

**Report prepared for:**  
The "permit applicant"

May 2022

**Town Planning Report:**  
20 David Hill Road, Monbulk

# planning:report

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Appendices:

**Appendix A Copy of Titles**

**Appendix B Photos of site and surrounds**

# 1 Introduction:

## 1.1 Instruction

Ratio Consultants has been engaged by the permit applicant to prepare a planning report with respect to an application for the use and development of the site for a purpose of a childcare centre with associated signage; vegetation removal; and a reduction of the associated car parking requirements.

## 1.2 Investigations & Research

In the course of this report, we have:

- Assessed the proposal against the relevant planning controls and policies contained within the Yarra Ranges Planning Scheme;
- Inspected the site and surrounds;
- Reviewed the application plans prepared by ON Architecture;
- Reviewed the Landscape Concept Plans prepared by Das Studio;
- Reviewed the Traffic Impact Report prepared by Ratio Consultants;
- Reviewed the Waste Management Plan prepared by Ratio Consultants;
- Review the Arborist Report prepared by John Patrick Landscape Architects;
- Reviewed the Bushfire Management Statement prepared by Terramatrix; and
- Reviewed the ESD and WSUD Report prepared by LID Consultants.

We note that an Acoustic Report is currently being finalised by Watson Moss Growcott and will be forwarded on to the allocated planner once complete.

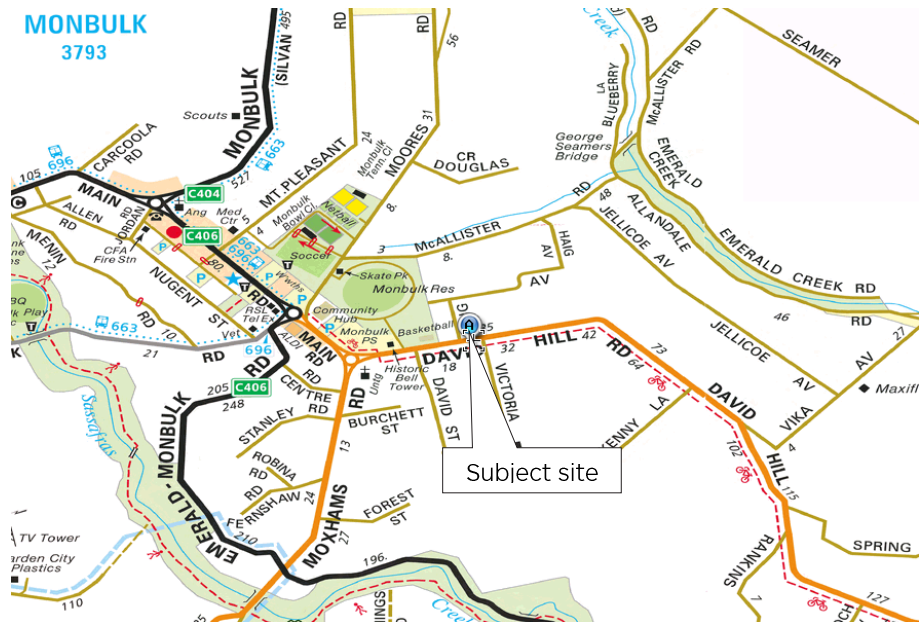
# 2 Site Analysis:

## 2.1 Subject Site

The subject site is located on the southern side of David Hill Road and western side of Victoria Avenue, approximately 245 metres to the east of Moxhams Road, Monbulk.

The site is more formally known as Lot 2 on Plan of Subdivision 007432.

**Figure 2.1:** Locality Plan.



Source: [www.street-directory.com.au](http://www.street-directory.com.au)

The key features of the site are summarised as follows:

- The site is regular in shape with a frontage to David Hill Road of 31.39 metres, 57.30 metres to Victoria Avenue and overall area of 1,798sq.m.
- The site includes a single storey weatherboard dwelling with a pitched roof and is oriented to front David Hill Road. Vehicular access is provided via a single width crossover within the north-west site corner and secluded private open space is located at the rear of the dwelling.
- A moderate level of vegetation and canopy trees are scattered throughout the site. We defer to the accompanying Arborist Report prepared by John Patrick Landscape Architects with respect to all matters relating to vegetation. We further note that much of the vegetation to be removed from the site is located within the 'defendable' space zone relative to the established dwelling and boundary fence lines that have been present on site prior to 2009.
- The site includes a slope of approx. 2.5 metres from north to south.
- The site includes a 1.54-metre-wide drainage easement that extends along the rear boundary. A full and recent copy of the title for both lots is included at **Appendix A**.

**Figure 2.2:** View of the subject site taken from David Hill Road.



Subject site viewed from Victoria Avenue



A photographic analysis of the subject site and surrounds is included at **Appendix B**.

**Figure 2.3:** Cadastral Plan:



Source: [www.land.vic.gov.au](http://www.land.vic.gov.au)

## 2.2 Adjoining Properties

The subject site is located within an established low-density area which includes a mix of residential and non-residential land uses. Non-residential type land uses include primary schools; commercial uses; sporting clubs; a place of assembly; and green wedge zone land. The subject site's relationship with the surrounding properties is summarised as follows:

### North

To the site's immediate north is David Hill Road which is a **Transport 3 Zone** road. On the northern side of David Hill Road is land located within the **Low-Density Residential Zone** and used as dwellings, whilst to the north-west is land within the **Public Use Zone** and used as a primary school.

### East

To the site's immediate east is Victoria Avenue, a two-way local road. Further east of Victoria Avenue is land within the **Low-Density Residential Zone** and primarily used for the purposes of dwellings.

Further east is the **Green Wedge Zone** which is used for agricultural purposes.

### South

To the site's immediate south located at No. 2 Victoria Avenue is a raised single storey weatherboard dwelling located within the **Low-Density Residential Zone**. Car parking is provided to the site via a single width crossover that extends along its southern boundary and leads to an attached garage, whilst secluded private open space is located at the rear of the dwelling.

### West

To the site's immediate west at 18 David Hill Road is a single storey weatherboard dwelling located within the **Low-Density Residential Zone**. Vehicular access is provided to the site via crossovers within the

north-east and north-west site corners from David Hill Road, which provide access to a shed and carport built on their respective boundaries. Secluded private open space is located to the rear of the dwelling.

Approximately 250 metres further west of the site is the Monbulk Town Centre, which includes land located within the **Commercial 1 Zone** and provides a variety of commercial uses/facilities.

## 2.3 Locality

The site is located within an established area which includes a mix of land use zoning including **LDRZ; C1Z; GWZ – Schedule 1; PUZ** (School) and **PPRZ** and a broad mix of land uses reflective of the mix of zoning nearby (i.e. residential; schools; commercial; places of assembly; public open space etc).

Development is generally low scale and at a moderate density, with established vegetation cover a common feature of sites and the broader area. A number of schools and non-residential land uses are located proximate to the site and abutting David Hill Road which is a **Transport 3 Zone** road.

The site is proximate to a range of community facilities and public transport including:

- Monbulk Primary School, located approx. 180 metres to the west;
- Monbulk Town Centre, located approx. 250 metres to the west;
- Monbulk Recreation Reserve, located approx. 170 metres to the north-west;
- Bus Route's No. 663 and 696, located approx. 250 metres to the west; and
- Moores Road Medical Centre, located approx. 380 metres to the north-west.



**Figure 2.4:** Aerial view of the subject site and surrounds.



Source: LandChecker (20 January 2022).

### 3 The Proposal:

It is proposed to construct a two-storey childcare centre on the land and associated vegetation removal; car parking reduction; and business identification signage. More specifically, the proposal is summarised as follows:

- Full demolition of all existing buildings (no permit required).
- The proposed childcare centre is for 88 x children (ages 0-5 years).
- A total of 15 x staff will be employed by the centre, with staff numbers varying throughout the day, depending on the mix of children's ages. It is not anticipated that all staff will be onsite at any one time.
- The hours of operation will be 6.30am to 6:30pm, Monday to Friday.
- A new double-width cross-over is to be constructed within the north-east corner of the site to Victoria Avenue. The existing crossover within the north-west corner is to be removed and replaced with curb-and-channel.
- A separate pedestrian pathway will provide access to the site from Victoria Avenue.
- An at-grade car park will be provided within the north-eastern part of the site and will contain 18 x cars including 1 x single disabled space.
- 4 x bicycle parking spaces and designated refuse area are provided adjacent the proposed car park.
- The proposed centre will comprise:
  - Ground floor: Entrance / reception, coffee station, kitchen, bathroom, sleep room, storage, 5 x activity rooms (includes 3 x shared toilets and prep rooms), stairs to the levels above and 620sq.m of outdoor play area.
  - First floor: Staff room, planning room, laundry, bathroom, and stairs to the levels below.
- Maximum building height will be 8.502 metres above NGL to roof pitch.
- Building setbacks to site boundaries are as follows:
  - David Hill Road (front) – 5.906 metres.
  - Victoria Avenue – 4.0 metres.
  - Southern (rear) – 13.714 metres.
  - Western (side) – 2.214 – 4.0 metres.
- The proposal will result in site coverage at 32.8% and site permeability at 43%.
- New fencing is proposed to the side and rear boundaries.
- A new 1.80 metre colourbond front fence is proposed along the David Hill Road frontage and a new 1.80 metre fence over a retaining wall (approx. 250mm – 2.0 metres due to slope) is proposed along the Victoria Avenue frontage.
- Proposed vegetation removal is outlined in the supporting Arborist Report prepared by John Patrick Landscape Architects, noting that with the exception of Tree 2, all trees are to be removed from the site and a number can be removed pursuant to the bushfire exemptions pursuant to Clause 52.12. A new landscape scheme is proposed and as detailed within the supporting Landscape Plan prepared by Das Studio. New landscaping is specifically provided within building setbacks; adjacent to site boundaries; and adjacent to the proposed car park.
- A 10,000L rainwater and fire tank is provide for within the north-east corner of the site, with the rainwater tank located below ground.

- The building is contemporary in its design however will include traditional building elements including pitch roof form and weatherboard panelling to reflect the residential neighbourhood in which the site is located. Building materials include rendered brick; CFC weatherboard panelling; aluminium framing and glazing.
- The proposal includes 2 x business identification signs as follows:
  - A 3.575sq.m high sign affixed to the front fence with 'Journey Early Learning' wording.
  - A 3sq.m free standing sign within the north-east frontage along Victoria Avenue with 'Journey Early Learning' wording and business logo.

Refer to the architectural prepared by ON Architecture for further details.

**Figure 3.1:**

Indicative render of the proposed centres front façade as presented to Victoria Avenue.



## 4 Relevant Planning Controls:

### 4.1 Zoning Controls

The site is located within the **Low-Density Residential Zone** pursuant to **Clause 32.03** of the Yarra Ranges Planning Scheme.

**Figure 4.1: Zoning Map**



Source: [www.landchecker.com.au](http://www.landchecker.com.au)

The “purposes” of the **LDRZ** are as follows:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.*

Pursuant to **Clause 32.03** of the Yarra Ranges Planning Scheme, a childcare centre is a Section 2 – Permit required land use. Pursuant to **Clause 32.03-4** a permit is required to ‘construct a building or construct or carry out works associated with a Section 2 land use’.

Any signage application within this zone falls under Category 3 under **Clause 52.05** (“high amenity areas”). A permit is not required to use the land to display a sign pursuant to **Clause 62.01**. A permit is also not required for buildings and works associated with a sign under the zone pursuant to **Clause 62.02-1**.

### 4.2 Overlay Controls

The subject site is affected by a number of overlay controls. These include:

- **Bushfire Management Overlay.** Pursuant to **Clause 44.06-2**, a planning permit is required to ‘construct a building or construct or carry out works’ associated with an ‘education centre’ (child-care). Pursuant to **Clause 44.06-6**, an application must be referred under Section 55 of the Act to the person or body specified as the referral authority in **Clause 66.03**, unless a schedule to this overlay specifies otherwise.

We defer to the Bushfire Management Statement prepared by Terramatrix Pty Ltd with respect to the application’s formal response to the specific requirements of the **BMO**.

- **Significant Landscape Overlay – Schedule 22 (SLO22- Foothills and Rural Towns).** Pursuant to **Clause 42.03-2**, a planning permit is required to ‘construct a building or construct or carry out works’; to ‘construct a fence’ and to ‘remove, destroy or lop vegetation’ unless a schedule to the overlay specifically states that a permit is not required.

**Schedule 22** to the **SLO** states that a permit **is** required to ‘construct a front fence’ to a certain height; ‘remove, destroy or lop any vegetation, including dead vegetation’ (in some instances); and ‘to construct a new building’ should the full suite of permit requirements not be met.

As such, a permit is required for buildings and works; front boundary fencing; and removal of vegetation under **SLO22**. An assessment against the relevant provisions of this overlay is contained at Section 5.4 of this report.

In relation to ‘Monbulk’, **Schedule 22** notes:

*“Monbulk sits below forested hills, with generous blocks and low-level gardens. Remnant dry forest and other large canopy trees along with bush gardens, strengthen its landscape character. Monbulk straddles the ridge between two creeks and provides views to the Silvan Agricultural Area and The Patch classified landscapes.”*

### **Planning Policy Framework (PPF)**

The following PPF provisions (some identified as ‘S’ state and ‘R’ regional) that are relevant to this proposal include:

- Clause 11.01-1S Settlement
- Clause 11.01-1R Settlement – Metropolitan Melbourne
- Clause 11.02-1S Supply of urban land
- Clause 11.02-2S Structure planning
- Clause 11.02-3S Sequencing of development
- Clause 13.07-1S Land use compatibility
- Clause 12.05 Significant environments and landscapes
- Clause 12.05-1S Environmentally sensitive areas
- Clause 12.05-2S Landscapes
- Clause 13.02-1S Bushfire planning
- Clause 15.01-1S Urban design
- Clause 15.01-1R Urban design – Metropolitan Melbourne
- Clause 15.01-2S Building design
- Clause 15.01-4S and R Healthy neighbourhoods
- Clause 15.01-5S Neighbourhood character
- Clause 15.02-1S Energy and resource efficiency
- Clause 17.02-1S Business
- Clause 18.01-1S Land use and transport integration
- Clause 18.01-3S and R Sustainable and safe transport
- Clause 19 Infrastructure
- Clause 19.02-2S Education facilities
- Clause 19.03-1S Development and infrastructure contributions plans

The various PPF provisions that relate to the proposed development state the need:

- Create mixed-use neighbourhoods at varying densities, that offer more choice in housing, create jobs and opportunities for local

businesses and deliver better access to community services and facilities (Clause 11.01-1R).

- To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses (Clause 11.02-1S).
- To facilitate the orderly development of urban areas through the preparation of relevant plans (Clause 11.02-2S).
- To manage the sequence of development in areas of growth so that services are available from early in the life of new communities (Clause 11.02-3S).
- To protect and conserve environmentally sensitive areas (Clause 12.05-1S).
- To protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments (Clause 12.05.2S).
- To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life (Clause 13.02-1S).
- To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects (Clause 13.07-1S).
- To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity (Clause 15.01-1S).
- To create a distinctive and liveable city with quality design and amenity (Clause 15.01-1R).
- To achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties (Clause 15.01-2S).
- To create a city of 20-minute neighbourhoods, that give people the ability to meet most of their everyday needs within a 20-minute walk, cycle or local public transport trip from their home (Clause 15.01-4R).
- To recognise, support and protect cultural identity, neighbourhood character and sense of place (Clause 15.01-5S).
- Promote consolidation of urban development and integration of land use and transport (Clause 15.02-1S).
- To encourage development that meets the community's needs for retail, entertainment, office and other commercial and community services (Clause 17.02-1S).
- To facilitate an efficient and safe walking network and increase the proportion of trips made by walking (Clause 18.02-1S).
- To facilitate an environmentally sustainable transport system that is safe and supports health and wellbeing (Clause 18.02-4S).
- To ensure that planning recognises social needs by providing land for a range of accessible community resources, such as education, cultural, health and community support (mental health, aged care, disability, youth and family services) facilities (Clause 19).
- Consider demographic trends, existing and future demand requirements and the integration of facilities into communities in planning for the location of education and early childhood facilities and locate childcare, kindergarten and primary school facilities to maximise access by public transport and safe walking and cycling routes (Clause 19.02-2S).

- To facilitate the timely provision of planned infrastructure to communities through the preparation and implementation of development contributions plans and infrastructure contributions plans (Clause 19.03-1S).

### 4.3 Local Planning Policy Framework (LPPF)

#### Municipal Strategic Statement (MSS)

The Yarra Ranges Shire Council is located on the eastern fringe of metropolitan Melbourne with a population currently estimated at 145,000.

The Shire balances a mix of urban and rural communities. Around 70% of the Shire’s population live in the urban areas of the municipality (approximately 3% of its landmass). The rest is distributed throughout the remaining areas. There are over 55 suburbs, townships, small communities and rural areas within the Shire, making it one of the most diverse municipalities in the State.

Yarra Ranges has a diverse economy of around 10,000 businesses, which employ over 35,000 people. Manufacturing continues to represent the single most valuable sector of the economy, with construction, property and business services, retail trade and agricultural and other key sectors.

**Clause 21.03** sets out the Vision for the Shire. With respect to ‘foothill’ areas such as Monbulk, policy notes that these areas are located in the southern parts and lower slopes of the Dandenong Ranges. These communities are visually prominent when viewed from other parts of the Shire and surrounding areas. They are characterised by an extensive tree canopy including remnant vegetation and mature exotic gardens. There is only limited potential for more intensive development in these areas if their established character is to be retained. Shopping facilities and other services are not intended to be as comprehensive as those situated in the more urban parts of the Shire. Some Foothills areas do not have fully constructed roads and many roadside verges retain remnant vegetation. The extensive vegetation coverage complements the conservation and habitat values of nearby bushland areas, many of which are included within the Dandenong Ranges National Park. Large areas of the Foothills are not connected to reticulated sewerage.

**Figure 4.2:** Clause 21.03 – Strategic Framework Plan.



**Clause 21.04** – ‘Land Use’ sets out controls which apply to land use which reflect the diversity of the Shire and ensure that specific polices

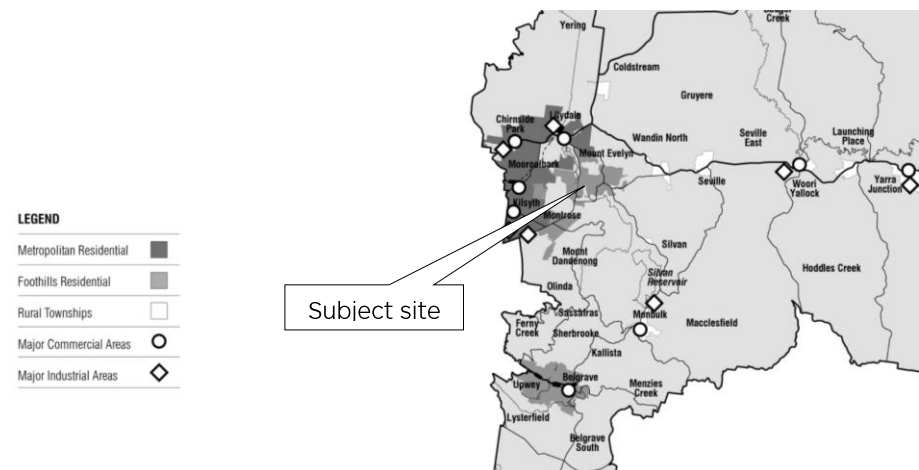
are targeted to appropriate areas. Policies in this section delineate the Metropolitan, Foothills, Rural Township and Rural designations when applying policy for residential, commercial and industrial development as well as subdivision. With respect to commercial and community-based service type land use, policy seeks:

- To promote the future growth and prosperity of the Shire.
- Encourage business development, tourism and agricultural industries, which recognise and reinforce the rural and green wedge character and outstanding natural assets of the Shire.
- Identify preferred sites in appropriate locations for specific industry, service and commercial sectors.
- Minimise off-site impacts to the amenity of local communities and satisfy other relevant planning criteria for such activities.
- Protect surrounding residential and rural and green wedge areas from adverse visual and amenity impacts of business encroachment.

**Clause 21.05** – ‘Settlement – Objectives, Strategies and Implementation’ seeks to:

- To establish sustainable and attractive townships which can support a range of residential, commercial, retail, community and recreational facilities and services.
- Enhance the economic viability, safety and efficiency of the towns.
- Provide for quality retail, commercial and community facilities which cater for consumer needs.
- Prevent the intrusion of uses that would fragment the form and layout, and that are not complementary to the role and function, of the centre.
- Cluster land uses that complement the role and function of the centre. Encourage land uses that will maintain and enhance the viability of the centre.

**Figure 4.3:** Clause 21.05 – Urban Areas and Townships Map.



**Clause 21.06** – ‘Built Form – Objectives, Strategies and Implementation’ seeks to:

- To promote proper siting and good design in the construction of all buildings and in the carrying out of works.
- Ensure that any development reflects the environmental and physical form of the surrounding neighbourhood.
- Protect and enhance the residential character and neighbourhood amenity of residential, rural living and rural residential areas to



ensure that new development is compatible with the scale and bulk of nearby buildings.

- Ensure that all development is sensitively designed and sited, having regard to the natural physical features of the land, including slope, the presence of existing vegetation and view lines.
- Building setbacks, height, site coverage and design enable the efficient use of the site, while also recognising the amenity of the surrounding residents, and the residential and environmental character of the area.

It is policy that when considering buildings and works in the Neighbourhood Residential Zone, Low Density Residential Zone, Green Wedge A Zone and Rural Living Zone:

- Building setbacks, height, site coverage and design enable the efficient use of the site, while recognising the amenity of the surrounding residents, and the residential and environmental character of the area.
- The development be set back a reasonable distance from common boundaries with adjoining residential properties, to ensure protection of residential amenity and, where appropriate, provide for the establishment of an effective landscape buffer.
- The setback distance be sufficient to ensure that:
  - There will be no adverse impact on adjoining properties.
  - Daylight to adjoining habitable rooms will not be significantly reduced.
  - Buildings will not significantly overshadow neighbouring secluded private open spaces or main living areas.
  - Windows of buildings will not directly overlook habitable room windows of adjoining properties.
  - The development will not increase the impact of the proposal on surrounding land uses.
  - There will be no increase in the impact of the development on existing remnant vegetation.
  - Building setbacks from road frontage should:
    - Generally, reflect the development setbacks on adjoining properties.
    - Have regard to the need to avoid the removal of vegetation.
    - Be consistent with the overall character of development within the locality.
    - If frontage of the site is to a minor road, any building be set back at least 7.5 metres from that frontage, and if frontage is to a main road, the building be set back at least 10 metres from that frontage.
- To recognise and protect the distinctive characteristics and environmental features of the residential areas throughout Yarra Ranges.
- Provide for outdoor advertising that achieves effective identification of businesses and does not detract from the streetscape character of the area.
- Promote outdoor advertising that is well presented and is related to the scale and nature of the use identified.

**Clause 21.07** – ‘Landscape – Objectives, Strategies and Implementation’ seeks to:

- To retain and protect the scenic landscapes, rural and green wedge character and special environmental features of the Shire.

- Ensure that tourist development proposals protect and conserve the natural environment and minimise the adverse impacts on residential amenity.
- Prevent more intensive development in areas of low density rural residential use as these areas act as buffers or areas of transition between urban areas and other areas of high agricultural and environmental significance.

**Clause 21.09** – ‘Environment – Objectives, Strategies and Implementation’ seeks to:

- To protect and conserve the environmental characteristics of the Shire which are of local, regional, state and national significance.
- To protect and enhance the Shire’s rich biodiversity.
- To ensure land use and development is assessed in the context of its potential effect on the wider catchment.
- To ensure that the use of land and development takes account of physical development constraints such as flood, fire and landslip and to control development in these areas.
- To ensure that the use of land, the construction of buildings and the carrying out of works are of a type, scale and design which do not adversely impact on the natural environment and take account of physical development constraints.

**Clause 21.10** – ‘Infrastructure’ seeks to:

- Establish a good standard of physical infrastructure for all new development and, where appropriate, upgrade the existing infrastructure in established urban areas.
- To integrate land use planning with transport planning throughout the Shire.
- To promote a greater accessibility to, and provision of, public transport into and throughout the Shire, particularly in areas remote from current public transport services.

**Clause 21.11** – ‘Community Infrastructure – Objectives, Strategies and Implementation’ seeks to:

- To improve access to a well-planned range of Shire-based community services that meet the current and future needs of residents.
- Encourage the provision of community services in convenient locations to meet the needs of the urban and rural and green wedge communities. This may include the acting on the outcomes of a ‘Community Hubs’ policy that seeks to identify strategic locations for the provision of ‘hubs’ that provide integrated community services and facilities, such as those for children, aged, family and other community services. Provide for the consolidation of community facilities within established township centres where convenient access is available to other facilities such as public transport and shops.

## **Local Planning Policies**

### **CLAUSE 22.01 – DISCRETIONARY USES: RESIDENTIAL AND INDUSTRIAL ZONES**

This policy applies to all land in a residential zone where a permit is required to establish a non-residential use. The relevant “objectives” of this policy relating to residential zones includes:

- *Provide limited and controlled opportunities for non-residential uses that meet the needs of the local residential community, protect the*

*residential amenity of the area and are compatible with the visual, environmental and landscape qualities of the neighbourhood.*

- *Ensure that non-residential uses are of a scale and intensity that will not detract from the environmental features and amenity of the residential neighbourhood.*
- *Prevent the establishment of commercial uses which would be more suitably located in a commercial centre or industrial area.*

An assessment against this policy is provided in **Section 5.2**.

#### **CLAUSE 22.04 – ADVERTISING SIGNS POLICY**

This local planning policy applies to all advertising signs displayed throughout the Shire.

Relevant “objectives” include:

- *Signs provide appropriate and effective identification of businesses and other land uses requiring identification.*
- *Signs do not detract from the amenity and streetscape or landscape character of the surrounding area.*
- *Signs do not detract from the appearance or architecture of the building on which it is displayed.*
- *The size and height of signs are compatible with the scale of the building or site on which they are displayed, the surrounding streetscape or landscape and the size and nature of other signs in the area.*
- *Encouragement is given to the use of sign themes in commercial areas and to ensure that signs are compatible with any advertising pattern or theme that has been developed for the area.*
- *Sign clutter is avoided or reduced so as to maintain or enhance the built and natural environments of the Shire and in order to maximise the effectiveness of individual identification signs.*
- *Signs do not create any form of traffic hazard.*

Performance standards relevant for applications to erect signage within residentially zoned areas are set out at **Clause 22.04-3**. An assessment against this policy is provided in **Section 5.6**.

#### **CLAUSE 22.05 – VEGETATION PROTECTION**

This local planning policy applies to proposals if a permit is required to remove vegetation. Permission for the removal of vegetation is required under the provisions of **Clause 51.03** of this planning scheme. The provisions of the Significant Landscape Overlay also require permission for the removal of vegetation. These provisions contain exemptions from permit requirements in certain circumstances.

Relevant “objectives” include:

- *Recognise the importance of remnant vegetation in providing wildlife habitat and corridors for wildlife movement, as a source of genetic diversity, as a place for recreation and as an important feature of the special landscape character of the Shire.*
- *Ensure that consideration is given to the effect of the removal of vegetation when assessing proposals to use and develop land.*
- *Protect and enhance the long-term viability of all remnant vegetation, whether in a bushland, rural, green wedge or urban environment, especially if the vegetation is generally undisturbed.*
- *Ensure the conservation of remnant vegetation to sustain and enhance natural ecosystems for both plants and animals.*
- *Ensure that agricultural and land management practices protect and provide for the long-term maintenance of remnant vegetation.*

- *Ensure that the clearing of remnant vegetation will not have any adverse effect on landscape values, wildlife habitat and wildlife corridors or lead to land degradation through soil erosion or loss of water quality.*
- *Conserve and protect the habitat of native fauna, especially species which are threatened or endangered.*
- *Promote re-vegetation with native species, that are indigenous to the area within which they are to be used, as a means to increase and enhance areas of remnant bushland in the Shire and to assist in the sound management of land.*

An assessment against the relevant provisions of this clause is provided for below at **Sections 5.3** of this report and via the Arborist Report prepared by John Patrick Landscape Architects Pty Ltd.

## **4.4 Particular and General Provisions**

### **Clause 52.05 – Signs**

Provides guidance in the design of signage. The subject site falls within a Category 3 – high amenity area and as such a permit is required pursuant to **Clause 52.05-13** for a business identification sign. A series of general decision guidelines are provided at **Clause 52.05-8**. An assessment against the requirements of this provision is set out at **Section 5.6**.

### **Clause 52.06 – Car Parking**

Requires car parking to be provided at a rate of 0.22 car spaces per child for childcare centres. Given that the centre is for 88 x children, this generates a requirement of 19 x car spaces.

As 18 x spaces are provided onsite, a permit is required to reduce (1 x space) the statutory parking rate associated with the proposed new use.

We defer to the accompanying Traffic Impact Assessment report prepared by Ratio Consultants with respect to all matters relating to parking provision.

### **Clause 52.12 – Bushfire Protection Exemptions**

Pursuant to **Clause 52.12-1** the following exemptions apply to the creation defendable space around buildings used for accommodation:

- Any requirement of a planning permit, including any condition, which has the effect of prohibiting the removal, destruction or lopping of vegetation, or any requirement of this planning scheme to obtain a planning permit, or any provision of this planning scheme that prohibits the removal, destruction or lopping of vegetation or requires the removal, destruction or lopping of vegetation to be carried out in a particular manner, does not apply to any of the following:
  - The removal, destruction or lopping of any vegetation within 10 metres of an existing building used for accommodation if all of the following requirements are met:
    - The building must be located in an area that is designated as a bushfire prone area under the Building Act 1993.
    - The building must have been constructed before 10 September 2009.
- Any requirement of a planning permit, including any condition, which has the effect of prohibiting the removal, destruction or lopping of vegetation, or any requirement of this planning scheme to obtain a

planning permit, or any provision of this planning scheme that prohibits the removal, destruction or lopping of vegetation or requires the removal, destruction or lopping of vegetation to be carried out in a particular manner, does not apply to the removal, destruction or lopping of any vegetation along a boundary fence between properties in different ownership if all of the following requirements are met:

- The fence must be located in an area that is designated as a bushfire prone area under the Building Act 1993.
- The fence must have been constructed before 10 September 2009.
- The clearing alongside both sides of the fence when combined must not exceed 4 metres in width, except where land has already been cleared 4 metres or more along one side of the fence, then up to 1 metre can be cleared along the other side of the fence.

We note that the above-mentioned exemptions apply to the site due to the fact existing dwellings and fencing were constructed across the lot prior to 10 September 2009.

**Figure 4.4:**

Google earth image of the existing dwelling taken on April 2004



**Figure 4.5:**

Google earth image of the existing dwelling taken on November 2021



### **Clause 52.29 – Land Adjacent to the Principle Road Network**

This clause applies to land adjacent to a road in the **Transport Zone 2** or land in a Public Acquisition Overlay if a transport manager (other than a municipal council) is the acquiring authority, and the purpose of the acquisition is for a road.

Pursuant to **Clause 52.29-2**, a permit is required to create or alter access to a road in a Transport Zone (i.e. David Hill Road).

### **Clause 53.02 – Bushfire Planning**

This clause applies to an application under **Clause 44.06** - Bushfire Management Overlay. **Clause 53.02-4.2** includes “defendable space and construction objectives”, again noting that a Bushfire Management Statement has been prepared by Terramatrix Pty Ltd in response to the specific requirements of the **BMO** and **Clause 53.02**.

### **Clause 53.18 – Stormwater Management in Urban Development**

Whilst this clause technically does not apply to an application under a provision of the Low-Density Residential Zone to construct a building, or construct or carry out works, for completeness, a **WSUD Statement** has been prepared by LID Consultants in support of the application.

### **Clause 65.01 Approval of an Application or Plan**

States that before deciding on an application or approval of a plan, considerations should be given to a series of matters including the purpose of the zone, overlay or other provision, the orderly planning of the area, and the effect on the amenity of the area.

### **Proposed Policy – ‘Vision 2020 by Design’**

‘Vision 2020 by Design’ seeks to implement improved design guidelines for new property developments in the region. This document is yet to go through a formal planning scheme amendment process and therefore cannot be considered a ‘seriously entertained planning document’. That said, we note future planning for Yarra Ranges does encourage sustainable design considerations which has prompted our client to include a ESD and WSUD statement in support of the application despite there currently being no statutory requirement under the planning scheme for same.

## 5.1 Introduction

**Clause 71.02-3** of the PPF promotes the ‘balancing’ of sometimes conflicting policies in favour of net community benefit and sustainable development. In this case the ‘balancing act’ needs to assess matters such as the value of providing a purpose-built childcare centre on this consolidated site, against other matters such as character; tree removal/replacement planting in context of the various overlay controls which affect the site; amenity; and traffic/parking considerations.

In particular, we say the proposal prompts the following questions:

- Is there general strategic support for the proposal?
- Is the proposed vegetation removal appropriate?
- Is the proposed design response appropriate to its context?
- Will the proposal facilitate acceptable amenity outcomes?
- Is the proposed signage acceptable?
- Is the proposal appropriate on traffic and parking related grounds?

## 5.2 Is there general strategic support for the proposal?

### Suitability of land use

A “childcare centre” is a discretionary use in the **Low-Density Residential Zone (LDRZ)**. Given the discretion afforded by the planning scheme, it reasonably follows that the scheme’s provisions anticipate that there will be circumstances when this use will be acceptable in the **LDRZ**. If this were not the case, the use would be prohibited.

It has long been held by VCAT and its predecessors that land in residential zones is generally a suitable location for a childcare centre. This, of course, is subject to the characteristics of a particular site and location, but generally speaking, we consider that the location of this use in a residential zone and directly adjacent to an established primary school is appropriate and desirable.

Importantly, the “purposes” of the **LDRZ** are limited to implementing the MSS and PPF and providing for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater. In this instance, by virtue of the site including an existing dwelling, it is connected to reticulated sewerage and has access to all services. The MSS further includes an overarching acknowledgment that local needs, whether it is for education, worship, health or childcare, should be met within an established community where possible.

It is often appropriate that these requirements be met in established residential areas, where there is access to existing facilities and land uses can sit comfortably within a residential context. Often, they are uses that are not best located within commercial centres, perhaps due to the size of land required, say for a school, or the need for lower land prices to make such services affordable. Certainly, Council’s MSS recognises the role of established residential areas, including the **LDRZ** in meeting such community needs.

In this instance, the consolidated site is in an established area where a broad mix of land uses, and land zoning is present. Significantly, the site is located within close proximity to an existing and established primary school (Monbulk Primary School) and the Monbulk Recreation Reserve.

It is important in these areas, that services and facilities, such as childcare centres, be constructed so that they are able to serve the needs of ever developing local communities. This assists in achieving the 20-minute neighbourhood set out in the PPF.

As most relevant, **Clause 21.11** – ‘Community Infrastructure’ seeks to:

- To improve access to a well-planned range of Shire-based community services that meet the current and future needs of residents.
- Encourage the provision of community services in convenient locations to meet the needs of the urban and rural and green wedge communities. This may include acting on the outcomes of a ‘Community Hubs’ policy that seeks to identify strategic locations for the provision of ‘hubs’ that provide integrated community services and facilities, such as those for children, aged, family and other community services. Provide for the consolidation of community facilities within established township centres where convenient access is available to other facilities such as public transport and shops.

**Clause 22.01** outlines policy in relation to ‘discretionary uses in residential areas’. This clause identifies the preferred location for such uses. An assessment against the relevant sections of the policy at **Clause 22.01** follows:

**Objectives:**

The proposal is considered consistent with the relevant “objectives” of this policy as follows:

- The proposal will provide a new childcare centre use which will service the needs of the local community and the employees of the nearby Monbulk Town Centre. Furthermore, the childcare centre will complement the nearby Monbulk Primary School which is located on the opposite side of David Hill Road. The use and development has been designed to ensure that it protects the residential amenity of the area and is compatible with the visual, environmental and landscape qualities of the neighbourhood.
- The design response (discussed below) will ensure a built form outcome which facilitates a building that is of a scale and intensity that will not detract from the environmental features and amenity of the residential neighbourhood.
- The proposal will not facilitate the use of the site for a commercial use which would be more suitably located in a commercial centre or industrial area.

**Policy:**

- This application seeks to respond to an identified “need” for childcare services in this location, noting the compatibility of the proposed use with the nearby Monbulk Primary School.
- The site location is considered appropriate for the use and development for a childcare centre having regard to policy as:
  - It will achieve a clustering of non-residential land uses, noting the direct nexus between the proposed childcare centre use and the nearby primary school to the north-west, as well as the sporting facilities at Monbulk Recreation Reserve.
  - It is close to public transport and situated on a Transport 3 Zone road.
  - It will not contribute to ribbon commercial development along main or tourist roads.



- The future development (discussed below) will be compatible with the surrounding neighbourhood and will not lead to the transformation of a residential area into a quasi-commercial area and will be of a scale and design that respects the environmental and built elements of the area.
- The site is large enough to enable future built form to be setback from common boundaries with adjoining residential uses to ensure the protection of residential amenity and, where appropriate, provide for the establishment of effective landscaping and screening buffers (discussed below). Furthermore, the corner setting of the subject site allows for residential interfaces and amenity impacts to be significantly minimised.
- The site is large enough to enable sufficient off-street car parking, with traffic access being located on or near a main road so as to minimise the need for cars to travel through local residential streets (discussed below and via the TIA prepared by Ratio Traffic).

**Locational Attributes:**

In the absence of any “performance standards” contained within **Clause 22.01**, we further provide a high-level overview of the locational attributes that this site offers in providing the childcare centre use as proposed:

- The subject site is 1,798sq.m in area and of regular portions.
- Being on a corner lot, the site has only two sensitive interfaces, being residentially development land to the immediate south and west.
- The site is located within close proximity to the Monbulk Primary School (approx. 150 metres to the west) and approximately 250 metres to the east of the Monbulk Town Centre. As such, the proposed use will complement the school and commercial precinct allowing parents to drop their children off whilst undertaking a number of other tasks such as shopping or school drop-offs.
- David Hill Road is a Transport 3 Zone road, which is a significant municipal road. David Hill Road is capable of carrying additional traffic volumes associated with the proposed childcare centre.
- A number of bus routes operate along Main Road, approx. 450 metres to the west and the broader area is well serviced by foot and bicycle paths.
- There are currently no childcare centres located proximate to the site. Accordingly, this centre is expected to cater to the “needs” of the local community within which it is located.

Based on the above assessment, we consider the proposed childcare centre is a compatible use with the surrounding area and suitably responds to the relevant local policy relating to ‘non-residential uses in residential areas’.

**5.3 Is the proposed vegetation removal appropriate?**

As noted previously, the subject site is affected by a **Significant Landscape Overlay – Schedule 22**.

**Schedule 22** to the **SLO** states that a permit is required to remove, destroy or lop any vegetation, including dead vegetation' pursuant to. Significantly, the site is absent of any vegetation protection type overlay.

We defer to the accompanying Arborist Report prepared by John Patrick Landscape Architects with respect to all matters relating to vegetation removal and retention in context of the various planning controls which govern the site.

**Figure 5.1:**

Landscape Plan showing proposed tree removal/retention



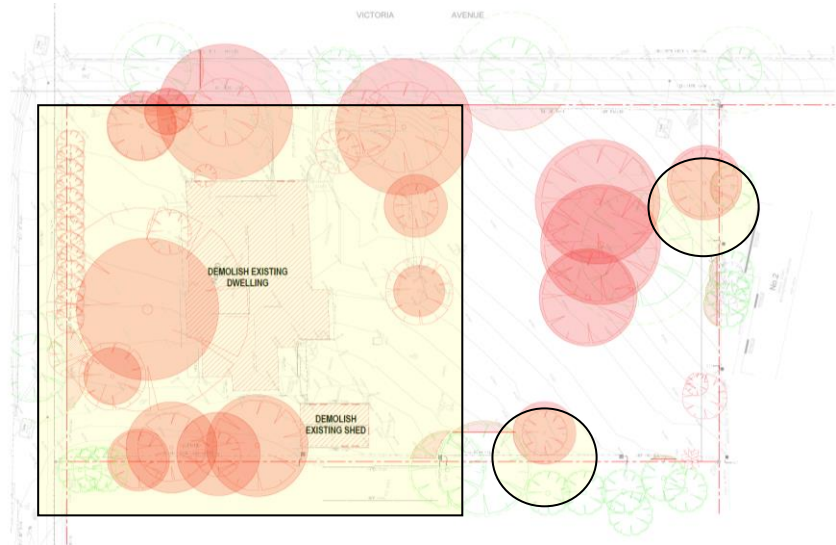
In response to the extent of vegetation proposed to be removed from the site, we note **Clause 52.12-1** includes the following exemptions which apply to the creation of “defendable space around existing buildings” that are currently used for accommodation and were constructed prior to 2009:

- Any requirement of a planning permit, including any condition, which has the effect of prohibiting the removal, destruction or lopping of vegetation, or any requirement of this planning scheme to obtain a planning permit, or any provision of this planning scheme that prohibits the removal, destruction or lopping of vegetation or requires the removal, destruction or lopping of vegetation to be carried out in a particular manner, does not apply to any of the following:
  - The removal, destruction or lopping of any vegetation within 10 metres of an existing building pre-dating Sept-2009 used for accommodation.
  - The removal, destruction or lopping of vegetation along a boundary fence between properties pre-dating 2009 in different ownership if the clearing alongside both sides of the fence when combined must not exceed 4 metres in width.

Applying the above exemptions, the highlighted trees below can be removed from the site without the need for a permit:

**Figure 5.2:**

Trees able to be removed pursuant to Clause 52.12 (highlighted yellow)



As such, a permit is only required to remove 3 x trees from the subject site, being trees 3, 4 and 5, which are a *Photinia robusta*, *Liquidamber styraciflua* and a *Pittosporum eugenioides*. All of which have been identified as having a “low” arboricultural value.

Importantly, Tree 2, which is a *Pittosporum eugenioides* of “good” health and “medium” retention value is to be retained, ensuring that it continues to contribute to the wider landscaped character of the area.

On the basis of the above and the proposed removal of trees 3, 4 and 5, we hereby provide a response to the relevant “objectives” set out at **Clause 22.05-2** as follows:

- The proposal has been designed to ensure the retention of Tree 2, which is one of the few trees on-site with a “medium” retention value. Whilst three other “medium” retention trees/vegetation are to be removed, these trees/vegetation are all able to be removed under the exemptions afforded by **Clause 52.12**. Overall it is considered that the retention of Tree 2 and the proposed landscaping response throughout the site, which includes new canopy trees, will assist in conserving the environmental and visual sensitivity of the area.
- As outlined above, much of the vegetation proposed to be removed is able to be done so under the exemptions of Clause 52.12. That said, the proposed extent of replacement planting and the retention of Tree 2 when combined with the generally low-scale of the development will ensure that landscaping remains a dominant element.
- Whilst much of the existing vegetation and canopy trees are to be removed from the site, the development retains what is considered to be the most significant canopy tree to ensure it continues to contribute to the streetscape and landscape character. The proposed landscaping response throughout the site will provide a more site responsive design, noting much of the existing planting can be removed due to its potential bushfire impacts. The proposed landscape response is considered to enhance the long-term viability of the vegetation throughout the site. Importantly, the extent of vegetation required to be removed is needed to facilitate the ‘net

community' benefit of providing a new childcare centre designed to service the needs of the local community at the site.

- The extent of vegetation removal will have no perceivable impact on the landscape values, wildlife habitat and wildlife corridors or lead to land degradation through soil erosion or loss of water quality at the site.
- The extent of vegetation to be retained at the site will assist in conserving and protecting the habitat of native fauna at the site, noting the retention of Tree 2 and its “medium” retention value.
- The proposal will have no impact on roadside vegetation and other linear reserves for retaining native vegetation.
- The proposal seeks an appropriate balance between existing vegetation retention and a new landscape scheme for the site which will combine to assist in site soil stability.
- The proposal new landscape scheme for the site, as outlined in the supporting Landscape Concept prepared by Das Studio seeks to promote re-vegetation with selected native species as a means to increase and enhance areas of remnant bushland in the Shire and to assist in the sound management of land.

In addition to the above, the proposed design response further appropriately responds to the relevant TPZ's of all existing trees to be retained on the site and large trees on abutting land proximate to common lot boundaries, however noting some of this vegetation can also be removed pursuant to **Clause 52.12**.

We again defer to the supporting Arborist Report and Landscape Concept Plans with respect to all technical matters relating to tree retention and landscaping response (and to be read in conjunction with the BMO Statement prepared by Terramatrix Pty Ltd).

#### **5.4 Is the proposed design response appropriate to its context?**

The proposed development is designed to achieve a comfortable degree of “fit” with its built form context and has proper regard to the opportunities and constraints of the site. In reference to the various requirements of the **LDRZ** zone and Clause 54 ‘ResCode’, which are not technically applicable but may be used as a ‘yardstick’ to measure amenity impacts and elements of the neighbourhood character, we note the proposal performs very well against such tests.

In a general sense and in the absence of any other neighbourhood character guidelines, we consider that the proposed design response is appropriate for reasons set out below:

- The two-storey scale of the building is compatible with nearby dwellings/buildings and the broader surrounding context which is generally low scale and exhibits predominantly single and double storey buildings. The proposed first floor component of the proposed building is further sited generally central to the site.
- The maximum height is 8.502 metres to roof pitch, which will ensure the proposed building sits below the established tree canopy level and is to be generally inconspicuous in the surrounding landscape.
- The proposal has a front setback of 5.906 metres to David Hill Road and 4.0 metres to Victoria Avenue. In this instance, the proposed street setbacks are considered appropriate as they create an appropriate transition from the street corner to the immediately

abutting properties. The proposed setbacks will further result in a building which anchors the site's corner setting allowing it to present as clear and proud to the streetscape. Furthermore, the adjoining dwellings are well setback from the common boundaries which when combined with the proposed front setbacks, ensures that adequate building separation is achieved and landscaping will continue to provide a soft buffer between properties. Front setbacks are considered appropriate to ensure a development outcome which respects the streetscape character.

- The building is set back from all boundaries which creates space for landscaping and reduces any visual impacts of the building on adjoining properties. Significantly, setbacks proposed comply with Standard A10 requirements of ResCode to the south and west. The first floor of the dwelling is centrally located and minimal in building footprint, further ensuring potential amenity impacts to adjoining properties are minimised.
- The car parking facilities are located within north-east portion of the site and is to be surrounded by perimeter landscaping as presented to the public realm which will enhance the presentation to the street and minimise impacts associated with the extent of hard paving.
- The design seeks to utilise a single access arrangement (in/out) via a double width cross-over within the north-east corner of the site, with existing crossovers to David Hill Road to be removed and replaced with curb-and-channel. The limited extent of frontage allocated to vehicle access ensures the development maximises active frontage and space for new landscaping within the development's front setback.
- The development offers a contemporary design but with traditional architectural elements as viewed within the surrounding area including pitch roof design, use of timber etc. The proposed building is to include a high-level of articulation to each façade through the materials and finishes palette proposed. Again, the pitched roof form proposed complements the residential character of the surrounding area.
- The site coverage is low at 32.8% which reflects a generous balance between open space and landscaping versus built form. The requirement of ResCode (60%) is easily met. The site permeability which sits at 43% also easily meets the requirements of ResCode (20%).
- As noted previously, the design response seeks to retain Tree 2 which is a "medium" retention value tree and includes a new landscape scheme which will ensure the development makes a positive contribution to the established low-scale landscape character of the area. We defer to the Landscape Concept prepared by Das Studio for detailed information with respect to proposed landscaping.
- A new 1.80 metre colourbond front fence is proposed along the David Hill Road frontage and a new 1.80 metre fence over a retaining 29pprox.approx. 250mm – 2.0 metres due to slope) is proposed along the Victoria Avenue frontage. The proposed front fence design ties into the architecture and materials of the childcare building; is required to provide privacy and security to the site frontage/Transport 3 Zone road abuttal; and is to include a level of permeability to enable filtered views of the development and

associated landscaping as viewed from the street. Whilst the front fencing is high, this is largely due to the requirements of the retaining wall along the frontage which manages soil retention.

**Figure 5.3:**

Render view of the proposed childcare centre as presented to David Hill Road, noting the use of timber; pitch roofs; domestic scale; and open fencing.



**Response to Significant Landscape Overlay – Schedule 22:**

**Schedule 22** to the **SLO** relates to the ‘Foothills and Rural Townships’. With respect to “Monbulk”, the “statement of nature and key elements of landscape” notes:

- *“**Monbulk** sits below forested hills, with generous blocks and low-level gardens. Remnant dry forest and other large canopy trees along with bush gardens, strengthen its landscape character. Monbulk straddles the ridge between two creeks and provides views to the Silvan Agricultural Area and The Patch classified landscapes”.*

The proposal appropriately responds to the various ‘landscape character objectives’ contained at **Section 2.0** of **Schedule 22** as follows:

- The proposal is appropriately designed to ensure the appropriate conservation of the environmental and visual sensitivity of the surrounding area.
- The proposal is designed to ensure the site maintains vegetation as a dominant element of the landscape. This is achieved through the retention of tree 2 on the site which allows it to remain a dominant landscape feature, coupled with a new landscape scheme prepared by Das Studio.
- The proposed building and associated cut/fill/retaining is designed to respond to natural characteristics of the land including slope, terrain and any existing vegetation.
- The proposed building is to assume setbacks which are generous, consistent with nearby dwellings and allow sufficient space for mature plantings along site boundaries.
- The proposed site cover (32.8%) is low maintains the ambience and sense of spaciousness common throughout the area.
- The proposed building is designed to ensure an inconspicuous profile and does not dominate the landscape. The building has taken

appropriate design cues from the traditional buildings within the surrounds.

- The proposal is designed to ensure that the health of existing trees to be retained at the site and on abutting land is not jeopardised (again, we defer to the supporting Arborist Report prepared by John Patrick Landscape Architects for full details).
- The proposed front fencing is to include a level of permeability which will enable filtered views to the proposed building and associated front setback landscaping. The extent of fencing proposed is required to ensure the safety and privacy of the children, though has been minimised through incorporating landscaping and a degree of permeability.

The proposal further responds favourably to the relevant 'buildings and works' requirements contained at **Section 3.0** of **Schedule 22** as follows:

- A permit is not required to construct a building or carry out works provided all the following requirements are met:
  - *The height of any part of a building is no more than 7.5 metres above the natural surface of the ground directly below it* – The proposed building seeks to located maximum height (8.502 metres to roof pitch) central to the site with the uppermost level minimised in its footprint, with lower-profile elements sited adjacent to site boundaries. The overall height is required to ensure functional internal layout and operation and sit below the established canopy height of the area.
  - *The total building footprint does not occupy more than 30% of the site and the total hard surface area (impervious surfaces) does not exceed 50% of the site* – The proposal will result in a site coverage of approx. 32.8% and site permability of 43%. This is considered appropriate having regard to the site's context; the functional requirements needed to facilitate the end-use; and on the basis that sufficient space is retained around the proposed building to enable vegetation retention, a strong new landscape concept and pervious areas capable of facilitating stormwater runoff.
  - *The buildings and works are at least 4 metres from the base of any substantial tree* – All ground level buildings are to be sited >4m from the base of any trees to be retained on the subject site or located on abutting land.

As relevant, the proposal further responds favourably to the relevant "decision guidelines" contained at **Section 4.0** of **Schedule 22** as follows:

- For reasons outlined above, the development appropriately satisfies the statement of key elements of the landscape and character objectives of the schedule.
- The proposal places appropriate weight on the role of vegetation (noting the retention of Tree 2 and proposed new planting) in contributing to the character and environmental significance of the area.

- The proposal will have no impact on views within the foothill's areas and on more distant views across the city and suburbs to the foothills.
- The proposal will have no perceivable impact on the rural character of the township.
- The proposed two-storey building height is to sit below the tree canopy level and is to be generally inconspicuous in the landscape, noting the centrally located first floor and its minimal footprint. The proposal building height and design response is further consistent with that of nearby development.
- The proposed site coverage is low at 32.8% and allows for the planting of canopy trees and other vegetation designed to complement retained vegetation at the site and on abutting land.
- The proposed building is to be dispersed to allow trees to be planted throughout the site.
- The proposal will not impact on the habitats for native fauna, including wildlife corridors within the surrounding area. The proposal will further have no impact on the adjacent watercourse.
- Whilst the height of the front fencing is higher than typical fences within the surrounds, this has largely been dictated by the site slope and the need to ensure sufficient privacy is afforded to the children's play areas. In order to minimise any impacts associated with the height of the fencing, it has been designed to incorporate permeable areas and landscaping, which will assist in softening views from the public realm.

**Response to Bushfire Management Overlay:**

**Clause 44.06** - Bushfire Management Overlay applies to the land. **Clause 53.02-4.2** includes "defendable space and construction objectives". We defer to the accompanying Bushfire Management Statement prepared by Terramatrix Pty Ltd in response to the specific requirements of the **BMO** and **Clause 53.02**.

We further note that this application seeks to capitalise on the 'Bushfire Protection Exemptions' at **Clause 52.12** for creation of defendable space around existing buildings used for accommodation. The exemptions enable the removal, destruction or lopping of any vegetation within 10 metres of an existing building and 4 metres of a boundary fence constructed prior to September 2009 used for accommodation (refer to comments contained at **Section 5.3** in regard to this exemption).

**Response to WSUD / ESD requirements:**

Whilst **Clause 53.18** technically does not apply to an application under a provision of the Low-Density Residential Zone to construct a building, or construct or carry out works. For completeness, a ESD and WSUD Statement has been prepared by LID Consultants in support of the application.

We defer to the ESD Report and WSUD Report with respect to all matters relating to WSUD and ESD, however highlight the design response seeks to incorporate a 10,000L rainwater tank and integrated raingardens, with a STORM Score of **101%** being achieved for the development.



## 5.5 Will the proposal facilitate acceptable amenity outcomes?

The main external amenity impacts associated with a proposal of this kind relate to the potential for:

- Noise;
- Visual impact; and
- Overshadowing and overlooking.

Contextually the site has only two sensitive residential interfaces, being land to the site's immediate west and south. Land to the north includes David Hill Road, a Transport 3 Zone road, and land to the east being Victoria Avenue. With respect to the site's only two sensitive interfaces (both contained within the LDRZ), we note:

- No. 18 David Hill Road to the immediate west of the subject site includes a single storey weatherboard dwelling located within the Low-Density Residential Zone. Vehicular access is provided to the site via crossovers within the north-east and north-west site corners from David Hill Road, which provide access to a shed and carport built on their respective boundaries. Secluded private open space is located to the rear of the dwelling.
- No. 2 Victoria Avenue to the immediate south of the subject site includes a raised single storey weatherboard dwelling located within the Low-Density Residential Zone. Car parking is provided to the site via a single width crossover that extends along its southern boundary and leads to an attached garage, whilst secluded private open space is located at the rear of the dwelling.

**Figure 5.4:** Aerial detailing context of land adjacent to the subject site.



Accordingly, the main concern in this context is related to noise and visual impacts, overshadowing and overlooking.

### Noise

Prior to going into detail with respect to the appropriateness of the proposal on noise related grounds, we note that an Acoustic Report is currently being finalised by Watson Moss Growcott and will be forwarded to the allocated planner once complete.

Potential noise associated with a proposal of this nature would most likely be caused by:

- Children;
- Mechanical plant and equipment; and
- Traffic / vehicles.

In a general sense, while there will be some noise associated with arrivals and departures from the centre and from children's play, we do not consider that these activities would cause unacceptable impacts upon nearby residential properties (to the west and south).

These operational impacts will be largely limited to the centre's opening hours on weekdays between 6.30am and 6.30pm (noting it will not operate on public holidays or on weekends). Such activity will not be unreasonable in the context of the site's location adjacent a main municipal road (David Hill Road being a Transport 3 Zone road).

The Tribunal, in its findings for *PHHH Investments Pty Ltd v Bayside CC [2015] VCAT 922*, where a 102-place childcare centre was proposed within a Neighbourhood Residential Zone, stated that:

*'...based on the AAAC guidelines, physical noise attenuation and a noise management plan are valid ways to ensure noise levels are not excessive. Having them as permit conditions is appropriate.'*

Based on the above findings of the Tribunal, we consider that should Council determine appropriate, that these requirements can be conditioned as part of any permit issued.

#### Children

The Tribunal has previously addressed the issue of noise from children at play and agree it would be a sad day if this is deemed to be a nuisance of such magnitude as to warrant refusal of applications of this nature.

Furthermore, outdoor play areas are typically appropriately supervised by qualified staff and coordinated between the various age groups. Children do not spend long periods outside the building but rather have periods of internal and external learning, dependant on the weather and timetable of the room.

#### Mechanical plant and equipment

Any noise generated by mechanical noise or equipment will have to comply with SEPP – No N-1.

#### Traffic / Vehicles

Whilst there is a potential for noise nuisance associated with vehicle movements, including the use of the proposed car park, we note:

- The proposed car park is to be sited adjacent to the site's north-eastern boundary, removed from abutting residential boundaries and facing the abutting roads.
- The proposed days and hours of operation are such that the use will not interfere with the main sleep periods.
- The use of the car park will be comparatively spread out, as compared to a school which has highly concentrated peaks.

Previous VCAT decisions have made it clear that "inaudibility" is not the appropriate test when assessing noise impacts on residential amenity.

Whilst some noise can be expected as a consequence of the proposal, we do not consider it will be unacceptable to its context.

In addition and as outlined earlier, an acoustic report is currently being prepared by WMG Acoustics and will be submitted to Council as part of the overall application.

This report is to include details around likely noise from the proposed centre falling within acceptable limits with the implementation of recommended acoustic treatments to the outdoor play area and site boundaries adopted through the final application plans to be lodged with Council.

### **Visual Impact**

The proposed building has been appropriately designed to mitigate against any off-site visual bulk impacts as viewed from the residential lots to the immediate west and south, as well as achieving an appropriate degree of “fit” within its streetscape presentation.

Through the retention of the large canopy tree at the rear adjacent Victoria Avenue and the proposed new landscape response which seeks to incorporate screen planting along site boundaries, only filtered views of the development will be visible from abutting properties (further noting existing vegetation located on abutting land will further assist in ‘greenery’ softening the appearance of the development). Furthermore, the

The childcare building is further designed and is to be constructed with a modern design which take cues from the surrounding traditional context (such as through using weatherboards and a pitched roof) ensuring it reads as being interpretive of the prevailing low-scale character of the area.

#### **Figure 5.5:**

3D presentation of subject site viewed from David Hill Road

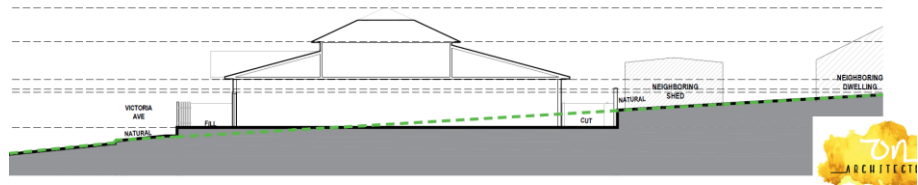


Significantly, the building is to be offset from all boundaries; includes generous setbacks to the site’s western and southern boundaries (clearly in accordance with the requirements of Standard A10); and includes a modest building profile with a maximum height of 8.502m to the roof pitch. Furthermore, the first-floor level of the building has been centrally located and is minimal in floor area, ensuring that it is read as a recessive element and does not contribute to any potential off-site amenity impacts on the neighbouring properties by way of visual bulk.

With respect to No. 18 David Hill Road, we also note that due to the site slope, the subject site sits substantially lower which further minimises any potential visual bulk impacts to this property.

**Figure 5.6:**

Section detailing building setbacks to western side boundary.



**Overshadowing**

The proposal is designed to ensure off-site amenity impacts associated with overshadowing are appropriately managed.

Due to the low-scale nature of the development; the difference in site levels between adjoining properties; and the large areas of neighbouring secluded private open space, the proposal complies with the numerical requirements of Standard A14 of ResCode with respect to overshadowing of the existing residential lots to the west and south.

**Overlooking**

The design response adopted will ensure there are no unreasonable overlooking opportunities from first floor windows to the abutting residential dwellings to the west and south, noting the first floor is setback in excess of 9.0 metres to each residential boundary.

Significantly, new boundary fencing is proposed to each interface which will assist in screening any potential views to the neighbouring properties from ground floor level.

**Conclusion**

For reasons outlined above, the development is appropriately designed to mitigate against any unreasonable off-site amenity impacts on the abutting residential lots to the west and south and the established primary school to the immediate east.

**5.6 Is the proposed signage acceptable?**

It is proposed to erect three business identification signs detailing the childcare centre provider/business name ('Journey Early Learning') fronting Victoria Avenue as follows:

- 1 x 3.575sq.m sign integrated with the front fence elevation.
- 1 x 3sq.m free standing sign within the north-east corner adjacent the streetscape.

All signs are to be acrylic cut and do not include any illumination.

We consider the proposal to be consistent with the local policy at **Clause 22.04** (Advertising Signs Policy) and **Clause 52.05** for the reasons set out below:

- The proposed signs are minimal and will be allocated adjacent the building's frontage only and do not include any signage to be placed on the host building. This will ensure that there is no visual clutter.

- The proposed signs will be fully integrated with the front boundary fencing.
- The proposed signs will incorporate a simple design and will be easily read.
- All signs will form an integrated package with similar visual appearance.
- The size, type and placement of the signs is in proportion to the size of the subject site and its interfaces and will not detract from the amenity of the area.
- The proposal does not include creative signs.
- The proposal does not include any high wall, panel, promotion or sky signs; pole signs; internally illuminated or floodlight signs; animated signs; or A-frame signs.
- The proposed signs are of a scale that is proportionate to the size of the subject site and respect the emerging character of the area, noting there is an existing signage character associated with non-residential land use proximate to the site.
- The site is not located within a 'green wedge' zone and there are no heritage areas within vicinity of the site.
- The proposed signs are to provide appropriate and effective identification of the future childcare businesses to be established on the site and which requires identification.
- The extent and design of proposed signs do not detract from the amenity and streetscape or landscape character of the surrounding area.
- Signs do not detract from the appearance or architecture of the host building on which it is displayed.
- The size and height of signs are compatible with the scale of the front fencing and development as a whole. The surrounding streetscape includes examples of signage to non-residential type development not dissimilar in the size and appearance proposed for the childcare centre, such as at the Open-Door Community Church to the west along David Hill Road.
- Sign clutter is avoided so as to maintain or enhance the built and natural environments of the Shire and in order to maximise the effectiveness of individual identification signs associated with the childcare centre proposed.
- The proposed signs are to be designed to not create any form of traffic hazard.

**Clause 22.04-3** sets out performance standards for signs in all areas and has specific performance standards for signs in residential areas. The proposed signs meet these performance standards as set out below:

- The proposed signage is only located on land to which the sign relates (i.e. contained within the title boundaries of the site).
- The proposed signs are designed to promote the effective and appropriate identification of the proposed childcare businesses. Importantly, the extent of signage proposed will:
  - Not result in signage clutter at the site or within the streetscape and will not result in detrimental impacts on the local visual amenity of the area.
  - Will not result in the repetition of signs.
  - Facilitate a suit of well designed, legible and appropriately located signs.
  - Identify the site use/business and street number.

- The size, height, design and location of all signs are to be compatible with, and preferably enhance, the distinctive streetscape or landscape character of the area, and are to be integrated into the overall architectural design of the childcare building.
- No signs are to be attached to existing site trees or other natural features.
- The proposed signs do not include flashing or animated elements.
- The proposed signs are appropriately sited and designed to avoid creating a hazard to pedestrian safety.

For land located within 'residential areas', the proposed signs:

- Are designed and appropriately located on site to ensure they are unobtrusive and fit with the residential character of the area.
- Are limited to the minimum necessary to identify the premises/proposed business.
- Are of an appropriate scale to ensure they do not over dominate the host building and are in keeping with the low-scale character of the area.
- Are of 'soft' colours and tones that are unobtrusive and compatible with the low-scale character of the surrounding area.
- None of the signage proposed is to be illuminated.

**Figure 5.7:**

Render showing signage to the development's frontage (front fence and free-standing sign).



For the reasons set out above, we consider the proposed signage to be consistent with the local policy set out at **Clause 22.04** and the relevant provisions contained at **Clause 52.05**.

### **5.7 Is the proposal appropriate on traffic and parking related grounds?**

We defer to the supporting Traffic Impact Assessment prepared by Ratio Consultants with respect to all matters relating to car parking reduction, access and functional layout.

We further defer to the supporting Waste Management Plan prepared by Ratio Consultants with respect to all matters relating to refuse storage and collection.

## 6 Conclusion:

For reasons set out in this report, the proposed use and development of a childcare centre and associated advertising signage; vegetation removal; and car parking reduction aligns with the objectives of state and local policies contained within the Yarra Valley Planning Scheme and will represent significant “net benefits” to the local community.

The proposed use is designed to serve a community need, with the site being appropriately located adjacent to a Transport 3 Zone road; close to an established primary school; and other non-residential type land uses (i.e. Monbulk Town Centre).

The design of the childcare centre, in particularly its built form and proposed new landscaping scheme appropriately responds to the established low-density character of the local area. The potential for off-site amenity impacts has been limited due to the site context and any remaining amenity impacts such as noise have been appropriately managed through the use of acoustic measures.

The location of car parking and access; extent of vegetation removal; and the provision of new landscaping within the site will ensure that this proposal is respectful of the character of this area and having regard to the various overlay controls which affect the site.

We defer to the accompanying technical reports by traffic; waste; ESD; bushfire; arborist; and landscape which further support the proposed development, noting acoustic is currently being completed.

Having regard to the above, we endorse this application for Council approval.

### **Ratio Consultants**

# Appendix A Copy of Titles



# Appendix B Photos of site and surrounds

**Photo 1: Subject site from David Hill Road.**



**Photo 2: Subject site from Victoria Avenue.**



**Photo 3: Subject site from Victoria Avenue**



**Photo 4: Site interface with No. 18 David Hill Road**



**Photo 5: View toward Monbulk Recreation Reserve**



**Photo 6: View west along David Hill Road**



**Photo 7: View east along David Hill Road**



**Photo 8: View north from the subject site**



**Photo 9: View north of the subject site**



**Photo 10: No. 2 Victoria Avenue**



**Photo 11: Monbulk Primary School to the north-west**



**Photo 12: Monbulk Town Centre to the north-west.**

