



# **AGENDA**

## **Development Assessment Committee Meeting Wednesday, 19 July 2023**

**I hereby give notice that a Development Assessment Committee Meeting will be held on:**

**Date: Wednesday, 19 July 2023**

**Time: 6.00pm**

**Location: Council Chamber, 15 Stead Street, Ballan & Online**

**Henry Bezuidenhout  
Executive Manager Community Planning & Development**

**Order Of Business**

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**1 OPENING****2 PRESENT AND APOLOGIES****3 RECORDING OF MEETING**

In accordance with Moorabool Shire Council's Governance Rules, the meeting will be livestreamed.

**4 CONFIRMATION OF MINUTES**

Development Assessment Committee Wednesday 21 June 2023.

**5 MATTERS ARISING FROM PREVIOUS MINUTES****6 DISCLOSURE OF CONFLICTS OF INTERESTS**

Conflict of interest laws are prescribed under the *Local Government Act 2020* (the Act) and in the *Local Government (Governance and Integrity) Regulations 2020* (the Regulations). Managing conflicts of interest is about ensuring the integrity and transparency of decision-making.

The conflict of interest provisions under the Act have been simplified so that they are more easily understood and more easily applied. The new conflict of interest provisions are designed to ensure relevant persons proactively consider a broader range of interests and consider those interests from the viewpoint of an impartial, fair-minded person.

Section 126 of the Act states that a Councillor has a conflict of interest if they have a general conflict of interest or a material conflict of interest. These are explained below:

- A Councillor has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the member's private interests could result in them acting in a manner that is contrary to their public duty as a Councillor.
- A Councillor has a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

A relevant person with a conflict of interest must disclose the interest in accordance with Council's Governance Rules and not participate in the decision-making process on the matter. This means the relevant person must exclude themselves from any discussion or vote on the matter at any Council meeting, delegated committee meeting, community asset committee meeting or, if a Councillor, any other meeting conducted under the auspices of the Council. The relevant person must also exclude themselves from any action in relation to the matter, including an action taken to implement a Council decision, for example, issuing a planning permit.

## 7 COMMUNITY PLANNING REPORTS

### 7.1 PA2022221 - DEVELOPMENT OF FOUR ANCILLARY SHEDS TO AN EXISTING DWELLING AT 95 POSSUMTAIL RUN, MERRIMU

**Author:** Fatima Goreishi, Statutory Planner

**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Development

**Attachments:** Nil

#### APPLICATION SUMMARY

**Permit No:** PA2022221

**Lodgement Date:** 27 October 2022

**Planning Officer:** Fatima Goreishi

**Address of the land:** 95 Possumtail Run, Merrimu

**Proposal:** Development of Four Ancillary Sheds to an Existing Dwelling

**Lot size:** 1.102ha

**Why is a permit required?** Clause 35.06-5 Rural Conservation Zone – Buildings and Works less than 100m from a dwelling not in the same ownership.

#### RECOMMENDATION

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a Notice of Decision to Grant Planning Permit PA2022221 for the Development of Four Ancillary Sheds to an Existing Dwelling at 95 Possumtail Run, Merrimu subject to the following conditions:

#### Endorsed Plans:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans must be generally in accordance with the plans submitted with the application or some other specified plans but modified to show:
  - a) A roof drainage plan for the proposed outbuildings referring to the stormwater run-off into a rainwater tank with a minimum capacity of 20,000L.
  - b) A dimensioned scaled site plan showing the location of suitable tree screening that is to be placed on the southern property boundary to minimise visual impacts.
  - c) Plan annotated stating no shipping containers are to remain on the land.
2. Unless otherwise approved in writing by the Responsible Authority, all buildings and works are to be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use.

#### Materials and Colour:

3. All external walls and roof areas of the proposed building/s are to be clad with non-

reflective materials (zincalume prohibited) to the satisfaction of the Responsible Authority.

**Development Infrastructure:**

4. Stormwater drainage from the proposed buildings and impervious surfaces must be retained and disposed of with a legal point of discharge issued by the Responsible Authority. If applicable, overflows from on-site storage systems must be directed away from any wastewater disposal areas.
5. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA1991).
6. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over any drainage pipes and easements on the property.
7. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Services identifying any existing damage to Council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

**General Conditions:**

8. The permitted buildings must not be used for any habitable purpose and must not be used for any commercial or industrial purpose except in accordance with the provisions of the Moorabool planning Scheme.
9. The permitted detached outbuildings must not be modified to be attached in form unless the variation of the restrictive covenant AH129965F has been approved by the Responsible Authority.
10. The shipping container currently on the land must be removed to accord with Part (h) of the restrictive covenant registered on title (AH129965F).

**Permit Expiry:**

11. The permit will expire if:
    - a) The development is not started within two years of the date of this permit or
    - b) The development is not completed within four years of the date of this permit.
-

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	Not required.
Number of objections:	Three, one later withdrawn.
Consultation meeting:	Discussion with the parties resulted in withdrawal of one objection.

## **POLICY IMPLICATIONS**

The Council Plan 2021-2025 provides as follows:

### **Strategic Objective 2: Liveable and thriving environments**

#### **Priority 2.1: Develop planning mechanisms to enhance liveability in the Shire**

The proposal is consistent with the Council Plan 2021 – 2025.

## **VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006**

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

## **OFFICER'S DECLARATION OF CONFLICT OF INTERESTS**

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*Executive Manager – Henry Bezuidenhout*

In providing this advice to Council as the Executive Manager, I have no interests to disclose in this report.

*Author – Fatima Goreishi*

In providing this advice to Council as the Author, I have no interests to disclose in this report.

## **EXECUTIVE SUMMARY**

Application referred?	Yes, to Council's Development Infrastructure.
Any issues raised in referral responses?	No.
Preliminary concerns?	Compliance with the restrictive covenant on title. The applicant has since amended the application to address this and conditions on any permit to issue will address concerns regarding the shipping containers on site.

Any discussions with applicant regarding concerns?	Yes, the applicant was advised of the preliminary concerns.
Any changes made to the application since being lodged?	Yes, the applicant amended the single large shed to multiple smaller sheds to accord with the restriction registered on title.
Brief history.	The site contains a recently constructed single storey dwelling.
Previous applications for the site?	PA2011308 – Development and Use of a Dwelling and Ancillary Outbuilding issued 20 March 2012. PA2016291 - Development and Use of a Dwelling and Ancillary Outbuilding issued on 30 January 2017. The outbuilding was not constructed under this permit which has since expired.
General summary.	The application is for the development of four ancillary sheds to an existing dwelling and will be used for storage purposes. The proposed development complies with the objectives of the Rural Conservation Zone.
<b>Summary of Officer's Recommendation</b>	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , the Development Assessment Committee issue a Notice of Decision to Grant Planning Permit PA2022221 for the Development of Four Ancillary Sheds to an Existing Dwelling at 95 Possumtail Run, Merrimu subject to the conditions contained within this report.	

## SITE DESCRIPTION

The subject site is located to the southeast from the centre of Merrimu just 2km. The locality of Merrimu is mostly rural use with minor rural/residential lifestyle developments to the southeast. The surrounding properties are zoned Rural Conservation and are mostly cleared of vegetation.

The subject site occupies an area of 1.1ha and is located on the western side Possumtail Run. The site and the surrounding properties are rural lifestyle with lot sizes of between 0.8ha to 1.5ha. The surrounding properties are characterised by mostly having single storey dwellings with several ancillary outbuildings.

The site contains a single dwelling well setback from all property boundaries with minimal vegetation and a relatively flat topography.



**Figure 1:** Aerial Photograph



**Figure 2:** Zone Map

**PROPOSAL**

The application initially proposed development of one large ancillary shed with a building footprint of 450sqm (30m x 15m). In response to objections received and the restrictive covenant on title, the proposal was amended to include four smaller sheds with a reduced height, each having an area of 91sqm (13m length x 7m width) and a maximum height of 3.9m.

Sheds 2 and 3 have a similar design including a low slope roof with an 11-degree angle and an eave height of 3.3m. Sheds 1 and 4 also have a similar design with a five degree skillion roof and an eave height of 2.7m. Sheds 1 and 3 will have four roller doors each facing the north side elevation while Sheds 2 and 4 will have two roller doors each directed towards the front of the property. There is a 7m setback distance between the two groups of sheds as shown below.

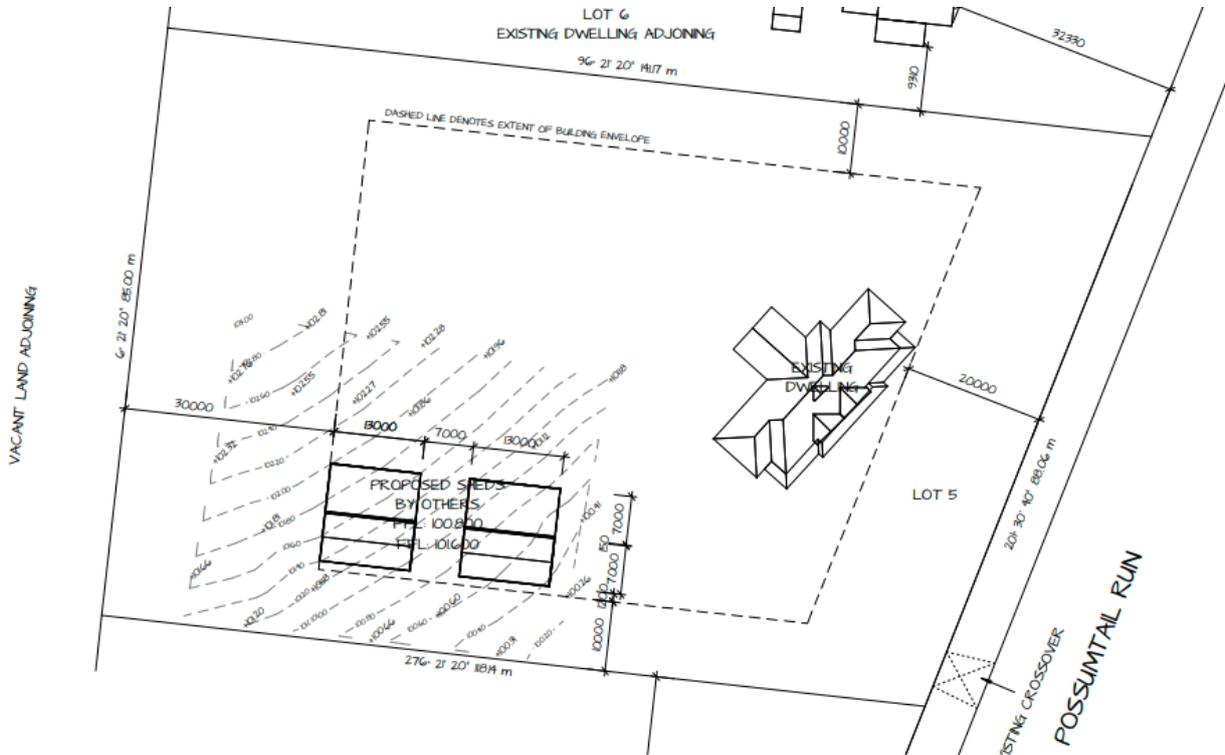
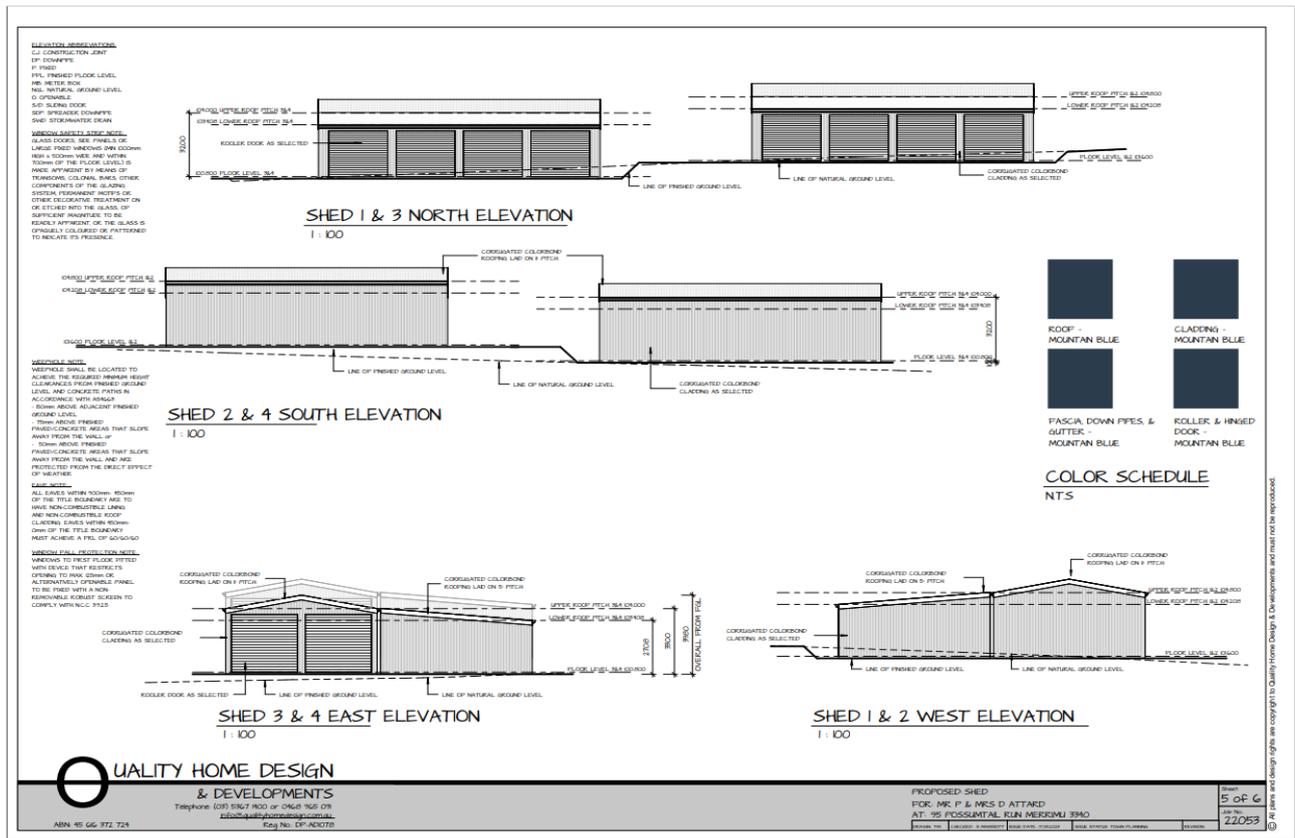


Figure 3: Site Plan



**BACKGROUND TO CURRENT PROPOSAL**

Three objections were received during the initial advertising period. Two objection letters were in relation to the size of the shed in the initial application documents (as it did not comply with the restrictive covenant on title). The application was subsequently amended to reduce the size of the sheds. Following advertising the amended to the application, one objection was withdrawn.

**HISTORY**

- PA2011308 – Development and Use of a Dwelling and Ancillary Outbuilding issued 20 March 2012. Permit expired in 2016.
- PA2016291 - Development and Use of a Dwelling and Ancillary Outbuilding issued on 30 January 2017. The dwelling has been completed in accordance with this permit.

**PUBLIC NOTICE**

Notice of the application was given to all the landowners of the properties on the plan of subdivision by mail and a sign erected on site.

**SUMMARY OF OBJECTIONS**

The objections received are detailed below with officer’s comments accompanying them:

Objection	Any Relevant Requirement
We dispute this application as the proposal breaches many covenants. The maximum shed size is 7x13, and I would like to point out there is no restriction on how many sheds can be built on the property.	Clause 35.06 Rural Conservation Zone Covenant AH129965F registered on title

<p>Proposed peak height of over 6m on the building is also a huge breach of covenant and will not suit the area. We do not want Possumtail Run to turn into a "Hopetoun Park" where oversized sheds flood the landscape. Many people in the past have applied to build larger sheds on Possumtail (including ourselves) but the character of the street along with the RCZ zoning has always been overruling. Unfortunately, the property in question has breached basic covenants the past 7 years with shipping containers, 2.4m fencing, and no certificate of occupancy has ever been granted. Basic issues such as stormwater drainage, lack of required water tanks (in event of fire) need to be addressed and I have no faith issues such as this can be enforced after seeing the progress of the property the past 7 years. We are concerned the building proposed would not comply and raise concerns if insurance cover would ever have to be used. With thanks.</p>	
<p><b>Officer's Response:</b> The amended application does not contravene the covenant registered on title. All four sheds are located within the existing building envelope and are well setback from all property boundaries.</p>	
<p>From the layout of each building, we believe that it is a safe assumption that Buildings 1 and 2, as well as building 3 and 4 will be connected length ways creating essentially 2 outbuildings with a floor size of 182sqm each. The accumulated floor size of these outbuildings being proposed, still equate to that of a commercial or industrial size building at 364 sqm, and as council and the applicants are aware, this is a rural residential subdivision with a conservation overlay. As per our original objection, there is no reasonable requirement for the construction of 4 garage's or 2 large garages in this location. We would be inclined to believe that these building would be used for business purposes, especially as these buildings are proposed to have 12 roller doors installed. These buildings would be an eyesore, out of place, and set a precedent for other unwanted amendments to be made to our covenant.</p>	

**Officer's Response:** The proposed developments do not trigger a planning permit due to the number of sheds proposed, there is no restriction on the number of ancillary outbuildings that can be built and the number of doors on a building under the Moorabool Planning Scheme. Standard conditions on the planning permit will include that no commercial or industrial use shall be permitted on site in addition to preventing the connection of these outbuildings unless the restriction on title has been varied.

### **PLANNING SCHEME PROVISIONS**

Council is required to consider the Victoria Planning Provisions and give particular attention to the Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF).

The relevant clauses are:

- Clause 11.01-1L-01 – Settlement in Moorabool
- Clause 11.01-1L-02 – Bacchus Marsh
- Clause 12.01-1S – Protection of Biodiversity
- Clause 12.01-2S – Native Vegetation Management
- Clause 15.01-2S – Building Design
- Clause 15.01-2L-01 – Building Design
- Clause 15.01-5S – Neighbourhood Character
- Clause 15.01-5L – Landscape and Neighbourhood Character
- Clause 15.01-6S – Design for Rural Areas

The proposal complies with the relevant sections of the MPS and PPF.

### **ZONE**

#### Rural Conservation Zone

Pursuant to Clause 35.06-5 a planning permit is required for buildings and works that are within 100m of a dwelling not in the same ownership.

### **OVERLAYS**

#### Design and Development Overlay Schedule 1

The proposed development has met all specified requirements under the Design and Development Overlay Schedule 1 and as such no permit trigger applies to this proposed.

### **RELEVANT POLICIES**

None.

### **Particular Provisions**

None.

### **DISCUSSION**

The permit trigger for this application is confined to Clause 35.06-5 where a permit is required for buildings and works that are within 100m of a dwelling not in the same ownership. The closest

dwelling from the buildings and works, not in the same ownership, is approximately 50m away to the south.

The overall combined size of the proposed sheds equates to 364sqm. Given the lot size of 1.1ha, the proposed sheds will only occupy approximately 3.3% of the site. Furthermore, as the proposal includes four smaller sheds, rather than one large shed, the proposal does not contravene the restriction on title.

The proposed sheds are located within the existing building envelope and due to the location of the existing building envelope, the proposed sheds will have a minimum setback of 10m to the south (side boundary) and 30m to the west (rear boundary). These setbacks provide adequate space for screen planting which will be included as a condition on any permit to issue.

The use of the sheds will be ancillary to the dwelling on the land and conditions will be included on any permit to issue to ensure compliance with this requirement.

The application was referred to Council's Development Infrastructure for stormwater management and the prevention of sediment discharge impacting surrounding properties, who consented to the application with conditions.

The proposed development of four ancillary outbuildings to an existing dwelling is compliant with the relevant planning provisions and specifically the Planning Policy Framework of the Moorabool Planning Scheme.

### **GENERAL PROVISIONS**

Clause 65 - Decision Guidelines have been considered by officers in evaluating this application.

Clause 66 - Stipulates all the relevant referral authorities to which the application must be referred.

### **REFERRALS**

<b>Authority</b>	<b>Response</b>
Council's Development Infrastructure	Consent with Conditions.

### **FINANCIAL IMPLICATIONS**

The recommendation of approval of this application has no financial implications to Council.

### **RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES**

The recommendation of approval of this application does not implicate any risk or OH&S issues to Council.

### **COMMUNICATIONS STRATEGY**

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address the Development Assessment Committee if required.

### **OPTIONS**

- Issue a Notice of Decision to Grant a Planning Permit in accordance with the grounds in the recommendation of this report; or

- issue a Refusal to Grant a Planning Permit on specific grounds. The Committee would need to consider what reasonable grounds there would be to refuse the application. This option may result in the applicant appealing the decision at VCAT.

## **CONCLUSION**

The proposed four ancillary sheds will be used for storage purposes in association with the existing dwelling. The development is generally in accordance with the relevant provisions outlined in the Moorabool Planning Scheme and in accordance with the purpose of the Rural Conservation Zone and Design and Development Overlay Schedule 1.

The subject property has sufficient land to develop four outbuildings which are compliant with the restrictive covenant registered on title in terms of location, setback requirements and area size requirements. The proposal is consistent with the similar developments located on Possumtail Run and will not undermine the rural characteristics of the site. Therefore, it is recommended that the application be supported subject to conditions.

**7.2 PA2022240 - DEVELOPMENT AND USE OF COMMUNITY CARE ACCOMMODATION AND ASSOCIATED CARETAKERS DWELLING AND PYLON SIGN - 263-267 HALLETTS WAY, DARLEY**

**Author:** Victoria Mack, Statutory Planner

**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Development

**Attachments:**

1. Development Plans (under separate cover)
2. Concept signage from equivalent facility (under separate cover)

**APPLICATION SUMMARY**

**Permit No:** PA2022240

**Lodgement Date:** 10 November 2022

**Planning Officer:** Victoria Mack

**Address of the land:** 263-267 Halletts Way, Darley

**Proposal:** Development and Use of Community Care Accommodation and Associated Caretakers Dwelling, and Pylon Sign

**Lot size:** Three lots have a combined area of 2,277sqm

**Why is a permit required?** Clause 32.09.1 - Use of Community Care Accommodation; Clause 32.09-9 - Buildings and Works associated with a Section 2 Use; Clause 53.05 - Signage; Clause 52.22 - Community Care Accommodation

**RECOMMENDATION**

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a Notice of Decision to Grant Planning Permit PA2022240 for the Development and Use of Community Care Accommodation and Associated Caretakers Dwelling and Pylon Sign at 263-267 Halletts Way, Darley subject to the following conditions:

**Endorsed plans:**

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - a) Landscaping in accordance with Condition 3.
  - b) Signage details in accordance with Condition 13.
  - c) Amended waste management plan to show the relocation of the bins and access pathway to allow for the efficient movement of bins to the driveway
2. Before the use commences an "as-built certificate" confirming compliance with NDIS Specialist Disability Accommodation (SDA) Design Standards must be provided to the

**Responsible Authority.****Landscaping:**

3. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscape plan must be generally in accordance with the landscape concept plan dated 22 February 2023 prepared by Outdoor Focus Landscape Design. The plan must show:
  - a) Details of surface finishes of pathways and driveways.
  - b) Planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
  - c) Landscaping and planting within all open areas of the site.
  - d) At least eight canopy trees (minimum 2m tall when planted) in the front setback area. All species selected must be to the satisfaction of the Responsible Authority. The Acer senkaki would be acceptable.
  - e) At least six canopy trees (minimum 2m tall when planted) in the rear setback area.All species selected must be to the satisfaction of the Responsible Authority.
4. Before the use/occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
5. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

**Amenity:**

6. The amenity of the area must not be detrimentally affected by the use or development, through the:
  - a) transport of materials, goods or commodities to or from the land;
  - b) appearance of any building, works or materials;
  - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
  - d) presence of vermin; and
  - e) any other way.
7. Mechanical noise emanating from the premises must comply with the State Environment Protection policy N-1 'Control of Noise from Commerce, Industry and Trade'.
8. Any public address system installed must not be audible beyond the boundaries of the site.
9. Any security alarm or similar device installed must be of a silent type.
10. The owner, the occupier and the manager of the premises must make reasonable endeavours to ensure that people associated with the site do not create a nuisance and

annoyance to neighbours or otherwise disturb the amenity of the area.

11. Goods, equipment or machinery must not be stored or left exposed in a position that can be seen from the street.
12. External lighting must be provided with suitable baffles and located so that no direct light is emitted outside the site.
13. All waste material not required for further onsite processing must be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the Responsible Authority.

**Business Signage:**

14. Details of all signage to be installed on or around the buildings including design and colours, dimensions, materials and location. Signs must not be illuminated but may be lit from the ground provided the lighting is appropriately baffled to prevent light spill.
15. The location, design, content, colours and materials of all business identification signs must not be altered without the written consent of the Responsible Authority.
16. The signs must be constructed and maintained to the satisfaction of the Responsible Authority.
17. Signage expires 15 years from the date of this permit.

**Development Infrastructure:**

18. Prior to use commencing, the existing vehicle crossings which are to be modified must be constructed to urban standard in accordance with the IDM (Infrastructure Design Manual) and to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossings.
18. Prior to the development and use commencing, engineering drainage plans and computations must be submitted to the Responsible Authority for approval and shall incorporate the following:
  - a) The development as a whole must be self-draining and must be connected to an approved point of discharge in an approved manner to the satisfaction of the Responsible Authority.
  - b) Underground piped drainage for the whole development shall cater for 10% AEP storm.
  - c) Overland 1% AEP flow path(s) for the development must be shown on layout plans and shall ensure that no property is subject to inundation by such a storm to the satisfaction of the Responsible Authority.
19. Stormwater drainage from the proposed buildings and impervious surfaces must be directed to the legal point of discharge to the satisfaction of the Responsible Authority. A Stormwater Point of Discharge permit must be obtained from the Responsible Authority prior to the commencement of the works associated with the permit.
20. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).
21. Unless otherwise approved by the Responsible Authority there must be no buildings,

structures, or improvements located over proposed drainage pipes and easements on the property.

22. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Services identifying any existing damage to Council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.
23. Prior to the use commencing, the car park areas must be constructed with a sealed surface, line-marking and drainage to the satisfaction of the Responsible Authority, and shall incorporate the following:
  - a) Parking bays and aisle widths of the car park shall comply with Australian Standard AS 2890.1:2004 Off-Street car parking. Disabled Parking bays shall comply with Australian Standard AS2890.1:2009 Off-Street Parking for People with Disabilities.
  - b) Designated loading areas shall be shown on layout plans.
  - c) The parking areas shall be provided with an asphalt or concrete surface and associated drainage.
  - d) Concrete kerb of a minimum height of 150mm must be provided between landscaped areas and areas provided for parking and the passage of vehicles.
  - e) The car park must provide sufficient space for a service truck to enter and exit the site in a forward direction. The service truck shall comply with the medium rigid vehicle detailed in AS2890.2 section 2.2. Turning templates shall be submitted for approval.
24. The building shall be provided with disabled access in accordance with the provisions of AS1428 – Design for Access and Mobility.

**Permit Expiry:**

25. The permit will expire if:
  - a) the development and use are not started within two years of the date of this permit  
or
  - b) the development is not completed within four years of the date of this permit.

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	Not required.
Number of objections:	One objection and two submissions in support of the application.
Consultation meeting:	Not required.

## **POLICY IMPLICATIONS**

The Council Plan 2021-2025 provides as follows:

### **Strategic Objective 2: Liveable and thriving environments**

#### **Priority 2.1: Develop planning mechanisms to enhance liveability in the Shire**

The proposal is consistent with the Council Plan 2021 – 2025.

### **VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006**

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

### **OFFICER'S DECLARATION OF CONFLICT OF INTERESTS**

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*Executive Manager – Henry Bezuidenhout*

In providing this advice to Council as the Executive Manager, I have no interests to disclose in this report.

*Author – Victoria Mack*

In providing this advice to Council as the Author, I have no interests to disclose in this report.

### **EXECUTIVE SUMMARY**

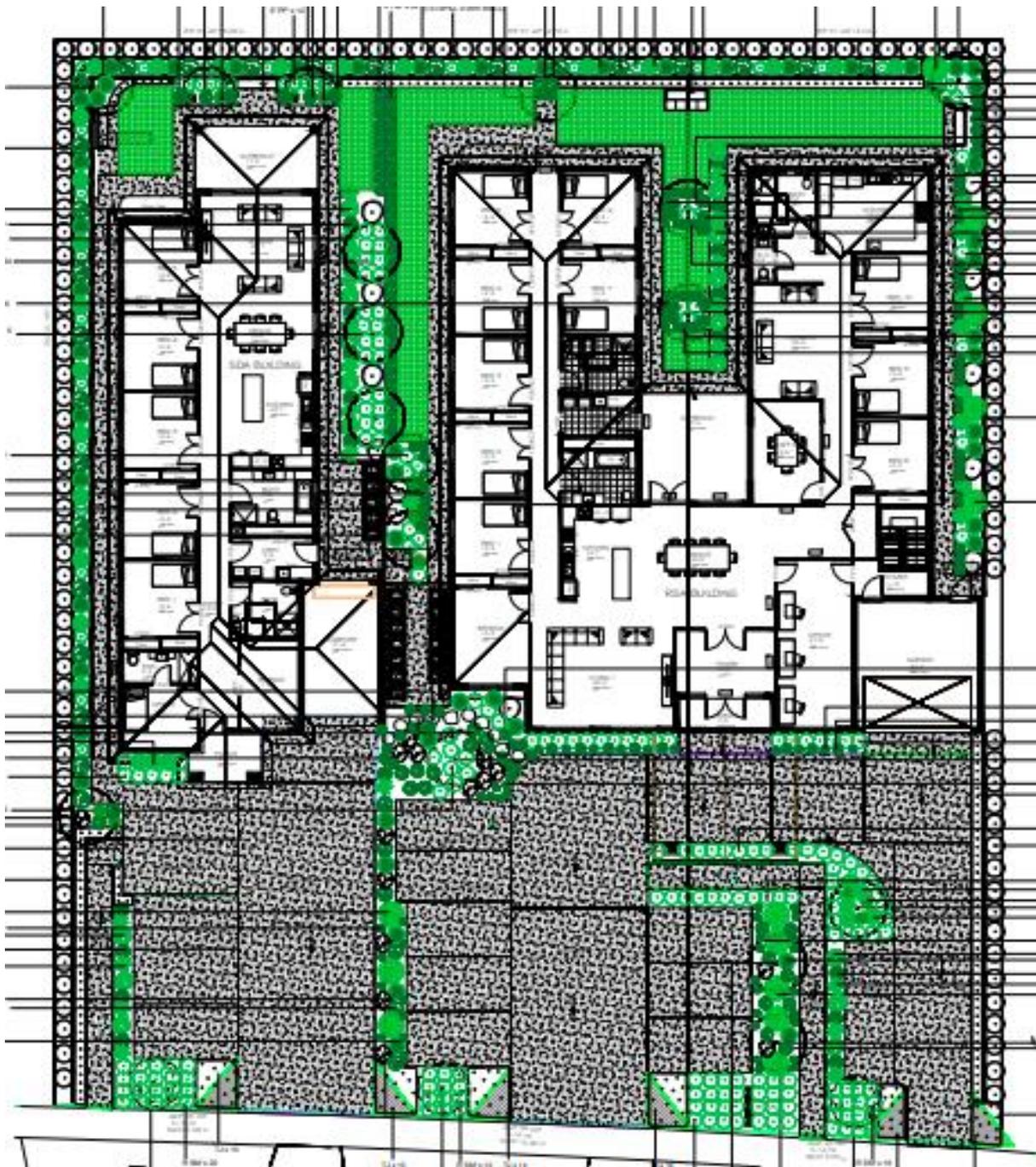
Application referred?	Yes, to Council's Strategic Planning, Environment, Emergency and Waste, Development Infrastructure, Community Development and Active Aging and Diversity.
Any issues raised in referral responses?	Further information was requested in relation to waste collection and bin location, the need for a caretaker dwelling, security, appropriate landscaping, and disability access.

Preliminary concerns?	Lack of information, specifically in relation to the absence of an approved NDIS/SDA assessment to ensure the building met the required standard.
Any discussions with applicant regarding concerns?	Yes, the applicant was advised of the preliminary concerns and further information required.
Any changes made to the application since being lodged?	Yes, the applicant addressed the main areas of concern and amended plans were provided.
Brief history.	Not applicable.
Previous applications for the site?	PA2021268 was lodged on 23 December 2021 for the same use and development. The application was withdrawn due to the applicant not being able to provide the further information requested within the prescribed time.
General summary.	<p>The application is for a Community Care Accommodation facility providing respite care, and a small amount of permanent care, for National Disability Insurance Scheme (NDIS) participants.</p> <p>This facility is privately funded and is not exempt from a Planning Permit.</p> <p>It is considered that the facility has been well designed to meet the needs of NDIS participants and will have minimal amenity impacts to surrounding properties.</p> <p>It is recommended that the application is supported.</p>
<b>Summary of Officer's Recommendation</b>	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , the Development Assessment Committee issue a Notice of Decision to Grant Planning Permit PA2022240 for development and use of Community Care Accommodation and Associated Caretaker's Dwelling and Pylon Sign at 261-267 Halletts Way, Darley subject to the conditions contained within this report.	

## SITE DESCRIPTION

The subject site is located approximately 70m west of the Halletts Way and Links Road intersection, 1.9km northwest of the Darley shopping centre, and 3.1km north of the Bacchus Marsh railway station. It is located within a residential area serviced by a public bus service.

Abutting the eastern boundary of the site is an operating childcare centre. West of the site are single dwellings on lots of similar size with access from Halletts Way. North of the site are single dwellings on lots of similar size with access from Darley Drive. South and southeast of the site is vacant land in the General Residential Zone (GRZ2) and southwest of the site is vacant land in the Public Park and Recreation Zone (PPRZ).



**Figure 1:** Site plan

The combined three lots have an area of 2,277sqm. The site slopes down from northwest corner to southeast corner with fall of approximately 5m. No easements are located on the lots. There are existing crossovers to each of the lots from Halletts Way and a footpath is constructed along the front of the site.



Figure 2: Aerial photo showing the subject site



Figure 3: Zone Map showing one of the three lots

## PROPOSAL

It is proposed to construct two community care accommodation buildings over the three lots. The buildings will offer both Specialist Disability Accommodation (SDA) and Respite Accommodation (RSA). It is not proposed to consolidate the lots.

The centre will cater for National Disability Insurance Scheme (NDIS) participants who would have varying abilities/disabilities including low and high care needs. NDIS participants are generally aged 16 years and over.

There would be a total of 15 bedrooms with one resident in each bedroom.

The centre would operate 24 hours, seven days a week with day and night staff rostered onsite. Visitor hours, including when pick up and drop off of residents can occur, would be 8am to 5pm, seven days a week. Up to three staff would service the SDA section and up to five staff would service the respite accommodation facility. Reduced staff numbers would be rostered overnight.

The SDA building would have five bedrooms and additionally have the following features:

- An open plan kitchen, meals and lounge area, two bathrooms, laundry, an office with ensuite, a retreat area and a single carport.
- In the front setback there would be five car spaces including one disabled space.
- One crossover would service the site for ingress and egress.

The RSA building would have 10 bedrooms and additionally have the following features:

- An open plan kitchen, a meals and lounge area, a second lounge and second kitchen, three bathrooms, a separate WC, a laundry, an office and separate staff room, a retreat area, a two-car space garage, a foyer and front entrance; a drive through pick up and drop off carport at the front entrance; and an alfresco area between the two wings of the building. There would be stairs from within the RSA building leading to the Caretaker residence.
- In the front setback would be eight car spaces including one disabled space, in addition to the two-car garage for the caretaker residence.
- Two crossovers would service the site for ingress and egress.

The caretaker residence would be on a first floor above the southeast corner of the RSA building. It would provide accommodation for the supervisor of the accommodation buildings.

The buildings would be constructed with brick, weatherboard and rendered blue board. Substantial retaining walls with a maximum height of 4.4m would be constructed at the rear of the site.

The car parking of 15 spaces are provided as follows:

- SDA facility – five spaces (including carport and one disabled space).
- RSA facility – eight spaces (including one disabled space).
- Caretaker residence – two spaces.

Specific signage details for this site were not provided other than dimensions of the pylon sign being 1.8m x 3m high, with lighting. The applicant has stated that signage would be like their facility in Thornbury, Victoria.

**BACKGROUND TO CURRENT PROPOSAL**

An initial application was submitted in 2021 but the applicant was unable to provide the further information requested within the prescribed time. The application was withdrawn and resubmitted once all the required information could be provided.

**HISTORY**

Not applicable.

**PUBLIC NOTICE**

Notice of the application was given to adjoining and nearby landowners and occupiers by mail and a sign erected on site. One objection was received, as well as two submissions in support of the application.

**SUMMARY OF OBJECTIONS**

The objection received is detailed below with officer's comments accompanying them:

Objection	Any Relevant Requirement
<p>I am all for building NDIS housing in the suburbs as it is needed by the community.</p> <p>However, the location is in question taking over 3 housing blocks with a large car park on site. There is other land around the Marsh which would be more suited for the facility.</p>	<p>Community Development</p>
<p><b>Officer's Response:</b> The application was referred to Council's Community Development and Active aging and Diversity. No concerns were raised about this location for a Community Care Accommodation facility.</p>	
<p>Traffic is already horrendous along the street with the creche as they do not have enough car spaces for staff and parents to drop their kids off. There are few car spaces along the street. When street parking bays are full, so the cars park up the vacant driveways, or on the road. Where is everyone going to park as there isn't enough car spaces on the street already?</p>	<p>Council's Infrastructure Design Manual.</p> <p>Clause 52.06 – Car Parking</p>
<p><b>Officer's Response:</b> The application was referred to Council's Development Infrastructure which did not raise concern about traffic impact or car parking provision. It is considered that adequate car parking is provided on the site and no reduction is required under Clause 52.06</p>	
<p>Garbage trucks for 34 or more large bins on site and near bedroom windows, delivery trucks coming and going.</p>	
<p><b>Officer's Response:</b> The application was referred to Council's Environment, Emergency and Waste Management which consented to the waste management plan.</p>	
<p>I have spoken with 3 real estate agents, and all have stated there would be a decline in property values with the facility in the street. I have spoken to people who live next to a NDIS building and said they have had issues with people would not have brought if they</p>	

had of known there was NDIS housing in the area.	
<b>Officer's Response:</b> Property values are not a valid planning consideration.	
Who will be residing in the premises? Disability is a huge umbrella from physical impairment to people with mental health issues from natural causes or drug induced impairments. NDIS stated anyone from mental health issues to physical impaired.	Clause 52.22 Community Care Accommodation
<b>Officer's Response:</b> The participant will need qualify NDIS. The facility is catering people with disability and not drug rehabilitation centre.	
What is the screening for the residents going to be live there? If people have drug related schizophrenia or mental health conditions, whether they are taking drugs or not, what are the processes for this to screen for respite?	Clause 52.22 Community Care Accommodation
<b>Officer's Response:</b> NDIS participants are supervised by qualified officers of the NDIS.	

## PLANNING SCHEME PROVISIONS

Council is required to consider the Victoria Planning Provisions and give particular attention to the Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF).

The relevant clauses are:

- Clause 02.02 – Vision
- Clause 02.03-1 – Settlement – Bacchus Marsh
- Clause 02.03-9 – Infrastructure - Community infrastructure
- Clause 16.01-4S – Community Care Accommodation

The proposal generally complies with the relevant sections of the MPS and PPF.

## ZONE

### Clause 32.09 Neighbourhood Residential Zone

Pursuant to Clause 32.09-1, Section 1, the Use of Community Care Accommodation must meet the requirements of Clause 52.22-2.

In this instance the application does not meet the requirements of Clause 52.22-2, as it is not a government funded facility, and therefore the use is in Section 2 of Clause 32.09-1 where a permit is required for the Use of Community Care Accommodation.

In accordance with Clause 32.09-49 a permit is required for Buildings and works associated with a Section 2 use.

## OVERLAYS

No overlays apply to the site.

## **PARTICULAR PROVISIONS**

### Clause 52.05 Signage

Pursuant to Category 3 of Clause 52.05, Section 2 of the Moorabool Planning Scheme, a permit is required for business identification signage and a floodlit sign.

### Clause 52.06 Car parking

Pursuant to Table 1 of Clause 52.06 of the Moorabool Planning Scheme, no car parking rate is specified for Community Care Accommodation. There is no permit trigger under this clause.

### Clause 52.22 Community Care Accommodation

As the proposed facility is not funded by, or carried out by or on behalf of, a government department or public authority, including a public authority established for a public purpose under a Commonwealth Act a permit is required for the Use of the land for Community Care Accommodation.

## **DISCUSSION**

It is proposed to use the subject land for community care accommodation. The buildings have been designed to provide both Specialist Disability Accommodation (SDA) and Respite Accommodation (RSA) for NDIS participants who would have varying abilities/disabilities including low and high care needs.

The land is within an established residential area with a public park located on the opposite side of Halletts Way. There are non-residential uses in the surrounding area such as childcare centre operating on the immediate property to the east and Council offices located to the south-west. These mixed land uses in Halletts Way support community care facility which also has access to a bus service. It is considered that the site is appropriate given that it would provide care and accommodation for NDIS participants in a generally quiet residential area. Amenity conditions will be in place to ensure there is no adverse impact to adjacent and nearby properties.

The design of the development is also suitable for the site. The built form reflects the surrounding character of the area with a similar form and appearance to surrounding residential buildings. The roof pitch and general façade of both buildings complements the design of surrounding dwellings.

The setback to side and rear boundaries and the large front setback complies with minimum building standards and complements a residential streetscape. There are no adverse amenity concerns to any adjacent properties, through overlooking, overshadowing and solar access due to the setbacks proposed for a two storey building.

The landscaping proposed across the site will soften the profile of the buildings and will include eight canopy trees at the front of the site and six canopy trees at the rear.

The facility must receive an “as built certificate’ showing compliance with NDIS SDA Design Standards that are not part of the Moorabool Planning Scheme prior to the use commencing. The applicant advised that this cannot be finalised until the building has been satisfactorily completed.

There is a high retaining wall to be constructed at the rear of the facility. The retaining wall will be landscaped with climbing plants to soften its impact at the rear of the site. The facility is required to minimise slope by cutting into the natural topography to ensure internal pathways and garden area are generally flat as the occupants may have limited mobility.

The proposed use and development cater to a community need for a specialised facility catering to people who require disability and respite accommodation.

It is recommended that the application is supported subject to conditions.

### GENERAL PROVISIONS

Clause 65 - Decision Guidelines have been considered by officers in evaluating this application.

Clause 66 - Stipulates all the relevant referral authorities to which the application must be referred.

### REFERRALS

Authority	Response
Council's Development Infrastructure	Consent with conditions.
Strategic Planning	Consent with advice.
Community Development	Consent, no conditions.
Active Aging and Diversity	Consent, no conditions.
Environment, Emergency and Waste Management	Consent, no conditions.

### FINANCIAL IMPLICATIONS

The recommendation of approval of this application has no financial implications to Council.

### RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

The recommendation of approval of this application does not implicate any risk or OH&S issues to Council.

### COMMUNICATIONS STRATEGY

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address the Development Assessment Committee.

### OPTIONS

That the Development Assessment Committee could consider the following options:

- issue a Notice of Decision to Grant a Planning Permit in accordance with the recommendations of this report; or
- issue a Refusal to Grant a Planning Permit on specific grounds. The Committee would need to consider what reasonable grounds there would be to refuse the application. This option may result in the applicant appealing the decision at VCAT.

### CONCLUSION

The need for Community Care Accommodation, particularly respite care, is likely to increase as the population grows in Bacchus Marsh. This is a relatively small facility and is considered suitable for the location. The application has met the requirements of the relevant provisions of the Moorabool Planning Scheme and surrounding amenity can be protected by permit conditions. The facility requires NDIS compliance accreditation prior to the use commencing which will ensure that the facility is safe for residents and meets the required design standards.

**8 UPDATE ON TRENDS, ISSUES AND OTHER MATTERS**

**9 UPDATE ON VCAT DECISIONS**

**10 OTHER BUSINESS**

**11 DATE OF NEXT MEETING**

Wednesday 16 August 2023.

**12 MEETING CLOSE**