

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

APPLICATION DETAILS

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

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

SUMMARY

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

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

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

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

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

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

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

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

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

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

RECOMMENDATION

That Council resolve to approve Planning Application YR-2020/807 for the use and development of the land for a service station (including car wash and convenience shop with drive through), display of pole signs, promotion signs, illuminated business identification signs, construct a fence, and alter access to a road in a Transport Zone 2 at 41 Monbulk Road Mount Evelyn and issue a Notice of Decision to Grant a Permit subject to the conditions in Attachment 1 to the report.

DISCLOSURE OF CONFLICT OF INTEREST

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

CULTURAL HERITAGE SIGNIFICANCE

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

EXTRACTIVE INDUSTRY

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

HUMAN RIGHTS CONSIDERATION

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

ENCUMBRANCES ON TITLE

There are no encumbrances on the Certificate of Title.

DESCRIPTION OF SITE AND SURROUNDS

Subject Site

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

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

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



Figure 1 - Subject Site

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

Surrounding land

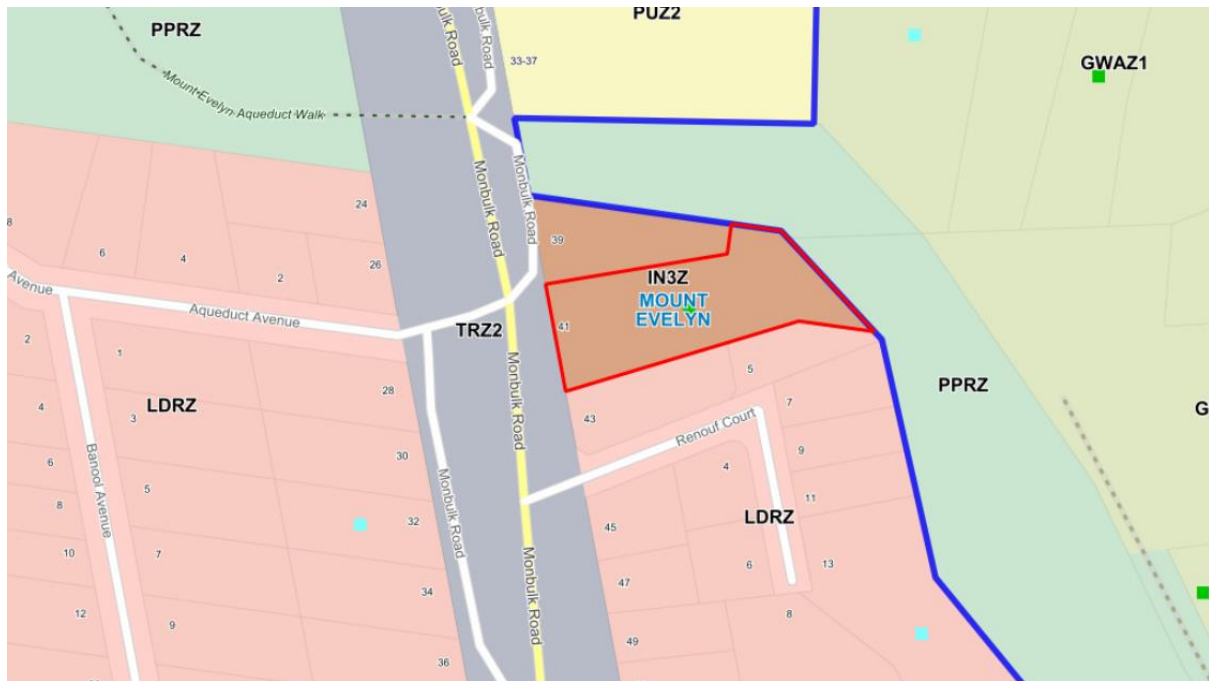


Figure 2 - Subject site and surrounds land zones

To the north:

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

To the east is:

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

To the south are:

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

To the west is:

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

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

Further west beyond Monbulk Road are:

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

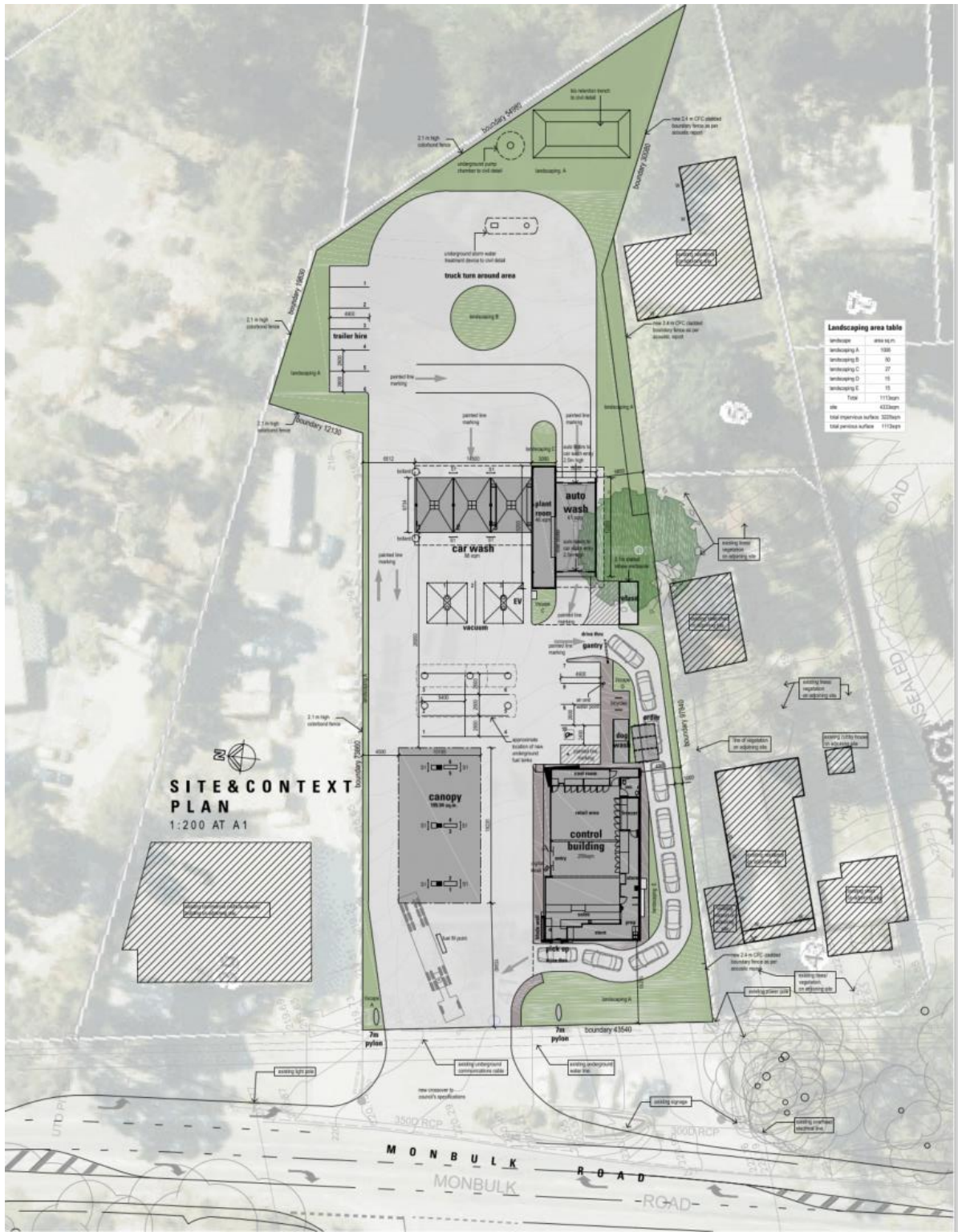
PROPOSAL

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

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

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

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



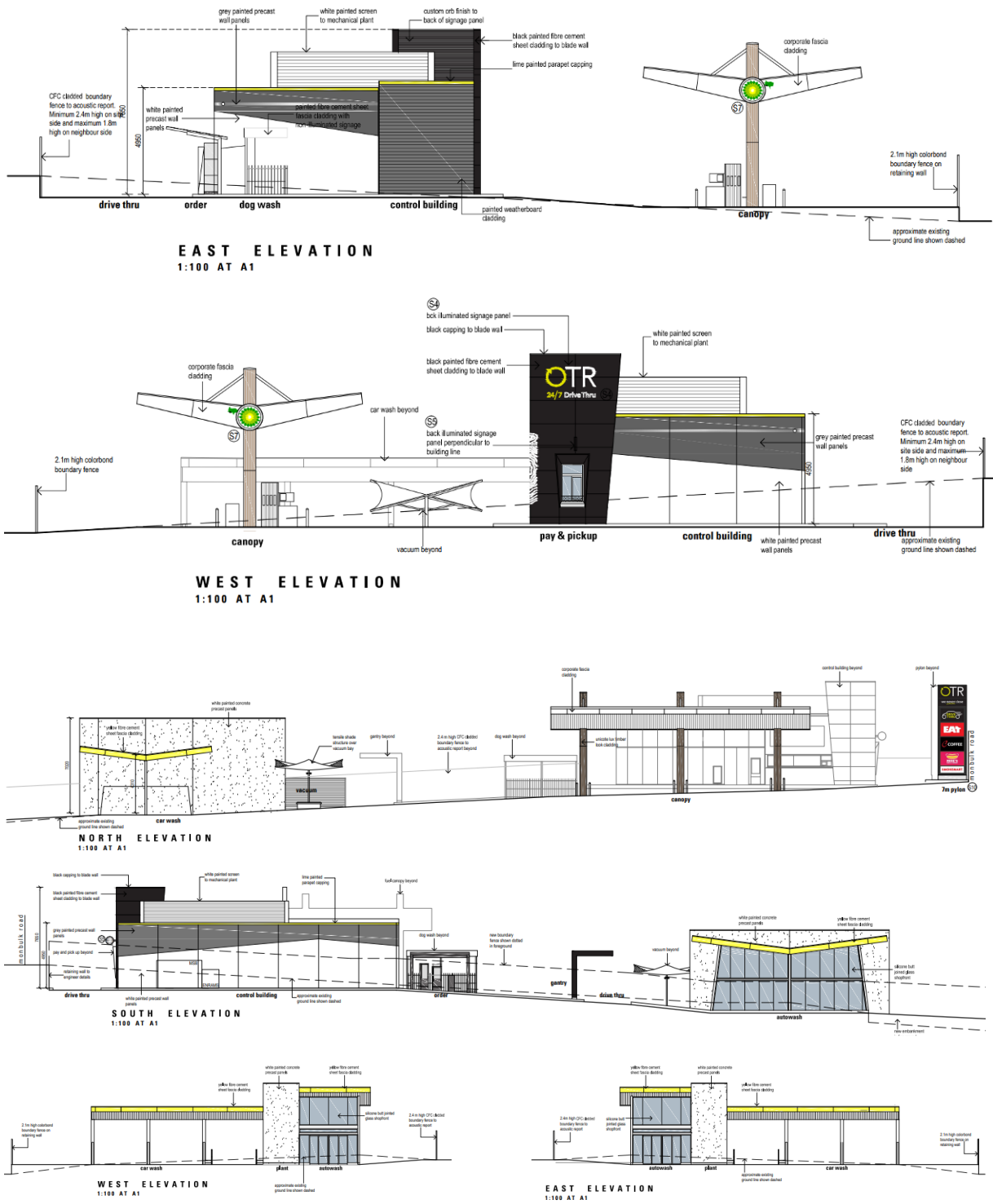


Figure 4 - Elevations (excerpt from Attachment 2 to the report).

Signage

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

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

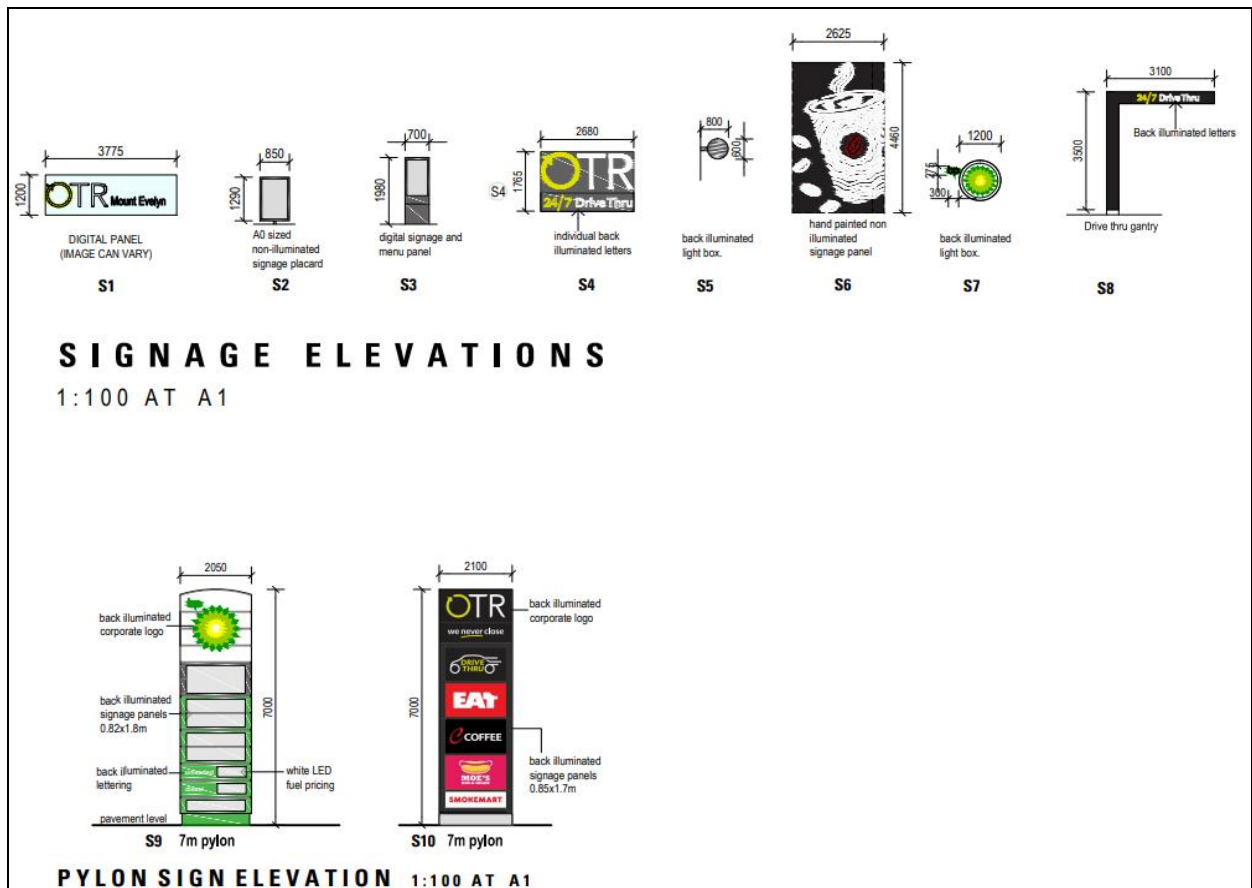


Figure 5 - Signage (excerpt from Attachment 2 to the report)

PLANNING HISTORY

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

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

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

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

PLANNING CONTROLS

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

PERMIT TRIGGERS

Zoning

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

Clause 72 defines service station as

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

Overlays

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

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

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

Particular provisions

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

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

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

CONSULTATION

Internal Referrals

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

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

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

External Referrals

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

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

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

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

Public Notification and Consultation

Notification of the application was undertaken by:

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

Number of submissions:

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

Submitters issues are summarised as:

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

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

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

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

ASSESSMENT/ KEY ISSUES

Planning Policy and Zone

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

Policy

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

- Neighbourhood Activity Centre to serve as catchments that extends into the rural hinterland, perform a significant role in the provision of community and civic services, with some also providing a range of retail, commercial, entertainment, community service, facilities, and services for tourists;
- Discourage activity centre functions in out of centre locations;
- Consolidate retail and office-based businesses in activity centres;
- There are limited opportunities within the Urban Growth Boundary for further industrial development however many existing industrial areas contain under-developed sites that offer potential for more intensive industrial use;
- Provide for new businesses in accessible locations that broadens the economic base and range of employment opportunities in Yarra Ranges;
- Retain a broad range of industrial based employment and support efficient use of industrial land; and

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

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

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

Categorisation of use

Clause 72 defines a service station as:

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

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

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

The application documentation states that:

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

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

Appropriateness of the Service Station use

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

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

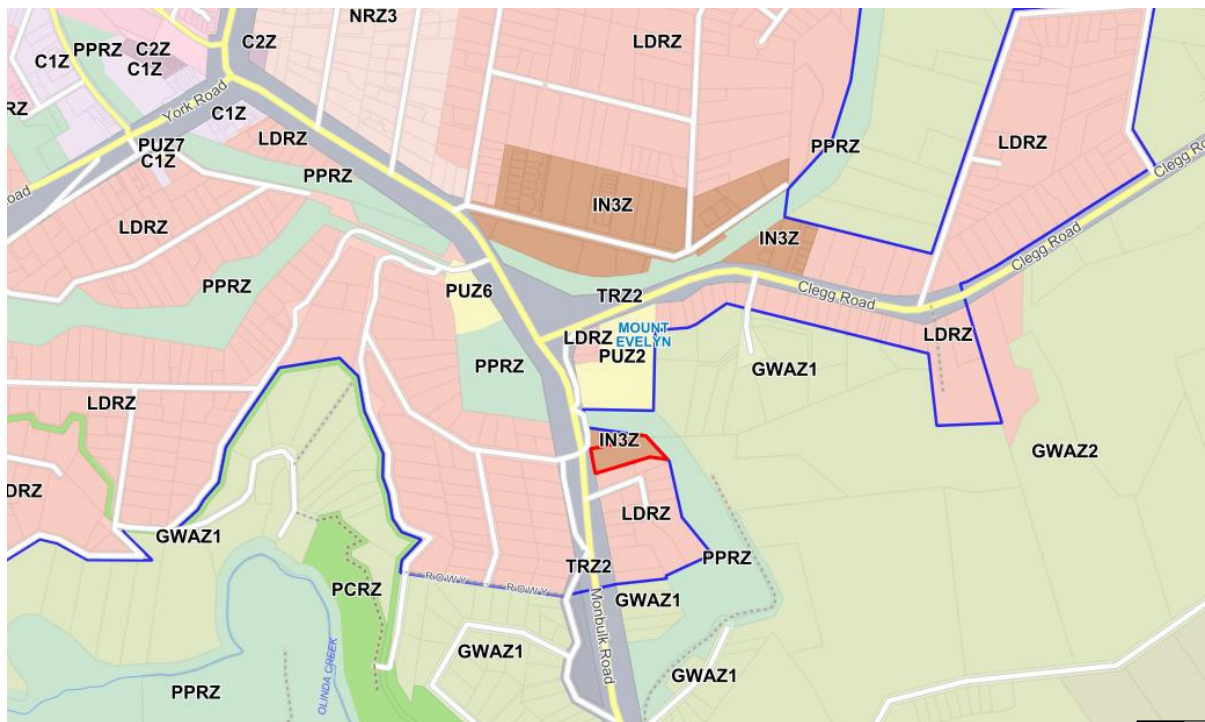


Figure 6 - Zoning of land in Mount Evelyn (Industrial land identified in brown)

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

Need for a petrol station

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

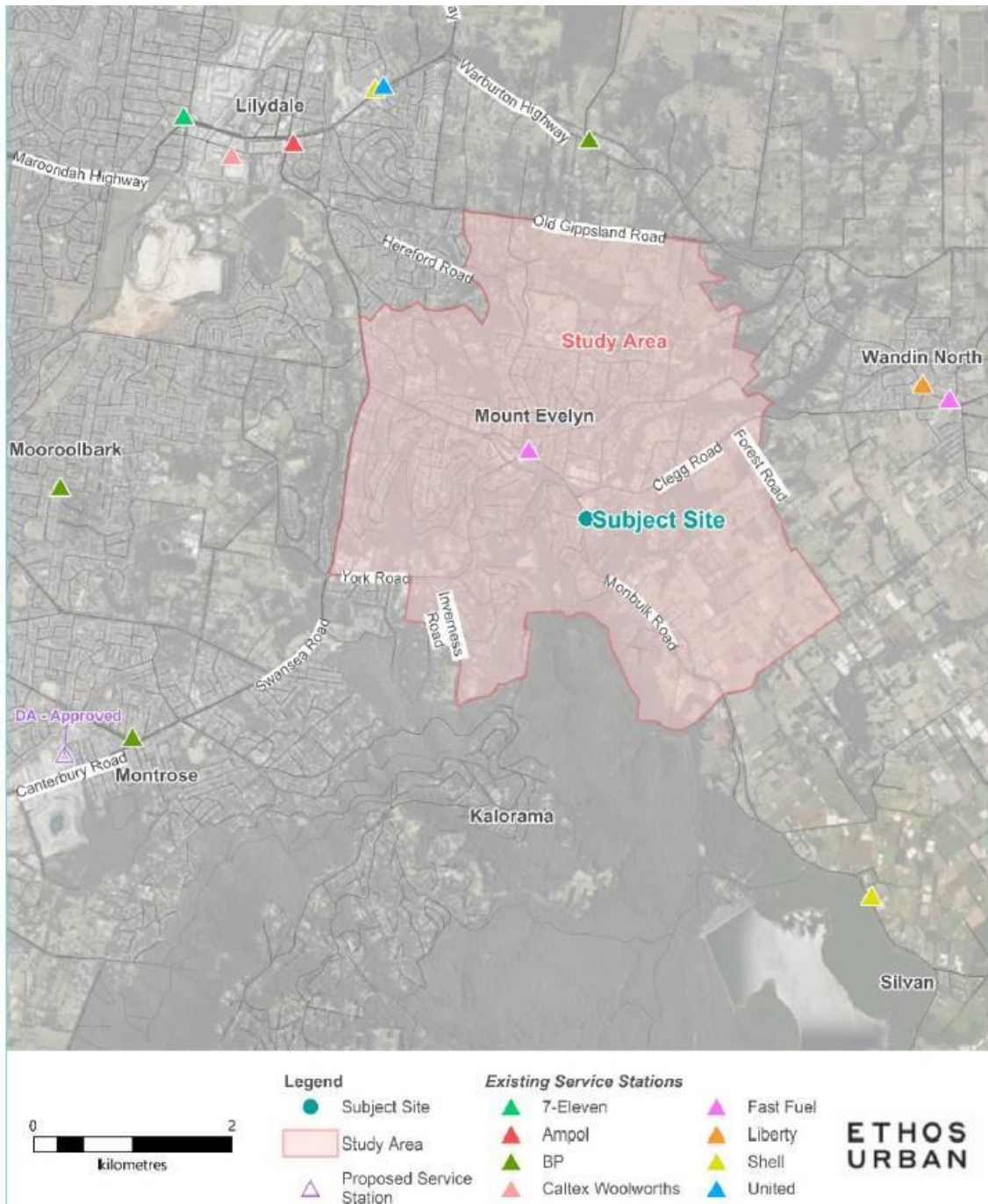


Figure 7 – Other service stations in proximity to subject site

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

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

Buildings and works, landscaping and character of the area

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

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

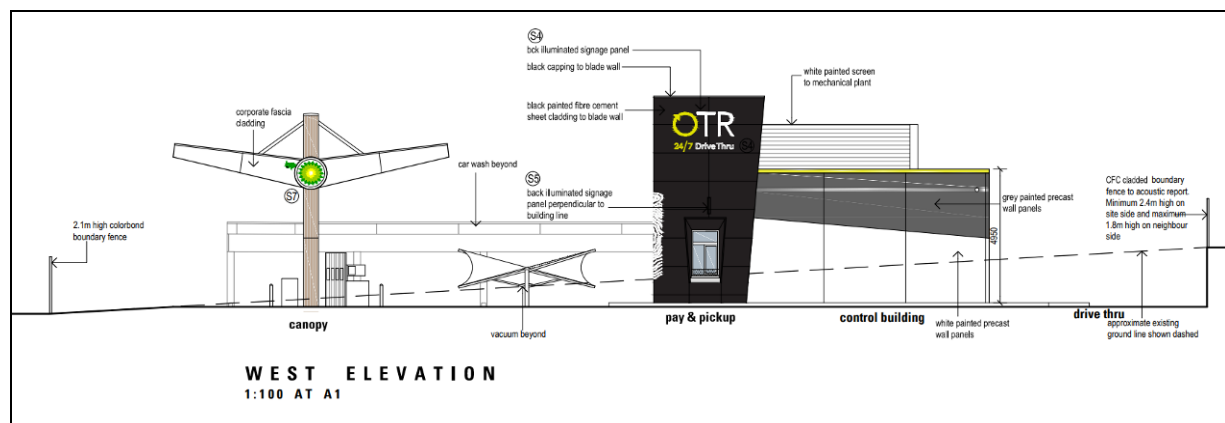


Figure 8 – View of the proposed development from Monbulk Road

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

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

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

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

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

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

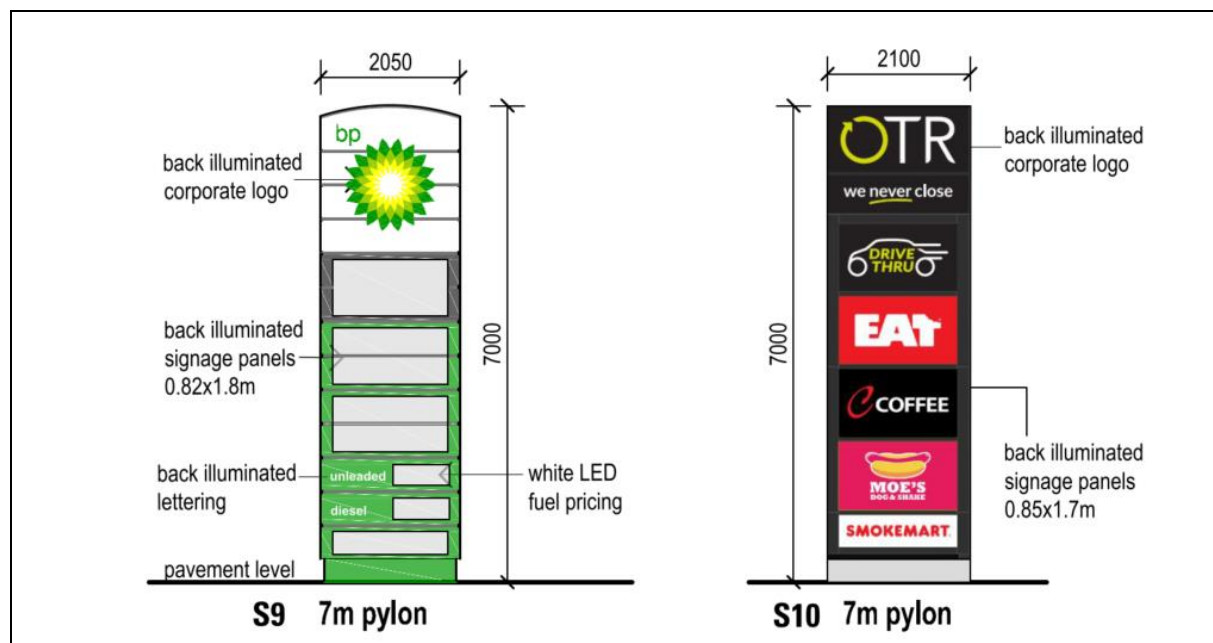
Services

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

Sustainability

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

Signage



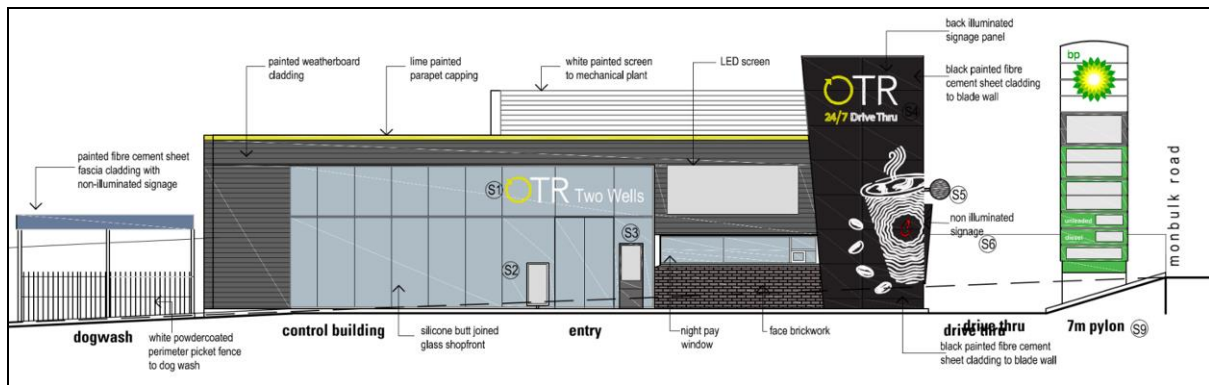


Figure 9 – The proposed pylon signs.

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

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

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

Traffic and Car Parking

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

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

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

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

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

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

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

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

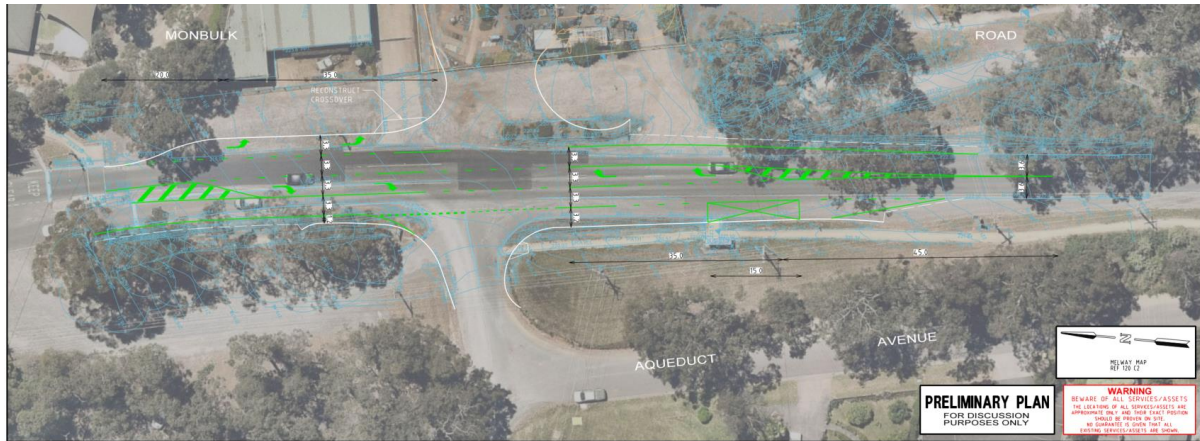


Figure 10 - Department of Transport Plan

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

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

Noise

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

Concern has been raised about:

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

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

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

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



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

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

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

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

This is based on the following assumptions:

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

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

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

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

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

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

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

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

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

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

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

Odours and fumes health risks

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

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

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

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

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

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

Light spill

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

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

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

Will the proposal give rise to significant social effects?

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

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

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

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

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

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

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

Environmental Significance Overlay Schedule 2

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

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

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

Bushfire Risk

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

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

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

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

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

Clause 71.02-3 Integrated decision making

Clause 71.02-3 (integrated decision making) of the Planning Scheme requires responsible authorities ‘to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

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

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

RESPONSE TO SUBMITTERS CONCERNS

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

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

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

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

Objector concern	Council Officer Response
	surrounding owners and occupiers.

CONCLUSION

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

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

ATTACHMENTS

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