BL&A Brett Lane & Associates Pty. Ltd.
Ecological Research & Management

23rd January 2017

Rennick & Gaynor Solicitors
431 Riversdale Road
Hawthorn East VIC 3123

Attention: Dan Minogue
By email — danm@rennicks.com.au (phone 03 9861 7730)
CC – commercial@rennicks.com.au

Dear Dan,

RE: 'SCENIC ESTATE', PHILLIP ISLAND ROAD, SURF BEACH
ADVICE ON NATIVE VEGETATION EXTENT AND GRAZING POTENTIAL
BL&A REPORT NO. 17009 (1.0)

Introduction

Rennick & Gaynor Solicitors engaged Brett Lane & Associates Pty Ltd (BL&A) on behalf of Bass Coast Shire Council to conduct a native vegetation overview assessment of an approximately 30 hectare area known as 'Scenic Estate', at Surf Beach, Phillip Island. The specific area investigated, referred to herein as the 'study area', comprised the entire area planned for the subdivision known as Scenic Estate. Information on native vegetation was also gathered for the adjoining coastal reserve immediately to the north.

The study area occurs to the north of Phillip Island Road, at Surf Beach, Phillip Island, and is subject to the Bass Coast Shire Council planning scheme. It is currently mostly zoned Farming Zone, as is the land adjacent to the east and west. Formal walking trails, informative signage and picnic infrastructure occur within parts of the study area.

It is understood that a proposition has been put forward involving the potential for the subdivision area to return to a single lot with Farming Zone retained, to allow for a dwelling and associated outbuildings and the use of the land for stock grazing.

This investigation was commissioned to provide a native vegetation overview assessment to determine whether a proposition to graze the land would require the removal of native vegetation, and the subsequent implications under the planning scheme.

This investigation was undertaken by a team from BL&A, comprising Justin Sullivan (Senior Ecologist) and Mal Wright (Senior Ecologist & Project Manager).

Planning and legislation

Local planning provisions

The study area is located within the Bass Coast local government area. The study area is currently zoned Farming Zone. The coastal reserve which forms a band immediately to the north of study area is zoned Public Conservation and Resource Zone, and a small area of land in the north east corner of the study area which is zoned Public Park and Recreation Zone

Clause 21.04 of the Bass Coast Planning Scheme outlines the local planning policies relevant to the investigation. Objective 4 is particularly relevant and aims "To identify and protect good quality vegetation stands throughout the municipality."

Overlays

The study area is subject to several overlays in the Bass Coast Planning Scheme including Land Subject to Inundation Overlay (LSIO), Significant Landscape Overlay (SLO3), Bushfire Management Overlay (WMO) and Environmental Significance Overlay (ESO1). ESO1 has regard to the environmentally sensitive nature of the coastal areas adjacent to Western Port Bay and its Ramsar wetlands, listed under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

A permit is required under SLO3 and ESO1 for the removal of any native vegetation.

State planning provisions

State planning provisions are established under the Victorian *Planning and Environment Act 1987*. Under Clause 52.17 of all Victorian Planning Schemes a planning permit is required for the destruction, lopping or removal of native vegetation on land which has an area of 0.4 hectares or more (together with all contiguous land in single ownership). Before issuing a planning permit, Responsible Authorities are obligated to refer to Clause 12.01 (Biodiversity) in the Planning Scheme. This refers in turn to the following online tool and document:

- The Native Vegetation Information Management system (NVIM) (DELWP 2017a) — a database administered by DELWP; and
- *Permitted clearing of native vegetation – Biodiversity assessment guidelines* (DEPI 2013).

Investigation methods

Pre-1750 (pre-European settlement) vegetation mapping administered by DELWP was reviewed to determine the type of native vegetation likely to occur in the study area and surrounds. Information on Ecological Vegetation Classes (EVCs) was obtained from published EVC benchmarks. These sources included:

- Biodiversity Interactive Maps (DELWP 2017b); and
- Relevant EVC benchmarks for the Gippsland Plain bioregion (DELWP 2017c).

A field assessment was conducted on 19th January 2017. During this assessment, the study area was surveyed in detail on foot. Areas in the study area found to support native vegetation were mapped through a combination of aerial photograph interpretation and hand held GPS. For the purpose of this assessment, native vegetation was characterised into Ecological Vegetation Class.

Native vegetation is currently defined in the Victoria Planning Provisions as 'plants that are indigenous to Victoria, including trees, shrubs, herbs and grasses'. The *Biodiversity assessment guidelines* (the 'Guidelines') define native vegetation as belonging to two categories; remnant patches or scattered trees. Only remnant patch native vegetation occurred in the study area.

Results

Site description

The study area is generally flat throughout and comes to a steep drop to the north where the coastal reserve adjoins Western Port Bay. The site mostly comprises a matrix of native scrub and grassland vegetation, dissected by a network of dirt tracks which range from 2 to 6 metres in width. The main access track, a wide track of crushed rock, runs north-south, along the eastern side of the study area. A small carpark exists in the south east corner of the study area, which provides informative signage of the area to the public.

Surrounding land predominantly supported farming land. Sheep were noted grazing in the large property to the west at the time of the survey. Vegetation in the adjacent grazing land was characterised by 'improved pasture', whereby previously occurring scrub and tussock grassland has been removed, and replaced with introduced pasture grasses.

The study area lies within the Gippsland Plain bioregion and falls within the Port Phillip and Western Port catchment.

Native vegetation

Pre–European EVC mapping (DELWP 2017b) indicated that the study area and surrounds would have supported Brackish Grassland/Swamp Scrub Mosaic, Swamp Scrub (EVC 53) and Coastal Headland Scrub (EVC 161) prior to European settlement based on modelling of factors including rainfall, aspect, soils and remaining vegetation.

Evidence on site, including floristic composition and soil characteristics, suggested that the following EVCs were present within the study area:

- Coastal Saltmarsh (EVC 9);
- Swamp Scrub (EVC 53);
- Coastal Alkaline Scrub (EVC 858); and
- Brackish Grassland (EVC 934).

Mangrove Shrubland (EVC 140) was recorded just outside the study area to the northeast.

Seventy remnant patches comprising the abovementioned EVCs were identified in the study area (see Attachment 1). Descriptions of each of the EVCs recorded in the study area are provided below.

Coastal Saltmarsh (EVC 9) – Four remnant patches of Coastal Saltmarsh were recorded in the study area, comprising a total of 0.549 hectares. Three of these patches were considered likely to have re-colonised on areas of land which had previously been disturbed. This was evident as Beaded Glasswort was largely the only species present in these zones (Figure 1). The fourth patch of Coastal Saltmarsh occurred in the northern part of the study area along a natural brackish drainage line and supported a diversity of saltmarsh species including Beaded Glasswort, Rounded Noon-flower and Australian Salt-grass.

Figure 1: Coastal Saltmarsh (EVC 9) recolonising in disturbed area

Swamp Scrub (EVC 53) - Swamp Scrub was the most dominant vegetation type in the study area, being recorded across 42 remnant patches and comprising a total area of 16.181 hectares. This vegetation type was generally distinguished by a dense stand of Swamp Paperbark (Figure 2), with few other flora species present. Different age stands of Swamp Paperbark were recorded. Some, more open and diverse patches of Swamp Scrub did occur, and included additional native woody species such as Sweet Bursaria, Coastal Beard-heath, Common Boobialla and Prickly Moses. The level of woody recruitment in this vegetation type was very high, predominantly led by Swamp Paperbark, as well as Coast Beard-heath.

Figure 2: Dense patches of Swamp Scrub (EVC 53) separated by maintained track

Mangrove Shrubland (EVC 140) - One remnant patch of Mangrove Shrubland was recorded to the north east of the study area. This patch, which was dominated by White Mangrove, was contiguous with Mangrove Shrubland that occurs to the north east of the study area.

Coastal Alkaline Scrub (EVC 858) – Six remnant patches of Coastal Alkaline Scrub were recorded in and adjacent to the study area, comprising a total area of 4.515 hectares. This vegetation type was recorded mostly along the northern section of the study area and distinguished by the presence and/or dominance of Moonah (Figure 3). Two large patches of this vegetation type were considered to be high quality remnants, supporting a healthy canopy of large Moonah trees over a species rich understorey of native shrubs (Common Boobiala), creepers (Bower Spinach and Small-leaf Clematis) and grasses (wallaby grass, spear grass and Weeping Grass).

Other patches comprised several large Moonah and a more open grassy understorey; occurred patch along the eastern fence line comprised large Moonah as well as Drooping Sheoak.

Figure 3: Coastal Alkaline Scrub (EVC 858) dominated by Moonah

Brackish Grassland (EVC 934) - 17 remnant patches of Brackish Grassland were recorded in the study area, comprising a total area of 4.961 hectares. This vegetation type was dominated by Common Tussock-grass, a large tussock forming grass species which creates an uneven ground surface throughout the grassy areas (Figure 4). Milky Beauty-heads were one of the only other commonly occurring native species in this vegetation type.

Figure 4: Brackish Grassland (EVC 934) with Swamp Scrub in the background

Summary and implications

Native vegetation covers the vast majority of the study area, with the exception of the maintained tracks and carpark. Native vegetation recorded was mostly comprised of woody vegetation (Swamp Scrub or Coastal Alkaline Scrub), with 50 patches totalling 21.24 hectares, and accounting for 80% of the native vegetation recorded. A small number of these patches (2.62 hectares in area) were characterised by low, regenerating scrub.

Scrub native vegetation would need to be removed in order for grazing to occur in these areas, given that this vegetation precludes the growth of pasture grasses.

20 patches of non-woody vegetation (Brackish Grassland or Coastal Saltmarsh) were recorded in the study area (5.456 hectares), accounting for 20% of the native vegetation recorded (see Attachment 1).

The tussock grasses in this native vegetation type are not palatable to stock, and therefore this vegetation type would need to be substantially altered for grazing to occur, with the removal of native vegetation required.

The implications of the proposition to utilise the majority of the study area for stock grazing are presented below, based on the assumption that the study area was considered as one large rural lot.

Overlays and Planning provisions

Any proposal to remove native vegetation would be assessed against the Bass Coast Planning Scheme. Furthermore, any removal of native vegetation would result in the requirement for a planning permit under Clause 52.17. A permit would also be required under overlays SLO3 and ESO1 which are aimed at maintaining the character and ecological values of Phillip Island respectively.

The permit trigger under Clause 52.17 requires an assessment of the native vegetation proposed for removal as per the Guidelines (DEPI 2013). This requires knowledge of the appropriate risk-based pathway which is determined on the basis of 'extent risk' and 'location risk'. The location risk map is provided in Figure 5.

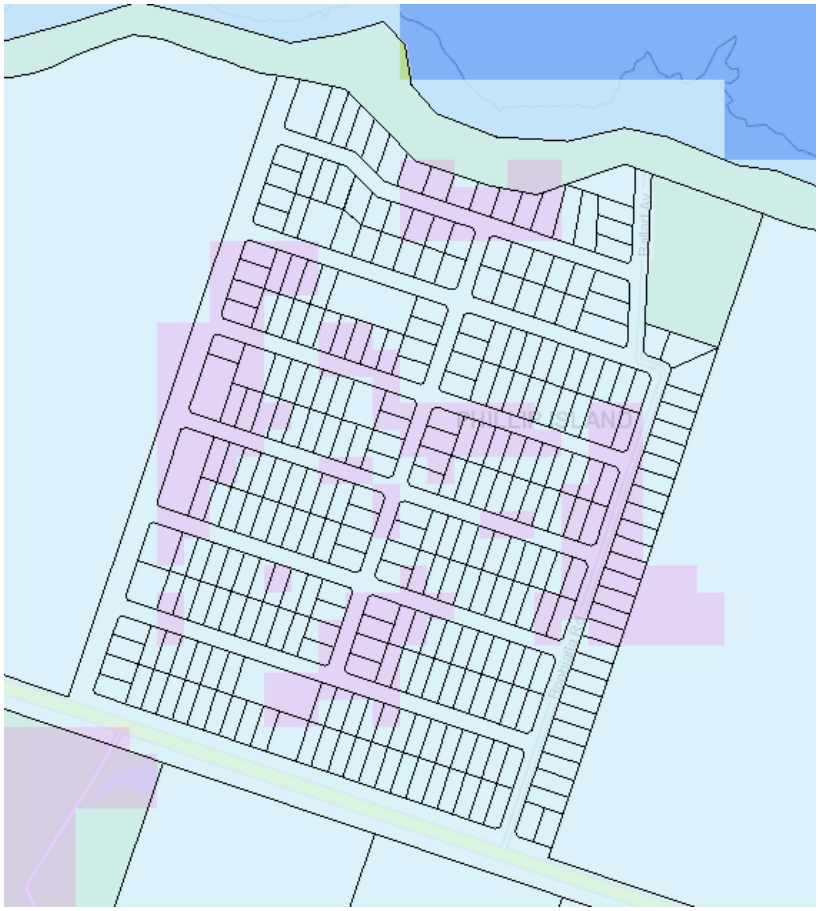

Figure 5: Native vegetation location risk map (NVIM 2017)

Note: Blue = Location A; Purple = Location B

The study area contained mapped areas of the following *location risk* categories:

- Location Risk A – covering the majority of the study area; and
- Location Risk B – scattered across the site.

Areas of Location Risk B are likely to be associated with modelled habitat for Victorian-listed rare or threatened species. Given the large size of the study area and almost complete cover of native vegetation, it is also likely that this vegetation would 'make a significant contribution to Victoria's biodiversity' as described in the Guidelines.

It is considered likely that substantially more than one hectare of native vegetation would need to be removed in order to demonstrate that a large rural lot could sustain agriculture in the form of stock grazing – i.e. several hectares. An application for the removal of several hectares of native vegetation would be assessed by the Responsible Authority under the *high* assessment pathway under the Guidelines (for removal of ≥ 1

hectare) and referred to the Department of Environment, Land, Water and Planning (DELWP).

Offsets to compensate for the removal of native vegetation would be required under this proposition, and may be linked to rare or threatened species habitat. Our experience is that such offsets in the Western Port area are difficult to source. The proposal would need to demonstrate at the application stage that offsets are available under the high risk pathway and that the native vegetation proposed for removal does *not* make a significant contribution to Victoria's biodiversity.

Such an application under the high risk pathway also requires demonstration that removal of native vegetation as been avoided and minimised. It is our opinion that DELWP would object to such a proposal – an opinion that is borne out by decision guidelines for the responsible and referral authorities outlined in the *Biodiversity assessment handbook* (DELWP 2015, p.34).

I trust this information is useful, and if you have any questions please do not hesitate to contact me.

Yours sincerely,

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References

Department of Environment and Primary Industries (DEPI) 2013, *Permitted clearing of native vegetation: Biodiversity assessment guidelines* (dated September 2013), Department of Environment and Primary Industries, now Department of Environment, Land, Water and Planning, East Melbourne, Victoria.

Department of Environment, Land, Water and Planning (DELWP) 2015, *Biodiversity assessment Handbook*, *Permitted clearing of native vegetation* (dated May 2015), Department of Environment and Primary Industries, now Department of Environment, Land, Water and Planning, East Melbourne, Victoria.

Department of Environment, Land, Water and Planning (DELWP) 2017a, *Native Vegetation Information Management system*, Department of Environment, Land, Water and Planning, East Melbourne, Victoria, viewed 23rd January 2017, <https://nvim.delwp.vic.gov.au/>

Department of Environment, Land, Water and Planning (DELWP) 2017b, *Biodiversity Interactive Map 3.2*, Department of Environment, Land, Water and Planning, East Melbourne, Victoria, viewed 18th January 2017, <http://mapshare2.dse.vic.gov.au/MapShare2EXT/imf.jsp?site=bim>.

Department of Environment, Land, Water and Planning (DELWP) 2017c, *Ecological Vegetation Class (EVC) Benchmarks by Bioregion*, Department of Environment, Land, Water and Planning, East Melbourne, Victoria, <http://www.depi.vic.gov.au>.

Attachment 1: Study area and native vegetation

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Attachment 1: Study area and native vegetation

Project: Scenic Estate, Phillip Island **Client**: Rennick and Gaynor Solicitors **Date**: 24/01/2017

Study area

EVC Name

- Brackish Grassland (EVC 934)
- Coastal Alkaline Scrub (EVC 858)
- Coastal Saltmarsh (EVC 9)
- Mangrove Shrubland (EVC 140)
- Swamp Scrub (EVC 53)

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