

Council Meeting

Agenda

Tuesday, 14 March 2023

Council Chamber - Civic Centre and via
Videoconference

Information for Councillors and the community

ACKNOWLEDGEMENT OF COUNTRY

Yarra Ranges Council acknowledges the Wurundjeri and other Kulin Nations as the Traditional Owners and Custodians of these lands.

We pay our respects to all Elders, past, present, and emerging, who have been, and always will be, integral to the story of our region. We proudly share custodianship to care for Country together.



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 Built Environment & Infrastructure, Hjalmar Philipp
Director Communities, Jane Price

Director Corporate Services, Andrew Hilson
Director Planning and 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.

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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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CONTACT US

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YARRA RANGES COUNCIL

**AGENDA FOR THE 576TH COUNCIL MEETING TO BE HELD ON TUESDAY
14 MARCH 2023 COMMENCING AT 7.00PM IN COUNCIL CHAMBER, CIVIC
CENTRE, ANDERSON STREET, LILYDALE / VIA VIDEOCONFERENCE**

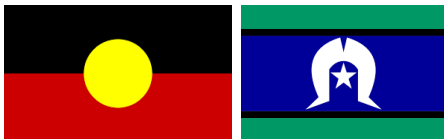
1. MEETING OPENED

2. ACKNOWLEDGEMENT OF COUNTRY

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We pay our respects to all Elders, past, present, and emerging, who have been, and always will be, integral to the story of our region.

We proudly share custodianship to care for Country together.



3. INTRODUCTION OF MEMBERS PRESENT

OUR COUNCILLORS

Billanook Ward: Tim Heenan
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Director Communities, Jane Price
Director Corporate Services, Andrew Hilson
Director Planning & Sustainable Futures, Kath McClusky

4. APOLOGIES AND LEAVE OF ABSENCE

There were no apologies received prior to the commencement of this meeting.

5. MAYORAL ANNOUNCEMENTS

6. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the Council Meeting held Tuesday 28 February 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 received prior to the Agenda being printed.

Yarra Ranges Community Health Matter

Brian Mier wishes to provide Councillors with an update on community health matters.

Candlebark Community Nursery

Bernard Heinze wishes to provide Councillors with an update from Candlebark Community Nursery.

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.

PETITION TO COUNCIL

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

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

The following petitions have been received:

General Petitions

1. *Residents request that Council construct a walking trail from Hazelvale Road, Tecoma to Birdsland Reserve. 235 valid signatures. (102 from Yarra Ranges).*

RECOMMENDATION

That the following General Petitions be received and noted.

1. ***Request that Council construct a walking trail from Hazelvale Road, Tecoma to Birdsland Reserve. The request is to be referred to the appropriate officer.***

YR-2022/1106 - HEREFORD ROAD, MOUNT EVELYN - PLANNING REPORT**APPLICATION DETAILS**

Site Address	Hereford Road, Mount Evelyn (Road R1 PS008512) (Land is adjacent to 134 Hereford Road and 15 Kookaburra Lane.)
Application No.	YR-2022/1106
Proposal	Removal of eight trees in a road reserve
Existing Use	Vegetated, unmade road reserve
Applicant	Yarra Ranges Council
Zone	Clause 35.05 - Green Wedge A Zone
Overlays	Clause 42.01 – Environmental Significance Overlay Schedule 1 Clause 42.03 - Significant Landscape Overlay Schedule 6 Clause 44.06 - Bushfire Management Overlay
Permit trigger/s	Clause 42.01 – Environmental Significance Overlay Schedule 1 Clause 42.03 - Significant Landscape Overlay Schedule 6 Clause 52.17 – Native Vegetation
Objections/Submissions	One letter of support and no objections.
Encumbrances on Title (Covenants/Section 173 Agreements)	Nil
Reason for Council Decision	Councillor Call-in
Ward	Billanook

SUMMARY

The application proposes to remove eight native trees from the site, four of which are exempt from requiring a permit, and four require a planning permit. All trees proposed for removal are assessed as having a low risk of failure. The proposed tree removal has been lodged following safety concerns raised by an adjoining property owner whose dwelling was impacted by a falling tree from the subject land during the June 2021 storm event.

Prior to the lodgement of the application, Council's Arborist inspected 25 trees within proximity of the affected property and consented to the removal of seven trees deemed to be dangerous and posed an immediate risk but recommended the retention of further eight trees that form this application. Those seven immediate risk trees have been removed.

On 22 November 2022, consideration of whether consent should be given by Council for the removal of eight trees was brought to a Council meeting whereby a motion was passed allowing their removal subject to a planning permit application being lodged and issued.

Of the eight trees to be removed, four trees (Trees 3, 4, 8 and 22) require a planning permit under Clause 42.01 - Environmental Significance Overlay Schedule 1, Clause 42.03 - Significant Landscape Overlay Schedule 6 and Clause 52.17, Native Vegetation, while the remaining four (Trees 16, 17, 19 and 21) are exempt under Clause 52.12 as they are within 10 metres of the dwelling on the adjacent property.

The application was advertised, and one letter of support was received.

As required by the Yarra Ranges Planning Scheme, the proposal has been assessed on arboricultural merit. The vegetation has been assessed by two arborists, the first being on behalf of Council as the applicant, and the second who undertook a review of the submitted assessment on behalf of the planning department. Each Arborist conducted an independent review, and both have determined that, with the exception of Tree 8, there is no arboricultural reason for the vegetation to be removed. The vegetation is deemed to be of high retention value, is at low risk of failure and has a long useful life expectancy.

The proposal is deemed to be inconsistent with the relevant provisions of the Yarra Ranges Planning Scheme, in particular both State and Local Planning Policy which seek to protect and retain ecologically significant, high retention value vegetation.

It is therefore recommended that Council resolve to refuse the application, and a Notice of Refusal be issued.

RECOMMENDATION

That Council resolve to refuse Planning Application YR-2022/1106 for removal of four trees at Hereford Road, Mount Evelyn 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 site is not located within 500m of an extractive industry.

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

There are no encumbrances on the Certificate of Title.

SITE LOCATION AND DESCRIPTION

The subject site comprises road reserve to the north and east of 134 Hereford Road, Mount Evelyn. The reserve has a width of 20 metres which extends along the northern boundary of 134 Hereford Road, Mount Evelyn. The area on the eastern side of 134 Hereford Road is roadside reserve adjacent to Kookaburra Lane.

The reserve area is undeveloped and consists of scattered, mature native vegetation and understorey native vegetation. The native vegetation on site principally comprises the ecological landscape type '*Long-leaf Box Herb-rich Foothill Forest (EVC 23)*'.

Figure 1 shows the area of the road reserve within which the eight trees stand outlined in red:



Figure 1 - Road reserve (subject area) outline shown in red

Figure 2 shows the aerial imagery of the reserve in context of adjacent land, Kookaburra Lane and Hereford Road.



Figure 2 – Subject land (road reserve) shown in blue, in relation to 134 Hereford Road, 15 Kookaburra Lane (shown in red), and Kookaburra Lane (green)

SURROUNDING AREA

The road reserve sits beyond the Urban Growth Boundary of Mount Evelyn, in a Green Wedge A Zone Schedule 2.

To the east of the site is Kookaburra Lane, which contains a sealed road, while the west of the site is the sealed portion of Hereford Road, which is zoned Transport Zone 2 and is owned by VicRoads. The centre of Mount Evelyn township is situated approximately 1.7 kilometres to the south.

The land abuts two lots to the north, consisting of 15 Kookaburra Lane and 19 Kookaburra Lane. Both land parcels contain single dwellings and scattered vegetation.

The land to the south is 134 Hereford Road, which contains a single dwelling that was impacted in 2021 by a tree falling from the subject road reserve on to the dwelling, causing substantial damage. In response, seven trees have been removed by Council to address those trees which posed an immediate risk of failure, and as such did not require a planning permit to be removed.

A comparison shown in Figure 3 and Figure 4, there has been a significant loss of vegetation in the area as a result of the June 2021 storm. Many large canopy trees were lost during the June 2021 storm which has had an impact on the environmental quality and landscape character of the area.



Figure 3 - 4 April 2021 (pre-storm)



Figure 4 - 20 January 2022 (post-storm)

Within the wider context of the site, the land to the east is zoned Low Density Residential Zone and is developed by single dwellings, while the land in all other directions is zoned Green Wedge A Zone and contains single dwellings on a range of larger lot sizes (Attachment 2).

PROPOSAL

This application seeks to remove eight trees within the unmade road reserve. Four of the trees require a planning permit, and the remaining four trees are exempt from a requirement for a planning permit. The exempt vegetation was identified by ground-truthing the site during the assessment of the application.

Figure 5 below shows the location of the eight trees proposed to be removed outlined in red, and the tree numbers of recently assessed vegetation.

Of the eight trees to be removed, four require a planning permit being Trees 3, 4, 8 and 22 shown in red in Figure 5.

The remaining four trees, being Trees 16, 17, 19 and 21 do not require a planning permit as they are exempt under Clause 52.12.

Trees 2, 5, 7, 10, 12, 13, 18 have already been removed.



Figure 5 - Tree location and numbering. Proposed vegetation to be removed requiring a permit are circled in red while trees exempt under 52.12 are circled in green.

Details of the eight assessed trees are provided in the table below, with the four trees which require a planning permit identified in orange:

Tree No.	Botanic Name	Common Name	DBH (cm)	Height (m)	Risk	Comments
3	<i>Eucalyptus obliqua</i>	Messmate	80	25	Low	A planning permit is required to remove vegetation under the Environmental Significance Overlay Schedule 1, Significant Landscape Overlay Schedule 6 and Clause 52.17.
4	<i>Eucalyptus obliqua</i>	Messmate	70	30	Low	A planning permit is required to remove vegetation under the Environmental Significance Overlay Schedule 1, Significant Landscape Overlay Schedule 6 and Clause 52.17.
8	<i>Eucalyptus obliqua</i>	Messmate	66	30	Low	A planning permit is required to remove vegetation under the Environmental

Tree No.	Botanic Name	Common Name	DBH (cm)	Height (m)	Risk	Comments
						Significance Overlay Schedule 1, Significant Landscape Overlay Schedule 6 and Clause 52.17.
16	<i>Eucalyptus obliqua</i>	Messmate	84	30	Low	The <u>vegetation removal is exempt from requiring a permit</u> under Clause 52.12 as the tree is within 10 metres of an existing dwelling constructed before 10 September 2009, and the site is located within a Bushfire Prone Area.
17	<i>Eucalyptus obliqua</i>	Messmate	70	25	Low	The <u>vegetation removal is exempt from requiring a permit</u> under Clause 52.12 as the tree is within 10 metres of an existing dwelling constructed before 10 September 2009, and the site is located within a Bushfire Prone Area.
19	<i>Eucalyptus obliqua</i>	Messmate	77	30	Low	The <u>vegetation removal is exempt from requiring a permit</u> under Clause 52.12 as the tree is within 10 metres of an existing dwelling constructed before 10 September 2009, and the site is located within a Bushfire Prone Area.
21	<i>Eucalyptus obliqua</i>	Messmate	45	20	Low	The <u>vegetation removal is exempt from requiring a permit</u> under Clause 52.12 as the tree is within 10 metres of an existing dwelling constructed before 10 September 2009, and the site is located within a Bushfire Prone Area.
22	<i>Eucalyptus obliqua</i>	Messmate	60	30	Low	A planning permit is required to remove vegetation under the Environmental Significance Overlay Schedule 1, Significant Landscape Overlay Schedule 6 and Clause 52.17.

HISTORY

Application Number and Decision Date	N/A
VCAT History	N/A
Other History	<p>Following concerns raised by an adjoining owner regarding the safety risk of trees falling onto the adjoining dwelling from the road reserve, twenty-five trees were assessed by Council's Arborist.</p> <p>At the Council meeting on 22 November 2022, seven trees (Trees 2, 5, 7, 10, 11, 12 and 18) were recommended for removal.</p> <p>Due to safety concerns from the resident, an alternate motion was passed to include a further eight trees (Trees 3, 4, 8, 16, 17, 19, 21, and 22), which forms this application.</p> <p>However, only Trees 3, 4, 8 and 22 require a permit.</p>

PLANNING CONTROLS

Zoning:	Clause 35.05 – Green Wedge A Zone Schedule 2
Overlay:	Clause 42.03 – Significant Landscape Overlay Schedule 6 Clause 44.06 – Bushfire Management Overlay
Start Planning Policy:	Clause 12.01-2S – Native vegetation management Clause 12.05-1S – Environmentally sensitive areas Clause 12.05-2S – Landscapes
Local Planning Policy:	Clause 12.01-1L – Biodiversity
Clause 51.03:	Not Applicable
Schedule to Clause 51.03:	Not Applicable
Particular Provisions	<p>Clause 52.12 – Bushfire Protection Measures</p> <p>Four of the eight trees are exempt from requiring a planning permit as they are within 10 metres of a dwelling that was constructed prior to 10 September 2009. The subject site is also within a bushfire prone area. This was identified during</p>

	<p>the assessment of the application and confirmed by Council's Environment team.</p> <p>Clause - 52.17 – Native Vegetation</p> <p>A planning permit is required to remove, destroy or lop native vegetation, including dead native vegetation.</p>
<p>Other Requirements:</p>	<p>Clause 65 – Decision guidelines</p> <p>Council Tree Policy 2016</p> <p>Council's Tree Policy relates to the management of trees on land owned by Yarra Ranges Shire.</p> <p>The strategic policy direction is based on three broad policy objectives of:</p> <ul style="list-style-type: none"> • Avoid Tree Removal • Minimise Tree Removal • Offset Tree Removal <p>The assessment theme relates to the health of the tree, the risk to the local environment from the vegetation removal as well as to the risk impacts on life and property.</p> <p>The broad principles for the Tree Policy relate directly to the Flora and Fauna Strategy, which provides the rationale for tree management in the context of the total environment.</p> <p>The policy specifically states that Council will avoid the removal of trees from Council land and roadsides where possible. Vegetation should be retained where possible to avoid unnecessary vegetation removal.</p> <p>Council, in minimising the need for vegetation removal, will use agreed best arboriculture practices such as tree pruning, root management, tree support systems and the control of weeds, animals and diseases as a means by which the health of trees and their longevity can be enhanced.</p> <p>The policy also sets out a risk classification system that advises what actions should be taken for each class.</p> <p><i>Refer to Attachment 9</i></p> <p>Code of Environmental Practice for Works on Council Controlled Land</p> <p>The document was designed to streamline the environmental processes by clarifying the exemptions available and to ensure industry standards and efficient Council processes and works commensurate environmental best practice or</p>

	<p>offsets where these would be normally required under state regulations.</p> <p>The Code of Environmental Practice is based on four principles:</p> <ul style="list-style-type: none"> • Principle 1: Ensure that all Council works adhere to the Code of Environmental Practice • Principle 2: Avoid the removal of native vegetation and fauna habitat • Principle 3: Vegetation removal or modification will be kept to the minimum extent necessary • Principle 4: When offsets are required, ensure that they are: <ul style="list-style-type: none"> ○ In accordance with Victorian native vegetation regulations and guidelines ○ Equivalent to or greater than the losses in biodiversity caused by the removal of native vegetation or fauna habitat ○ Obtained locally within the Yarra Ranges wherever possible <p><i>Refer to Attachment 10</i></p>
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For further information on the planning controls refer to Attachment 3.

PERMIT TRIGGERS

Zoning

Clause 35.05 - Green Wedge A Zone Schedule 2

Under Schedule 2 of the Green Wedge A Zone Schedule 2, a planning permit is not required to remove vegetation.

Overlays

Clause 42.03 - Significant Landscape Overlay Schedule 6

Under the Significant Landscape Overlay Schedule 6, a planning permit is required to remove a substantial tree and native vegetation that occurs naturally in the Shire.

A substantial tree is defined as having a trunk circumference greater than 1.1 metres (0.35 metre diameter) at 1.3 metres above the ground.

Clause 44.06 - Bushfire Management Overlay

Under the Bushfire Management Overlay, a planning permit is not required to remove vegetation. Planning permit triggers only relate to building and works.

Clause 52.17 – Native Vegetation

A planning permit is required to remove, destroy or lop native vegetation, including dead native vegetation.

CONSULTATION***Internal Referrals***

This application was referred to Council's consulting Arborist and Environment Team for advice on the proposal. The following is a summary of the advice:

Department	Summary of Response	Conditions required
Arborist	<p>To mitigate the risk of tree failure causing damage or injury, the removal of Tree 8 is recommended.</p> <p>With consideration of the objectives and decision guidelines contained within the Significant Landscape Overlay Schedule 6, the removal of Trees 3, 4, 16, 17, 19, 21 and 22 is not supported.</p>	<p>Although the Council Arborist does not support the application, they recommended conditions to replant within the reserve be required, at Council's cost, if the removal of Tree 8 is approved.</p> <p>Refer to Attachment 7</p>
Environment	<p>The application was not supported by Council's environment team for the following reasons:</p> <ul style="list-style-type: none"> • The application has not adequately avoided and minimised the removal of native vegetation as required under Clause 52.17. • The application is contrary to the purpose of the zoning GWAZ2, which seeks '<i>to protect, conserve and enhance the biodiversity, natural resources, scenic landscapes and heritage values of the area</i>'. The ongoing incremental removal of healthy remnant indigenous trees is having a widespread adverse impact on biodiversity values. • The application is contrary to the following GWAZ decision guideline: '<i>The need to protect and enhance the biodiversity of the area, including the retention of vegetation and fauna habitat and the revegetation of land including riparian buffers along waterways, gullies, ridge lines, property boundaries and saline recharge and</i> 	<p>Although Council's Environment team does not support the application, they recommend that, if the permit is approved, that conditions be included that the permit holder must secure and provide evidence of offset credits being secured to offset the removal.</p> <p>The credit must offset 0.148 hectares of native vegetation as shown in the approved Native Vegetation Removal Report (Report ID: GEN_2022_296).</p> <p>These credits must be secured prior to the removal being carried out at Council's cost. The cost of the offset credits is</p>

	<p><i>discharge areas</i>'. The proposed removal would negatively impact fauna habitat and limit movement between the immediate area and surrounding treed areas.</p> <ul style="list-style-type: none"> • The application does not achieve the objective of the ESO1, <i>'To protect and manage the larger patches of remnant highest biodiversity bushland from fragmentation and incremental loss so that they continue to provide high quality biolink corridors and sustainable habitat for indigenous flora and fauna'</i>. Powerful Owls, which is listed as a threatened species, is likely to utilise the trees in question as part of their foraging territory. The proposed removal of trees, in particular large trees, would negatively impact on native arboreal mammals and birds, which in turns reduces food availability for the Powerful Owls. It would degrade a habitat corridor and increase the fragmentation of otherwise connected treed areas. • The application does not appear to have considered the 'Public Authority Duty' under the recently amended <i>Flora and Fauna Guarantee (FFG) Act 1988</i>. An obligation or duty on public authorities has been introduced to consider potential biodiversity impacts when exercising their functions (set out in new section 4B). This reflects the Victorian Government's commitment to embed biodiversity consideration in government decision making. • The application does not align with the objective of the SLO6, which is <i>'to retain established trees and patches of indigenous vegetation as an important element of the rural landscape and habitat for wildlife'</i>. 	<p>approximately \$3,780 (excluding Goods and Services Tax).</p> <p>The credits must be in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) as specified below:</p> <p>A general offset of 0.028 general habitat units:</p> <ul style="list-style-type: none"> • located within the Port Phillip and Westernport Catchment Management Authority boundary or Yarra Ranges Council municipal district • with a minimum strategic biodiversity value score of at least 0.205 • 2 Large trees
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External Referrals

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

Referral Authority	Consent/Objection Summary of Response
Department of Environment, Land, Water and Planning (now Department of Transport and Planning since 1 January 2023) (Recommending referral authority)	No response. Council Environmental Officers have undertaken assessment against the DELWP guidelines. See above and assessment discussion for outcome and recommendation.

Public Notification and Consultation

Notification of the application was undertaken by:

- Placing of three signs on the frontages of the subject land
- Mailing notices to owners and occupiers of adjoining and/or nearby properties
- Placing the proposal on Council's website for a minimum of 14 days

Number of Objections/Submissions:

No objections were received. One letter of support has been received for the proposed vegetation removal.

ASSESSMENT/ KEY ISSUES

The application seeks permission to remove eight trees from the site; all of the trees are large native canopy trees and are significant for both environmental and landscape benefit. The tree removal was sought by the neighbouring landowner due to perceived safety grounds.

Policy State, Regional and Local

There is key policy support in the Planning Policy Framework which seeks to retain and protect vegetation within Yarra Ranges, particularly high value native vegetation. Of particular note are Clause 12 *Environmental & Landscape Values* and Clause 12.01 - *Protection of Biodiversity* of State policy, while Local Policy further provides policy direction in Clause 12.01-1L - *Biodiversity*.

"Ensure unavoidable vegetation removal is adequately offset by revegetation and land management that achieve a net improvement in Yarra Ranges' biodiversity assets".

The policy within both the State and Local Planning Policy Framework seeks to consider the value in both the biodiversity and environmental value vegetation has for

the community, but also seeks to consider the value vegetation holds in creating valuable and scenic landscapes in Yarra Ranges.

When assessed against the State and Local policy the removal of four highly protected and significant native trees from the site is not supported, practically when the removal of high value significant vegetation should be, and can be avoided, as the trees have been assessed as having a low risk of failure.

Clause 12, Environmental and Landscape Values, seeks to:

“help to protect the health of ecological systems and the biodiversity they support (including ecosystems, habitats, species and genetic diversity) and conserve areas with identified environmental and landscape values”,

which the subject site has. Clause 12.01 – Biodiversity has strategies which direct that decision making on vegetation removal needs to consider the land use and impact on biodiversity for the state. The subject site holds vegetation which contributes to the ecological value due to the large significant *Eucalyptus obliqua* trees, which are 25 to 30 metres in height and are considered irreplaceable. The significant trees also contribute to the wider landscape character of the Mount Evelyn area.

Building on the State provision, Clause 12.05-2S – Landscapes, has an objective to protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environment, which high value mature *Eucalyptus obliqua* trees greatly contribute towards in Mount Evelyn. The policy seeks ensure that important natural features are protected and enhanced. The policy also seeks to recognise the natural landscape for its aesthetic value and as a fully functioning system.

The proposal demonstrates that it is not consistent with state and local policy as there is no justification for the removal of three of the four trees that are subject to a permit, as they were deemed low risk. The applicant has therefore not sufficiently demonstrated a need for the vegetation removal and the loss of mature *Eucalyptus obliqua* trees would have an unacceptable impact on the significant landscape.

Assessment of Vegetation Impacts

Of the eight native trees to be removed, two are located towards the front (eastern) boundary of 134 Hereford Road and the remaining six located to the north. The removal of these trees will result in the existing portion of road reserve being nearly bare, following the recent removal of the other seven trees combined with vegetation loss following the June 2021 storm.

Arboricultural assessment

The arborist report prepared for this application identifies seven *Eucalyptus obliqua* trees as having a low risk and based on their good health were recommended for retention. Trees 3, 4 and 21 did not require any action, while the remaining trees required their crowns to be cleaned of dead wood and an aerial inspection to be undertaken.

Of the four trees that require a planning permit (Trees 3, 4, 8 and 22), Council's arborist has consented to the removal of one tree, being Tree 8 as it has the potential to cause injury or damage from limb failure. This is due to the recent removal three nearby trees, Trees 5, 7 and 12, which occurred in December 2022. The four trees acted as a cluster to support each other from wind loads. The removal of the surrounding three trees resulted in the crown of Tree 8 being exposed to greater wind loads and has increased the risk of failure. In addition, there are signs of ground disturbance around the tree, including compaction from vehicles. These factors will therefore result in a higher possibility of root plate failure, which in turn increases the likelihood of damage to the adjacent dwelling as well as injury to its occupants, which will present a 'moderate' risk rather than 'low'. The removal of Tree 8 is therefore deemed appropriate.

Council's Arborist, however, did not consent to the remaining three trees, as their individual risk was still assessed as being low and their removal would not aid in risk mitigation. Therefore, there was no arboricultural justification for their removal. The loss of native vegetation will have an adverse amenity impact on the appearance of the area.

Based on the arboricultural findings, the remaining native trees, with the exception of Tree 8 do not require removal for risk mitigation as they will have a reasonable useful life expectancy, low risk of failure and high contribution to the landscape and environmental quality of the area.

Tree Policy 2016 (Attachment 9)

The proposed tree removal does not conform to Council's *Tree Policy 2016* as it does not meet the objectives relating to avoid and minimise vegetation loss.

The Scope of the Tree Policy states:

"The Yarra Ranges Council Tree Policy has two main components: the strategic policy directions, and assessment framework. These are designed to retain, maintain and enhance the tree resource within Yarra Ranges.

The Tree Policy takes into consideration the affordability, available resources and management of risks and has determined the "levels of service" that meet the community's "reasonable" expectations of "day to day" maintenance and ongoing asset performance"

Section 3 of the policy is of particular relevance as it relates to the Tree Assessment Framework.

As outlined in the Arborist Report, the trees have a low risk, particularly in regard to property and life. Management of the trees, which involves cleaning the crown of deadwood should be sufficient action to ensure that the trees remain safe to surrounding property and life.

The proposal is therefore deemed to be inconsistent with Council's policy and removal of the trees is not an appropriate response against the low risk classification contained within the policy.

The application has also been assessed against Council's Code of Environmental Practice which demonstrates that the proposal does not accord with the Standard Operating Procedures (Best Practice Methodologies) as it will not abide by the principle of avoid and minimise vegetation loss.

Consideration to the visual appearance of the area or the ecological function has also not been given when proposing the complete removal of the trees, rather than monitoring and active management of the trees. Where vegetation removal is necessary, only the minimum amount of vegetation necessary should be carried out. Only the removal of Tree 8 would be the appropriate amount of vegetation removal to be carried out in this circumstance, with the remaining trees being in direct conflict with policy.

As identified in the Arborist Report, the eight trees are deemed low risk, and therefore have a low probability of failure with little to no management being required.

Clause 42.01 Environmental Significance Overlay Schedule 1

The subject site is affected by the Environmental Significance Overlay Schedule 1.

The overlay identifies the contribution that the shire's bushland remnants have on flora and fauna habitats. Below is a description of the environmental significance for this location:

"Yarra Ranges contains an extensive network of bushland remnants that are an integral part of the municipality's unique landscape and environmental character. These bushland areas comprise a wide range of different ecosystems that provide habitats for a rich diversity of flora and fauna.

The value of habitat areas in Yarra Ranges' network of flora and fauna habitats is enhanced where there are opportunities for birds and other wildlife to shelter while moving between them. The connectivity between habitat areas increases their long term sustainability and value in biodiversity protection by reducing the risk of creating isolated and vulnerable habitat areas. This connectivity enables native species to respond to adverse climatic changes, providing greater opportunities for breeding and foraging, and allowing native species to recolonise areas following major disturbances such as bushfires.

The biolink corridors that have been identified in Yarra Ranges generally follow waterways although they also include some roadsides and other areas containing indigenous vegetation remnants. In some areas the extent and condition of indigenous vegetation within these habitat corridors has been fragmented and degraded by past land management practices. There are many opportunities to improve the habitat value of Yarra Ranges' network of flora and fauna habitats through the rehabilitation of these degraded areas especially along watercourses."

The policy outlines how the vegetation, which includes Trees 3, 4, 8 and 22 (*Eucalyptus obliqua*) contributes to the environment. Council's environment team identified the linear strip of vegetation within the road reserve as likely creating a biolink for Powerful Owls, which are a threatened species, that utilise the trees as part of their foraging territory. The removal of the trees is also likely to have a negative impact on native arboreal mammals and birds, which in turn reduces food availability for the

Powerful Owls. The vegetation loss will result in the habitat corridor being degraded and resulting in the fragmentation of otherwise connected treed areas.

The proposed vegetation removal therefore conflicts with the environmental objectives of the overlay as the existing biolink corridor, which has already been impacted by the recent storm and the removal of seven dangerous trees, will lead to further degradation to the habitat that supports native flora and fauna.

Clause 42.03 Significant Landscape Overlay Schedule 6

The subject site is affected by the Significant Landscape Overlay Schedule 6. The overlay considers the value vegetation plays in contributing to the landscape character of the area. The site is within the area called 'Rolling Hills and Bushy Agriculture', below is a description of the landscape significance for this location:

"The Rolling Hills and Bushy Agricultural Landscape covers broad areas of pleasantly undulating land with a mountain backdrop. It includes the lower foothills of the Great Dividing Range north of the Yarra River and the elevated areas south of the river extending from the Warramate Hills through Seville and Wandin towards Macclesfield and Yellingbo in the south. Two significant State Parks contribute to the landscape:

Yellingbo Nature Conservation Reserve – a series of linear riparian vegetation areas along the Woori Yallock, Cockatoo and Sheep Station Creek - (habitat for the endangered Helmuted Honeyeater).

Yarra Yarraloch Conservation Reserve (Warramate Hills) – a prominent isolated range of forested hills flanked by the flood plain of the Yarra River.

This landscape comprises mostly farmland although it includes many patches of remnant vegetation. It generally has a coarse grain of subdivision with lot sizes mostly between 10 and 20 hectares. Lots are divided into an irregular grid network with lot boundaries often being based on natural features. Properties are generally clearly defined by rural post and wire fencing or windrows. The road pattern is irregular.

Much of the landscape is managed as grazing pasture although there are substantial areas of vineyards, pockets of orchards, and some other more intensively cultivated areas. Crop protection structures such as hail netting and igloos are prevalent in some of these areas.

Most houses are well set back from major roads. Building architecture within this landscape is from a range of styles and eras. Farm houses are often large sprawling structures with rural design elements such as verandahs. Houses are often clustered with farm sheds and partly screened by trees. Winery complexes, often adopting contemporary design styles are a feature of the winegrowing areas.

Views are commonly to a mid range of rolling hills with the Great Dividing Range frequently silhouetted across the horizon as a backdrop to longer distance views."

The policy outlines how the significant vegetation, which includes Trees 3, 4, 8 and 22 (*Eucalyptus obliqua*) contribute to the landscape character. All trees are visible from Kookaburra Lane and Hereford Road, as well as surrounding properties within the immediate vicinity due to each tree's height and canopy coverage.

Due to the removal of seven existing trees which were considered dangerous, combined with vegetation loss during the 2021 storms, the further removal of these eight mature trees (with the exception of Tree 8), will leave a gap in canopy cover when viewing the site, resulting in an almost bare, linear strip of land.

Kookaburra Lane is a minor rural-residential route within the hills, further adding to the importance of protecting the scenic landscape of the area, so to preserve the amenity for surrounding residents.

Given the lack of sufficient arboricultural and bushfire justification for the vegetation removal, the proposal is not considered to be consistent with the objectives or decision guidelines of the overlay which strongly support the retention of established trees and patches of indigenous vegetation as they are an important element of the rural landscape and habitat for wildlife.

Clause 52.17 – Native Vegetation

This particular provision seeks to avoid the removal, destruction or lopping of native vegetation, and where it can't be avoided, impacts should at least be minimised. This is to ensure that there is no net loss to biodiversity. The proposal does not conform to *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017) as the application has failed to provide sufficient evidence to show that the vegetation removal is necessary.

Due to the lack of justification, the proposal will, without reason, undermine the purpose of Clause 52.17 and the Guidelines as the proposed vegetation removal can be avoided due to the low risk of failure and damage to property and life.

Environmental Assessment

Environmental officers undertook a review of the information submitted for the application in order to clarify the existing information and assess the current proposal and its impacts to ensure it satisfies appropriate environmental policy and legislation.

The findings of the Environmental Officers are as follows:

As the trees are remnant, indigenous Council road reserve trees, a planning permit is required for the removal of four trees under Clause 52.17.

Biodiversity Legislation and Government Policy

The implications for the proposal are assessed in relation to relevant biodiversity legislation and policy and the Yarra Ranges Planning Scheme (*Planning and Environment Act 1987*) that Council should consider.

The proposal will incur tree and/or native vegetation impacts. The vegetation proposed to be removed is considered a scattered tree and/or remnant patch and will need to address the policies and guidelines of:

- The requirements of the zone which applies to the land;
- Clause 42. Environmental and Significant Landscape Overlays;
- Clause 52.17 Native Vegetation Guidelines for the removal, destruction or lopping of native vegetation (the Guidelines; DELWP, 2017b)).

The native vegetation on site is mapped as most closely representing characteristics of the Ecological Vegetation Class Lowland Forest (EVC 16). This EVC has a Large Tree benchmark of 70cm DBH and is considered to be of Least Concern Bioregional Conservation Significance in the Southern Highlands Fall Bioregion (DSE, 2005). The native vegetation condition on site is mapped as moderate (0.41-0.60) to high (0.61-0.80) (DELWP, 2015). The native understorey vegetation has been managed and is dominated by exotic grasses and garden beds.

There are records of Powerful Owl (*Ninox strenua*) within 100 metres of the site. The species is listed as 'Vulnerable' under the *Flora and Fauna Guarantee Act 1998* (FFG Act).

Assessment under the Permitted Clearing Guidelines

The Guidelines for the removal, destruction or lopping of native vegetation (the 'Guidelines'; DELWP 2017b) support the provision in the planning scheme, Clause 52.17 which describes the following objective for permitted clearing of native vegetation in Victoria:

"to ensure that there is 'no net loss' to biodiversity as a result of the removal, destruction or lopping of native vegetation"

This objective is to be achieved through applying the following principles in accordance with the Guidelines (2017b):

- Avoid the removal, destruction or lopping of native vegetation.
- Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
- Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation."

All planning permit applications to remove native vegetation are assigned to an assessment pathway determined by the extent and location of proposed clearing. The assessment pathway dictates the information required for a planning permit application and the decision guidelines the responsible authority (e.g. Council) and/or DELWP as a referral authority will use to assess the permit application.

The following section assesses the native vegetation impacted by the proposal against the requirements of the Guidelines (DELWP 2017b).

Site based information & vegetation impacts:

Trees 3, 4, 8, 16, 17, 19, 21 and 22 are proposed for removal. An additional Tree Risk Assessment (TRA) was conducted on those eight trees, with recommendations made to retain all trees with some dead wood removal and an aerial crown inspection of some.

All trees are indigenous Messmates (*Eucalyptus obliqua*) and Trees 3, 4, 16, 17 and 19 are considered Large Trees (LTs) with a DBH of 70cm or over.

Trees 16, 17, 19 and 21 are within 10 metres of a dwelling. Although the trees are not on private land and are not proposed for removal for the creation of defensible space, they are still considered to be exempt from requiring a permit for their removal under the 10/50 rules, as specified in Clause 52.12 Bushfire Protection Exemptions.

Trees 3, 4, 8 and 22 require a permit for their removal under Clause 52.17, the Environmental Significance Overlay Schedule 1, and Significant Landscape Overlay Schedule 6.

This application has not considered the three-step approach in accordance with Clause 52.17. It is noted however that a decision of Council to remove the trees has resulted in the application being lodged for the removal.

The Environmental Significance Overlay Schedule 1 has not been addressed as part of the application. The environmental objective of the Environmental Significance Overlay is

“To protect and manage the larger patches of remnant highest biodiversity bushland from fragmentation and incremental loss so that they continue to provide high quality biolink corridors and sustainable habitat for indigenous flora and fauna.”

As is detailed in the Arborist Referral Response (ARR), the proposal is contrary to the Environmental Significance Overlay Schedule 1 objectives and would impact fauna habitat and limit movement between the immediate area and surrounding treed areas.

The ongoing incremental removal of native vegetation is having widespread adverse impacts on biodiversity. The Powerful Owl (PO) currently persists in the Mount Evelyn area as habitat and prey items are sufficient. As there are PO records within 100 metres of the site, it is likely that the birds would utilise the trees in question as part of their foraging territory. The owls rely on an extensive treed landscape to support foraging and roosting activities, as well as large, hollow-bearing trees for breeding. Removal of indigenous trees, especially hollow-bearing trees, limits the owl's ability to nest and breed successfully. Additionally, removal of any indigenous trees impacts native arboreal mammals such as Ringtail Possums (*Pseudocheirus peregrinus*) and Brushtail Possums (*Trichosurus vulpecula*), as well as other bird species which make up the PO's diet.

As the native vegetation in question is on public land, and the PO is listed as a threatened species under the *Flora and Fauna Guarantee Act* (DELWP, 2022), there is a requirement for public authorities (Council) to give proper consideration to biodiversity matters when exercising their functions (also known as 'the Biodiversity Duty' on public authorities) under Section 4B of the Act.

An objective under the SLO6 is:

“to retain established trees and patches of indigenous vegetation as an important element of the rural landscape and habitat for wildlife” which this application does not align with.

The proposed removal of three of the four indigenous trees is not supported by the Environment Assessment Officers. There is no arboricultural reason to remove three of the trees and their removal is not unavoidable. Therefore, the trees should be retained as per the objectives of the planning scheme. Apart from the negative impacts that the indigenous tree removals would have on biodiversity, the approval of this application may risk setting a precedent for these kinds of tree removal requests.

Assessment Pathway, losses & offsets

A desktop assessment by Council's Environment Department using the Department of Environment, Land, Water and Planning (DELWP) online vegetation mapping tool Native Vegetation Information Management (NVIM) identifies the site is within Location 1 on the vegetation location risk map. This application triggers the Intermediate Assessment Pathway due to impacts to remnant vegetation from the proposed package of works.

In applying the 'No Net Loss' approach to vegetation clearance decisions at the on-ground level, the Guidelines (DELWP, 2017b) require an appropriate offset to compensate for the loss of native vegetation to be achieved. This is calculated in a manner whereby the offset provides a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation being removed. An offset of 0.028 General Habitat Units has been identified. The cost of the offset credit is approximately \$3780 excluding Goods and Services Tax.

The vegetation removal and offset requirements are summarised in Attachment 6.

The NVIM report (DELWP, 2015) indicates the loss of vegetation from the site, based on the requirements to clear approximately 0.148 hectares of native vegetation, including two Large Trees.

Following this assessment, the Environment team has concluded this is currently unacceptable to the Environment Assessment Officer as:

- The application has not adequately avoided and minimised the removal of native vegetation as required under Clause 52.17.
- The application does not achieve the objective of the ESO1, *'To protect and manage the larger patches of remnant highest biodiversity bushland from fragmentation and incremental loss so that they continue to provide high quality biolink corridors and sustainable habitat for indigenous flora and fauna'*. Powerful Owls, which is listed as a threatened species, is likely to utilise the trees in question as part of their foraging territory. The proposed removal of trees, in particular large trees, would negatively impact on native arboreal mammals and birds, which in turns reduces food availability for the Powerful Owls. It would degrade a habitat corridor and increase the fragmentation of otherwise connected treed areas.

- The application does not appear to have considered the 'Public Authority Duty' under the recently amended *Flora and Fauna Guarantee (FFG) Act 1988*. An obligation or duty on public authorities has been introduced to consider potential biodiversity impacts when exercising their functions (set out in new section 4B). This reflects the Victorian Government's commitment to embed biodiversity consideration in government decision making.
- The application does not align with the objective of the Significant Landscape Overlay Schedule 6, which is '*to retain established trees and patches of indigenous vegetation as an important element of the rural landscape and habitat for wildlife*'.

Decision Guidelines

The proposed tree removal does not conform to the decision guidelines under Clause 65.01, as the vegetation loss conflicts with the purpose of the zone and overlays which seek to protect and preserve the landscape and prevent unnecessary vegetation loss from occurring.

Furthermore, the proposal will detrimentally affect the environment and amenity of the area, as the permanent loss of mature, native trees will alter the landscape in an area that has recently been impacted by severe storms, where an extensive number of trees were lost. Further removal of significant canopy trees will be visible to surrounding residents, which will contribute to the loss of rural character.

Due to the lack of appropriate arboricultural justification, the proposal conflicts with the decision guidelines as the vegetation loss will adversely affect the character of the area and the proposal will not conform to the objectives of planning in Victoria as outlined under the *Planning and Environment Act 1987*.

RESPONSE TO SUBMITTERS COMMENTS

The abutting landowner who raised the tree risk concern with Council provided a letter of support for the proposal.

Council acknowledges the perceived threat to the resident, however as demonstrated in the Arborist Report which was produced by a suitably qualified Arborist and was subsequently reviewed by Council's Arboricultural Planning Consultant who confirmed the findings as being correct, the trees, with the exception of Tree 8, are shown to have a low risk to the abutting properties. With maintenance to the crown, Trees 3, 4 and 22 will have a long useful life expectancy and will continue to contribute the amenity of the surrounding landscape. The removal of Tree 8 is not opposed and would likely be supported if a VicSmart application for a planning permit to remove this one tree were to be lodged to remove this tree.

CONCLUSION

Both State and Local policy provide clear direction that vegetation which contributes to both the ecological value and landscape value of the area should be retained and protected.

This is further supported by the Significant Landscape Overlay Schedule 6, which recognises the importance of native canopy trees to the natural environs from an amenity and landscape perspective. In addition, the Environmental Significance Overlay Schedule 1 seeks to protect vegetation that contributes to the habitat of native flora and fauna.

Having regard for the above assessment, it is considered that the application has not clearly demonstrated that there is sufficient arboricultural evidence of the need to remove three of the four high value mature Messmate trees proposed, or that sufficient efforts to avoid the removal of the three trees has been taken.

Given that the trees are at low risk of partial or total failure, they are deemed to have a high retention value and a long useful life expectancy. The proximity of the trees to the dwelling is a consideration for both arboricultural risk and bushfire risk, however the risk of both are deemed to be low.

In this regard, given the proximity of the trees to a nearby dwelling, it is considered more appropriate that a regular regime of monitoring and assessment reviews at regular intervals should be implemented to regularly reassess whether there has been any change in the condition or risk posed by the trees, and that, at a future time, if action is required, then action be taken.

It is considered that the removal of the trees will result in a poor environmental, landscape and visual outcome, with minimal benefit to the site, its surrounds and the broader landscape.

Whilst the removal of Tree 8 would be generally supported, it is not considered to be consistent with what the application is seeking to only approve the removal of this one tree. If a future application was lodged for the removal of just Tree 8, a planning permit would likely be supported as strong evidence for its removal has been provided.

Without a clear demonstration for the need to remove Trees 3, 4 and 22 from the site, the application is recommended to be refused and a Notice of Refusal issued in accordance with Attachment 1 of this report.

ATTACHMENTS

1. Grounds for Refusal
2. Site Inspection Photos and Aerial Images
3. Planning Controls
4. Arborist Report
5. Native Vegetation Removal Report
6. Native Vegetation Assessment
7. Arborist Referral Response
8. Environment Referral Response
9. Tree Policy
10. Code of Environmental Practice

YR-2020/807 - 41 MONBULK ROAD MOUNT EVELYN – PLANNING REPORT**APPLICATION DETAILS**

Site Address	41 Monbulk Road Mount Evelyn, Lot 2 on Plan of Subdivision 603099R
Application No.	YR-2020/807
Proposal	Use and development of the land for a service station (including car wash and convenience food with drive through), display of pole signs, promotion signs, illuminated business identification signs, construct a fence, and alter access to a road in a Transport Zone 2.
Existing Use	Vacant Garden Supplies
Applicant	Pc Infrastructure Pty Ltd
Zone	Clause 33.03 - Industrial 3 Zone
Overlays	Clause 44.06 - Bushfire Management Overlay (BMO) Clause 42.01 - Environmental Significance Overlay Schedule 2 (ESO2)
Permit triggers	<p>Clause 33.03 - Industrial 3 Zone (IN3Z)</p> <ul style="list-style-type: none"> • Use and development for service station <p>Clause 44.06 - Bushfire Management Overlay (BMO)</p> <ul style="list-style-type: none"> • To construct a building or construct or carry out works associated with a service station use. <p>Clause 42.01 - Environmental Significance Overlay (ESO2)</p> <ul style="list-style-type: none"> • To construct a building or construct or carry out works. <p>Clause 52.05 – Signs</p> <ul style="list-style-type: none"> • To display a pole sign, promotion sign and illuminated business identification signs. <p>Clause 52.29 - Land Adjacent to the Principal Road Network</p> <ul style="list-style-type: none"> • To create or alter access to a road in a Transport Zone 2.
Objections	194 (to 2 March 2023)

Encumbrances on Title (Covenants/Section 173 Agreements)	No
Reason for Council Decision	Number of objections
Ward	Billanook

SUMMARY

This application seeks to use and develop the land for a service station including a convenience shop with drive through, six (6) fuel pumps, three (3) hand car wash bays, a machine carwash, dog wash and four (4) vacuum stations operating 24 hours a day, seven days a week. The car wash bays, and vacuum bays will operate at specific times. The proposal includes the display of pole signs, promotion signs, illuminated business identification signs, and alteration of access to a road in a Transport Zone 2.

The key issues with the proposed use are traffic, car parking and amenity impacts on adjoining and nearby Mount Evelyn Primary School and dwellings.

The proposal is consistent with the purpose of the Industrial 3 Zone, noting that service station use is an as of right use except where within 30 metres of a residential land zone or education facility.

The proposal meets the objectives and strategies of the relevant planning policies, including clause 02 and clause 17.03.

The layout responds to the adjoining school, placing noise and odour producing components such as the bowsers, tank refilling point, control building, drive through, vacuums and car wash to the west of the site where the school's car park and the adjoining panel beater provide an appropriate buffer to the school.

The 24-hour sale of petrol is supported however, due to amenity impact concerns upon the adjoining dwellings, the drive through is recommended to be limited to 6am to 10pm operation and vacuum operation is recommended to be limited to 7am to 6pm.

The proposal seeks to undertake significant works within Monbulk Road including slip lanes and turning lanes. Through negotiation and amendment of plans the Department of Transport have reviewed and support the proposed access arrangements. These alterations to Monbulk Road, in addition to conditions requiring plans to show access to Renouf Court and other adjoining properties, address existing traffic issues in the immediate vicinity of the site and provide a net community benefit.

The recommendation includes conditions to address both existing and potential traffic concerns, with particular focus on pedestrian safety.

Overall, it is considered that the proposal demonstrates a strong alignment with the relevant policies and provisions of the Yarra Ranges Planning Scheme and provides an opportunity to improve local pedestrian and vehicle traffic issues and should be supported, subject to conditions.

It is recommended that a Notice of Decision to Grant a Permit be issued subject to the conditions in Attachment 1 to the report.

RECOMMENDATION

That Council resolve to approve Planning Application YR-2020/807 for the use and development of the land for a service station (including car wash and convenience shop with drive through), display of pole signs, promotion signs, illuminated business identification signs, construct a fence, and alter access to a road in a Transport Zone 2 at 41 Monbulk Road Mount Evelyn 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 is not required.

EXTRACTIVE INDUSTRY

The site is not located within 500 metres of an extractive industry.

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

There are no encumbrances on the Certificate of Title.

DESCRIPTION OF SITE AND SURROUNDS

Subject Site

The subject land is irregularly shaped with an area of 4339 square metres, having a frontage of 75.56 metres to Monbulk Road on its western boundary (Figure 1).

The subject land has a fall approximately seven metres from front to rear. Along the southern boundary is a row of evergreen screen shrubs or hedges achieving a maximum height of approximately seven metres. Also close to the southern boundary is a 22 metre high Stringybark Eucalypt and a five metre high Shining Privet, both are located within four metres of this boundary. Close to the front boundary is a three metre high multi-stemmed native tree of low value.

The site has been previously used for a garden supplies industry, with a warehouse/office and shed at the front, outdoor storage bays at the rear and associated vehicle access and parking areas. The use ceased sometime between December 2021 and January 2022 however, the land continues to enjoy existing use rights for garden supplies. The use included the retail sale of soil, crushed rock and other materials, with truck deliveries occurring during the daytime from 7:30am to 5pm.



Figure 1 - Subject Site

All of the existing buildings on the subject land are located towards the front of the site, with the various structures associated with the garden supplies business located to the rear of the buildings. Vehicular access for the garden supplies business was arranged with an entry only access point on the northern side of the frontage and an exit only on the southern side of the frontage.

Surrounding land

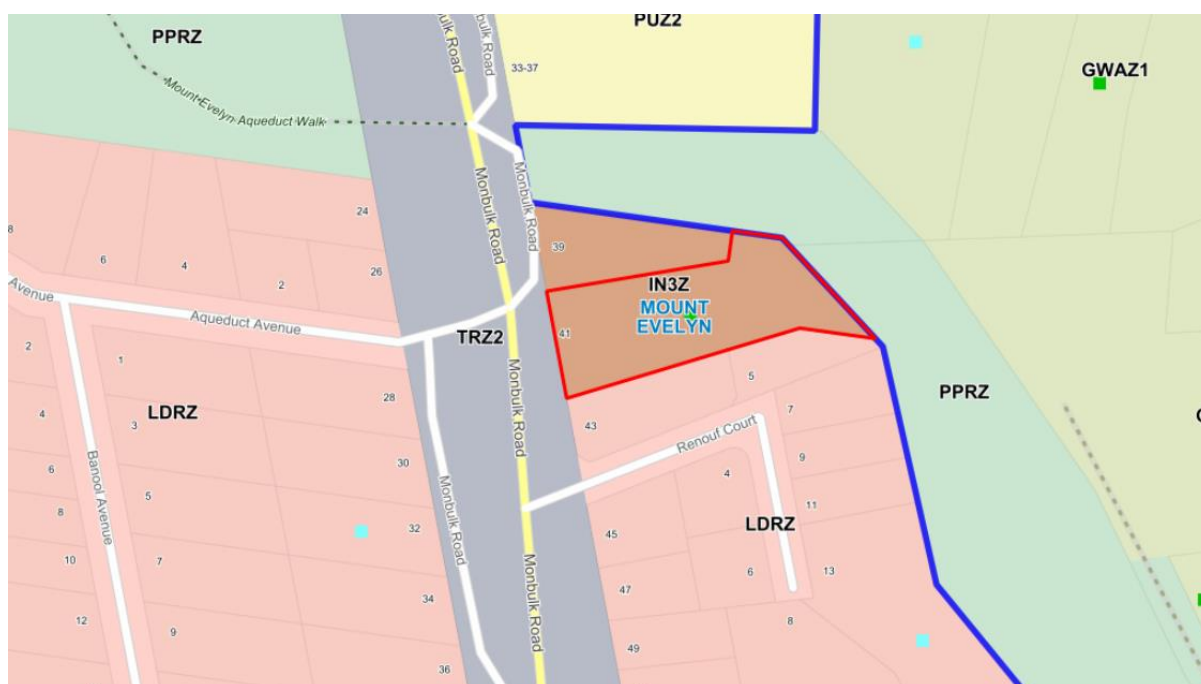


Figure 2 - Subject site and surrounds land zones

To the north:

- 39 Monbulk Road, an automotive repair workshop in the Industrial 3 Zone: and
- 33-37 Monbulk Road, Mount Evelyn Primary School in the Public Use Zone and Public Parks and Recreation Zone. The school has a small car park along the south boundary adjacent to the automotive repair workshop. The land is sloping and lightly treed adjacent to the subject site.

To the east is:

- Ormeau Road Reserve (1 Joy Avenue) in the Public Park and Recreation Zone: and
- Further to the east is a meditation centre in the Green Wedge A Zone

To the south are:

- 43 Monbulk Road and 5 Renouf Court - Both are in the Low Density Residential Zone, and are used and developed with dwellings, outbuildings, with vegetation adjacent to the subject site.

To the west is:

- Monbulk Road - Being an undivided road with wide, unmade verges and a single traffic lane in each direction. There is a public car park proximate to the subject site on the west side of Monbulk Road. Opposite the northern part of the subject land, Aqueduct Avenue meets Monbulk Road at a non-signalised T-

junction intersection controlled by a “Give Way” sign. Monbulk Road is in the Transport Zone (TRZ2). A school crossing is located to the north of the subject site. A service lane runs along the west side of Monbulk Road south of Aqueduct Avenue.

Further west beyond Monbulk Road are:

- 32 Monbulk Road which is developed and used as a childcare centre; and
- Dwellings and outbuildings in the Low Density Residential Zone.

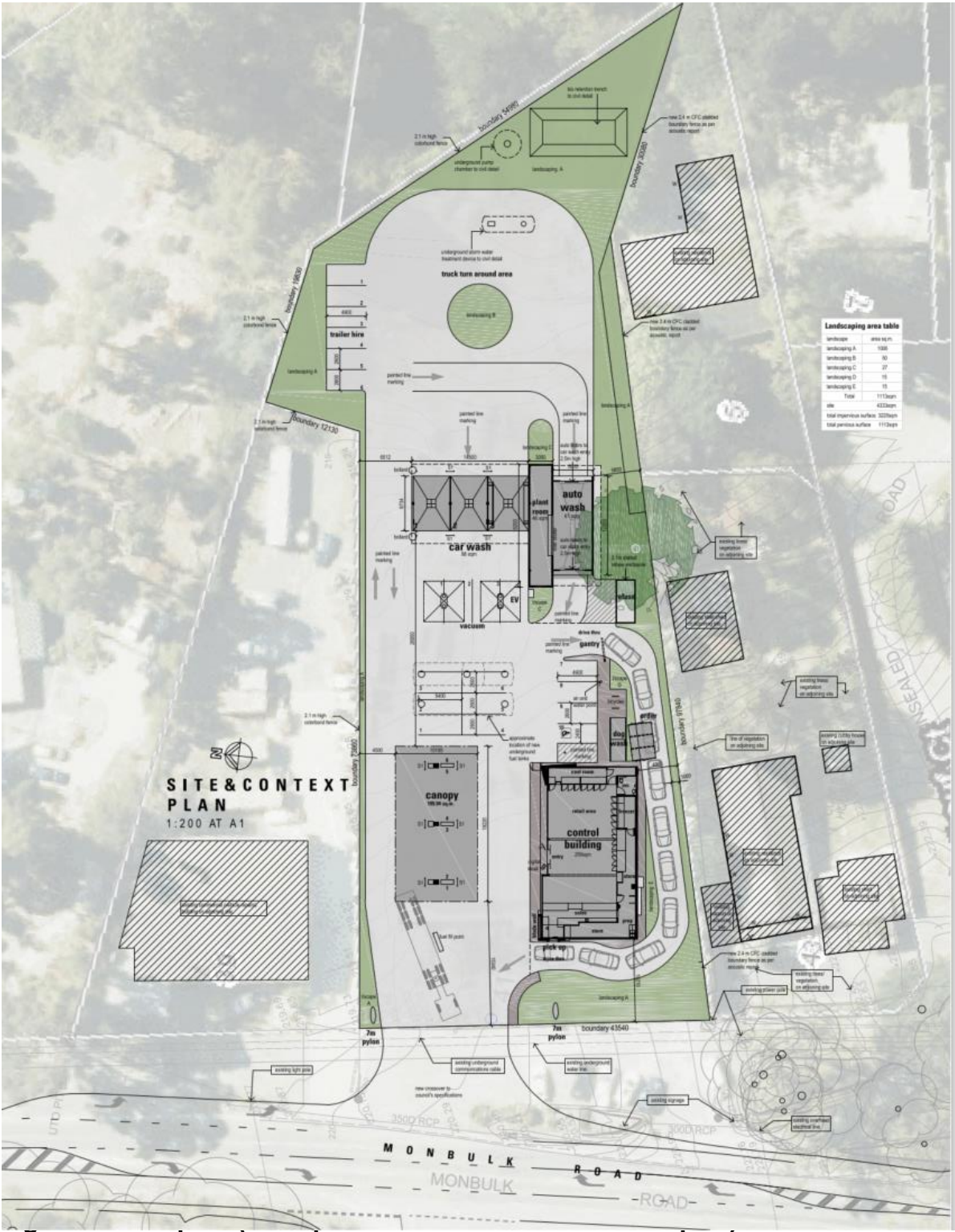
PROPOSAL

The key components, as shown in Figure 3 and Figure 4, of the proposal are:

Use, Buildings and Works, and Signage	
Service station building and drive through	<ul style="list-style-type: none"> • A 259 square metre building with a maximum height of 6.8 metres, setback a minimum 4.96 metres from the south boundary and 10.2 metres from the front boundary, • A drive through to the south and west of the building includes a covered ordering bay with a maximum height of 3.1 metres and setback 2.6 metres from the south boundary and order pickup window facing the street. • The drive through is excavated between 0.5 metres to 1.9 metres below ground level and is setback between 5.2 metres to 6.7 metres from the front boundary and one metre from the south boundary. • The sale of fuel and the selling of food, drinks and other convenience goods, and the operation of the automatic drive-through car wash facility is proposed to occur 24 hour per day, 7 days per week. • Fuel deliveries to occur between 7:00am and 10:00pm on any day. • Air / water services and a gantry to the east. • A maximum number of three (3) staff are proposed on site at any one time stationed in the control building.
Service station (fuel bowsers)	<ul style="list-style-type: none"> • Six (6) fuel bowsers are proposed. • Canopy structure with a maximum building height of 6.8 metres setback 15.34 metres from the front boundary and 4.5 metres from the north boundary. • A total of 210,000 litre capacity underground fuel tanks are proposed.

Use, Buildings and Works, and Signage	
Car wash	<ul style="list-style-type: none"> • The manual car wash bays have a maximum height of 5.7 metres, are setback 6.5 metres from the north boundary and will operate between 7:00am and 6:00pm, Monday to Saturday, not including public holidays. • The auto carwash has a maximum height of 7.3 metres and is setback a minimum 5.85 metres from the south boundary. It is to operate 24 hours a day and includes shutter doors at the exit and entry which remain closed when in use, precast concrete panel walls and sheet metal roof with fibre cement ceiling.
Vacuums	<ul style="list-style-type: none"> • The canopy has a 3.8 metres maximum building height • Vacuums are setback 19 metres from the south residential boundary and 28 metres from the Primary School • The vacuum bays are to operate between 7am and 10pm
Dog wash	<ul style="list-style-type: none"> • A 3.2 metre high structure setback 5.8 metres from the south boundary • Hours of the dog wash are not specified
External lighting	<ul style="list-style-type: none"> • Three five-metre high light poles • Other lighting is proposed under car wash and fuel bowser canopies
Fencing	<ul style="list-style-type: none"> • A 2.4 metre high acoustic barrier is proposed on the south title boundary interfacing the residential area • A 2.1 metre high colorbond fence is provided on the remainder of the title boundaries
Waste management	<ul style="list-style-type: none"> • Bin storage area is located setback 2.4 metres from the southern boundary • A waste management plan has been submitted and is contained in Attachment 4 • Waste collection will be by a private operator per the submitted waste management plan • Waste collection will occur between 7:00am and 6:00pm, Monday to Saturday, not including public holidays
Trailer hire	<ul style="list-style-type: none"> • There are six (6) trailer hire bays at the rear of the site
Parking	<ul style="list-style-type: none"> • The proposal includes ten (10) car parking spaces.

Use, Buildings and Works, and Signage	
Access	<ul style="list-style-type: none"> • Alteration of access to a road in a Transport Zone 2 including slip lanes and road widening. • A 16 metre wide crossover is proposed. • A truck turning area is proposed to the rear of the site.
Vegetation	<ul style="list-style-type: none"> • There is one significant tree on site, as identified in the arborist report, being Tree 4, a Messmate Stringybark. The proposal has a 21.5 percent encroachment into the Tree Protection Zone. However, due to the history of heavy truck movements on the site, the tree will have already experienced significant levels of disturbance and soil compaction that would have inhibited root growth, so no further detrimental impact is expected. • All vegetation to be removed is exempt under Clause 52.12 from requiring a planning permit.
Signage	See further detail below



Signage

Signage, as shown in Figure 5, comprises the following:

Sign Reference (from Signage Elevations)	Dimensions (width by height) in metres	Type of Illumination	Type of sign (as defined by Clause 73.02)
S1	3.775 by 1.2	Digital LED	Electronic sign
S2	0.85 by 1.29	Non-illuminated	Promotion Business identification
S3	0.7 by 1.98	Digital LED	Promotion Electronic sign
S4 (two signs - north and east facing)	2.68 by 1.765	Back illuminated	Promotion Internally illuminated
S5	0.8 by 0.6	Back illuminated	Internally illuminated
S6	2.625 by 4.46	Non-illuminated	Business identification
S7	1.2 by 1.2	Back illuminated	Internally illuminated
S8	3.1 by 0.3	Back illuminated	Internally illuminated
S9 Pylon 1	2.05 by 7.0	Back illuminated	Promotion Internally illuminated
S10 Pylon 2	2.1 by 7.0	Back illuminated	Internally illuminated

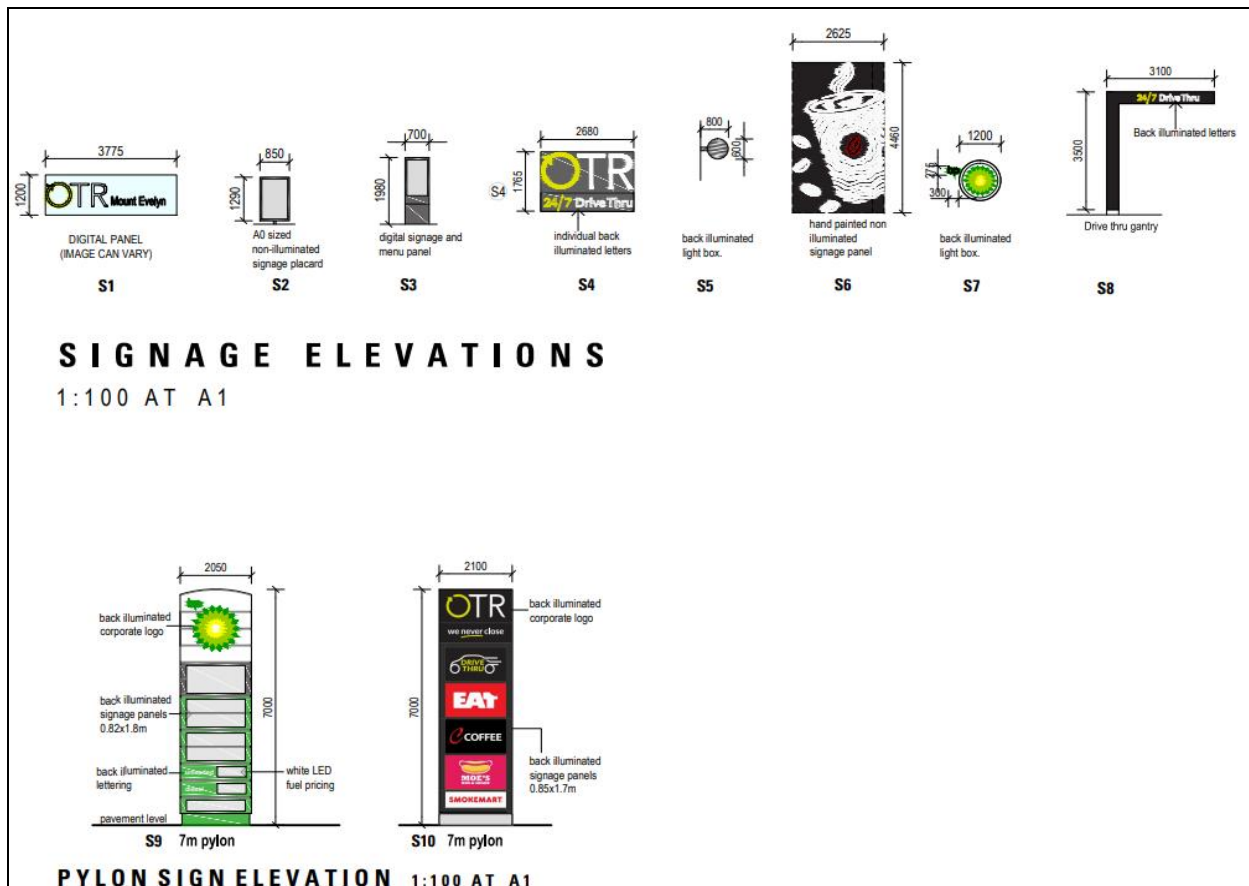


Figure 5 - Signage (excerpt from Attachment 2 to the report)

PLANNING HISTORY

Planning permit application YR-2019/718 was lodged in October 2019 and sought approval for development of service station and convenience shop, warehouse, illuminated business sign and business identification signs. Council and two referral authorities requested further information, which was not provided by the applicant. The application subsequently lapsed on 29 April 2020.

The current application YR-2020/807 was lodged 30 October 2020. Further information was requested 26 November 2020 with a lapse date set for 25 May 2021. An extension to the lapse date was issued 24 May 2021 with a new lapse date set for 20 November 2021. An additional extension of the lapse date was requested 16 November 2021 which was refused 31 January 2022 with the application set to lapse on 15 February 2022.

The application was amended under Section 50 of the *Planning and Environment Act 1987* on 14 February 2022 to remove 43 Monbulk Road Mt Evelyn from the application. A request for further information was sent on 15 March 2022 with a lapse date set for 22 August 2022. Information was provided 19 August 2022.

The application was again amended under Section 50 of the *Planning and Environment Act 1987* on 25 October 2022. Advertising commenced 10 November 2022.

PLANNING CONTROLS

Zoning:	Clause 33.03 - Industrial 3 Zone (IN3Z)
Overlay:	Clause 44.06 - Bushfire Management Overlay (BMO) Clause 42.01 - Environmental Significance Overlay (ESO2)
Planning Policy:	Clause 02.03-7 - Economic development Clause 13.04 - Soil degradation Clause 13.05 - Noise Clause 13.07 - Amenity, Human Health and Safety Clause 13.07-1S - Land use compatibility Clause 15.01 - Built Environment Clause 17.03-1S - Industrial land supply Clause 17.03-1L - Industry
Particular Provisions	Clause 52.12 – Bushfire Protection Exemptions Clause 52.17 – Native Vegetation Clause 52.05 - Signage Clause 52.29 - Land Adjacent to The Principal Road Network
Other Requirements:	Clause 65 – Decision guidelines

PERMIT TRIGGERS***Zoning***

Under Clauses 33.03-1 and 33.03-4 of the Industrial 3 Zone, a permit is required to use the land for a service station and to construct a building or construct or carry out works.

Clause 72 defines service station as

“land used to sell motor vehicle fuel from bowsers or charge electric vehicles and it may include the selling of food, drinks and other convenience goods, hiring of trailers and washing of motor vehicles”.

Overlays

Under Clause 44.06-2 - Bushfire Management Overlay a permit is required to construct a building or construct or carry out works associated with Service Station.

Under Clause 42.1-2 – Environmental Significance Overlay a permit is required to construct a building or construct or carry out works including a fence and to remove, destroy or lop any vegetation, including dead vegetation.

However, the requirement to obtain a planning permit for the removal of Tree 4 and Tree 10, as listed in the arborist report, is overridden by the permit exemption at Clause 52.12-2 that allows for the removal of vegetation within four metres of a boundary fence.

Particular provisions

Under **Clause 51.03 - Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan** a permit is required to remove, destroy or lop any vegetation. However, Tree 4 and Tree 10 are exempt from requiring a planning permit for removal by the provisions of Clause 52.12-2.

Under **Clause 52.05 - Signs Category 2** (Office and Industrial) a permit is required to display pole sign/s, promotion signs, illuminated signs and business identification signs.

Under **Clause 52.29- Land Adjacent to the Principal Road Network** a permit is required to alter access to a road in a Transport Zone Schedule 2.

CONSULTATION

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	Conditions required
Arborist	<p>The removal of Tree 10 and Tree Group 1 is not contested.</p> <p>Trees 1–3, 5–9 and 11 will remain viable.</p> <p>The proposal requires alteration to reduce the encroachment into the Tree Protection Zone of Tree</p>	<p>Inclusion of permit conditions in relation to Tree 4 would contravene the exemptions as listed in Clause 52.12, of the planning scheme, and cannot be imposed by</p>

	4 to 10 percent or less. Conditions The proposal requires alteration to reduce to 10 percent or less the encroachment into the Tree Protection Zone of Tree 4.	Council.
Traffic	Support the proposal subject to conditions requiring the following: <ul style="list-style-type: none"> • A 2.5 metre wide footpath • The carrying out of a Road Safety Audit • Clear delineation of the nature strip 	Conditions addressing the comments have been included in the recommendation, along with standard traffic conditions.
Drainage	No objection	Standard drainage conditions included in the recommendation.

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	Summary of Conditions
Department of Transport and Planning (Determining referral authority)	Consent	Road layout shown on Traffix Group, Drw. No. G27274-02-01, dated 22 July 2022 to be constructed.
CFA (Recommending referral authority)	Consent	Bushfire Management Plan to be endorsed.
Melbourne Water (Determining referral authority)	No objection. Information available at Melbourne Water indicates that the property is not subject to flooding. The property is also not located close to any of Melbourne	Conditions requested. Including an approved stormwater management plan as required by the Environmental Significance Overlay

	Water's waterway assets	Schedule 2.
EPA	No objection	No conditions requested.

Note: Workcover referral not required for service stations unless they are unmanned – only required for industry, utility installation or warehouse uses.

Public Notification and Consultation

Notification of the application was undertaken by:

- Placing of one (1) sign on the land
- Mailing notices to owners and occupiers of adjoining and/or nearby properties
- Placing the proposal on Council's website for a minimum of 14 days

Number of submissions:

A total of 194 (as at 2 March 2023) submissions were received comprising 193 objections and one letter of support.

Submitters issues are summarised as:

- Safety and health impacts on adjoining residences and children at school and the nearby childcare centre from the petrol station operation;
 - Petrol station use inappropriate adjacent to a dwellings and school;
 - Health impacts of fumes, chemicals, and pollution;
 - Land contamination; and
 - Safety of having petrol stored close to dwellings and Mount Evelyn Primary School.
- Convenience food sales is inappropriate next to a school – unhealthy food and impacts on children's spending money;
- No need for another a petrol station, car wash or convenience food option; and
 - Mount Evelyn is serviced by three petrol stations within 3.5 kilometres of the town centre.
- Traffic impacts, operation, and congestion of Monbulk Road, other road intersections and surrounding roads;
 - Concerns with existing road safety, crossing, footpath quality, pedestrian access, vehicle speed and traffic congestion issues need to be addressed;
 - Deceleration and turning in and out requirements are inadequate, and the location is not convenient or accessible;
 - Increase in truck traffic;

- Road is insufficient to deal with additional traffic;
- Impacts of school crossing traffic backing up / school drop off and pick up conflicts;
- Impacts on the operation of the intersection of Monbulk Road with Aqueduct Avenue and Watkins Crescent;
- Impacts on pedestrian and bicycle safety;
- Lack of pedestrian refuges / footpaths adjacent to the site;
- Traffic Report does not take into consideration the impact of school generated vehicle traffic and car parking in the surrounding area, nor the impact on pedestrian safety;
- Increased stress on school crossing supervisors;
- A service road should be constructed, or a set of traffic lights be installed; and
- Traffic report undertaken during lockdown and traffic report not representative of actual traffic conditions.
- Parking impacts;
 - Loss of on street parking for school staff and child drop off / pick up due to proposed turning lanes.
- Amenity impacts on surrounds);
 - Noise impacts from car wash, vacuum, drive through, customers;
 - Odour and air quality impacts – from food and petrol;
 - Light impacts – area and adjoining residential;
 - 24 hours of operation impacts;
 - Overlooking of school and residential properties;
 - Visual impact of signage;
 - Impacts of rubbish; and
 - Weekend impacts inappropriate
- Impacts on the character of the area;
 - Loss of vegetation; and
 - Built form contrary to low density character of the area.
- Vehicle spray painting already creates significant health issues;
- Potential for McDonalds, Hungry Jacks or KFC. Corporate use inappropriate in township;
- Stormwater issues;
- Proposal is contrary to the Industrial 3 Zone;
- Land should be rezoned to make the use prohibited;

- Alternate use recommended;
- Crime / protection of children from sexual predators / security issues / , at night and on weekends;
- Use is inappropriate in a Bushfire Management Overlay/designated bushfire prone area;
- Impacts on native animals;
- Proposal is not sustainable / the sale of petrol is obsolete / not environmentally sustainable with the introduction of electric cars – EV charging station is required;
- Loss of garden supply store;
- Impacts on petrol prices; and
- Extent of notice insufficient.

A consultation meeting was held 23 January 2023 attended by the Mayor, Ward Councillor, Council officers, the applicant and approximately 30 submitters. Many of the issues above were discussed; however, no resolution was reached.

ASSESSMENT/ KEY ISSUES

Planning Policy and Zone

The proposal has been assessed as being in accordance with the applicable Zone and Overlay provisions, the Planning Policy requirements, Particular Provisions and Decision Guidelines of the planning scheme as will be discussed below.

Policy

Under Clause 02.03 (Strategic Direction), Mount Evelyn is nominated as a suburb within the Melbourne Urban Growth Boundary with a Large Neighbourhood Activity Centre located 0.9km to the north west of the subject site. Some key strategic directions and strategies supporting the Vision include:

- 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;
- Discourage activity centre functions in out of centre locations;
- Consolidate retail and office-based businesses in activity centres;
- There are limited opportunities within the Urban Growth Boundary for further industrial development however many existing industrial areas contain under-developed sites that offer potential for more intensive industrial use;
- Provide for new businesses in accessible locations that broadens the economic base and range of employment opportunities in Yarra Ranges;
- Retain a broad range of industrial based employment and support efficient use of industrial land; and

- Manage industrial areas to provide opportunities for future changes and innovation within the local employment sector.

This proposed service station is located within one kilometre of the activity centre, which is an appropriate distance in the context of 20 minute neighbourhoods as described in *Plan Melbourne 2017-2050*.

Being on the main road also provides strong connectivity with the Mount Evelyn activity centre. Planning policies is more focused on consolidating residential, retail and office development within activity centres. In this case, locating a service station on industrial zoned land with good to connection to the activity centre is an appropriate planning policy response.

Categorisation of use

Clause 72 defines a service station as:

“land used to sell motor vehicle fuel from bowsers or charge electric vehicles and it may include the selling of food, drinks and other convenience goods, hiring of trailers and washing of motor vehicles”.

Several submitters have raised concerns that the application is proposing a convenience restaurant and in part this is because of the drive through service. As mentioned above, the definition of a service station provides for the selling of food, drinks, and other convenience goods. The service station definition does not preclude the selling occurring in a drive through arrangement.

Furthermore, a review of the plans indicates that there is no seating area provided within the building, no kitchen facilities and shared pedestrian access to the premises. The proposal provides food, drinks, and other convenience goods consistent with the service station definition. The proposal is not and does not provide for a convenience restaurant.

The application documentation states that:

The drive-through which forms part of the proposed development will offer the OTR (On The Run) branded food product range available in the store. This product range includes coffee, juice and other beverages, prepared foods such as sandwiches, pies, salads and wraps and other snacks, and convenience grocery items from the in-store range. The proposed development does not include any element that would result in it falling within the defined land use term “convenience restaurant” or “take away food premises”. “Branded” fast-food items such as KFC, McDonalds and Hungry Jacks will not be provided from the drive-through, or at all on the site.

Having regard to the adjoining sensitive residential interface a condition limiting the operation of the drive through to between 6am and 10pm is also recommended.

Appropriateness of the Service Station use

The Industrial 3 Zone requires a planning permit for a service station use when it is within 30 metres of land in a residential zone or an education centre (primary school). A service station use is otherwise as of right, suggesting that the use is not contrary to the primary purpose of the zone. The sale of petrol and the washing of motor vehicles are activities with potential amenity impacts which are best suited for an industrial zone as opposed to commercial or residential zones (where the use is also discretionary). Mount Evelyn has ample industrial land with two (2) industrial areas and the proposal does not significantly affect the availability of industrial land (**Error! Reference source not found.**).

Clause 17.03-1S seeks to avoid approving non-industrial land uses that will prejudice the availability of land in identified industrial areas for future industrial use. Clause 17.03-1L seeks to discourage use of industrial land for non-industrial uses unless it does not compromise the primary purpose of the zone, is compatible with surrounding land uses, does not affect the long-term availability of industrial zoned land for industrial uses and cannot be located in another zone.

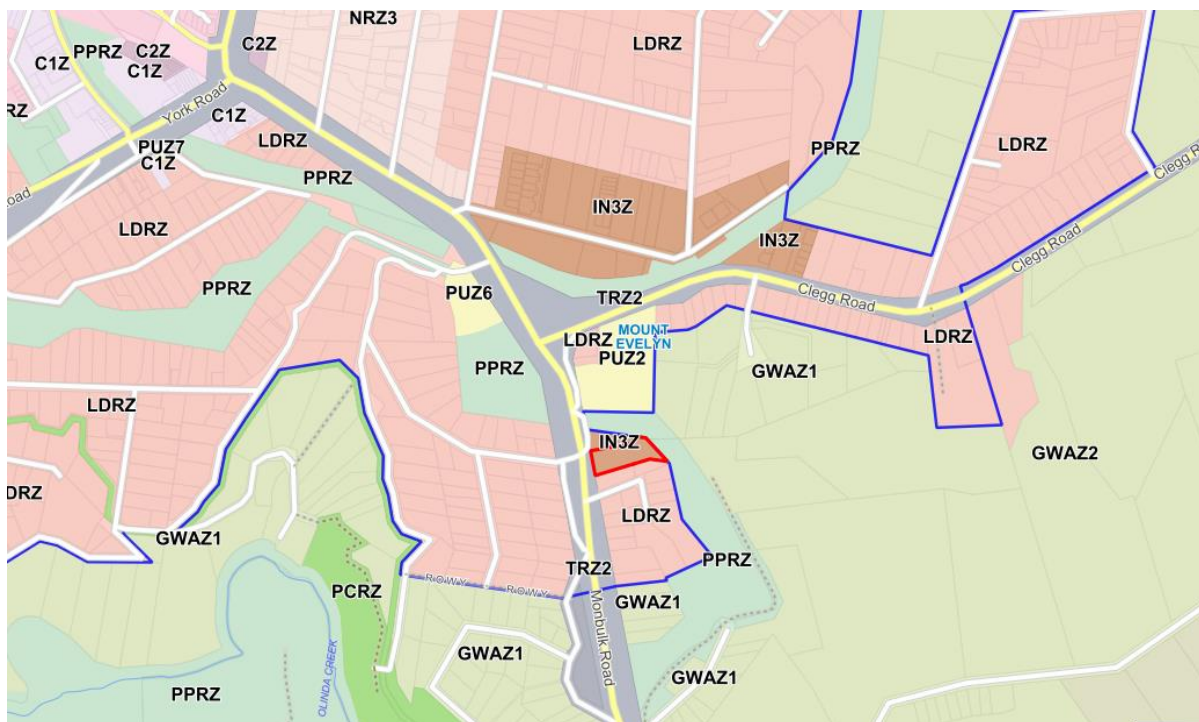


Figure 6 - Zoning of land in Mount Evelyn (Industrial land identified in brown)

The proposed service station use is appropriate and supported by the purpose of the Industrial 3 Zone. The key considerations of the proposed use are potential impacts upon the adjacent Mount Evelyn Primary School, to the north, and dwellings to the south.

Need for a petrol station

The applicant has provided an economic needs assessment in support of their proposal. Amongst other things this assessment identifies other service stations in the surrounding area with Fast Fuel located 900 metres from the site and 11 other service stations within eight (8) kilometres of the site. (Figure 7)

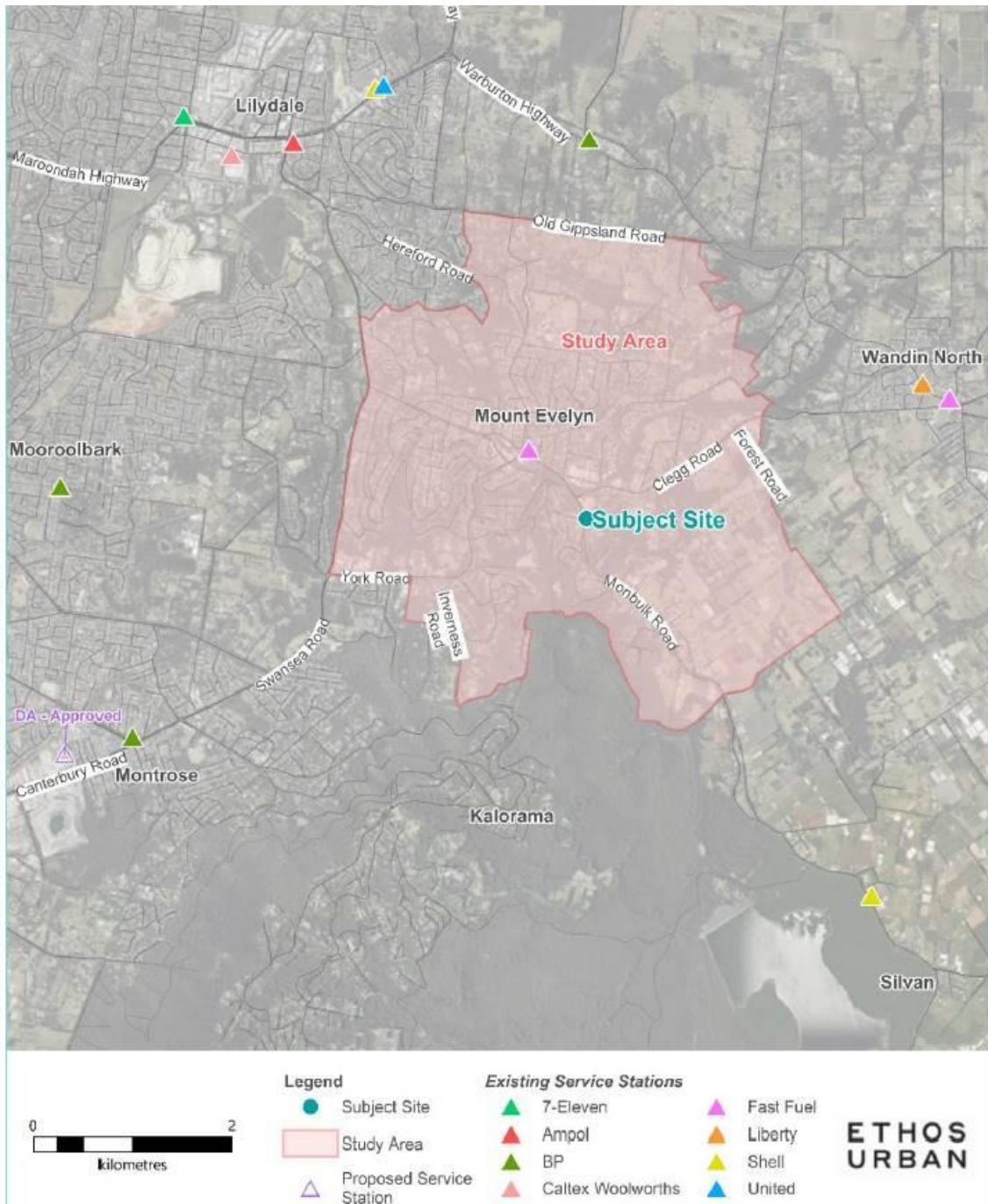


Figure 7 – Other service stations in proximity to subject site

Local Fuel Pty Ltd v Yarra Ranges SC [2022] VCAT 453 made detailed commentary on the limited weight to be given to a need or lack of need for a use at paragraphs 68, 69 and 71.

The proposal is not dissimilar to the above example with other like facilities within general proximity and similar needs based concerns raised by objectors. The proposal provides opportunities for net community benefit through upgrade and improvement of Monbulk Road. This is a market driven matter and planning decisions cannot concern itself with matters of economic competition and supply and demand of services.

Buildings and works, landscaping and character of the area

The submitted plans are considered to be an appropriate development of the subject site, with the operation and layout responding appropriately to the adjoining residential area and school. The design and layout provide appropriate scaled development of the site and landscaping opportunities while improving upon the operation of the adjoining Monbulk Road, traffic, and pedestrian movement.

The broader area is considered to have a well vegetated character with the exception of the subject site and adjoining panel beater, which have little to no vegetation.

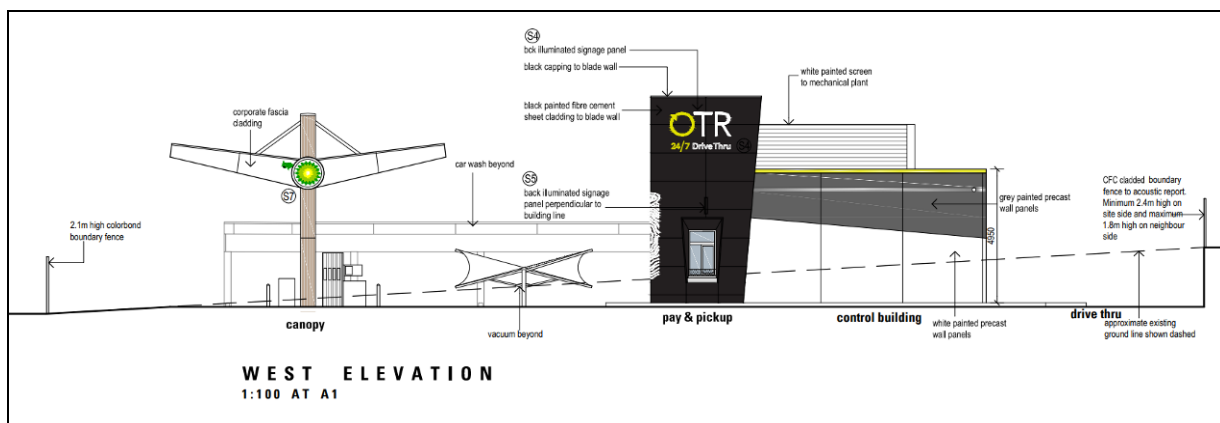


Figure 8 – View of the proposed development from Monbulk Road

In contrast the surrounding residential area is characterised by single storey dwellings with generously landscaped setbacks.

The proposed building is single storey, setback more than 10 metres from the front boundary and, being excavated up to 1.9 metres in depth, presents minimal built form presence to the public realm or the adjoining dwelling to south. The canopy is a simple structure with minimal mass setback 15 metres from the front boundary.

The proposed buildings and works will significantly improve the visual amenity of the site, providing a contemporary built form with appropriate area for landscaping, noting that planting is constrained by the requirements of Bushfire Management Plan.

The proposal includes a drive through which extends around the side and front of the building, with setbacks of between 5.2 metres to 6.7 metres from the front boundary. The drive through is generally excavated below natural ground level and will not be prominent when viewed from the public realm.

A landscape plan is included as part of Attachment 2 showing the provision of 21 trees however, this does not appear to be achievable, noting that a five (5) metre canopy separation of mature trees is required in the Bushfire Management Plan and that trees within 10 metres of dwellings cannot be protected by permit conditions having regard to Clause 52.12 provisions. A revised landscape plan is recommended by permit condition including the provision of semi-mature canopy trees in the front setback, and canopy planting adjacent to the shared boundary with the school, parkland, and residential properties, with mature five (5) metres canopy separations in accordance with the Bushfire Management Plan and canopy tree planting setback 10 metres from dwellings.

Overall, the layout provides generous landscaping opportunities for a property in an Industrial 3 Zone.

Services

The bin storage area is located on the south boundary proximate to the adjoining dwellings shed and is appropriately located. Air and water services are provided proximate to the proposed building and are not anticipated to impact upon the amenity of the adjoining residence.

Sustainability

The proposal includes a Sustainability Management Plan, (Attachment 11) which includes Water Sensitive Urban Design measures. Whilst the application was lodged before 2 December 2022 (gazettal of Amendment C148) and the sustainability policy found at Clause 15.01-02L is not applicable, however the proposal achieves a best practice BESS score of 55 percent in accordance with the provisions of Clause 15.01-02L. A recommended condition requires compliance with the Sustainability Management Plan.

Signage

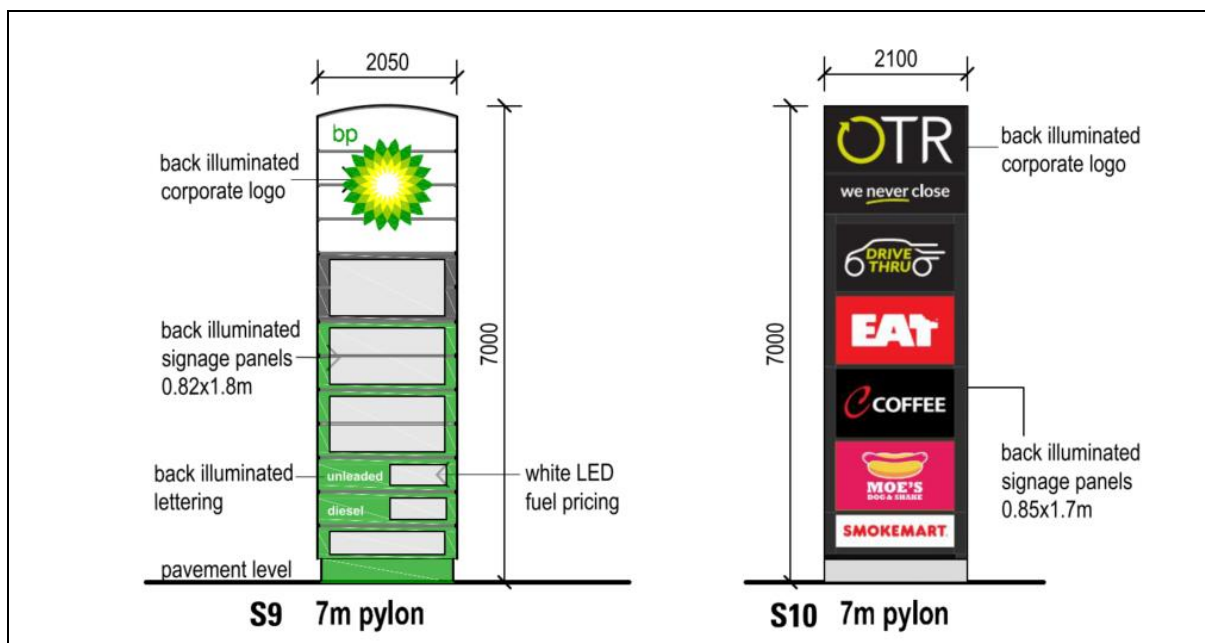




Figure 9 – The proposed pylon signs.

The most prominent signs are signs S9 and S10, (**Error! Reference source not found.**), which are both double sided seven (7) metre high back illuminated pole signs on the frontage of the land facing north and south at oncoming traffic in Monbulk Road. Whilst prominent as viewed from north and south in Monbulk Road this orientation reduces visual impacts on the residential area to the west and provides ample opportunity for motorists in Monbulk Road to identify the use and approach safely and is the best orientation.

With the exception of the OTR corporate identifier, sign S10 comprises promotional signage which is generally discouraged. Further sign S9 includes LED petrol price displays, the BP corporate identifier and “signage panels” of unknown content. It is recommended that the relevant business identification signage of S9 and S10 be combined into a single pole sign with the promotion signage removed (retaining the petrol price displays). A review of other OTR premises (Mildura, Alphington) shows that a single pole sign is typical for the use.

The subject site is located in an industrial zone with high amenity residential areas to the west and south. The proposed signage fronts Monbulk Road or the internal areas of the site and includes a range of signs. Subject to conditions the proposal achieves an appropriate response for the Category 2-Office and Industrial signage provisions of Clause 52.05-12 and the planning policy framework, providing signage at a scale and type consistent with the proposed use. The signage is sufficient to guide customers and avoid excessive visual clutter and visual disturbance to the streetscape character and character of Mount Evelyn at this gateway location.

Traffic and Car Parking

Concerns have been raised by submitters about pedestrian safety, in particular school children walking adjacent to the subject site. Traffic around Mount Evelyn Primary School can be chaotic, and this is a result of several factors such as the informalised car parking and vehicle access arrangements on Monbulk Road and vehicles associated with businesses parking on Monbulk Road and driver behaviour, particularly during school hours. Until recently, trucks loaded with soil and other materials have regularly accessed the subject site. The land is in an industrial zone and adjacent to a Transport Zone 2 and regular commercial vehicle access is not an unreasonable expectation in this location given that more intensive industrial activity is encouraged by local planning policy.

There is no footpath in the verge on the east side of Monbulk Road, adjacent to the industrial area, and pedestrian access, car parking and vehicle access occurs in an ad-hoc and unmanaged way. Presently parked vehicles limit the visibility and movement of pedestrians, which creates significant risk to pedestrian safety.

Officers have observed the operation of this area during school drop off time in peak hour and it is currently not safe with cars reversing into and out of Monbulk Road proximate to the school crossing, adjacent to parked cars, u-turning, turning over double white lines and driving along pedestrian access ways. The existing parking and access arrangements on Monbulk Road present significant safety concerns that will need to be resolved, regardless of the current application.

Council's traffic engineers have reviewed the on street parking and access adjacent to the industrial area and confirm these issues should be addressed. Council's traffic engineers recommend the provision of a 2.5 metre wide sealed footpath and 'no parking controls' be introduced on the east side of Monbulk Road, from the subject site to the school crossing to the north.

There are short term drop-off parking bays in the eastern service road north of the school crossing adjacent to the school. There is also an unrestricted car park on the west side of Monbulk Road proximate to the school crossing which has a footpath appropriately separated from vehicles by a low timber safety fence. These provide safer school drop off and pick up options (Figure 10).

The slip lanes required by the Department of Transport and the footpath will significantly improve the traffic and pedestrian safety in this location. There remains adequate parking proximate to the school for school drop off and pick up despite the removal of on street parking.

The proposal provides the opportunity to address these issues at the cost of the developer. This may change the character of this part of Monbulk Road and may increase drop off times with parking located further from the school. However, pedestrian safety and in particular the safety of school children should be the primary focus in this instance.

The Department of Transport have required that extensive roadworks with slip lanes and turning lanes be provided in Monbulk Road as part of their conditions. These works have been reviewed and are supported by Council officers as these works address traffic issues that have been identified by Department of Transport, the public, Council's traffic engineers and planners.



Figure 10 - Department of Transport Plan

If the application were to be supported, conditions requiring the construction of a sealed, 2.5 metre wide footpath adjacent to the subject site and connecting through to the sealed footpath (adjacent to Mount Evelyn Primary School) to the north, in front of the panel beater, would be placed on the permit. This should be line marked, coloured, and raised adjacent to the crossover to ensure that vehicles entering and exiting the site have clear visual cues to be aware of pedestrians.

The proposed changes will improve pedestrian safety and provide for a more functional vehicle environment once the development is complete.

Noise

The land is located within an Industrial 3 Zone and whilst there should be some moderation of amenity expectations by adjoining residential properties, the zone still requires consideration of any potential amenity impacts.

Concern has been raised about:

- noise impacts associated with the 24-hour operation of the use on adjoining and nearby residential properties; and
- noise impacts during the day on the amenity and operation of the school.

Until recently the land was used as a garden supplies business. Available information indicates that this use delivered soil, rocks, and other materials from the site to customers including regular truck movements to and from the land. It is anticipated that the former use would have included noise and dust impacts on the surrounding area. It is understood that the garden supplies business operated between 7:30am to 5pm, however, there was no planning permit that restricted hours of operation and operating hours could have been greater.

Noise impacts are typically dependent upon the time, volume, duration, and proximity of sensitive receptors. Whilst the subject site abuts a school, the dwellings to the south are closer to the proposal than school buildings.

Reference	Address	Description
R1	43 Monbulk Road	Existing single storey residential dwelling
R2	5 Renouf Court	Existing single storey residential dwelling
R3	7 Renouf Court	Existing single storey residential dwelling
R4	4 Renouf Court	Existing single storey residential dwelling
R5	26 Monbulk Road	Existing single storey residential dwelling
R6	33-37 Monbulk Road	Mt Evelyn Primary School



Figure 11 – Sensitive Receptors taking from the applicant’s Acoustic Report (Attachment 7)

The acoustic report has identified the sensitive receptors proximate to the site, as shown in Figure 11. The report has specified the provision of a 2.4 metre high acoustic barrier on the south title boundary interfacing the residential areas. The adjoining dwelling to the south is setback a minimum 4.2m from the common boundary and solar access to this dwelling’s secluded private open space complies with Clause 55 standard B21 for overshadowing. The report has recommended operating hours for various components of the use, to meet the relevant Victorian EPA legislation and guidelines, based on the volume and duration of noise generated by these components. Specifically:

- Waste collections to occur during the day defined period only, i.e., Monday to Saturday, 7 am – 6 pm (not including public holidays);

- Fuel deliveries to occur during the day or evening defined periods only, i.e., Monday to Sunday, 7 am – 10 pm;
- Manual wash bay to occur during the day defined period only, i.e., Monday to Saturday, 7 am – 6 pm (not including public holidays); and
- Vacuums to occur during the day or evening defined periods only, i.e., Monday to Sunday, 7 am – 10 pm.

This is based on the following assumptions:

- On site vehicle movements at 10 km/h;
- An allowance of two (2) minutes for the waste collection operation;
- Auto carwash operation for up to 20 minutes in any given 30 minute period (3 cycles);
- Manual wash bays for up to 18 minutes in a given 30 minute day or evening period (3 bays, 6 minutes each);
- Vacuum operation for up to 12 minutes in a given 30 minute day or evening period (2 vacuum units, 3 cycles at 2 minutes each);
- Unloading operations associated with store deliveries utilises electric pallet jack only (no motorised forklift); and
- The small dog wash facility is partially enclosed and due to the limited/expected use is not considered a significant noise source in this assessment.

The acoustic report also estimated drive through patronage and associated use of Customer Order Device unit patterns is as follows:

- Peak drive-through rates are approximately 38 vehicles per hour between 7 am and 10 pm, and seven (7) vehicles per hour between 10 pm and 7 am;
- The average time that the Customer Order Device is in operation per order is approximately 16 seconds;
- A 30-minute day and evening period (based on above peak drive-through rates) will therefore include a total of five (5) minutes of Customer Order Device activity; and
- A 30-minute night period (based on above peak drive-through rates) will therefore include a total of one minute of Customer Order Device activity.

The 24-hour sale of petrol and access to the convenience shop is supported. However, there are concerns with the other elements of the proposed development and use. The drive through and vacuum hours of operation are considered excessive and incompatible with the adjoining residential properties and will detrimentally impact on their amenity. A condition of any approval issued will require the hours of operation to be restricted.

The proposed vacuums are located 30 metres from the nearest dwelling. The use of vacuums, particularly in the evening period, has the potential to impact significantly on the amenity of the adjoining dwellings and it is recommended that vacuum hours

be reduced to match those of the manual car wash, which is 7 am to 6 pm on Monday to Saturday. Whilst the applicant's acoustic engineer recommended a 10pm restriction on use of the vacuums, a restriction to 6pm is considered more appropriate in the context of the protecting the amenity of the adjoining residential area. The applicant's acoustic engineer recommended the manual car wash operation be restricted to 6pm due to predicted noise levels that are double that of the vacuums. Considering the vacuums are collocated with the manual car wash, it makes sense from an operation perspective to have both operating under the same time restriction.

The application is proposing an automatic car wash located a minimum of 21 metres from the nearest dwelling that will operate 24 hours a day, seven days a week. The applicant's acoustic engineer is predicting noise levels of the automatic car wash of between 15 and 18 decibels measured at the two adjoining dwellings, compliant with relevant EPA noise provisions (whispering equates to 15 decibels). In comparison the applicant's acoustic engineer is predicting noise levels of between 32 and 40 decibels for the manual car wash at the same receivers. The automatic car wash will be entirely enclosed during the operation, and this will significantly reduce the noise level emission. Based on this design and the predicted noise levels, the 24-hour operation of the automatic car wash is supported.

Impacts of the drive through was assessed based on limited activity between 10pm and 7am. Having regard to the proximity of the adjoining dwelling at 43 Monbulk Road, it is recommended that the hours of the drive through be limited to 6am to 10pm.

Having regard to the acoustic assessment and the anticipated noise associated with the 24-hour operation of in store convenience goods purchases, the 24-hour operation of the convenience shop is acceptable.

Conditions are recommended to ensure that the acoustic fence on the south boundary, the mechanical services installed on the roof of the convenience store and the auto carwash are constructed as per the recommendations in the acoustic assessment. Other recommendations in relation to signage and waste collection in the acoustic report also form part of the permit conditions. A condition specifying no external noise amplification except for emergency and customer communication purposes is also recommended.

The subject site is located on a busy road and based on the acoustic assessment it is expected that the traffic noise of vehicles accessing the site would have no discernible impact on the ambient noise level in the vicinity of the site during the day and that noise impacts during the night would not be unreasonable, particularly in the context of the land being zoned for industry. Similarly noise by patrons coming and going to their cars during the day or night would not pose an unreasonable impact upon the amenity of the surrounding residential properties or school noting that the proposed building and acoustic fence on the south boundary will screen noise from the operation of the bowzers and the convenience shop. The dwellings to the west are located a minimum of 60 metres from the subject site and it is not expected that noise associated with the operation of the petrol bowzers and the proposed building will have an unreasonable impact upon their amenity.

Odours and fumes health risks

It is not uncommon for service stations to be located in proximity to or adjoining residential properties, with many service stations located near residential properties along main roads.

The application includes an air emissions report, (Attachment 9). That notes the EPA have set standards for air quality in Victoria and provide rules and guidance that businesses must follow to minimise harmful odour pollution. These are legislative requirements outside of the planning framework and service station operators or sites need to comply with these prior to and the after establishment of the use. These focus on issues relating to safety, health, environment, and amenity. This includes requiring that displaced petrol fumes must be collected with a vapour recovery system.

The report identifies two types of vapour recovery, being for fuel deliveries and for fuelling of cars, noting that the fuelling of car system is typically required in more urbanised areas and is not necessary in this location.

In light of the regulations that apply to the proposed land use, it considered that there are operating systems/measures available that would mitigate adverse vapour/odour impacts arising from a service station land use on adjoining residential properties and the adjoining school.

Having regard to the proposed site layout, the distance to area of activity at the school and the legislative framework that the use must operate, the amenity impacts from odours are considered to be both easily manageable and acceptable.

The plans should show the location of tank vents and position these centrally on the land away from all boundaries by permit condition.

Light spill

The application includes a light modelling report, (Attachment 10) which determines that the proposal complies with the relevant Australian Standards for lighting, noting that there are only sensitive interfaces to the south.

A service station generally requires the provision of sufficient lighting for safe operations. Limitations on operating hours of the drive through, car wash and vacuums, coupled with standard conditions requiring control of light spill through baffling and design of lighting will reasonably reduce light-related amenity impacts of the proposal. The lighting report assesses three pole lights and the location of these should be clearly shown on the plans by permit condition.

Whilst the site is something of a gateway site into Mount Evelyn, the site is on a main road, in an Industrial 3 Zone and within the urban growth boundary and the proposed lighting at night is an acceptable outcome subject to the above.

Will the proposal give rise to significant social effects?

Reference is made to the large number of objections lodged in relation to the permit application which indicates a 'significant community response' giving rise to the

provisions under Sections 60(1)(f) and 60(1B) of the Planning and Environment Act 1987 which are inter alia as follows:

(1) Before deciding on an application, the responsible authority must consider—

(f) any significant social effects and economic effects which the responsible authority considers the use or development may have

(1B) For the purposes of subsection (1)(f), the responsible authority must (where appropriate) have regard to the number of objectors in considering whether the use or development may have a significant social effect.

A similar matter was considered under *Local Fuel Pty Ltd v Yarra Ranges SC [2022] VCAT 453* in points 59 to 66.

The proposal does not impact upon the large Neighbourhood Activity Centre but a small industrial area. Otherwise, the impacts of the service station are similar to those considered by VCAT to impacts on other businesses, traffic, car parking, amenity, and character issues. There is no evidence of any significant social effects.

Environmental Significance Overlay Schedule 2

Having regard to the site being located within the Environmental Significance Overlay, the majority of the vegetation proposed in the landscape plan in Attachment 2 is to be native vegetation indigenous to the area.

The built-form, materials and architectural response is simple, modern and consistent with the Industrial 3 Zone and the purpose, policies, objectives and strategies of the Planning Policy Framework and Particular Provisions of the Yarra Ranges Planning Scheme.

Similarly, the landscaping opportunities within the proposal are consistent with development expectations in an industrial zone.

Bushfire Risk

The applicant has submitted a Bushfire Management Statement and Plan in response to the Bushfire Management Overlay. The Bushfire Management Statement identifies that the landscape has an extreme bushfire risk due to Mount Evelyn's hilly terrain and the location within Dandenong Ranges National Park. There is the potential for bushfires that can damage the locality particularly with ember attack.

The Bushfire Management Plan addresses water supply, construction standard, defendable space and access. This plan has been reviewed by the CFA and is supported subject to conditions. Submitters have raised concerns that the service station will contribute to bushfire risk.

The issue of a service station within a Bushfire Management Overlay was considered at length in *Local Fuel Pty Ltd v Yarra Ranges SC [2022] VCAT 453* (Attachment 13) where it was found that standard bushfire measures (BAL-29

construction and water tanks) were not an acceptable outcome when tested against the policy matrix for bushfire risk, including whether the proposal can be said to result in no net increase in risk to existing and future residents, property and community infrastructure.

A condition is recommended requiring a Bushfire Safety Plan to ensure risks are appropriately managed during any bushfire event.

Clause 71.02-3 Integrated decision making

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 assessing this application, it is recognised that the subject site is at the edge of the Mount Evelyn township. The development of a service station and car wash will provide a service to passing motorists in the area and not just local motorists. It will result in a land use that is consistent with the existing adjacent industrial land uses and has responded to any potential conflicts with adjacent residential and education uses.

Subject to conditions the proposal will not cause a disruption to the character of the area. Having regard to the upgrades required to Monbulk Road, the proposed use and development will provide a community benefit.

RESPONSE TO SUBMITTERS CONCERNS

Objector concern	Council Officer Response
Existing road safety / crossing / footpath quality / pedestrian access / vehicle speed and traffic congestion issues need to be addressed.	As per the assessment above the proposed conditions on the permit will require improving the current vehicular and pedestrian movement on and near the site.
Traffic impacts / deceleration and turning in and out requirements inadequate / location not convenient or accessible / increase in truck traffic / road insufficient to deal with additional traffic / impacts of school crossing traffic backing up / school drop off and pick up conflicts.	Department of Transport has assessed the application and recommended conditions as per assessment above.
Impacts on the operation of the intersection of Monbulk Road and Aqueduct Avenue / Watkins Crescent.	Department of Transport has assessed the application and recommended conditions as per assessment above.

Objector concern	Council Officer Response
Impacts on pedestrian safety / bicycle safety / Mount Evelyn Primary School students / Kinder / childcare centre safety from traffic including lack of pedestrian refuges / footpaths adjacent to the site. Traffic Report does not take into consideration the impact of and to school generated vehicle traffic and car parking in the surrounding area, nor the impact on pedestrian safety.	As per the assessment above the proposed conditions on the permit will require improving the current vehicular and pedestrian movement on and near the site.
Increased stress on school crossing supervisors.	The proposal will improve the operation of Monbulk Road, and this will largely resolve any potential impacts on the school operation.
Petrol station use inappropriate adjacent to a school / health impact of fumes, chemicals and pollution / land contamination / safety threats of petrol storage on adjoining Mount Evelyn Primary School classrooms and playgrounds.	The assessment above has concluded that the proposed use and development is appropriate in this location.
Convenience restaurants use inappropriate next to school – unhealthy food.	<p>The proposed convenience food offering is not a convenience restaurant, and a commercial kitchen is not proposed or shown on the plans.</p> <p>The “healthiness” of food sold at any premises is not a relevant planning consideration but up to the operator of the premises.</p>
Vehicle spray painting already creates significant health and noise issues.	It is noted that the Mount Evelyn Primary School has located its car park adjacent to this site and provides an adequate buffer to land uses and impacts from the proposed use.
Use inappropriate adjacent to dwellings / health impacts of fumes, chemical and pollution / land contamination / safety threats of petrol storage on adjoining dwellings.	The assessment above has concluded that the proposed use and development is appropriate in this location.
No need for a service station / convenience restaurant / Proposal is not sustainable / the sale of petrol is	The assessment above has concluded that the proposed use and development is

Objector concern	Council Officer Response
obsolete / not environmentally sustainable with the introduction of electric cars – EV charging station is required / Impacts on petrol prices	appropriate in this location.
Potential for McDonalds, Hungry Jacks or KFC.	No application for a convenience restaurant has been made. Council is unable to consider “what may be in the future” in assessing the application before them.
Introduction of corporate use into township.	Council cannot control who the operator of a use is and cannot give this concern any weight.
Proposed 24-hour operation inappropriate.	See assessment above
Loss of vegetation / impacts on character of the area.	<p>Minimal vegetation removal is proposed. No permit is required for vegetation removal as this is exempt under Clause 52.12. Permit conditions cannot be imposed to protect trees exempt under Clause 52.12.</p> <p>The proposal allows for landscaping to protect the amenity of the surrounds consistent with the Industrial 3 Zone.</p> <p>Landscaping needs to comply with the Bushfire Management Plan.</p>
Built form contrary to low density character of the area	The proposed development is considered to be respectful of the surrounding built form of the area. Additional landscaping will ensure it is in keeping with the character of the area.
A service road should be constructed, or a set of traffic lights be installed.	Monbulk Road is a Department of Transport Road, and the design has been approved by Department of Transport.
Noise impacts on amenity and operation of adjoining school, residential uses and surrounding area, in particular at night.	See assessment above.
Light spill impact/Visual impact of signage/Drive through inappropriate.	See assessment above.

Objector concern	Council Officer Response
Land should be rezoned to make the use prohibited.	The use is discretionary, and Council must assess the merits of the application before it based on the zoning of the land.
Impacts on native animals.	The proposal will have minimal impacts on native animals.
Weekend impacts.	Impacts on the weekend will not be unreasonable.
Stormwater issues.	See assessment above
Traffic report undertaken during lockdown / traffic report not representative of actual traffic conditions.	New counts have been prepared as part of the application. The proposed development and use have been assessed by Department of Transport and is considered appropriate with the completion of upgraded road works.
Proposal is contrary to the Industrial 3 Zone.	Proposal is consistent with the purpose of the Industrial 3 Zone.
Crime / protection of children from sexual predators / security issues / overlooking of adjoining school during school hours, at night and on weekends.	The proposal increases activity and passive surveillance in the area which will improve safety.
Use is inappropriate in a Bushfire Management Overlay / designated bushfire prone area.	See assessment above.
Loss of garden supply store	Council must assess the merits of the application before it. The closure of a particular business type is not a relevant planning consideration.
Shop will take children's money and food smell will tempt children.	This is not a relevant planning matter for consideration.
Impacts on views	Views are not protected under the planning scheme. The proposal provides an appropriate quality of design.
Extent of notice insufficient	Notification has been undertaken in accordance with the <i>Planning and Environment Act 1987</i> with notice displayed on site and letters sent to

Objector concern	Council Officer Response
	surrounding owners and occupiers.

CONCLUSION

Overall, it is considered that the proposal demonstrates a strong alignment with the relevant policies and provisions of the Yarra Ranges Planning Scheme and provides an opportunity to address local pedestrian and vehicle traffic issues.

It is recommended that a Notice of Decision to Grant a Permit be issued subject to the conditions in Attachment 1 to the report.

ATTACHMENTS

1. Attachment 1 Conditions
2. Attachment 2 Plans and Elevations
3. Attachment 3 Planning Report
4. Attachment 4 Waste Management Plan
5. Attachment 5 Traffic Report
6. Attachment 6 Arborist Report
7. Attachment 7 Acoustic Report
8. Attachment 8 Economic Needs Assessment
9. Attachment 9 Air Emissions Report
10. Attachment 10 Lighting Modelling Report
11. Attachment 11 Sustainability Management Plan
12. Attachment 12 Bushfire Management Statement
13. Attachment 13 Local Fuel Pty Ltd v Yarra Ranges SC [2022] VCAT 453

AMENDMENT C210 1 MONTROSE ROAD, MONTROSE - CONSIDERATION OF PANEL REPORT AND ADOPTION OF AMENDMENT

Report Author: Senior Strategic Planner
Responsible Officer: Director Planning & Sustainable Futures
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 meeting that is open to the public.

SUMMARY

Amendment C210 proposes to apply the Heritage Overlay (HO430) to 1 Montrose Road, Montrose.

The amendment was placed on public exhibition from 7 July 2022 to 8 August 2022 and six submissions were received. Two submissions supported the amendment but requested changes and one submission opposed the amendment.

At the Ordinary Meeting of 11 October 2022, Council resolved to seek the appointment of an independent Panel to consider submissions to the amendment.

The Panel hearing was held on 14 and 15 December 2022. The Panel has now provided its report and recommendations to Council.

The Panel has recommended that Amendment C210 be adopted with some modifications, the most significant of which is the deletion of individual protection of five identified trees. A copy of the panel report is at Attachment 1.

It is recommended that Council adopt Amendment C210 consistent with the Panel's findings.

RECOMMENDATION***That Council:***

- 1. Having considered the recommendations of the Panel Report, adopt Amendment C210 to the Yarra Ranges Planning Scheme with changes in accordance with the Panels recommendations, and generally in accordance with Attachments to this report.***
- 2. Submit Amendment C210 to the Minister for Planning for approval.***
- 3. Write to submitters advising of the outcome of Council's decision.***

RELATED COUNCIL DECISIONS

At the Ordinary Council Meeting of 10 May 2022, Council resolved to prepare and exhibit Planning Scheme Amendment C210.

At the Ordinary Council Meeting of 11 October 2022, Council considered submissions and resolved to request the appointment of an independent planning panel appointed by the Minister for Planning.

DISCUSSION***Purpose***

The purpose of this report is to discuss the recommendations of the Planning Panel and recommendation to adopt Amendment C210 with changes.

Background

1 Montrose Road, Montrose contains a single residential dwelling known as Alta Dena, as shown on the photos and plan in Images 1 and 2 below.



Image 1 - View of front façade of Alta Dena (Extent Heritage Pty Ltd 2022)



Image 2 - Aerial location plan

In January 2022, Council received planning permit application YR-2021/1066, for use and development of 1 Montrose Road, Montrose for a childcare centre. The proposal involves partial demolition of the existing residential building and re-purposing of the building for a childcare centre. The application received 27 objections, including on the basis that the building is of heritage value.

On 16 September 2022, Council resolved under delegated authority to advise VCAT that it would have resolved to refuse the application due to it strongly failing to align with the objectives of the Heritage Overlay (Interim Control HO430) and failing to provide adequate measures to minimise internal and external noise emission.

The application was subject to a review at VCAT which commenced on 25 November 2022. On 5 December 2022 the Tribunal made an order directing the applicant and Council to provide written submissions addressing any implications arising from gazettal of Amendments C148yr and C195yr by 16 December 2022. VCAT issued its decision on the application on 1 February 2023 directing Council to issue a permit.

The site had not previously been identified as being of heritage significance in any existing Council heritage studies, and prior to this application had not been nominated for heritage protection. Subsequent to the advertising of the permit application, a formal nomination for inclusion in the Heritage Overlay was received from a community member.

Council sought heritage advice on the property from a qualified heritage consultant. The investigation identified that the property, including five trees, meets the threshold for local heritage protection and recommended its inclusion in the Heritage Overlay of the Yarra Ranges Planning Scheme.

Interim Heritage Controls

To enable protection of the heritage place whilst Amendment C210 was exhibited, Council also resolved at the Ordinary Meeting of 10 May 2022, to seek the application of an interim Heritage Overlay. The Minister for Planning subsequently used his powers of intervention under section 20(4) of the *Planning and Environment Act 1987* to prepare, adopt and approve Amendment C209 on 7 July 2022. The interim control will apply to the property until 1 May 2023.

Key Issues

Submissions

A total of six submissions were received in response to the amendment exhibition.

Planning Panel Request

Section 23 of the *Planning and Environment Act 1987* states that after considering a submission which request a change to the amendment, the planning authority must:

- Change the amendment in the manner requested; or
- Refer the submission to a panel appointed under Part 8; or
- Abandon the amendment or part of the amendment.

Given that three submissions raised matters that could not be resolved, Council resolved on 11 October 2022 to refer the Amendment and submissions to an independent Planning Panel appointed by the Minister for Planning.

A Planning Panel provides Council and all submitters with an opportunity to have the amendment proposal and matters raised within submissions further considered. Following the completion of the Panel, which generally includes a hearing, the Panel will provide a report to Council with its recommendations for consideration.

Planning Panel Hearing

The Minister for Planning formally appointed a one-person Panel on 18 October 2022.

A Directions Hearing was held by video conference on 7 December 2022.

The formal Panel Hearing was held on 14 and 15 December 2022. Council called Ms Michelle Bashta of Extent Heritage as an expert witness.

The significant issues addressed by the Panel during the hearing were:

- The heritage value of the outbuildings on the site, which two submitters considered had heritage value and deserved inclusion in the Statement of Significance;
- The heritage value of the interiors of the main dwelling, which two submitters considered had heritage value and deserved specific protection in the Schedule to the Heritage Overlay; and
- The heritage value of the five trees individually identified and included in the Statement of Significance. The individual protection of the trees was opposed by the site owner on a number of grounds relating to heritage value and tree health.

Panel Report

The Panel submitted its report to Council on 17 January 2023 (Attachment 1).

The Panel supports the application of the Heritage Overlay to Alta Dena and considers the approach taken in the Heritage Citation is sound and based on appropriate methodology and research and provides a solid base for strategically justifying the Amendment.

The Panel concluded that:

- Alta Dena meets the threshold of historical and aesthetic significance (Hercon Criteria A Historical Significance: Importance to the course or pattern of our cultural or natural history and Criteria E: Aesthetic Significance: Importance in exhibiting particular aesthetic characteristics);
- Internal controls are not appropriate or justified;
- The cottage and garage do not meet the threshold for heritage protection; and
- The five trees identified in the Statement of Significance do not meet the threshold for individual heritage protection.

The Panel recommended that Amendment C210 be adopted subject to the following changes:

- Amend the Statement of Significance to delete reference to the five trees and to delete the Plan of significant vegetation in accordance with the Panel's Preferred version in Appendix D of the report;
- Amend the Heritage Overlay Schedule to delete the permit requirement for tree removal for H0430;
- Amend the Heritage Citation:
 - so that it is consistent with the revised Statement of Significance;
 - to delete any reference to tree controls applying;
 - to incorporate the additional historical background information in relation to George and Verna Rodd in accordance with the tracked changes (to pages 6, 7 and 9) as shown in Appendix E of the report; and
- Amend the Statement of Significance to incorporate Mr Raworth's suggestions in accordance with the Panel Preferred version in Appendix D of the report.

Panel Findings

In making its recommendations the Panel considered the following main issues.

Heritage Significance

All parties to the hearing agreed on the heritage significance of the main dwelling and its protection in the Heritage Overlay of the Planning Scheme.

The main issues addressed by the Panel related to whether the outbuildings on the site also had heritage significance and whether internal heritage controls should apply to the main building interiors.

The Panel agreed with Council's submission and the testimony of the landowners heritage expert witness, that the outbuildings on the site were not of sufficient significance to justify inclusion, and that the interiors, although intact and visually attractive, did not meet the threshold test of exceptional quality required to justify specific internal controls.

Tree Protection

The Panel considered whether five trees on the site warranted individual protection as was proposed in Amendment C210.

The landowner submitted through expert evidence that the trees did not meet the threshold for individual tree controls.

The Panel found that the trees while significant in size, are relatively unremarkable in appearance and there has been nothing presented to demonstrate their significance

other than the fact that they have been identified as forming part of the early or original landscape treatment. The trees do not add to the historical significance of Alta Dena and there is no evidence to suggest they have any association with Tudor Revival architecture or the interwar period. They do not demonstrate a historic planting style or reflect a degree of rarity to warrant individual protection.

It is considered that the Panel's recommendation should be accepted in this instance. A Significant Landscape Overlay (SLO22) already applies to the site and contains a permit trigger to remove, destroy or lop any indigenous vegetation or substantial tree, where a substantial tree is defined as having a diameter at breast height (DBH) greater than 0.16 metres 1.3 m above the ground. This trigger will allow individual consideration of any trees that are proposed to be removed.

Options considered

Option 1

Adopt the amendment with changes in accordance with the Panel's recommendations, as detailed above and in Attachments 2-7 to this report, including deletion of tree control for five trees and an updated statement of significance.

Option 2

Adopt the amendment without making the changes recommended by the Panel. The Panel in making its decision has considered whether the five trees warrant individual protection. The Panel assessed the trees against the HERCON criteria and concluded that the trees did not meet the criteria for individual protection. Any adoption of an amendment that is contrary to any of the Panel's recommendations, must advise the Minister for Planning of the reasons why the recommendations have not been accepted.

Option 3

Abandon the Amendment. If heritage protection of the property was not pursued, Council would be failing in its obligations under the *Planning and Environment Act 1987* and the Yarra Ranges Planning Scheme.

Recommended option and justification

It is recommended Option 1 be pursued and that the amendment be adopted in accordance with the recommendations of the Panel. The Panel has reached its findings after careful consideration of all the evidence presented to it.

The interim heritage control applying to the property is due to expire in May 2023. Timely protection of Alta Dena will ensure the permanent heritage significance of the place and its protection.

FINANCIAL ANALYSIS

The costs associated with Amendment C210 are covered by the recurring Planning Scheme Amendments operational budget for Strategic Planning.

The cost of having a heritage expert investigate and prepare the statement of significance for this site and appear before a panel as an expert witness has totalled \$10,000.

Council must also pay the cost of the panel hearing which was \$7,500.

APPLICABLE PLANS AND POLICIES

The proposal to apply permanent heritage protection to 1 Montrose Road, Montrose is consistent with the following Council strategies and plans:

Council Plan (2021-25) opening statement: *“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.”*

Council Plan (2021-25): Quality Infrastructure and Liveable Places.

Yarra Ranges Planning Scheme:

- Clause 02.03-5 Built Environment and Heritage: Yarra Ranges’ diversity of heritage buildings and places reflect its origins and contributes to its identity. There is a need to protect the important elements of heritage to nurture greater community awareness and appreciation of Yarra Ranges’ past: and
- Clause 15.03-1S Heritage Conservation: ensure the conservation of places of heritage significance.

RELEVANT LAW

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

SUSTAINABILITY IMPLICATIONS

Economic Implications

The amendment is not expected to have any adverse or significant economic effects. Inclusion of a site within the HO does not prohibit changes to that site or building, but rather requires an application process whereby heritage considerations can be properly addressed, along with other factors before any decision on an application is made.

It is considered economic impacts on future development are considered to be offset by the contribution that the heritage place offers to the broader community.

Social Implications

The amendment will have positive social and cultural effects. Protection of heritage places benefits the community by adding to the understanding of Yarra Ranges' rich cultural history, providing a link to the past and giving a sense of place.

Environmental Implications

The amendment will not have any adverse effects on the environment. Retaining heritage buildings for adaptive reuse can also lead to environmental and economic benefits through the substantial reduction in building, demolition and new construction waste, and the conservation of embodied energy in the existing building.

COMMUNITY ENGAGEMENT

Amendment C210 was publicly exhibited from 7 July 2022 to 8 August 2022 in accordance with the statutory requirements under the *Planning and Environment Act 1987*. Notification comprised:

- Notices published in the 5 July 2022 edition of the Mountain Views paper;
- Letters sent by mail to the affected landowner and adjoining landowners and occupiers and other key stakeholders including local heritage societies and the local National Trust Branch;
- Letters sent by mail to all persons who had lodged an objection to planning permit application YR2021/1066, for the proposed use and development of a childcare centre on the site, as many of these objections raised potential heritage value as a concern;
- Letters sent by email to prescribed and relevant government agencies and departments; and
- Notice published in the Government Gazette on 7 July 2022.

In addition, information was made available from Council's and the Department of Transport and Plannings websites.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

The amendment will contribute to protection of Yarra Ranges heritage. As part of the amendment process Council sought the views of all the relevant state government departments who have raised no objections.

RISK ASSESSMENT

Until the property is protected permanently by a Heritage Overlay, there is a risk of demolition or works that may compromise the integrity of the heritage place.

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. Amendment C210 Panel Report
2. Amendment C210 Explanatory Report
3. Heritage Overlay HO430 Planning Scheme Map
4. Schedule to Clause 43.01 Heritage
5. Schedule to Clause 72.04 Incorporated Documents
6. Schedule to Clause 72.08 Background Documents
7. Amendment C210 Statement of Significance

CT7221 SUSTAINABLE STREET LIGHTING STAGE 3: STANDARD LIGHTING INSTALLATION AND LIGHT SUPPLY

Report Author: Executive Officer - Climate & Nature
Responsible Officer: Director Planning & Sustainable Futures
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

Confidential information is contained in Attachments 1 and 2 of 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 attachment to this report could be prejudicial to the interests of the Council or other parties. If discussion of this information is required, the Council is recommended to resolve that the item be deferred to the confidential section of the agenda when the meeting is closed to members of the public in accordance with Section 3(1) (g)(i) (g)(ii) of the *Local Government Act 2020*.

PURPOSE

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

SUMMARY

The Sustainable Streetlighting Program which commenced in 2013 has replaced over 7000 Council streetlights with cumulative savings of \$2.5 million and an average annual abatement of 3,000 tonnes of carbon emissions. This third stage will see the remaining unmetered streetlights replaced with energy efficient lighting.

This report seeks support for the upgrade of standard streetlighting on Category P (pedestrian) and Category V (vehicle) roads. Quotes were sought December 2022 through the MAV contract: SL3911-2022 Street Lighting Hardware & Installation.

This report recommends accepting lighting supply from Schreder Australia Pty Ltd and installation from Electrix Pty Ltd for the estimated prices in the Confidential Attachments to this report. The recommended price is reflective of current streetlighting market rates and represents the best value outcome for Council.

This item has been included in the public agenda to facilitate openness and transparency in Council's decision making. Confidential attachments are included with the report which contains commercially sensitive information.

RECOMMENDATION

That

1. ***Council approves the quote from Schreder Australia Pty Ltd for lighting hardware under the MAV 'Contract No: SL3911-2022 Street Lighting Hardware & Installation' for the total estimated price of \$541,740 exclusive of GST (\$595,914 inclusive of GST) for the contract period anticipated as 16 March 2023 to 30 June 2023.***
2. ***Council approves the quote from Electrix Pty Ltd trading as Omexon Australia for lighting installation under the MAV 'Contract No: SL3911-2022 Street Lighting Hardware & Installation' for the total estimated price of \$652,808.16 exclusive of GST (\$718,088.97 inclusive of GST) for the contract period anticipated as 16 March 2023 to 30 June 2023.***
3. ***Council delegate authority to the Director Planning & Sustainable Futures to sign contract documents.***
4. ***The confidential attachments to this report remain 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

The Sustainable Streetlighting Program has been conducted in three stages with stage one commencing in 2013 and stage two in 2017.

DISCUSSION

Background

The purpose of this report is to seek Council approval to enter contracts for the bulk changeover of inefficient standard streetlighting including Mercury Vapour, High Pressure Sodium and Compact Fluorescent. The roads are inclusive of Category P and Category V roads across the municipality which are minor and major roads such as Burwood Highway and Mt Dandenong Tourist Road.

Ausnet support the program to transition the remaining inefficient streetlights within the 2021-26 period. Ausnet allocated funding specific to each local government within its distribution network, based on the number of streetlights within each municipality. Yarra Ranges Council was allocated \$474,885 (exclusive of GST) in funding.

The lighting changeover will generate electricity savings through the installation of energy efficient streetlighting. Streetlighting was transitioned to the 100 per cent renewable energy contract in July 2021 and as such carbon emissions reductions have already been realised for these lights.

Wildlife and human amenity considerations form part of this project with measures factored into the project cost to reduce light spill and impact to wildlife, particularly across the Hills region.

The Municipal Association of Victoria (MAV) established the following contract: SL3911-2022 Street Lighting Hardware & Installation to enable Victorian Councils to readily transition streetlighting to energy efficient alternatives. This transition forms part of Council's responsibility to operate and maintain lighting as per the *Road Management Act 2004*, this includes the replacement of obsolete lighting such as mercury vapour. The MAV panel was established to allow for the swift transition of lighting and enable access to the time sensitive state government rebate programs.

In September 2022 quotes were sought from all Ausnet approved installers (including those not on the MAV panel) for the Mercury Vapour light replacement. This process resulted in one respondent out of ten approved installers sought for quote.

Over December and January quotes were sought from the MAV streetlighting panel contract to supply Category V lights and additionally for an approved installer to complete the works for both Category P and V lighting upgrades.

The quotation process in September 2022 and again over the December 2022 to January 2023 period was conducted in accordance with the requirements of Council's Procurement Policy. Quotes were assessed for conformity with the quotation documents, and all complied.

The evaluation panel scored light supply against established evaluation criteria including two mandatory requirements; Ausnet approved products and Victorian Energy Upgrades (VEU) approved for the rebate program.

The evaluation criteria for light supply were weighted as follows;

- Price – 50%
- Yearly Energy Cost – 25%
- Delivery Timeframe – 25%

The evaluation criteria for light installation were weighted as follows;

- Price – 50%
- Delivery Timeframe – 50%

The Category P and V lighting upgrades are estimated to be completed by 30 June 2023, with 1,665 lights to be replaced with energy efficient alternatives.

Options considered

Global economic and market challenges along with volatility in the industry has resulted in unprecedented pressures of resource capacity and supply challenges.

An open tender was considered however it was determined this would not result in additional responses given the volume of work and limited resourcing noted by MAV and experience from the quotation process in September 2022.

Recommended option and justification

Following the evaluation process as detailed in Confidential Attachment 1, the evaluation panel were unanimous in their decision to recommend Schreder Australia Pty Ltd for light supply and Electrix Pty Ltd for light installation.

FINANCIAL ANALYSIS

Current adverse market conditions are significantly impacting the streetlighting industry, particularly the supply of resourcing and materials. This is further outlined in attachment 3.

The recommended quotes (supply & install) are reflective of current market rates and represent best value outcome for Council.

Income for the project (exclusive of GST):

- Department of Transport estimated allocation – \$700,000.
- State Government rebates – \$330,000.
- Ausnet rebate allocation – \$474,885.

Expenditure for the project (exclusive of GST):

- Lighting Audit – \$41,400.
- Independent consultant – \$135,000.
- Ausnet project fee – \$90,000.
- Light Supply & Installation – \$1,194,548.

It is estimated that there will be \$90,000 in savings each year in operational costs, based on figures of savings from the first and second streetlighting program.

APPLICABLE PLANS AND POLICIES

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

- Quality Infrastructure and Liveable Places.
- Protected & Enhanced Natural Environment

And the Liveable Climate Plan 2020-2030 specific targets of:

- Net zero emissions by 2040
- Zero operational energy expenditure by 2040

Yarra Ranges Council Procurement Policy, 2021 - 2025

RELEVANT LAW

Schedule 7A – Street lighting, of the *Road Management Act 2004*, outlines the responsibilities for installing and operating streetlights within Victoria. Under this Act, council is responsible for the installation and operating costs of streetlights on roads as detailed under Section 3 of Schedule 7A. Operating costs relate to:

- The costs of electricity supply; and
- Maintenance and repair costs; and
- Replacement costs for obsolete lighting.

The Public Lighting Code 2015 from the Essential Services Commission regulates the provision of public lighting and outlines obligations for distributors and public lighting customers (municipal councils or VicRoads). This Code specifies the relationship between these parties and requirements for asset management including:

- Ownership
- Servicing levels
- Standards for new assets
- Altering existing assets.

SUSTAINABILITY IMPLICATIONS

Economic Implications

This project may help to stimulate the local economy through the engagement of contractors purchasing goods and services locally.

Social Implications

Project management will ensure limited aesthetic changes following lighting changeover. The savings arising from this project will help reduce Council's operational expenditure on electricity, allowing greater investment in service delivery for the community. Good public lighting improves visibility for pedestrians and road users and enhances safety.

Environmental Implications

Council will demonstrate clear leadership and sustainable business practices by switching to energy efficient technology. This will support the transition to a low energy future.

Lighting installers must dispose of the existing lighting infrastructure sustainably. Following e-waste recycling procedures will ensure the potential waste impacts are limited.

Yarra Ranges Council is currently participating in a regional wildlife sensitive lighting study undertaken by the University of Melbourne. The final report from this study identified project sensitive lighting opportunities for inclusion.

COMMUNITY ENGAGEMENT

A community engagement plan will be developed, which will be in place prior to works commencing and will outline the benefits of the streetlighting upgrades. The engagement is anticipated to occur using social media channels, newsletter and Council publications.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

Members of the Sustainability, Infrastructure Services and Capital Works teams have partnered on the evaluation and will continue to partner and collaborate to ensure effective delivery. Independent consultants Ironbark Sustainability were engaged to oversee the audit, procurement, installation, and rebate claims.

This initiative was established through the Eastern Regional Greenhouse Action (EAGA) group who assisted with the business case and liaison with the Department of Transport and Ausnet.

RISK ASSESSMENT

The associated project risks include; project design, overall project management, contract terms and conditions. There are also risks directly associated with timeframe for the works in relation to the state government rebates for the different lighting types.

The risks have been mitigated through engaging an independent expert Ironbark Sustainability to project manage the program of works and process the state government rebates. The contract terms and conditions have been mitigated through Council's use of the MAV panel.

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. Confidential Evaluation Report
2. Confidential MAV Evaluation Report
3. Consideration for Streetlighting Procurement

Confidential Item

Confidential Item

Confidential Item

CT6729 CIVIL DESIGN & ASSOCIATED SERVICES PANEL

Report Author: Executive Officer – Roads for Community Initiative & Procurement Coordinator

Responsible Officer: Director Built Environment and Infrastructure

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

The item has been included in the public agenda to facilitate openness and transparency in Council's decision making. Confidential attachments have been included with the report which contain commercially sensitive information that is not to be disclosed whilst the meeting is open to the public.

SUMMARY

Council has an ongoing requirement for Civil Design and Associated Services in support of delivering its annual infrastructure capital works program. A panel arrangement is required for the development of civil design documentation, undertaking water and stormwater related design and analysis, and completing project management services.

An advertisement calling for tenders was placed in The Age newspaper on Saturday 17 September, 2022. Tenders closed on Monday 17 October 2022, and twenty-six submissions were received.

The evaluation panel recommends the following tenders:

1. Afflux Consulting Pty Ltd
2. AME Consultants Pty Ltd
3. Civil Road Solutions Pty. Ltd.
4. CRE Consulting Engineers Pty Ltd
5. C.T. Management Group Pty. Ltd.
6. Engeny Australia Pty Ltd
7. GHD Pty Ltd
8. HDS Australia Pty Ltd
9. JCA Land Consultants Pty Ltd
10. JJ Ryan Consulting Pty Ltd
11. Morphum Environmental Limited

12. Procivil Consulting Pty Ltd as The Trustee for Procivil Unit Trust
13. RMG (AUS) Pty Ltd
14. Tony McGann Consulting Pty Ltd as The Trustee for McGann Discretionary Trust

The maximum estimated total value of this schedule of rates contract for the full contract term of 7 years is \$7,000,000 (ex. GST) (\$7,700,000 inc. GST) (which includes all extension options). Rates are fixed for the first year of the contract and subject to annual CPI adjustment or capped at Council's rate cap, whichever is lower.

RECOMMENDATION

That

1. ***Council awards the following tenders for CT6729 Civil Design and Associated Services Panel for an initial 3-year contract term, with a total estimated price for the full contract term of 7 years of \$7,000,000 (ex. GST) (\$7,700,000 inc. GST);***
 - (a) ***Afflux Consulting Pty Ltd***
 - (b) ***AME Consultants Pty Ltd***
 - (c) ***Civil Road Solutions Pty. Ltd.***
 - (d) ***CRE Consulting Engineers Pty Ltd***
 - (e) ***C.T. Management Group Pty Ltd***
 - (f) ***Engeny Australia Pty Ltd***
 - (g) ***GHD Pty Ltd***
 - (h) ***HDS Australia Pty Ltd***
 - (i) ***JCA Land Consultants Pty Ltd***
 - (j) ***JJ Ryan Consulting Pty Ltd***
 - (k) ***Morphum Environmental Limited***
 - (l) ***Procivil Consulting Pty Ltd as The Trustee for Procivil Unit Trust***
 - (m) ***RMG (AUS) Pty Ltd***
 - (n) ***Tony McGann Consulting Pty Ltd as The Trustee for McGann Discretionary Trust***
2. ***Council approves the Director of Built Environment and Infrastructure be delegated the authority to sign the contract documents.***
3. ***The Director of Built Environment and Infrastructure be delegated authority to extend the contract term by up to two (2) periods of two (2) years each for each contract on the terms set out in the original contract.***

4. *The confidential attachment 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 relevant to this item.

DISCUSSION

Purpose

To seek Council approval to enter into a panel arrangement for provision of Civil Design and Associated Services.

Background

Council's previous arrangement with a panel of suppliers for Provision of Civil Design Services ended on August 23, 2021.

This panel is required to facilitate Council's ongoing infrastructure capital works program and includes the design (including drawings) and tender and contract documentation for a range of typical municipal projects such as, but not limited to:

- Drainage;
- Footpaths / shared use paths and trails;
- Road Improvements (Car Parks, Rehabilitation Works, Traffic Signals);
- Special Charge Schemes;
- Streetscapes, urban design, landscaping, sports fields / sportsgrounds, reserves, water catchment areas, building and building surrounds;
- Water Sensitive Urban Design, flood mitigation works and modelling;
- Independent / third party peer review of selected design projects; and
- Project management services

Consultants may also be requested to provide one or more of the following stages of a project:

- Investigation / Feasibility Report;
- Feature Survey;
- Concept / Preliminary Design;
- Detail Design;
- Engineering sign-off / certification to satisfy works are compliant with the Engineering Registration Act;
- Tender and contract documentation;
- As constructed asset details; and
- Post Construction Evaluation

Evaluation

This tender process has been completed in accordance with Council's Procurement Policy.

The evaluation panel scored tenders against pre-established evaluation criteria as follows:

Selection Criteria	Weighting
Price	30%
Capability & Performance	30%
Resourcing & Capacity	20%
Environmental & Quality Management	10%
Sustainability	10%
Total Weighted Score	100%

Recommended option and justification.

The 14 tenderers recommended by the evaluation panel represent best value and provide a spectrum of capability required to meet Council's requirements for future civil design and associated services.

Refer to CT6729 Attachment 1 Confidential Attachment for specifics regarding the recommended justification. This information relates to contractual matters, is commercially sensitive and includes, but is not limited to the name of tendering parties and evaluation panel members, the tendered prices, and the evaluation of tenders received against the published evaluation criteria.

Any disclosure of the information included within the confidential attachment to this report could be prejudicial to the interests of Council or other parties. If discussion of this information is required, Council is recommended to resolve that the item be deferred to the confidential section of the agenda when the meeting is closed to members of the public in accordance with *section 3(1) (g)(i), (g)(ii) of the Local Government Act 2020*.

FINANCIAL ANALYSIS

Annual panel expenditure is anticipated to be within a range of \$500,000 to \$1,000,000 (ex. GST) and dependent on available funding. Applicable services arising from projects listed on Council's Capital Expenditure Program will also be sourced from this panel.

Total panel expenditure is anticipated to be between \$3,500,000 and \$7,000,000 (ex. GST) over the full contract term of 7 years (and inclusive of all extension options).

APPLICABLE PLANS AND POLICIES

This report contributes to the following strategic objective(s) in the Council Plan 2021-2025:

- Quality Infrastructure and Liveable Places – via the design of infrastructure projects; and
- Vibrant Economy, Agriculture and Tourism – via well-designed infrastructure projects.

RELEVANT LAW

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

SUSTAINABILITY IMPLICATIONS

Economic Implications

Due to the nature of the services to be provided, there will be little, if any, expenditure on locally produced materials during this arrangement.

Social Implications

Local and social sustainability was considered as part of the evaluation process and was weighted 10% of the overall evaluation (5% respectively).

Environmental Implications

Environmental implications will be considered as part of the project specification and evaluation process for individual projects awarded under this panel arrangement.

COMMUNITY ENGAGEMENT

Project specific community engagement, if required, will be completed for individual projects awarded under this panel arrangement.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

No collaboration with other Councils, Governments or statutory bodies was sought.

RISK ASSESSMENT

Panellists are required to have a 'Compliant' status in Rapid Global, Council's Contractor Compliance System, and as such, their ongoing compliance including insurance and OH&S will be monitored throughout the contract term. Non compliance will mean panellists are not awarded work under the contract.

Project specific risk assessments, if required, will be completed for individual projects awarded under this panel arrangement.

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. CT6729 Attachment 1 Confidential Attachment

Confidential Item

MUNICIPAL ASSOCIATION OF VICTORIA - STATE COUNCIL MEETING

Report Author: Advocacy & Government Relationship Advisor

Responsible Officer: Chief Executive Officer

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

The Municipal Association of Victoria (MAV) will be holding its State Council Meeting on Friday 19 May 2023. State Council is the MAV's governing body and comprises representatives from each member council, with one of its roles being to determine the strategic direction for the MAV.

Member councils are invited to put forward motions for consideration at the State Council Meeting in accordance with the criteria set by the MAV.

Council is asked to endorse the motions to be submitted for consideration.

RECOMMENDATION

That Council endorse the following motions to be submitted for consideration at the MAV State Council Meeting on 19 May 2023:

- 1. That the MAV call on the Victorian Government to:**
 - (a) Provide support and funding to Councils to ensure that changes to legislation and regulation can be adequately implemented, as well as funding administrative overheads incurred in the management of State Government systems.**
 - (b) Subsidise the cost to implement and administer state-wide technology platforms including FoodTrader.**
 - (c) Engage with and provide training to Local Government prior to the implementation of amendments or new legislation impacting the Environmental Health sector.**
 - (d) Commit to an education recruitment program and support universities to undertake Industry Based Learning (IBL) to attract further education seekers to the fields of Health Sciences and Environmental Health.**

- (e) ***Encourage and support universities to implement IBL and workforce placements with Council to combat the current skills shortage.***

2. That the MAV call on the Victorian State Government to:

- (a) ***Increase support and funding for university placements for Urban and Regional Town Planners and introduce traineeships and short course certificates for entry-level planners / candidates with existing tertiary qualifications to commence working in the sector.***
- (b) ***Release qualified planners from State Government roles to enable recruitment of qualified planners into Local Government positions.***
- (c) ***Finalise and release the various planning reforms currently being developed to improve the operational efficiency of the Local Government sector to deliver more efficient planning decisions in a timely manner.***
- (d) ***Review the statutory timeframes outlined in the Planning and Environment Act 1987 to better differentiate between simple, moderate and complex planning matters.***

RELATED COUNCIL DECISIONS

There are no related Council decisions relevant to this item.

DISCUSSION

Purpose and Background

MAV State Council meets twice a year, or more if needed, and is the MAV's governing body. It is made up of representatives from each member council and its powers include:

- determining the Rules of the Association;
- electing the president and other members of the Board;
- determining the strategic direction; and
- appointing the auditor.

When submitting a motion, Council is required to identify whether the motion is supported by a council resolution and whether the subject matter of the motion:

- has state-wide significance to the sector;
- relates to one of the sector's priority issues in the MAV's Strategic Plan; and

- not be identical or substantially similar to a motion submitted to State Council at any of the previous four State Council meetings

The MAV Strategy 2021-25 identifies six strategic outcomes:

1. Economically sound councils;
2. Healthy, diverse and thriving communities;
3. Well-planned, connected and resilient built environment;
4. Changing climate and a circular economy;
5. Sector capability and good governance; and
6. Effective and responsive MAV

As decisions of State Council constitute policy directions of the MAV and remain active until the issue is resolved, motions should relate to either new, or variations to, existing policy directions.

The MAV are calling for councils to submit motions on matters by no later than midnight on Friday 14 October.

Options considered

Council has considered various issues that are impacting on the organisation that may be suitable for advocacy through MAV State Council, including issues related to recovery from the pandemic and storm events, and various barriers to Council achieving its Key Strategic Objectives.

Recommended option and justification

The motions presented to Council for endorsement have been identified and developed by Council officers, with support from the Executive Leadership Team. Of the issues currently impacting Council, these issues are determined to be appropriately matched to the advocacy opportunity presented by State Council, in terms of both timing and MAV's submission criteria.

The rationale for each motion is set out below.

<i>Support for the Public and Environmental Health sector</i>	
Motion:	<p>That the MAV call on the Victorian Government to:</p> <ul style="list-style-type: none"> • Provide support and funding to Councils to ensure that changes to public and environmental health legislation and regulation can be adequately implemented, as well as funding administrative

	<p>overheads incurred in the management of State Government systems;</p> <ul style="list-style-type: none"> • Subsidise the cost to implement and administer state-wide technology platforms including FoodTrader; • Engage with and provide training to Local Government prior to the implementation of amendments or new legislation impacting the Environmental Health sector; • Commit to an education recruitment program and support universities to undertake Industry Based Learning (IBL) to attract further education seekers to the fields of Health Sciences and Environmental Health; and • Encourage and support universities to implement IBL and workforce placements with Council to combat the current skills shortage.
<p>Rationale:</p>	<p>The Victorian Government has made significant amendments to legislation and regulations over the past 24 months, which directly impact the Public & Environmental Health services delivered by Local Government. However, there has been limited support and no funding provided to accommodate the education and resourcing of the implementation of such significant changes, to ensure Environmental Health Officers interpret, apply and enforce new legislation consistently, fairly and as intended by the legislation. Further to this, the administrative burden of significant legislative changes has created compounding impact to the provision of services, creating confusion and unnecessary risk to communities.</p> <p>The changes also impact the ability of Councils to recruit staff experienced and/or knowledgeable in these legislative areas. As such, there has also been a decrease in qualified candidates applying for Environmental Health Officer (EHO) positions. IBL programs have been an effective way of addressing these recruitment issues in the past.</p> <p>Changes include but are not limited to:</p> <ul style="list-style-type: none"> • New Environment Protection Act 2017 (implemented 2021); • Amendments to Environment Protection Act 2017; • New Council toolkit for Environment Protection Act 2017; • New regulations for aquatic facility (inspections and sampling) under Public Health and Wellbeing Act 2008 (implemented 2020); • Special Gazette for registration of seasonal worker accommodation under Public Health and Wellbeing Act 2008 (implemented 2022); • New Public Health Wellbeing (Prescribed Accommodation)

	<p>Regulations 2020;</p> <ul style="list-style-type: none"> • New Public Health Wellbeing Regulations 2019; • New Residential Tenancies Regulations 2021; • Amendment to Tobacco Act 1987; • Amendment to Food Act 1984 including new classifications and requirements for all registered premises including the new registration requirement for all family day cares as a class 4 notification (implemented 2022); • New Local Government Act 2020; • Primesafe changes requiring certain premises to now register under Food Act 1984 with Council (implemented November 2022); and • New Food Standards Code 3.2.2A (to be implemented December 2023)
<p><i>Critical sector-wide skill shortage in Statutory and Strategic Town Planning specialists</i></p>	
<p>Motion:</p>	<p>That the MAV call on the Victorian State Government to:</p> <ul style="list-style-type: none"> • Increase support and funding for university placements for Urban and Regional Town Planners and introduce traineeships and short course certificates for entry-level planners / candidates with existing tertiary qualifications to commence working in the sector; • Release qualified planners from State Government roles to enable recruitment of qualified planners into Local Government positions; • Finalise and release the various planning reforms currently being developed to improve the operational efficiency of the Local Government sector to deliver more efficient planning decisions in a timely manner; and • Review the statutory timeframes outlined in the Planning and Environment Act 1987 to better differentiate between simple, moderate and complex planning matters.
<p>Rationale:</p>	<p>Town Planners in statutory and strategic planning are highly qualified professionals with diverse employment opportunities across the private and public sector.</p> <p>Over the past five years, there's been a noticeable decline in the numbers of candidates applying for planning positions in Local Government, creating delays in planning decisions across most LGAs.</p>

	<p>The consequences are delays for construction commencements, frustration for owners and applicants, and broader community dissatisfaction and scepticism of the effectiveness of the planning framework to deliver good outcomes.</p> <p>A 2022 SGS report identified that 71% of responding Victorian LGAs have a critical shortage of Town Planners. Forward projections anticipate continued decline in qualified planners available for recruitment at all levels, in all disciplines.</p> <p>In response to the skill gap shortage, Councils are recruiting under-qualified professionals from other sectors into entry level positions. Whilst these professionals may have some of the attributes required, the service delivery quality is compromised as their specialist technical planning knowledge is inadequate, as is the capacity to efficiently understand, assess and respond to complex planning matters. Sector benchmarking reveals significant remuneration discrepancies between State and Local Planning roles.</p> <p>Delivery timeframes of planning outcomes are substantially compromised by current vacancy rates, which are up to 33% of the Yarra Ranges workforce, and anecdotally even higher across Victoria, particularly in regional and rural areas.</p> <p>Service delivery quality is deteriorating, as officer workloads continue to demand higher quantity output at the expense of quality. Planners must become more technically specialised in an increasingly complex array of disciplines, including climate change, flooding, bushfire, housing shortages, landslip, amenity, and traffic congestion.</p> <p>The increasing complexity of state, local and particular provisions of planning schemes, under an Act with timeframes that have largely remained the same since its inception, results in an under-resourced workforce, with unachievable community expectations, and an unsustainable workload. This results in increased VCAT appeals, further increasing workloads.</p> <p>If the sector cannot achieve an increase in real numbers of qualified town planners in the short- to medium-term, the long-term economic, social and environmental impact will result in the planning system continuing to be compromised or potentially collapse completely.</p>
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FINANCIAL ANALYSIS

There are no financial implications associated with submitting a Motion to the State Council.

APPLICABLE PLANS AND POLICIES

This report contributes to the following strategic objective(s) in the Council Plan: Connected and Healthy Communities; Quality Infrastructure and Liveable Places; Protected and Enhanced Natural Environment; Vibrant Economy, Agriculture and Tourism; High Performing Organisation.

RELEVANT LAW

Not applicable.

SUSTAINABILITY IMPLICATIONS

Economic Implications

There are no direct economic impacts arising from the recommendations in this report.

Social Implications

There are no direct social impacts arising from the recommendations in this report.

Environmental Implications

There are no direct environmental impacts arising from the recommendations in this report.

COMMUNITY ENGAGEMENT

As the submission of motions to State Council is operational in nature and presents to change to Council's strategic direction, community engagement was not undertaken on this matter.

An internal process has been undertaken with Officers and Councillors to identify potential motion for submission that support Council's existing strategies, which have been developed through community consultation and deliberative engagement processes.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

No collaboration with other Councils, Governments or statutory bodies was sought in developing the motions for submission. Council will engage with other Councils through the State Council process to seek endorsement of motions submitted by Yarra Ranges Council, and to consider and debate motions submitted by other Councils.

RISK ASSESSMENT

There are no significant environmental, social or economic risks arising from the recommendations in this report.

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

Nil

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. 21 February 2023 - Council Briefing;
2. 21 February 2023 - Council Forum; and
3. 21 February 2023 - Review of Complex Planning Matter

Informal Meeting of Councillors

Public Record



Meeting Name:	Council Briefing	
Date:	21 February 2023	Start Time: 6.03 pm Finish Time: 6.17 pm
Venue:	Council Chamber, Civic Centre, Anderson Street, Lilydale and via videofonference	
Attendees:	Councillors:	Jim Child, Andrew Fullagar, Richard Higgins, Tim Heenan, Sophie Todorov, Fiona McAllister, Johanna Skelton & Len Cox
	CEO/Directors:	Tammi Rose, Kath McClusky, Andrew Hilson, Jane Price & Hjalmar Philipp
	Via Zoom:	Nil
	Officers:	Andrew Edge, Debbie Pulham, Sarah Candeland, Jarrod Ried & Kim O'Connor
	Via Zoom:	Nil
Apologies	David Eastham	
Disclosure of Conflicts of Interest:	Nil	
Matter/s Discussed:	This briefing covered the following items of business to be considered at the 28 February 2023 Council Meeting.	
	10.1	Former Lilydale Quarry Affordable Housing Delivery Strategy
	10.2	Quarterly Finance Report - December 2022
	10.3	Disability Advisory Committee Annual Report
	10.4	Road Discontinuance abutting 2 Edward Street Healesville
	10.5	Construction of New Basketball Court and Associated improvements at Kilsyth Sports Complex, Pinks Reserve
Completed By:	Andrew Edge	

Informal Meeting of Councillors

Public Record



Meeting Name:	Council Forum	
Date:	21 February 2023	Start Time: 7.08 pm Finish Time: 8.56 pm
Venue:	Council Chamber, Civic Centre, Anderson Street, Lilydale and via videofonference	
Attendees:	Councillors:	Jim Child, Andrew Fullagar, Richard Higgins, Tim Heenan, Sophie Todorov, Fiona McAllister, Johanna Skelton & Len Cox
	CEO/Directors:	Tammi Rose, Kath McClusky, Andrew Hilson, Jane Price & Hjalmar Philipp
	Via Zoom:	Nil
	Officers:	Andrew Edge, Debbie Pulham, Sarah Candeland, Allison Southwell, Nathan Islip, Kris Hansen & Kim O'Connor
	Via Zoom:	Abby McCarthy, Alanna Ford, Alison Fowler
Apologies	David Eastham	
Disclosure of Conflicts of Interest:	Nil	
Matter/s Discussed:	2.2	Councillor Discussion Time
	2.3	Municipal Association of Victoria - State Council - Motion Discussion
	2.4	Amendment C210 - 1 Montrose Road, Montrose - Consideration of Panel Report
	2.5	Living Places Framework - Draft Prioritisation Schedule
	3.1	Community Engagement Policy Review - Plan for consultation
	3.2	Indicative Forum & Council Meeting Schedule
	3.3	Major Projects Monthly Report to end of January, 2023
	3.4	Contract Approvals and Variations January 2023
	4	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 Matters	
Date:	21 February 2023	Start Time: 5.33 pm Finish Time: 6.03 pm
Venue:	Council Chamber, Civic Centre, Anderson Street, Lilydale and via videofonference	
Attendees:	Councillors:	Jim Child, Andrew Fullagar, Richard Higgins, Tim Heenan, Sophie Todorov, Fiona McAllister, Johanna Skelton & Len Cox
	CEO/Directors:	Tammi Rose, Kath McClusky, Andrew Hilson, Jane Price & Hjalmar Philipp
	Via Zoom:	Nil
	Officers:	Andrew Edge, Debbie Pulham, Sarah Candeland, Damian Closs & Kim O'Connor
	Via Zoom:	Nil
Apologies	David Eastham	
Disclosure of Conflicts of Interest:	Nil	
Matter/s Discussed:	10.1	Former Lilydale Quarry Affordable Housing Delivery Strategy
Completed By:	Andrew Edge	

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 March 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.*