

**YR-2023/386 - QUEENS PARK, 1 BADGER CREEK ROAD AND 1-5/36 DON ROAD, HEALESVILLE – PLANNING REPORT**

**APPLICATION DETAILS**

<b>Site Address</b>	Queens Park, 1 Badger Creek Road and 1-5/36 Don Road, Healesville, being Crown Allotments 2, 3, 4 and 6 Section 7 Township of Healesville Parish of Gracedale
<b>Application No.</b>	YR-2023/386
<b>Proposal</b>	Construct buildings and works associated with the existing use of the land as a Community Centre, removal, and pruning of vegetation, demolition, and alteration of access to a road in a Transport Zone 2
<b>Existing Use</b>	Community Centre
<b>Applicant</b>	Oonah Aboriginal Health and Community Services
<b>Zone</b>	Clause 36.02 - Public Park and Recreation Zone
<b>Overlays</b>	Clause 43.01 - Heritage Overlay (HO163) Clause 44.06 - Bushfire Management Overlay
<b>Permit trigger/s</b>	<p>Clause 36.02-2 Public Park and Recreation Zone</p> <ul style="list-style-type: none"> <li>• A planning permit is required to construct a building or construct or carry out works.</li> </ul> <p>Clause 43.01-1 – Heritage Overlay (HO163)</p> <ul style="list-style-type: none"> <li>• A planning permit is required to: <ul style="list-style-type: none"> <li>○ Demolish or remove a building, construct a building or construct or carry out works, and</li> <li>○ To remove, destroy or lop a tree</li> </ul> </li> </ul> <p>Clause 46.06 – Bushfire Management Overlay</p> <ul style="list-style-type: none"> <li>• A planning permit is required to construct a building or construct or carry out works</li> </ul> <p>Clause 52.17-1 Native Vegetation</p> <ul style="list-style-type: none"> <li>• A planning permit is required to remove, destroy or lop native vegetation, including dead native vegetation.</li> </ul> <p>Clause 52.29-2 – Land Adjacent to the Principal Road Network</p> <ul style="list-style-type: none"> <li>• A planning permit is required to create or alter access to a road in a Transport Zone 2</li> </ul> <p>Clause 63.05 –Existing Uses</p> <ul style="list-style-type: none"> <li>• A planning permit is required to construct a building or construct or carry out works associated with an existing section 2 or 3 use</li> </ul>

<b>Objections</b>	Six (6) objections
<b>Encumbrances on Title (Covenants/ Section 173 Agreements)</b>	Nil
<b>Reason for Council Decision</b>	Cost of development (greater than \$5,000,000)
<b>Ward</b>	Ryrie

## SUMMARY

The planning application seeks approval to develop the site with a new Community Centre development, at Queens Park, 1 Badger Creek Road and 1-5/36 Don Road, Healesville. The proposal includes demolition of existing community centre buildings and removal of vegetation.

The application was advertised, and six (6) objections have been received. Objectors raised concerns in relation to the lack of consultation with the community, extent of native tree removal and habitat impacts, impacts on the Healesville Living and Learning Centre and Each Healthcare services, concerns and impacts on car parking, the absence of a footbridge across Wirrup Yaluk Creek and impacts from lighting.

An assessment of the application against the requirements of the Yarra Ranges Planning Scheme, including the relevant planning policies has found that the application meets the requirements in relation to Community Infrastructure, Bushfire Planning and Urban Design. The development meets the relevant policies including the Municipal Planning Strategy, Planning Policy Framework, Zone, Overlay and provisions of the Scheme. Overall, the proposal positively responds to the opportunities and constraints of the site and contributes to Healesville's urban character.

It is recommended that the application be approved, and a Notice of Decision to Grant a Permit be issued subject to conditions to manage the surrounding amenity impacts.

## RECOMMENDATION

***That Council resolve to approve Planning Application YR-2023/386 for the buildings and works associated with the existing use of the land as a community centre, remove and pruning of vegetation, demolition and alteration of access to a road in a Transport Zone 2 at Queens Park, 1 Badger Creek Road and 1-5/36 Don Road, Healesville, (being Crown Allotments 2, 3, 4 and 6 Section 7 Township of Healesville Parish of Gracedale), 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 (CHMP).

It has been assessed that a CHMP is not required.

## EXTRACTIVE INDUSTRY

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

## HUMAN RIGHTS CONSIDERATION

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

## ENCUMBRANCES ON TITLE

There are no encumbrances on the Certificate of Title.

## PLANNING POLICY

Zone	Clause 36.02 - Public Park and Recreation Zone
Overlays	Clause 43.01 - Heritage Overlay (HO163) Clause 44.06 - Bushfire Management Overlay
Particular provisions	Clause 52.17 – Native vegetation Clause 52.29 – Land Adjacent to the Principal Road Network
General Provisions	Clause 63.05 – Existing Uses (Sections 2 And 3 Uses) Clause 65 – Decision guidelines
Municipal Planning Strategy	Clause 02.03-1 – Settlement Clause 02.03-2 – Environmental and landscape values Clause 02.03-3 – Environmental risks and amenity Clause 02.03-5 – Built Environment and Heritage

		Clause 02.03-9 – Infrastructure
Planning Framework	Policy	<p>Clause 11.01-1L-02 – Healesville</p> <p>Clause 12.01-1L – Biodiversity</p> <p>Clause 12.02-2S – Native vegetation management</p> <p>Clause 12.05-1S – Environmentally sensitive areas</p> <p>Clause 12.05-2S – Landscapes</p> <p>Clause 13.02-1S – Bushfire Planning</p> <p>Clause 13.03 – Floodplains</p> <p>Clause 15.01-1S – Urban Design</p> <p>Clause 15.01-2S – Building Design</p> <p>Clause 15.01-2L Environmentally Sustainable Development</p> <p>Clause 15.01-4S – Healthy Neighbourhoods</p> <p>Clause 15.01-5S – Neighbourhood Character</p> <p>Clause 15.01-5L – Neighbourhood Character</p> <p>Clause 19.02 – Community Infrastructure</p> <p>Clause 19.02-1S – Health Facilities</p> <p>Clause 19.02-2S – Education Facilities</p> <p>Clause 19.02-3S – Cultural Facilities</p> <p>Clause 19.02-4S – Social and cultural infrastructure</p> <p>Clause 19.02-4L – Social infrastructure</p> <p>Clause 19.02-6L – Open Spaces</p>
General Provisions		Clause 65 – Decision Guidelines
Operational Provisions		Clause 71.02-3 – Integrated decision making
Matters that may be considered		Council Plan

## HISTORY

<b>Planning Applications</b>	<p>This area of Queens Park was previously used as Council's Works Depot. The site has a long history of providing health, education and a broad range of community services and activities for the local community with associated offices and storage facilities. The land enjoys existing use rights for the range of activities undertaken on the land.</p> <p>Past permit Approvals on the site of relevance:</p> <p><b>Permit YR-1994/122</b> - Issued 13 May 1994</p> <p>For buildings and works for a classroom building, ring road and relocation of an existing outbuilding</p> <p><b>Permit YR-1994/217</b> - Issued 9 September 1994</p> <p>For buildings and works for extension to existing classroom</p> <p><b>Permit YR-2006/322</b> - Issued 25 October 2006</p> <p>For 'use and buildings and works for an outdoor place of assembly and associated works (Community gardens with space dedicated to Aboriginal and Maori dance, music and ceremony)'.</p> <p>A review of the permit has confirmed that there is no condition limiting patron numbers, hours of operation or requiring provision of car parking.</p> <p>This permit is still current as it is being acted upon and has force and effect, as such Council cannot reconsider the place of assembly use and associated car parking.</p> <p><b>Permit YR-2011/1271</b>- Issued 6 February 2012</p> <p>For 'buildings and works for an office and waiver parking' (one car space). Office space in conjunction with the existing Rivendell Adult Day Care Centre.</p> <p><b>Permit YR-2019/830</b> - Issued 30 March 2021</p> <p>For 'buildings and works for an office and verandah'</p>
<b>VCAT History</b>	Nil

The subject site is part of Queens Park, a 13.52 hectare park and forms part of what is referred to as the Healesville Common, a leasehold area situated at 1 Badger Creek Road, and 1-5/36 Don Road Healesville being Part Ca 2, 3, 4 and 6 Sec 7 PP5372) as shown on Figure 1.

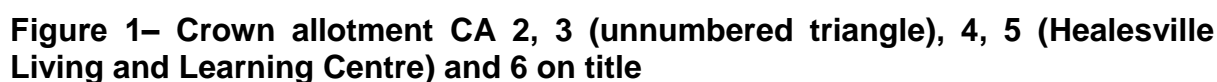
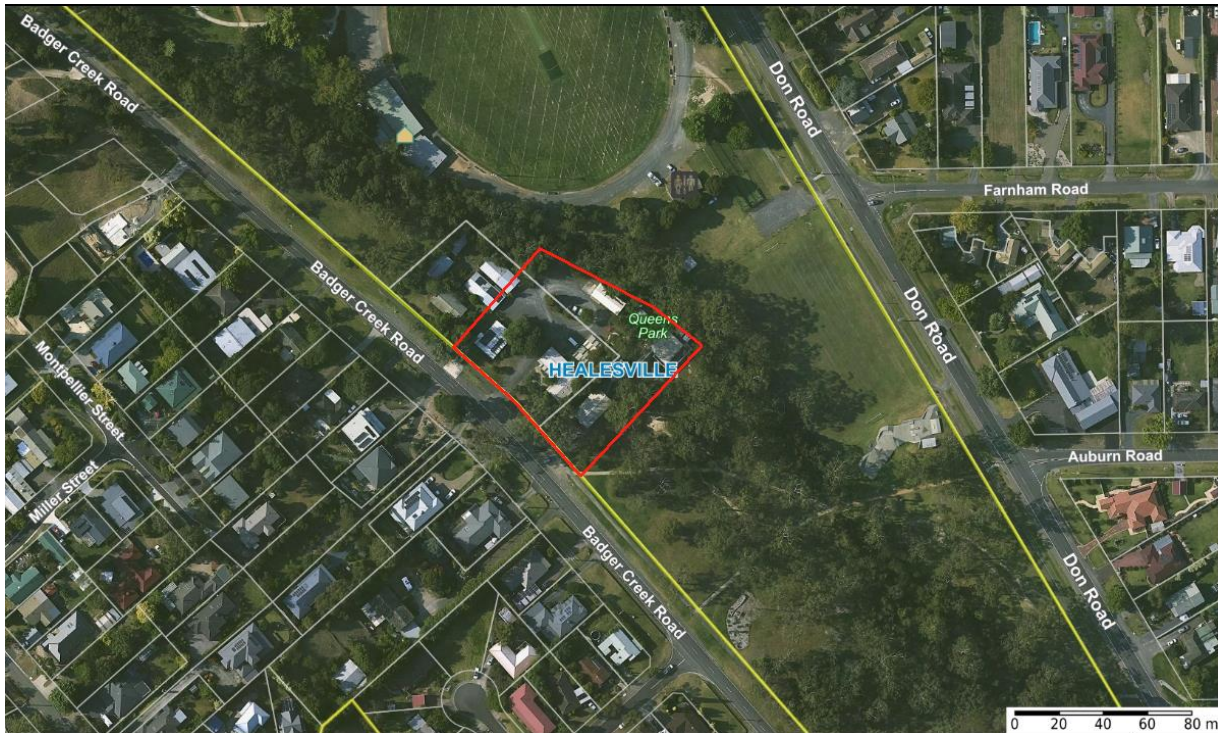


Figure 32 outlines the extent of the area of works in red, which is within the leasehold area for Oonah. The figure provides context for the leasehold area in the broader area of Queens Park, and the location of the other buildings which are not the subject of this application.





**Figure 2 – Subject site and surrounding area**

The development area as defined by the proposed defensible space works is roughly rectangular and measures approximately 6,040 square metres. The development area is set back approximately seven to eight metres south-west of the Wirrup Yaluk Creek and does not include the creek bank. The site is located approximately 470 metres south of the intersection of Maroondah Highway and Badger Creek Road.

The site itself is accessed by Badger Creek Road and currently has two (2) formal crossovers from Badger Creek Road.

Vegetation on the subject site contains a mix of native and exotic vegetation, with indigenous vegetation being predominant in the areas surrounding the proposal. It is unclear what is remnant native vegetation and what native vegetation has been planted. Consequently, for the purposes of this planning assessment, all native vegetation is deemed to be remnant.

There are approximately 33 informal car spaces provided in the gravel car park on site with access provided from Badger Creek Road. These car spaces are not line marked. This car parking has not been required by any previously issued planning permits.

### Existing Use Rights

Uses on the site have generally been operating in accordance with the planning scheme for more than fifteen (15) years, with no limitations on patron numbers, staff numbers, hours of operation or car parking. The use is 'as of right', which means that no consideration of the patron or staff numbers, car parking provision, hours of operation or the use itself is required to be able to consider the buildings and works proposed.

The increased floor area does not trigger any statutory requirement for car parking to be provided, and car parking cannot be considered as part of this application.

There is a conglomeration of twelve (12) buildings and outbuildings across the land, comprising weatherboard and colourbond / metal clad structures (Figure 3):



**Figure 3 - Existing ownership of buildings on the site.**

Oonah, Healesville Living and Learning Centre, and EACH (Eastern Access Community Health) all have individual leasehold agreements with Council:

- Oonah provides education, community and health services to Healesville's Indigenous community and operates from the buildings shown in blue in Figure 3. The Oonah buildings are owned by Council, except for two CFA water tanks.
- Healesville Living, and Learning Centre provides education type services and owns and operates from the shown in red on Figure 3. The Healesville Living and



Learning centre own and operate from the remaining buildings to the north-west of the proposal.

- EACH provides community health and medical centre services and owns and operates from the buildings shown in green in Figure 3.

Importantly, this application is only considering the demolition and replacement of the buildings shown coloured above. In total, the buildings proposed for demolition have a combined floor area of 916 square metres. The remaining buildings on the land will not be removed or repurposed.

## SURROUNDING AREA

The land forms part of the heritage listed Queens Park in Healesville Township. Queens Park is crown land under the management of Council and totals 13 hectares and contains several community facilities, sports oval, gardens and a skate park, including the Nook and Nook Memorial. Queens Park is bisected by Wirrup Yaluk Creek (previously known as Don Road Drain), a natural watercourse to the north west of the site.

Badger Creek Road is a Transport Zone 2 managed by the Department of Transport and Planning. Informal on street perpendicular car parking is provided on the unmade north east shoulder of Badger Creek Road with no standing signs on the south west side of Badger Creek Road.

The site is located within the Healesville township with dwellings located on surrounding properties to the south and east proximate to the proposal. Detached dwellings are located to along the south west side of Badger Creek Road.

Figure 4 provides the subject site in context within immediate area, the image shows proximity to Wirrup Yaluck Creek, the footy oval and bike park at Queens Park and the residential area across Badger Road. Queens Park is within a Public Park and Recreation Zone. Land to the west of Badger Creek Road is zoned Neighbourhood Residential Zone, land to the east of Don Road, is zoned Low Density Residential Zone (Figure 4).



**Figure 4 - Zone Map of the subject site and surrounding area**

## PROPOSAL

The proposal seeks permission for the construction of buildings and works for a new single storey community centre associated with the existing use of the land. The building proposes to replace the existing Oonah facilities on the site. Oonah will continue to provide community services to the indigenous community, which includes, counselling and consulting services, cultural activities, community program and other activities.

The building measures 41 metres by 50 metres and has a floor area of approximately 1130 square metres (approximately 215 square metres greater than the area of existing buildings being demolished).

The building is to be setback 12.7 metres from Badger Creek Road, the front boundary and 22.8 metres from the rear leasehold boundary. The building has a maximum height of 6.7 metres.

The plans include 21 car spaces and six bike racks to the north west of the building.

**Table 1 - Summary of proposed development:**

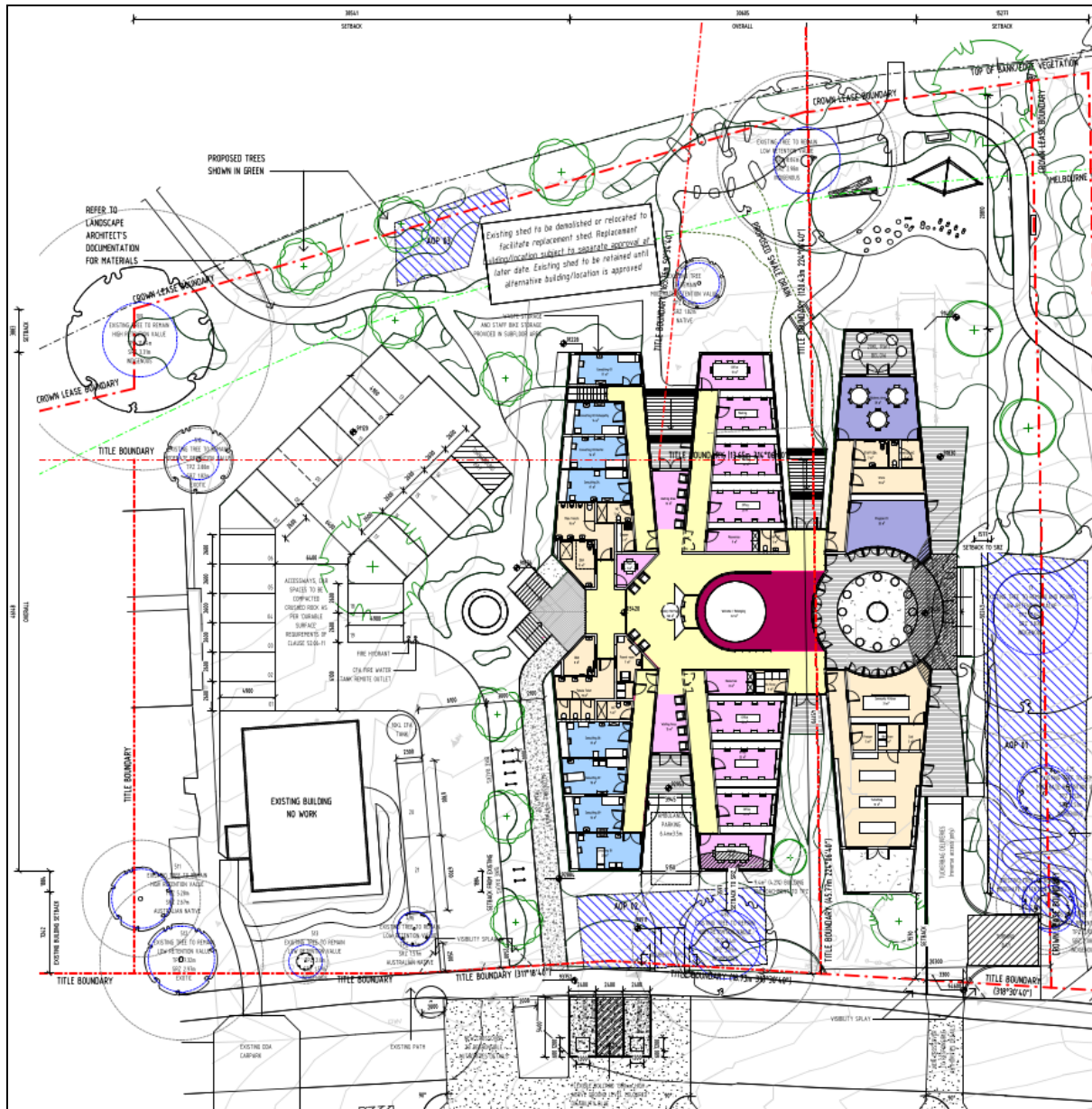
Proposal Attributes	
Proposed demolished floor area	916 square metres
Proposed total floor area	1130 square metres
Proposed additional floor area	214 square metres
Description of layout	<p>Main building running north west / south east with six wings, three to the south west, three to the north east, separated by small courtyards.</p> <p>The six wings comprise:</p> <ol style="list-style-type: none"><li>1. Community kitchen</li><li>2. Offices</li><li>3. Consulting rooms</li><li>4. Children's area and program</li><li>5. Meeting rooms</li><li>6. Consulting rooms</li></ol> <p>Sub level bin storage and storage space is proposed.</p>
Materials, colours and finishes (See <b>Error! Reference source not found.</b> )	<p>Cladding – rammed earth, washed aggregate concrete</p> <p>Decking – timber</p> <p>Roofing – colorbond gully, colorbond dune, and zincalume</p>

Proposal Attributes	
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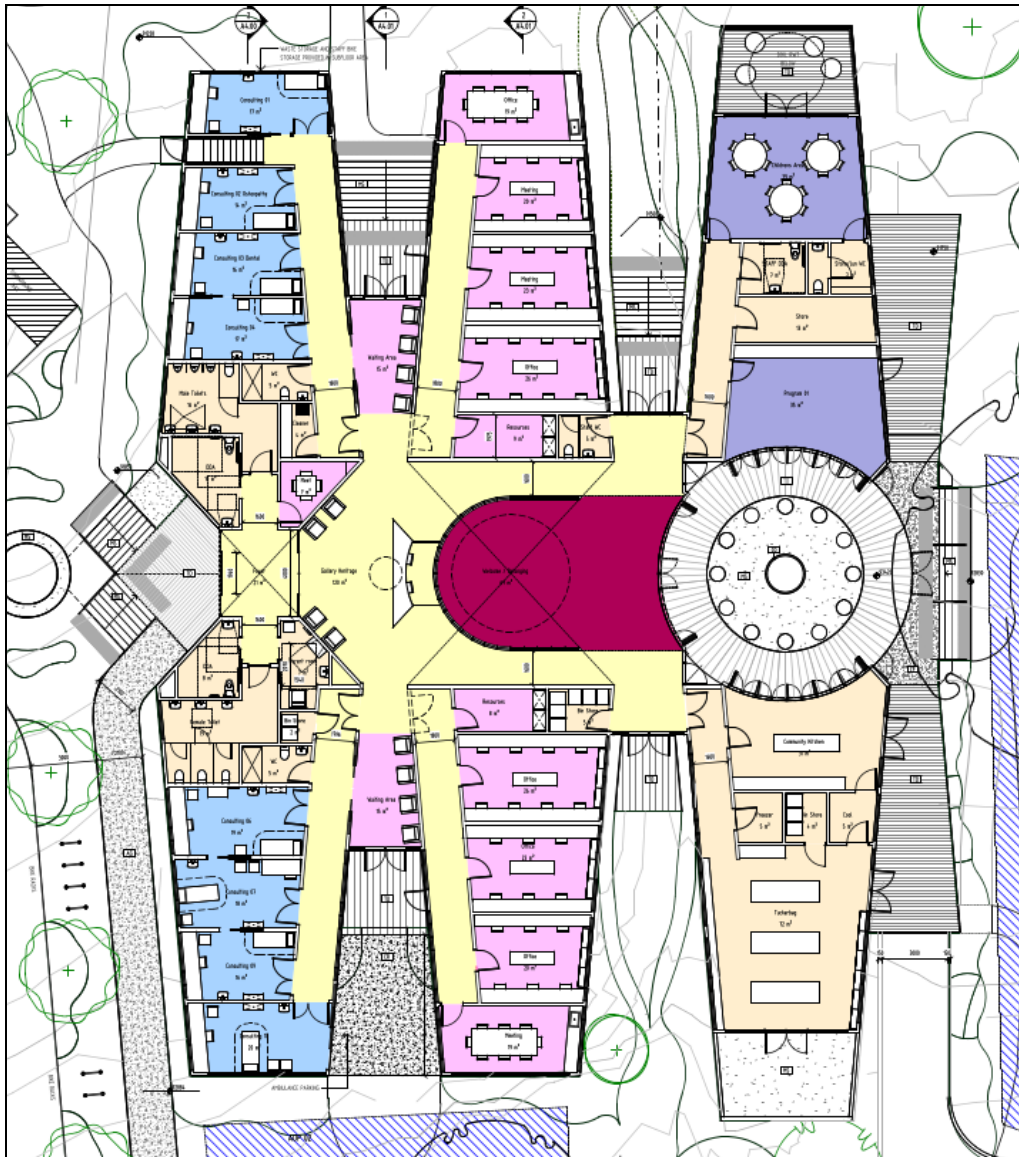
Required car park provision from previous permits	Zero (0) car spaces
Proposed car parking	21 car spaces

Refer to Figure 5 for the site plan and Figure 6 for the floor plan.

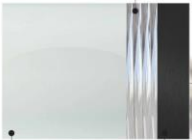





More detailed plans are provided in Attachment 3; a copy of the proposed bushfire management plan can be found in Attachment 4.



### Figure 5 - Site Plan



**Figure 6 - Floor plan**

RGL	BS	TC	RE	TD	MS
REEDED GLAZING	RAW BARESTONE COMPRESSED CEMENT SHEET	TIMBER	RAMMED EARTH	SPOTTED GUM DECKING	MUDSTONE
					
GL	AN	CO	MC1/MR1	AG	CR
CLEAR GLAZING	BLACK ANODISED ALUMINIUM	CORTEN	COLORBOND METAL PROFILE - GULLY	WASHED AGGREGATE CONCRETE	CRUSHED ROCK ALBAMANN'S SUNSET SHARPS
WINDOWS	WINDOW STRIPS	WINDOW SHROULDS	CLADDING + ROOF	LOWER WALLS	ENTRY GROUND SURFACE
		BEAMS		ENTRY GROUND SURFACE	ENTRY GROUND SURFACE

**Figure 7 - Proposed colours, materials and finishes schedule**

## Demolition

The application seeks approval to demolish 14 of the existing buildings forming all existing buildings for Oonah Belonging Place, all existing buildings of Each Healthcare and some of the buildings of the Healesville Leisure and Learning Centre. The buildings to be demolished are as shown in Figure 3. These buildings have a combined floor area of 916 square metres.

#### Tree retention and removal

Sixty-seven (67) trees are required to be removed to enable the development. The removal of forty (40) trees is required to ensure the siting of the building, eleven (11) trees are impacted by the building encroachment and 16 trees are required to be removed to create the required defensible space around the building. Figure 8 and



Table 2 sets out the number of high, moderate and low quality trees to be removed in response to the building footprint, building encroachment and defensible space needs of the development.



**Figure 8 - Tree Removal and Retention Plan**



**Table 2 - Tree removal and retention plan**

Tree Quality	Trees to be retained	Trees to be removed
High retention value	Three trees to be retained: Trees 109, 511 and 482	Two high value trees to be removed: Building Footprint – One tree number 443 Building Encroachment – one tree number 473
Moderate retention value	Five trees to be retained Trees 423, 424, 425, 445, and 510	17 moderate value trees to be removed: Building Footprint – 11 Trees <ul style="list-style-type: none"> <li>Trees numbered 450, 451, 457, 458, 464, 466, 483, 486, 489, 499 and 508</li> </ul> Building Encroachment– Two trees: <ul style="list-style-type: none"> <li>Trees 437 and 472</li> </ul> Defendable Space - Four trees: <ul style="list-style-type: none"> <li>Trees 432, 442, 480 and 509</li> </ul>
Low retention value	Four trees to be retained - Trees number 17, 496, 513, and 514	47 low value trees to be removed: Within the Building Footprint – 28 Trees: <ul style="list-style-type: none"> <li>Trees 447, 449, 453, 454, 455, 459, 461, 462, 463, 465, 467, 468, 470, 484, 485, 487, 490, 493, 494, 495, 498, 501, 503, 504, 505, 506 and 507</li> </ul> Within the Building Encroachment – Eight trees: <ul style="list-style-type: none"> <li>Tree 18, 19, 21, 469, 471, 491, 500 and 502</li> </ul> Defendable Space - 11 trees: <ul style="list-style-type: none"> <li>Trees 15, 16, 20, 434, 444, 446, 475, 476, 477, 479 and 492</li> </ul>

The arborist report submitted by the applicant in Attachment 5 provides specific detail on each tree.

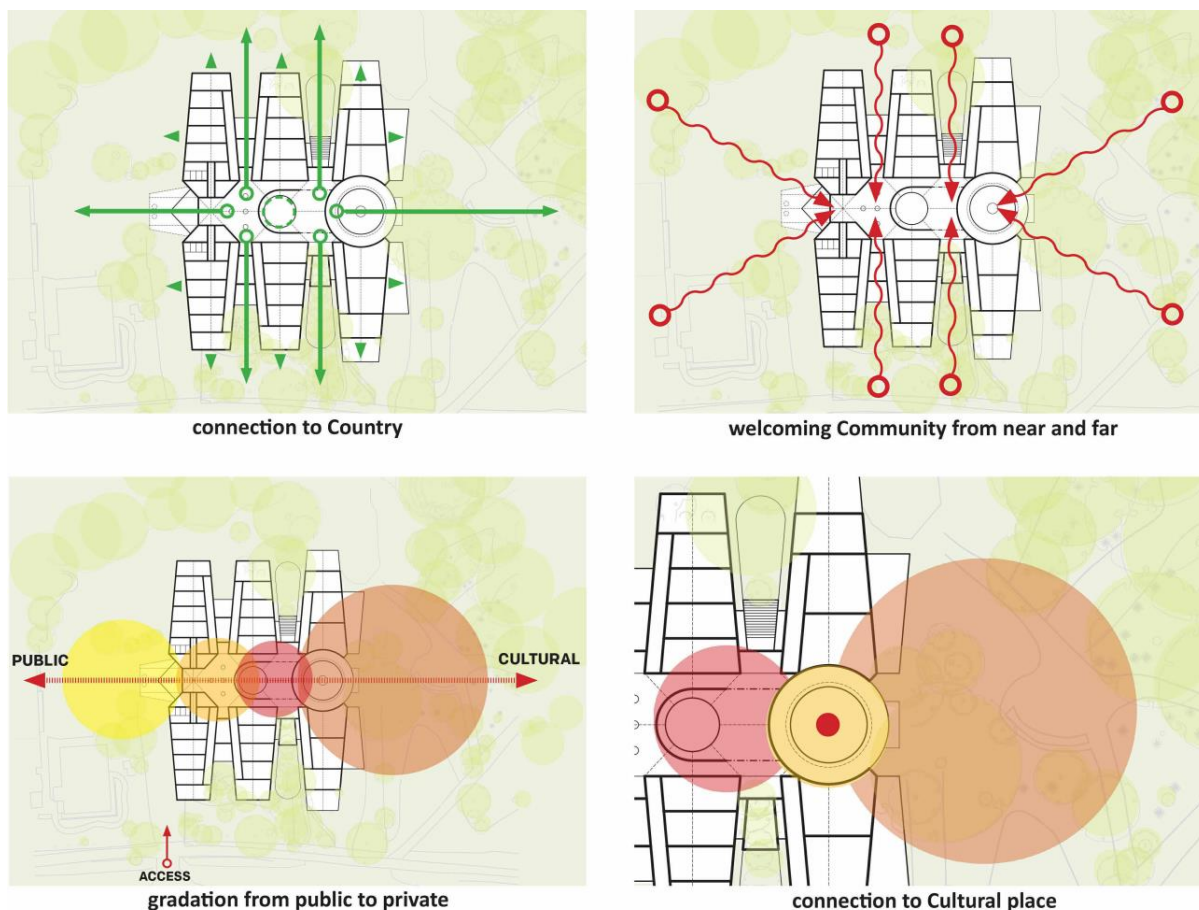
### Access

The proposal includes the removal of the existing crossover off the Badger Creek Road Street and proposes a new 6.1 metre wide upgraded crossover located in the same location. The application is also proposing a second 2.2 metre wide crossover to Badger Creek Road to support deliveries to the site.

The plans are also indicating the provision of two formal disabled car parking spaces within the Badger Creek Road Reserve.

### Design philosophy

Immediately to the south-east of the site, in Queens Park is the Meeting Place Garden, which includes a smoking pit and yarning and dance circle. Whilst the Meeting Place Garden is not located on this site, the proposed building has been designed to integrate into the landscape, and to provide a visual and physical connection for community, through the building, to the cultural Meeting Place Garden in Queens Park (Figure 9).



**Figure 9 - Design philosophy**

## CONSULTATION

### *External Referrals*

This application was referred externally to various referral authorities. A summary of the relevant advice is outlined below:

<b>Referral Authority (Determining / Recommending)</b>	<b>Response</b>	<b>Planner Comments</b>
<b>Country Fire Authority (Determining)</b>	No objection subject to conditions. <i>CFA Comments</i> CFA strongly supported defensible space limited to the sites leasehold area and have requested that the Bushfire Management Plan be amended to only cover the area within the leasehold.	Refer to Condition 28 in Attachment 1 for amendment to the Bushfire Management Plan to exclude the area adjacent to the Wirrup Yaluk Creek for the proposed future bridge and access and be limited to the leasehold area.
<b>Department of Transport and Planning (Determining)</b>	No objection subject to conditions included on the permit in relation to access.	Refer to Conditions 29 – 31 in Attachment 1: - A new crossover to be constructed to the satisfaction of Department of Transport. - All vehicles to exit the site in a forward direction.
<b>Department of Energy, Environment and Climate Action (Recommending)</b>	No objection subject to conditions.	Refer to Conditions 49 – 57 (Attachment 1) for vegetation offsets requirements, development of Fauna Management Plan and retention of hollow bearing trees.
<b>Melbourne Water (Informal notice under Section 52)</b>	No objection subject to conditions on the permit. <i>Melbourne Water Comments</i> The Freeboard of the building is higher than the applicable flood level.	Melbourne Water's comments are noted. It is recommended that Melbourne Water's conditions should be included as part of the permit to manage flood risk and protect the creek, the bank and its environs. Refer to Conditions 32 – 48 (Attachment 1).

### ***Internal Referrals***

This application was referred to various business units or individuals within Council for advice on matters. A summary of the relevant advice is outlined below:

<b>Department</b>	<b>Response</b>	<b>Planner Comments</b>
<b>Strategic Planning</b>	No objection No conditions recommended	Noted
<b>Urban Design</b>	No objection No conditions recommended <i>Comments</i> The built form is architecturally interesting and supported.	Noted
<b>Arborist</b>	No objection subject to conditions	Conditions 1 and 15 - 20 (Attachment 1) require tree protection measures during construction and tree management plan.
<b>Environment</b>	No objection, subject to conditions from Department of Energy, Environment and Climate Action being included on the permit.	All conditions being requested from Department of Energy, Environment and Climate Action have been included as Conditions 49 – 57 in Attachment 1.
<b>Engineering (Traffic)</b>	No objection, subject to conditions. <i>Comments</i> There is currently informal car parking occurring within the site however, there is no approved layout plan for parking, and it is our understanding that the current use is permitted without a requirement on-site parking space.  A 'Community Centre' is an innominate term within Clause 52.06. As such, there is no parking rate specified under Table 1 of 52.06-5 for the use. Clause 52.06-6 states that where a land use has no parking rate specified under the	Refer to Conditions 1 and 7 – 10 in Attachment 1 which requires accessible parking within the site, changes to parking delineations methods and the provision of 21 car spaces on site.

Department	Response	Planner Comments
	<p>planning scheme if the floor area of the use is increased, then car parking must be provided to the satisfaction of the responsible authority.</p> <p>The floor area of buildings is being increased by 214 square metres (from 916 square metres to 1130 square metres). The proposal includes 21 car parking spaces on the land. This is provided beyond any statutory car parking requirements.</p> <p>Acknowledging the existing use rights of the site and the historical arrangements, Council's Traffic Engineers are generally satisfied with this parking provision.</p>	
<b>Engineering (stormwater)</b>	<p>No Objection</p> <p>Conditions recommended</p> <p><i>Comments</i></p> <p>Melbourne Water is the relevant drainage authority.</p>	<p>Standard drainage conditions in relation to connection to legal point of discharges, piped drainage, detention system, submission of computational plans and completion and inspection Conditions 22-26.</p>

### ***Public Notification and Consultation***

Notification of the application was undertaken twice, for a total period of 28 days, by:

- ☒ - Placing three (3) signs on the three road frontages of the land
- ☒ - Mailing 310 notices to owners and occupiers of adjoining and nearby properties (including other leaseholders on the subject land)
- ☒ - Placing the proposal on Council's website for 28 days

Public notification was undertaken twice:

#### First notification period

Public notification was undertaken on 6 February 2025 by direct mail to owners and occupiers within the immediate area of the subject site. Three signs were posted on the road frontages to Maroondah Highway, Don Road and Badger Creek Road.

### Second notification period

The application was readvertised on 3 March 2025. This second public notification period was required to clarify the subject site address to ensure that the address being 1 Badger Creek Road, and 1-5/36 Don Road, Healesville, being Crown Allotments 2, 3, 4 and 6 Section 7 was clearly communicated to the community.

The notification was carried out by sending direct mail to nearby owners and occupiers, and three signs were again posted on the road frontages to Maroondah Highway, Don Road and Badger Creek Road.

### Summary of submissions and objections:

At the time of this report being prepared, six (6) objections have been received.

The grounds of objection can be summarised as follows:

- Inadequate community consultation / consultation meeting needed
- Poor ESD response due to extent of native tree removal / impacts on habitat / offset planting needed on site
- Loss of Healesville Living and Learning Centre area and sheds / Loss of Each Healthcare service
- Inadequate provision of on-site car parking and the need to upgrade on street parallel car parking.
- Impacts during development – building parking and site shed / management issues.
- Footbridge across Wirrup Yaluk creek indicated but not provided.
- Lighting impacts at night.

A detailed assessment of the submissions can be found later on in the report.

## **ASSESSMENT**

Assessment of the proposal against the relevant provisions of the planning scheme has been undertaken, and it is considered that the application meets the purpose of the planning scheme, including the Public Park and Recreation Zone.

For further information on the Planning Scheme Provisions, refer to Attachment 2.

### ***Alignment with the Strategic Priorities of Council***

#### **Council Plan Action**

The proposal aligns with the Yarra Ranges Council Plan 2021-2025 Major Initiative 1 to improve Aboriginal health and wellbeing by providing a range of supports to Oonah Health and Community Services Aboriginal Corporation to establish the Healesville Belonging Place, an integrated Aboriginal health facility. This Action plan item is not to build or otherwise deliver the building.

Whilst the Council plan has an action item to assist with the delivery of the building, the planning assessment is independent of the Council Plan, and development must meet the policy requirements and guidelines set out by the planning scheme.



## **Municipal Planning Strategy and Planning Policy Framework**

The proposal has been assessed against the Municipal Planning Strategy and Planning Policy Framework and found to be consistent with these policies as detailed in Attachment 2.

The proposal meets Council's strategic directions for community and development infrastructure.

- It is a consolidated development approach which addresses community infrastructure needs, by providing a better equipped and more serviceable 'hub' community facility as identified under Clause 19.02-4L Social infrastructure.

The proposal achieves the strategic directions for built environment and heritage seen as policy objectives in Clause 02.03-5 and Clause 15:

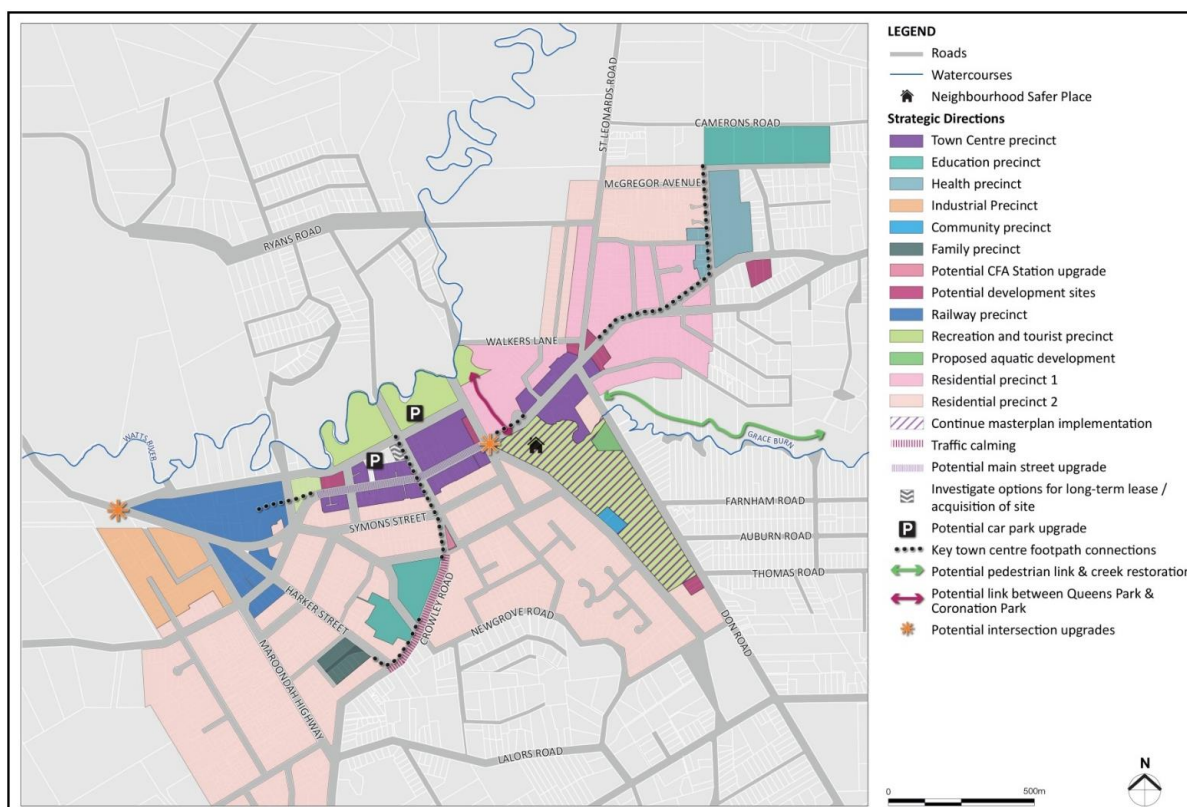
- The proposal creates a better sense of place with an inspired and integrated design, compared with the buildings it seeks to replace.
- The proposal will add character and embodies its purpose for the Oonah Belonging Place, including the Oonah Learning Centre and other health services.
- Healesville has a history of attracting tourists to the region. Queen's Park is popularly used as a meeting place and is appropriately located within the heart of the town. The buildings and works replace existing community service buildings and creates a space of community welcome with new facilities that will be an attractive design feature for the town.

In terms of economic development, the application responds to this direction as it provides for new development and business in accessible locations.

The proposal meets Council's strategic objectives in Clause 02.03-9 Infrastructure and 19.02-6L Open space policy for open space.

- Clause 02.02-9 objective seeks to support a network of accessible community infrastructure hubs.
- Clause 19.02-6L strategy seeks to ensure that development in open spaces will result in a net community benefit in terms of accessibility, facilities and protection of environmental attributes. The proposed development and its location within the existing public space is already a public space and will remain mostly a public park and reserve.
- The site will continue to facilitate public open space and recreation opportunities with community services and will not isolate these uses without suitable integration and linkages to other community facilities.
- The development is suitably located and represents an improved, environmentally sustainable design for the location and will facilitate an integrated, purpose-built community and health service for the community.

Clause 11.01-1L-02 Healesville identifies the site as being a community precinct as shown in Figure 10:



**Figure 10 - Clause 11.01-1L-02 Healesville Town Centre Map – Community Precinct specifically identified**

- The Healesville Town Centre Structure Plan (reference document) policy is also referenced under this Clause as the Structure plan shows Queen's Park not only as a recreation and tourist precinct, but also as continuing as a community precinct.
- The proposal meets the policies for Healesville's Structure Plan with a design which suits both precinct purposes. The proposal is broadly consistent with and supported by the Queens Park Masterplan 2012, noting that this document provides little guidance with regards to the community precinct, however the proposal will not limit the ability to achieve the outlined Masterplan actions.

The site is outside the major commercial areas of the Healesville Commercial Centre, however it is linked under the Healesville Structure Plan.

The proposal has suitably drawn together a functional and accessible design to replace the older buildings on site. It is considered that the building will better articulate Council's strategic direction for a high-quality building. The location is still highly accessible to community members.

Clause 19.02 Community Infrastructure seeks to facilitate, integrate and coordinate the provision of Health, Education and Cultural facilities, social and cultural infrastructure, and open space together. The proposal satisfies the key strategies of all parts of Clause 19.02, providing an integrated community facility wholly consistent with the extensive policy, providing a facility that is flexible in use, is integrated with the community, is accessible, allows adequate drop off zones on site, locates adjacent to the Healesville Large Town Centre activity centre, provides safe pedestrian and cycling access, addresses an identified gap in social and cultural

infrastructure, is designed to be adaptable and utilitarian, provides a community hub with convenient access to the local community.

### ***Buildings and works***

The design comprises four courtyards between the fingers of the building, breaking up the mass of the design as viewed from the north in Queen's Park on the other side of Wirrup Yaluk Creek and the south as viewed from Badger Creek Road and dwellings opposite. The eight-metre front setback is greater than the seven metre front setback of the adjoining building to the northwest, allows for retention of trees and maintains the open sense of Queens Park and Badger Creek Road.

The scale of the building is appropriate in this context, providing horizontally orientated form that is well articulated. Overall, the design will positively contribute to the visual amenity of the site and surrounds. The materials palette and colours are natural, with earthy and muted tones which are appropriate in this context.

Urban design officers have reviewed the design and have found it to satisfy the large range of design principles imbedded in the Planning Policy Framework. Planning officers agree with this sentiment, noting that the design achieves an excellent built form outcome fully responsive to the site and its context.

The proposed design raises no amenity impact issues on its surrounds. Passive surveillance of public parks and the adjoining reserve is encouraged by the planning controls and the design achieves this. There are no immediate sensitive interfaces that raise issues of residential amenity. The proposed buildings and works will not impact detrimentally upon the amenity enjoyed by the dwellings on the south west side of Badger Creek Road.

Condition 12 is recommended in relation lighting and Condition 11 is recommended for security alarms to ensure that this part of the development does not impact on the amenity of the surrounds and that uplighting does not affect any powerful owl habitat or activity.

### ***Car Parking***

#### **Provision of on-site parking – 21 spaces**

Ordinarily, if a new use was being considered as part of a planning application Clause 52.06 would require carparking to the satisfaction of the responsible authority.

Having regard to the principles that apply to existing use rights, technically the proposal could provide no car parking at all, and there would be no ability to require the thirty-three (33) informal car spaces to be retained on the land. The existing use is able to intensify its activities on the land without any planning permit or reconsideration of car parking.

As outlined earlier in the assessment, this site:

- Maintains existing use rights for both a Place of Assembly, and a Community Centre.
- Does not require any permission for the use of the land.
- The existing permit has no limit on patron numbers; thus, the existing use permission does not require any provision of car parking.

Whilst there are approximately thirty-three (33) informal car spaces currently available on the land, there is no approved car park layout plan or requirement to provide car parking under any permit already issued.

Table 3 below sets out-

- the current parking requirements,
- what the planning scheme can require; and
- what the application is proposing:

**Table 3 – Existing and proposed parking requirements.**

Informal car parking provided on the land	33 car spaces
Existing car parking required under Clause 52.06	Zero (0) car spaces
Car parking required under Clause 52.06	Zero (0) car spaces
Proposed car parking provision	21 car spaces
Floor Area of buildings demolished	916 square metres
Proposed floor area	1130 square metres
Additional floor area able to be assessed	214 square metres

Existing car parking must be assessed as zero for planning purposes and can occur without any on site car parking provision.

No new uses are being introduced, therefore no permission is required for car parking, and it is exempt from notice and third-party appeal rights.

The additional floor area is 214 square metres (from 916 square metres to 1130 square metres). The proposal voluntarily formalises 21 car parking spaces on the land providing car parking at a rate of ten (10) car spaces per 100 square metres of additional floor area.

This rate is considered satisfactory noting that the existing use rights allow for intensification of use without any car parking being provided, giving regard to the relatively small 214 square metres of additional floor area.

It is recommended that the twenty-one (21) car parking spaces be supported and set aside for that purpose by permit condition 7 and 10, and that they be constructed before the use commences. These car spaces are proposed to be gravel, however having regard for the intensity of use and scale the facility it is recommended that these car parking spaces be sealed (Condition 1).

#### Deletion of on-street parking provision

The plans show parking provided outside of the site in Badger Creek Road, as there is not permit requirement to consider parking, Council cannot require parking outside of the site.

As there is no permit trigger for on-street car parking, it is Council's responsibility to undertake any road and parking upgrade works in Badger Creek Road in consultation with the Department of Transport and Planning, noting that Badger Creek Road is in a Transport Zone 2. It is also noted that Department of Transport has not approved parking within the Badger Creek Road Reserve.

Condition 1 has been included in to remove the plan notation showing car parking on Badger Creek Road.

### ***Vegetation impacts***

The vegetation removal proposed is required for construction of the development and the provision of defensible space. The removal of vegetation will result in biodiversity losses; however, these are not significant, noting that the site and its vegetation existing condition has been heavily modified.

The proposal will require offsetting as a result of the vegetation losses in accordance with Council's strategic directions for environment.

### ***Biodiversity Considerations***

Biodiversity is endemic to the design philosophy and while creating a new built form to better service the community will result in vegetation losses, the vegetation loss is balanced in the context of the site and biodiversity and community outcome. The proposal utilises the same established disturbed area and does not fragment the site further and/or reduce the parts of the site for public gathering, resort and recreation.

Trees proposed to be removed are generally located within 10 metres of existing buildings and in a number of instances canopies extend over existing buildings. The removal of the trees to ensure bushfire safety for the existing use and proposed buildings is consistent with bushfire risk management principles as outlined above under the Bushfire assessment below.

Having regard to vegetation impacts, a number of defensible space options were reviewed as part of the application, including broader vegetation management from the proposal, which would have had significantly greater impacts on vegetation, habitat and the aesthetics of Queens Park, well beyond the defensible space currently proposed.

The CFA is a determining authority under Clause 66.03 and have required the defensible space be limited generally to the subject sites leasehold area and not varied from the standard five metre canopy separation and other standard bushfire requirements. Officers support the CFA's recommendation and are of the view that the proposed management measures limit the extent of vegetation management and greatly reduces impacts on biodiversity and habitat across the site.

The application has been reviewed by Council's arborist, Council's Environmental officers and Department of Energy, Environment and Climate Action who have all consented to the vegetation removal from the site as vegetation impacts on the site have been sought to avoid and minimise impacts.

Offset conditions, hollow retention, zoologist inspection, fauna relocation, tree fencing and a fauna management plan has been recommended by Department of Energy, Environment and Climate Action and Council's Environmental officers and these are contained in Conditions 1 and 49-57.

Objectors have raised concerns regarding the powerful owl habitat impacts. In response, it has been confirmed that trees have been reviewed to ensure that no likely nesting boughs or hollows have been unnecessarily lost. Conditions 49 to 57 of the proposed permit outline measures to inspect, relocate and protect any fauna on the land prior to and during construction.

A landscape concept plan in Attachment 6 has been provided which shows landscaping works generally in accordance with defendable space requirements. Additional detail of planting is recommended as part of the final landscape plan.

#### Arborist Consideration

Council's consulting arborist has recommended conditions to protect trees and ensure trees are maintained post development, specifically requesting pathways above grade with permeable materials, altering the design of the turning bay and seeking a root investigation works prior to any development works to ensure the protection of Tree 496, a Crimson Bottle Brush of good health and low retention. Conditions 15-20 are recommended to be included on the permit to ensure vegetation is managed and protected during construction.

Trees 442, 443 and 512 are shown as existing on the plans. These trees do not exist, and these trees will be removed from the plans as required by condition 1.

#### **Bushfire**

Clause 13.02-1S – Bushfire Planning provides considerable scope for consideration of bushfire risk, prioritising the protection of human life over all other policy considerations and gives further priority to reducing the vulnerability of communities to bushfire through the consideration of bushfire risk in decision making at all stages of the planning process. Clause 13.02 makes the protection of life an overarching consideration above all other considerations.

The CFA have considered the application and requested that defendable space be limited to the subject sites leasehold area and not extend further into Queens Park. It will be important that the permit holder practically manage defendable space within their site in an ongoing manner and not manage land beyond their lease holding.

Defendable space does not extend into the Wirrup Yaluk Creek or its banks except for a small part of the defendable space where a possible future bridge and access is indicated. This small area is to be deleted by Condition 1 with the creek and its banks managed and planted by Council in its entirety.

The CFA have imposed standard defendable space requirements should not be varied and a standard five metre canopy separation and other standard bushfire requirements regarding access, building construction, water supply and vegetation management are shown in the Bushfire Management Plan. The CFA are a determining authority, and officers support the CFA's recommendations, noting that this approach substantially limits the extent of vegetation management and associated impacts on vegetation, whilst satisfactorily managing bushfire risk to life and property.

Landscaping in this location will not be able to significantly increase tree canopy cover. Queens Park is listed as a Bushfire Place of Last Resort (BPLR) or Neighbourhood Safer Place (NSP) and the defendable space vegetation



management proposed on the site will generally improve the safety of this space, consistent with Clause 13.02.

The Healesville Structure Plan August 2016 identifies the need to identify further works to be undertaken in Queens Park, to protect watercourse environs adjacent to the site, to protect remnant bushland and to discourage landscaping that increases bushfire risk. Offsetting canopy trees in this location, beyond the limited amount of canopy planting shown of the landscape concept plan, is not supported having regard to overarching bushfire risk management concerns. Council is now preparing a Healesville Township Design Framework with Queens Park being one of the main precincts for consideration. This will establish some design principles and suggested projects to guide the next steps in this area.

### ***Heritage Overlay – Demolition, vegetation removal and heritage impacts***

Heritage Overlay HO163 is for Queens Park, The Nook and Nook Monument.

The heritage overlay includes a permit requirement for vegetation removal. A permit is also required for buildings and works for the construction of the building.

The Nook, which is part of Queen's Park, has high local significance, also, as a picnic place and popular beauty spot. The Nook Monument is a memorial that has local significance as a monument to World War II, Korea and Vietnam veterans. The development site is away from The Nook and Nook Monument and the proposal has no impacts on these two heritage-controlled elements of the site.

The buildings proposed to be demolished are recent additions, many are outbuildings or ad-hoc structures past their useful life expectancy. The building are non-contributory and inconsequential structures due to being sited away from The Nook and Nook Monument, the demolition of these building raises no issues and is supported.

The proposal results in both a continuation and enhancement of the elements that contribute towards Queen' Park's local significance. The proposed building presents a significant improvement on the existing buildings on the site. The proposed building and works are a positive response to the cultural heritage embodied through the 'belonging place' design. The trees proposed for removal are not specifically listed as contributory to the Queens Park and their removal will not impact detrimentally upon the heritage character of the area.

Objections have been raised regarding the demolition of these structures based on the loss of the activities provided in them.

Whilst this is not a relevant planning consideration under the heritage overlay and is a matter separate to the planning considerations for the development, Condition 21 controls the timing of the demolition of these buildings to enable the other community service providers to continue to operate on the site until separate resolution to this has been found between Council and the occupants of these buildings. This allows Council to work with the providers to assist with relocating these services either elsewhere on the site or to an alternative site suitable for the needs of the providers.

### ***Environmentally Sustainable Design***

The applicant has provided a Sustainability Management Plan (Attachment 7) in accordance with Clause 15.01-2L, achieving a positive BESS outcome. The report includes commitments to a number of sustainability measures, including 20,000 litre capacity rainwater tank, collecting approximately 811 square metres roof area runoff, connected to all toilets for flushing and remaining roof area (600 square metres) connected to swale drain/buffer strip.

Condition 1 requirements have been recommended in Attachment 1 to include ESD design measures to be shown on the development plans. Condition 14 in Attachment 1 has been included to ensure all recommendations in the Sustainability Management Plan are implemented for the site.

### ***Contamination***

Having regard to the state government's Potentially Contaminated Land Practice note PPN30, the historic use of the land as a Council Works Depot requires consideration of any contamination on the land. The preliminary soil contamination assessment undertaken concluded the identified concentrations would not adversely impact human health or local terrestrial ecosystem or pose a significant health risk.

The assessment included recommendations for the disposal of fill from the site which are included in Condition 58 in Attachment 1.

### **RESPONSE TO SUBMITTERS CONCERNS**

The application has been advertised, and six (6) objections have been received.

A summary of key themes of objections and a response to respective concerns is outlined in the table below:

<b><i>Ground of Objection</i></b>	<b><i>Assessment and considerations</i></b>
Loss of Healesville Living and Learning Centre area and sheds / Loss of Each Healthcare service	<p>The proposal seeks to substantially upgrade available community facilities, providing more floor area and improved operating areas.</p> <p>Matters of tenancy agreements between Council and the service providers occupying the land are beyond the scope of consideration of a planning permit application. Council cannot refuse the application on outstanding lease arrangements. These arrangements can be resolved under separate legislation, and there are no issues of futility as defined by <i>Port Phillip CC v Hickey [2001] VSC 129</i>. The tenancy issues raised can be resolved by Council through separate processes which are beyond the scope of the <i>Planning and Environment Act 1987</i>.</p> <p>Condition 21 in Attachment 1 has been included on the permit to anticipate demolition of the Healesville Living and Learning Centre buildings.</p> <p>This will also provide Council time to work with Healesville</p>

<b>Ground of Objection</b>	<b>Assessment and considerations</b>
	Living and Learning Centre to relocate the building to a new location.
Extent of native tree removal / impacts on habitat / offset planting needed on site	<p>The applications design and defensible space provision has limited its impact on vegetation in Queen's Park as much as practicable, addressing the native vegetation principles of avoid, minimise and offset with regards to its vegetation impacts. The proposal is a redevelopment of an existing community centre site in the middle of Healesville at a location earmarked for this purpose.</p> <p>On balance, the proposal addresses the pre-eminent issue of bushfire safety for people and property. The proposal also indirectly improves Queens Park role as a Bushfire Place of Last Resort (BPLR) / Neighbourhood Safer Place (NSP).</p> <p>Having regard to the pre-eminent issue of bushfire safety for people and property, the need to maintain defensible space, that Queens Park has the role as a Bushfire Place of Last Resort (BPLR) / Neighbourhood Safer Place (NSP) and the Healesville Structure Plan generally discouraging landscaping that increases bushfire risk opportunities for landscaping are limited.</p> <p>Conditions 1, 15-20 and 50-57 in Attachment 1 protects trees during construction, ensure trees are maintained post-development, appropriately offsets vegetation lost, retain hollows on site, require zoologist inspection, requires fauna relocation and requires a fauna management plan.</p>
Insufficient car parking	<p>As discussed in the car parking section of this report, no permission is required for car parking reduction as the use enjoys existing use rights and community centre use has no prescribed parking rate under the planning scheme.</p> <p>Whilst there is informal parking provided on the site; no car parking is currently required to be provided on the land in association with the existing use.</p> <p>There are 21 car spaces designated as part of this proposal, required to be provided by permit Conditions 7 and 10 in Attachment 1. This will preserve this number of car parking spaces in perpetuity on the land while this use is in place.</p>
Inadequate consultation / consultation meeting needed	<p>The application was advertised twice in a month, by mailout to 310 recipients and signage on the road frontages. Formal notice was completed in accordance with the <i>Planning and Environment Act 1987</i>.</p> <p>Adequate opportunity for community to lodge their issues</p>

<b>Ground of Objection</b>	<b>Assessment and considerations</b>
	<p>and concerns with Council has been given and has been considered during the assessment undertaken in this report.</p> <p>The applicant has undertaken their own consultation prior to Council's advertising and has indicated that they do not wish to engage in further consultation regarding the proposal.</p> <p>Separate discussions between Council and the other lease holders (Healesville Living and Learning Centre and EACH) will be required to resolve the lease arrangements for each of these providers which, whilst no relevant planning considerations, remain within the remit of Council as the landowner, to resolve by agreement with these leaseholders.</p> <p>Under the circumstances, additional consultation is not required for Council to be able to consider the planning merits of the proposal before it.</p>
Impacts during development – building parking and site shed / management issues.	A construction management plan is recommended by way of permit condition 6 in Attachment 1 in order to ameliorate impacts during construction.
Footbridge across Wirrup Yaluk creek indicated but not provided.	<p>Whilst a desirable outcome, the provision of a pedestrian bridge cannot be required as part of this planning permit and cannot be included in this proposal. The provision of a bridge is a matter separate to the planning permit application.</p> <p>Any development of the bridge across the creek would need to be considered as part of Council's infrastructure works program.</p> <p>It is recommended that reference to the bridge and access across the creek be deleted by permit condition 1 with works relocated away from the creek to protect the creek banks at this time.</p>
Lighting impacts at night	<p>Condition 13 in Attachment 1 regarding light baffling and uplighting being installed and thereafter maintained is recommended.</p> <p>Control of use and lighting at night beyond this cannot reasonably be required by permit condition having regard to existing use rights enjoyed by the land.</p>

## **CONCLUSION**

The development application has been assessed and is considered to be in accordance with Section 60(1) of the *Planning and Environment Act 1987* and all relevant instruments and policies.

The proposal is consistent with the objectives of the planning policy framework and the relevant zone and overlay provisions of the Planning Scheme, and overall results in nett community benefit and an acceptable development of the site, subject to conditions.

As such, approval of the planning application is appropriate and is it recommended that a permit be granted, subject to conditions as outlined in Attachment 1, and Council resolve to issue a Notice of Decision to Grant a Planning Permit.

## **ATTACHMENTS**

- 1 Proposed Planning Permit with Conditions
- 2 Planning Controls
- 3 Proposed Development Plans
- 4 Bushfire Management Plan
- 5 Arborist Report
- 6 Landscape Town Planning Report
- 7 Sustainability Management Plan