fund reserve contains sufficient funds to purchase the land without the need to supplement funds through other means such as land sales or use of cash reserves.

The land is currently zoned for Commercial use. If Council opted not to purchase the land for open space, Victrack have indicated they would pursue sale at highest and best use which would likely see the land developed for commercial purposes.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

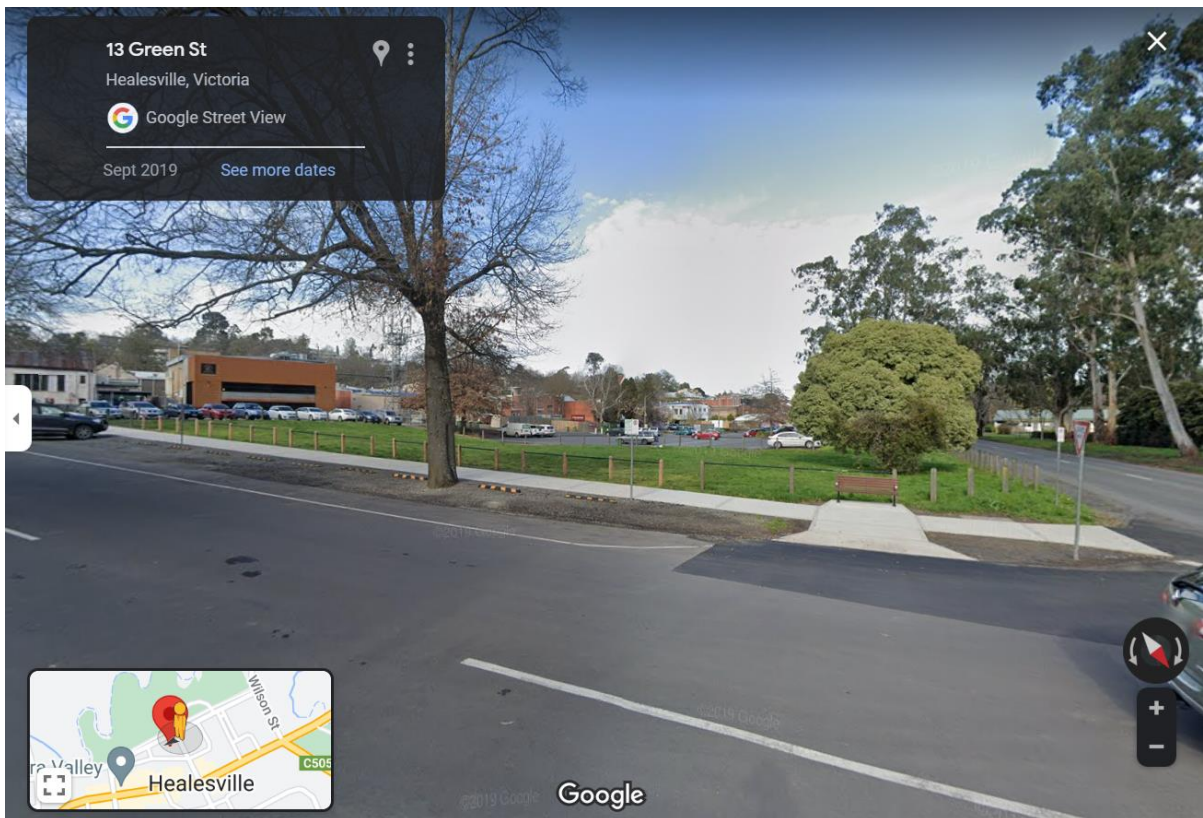
1. Site Plan – 13 Green Street, Healesville

13 Green Street, Healesville

Area: 1695m²

Planning zone: Commercial 1 Zone (C1Z)

Overlays: LSIO (Land Subject to Inundation), DDO12 (Design & Development Overlay 12)



11. COUNCILLOR MOTIONS

In accordance with Chapter 3 Division 4 of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.

There were no Councillor motions received prior to the Agenda being printed.

12. ITEMS THROUGH THE CHAIR

13. REPORTS FROM DELEGATES

14. DOCUMENTS FOR SIGNING AND SEALING

In accordance with Clause 87 of the Meeting Procedures and Use of Common Seal Local Law 2015, as prescribed by Section 14(2)(c) of the Local Government Act 2020.

There were no Documents for Signing and Sealing listed for this meeting prior to the Agenda being printed.

INFORMAL MEETINGS OF COUNCILLORS

Report Author: Governance Officer
 Responsible Officer: Director Corporate Services
 Ward(s) affected: All Wards

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public

SUMMARY

Chapter 8, Rule 1, of the Governance Rules requires that records of informal meetings of Councillors must be kept and that the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting tabled at the next convenient Council meeting and recorded in the Minutes of that Council meeting.

An 'informal meeting of Councillors' is defined in the Governance Rules as a meeting of Councillors that:

- is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- is attended by at least one member of Council staff; and
- is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting.

The records for informal meetings of Councillors are attached to the report.

RECOMMENDATION

That the records of the Informal Meetings of Councillors, copies of which are attached to the report, be received and noted.

ATTACHMENTS TO THE REPORT

1. 24 January 2023 - Council Briefing;
2. 24 January 2023 - Council Forum;
3. 24 January 2023 - Review of Complex Planning Matters; and
4. 1 February 2023 - Yarra Ranges Council Disability Advisory Committee

Informal Meeting of Councillors

Public Record



Meeting Name:	Council Briefing	
Date:	24 January 2023	Start Time: 6.15 pm Finish Time: 6.30 pm
Venue:	Council Chamber, Civic Centre, Anderson Street, Lilydale and via videoconference	
Attendees:	Councillors:	Jim Child, Andrew Fullagar, David Eastham, Tim Heenan, Sophie Todorov, Fiona McAllister, Johanna Skelton & Len Cox
	CEO/Directors:	Kath McClusky (Acting Chief Executive Officer), Nathan Islip (Acting Director Planning, Design & Development), Clint Hong (Acting Director Communities) & Phil Murton (Acting Director Environment & Infrastructure)
	Via Zoom:	Andrew Hilson
	Officers:	Andrew Edge, Debbie Pulham & Sarah Candeland
	Via Zoom:	Nil
Apologies	Richard Higgins, Jane Price, Tammi Rose	
Disclosure of Conflicts of Interest:	Nil	
Matter/s Discussed:	This briefing covered the following items of business to be considered at the 31 January 2023 Council Meeting	
	10.1	YR-2022/165 - 20 Stag Lane, Yarra Glen - Planning Report
	10.2	Health & Wellbeing Advisory Committee
	10.3	Victoria Road - Road Rehabilitation
Completed By:	Andrew Edge	

Informal meeting of Councillors

Public Record



Meeting Name:	Council Forum	
Date:	24 January 2022	Start Time: 7.00 pm Finish Time: 9.43 pm
Venue:	Council Chamber, Civic Centre, Anderson Street, Lilydale and via videoconference	
Attendees:	Councillors:	Jim Child, Andrew Fullagar, David Eastham, Tim Heenan, Sophie Todorov, Fiona McAllister, Johanna Skelton & Len Cox
	CEO/Directors:	Kath McClusky (Acting Chief Executive Officer), Nathan Islip (Acting Director Planning, Design & Development), Clint Hong (Acting Director Communities) & Phil Murton (Acting Director Environment & Infrastructure)
	Via Zoom:	Andrew Hilson
	Officers:	Grant McCarthy Hugh Baulch, Graham Brew, Jo Colley, Sarah Brophy, Marco D'Amico, Andrew Edge, Debbie Pulham & Sarah Candeland
	Via Zoom:	Kim O'Connor, Abby McCarty, Allison Southwell, Alison Fowler, Hannah Elliot
Apologies	Richard Higgins, Jane Price, Tammi Rose	
Disclosure of Conflicts of Interest:	Nil	
Matter/s Discussed:	2.1	Action and Agreement Record – 6 December 2022
	3	Councillor Discussion Time Inside Local Gov – Uluru Statement
	3.1	Roads For the Community Initiative - 2023 Funding Update
	3.2	Tender Evaluation CT7095 Kerbside Collection Services Including Mobile Bin and Lid Purchasing and Distribution
	3.3	Amendment C208: 27-33 Old Hereford Road, Mount Evelyn
	3.4	Playspace Plan Review
	4.1	Pre-budget submission, Commonwealth Government 2023-24
	4.2	Monthly Procurement Compliance Report - November & December 2022
	4.3	Capital Works Program Monthly Report - November 2022
	4.4	Major Projects Quarterly Report to end of November 2022
	4.5	Indicative Forum & Council Meeting Schedule
	4.6	Mayor & CEO Update
	5	General Business
6	Late Items and Urgent Business	
Completed By:	Andrew Edge	

Informal Meeting of Councillors

Public Record



Meeting Name:	Review of Complex Planning Items	
Date:	24 January 2023	Start Time: 5.30 pm Finish Time: 6.14 pm
Venue:	Council Chamber, Civic Centre, Anderson Street, Lilydale and via videofonference	
Attendees:	Councillors:	Jim Child, Andrew Fullagar, David Eastham, Tim Heenan, Sophie Todorov, Fiona McAllister, Johanna Skelton & Len Cox
	CEO/Directors:	Kath McClusky (Acting Chief Executive Officer), Nathan Islip (Acting Director Planning, Design & Development), Clint Hong (Acting Director Communities) & Phil Murton (Acting Director Environment & Infrastructure)
	Via Zoom:	Andrew Hilson
	Officers:	Katie Douglas, Alexia Paterson, Andrew Edge, Debbie Pulham & Sarah Candeland
	Via Zoom:	Nil
Apologies	Richard Higgins & Jane Price, Tammi Rose	
Disclosure of Conflicts of Interest:	Nil	
Matter/s Discussed:	10.1	YR-2022/165 - 20 Stag Lane, Yarra Glen - Planning Report
Completed By:	Andrew Edge	

Informal meeting of Councillors

Public Record



Meeting Name:	Yarra Ranges Council Disability Advisory Committee	
Date:	1 February 2023	Start Time: 1.00pm Finish Time: 3.00pm
Venue:	Conference Room B	
Attendees:	<p>Councillors: Len Cox</p> <p>Other attendees: Lesley Grimes, Michelle McDonald, Shek Kho, James Wood, Marie Pleuger, Julie McDonald, Lisa McIlfratrick, Tracey Wannet, Isabella O'Hare, Paul Stoney</p> <p>CEO/Directors:</p> <p>Officers: Amanda May, Michelle Mulholland, Carolyn Haack, Elizabeth Newton, Rachael Giddens, Corinne Bowen, Pip Smith, Jesse Graham</p>	
Apologies	Richard Higgins, Renae Purcell	
Disclosure of Conflicts of Interest:	None	
Matter/s Discussed:	1.1	NDIS updates
	1.2	DAC Annual Report
	1.3	Community engagement at Yarra Ranges
	1.4	The role of the Communications team at Council
	1.5	Disability Inclusion Officer update
	1.6	Member updates
Completed By:	Amanda May	

16. URGENT BUSINESS

In accordance with Chapter 3 Rule 24 of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.

17. CONFIDENTIAL ITEMS

In accordance with Chapter 3 Rule 24 of the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.

There were no Confidential Items listed for this meeting.

18. DATE OF NEXT MEETING

The next meeting of Council is scheduled to be held on Tuesday 28 February 2023 commencing at 7.00pm, at Council Chamber, Civic Centre, Anderson Street, Lilydale and via videoconference.



In providing for the good governance of its community, Councillors are reminded of their obligation to abide by the provisions as set within the Local Government Act 2020 and the Code of Conduct for Councillors.

When attending a Council Meeting, Councillors should adhere to the procedures set out in the Governance Rules developed by Council in accordance with section 60 of the Local Government Act 2020.

The following is a guide for all Councillors to ensure they act honestly, in good faith and in the best interests of Yarra Ranges as a whole.

- 1. Councillors will respect the personal views of other Councillors and the decisions of Council.*
- 2. Councillors may publicly express their own opinions on Council matters but not so as to undermine the standing of Council in the community.*
- 3. The Mayor is the official spokesperson for Council.*
- 4. Councillors will incur expenditure in a responsible manner and in accordance with the Councillor Expenditure and Policy.*
- 5. Councillors will avoid conflicts of interest and will always openly disclose any direct and indirect interests where they exist.*
- 6. Councillors will act with integrity and respect when interacting with Council staff and members of the public.*
- 7. Councillors will demonstrate fairness in all dealings and conduct and be open with and accountable to the community at all times.*
- 8. Councillors will conduct themselves in a manner that does not cause detriment to Council or the Yarra Ranges community.*