

## YR 2022/782 – 1A GEAR AVENUE, MT EVELYN - PLANNING REPORT

### APPLICATION DETAILS

<b>Site Address</b>	1A Gear Avenue, Mt Evelyn (Part Lot 14 LP7915)
<b>Application No.</b>	YR-2022/782
<b>Proposal</b>	Use and development of a child care centre and associated vegetation removal (including road reserve tree)
<b>Existing Use</b>	Dwelling
<b>Applicant</b>	Dovetail
<b>Zone</b>	Clause 32.03- Low Density Residential Zone (LDRZ)
<b>Overlays</b>	Clause 42.03- Significant Landscape Overlay Schedule 22 (SLO22) Clause 43.02 – Design and Development Overlay Schedule 2 (DDO2) Clause 44.06 Bushfire Management Overlay Schedule 2 (BMO2) Low Density Residential Zone <ul style="list-style-type: none"><li>- Use and Development of the land for a Childcare Centre</li></ul> Significant Landscape Overlay – Schedule 22 <ul style="list-style-type: none"><li>- Removal of vegetation</li><li>- To construct a building and construct or carry out works</li></ul> Design and Development Overlay – Schedule 2 <ul style="list-style-type: none"><li>- To construct a building or construct or carry out works associated with an Education Centre (Childcare centre)</li></ul> Council consent is also required for tree removal of a street tree.
<b>Permit trigger/s</b>	
<b>Objections</b>	19
<b>Encumbrances on Title (Covenants/Section 173 Agreements)</b>	No
<b>Reason for Council Decision</b>	More than 10 objections
<b>Ward</b>	Billanook

## **SUMMARY**

The proposal is for the use and development of the land for a child care centre, the removal of four trees from the subject land and one road reserve tree to accommodate the accessway to the site.

The child care centre will accommodate 96 children and provides 705 square metres of outdoor play area. The two-storey building has a contemporary built form, with a visually interesting combination of materials, articulated wall and roof articulation, with flat and skillion roofs. Twenty one car parking spaces are proposed to support the development, which complies with the requirements of Clause 52.06 Car Parking.

The trees to be removed are a combination of exotic deciduous and conifer species, an Australian native and indigenous species. A landscaping plan (attachment 4) has been provided with the application which shows the replanting of two canopy trees on site and a variety of shrubs within the rear, front and side setbacks.

To manage amenity impacts from noise, a two-metre-high acoustic fence is proposed along the western and southern interfaces at ground level and to the first floor external play area.

A waste management plan accompanies the proposal which shows a dedicated area for the storage of bins, to be collected outside of centre operating hours by a private waste operator.

The application has received 18 objections, with the main concerns including traffic impacts on Gear Avenue and the surrounding road network, vegetation impacts and tree loss, development design, and the use not being supported by the planning controls. A community consultation session resulted in further traffic investigation by the applicant, with a supplementary report submitted for consideration. The application was referred to Country Fire Authority (CFA) and Department of Transport (DOT) and both have provided consent to the application.

The proposal has been assessed against the planning scheme and on balance the development is considered to meet the requirements and should be supported, subject to conditions.

## **RECOMMENDATION**

***That Council resolve to approve Planning Application YR-2022/782 for the use and development of a child care centre and associated vegetation removal (including road reserve tree) at 1A Gear Avenue, 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 (CHMP). It has been assessed that a CHMP is not required.

## **EXTRACTIVE INDUSTRY**

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

## **HUMAN RIGHTS CONSIDERATION**

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

## **ENCUMBRANCES ON TITLE**

There are no encumbrances on the Certificate of Title.

## **SITE LOCATION AND DESCRIPTION**

The subject site is 1A Gear Avenue, Mount Evelyn which is legally described as Crown Allotment 141D Parish of Wandin Yallock and Part Lot 14 LP7915. The property is an irregular shaped parcel of land with a street frontage to 1A Gear Avenue of approximately 46 metres, a depth of approximately 42 metres and a total site area of 1387 square metres. The site slopes upwards from the north to south by approximately 3.8 metres.

The land is located on the south-western side of Gear Avenue, approximately metres south of the Gear Avenue and York Road intersection (Figure 1).



**Figure 1 – Site Plan**

The land is developed with a single storey brick dwelling, with colorbond pitched roofing and several large trees. Vehicle access to the site is via an informal gravel crossover to the existing carport and outbuilding to the south side of the site (Figure 2, 3 and 4):



**Figure 2 – Existing dwelling and street frontage**



**Figure 3 – Existing informal gravel crossover and outbuilding**



**Figure 4 – Gear Avenue, looking northward towards York Road intersection.**

## **SURROUNDING AREA**

The immediate surrounding area consists of established low-density residential dwellings and non-residential, commercial and community service land uses. The surrounding area comprises the Mount Evelyn Town Centre, captured by its inclusion in the Design and Development Overlay Schedule 2 (Figure 5).



**Figure 5 – Subject side within the Design and Development Overlay**

The site is adjacent to three properties which are be described as:

- 17 York Road - to the north-west of the site is the Mount Evelyn Police Station, a single storey building, having an area of 361 square metres. The land is zoned

Public Use Zone 7 and is included in the Design and Development and Bushfire Management Overlays.

- 19 York Road – adjoins the western rear boundary of the site. The land is under construction for use and development of a veterinary centre and animal boarding facility and is devoid of vegetation. The property is zoned Commercial 1 Zone and is included in the Design and Development and Bushfire Management Overlays. Prior to the current construction, the land was used as a commercial retail premises (Top of the Town Pet Supplies).

The adjacent police station and commercial property are accessed by a service lane, to the north, and there is a small car park directly in front of 19 York Road.

- 1 Gear Avenue - runs along the southern boundary of the subject property. It is a low-density residential property of approximately 1863 square metres in area. It contains a single dwelling constructed with a hipped tiled roof and external brick walls. This property has a building along the shared boundary with 1A Gear Avenue, with a length of approximately seven metres. The land is front fenced with timber palings and landscaped with mature trees and other plantings.

The surrounding properties include the Mount Evelyn Volunteer Fire Brigade which runs adjacent to the proposed veterinary centre. While not adjacent to the subject property, this facility is near to the site and within walking distance.

Across York Road towards Wray Crescent is the main Mount Evelyn Shopping/Town Centre. The Warburton Rail Trail, IGA supermarket and Wray Crescent and York Road shopping strips are within walking distance. The area south of the site is substantially residential. Birmingham Primary School is located approximately 1.5 kilometres north-west of the site and public transport provided by a bus stop approximately 100 metres to the north-west with services connecting to Lilydale Railway Station and other destinations.

## PROPOSAL

This application seeks to change the current residential use of the land and develop the property with a child care centre, summarised below:

<b>Use – Child care Centre</b>	
Number of Children	96
Operating hours	7.00am to 7.00pm
Days of operation	Monday to Friday (closed weekends)
<b>Development – Child care centre (Figure 7, 8 and 9)</b>	
<b>Indoor Space</b>	Ground floor (Three child care rooms plus ancillary spaces)

	<p>Area: 346.8 square metres</p> <ul style="list-style-type: none"> <li>• Room 1 – 16 places (1-2 years) <ul style="list-style-type: none"> <li>○ Access to ground floor outdoor play area.</li> </ul> </li> <li>• Room 2 – 16 places (0-1 years) <ul style="list-style-type: none"> <li>○ Access to ground floor outdoor play area.</li> </ul> </li> <li>• Room 3 – 20 places (2-3 years) <ul style="list-style-type: none"> <li>○ Access to ground floor outdoor play area.</li> </ul> </li> </ul> <p><u>Ancillary Ground Floor spaces/rooms</u></p> <ul style="list-style-type: none"> <li>• Reception</li> <li>• Kitchen</li> <li>• DDA and ambulant WC rooms</li> <li>• Junior WC</li> <li>• Storage</li> </ul> <p><b>First floor (Two child care rooms plus ancillary spaces)</b></p> <p>Area: 288.3 square metres</p> <ul style="list-style-type: none"> <li>• Room 4 – 22 places (4-5 years) <ul style="list-style-type: none"> <li>○ Level 1 access to outdoor balcony play area.</li> </ul> </li> <li>• Room 5 – 22 places (4-5 years) <ul style="list-style-type: none"> <li>○ Level 1 access to outdoor balcony play area.</li> </ul> </li> </ul> <p><u>Ancillary First Floor spaces/rooms</u></p> <ul style="list-style-type: none"> <li>• Staff room with kitchenette</li> <li>• Planning room</li> <li>• Office room</li> <li>• Meeting/manager room</li> <li>• Separate DDA WC room</li> </ul>
<b>Outdoor Space</b>	<p>Balcony play area: 318 square metres</p> <p>Outdoor play area: 388 square metres</p>
<b>Acoustic Wall</b>	Two (2) metre high acoustic wall along full extent of outdoor play balcony facing northern and western sides.
<b>Glass Balustrade</b>	Two (2) metre high glass balustrade along eastern side of outdoor play balcony facing Gear Avenue.
<b>Features</b>	
<b>Number of storeys</b>	Two story-built form
<b>Maximum building height</b>	8.3 metres as viewed to the west elevation.



<b>Materials/colours finishes</b>	<ul style="list-style-type: none"> <li>• Light weight cement sheet timber look with stain finish</li> <li>• Light weight poly render cladding grey and white paint finish.</li> <li>• Select brown/charcoal brick face.</li> <li>• Colorbond surf mist roofing verandah</li> </ul>
<b>Site Coverage</b>	50.4 percent
<b>Impervious area</b>	31 percent
<b>Boundary Fencing</b>	<ul style="list-style-type: none"> <li>• East (Front Boundary) - A 1.8 metre high aluminium blade fence is proposed along the street frontage. The fence is visually permeable (with more than 75 percent transparency) to allow views of the site from Gear Avenue.</li> <li>• North - Existing Colorbond fence between Police Station and site to remain.</li> <li>• West - 2.0 – 2.7 metre high palings</li> <li>• South - Two (2) metre high acoustic fence</li> </ul>
<b>Vehicle Access</b>	<p>Via a new 6.4 metre wide vehicular crossover from Gear Avenue.</p> <p>The existing informal crossover will be removed, and the nature strip reinstated.</p>
<b>Car Parking</b>	<p>Clause 52.06 Carparking (Childcare) requires 0.22 spaces per child. This equates to a total of 21 car parking spaces required. Proposal provides 21 car parking spaces including one disabled space.</p> <p>Of the 21 spaces, ten are in a tandem parking arrangement (five pairs), located along the southern side of the carpark aisle. Tandem spaces 16 to 20, along with spaces 9 and 21 are allocated specifically to staff.</p>
<b>Bin storage/waste collection</b>	<p>Appropriate on-site storage, south of car park. A private contractor to collect bins outside of centre operating hours. Waste collection truck can enter and exit the site in a forward direction.</p>

Refer Attachment 2 for Planning Report, and Attachment 3 and 4 for development plans and elevations.

### ***Vegetation details***

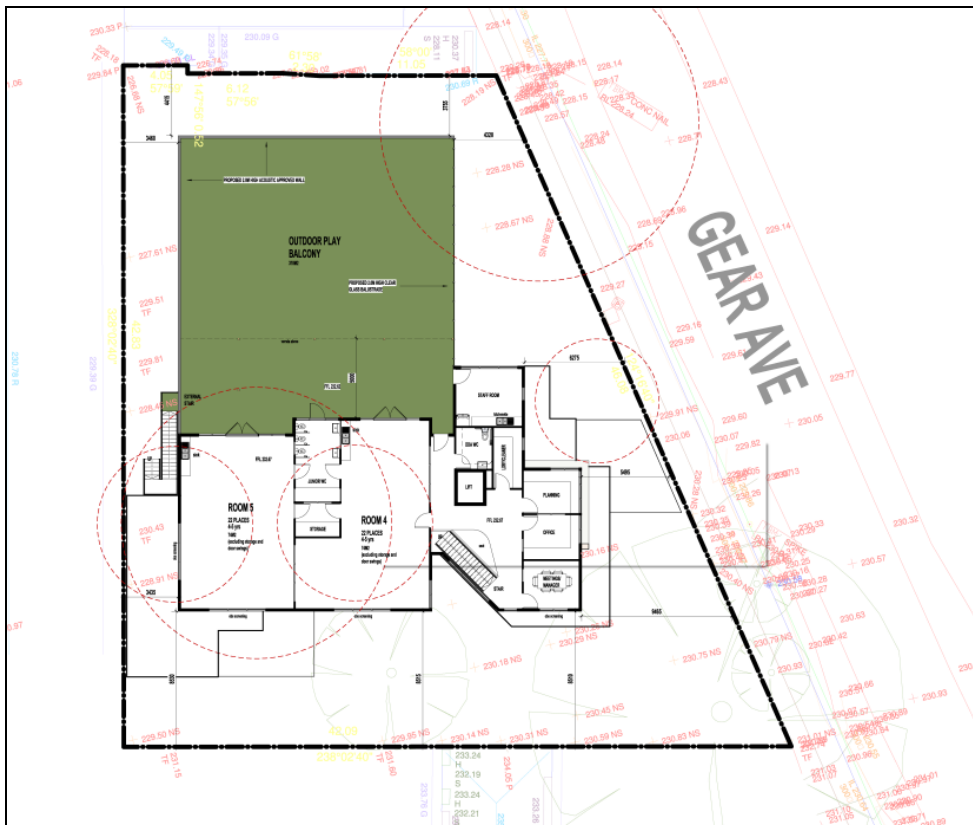
Of the six trees located on the land and one tree on road reserve, Tree 1 and Tree 2 are to be retained, Trees 3, 4 and 5 are to be removed from within the site and Tree 7 from the road reserve (Figure 10).

A total of four trees require a permit to be removed, as Tree 6 is exempt. Details of vegetation on the site are summarised below (Refer Attachment 5 for Arborist Report):

<b>Tree Number</b>	<b>Species</b>	<b>Origin</b>	<b>Arboricultural Value</b>	<b>Retained/removed</b>	<b>Permit required/Exempt</b>
Tree 1	<i>Eucalyptus obliqua</i> - 'Messmate Stringybark'	Native	Fair	Retained	Tree to be retained
Tree 2	<i>Chamaecyparis lawsoniana</i> - 'Lawson's Cypress'	Exotic	Good	Retained	Tree to be retained
Tree 3	<i>Fraxinus excelsior</i> 'Aurea'- European Golden Ash	Exotic	Moderate	Removed	Permit required
Tree 4	<i>Cedrus deodara</i> - Deodar	Exotic	High	Removed	Permit required
Tree 5	<i>Melaleuca styphelioides</i> – Prickly-leaved Paperbark	Native	Moderate	Removed	Permit required
Tree 6	<i>Magnolia</i> sp. – Magnolia	Exotic	Moderate	Removed	Exempt
Tree 7	<i>Eucalyptus macrorhyncha</i> - Red Stringybark	Native	Low (Street Tree)	Removed	Permit required



**Figure 6 – Site/ Ground Floor Plan**



**Figure 7 – Proposed First Floor Plan**



**Figure 8 – Proposed East and North Elevations**



**Figure 9 – Proposed Tree Removal**

## HISTORY

A search of Council records revealed no planning history for the site.

## PLANNING CONTROLS

<b>Zoning:</b>	Clause 32.03 – Low Density Residential Zone
<b>Overlay:</b>	Clause 42.03 – Significance Landscape Overlay 22 Clause 43.02 – Design and Development Overlay 2 Clause 44.06 – Bushfire Management Overlay 2
<b>Planning Policy:</b>	<p>Clause 02 Municipal Planning Strategy</p> <ul style="list-style-type: none"><li>• Yarra Ranges will lead the way in sustainably meeting the evolving needs of a growing community without compromising its natural assets.</li><li>• Support well-designed and integrated activity centres that service the needs of local residents and visitors and contribute to a sense of local identity.</li><li>• Provide opportunities in residential zones for non-residential land uses that respond to local community needs and retain the residential character of the area.</li></ul> <p>Clause 11 Settlement:</p> <ul style="list-style-type: none"><li>• Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.</li></ul> <p>Clause 12 Environmental and Landscape Values</p> <ul style="list-style-type: none"><li>• Protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environment.</li></ul> <p>Clause 13.02 Environmental Risks and Amenity – Bushfire:</p> <ul style="list-style-type: none"><li>• Strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.</li></ul>

Clause 13.05 Environmental Risks and Amenity - Noise:

- Ensure that development is not prejudiced, and community amenity and human health is not adversely impacted by noise emissions.
- To ensure development generated noise emissions do not adversely impact community amenity and human health using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

Clause 13.07-1S Land use compatibility:

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

Clause 15 Built Environment and Heritage:

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

Clause 17.01 Employment:

- Protect and strengthen existing and planned employment areas and plan for new employment areas. Improve access to jobs closer to where people live.
- Support rural economies to grow and diversify.
- To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.

	<p>Clause 18.01-1S Land use and transport integration:</p> <ul style="list-style-type: none"> <li>To facilitate access to social, cultural and economic opportunities by effectively integrating land use and transport.</li> </ul> <p>Clause 19.02-2S Education Facilities:</p> <ul style="list-style-type: none"> <li>Integrate of education and early childhood facilities with local and regional communities.</li> <li>Locate childcare, kindergarten and primary school facilities to maximise access by public transport and safe walking and cycling routes.</li> <li>Ensure childcare, kindergarten and primary school and secondary school facilities provide safe vehicular drop-off zones.</li> </ul>
<b>Clause 51.03:</b>	Not applicable
<b>Particular Provisions</b>	Clause 52.06 Car Parking
<b>Other Requirements:</b>	<p>Clause 53.02 – Bushfire Planning</p> <p>Clause 65 – Decision guidelines</p> <p>Clause 71.02-3 - Integrated Decision Making</p>

For further information on the planning controls refer to Attachment 6.

## CONSULTATION

### *External Referrals*

This application was referred to the following statutory referral authorities for advice on particular matters.

The following table summarises the relevant advice.

<b>Referral Authority</b>	<b>Consent/Objection Summary of Response</b>	<b>Summary of Conditions</b>
CFA Country Fire Authority (Recommending Referral authority)	Conditional consent provided	An amended Bushfire Management Plan and a Bushfire Emergency Plan are required.
DoT Department of Transport (Determining Authority)	The Head, Transport for Victoria has considered this application and does not object to the grant of a permit.	No condition required.

### **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:

<b>Department</b>	<b>Summary of Response</b>	<b>Conditions required</b>
<b>Traffic Engineer</b>	<p>No objection subject to standard conditions and non-standard conditions</p> <p><u>Comments</u> Given the significant increase in demand for Gear Ave due to the proposal (217% increase in vehicles). Gear Ave is classified as a local road and has a traffic capacity of 1000 vehicle movements per day. The increase seen from the childcare centre will not exceed the road capacity limit.</p> <p>A footpath should be provided along the property boundary to the beginnings of the kerbed section of the road.</p> <p>The footpath should be constructed to at least the proposed pedestrian entrance into the development. Given the proposal for planting new trees, construction of the footpath at this stage would ensure that the footpath is feasible.</p>	<p>Recommending conditions to be inserted to any permit granted. A condition of the permit will require a new footpath connection to connect the site to York Road.</p>
<b>Drainage Engineer</b>	<p>No objection subject to standard conditions</p>	<p>Recommending conditions to be inserted to any permit granted.</p>
<b>Arborist</b>	<p>No objection subject to standard conditions</p> <p><u>Comments</u> Removal of trees 3 and 6 are not contested. The removal of trees 4 and 5 requires a planning decision. Removal of tree 7 in the road reserve will require Council's</p>	<p>Recommending conditions to be inserted to any permit granted.</p>



	approval. Its removal and replacement are not contested	
<b>ESD Sustainability Team</b>	No objection	No conditions recommended
<b>Department</b>	<b>Summary of Response</b>	<b>Conditions required</b>
<b>Community Wellbeing</b>	No objection  <u>Comments</u> Mt Evelyn has a very low level of childcare places at present. There is a need for more childcare services in the area, to support labour market participation and early childhood development.	No conditions recommended
<b>Waste Management Department</b>	No objection subject to standard conditions	Recommending conditions to be included on any permit granted.

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

Notification of the application was undertaken by:

- Placing of one sign on the land
- Mailing notices to owners and occupiers of adjoining and/or nearby properties within a range of approximately 250 metres radius of the subject property
- Placing the proposal on Council's website for a minimum of 14 days

At the time of preparing this report eighteen (19) objections have been received. Concerns are summarised as:

- The use of View Street for access to childcare centre.
- Traffic lights at View Street/York Road intersection long waiting times and congestion.
- Users of childcare centre may lack local knowledge.
- Risks of parking on nature strip/inadequate on-site parking.
- Entry to the site should avoid tree impacts.
- Pedestrian safety on Gear Avenue.

- Impacts the centre would have on emergency services nearby.
- Two-storey building character concerns.
- Inappropriate location for a childcare centre.
- Noise and safety concerns surrounding play areas.
- Compliance with Planning Scheme.

A public consultation meeting was held with the Ward Councillor, Council staff, permit applicant and several submitters. The discussion centred around concerns raised in submissions, particularly traffic, the capacity of the road network, on-street carparking, the likely traffic impact at school pick up times, as well as the suitability of the site for the use, the built form, and the landscaping.

Discussions related to additional information which could be addressed as permit conditions and/or to be further investigated included having further discussions with DoT regarding adjustments to signalisation timing at intersection of Gear Avenue and York Road.

#### ***Addendum to submitted traffic information***

The applicant's traffic consultant has considered the traffic related concerns raised at the community meeting. In response, the applicant has provided Council with the additional traffic information in the form of an addendum from the project applicant Traffix Group (Attachment 7).

The additional traffic information was in response to concerns regarding the use of View Street as a 'rat run', issues with signalise at York Road and Gear Road, parking along Gear Road, issues with the width of Gear Road and impact of the development on emergency services arriving and departing the CFA Fire Station.

The addendum suggests the following modifications to the site and along the street to help reduce the impact the childcare centre will have to the surrounding street network.

- Install a physical traffic island at site exit to prevent cars from turning right.
- Line marking and signage for left turn only from the site.

Council's traffic engineers reviewed the information in the addendum. Additional conditions requiring have been recommendation and are included in the permit (Attachment 1).

#### **ASSESSMENT/ KEY ISSUES**

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

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

### ***Use***

Clause 02 Municipal Planning Strategy & Clause 19.02 Education Facilities seeks to ensure that a proposed use is suitably located in proximity to an activity centre and other education facilities, providing a local community infrastructure to support on-going community needs. Childcare centres are commonplace in a residential environment. Childcare centres are important local community facility that are generally considered suitable in a residential zone.

The proposed childcare centre within this location would provide new local community infrastructure to support long-term community needs. Council's Early Learning team have identified Mount Evelyn has having a low number of facilities and increased facilities and services in the area are supported and would be a benefit to the community.

Clause 17.01 Employment & Clause 19.02 Education Facilities seeks to allow for an increase in accessibility and choice to early childhood facilities and improve education sector job opportunities with local access. The proposed development and use are in proximity to an existing residential community and other educational facilities with planned road networks and pedestrian pathways located within the Mount Evelyn Town Centre.

In terms of the suitability of a childcare centre use in a Low-Density Residential Zone, this is supported by policy including, but not limited to Clause 13.07-1L Land use compatibility, which relates specifically to the Neighbourhood Residential, General Residential and Residential Growth Zones, each which encourage non-residential uses to adjoin an activity centre or abut a Road Zone. In the subject case, the site is located within, albeit peripherally, a Town Centre and included within the Design and Development Overlay which identifies the area of Mount Evelyn Township. The site also has good access to main road networks.

It is considered that policy generally supports a childcare centre in this location.

### ***Built Form***

Clause 15 Built Environment and Heritage seeks to ensure the proposal adequately responds to its context in terms of character, natural features and surrounding landscape.

The policy also seeks to ensure building design seeks to ensure the proposal adequately responds to minimise detrimental impacts on neighbourhood properties amenity, natural and built environment and on the safety and efficiency of roads.

The proposal responds positively to the Design and Development Overlay and Significant Landscape Overlay requirements, with a well-designed building of a two-storey scale which respects the residential character of the street through the use of

landscaping, setbacks and building articulation to address the visual balance of the street.

The overall design of the building features a modern style however a mix of materials and colours found in the surrounding area enhance the local features of the area which are to be encouraged in a Town Centre. The scale, while two-storey, does not diminish the treed environment which is central to the character of the location. Importantly, no part of the building would extend above the established tree canopy height. Whilst the planning scheme encourages development to retain existing vegetation wherever possible, the location of vegetation on this site precludes the retention of all trees in order to achieve the best use of the site.

The built form includes both flat and skillion roofing, which is sympathetic to roof forms found in the local area. While hipped roofs are more typically found in residential areas of Mount Evelyn, the profile of the proposed building will not be jarring in this location. The design is considered to respect the residential feel, with the site being within the Town Centre area, it is not anticipated that the design must imitate the area, instead development should be complimentary.

The building is well articulated, and this is achieved through a mix of building materials including face brickwork, lightweight poly render cladding, timber-look cement sheet cladding and colorbond roofing. The proposed styling and materials reference the existing character context of the area which comprises masonry and render predominantly. The surrounding area mainly comprises of a mix of weather board and brick dwellings, while the proposal will not mirror the surrounding area, the finish and style will complement the area. The building suits policy which supports development that encourages environmentally sustainable design concepts, enhanced by the Foothills setting.

The overall scale of the building, generous setbacks from side and rear boundary and the effective use of landscaping and screening buffers ensure the protection of residential amenity. The development supports upgrading services to the area and will include a condition of permit which requires the construction of a pathway, to further encourage connection and linkages to the Town Centre to which it supports.

### ***Amenity Impacts***

Clause 13.05 Noise & Clause 13.07-1S Land use compatibility requires Council to ensure development and uses are compatible with surrounding uses and minimises adverse off-site impacts through suitable building siting and design (including orientation), urban design and land use separation techniques.

The proposed use and development will have hours of operation between 7.00am and 7.00pm Monday to Friday. The hours are commonly applied to a use such as this and are generally compatible with residential living, as they do not extend into the higher amenity sensitive times of evenings and weekends. The 7.00am start time allows for opportunity to support a wider resident demand, for a work life balance, and spreads the movement of vehicles and people over a longer period in the morning and evening.

The application has been accompanied by an Acoustic Report (prepared by Renzo Tonn & Associates) (Attachment 8) which includes a detailed acoustic assessment with the following findings:

- Noise from children occupying the outdoor play areas is expected to comply with the Associations of Australasian Acoustic Consultants (AAAC) Childcare Centre Noise Assessment Technical Guideline criterion at the nearest residential receivers, with implementation of acoustic fencing specifications.
- Criteria for mechanical services were set out, for application in the detailed design phase of the proposed development.
- The proposed childcare centre is considered low risk with respect to Environment Protection Authority (EPA) Publication 1826.
- Car park is expected to conform with applicable amenity criteria.
- Waste collection and delivery times were proposed in accordance with EPA Publication 1254.2 Noise Control Guidelines.
- Proposed childcare centre is not expected to unreasonably affect residential amenity in the area, based on the assessment carried out by the report. This assessment includes measuring noise levels including the background noise of children of various age groups playing outdoors. Noises from mechanical services and car park usage have also been assessed.

The subject childcare centre has proposed a two-metre-high acoustic fence along the share property boundary with 1 Gear Avenue (Figure 10). The acoustic fence structure height at two meters is not dissimilar to what is ordinarily found in residential areas and will appear as a two-meter-high fence. The acoustic wall, like a fence, will produce a small amount of overshadowing to the south abutting property, however the shadowing will not overshadow the sites private open space or amenity beyond the impact of the existing fence. The building itself will not overshadow the property.

The proposed development plans do not clearly illustrate the design detail of the acoustic fence, a condition has been included to secure clear details of the acoustic fence are shown on the plans.



**Figure 10- Acoustic Fence alignment shown in 'green' outline.**

The Acoustic report recommends the implementation of one acoustic fence measure only, along the southern boundary which has a residential interface to 1 Gear Avenue, and by doing so will achieve the criteria set out in the report, the plans show that additional measures have been proposed with a proposed two-metre Acoustic Wall facing north (Police Station interface) at balcony level (Figure 11). The additional acoustic treatment is above the requirements to comply with noise guidelines and will ensure that noise from the centre is further mitigated to avoid amenity impacts to surrounding properties.



**Figure 11- Elevation including balcony acoustic wall.**

The on-site carparking area is strategically located towards the north end of the site, the furthest distance possible from the abutting residential property. As indicated on the plans, all parking areas have been located to the north of the built form and abutting the shared property boundary with the police station and CFA building.

### ***Significant Landscape Overlay Schedule 22***

The purpose of the Significant Landscape Overlay includes identifying significant landscapes and to conserve and enhance the character of significant landscapes. It is noteworthy that the subject site is the only property included in the Significant Landscape Overlay which is also included in the Design and Development Overlay 2.

Clause 12 Environmental and Landscape Values and the overlay seeks to ensure the proposal adequately addresses landscape characteristics and contributes to the character, identity, and sustainable environments of the existing area. The control identifies Mount Evelyn key landscape as

*“these foothill areas at the base of the Dandenong Ranges contain houses which although occurring at more suburban densities are well integrated into an environmental setting. Some strong remnants of dry forest remain in the landscape and private gardens are spacious with a mix of native and exotic vegetation.”*

The assessment must consider how new development can continue to be well integrated into an environmental setting. Given that the site is also included in the Mt Evelyn Town Centre as directed under the Design and Development Overlay, a balance is required between the objectives of both. Any development must achieve a suitably blend which both encourages development of the site while also balancing the landscape character.

The relevant landscape characters to be achieved in the Significant Landscape Overlay have been appropriately addressed. Specifically, the proposal has recognised and conserved the environmental and visual sensitivity of residential areas by retaining selected trees on site including a mature Lawson’s Cypress which is 14 metres high and a Stringybark Eucalypt which is 25 metres high. The extent of vegetation removal must also respond to requirements of the Bushfire Management Overlay. The development proposes landscaping including one new Luscious Water gum tree, which at maturity grows to seven metres in height. The submitted landscape plan makes provision for two new street trees, to Council’s satisfaction. It is noted that any form of redevelopment of the site would likely require some form of tree removal, this also recognises the defensible space requirements under the Bushfire Management Overlay. It is considered that the proposal has reasonably minimised tree impacts and avoided the destruction of all site trees by minimising tree removal to the extent which is necessary.

The two-storey design is not uncommon for this type of use and development and is a reasonable design response in a residential area. Given the scale of the proposed development, it will be a noticeable feature of the location and will not be invisible.

However, the building will benefit from the proposed landscape response, which will ensure canopy trees and plantings continue to be a dominant element of the landscape in general. This is enabled by the retention of existing vegetation and the replanting of new, compatible species.

A sense of spaciousness is maintained by effective landscaping buffers along boundaries. The replacement vegetation planting proposed on the landscape plan will achieve a similar level and quality of landscaping for the site.

### ***Design and Development Overlay Schedule 2***

The purpose of the Design and Development Overlay includes identifying areas which are affected by specific requirements relating to the design and built form of new development. Schedule 2 of the overlay relates to the Mount Evelyn Town Centre and the design objectives. The location of the site in this area shows that it has the potential for a non-residential land use compatible to a Town Centre purpose. The strategic decision to include this site within the Mount Evelyn Town Centre boundary has foreshadowed that the site commercial activity proposal would be an acceptable outcome.

The Design and Development Overlay contains a series of general design objectives for new developments. The proposal suitably addresses these design objectives as follows:

- The development maintains a maximum two-storey scale and a maximum of 8.3 metres in height.
- The development would not obscure views towards the Dandenong's, rather through its well-articulated built form provides for views which are screened.
- The site has the benefit of being near the Warburton Rail Trail which contains dense screening adding to the distinct bushland character of the immediate environs.
- The site is not located on the crest of the hill, instead when viewing the property from the York Street intersection, the land behind the site continues to rise to the southeast creating a filtered back drop including mature tree canopy.
- The proposal includes both flat and skillion roof forms which are a suitable addition in the location and represent contemporary design while also referencing the established character of roofing in the area, which consist of both hipped and flat roofing forms.
- Plant and equipment are not to be included on the roof of the proposed development.
- While the development is two-storey in scale, this is an acceptable scale in the Mount Evelyn Town Centre. Potential visual bulk is minimised by articulated walls, spacious openings and setbacks to boundaries, varied and interesting external buildings materials and finishes and landscaping.



- Pedestrian access is available to the site, encouraging greater linkages to and around the Town Centre. A condition of permit would require a footpath to be constructed along the property boundary.

The Design and Development Overlay and the Significant Landscape Overlay both suggest that up to two storeys in height is an acceptable response for the location. Ensuring that a development responds well to the landscape character is a key consideration which has been suitably considered in the proposal. The application seeks to retain site vegetation where this has been possible, maintain site spaciousness, reference characteristic elements from the locality with respect to roof form, articulation and external materials and encourage new plantings.

### ***Bushfire Management Overlay Schedule 2***

The proposal suitably responds to the bushfire management objectives and strategies to mitigate bushfire risk and prioritise the protection of human life.

A permit is required for the construction of buildings and works associated with an education centre, to which a childcare centre is included, the planning application requirements of the main Overlay must be followed. The Bushfire Management Overlay Schedule 2 does not specifically state that a permit is not required. The application has therefore been accompanied by a Bushfire Management Statement and Plan (Attachment 9).

The Bushfire Management Statement is summarised as follows:

- The development is exposed to modified vegetation to the east.
- The proposed siting maximises the setback from the classified vegetation as far as is practicable, resulting in an 18 metre fuel free setback. The development can provide defensible space to the property boundary in all directions, in accordance with the proposed BAL-29 construction standard in response to modified vegetation.
- All vegetation within the defensible space on the property will be managed in accordance with Table 6 to Clause 53.02 Bushfire Planning.
- Water supply and access will meet requirements, including a tank of 10,000 litre with compliant fire authority access and fittings.
- The landscape risk is not extreme, the bushfire protection measures detailed can be deemed to provide acceptable safety, as they comply with requirements.

Objections to the proposal raise concern for how the childcare centre will be managed on a day of extreme heat with a Code Red – Catastrophic Risk in a bushfire risk area. A condition has been included in the proposed planning permit which prohibits the use of the centre on a Catastrophic Risk Day. It is noted that this measure has also been suggested by the CFA as part of their comments to Council whereby the site be closed at a Fire Danger Rating of Catastrophic at a minimum.

The assessment by the CFA who has provided conditional consent includes the preparation of an Emergency Management Plan as part of the permit conditions.

### ***Tree removal***

The application proposes the removal of four trees, Trees 3, 4, 5 and 7. Tree 7 is a tree within the road reserve. Tree 6 also is proposed to be removed; however, this tree is exempt from planning permit requirements as they meet the exemptions listed under Bushfire Protection Exemptions (Clause 52.12).

It is noted that of the trees assessed under the submitted arboricultural report, the *Cedrus deodara* (Tree 4) has a high arboricultural rating. Ideally the development would avoid impacting this tree if possible. However, because of its location on the site, the tree cannot be retained and incorporated into the design response, Given the requirement for car parking, outdoor play areas, setbacks to boundaries and other amenity considerations. Any requirement to retain the tree would result in the site being unreasonably constrained for any development. The applicant considered siting the building elsewhere on the site, but ultimately, the retention of the tree posed a traffic safety risk for cars entering and exiting the site.

The development proposes the retention and protection of Trees 1 and 2. Tree 1 is an Indigenous Stringybark, 25 metres in height and regarded as having some deadwood requiring removal, however the tree is of fair health and generally contributory to the landscape character of the area. Tree 2 is a mature Lawson's cypress with good health and structure and containing a high arboricultural rating.

Trees 3, 5 and 6 each contribute moderately to the landscape; however, their health and structure are fair presenting with minor deficiencies including minor damage or decay. Tree 7 is a Council road reserve tree, which is a mature, indigenous Stringybark and visible in the local area. However, this tree has declining health with a poor structure and has significant crown dieback. Given the poor health, structure and useful life expectancy, Council's arborist does not object to the removal of this tree. While the tree is significant and visually prominent, it is expected to continue declining. Tree 7 is required to be removed to enable access to the site. Other access options were explored, so as to minimise impacts to Tree 7, however the alternative options would not have offered safe access, Council's traffic engineers have commented that the proposed access location is at the safest point.

In keeping with the landscape character objectives to be achieved under the Significant Landscape Overlay, where possible, development has been sensitive to the trees on the land and ensuring that all significant trees are not jeopardised by the proposal.

### ***Traffic***

Subject to conditions, the proposal provides safe access and egress for pedestrians and vehicles that Clause 15 Built Environment and Heritage, Clause 18.01 Land use and transport integration and 52.06 Car parking seek applications to respond to. The proposal provides the required amount of on-site carparking spaces as directed by the Planning Scheme. It is additionally noted that given the proximity to the Town

Centre, alternative transport options are available. The applicant has submitted a Traffic Report (refer Attachment 10).

The planning controls all seek to ensure that any proposal aligns with objectives to facilitate the use of cycling and walking, within existing well used network connections and promotes sustainable land use and transport integration.

The location of the subject site is considered especially appropriate for use of a childcare centre due to its proximity to the Town Centre and other educational facilities.

One of the main concerns raised by objectors and at the community meeting was regarding the use of View Street as an alternative route to York Road, to avoid the controlled intersection at York Road by turning right and travelling along View Street. The detour along View Street would be 950 metres long on an unsealed road. It is not expected that this would be a desirable detour and would only likely be used if congestion at the signal intersection at York Road become excessive. It is proposed to restrict vehicle egress movements, to require a left turn only manoeuvre onto Gear Avenue. The left turn sign will enable the enforcement that vehicles leaving the site must not use View Street, even if the intersection at York Road is congested.

A condition of the permit will require a left turn only exit from the site onto Gear Avenue through the installation with a concrete splitter island in the crossover, and left turn only sign on the island. The splitter island and sign will ensure that left turn only movements from the site are permitted, ensuring that traffic flow is only towards York Road and thus away from the southern section of Gear Avenue and View Street. The use of a concrete splitter over just standard line markers will ensure that commuters from the site have a physical barrier forcing a left turn manoeuvre to the York Road signalised intersection.

Additional conditions will also require 'Keep Clear' line marking across the southern approach of Gear Avenue near the traffic signals to ensure that at peak traffic times, the Police Station and 19 York Road may still be accessed. The Fire Brigade has its own direct access to York Road and no impacts to the use of emergency services would be expected because of a childcare centre operating. A condition of the permit will also require no stopping signage be installed along Gear Avenue, to prevent congestion along Gear Avenue and to ensure that parents enter the site for pick up and drop off. Finally, a permit condition will also require a Parking and Traffic Plan to be developed. The plan will highlight to future staff and parents that travel to the site will need to be via the signalised intersection.

York Road and the signals are managed by the Department of Transport, perceived congestion at this intersection during peak times was raised and there is the concern raised by the community that the childcare centre may create further congestion. Childcare centres are not like schools whereby there are set start and end times and traffic congestion at those times of the day. Traffic from the centre will be spread out as there is no set times that parents/guardians may drop off and pick up children. Trips to and from childcare centres may also be linked to other trips, meaning that these drivers are likely already on the road network.

Should the York Road intersection become congested, discussion between Council's traffic team and the Department of Transport can be held and the traffic light sequencing could be altered to provide a longer green time at peak times to ensure congestion at this intersection is minimized.

### ***Car parking***

Car parking requirements are set by Clause 52.06 (Car parking) of the Yarra Ranges Planning Scheme at a parking rate of 0.22 of a parking space per child accommodated. For a 96 space centre, 21 spaces are required. The proposed number of car parking spaces of 21 meets the statutory car parking rate required.

### ***Bicycle parking***

The application has not proposed any onsite bike parking and under Clause 52.34 Bicycle Facilities, no mandatory bike parking is required. However, to support healthy living and alternative transport to the site, especially with the site within proximity of the Warburton Rail Trail, a condition of the permit will require a minimum of two bike parking spaces, with a bike rail.

A review of the plan has demonstrated that bike parking can be accommodated within the existing layout.

### ***Addressing Objectors Concerns***

<b><i>Traffic and Parking</i></b>	<b><i>Officer Response</i></b>
The use of View Street for access to childcare centre and users of childcare centre may lack local knowledge.	As commented above, a condition of the permit will require a left turn only out of the carpark, thus forcing all vehicles to use the lights at York Road and avoid traffic using View Street.
Impacts the centre would have on emergency services nearby.	There is no evidence to suggest that the childcare centre will impact the emergency services nearby. Further the CFA have reviewed the application and have not raised concern around emergency access to the area or subject site.
Traffic lights at View Street/York Road intersection long waiting times and congestion.	As commented above, through Department of Transport there is the ability to adjust traffic signal timings as required. The application was referred to the Department of Transport who did not provided objection or require conditions.
Pedestrian safety on Gear Avenue	A condition of the permit will require all new footpaths to be constructed at the cost of the developer to improve pedestrian access from the site into the town centre.
<b><i>Loss of Vegetation</i></b>	<b><i>Officer Response</i></b>
Entry to the site should avoid tree impacts.	As commented earlier in the report, the application has sought to balance the extent of tree removal on the site. While five trees are proposed to be removed, the

	development footprint ensures two large mature trees, Tree 1 and 2, have been retained and protected.
<b>Amenity</b>	<b>Officer Response</b>
Inappropriate location for a childcare centre.	A use of land for a childcare centre can be supported in the zone, further the Design and Development Overlay, Schedule 2, has included this site within the Town Centre development footprint.
Noise	<p>As stated above the proposal is accompanied by acoustic treatment to minimise potential adverse noise impacts on the surrounding area. The proposed use will have hours of operation between 7:00am and 7:00pm Monday to Friday. The hours are generally compatible with residential living, as they do not extend into the higher amenity sensitive times of evenings and weekends.</p> <p>An acoustic report was submitted with the application and an acoustic barrier to the south boundary and the upper balcony have been included. A condition of the permit will require all acoustic treatment to be clearly shown in the plans.</p> <p>A permit condition will also require compliance with noise levels approved by the acoustic report and will require plans to be submitted for endorsement prior to the acoustic walls being constructed.</p>
<b>Other</b>	<b>Officer Response</b>
Compliance with Planning Scheme	See main assessment for a response to this concern.
Two-storey building character concerns	As commented in the report, two story building is permitted under the planning controls. A planning permit is only required as the built form is over 7.5 metres in height. A two-story development on the fringe of the Mount Evelyn Township area is considered an acceptable outcome. The overall design has been sympathetic to the landscape as the roof form and finished material have reflected the residential design of the surrounding area. The building itself is not on the crest of the hill and will sit below the tree canopy both on the site and within the wider area.

## CONCLUSION

The proposal provides for essential community infrastructure for Mount Evelyn and surrounding communities in a location that is both compatible and commonplace within a surrounding residential area. The proposal provides positive social and economic advantages to current and future residents of the township, the proposal is an exemplary example of contributing to the township's community sustainability and

is designed respectfully for a low density and significant landscape character blended cohesively within the Town Centre.

The design response is of high standard and consideration in addressing special attention to minimising negative impacts to adjoining neighbours. Effective layout, responsive building form and design sympathising adequately to the constraints and characteristics of the site and surrounds. While the application results in the removal of some mature trees, new landscaping and retention of both high and medium value species will ensure that the building continues to represent a design which is respectful of its treed environs, which are a significant visual influence in this locality.

The proposed car parking, traffic, amenity, and acoustic response has addressed both planning scheme and industry requirements with respect to ensuring neighbouring amenity and responding to sensitive residential interfaces.

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

As such, it is recommended that the proposal be supported and a Notice of Decision to Grant a Planning Permit be issued, subject to conditions.

## **ATTACHMENTS**

1. Planning Permit Conditions
2. Planning Report
3. Use and Development Plans
4. Landscape Plan
5. Arborist Report
6. Planning Policies
7. Traffic Addendum
8. Acoustic Report
9. Bushfire Management Statement
10. Traffic Report