

Bass Coast Shire Council
Council Meeting Agenda

Wednesday 20 March 2024

Council Chamber

Bass Coast Civic Centre

Baillieu Street East, Wonthaggi

Commencing at 1:00 pm



Community Vision 2041

Vision Statement

From its flowing hills to its wild unspoiled coastlines, the Bass Coast is a source of celebration for all who live in and visit the region.

Our townships are vibrant, rich with culture and full of life, each with its own distinct character. Drawing on our creativity, innovation and resilience we've created a thriving and diverse economy that supports sustainable agriculture and industry.

We live proudly on Bunurong Country, and build on learnings from our First Peoples and their knowledge. We coexist in harmony with our environment, and are prepared for future challenges and changes.

We are the people of the Bass Coast. Experience ou cultures and history, and contribute to our story.



Notice of Meeting

Notice is hereby given that the next **Council Meeting** of the Bass Coast Shire Council will be held at the Council Chamber Bass Coast Civic Centre Baillieu Street East, Wonthaggi on 20 March 2024 at **1:00 pm**

Date of Notice – 15 March 2024

Greg Box

CEO

Mobile Telephone Reminder

Please turn off all mobile telephones or in the case of an emergency, please advise the Chair and switch to silent mode.

Statement of Acknowledgement

Bass Coast Shire Council acknowledge the Bunurong as the Traditional Owners and Custodians of the lands and waters, and pays respect to their Elders past, present and emerging, for they hold the memories, the traditions, the culture and Lore.

Bass Coast Shire Council celebrates the opportunity to embrace and empower the Aboriginal and/or Torres Strait Island Communities in their diversity.

Bass Coast Shire Council will create opportunities for future recognition and respectful partnerships that will honour the Traditional Owners and Custodians, and Aboriginal and/or Torres Strait Islander Peoples.

Councillor Statement

All members of this Council pledge to the Bass Coast Shire community to consider every item listed on this evening's agenda:

- Based on the individual merits of each item;
- Without bias or prejudice by maintaining an open mind; and
- Disregarding Councillors' personal interests so as to avoid any conflict with our public duty.

Any Councillor having a conflict of interest in an item will make a proper, prior disclosure to the meeting and will not participate in the debate or vote on the issue.

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1 Present and Apologies

2 Declarations of Interest

3 Confirmation of Minutes

3.1 Council Meeting 21 February 2024

That the minutes of the Council Meeting held on 21 February 2024 be confirmed.

Mayor and Councillor Reports

4 Mayor and Councillor Reports

5 Public Question Time

The virtual forum will not provide the opportunity for submitters to ask their questions directly. Questions must be submitted in writing prior to the Meeting and questions and responses will be published in the minutes.

Please note:

Questions relating to an item in the agenda will be provided with the following response

- ***Councillors will consider and debate all aspects and implications of this issue as part of Council's agenda.***

Governance Rules

Part C – Meetings Procedure

Division 8 – Public Question Time

54. Question Time

54.1 Public question time must be held at each Council meeting fixed under Rule 9 to enable members of the public to submit questions to Council.

54.2 Sub-Rule 54.11 does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the Act.

54.3 Questions submitted to Council must be:

54.3.1 in writing, state the name and address of the person submitting the question and generally be in a form approved or permitted by Council; and

54.3.2 be lodged 48 hours prior to the Council meeting.

54.4 No person may submit more than two questions at anyone meeting.

54.5 The Chair or a member of Council staff nominated by the Chair may read a question and response at the meeting which has been submitted in accordance with this Rule. Not all questions are required to be read at the meeting.

54.6 A question may be disallowed by the Chair if the Chair determines that it:

54.6.1 relates to a matter outside the duties, functions and powers of Council.

54.6.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance.

54.6.3 deals with a subject matter already answered.

54.6.4 is aimed at embarrassing a Councillor or a member of Council staff.

54.6.5 relates to personnel matters.

54.6.6 relates to the personal hardship of any resident or ratepayer.

54.6.7 relates to confidential information as defined in Section 3 of the Act

54.6.8 relates to matters affecting the security of Council property; or

54.6.9 relates to any other matter which Council considers would prejudice Council or any person.

54.7 Any question which has been disallowed by the Chair will not be read at the meeting.

54.8 Any question which has been disallowed by the Chair must be made available to Councillors.

54.9 All questions and answers must be as brief as possible, and no discussion may be allowed other than by Councillors for the purposes of clarification.

54.10 Questions must be limited to 50 words inclusive of any preamble and additional information.

54.11 Like questions may be grouped together and a single answer provided.

54.12 The Chair may nominate a Councillor or the Chief Executive Officer to respond to a question.

54.13 A Councillor or the Chief Executive Officer may require a question to be put on notice. If a question is put on notice, a written copy of the answer will be sent to the person who asked the question.

54.14 A Councillor or the Chief Executive Officer may advise Council that it is their opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or Chief Executive Officer (as the case may be) must briefly state the reason why the reply should be so given and, unless Council resolves to the contrary, the reply to such question must be so given.

Notices of Motion

6 Notices of Motion

6.1 256/24 Pine trees San Remo, Cr Rochelle Halstead

6.1 256/24 Pine trees San Remo, Cr Rochelle Halstead

Declaration

The author has no general or material interests in relation to this report.

I, Cr Rochelle Halstead, hereby give notice that I intend to move a motion at the Council Meeting 20 March 2024, which reads as follows:

Motion

That Council receive a report that:

1. **Provides a full list of incidents over the past 5 years,**
2. **Include as attachments any arborist reports provided to council that suggest the trees are healthy and safe.**
3. **Identifies the process for having the trees removed. (Suggestions the trees are an Avenue of Honour).**
4. **Address any financial impact removing these trees may have including replacement options and cost.**
5. **Consider the use of stumps for carving as part of the San Remo Structure Plan.**

Background by Councillor

Nil.

Officers Comments

A report will be prepared and tabled at a Council meeting no later than May 2024 pertaining to the Pine Trees in San Remo.

Council currently employs an inspection arborist who regularly inspects the condition of trees on Council land and engages independent arborists to inform tree maintenance and management as required. The pine tree opposite Bergin Grove on Marine Parade will be inspected by an independent arborist the week ending the 8 March 2024 and actions to address any further risk undertaken.

……..

Cr Rochelle Halstead, Western Port Ward

Dated: 20 March 2024

Attachments

1. Photos Pine Trees San Remo [**6.1.1** - 3 pages]

7 Petitions and Joint Letters

7.1 Masterplan & Additional Open Space at Cape Woolamai

7.1 Masterplan & Additional Open Space at Cape Woolamai

Division	**Business Transformation**
Council Plan Strategic Objective	**Leading for our Community** *Demonstrating leadership through good governance, transparency and accountability*

Declaration

The author has no general or material interests in relation to this report.

A Petition containing 86 signatures has been received. The petition reads:

We the undersigned, being permanent residents, holiday home owners and visitors of Cape Woolamai, request a Masterplan for the public open space area at Sunnyside Avenue, Cape Woolamai, and a Masterplan for a second open space (including a playspace) in the suburb of Cape Woolamai.

We request the Masterplans give consideration to the following being included in a play space in Cape Woolamai:

- *Toilets*
- *Shelter*
- *Water fountain*
- *Pump track (in accordance with previous community petition)*
- *100% Wheelchair accessibility*

The permanent population of Cape Woolamai (according to 2021 Census Data) is 2301, which includes 583 families. 24.7% of the population, being some 568 people, are under the age of 19. This is the highest percentage of residents under 19 in the shire.

However, Cape Woolamai provides only one play space for these 2301 people. This is less than half the playspace to population ratio of any other area of Bass Coast Shire, despite the area having the highest proportion of young people.

Comparatively:

- *San Remo has a ratio of 554 people per playspace (upon completion of San Remo's-3rd playspace at Anderson Street);*
- *Cowes: one playspace for every 1132 population;*
- *Wonthaggi: one playspace per 1053 population; and*
- *Rhyll: one playspace per 364 population (the 2021 Census data indicates only 103 people in Rhyll being under 18, yet they have 2 playspaces).*

Further, despite the Cape Woolamai population and demographic, the Sunnyside Avenue Park is categorised as a "Local" park, which only caters for ages 0 to 8 years. Having a high proportion of youth in the area, this is inadequate to cater to local need, and the many children in the area aged 9 to 17.

Concerningly, Council considers that playspaces categorised as Local do not have to be wheelchair accessible. This is highly discriminatory to people with disabilities in the local region.

San Remo, which has a lower population, and smaller proportion of young people, has one Township park in addition to 2 Local parks. Anderson Street, San Remo is classified as a Local park, and was allocated $600k in this year's Council budget.

It is imperative that Council prioritize a second playspace for Cape Woolamai that is accessible for people with disabilities, that can assist in providing adequate spaces for the growing young population of the area.

As you would be aware, there is a strong push for a pump track in Cape Woolamai to provide recreational facilities for the growing population of youth that live in the area. We request that consideration be given to this proposal focusing on the permanent residents of the area, not through the lens of providing attractions for tourists. While we understand the importance of tourist income, the facilities for local residents are vastly lacking.

There is a known gap in Cape Woolamai between provision of playspaces and community need. We understand that the current Council costs for maintaining open space in Cape Woolamai are low compared with other areas with similar population, because Phillip Island Nature Parks funds and manages a significant proportion of the required maintenance. Council should therefore prioritise funding for Cape Woolamai to close the gap between community need and existing facilities.

Section 55.2 of the Bass Coast Shire Council Governance Rules states that:

"Unless Council resolves to deal with it earlier, no motion (other than a motion to receive the same) may be made on any petition, joint letter or other like application until a future Council meeting after that at which it has been presented."

Recommendation

That Council:

1. **Receive the petition, Masterplan & Additional Open Space at Cape Woolamai to lie on the table with a report to be presented no later than the June 2024 Council Meeting.**
2. **Advise the head petitioner of Council's decision.**

Attachments

1. CONFIDENTIAL - March Joint Letter Request for Masterplan Open Space at Cape Woolamai [**7.1.1** - 19 pages]

73 Petitions in relation to Surf Beach Sunderland Bay

7.2 Petitions in relation to Surf Beach Sunderland Bay

Division	**Business Transformation**
Council Plan Strategic Objective	**Leading for our Community** *Demonstrating leadership through good governance, transparency and accountability*

Declaration

The author has no general or material interests in relation to this report.

Council has received three separate petitions in relation to Surf Beach Sunderland Bay.

The first Petition The Esplanade Sunderland Bay containing 29 signatures, reads:

> *We the undersigned, being owners of properties abutting The Esplanade Sunderland Bay, request that Bass Coast Shire Council prioritises an urban road and drainage infrastructure improvement project for this section of road in accordance with Councils Urban Roads and Drainage Improvement Policy. We understand that the project will be funded through 'user pays' principles in accordance with Councils Special Rates and Charges Policy.*

The second petition, Tolley Ave, Surf Beach containing 11 signatures, reads:

> *We the undersigned, being owners of properties abutting Tolley Ave, Surf Beach, request that Bass Coast Shire Council prioritises an urban road and drainage infrastructure improvement project for this section of road in accordance with Councils Urban Roads and Drainage Improvement Policy. We understand that the project will be funded through 'user pays' principles in accordance with Councils Special Rates and Charges Policy.*

The third petition, Sealing of Dunvegan Crescent, Surf Beach, reads:

> *We would like to meet and work with Councillors and Shire officers to find a suitable, low-cost road design and to seek alternate funding for the works. This funding could come from State or Federal Grants or other such sources.*
>
> *Given that the bulk of the road dust issues are not caused by property owners and that the bulk of the enjoyment of the road is by others, our contention is that the property owners on Dunvegan Crescent should not have to bear the costs of improvements and maintenance.*

Section 55.2 of the Bass Coast Shire Council Governance Rules states that:

"Unless Council resolves to deal with it earlier, no motion (other than a motion to receive the same) may be made on any petition, joint letter or other like application until a future Council meeting after that at which it has been presented."

Recommendation

That Council:

0. **Receive the three petitions to lie on the table with a report to be presented no later than the June 2024 Council Meeting.**
    a. **The Esplanade Sunderland Bay, road and drainage upgrade**
    b. **Tolley Ave, Surf Beach, road and drainage upgrade**
    c. **Sealing of Dunvegan Crescent, Surf Beach**
1. **Advise the head petitioner of Council's decision.**

Attachments

1. CONFIDENTIAL - The Esplanade Sunderland Bay Petition for road upgrades [**7.2.1** - 7 pages]
2. CONFIDENTIAL - Tolley Ave Surf Beach Petition for road upgrades [**7.2.2** - 2 pages]
3. CONFIDENTIAL - Sealing of Dunvegan Crescent Surf Beach [**7.2.3** - 6 pages]

Reports Requiring Council Decision

8 Reports Requiring Council Decision

8.1 Planning Application PDPLANPER-2023/000671 - Phillip Island Rd, Sunderland Bay

8.1 Planning Application PDPLANPER-2023/000671 - Phillip Island Rd, Sunderland Bay

Division	**Place Making**
Council Plan Strategic Objective	**Sustainable Development** *Prepare for growth while ensuring the intrinsic values and character of Bass Coast are retained*

Declaration

The author has no general or material interests in relation to this report.

Purpose of Report

For Council to consider a planning application for use and development of land for a telecommunication facility in a Farming Zone (FZ) and a Significant Landscape Overlay (SLO2) and access from a road in a TRZ2.

Executive Summary

Application number:	PDPLANPER-2023/000671
Applicant:	Downer Group on behalf of Indara
Land/Address:	Phillip Island Road Sunderland Bay
Ward:	Island Ward
Proposal:	Use and development of land for a telecommunication facility in a Farming Zone (FZ) and a Significant Landscape Overlay (SLO2) and access from a road in a TRZ2
Zone:	Farming Zone (FZ)
Overlay:	Significant Landscape Overlay – Schedule 2 (SLO2)
Aboriginal cultural heritage sensitivity	The site is not located within an area of identified cultural heritage sensitivity.
Title:	Lot 1 on Title Plan 967217 in Volume 10366 Folio 515 No covenants or easements affect the land.
Number of submissions:	A total of 30 objections were received.
Reason a Council decision is required:	Council's delegations require applications that attract fifteen or more objections to be determined by Council. This application attracted 32 submissions of which 30 were objections.

Officer recommendation:	Refusal to Grant a Planning Permit

Summary of Officer Recommendation

That Council issue a Refusal to Grant a Permit on the grounds outlined in the Officer Recommendation section of this report.
The proposal is not recommended for support for the following reasons:

- The proposal is inconsistent with the objectives of local and state planning policies that seek to balance the need to protect landscape values with the facilitation of telecommunication facilities.
- The proposal is inconsistent with the design and siting decision guidelines of the Farming Zone.
- The proposal is inconsistent with the landscape character objectives and decision guidelines of the Significant Landscape Overlay – Schedule 2.
- The proposal is inconsistent with the purpose and decision guidelines of Clause 52.19 (Telecommunications Facility) as it does not facilitate proper and orderly planning or minimise visual amenity impacts on identified landscape values.

Main Considerations

The following are the considerations that formed the main assessment of this application:

- Whether the development accords with the stated objectives and strategies of state and local planning policy in particular as it relates to landscape values and facilitating the supply of telecommunications facilities.
- Whether the development produces a satisfactory outcome having regard to planning scheme controls and decision guidelines, with particular regard to landscape character objectives.
- Whether the development will result in visual amenity impacts that would be acceptable from key areas in the public realm.
- Whether the clear and unambiguous planning policy support for the provision of telecommunications facilities should outweigh the visual intrusion in an identified significant landscape.

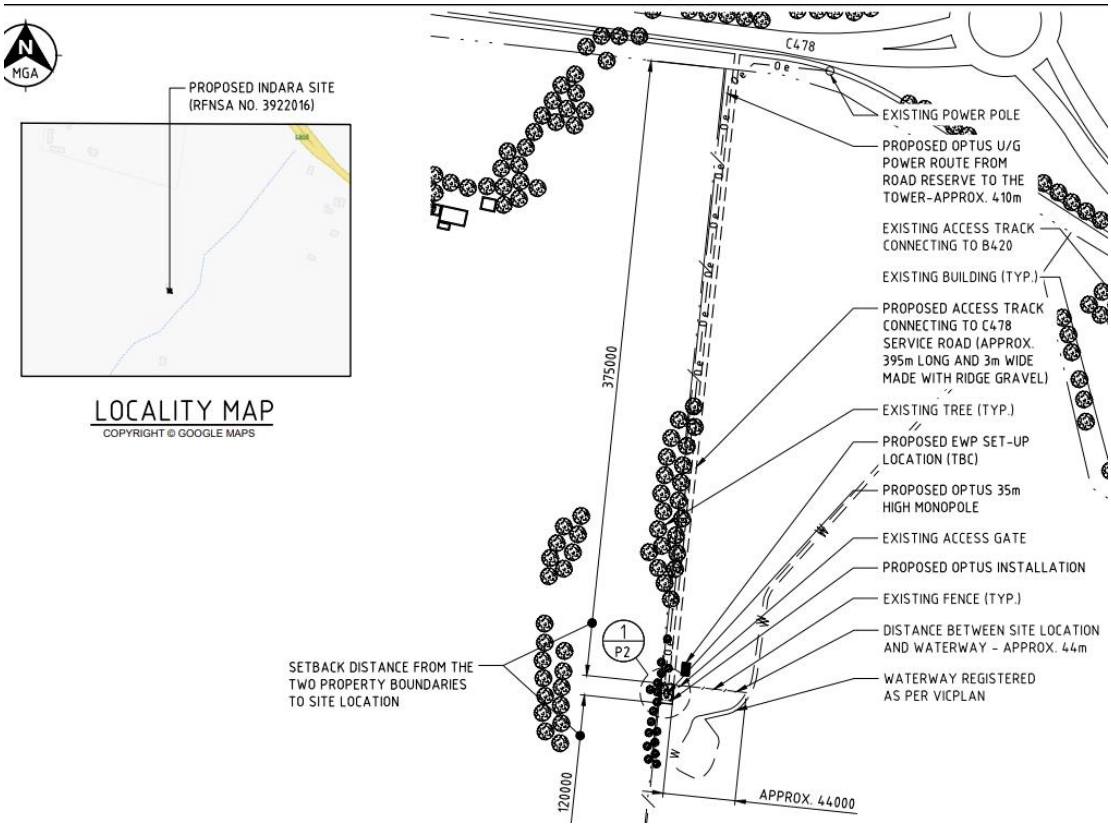
The Proposal

This application seeks approval for installation of a telecommunications facility in accordance with decision plans are reports provided as Attachments and detailed below:

- Development plans (three sheets) showing site and setbacks and elevations prepared by Indara dated 9 October 2023 (AT-1)
- Planning Report prepared by Downer Group dated July 2023 (AT-2).
- EPBC Protected Matters Report 16 June 2023 (AT-3).
- Environmental EME Report (amended 10 January 2024, version date 12 February 2024) presented by Downer Group (AT-4).

Key features of the proposal include:

- A works area of approximately 120 square metres containing the monopole and all ancillary equipment.
- Works to install one 35 metre monopole.
- Works to install a microwave dish on the monopole at 15 metres.
- Works to install three panel antenna. There are additional 'future' antenna shown on plans that are not discussed in the planning report.
- Works to install a four-bay cabinet at the base of the monopole.
- An upgraded crossover to be located on Back Beach Road.
- Works to upgrade the track to enable access from Back Beach Road to the works area with an approximate length of 395 metres and a width of 3 metres.



Site plan

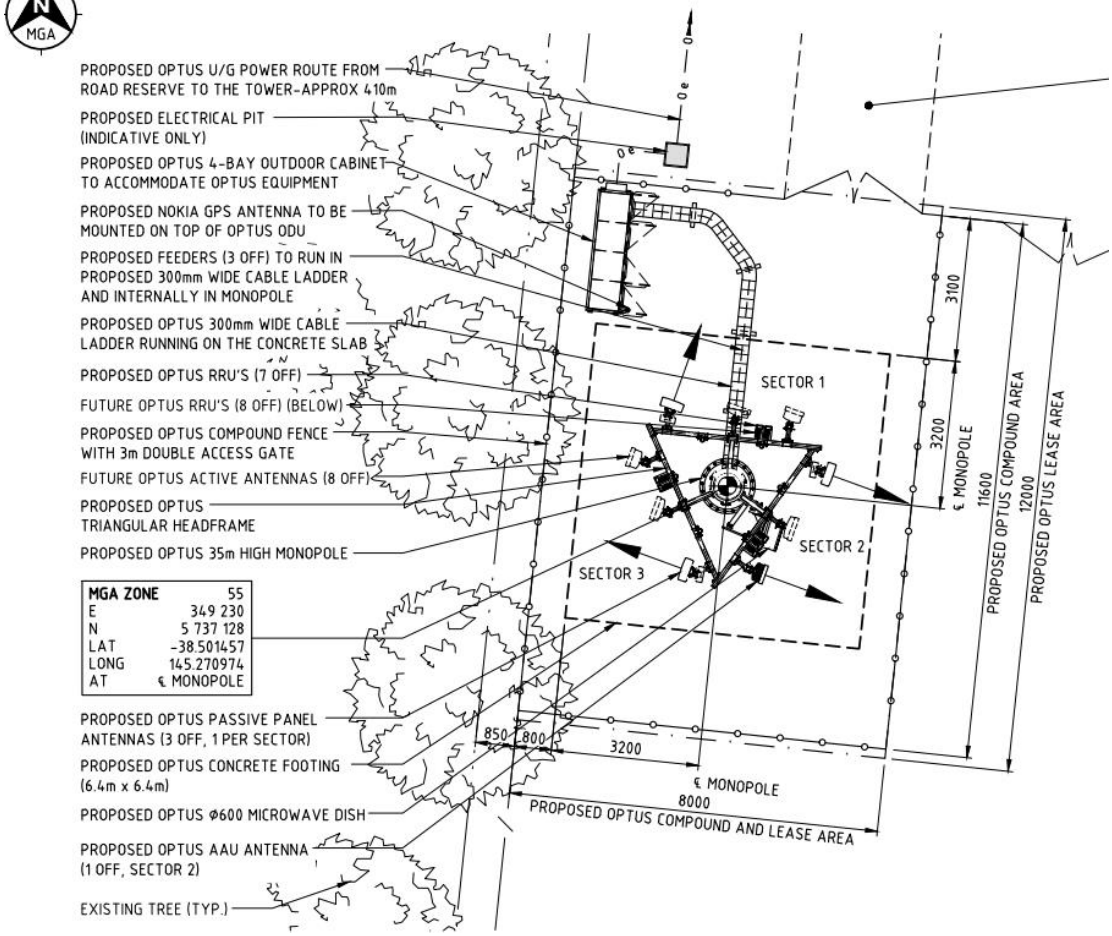


Figure 1- Proposed Plans

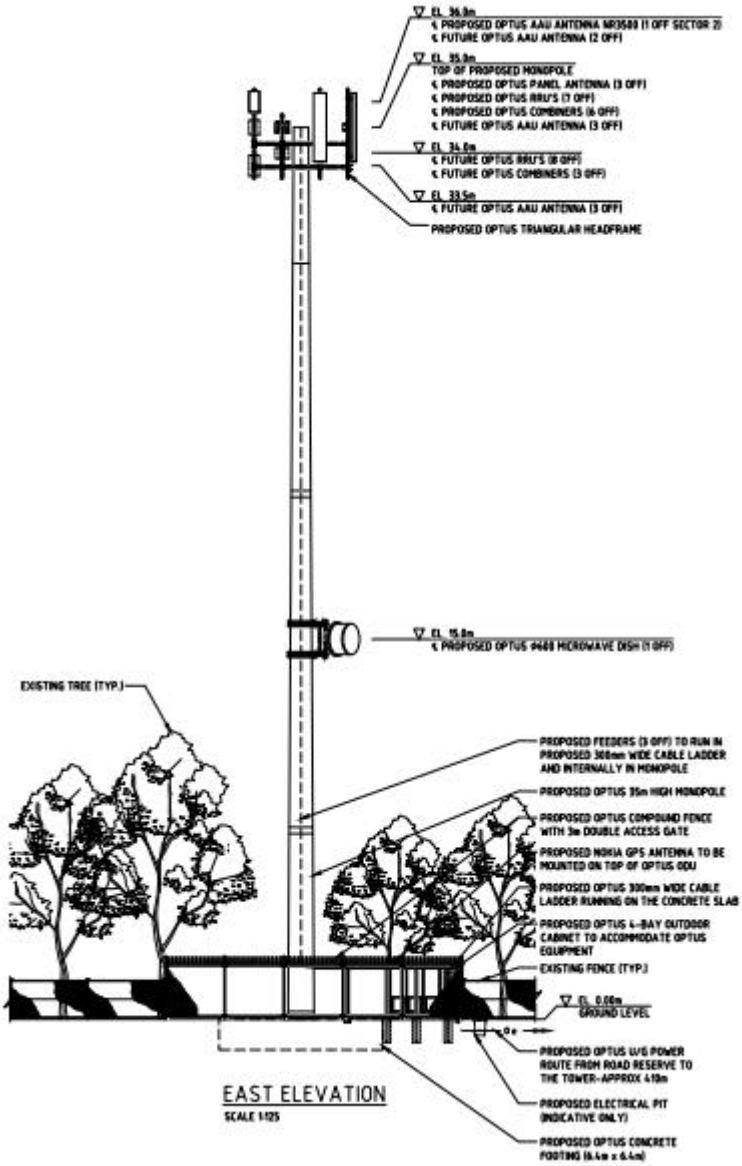


Figure 2 - Elevation Plan

Subject Site and Surrounds

The site is an irregular shaped lot with an area of 22.6 hectares that is situated on Phillip Island Road adjacent to, and south of the Back Beach Road roundabout. In terms of size, utility and the general pattern of agricultural holdings on this part of the island, the site reflects land to the north and west. It is nestled between the settlement boundaries of Sunderland Bay to the south-east, Sunset Strip to the north-west and Smiths Beach a little further to the west.

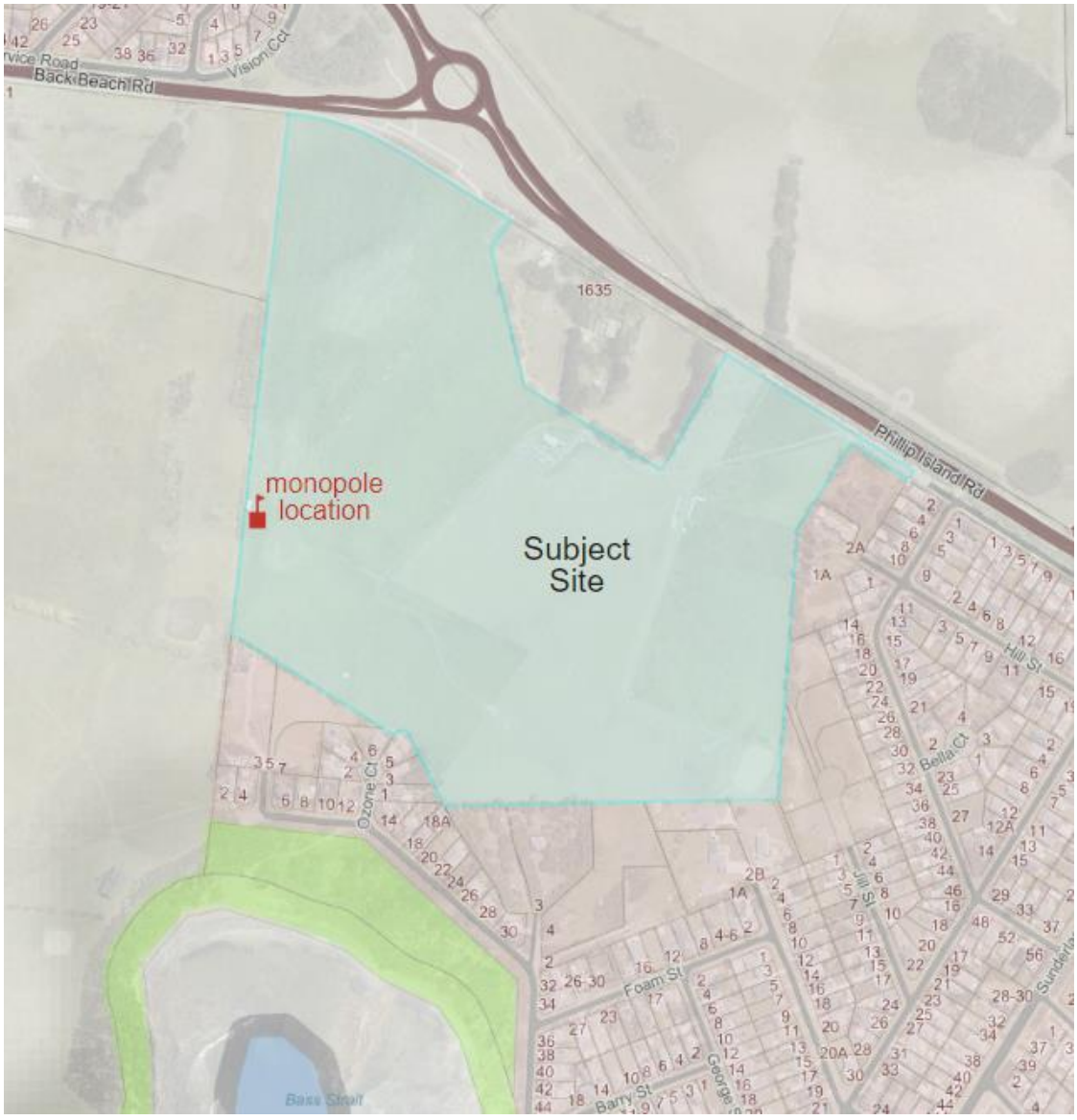


Figure 3 - Aerial photography of subject site (Source: Council's GIS System, dated December 2022)

The subject site is used for grazing and fodder and is generally developed with agricultural infrastructure including fencing, windbreaks, access tracks, dams and outbuildings.









Figure 4 - View of subject site looking south from the shared walking and cycling path that links Phillip Island Road with Back Beach Road (Source: Site inspection conducted on 7 December 2023)

The site is relatively flat with limited vegetation, and it is located within the rural break between the settlements of Sunderland Bay, Sunset Strip and Smiths Beach.

The main characteristics of the surrounding area are:

North	The site abuts a shared walking/cycling path and Phillip Island Road. Further to the north is open grazing land. The northern boundary wraps around a rural residential property with dense planting to boundaries.
South and East	Adjoining the land on the southern and eastern boundaries are 11 low density residential lots largely developed with single dwellings. There are two smaller residential lots, developed with dwellings that also abut the site. These abuttals contain vegetation to boundaries with some noticeable open breaks.
West	Adjoining the land to the west is a large rural residential lot and a large agricultural grazing lot. North-west is the eastern extent of the Sunset Strip residential area.



Figure 5 – Site and surrounds



Figure 6 - Zoning Map and Settlement Boundaries

Planning Controls

The following controls/permit triggers are considerations for this application:

Zone

Clause 35.07 - Farming Zone, Schedule 1

In accordance with Clause 35.07-4 a permit is required for buildings and works setback within five metres of a property boundary.

In accordance with Clause 62.01 the use of land for a telecommunications facility does not require planning consent.

Overlays

Clause 42.03 – Significant Landscape Overlay, Schedule 2

In accordance with Clause 42.03-2 a permit is required to construct a building or construct or carry out works.

Particular Provisions

Clause 52.19 - Telecommunications facility

In accordance with Clause 52.19-1 a permit is required to construct a building or construct or carry out works for a telecommunications facility where an exemption is not provided for in the clause.

Clause 52.29 - Land adjacent to the principal road network

In accordance with Clause 52.29-2 a permit is required to create or alter access to a road in a Transport Zone 2.

Consultation

Notice of the application was required and conducted in accordance with Section 52 of the *Planning & Environment Act 1987*, as the responsible authority was not satisfied that the grant of the permit would not cause material detriment to any person.

The Applicant gave notice in the following manner:

- Sent copies of the Notice by registered mail to 54 landowners and occupiers; and
- Placed two signs with Notice on the land.

In response to notification the application attracted 32 submissions comprising 30 objections. One objection was withdrawn, and one person submitted an additional objection under a different name.

A copy of each submission is included in Attachment five.

The submitter concerns and comments are summarised further in this report including a Council Officer response in the table provided.

The Applicant's response to objections was circulated to objectors who were invited to amend their submissions if they wished to. As a result, one objection was withdrawn, and four objectors provided additional grounds for objection.

Referrals

The following table outlines the referral requirements of this application.

Referral Authority	Comments
External	
Department of Transport	Section 55 No objection to the application subject to conditions.
Ausnet	Section 52 No response relevant to this application.

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

VPP00 Purpose and Vision

Clause 02 – Municipal Planning Strategy

- Clause 02-01 Context
- Clause 02-02 Vision
- Clause 02-03 Strategic direction
- Clause 02.04 Strategic framework plan

VPP11 Settlement

Clause 11.01 - Victoria

- Clause 11-01-1S Settlement
- Clause 11-01-1R Settlement – Gippsland
- Clause 11-01-1L-01 Settlement
- Clause 11-01-1L-05 Smiths Beach, Sunderland Bay, Sunset Strip and Surf Beach

Clause 11.03 - Planning for Places

- Clause 11.03-4S Coastal settlement
- Clause 11.03-5S Distinctive areas and landscapes
- Clause 11.03-6S Regional and local places

VPP 12 Environmental and Landscape Values

Clause 12.02 Coastal areas

- Clause 12.02-1S Protection of coastal areas
- Clause 12.02-1L Protection coastal areas
- Clause 12.02-2S Marine and coastal Crown land

Clause 12.05 Significant Environments and Landscapes

- Clause 12.05-1S Environmentally sensitive areas
- Clause 12.05-2S Landscapes
- Clause 12.05-22L-01Landscapes
- Clause 12.05-2L-02 Landscape character areas Phillip Island Southern Coast
- Clause 12.05-2L-03 Hilltops, ridgelines and prominent coastal landform protection in Rural Zones

VPP 14 Natural Resource Management

Clause 14.01 Agriculture

- Clause 14.01-1S Protection of agricultural land
- Clause 14.01-1R Protection of agricultural land - Gippsland
- Clause 14.01-2S Sustainable agricultural land use
- Clause 14.01-2L-01 Sustainable agricultural land use
- Clause 14.01-2L-02 Sustainable agricultural land use in the Farming Zone

VPP 15 Built Environment and Heritage

Clause 15.01 Built Environment

- Clause 15.01-6S Design for rural areas

VPP 19 Infrastructure

Clause 19.03 Development Infrastructure

- Clause 19.03-4S Telecommunications
- Clause 19.03-4L High speed telecommunications

The PPF recognises the importance of facilitating the provision of telecommunications infrastructure to ensure community needs are met. The PPF also seeks to ensure there is minimal impact from development on rural and coastal landscapes, especially those that the Planning Scheme identifies as significant. This obliges decision makers to ensure a balance is struck between the provision of telecommunications facilities and the need to protect special places from adverse impacts arising from development.

It is not unusual to see essential infrastructure within rural and coastal landscapes and in most respects, it blends into the background. In this location however, which is outside settlement boundaries and where planning is required to consider the protection of a recognised landscape, the 35 metre high monopole located such as it is, in a flat, open environment with no existing built intrusion to cluster with, will be highly visible and ultimately will result in an unreasonable visual impact.

Having regard to the Planning Policy Framework (PPF) it is considered that the proposal does not represent orderly and proper planning and will not produce a net community benefit. In particular, the proposal is inconsistent with Victorian Planning Policy at clauses 12.05-2S (Landscapes), 15.01 (Built environment), 19.03-4 (Telecommunications) and 21.03 (Environmental and Landscape values). It is inconsistent with local planning policy at clauses 11-01-1L-01 (Settlement), 11-01-1L-05 (Smiths Beach, Sunderland Bay, Sunset Strip and Surf Beach), 12.05-2L-02 Landscape character areas Phillip Island Southern Coast and 12.05-2L-03 Hilltops, ridgelines and prominent coastal landform protection in Rural Zones.

Zone Assessment

Clause 35.07 – Farming Zone

The purpose of the Farming Zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- *To provide for the use and development of land for the specific purposes identified in a schedule to this zone.*

The application is not consistent with the relevant decision guidelines of the Farming Zone.

This development would result in the removal of approximately 1200 square metres (access track and works area combined) of agricultural land and the removal of an outbuilding from a small holding. No reasonable justification has been provided as to why this part of the site was selected; why so deep into this flat lot, in the middle of a key vista where the landscape is identified as 'significant,' and not for example clustered to the top of the site where it could be less visually intrusive.

It is considered that the visual impact of this monopole, sited where selected and providing no agricultural benefit, would produce an unacceptable outcome.

Overlay Assessment

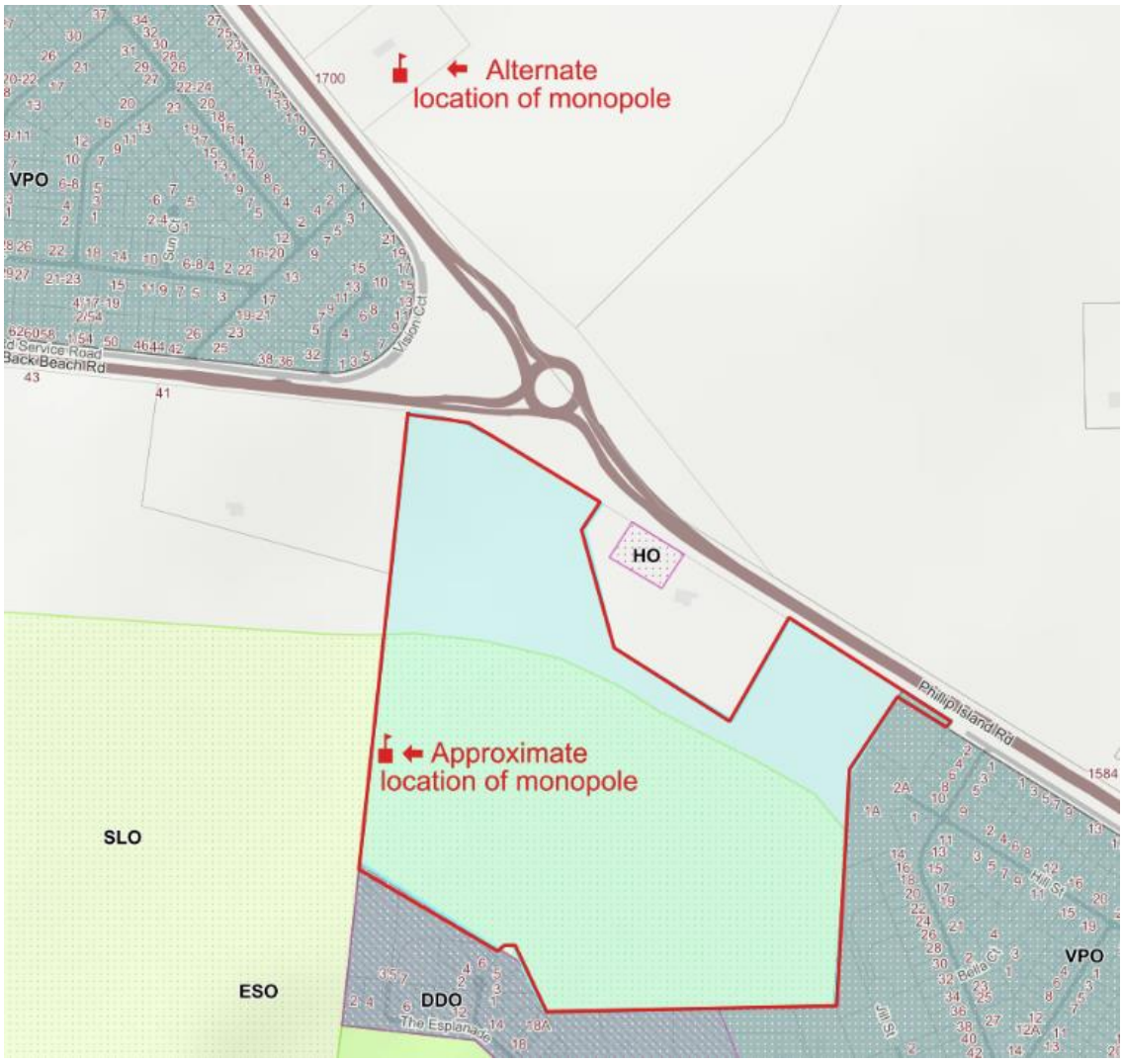


Figure 7 – Overlay Map showing selected location and alternate location proposed by applicant (refer Planning Report)

Clause 42-03 – Significant Landscape Overlay – Schedule 2

The purpose of the Significant Landscape Overlay is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify significant landscapes.*
- *To conserve and enhance the character of significant landscapes.*

Schedule 2 of Clause 42.03 applies to Phillip Island Western and Southern Coast and Clause 2.0 to the schedule details the landscape character objectives that are to be achieved. As relevant to this application:

- *To protect scenic out views to undeveloped landscape features along the coastline including views from public recreation areas, lookouts (e.g. Pyramid Rock) and roads that abut or terminate at the coast.*

- *To improve the clarity of edges to settlements and ensure the retention of the undeveloped, rugged coastal landscape between them, particularly west of Smiths Beach, and between Smiths Beach and Surf Beach.*
- *To protect the wild, undeveloped, and exposed character of the coastal edge.*
- *To minimise the visual impact of signage and other infrastructure, particularly on hill faces and in coastal areas.*
- *To ensure ridge tops and prominent hill faces are kept free of visually dominant development, particularly when viewed from main roads and other key viewing locations.*

Schedule 2 of Clause 42.03 also contains the following (as relevant) building and works decision guidelines which have formed part of this assessment:

- Whether the proposed buildings are sited and designed to maximise retention of existing vegetation and provide for the planting of new indigenous coastal vegetation wherever possible.
- Whether the visibility of the proposal is minimised in landscapes visible within 500 metres of formal scenic lookouts in the area.
- On large rural lots that extend further than 500 metres back from the southern coast, whether the proposed development is sited on the side of ridgelines and hills away from the coast to avoid built intrusion into the coastal viewshed.
- Whether proposed buildings west of Smiths Beach are set back a sufficient distance from the coast to avoid visual intrusion into undeveloped and wild coastal landforms. Where possible, buildings should also be out of the viewshed from the cliff top.
- The cumulative impact of developments visible from all key viewing corridors (e.g. from Phillip Island Tourist Road) and scenic lookouts on the open rural character of these views, and the availability of scenic views to the ocean, coastal dunes/cliffs.
- Whether the proposed development is an extension or alteration to a development already in existence on the land.

The Planning Scheme sets expectations in relation to this land by virtue of the application of the Significant Landscape Overlay and this proposal is not consistent with the landscape character objectives or the decision guidelines of the overlay. The monopole, to some extent, will undermine and degrade the quality of a National Trust classified landscape.

The topography is particularly flat with expansive uninterrupted views from Phillip Island Road, south across open pasture to Sunderland Bay (refer figure 4 in an earlier section of this report). The works location is situated such that the bottom five or six metres will likely not be visible because the existing vegetation may provide some relief. However, the additional 30 metres of monopole would significantly interfere with the visual amenity afforded residents and visitors to Phillip Island. There is no opportunity in this flat landscape to minimise the impact of the projection.

It is noted that the overlay does not apply to the whole of the land. There is a clear line showing where the significance begins as shown in figure 7 above (part way through the

subject site extending to the south) and it is unclear why the planning submissions state that this is the area with the least impact.

In considering the application, officers have reviewed Telstra Corporation Limited v Knox CC [2024] VCAT 74 (24 January 2024) and Richter v South Gippsland SC [2013] VCAT 2120 (17 December 2013). Both decisions weight the positive outcomes in the provision of telecommunications facilities with the negative visual impacts on important landscape values and conclude that the need for telecommunications facilities do not outweigh the negative impacts of the visual intrusion of this scale of infrastructure in highly significant landscapes.

Particular Provisions Assessment

Clause 52.19 – Telecommunications facility

It is the purpose of this provision:

- To ensure that telecommunications infrastructure is provided in an efficient and cost-effective manner to meet community needs.
- To facilitate an effective state-wide telecommunications network consistent with proper and orderly planning.
- To support the provision of telecommunications facilities with minimal impact on the amenity of the area.

Clause 52.19-5 contains the following decision guidelines that must be considered in addition to the decision guidelines of clause 65:

- The design, siting, construction, and operation of the telecommunications facility.
- The effect of the telecommunications facility on adjacent land.

The application is not consistent with the purpose of the provision or the decision guidelines as it is not proper and orderly planning. The siting of the facility will result in visual impacts that are at odds with valued landscape character when viewed from Phillip Island Road. It is considered there are alternate locations, north of the subject site or opposite that could be pursued to ensure telecommunications infrastructure is provided to meet the needs of the community.

It is outside of the scope of this assessment to consider alternate sites. However, knowing the importance of high-speed telecommunications facilities to residents and visitors it is worth noting that the selected site is some 125 metres inside the curtilage of the Significant Landscape Overlay (the subject site contains land without the overlay) and less than 500 metres from a key tourist route being Phillip Island Road. Landscape is immovable, unlike a telecommunications facility and the Planning Report submitted with the application does identify an alternate location that contains no overlays that would provide similar coverage. The identified alternate site at 1700 Phillip Island Road was excluded due to negotiations with the landowner failing. See figure 7 for alternate site selection.

Clause 52.29 – Land adjacent to a principal road network

It is the purpose of this provision as relevant to this application:

- To ensure appropriate access to the Principal Road Network or land planned to form part of the Principal Road Network.

The Department of Transport are a determining referral authority and having reviewed the application, do not object to the proposal subject to conditions in relation to construction requirements for access and egress from Back Beach Road.

Concerns Raised By Submitters

The following table summarises submissions into themes and provides a discussion on planning merit:

Submitter Theme	Council Officer Response
Electromagnetic Emissions and public health and safety concerns	Many submissions cited public health and safety concerns in relation to electromagnetic emissions (EME). The Victorian Civil and Administrative Tribunal has on a number of occasions deliberated on these issues and found these are not matters for consideration within the limited ambit of discretion that decision makers have. In Mason v Greater Geelong CC (Red Dot) [2013] VCAT 2057 (16 December 2013) the Tribunal considered public health concerns in relation to EME's and stated why the issues would be summarily dismissed without debate as follows, *'The amount of electromagnetic radiation emitted by a telecommunications facility may well be a legitimate issue of public concern. However, VCAT is not a forum for addressing all issues of social or community concern, nor is it an investigative body. It cannot give great weight to unsupported assertions about public health concerns in the context of an individual planning application, particularly in relation to matters outside its own expertise or beyond the limited ambit of its statutory role or discretion in relation to that application. Accordingly, VCAT is not the appropriate forum where generalised opposition to telecommunications facilities based on public*

	health concerns can or should be raised. It is a waste of the parties' and the Tribunal's resources as, ultimately, VCAT is essentially bound to apply the ARPANSA standard.' Similarly to this, and other Tribunal decisions, consideration in relation to public health concerns regarding EME is outside of the expertise and ambit of discretion of Council's statutory role.
Light pollution	No lights are proposed.
Loss of view from private property	The Victorian Civil and Administrative Tribunal has on a number of occasions deliberated on the issues of views and has generally found that there is no legal entitlement to a view.
Hours/noise from construction	Noise and truck movements during the construction of development are a temporary and unavoidable consequence and not justification to withhold development of the site. Construction techniques and effects are not a consideration.
Alternate location	It is outside of the scope of this assessment to consider alternate sites. Comment is however made in the Clause 52.19 assessment of this report in relation to this.
Inadequate, insufficient consultation	Notice of the application was undertaken in accordance with the requirements of Section 52 of the *Planning and Environment Act 1987*. The sheer number of submissions and enquiries to Council officers provides some further satisfaction that the requirements of the Act have been satisfied.
Visual impact – rural and coastal views and need for settlement breaks	Consideration was given to visual amenity impacts, and it is determined that the protection of landscape values outweighs the requirement to provide telecommunication facilities. The policy, zone, overlay and particular provisions section of this report details the consideration given to planning matters in

	relation to negative visual impact in significant landscapes and the need to retain settlement breaks.
Vegetation removal	No vegetation is proposed for removal.
Environmental impacts including to RAMSAR wetlands	The site is not within an area of environmental significance and is outside the mapped RAMSAR wetland site.
Decrease in land value	This is not a planning consideration.
Traffic impacts	A telecommunications facility will not unreasonably impact traffic. The Department of Transport do not object subject to suitable conditions in relation to access and egress from Back Beach Road

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and it is considered that the proposal would result in visual intrusion within an identified significant landscape and an unsatisfactory planning outcome.

The application underwent notification and as a result 30 submissions were received. Concerns raised by submitters were considered in the assessment of the application.

Recommendation

That in relation to planning permit application PDPLANPER-2023/000671 for use and development of land for a telecommunications facility in a Farming Zone (FZ) and a Significant Landscape Overlay (SLO2) and access from a road in a TRZ2, located at Phillip Island Road Sunderland Bay and more particularly described as Lot 1 on Title Plan 967217 in Volume 10366 Folio 515, Council resolves to issue a Notice of Refusal on the following grounds:

- **The proposal is inconsistent with the objectives of local and state planning policies that seek to balance the need to protect landscape values with the facilitation of telecommunication facilities.**
- **The proposal is inconsistent with the design and siting decision guidelines of the Farming Zone.**
- **The proposal is inconsistent with the landscape character objectives and decision guidelines of the Significant Landscape Overlay – Schedule 2.**

- **The proposal is inconsistent with the purpose and decision guidelines of Clause 52.19 (Telecommunications Facility) as it does not facilitate proper and orderly planning or minimise visual amenity impacts on identified landscape values.**

Attachments

1. AT-1 Development plans [**8.1.1** - 3 pages]
2. AT-2 Planning report [**8.1.2** - 74 pages]
3. AT-3 Protected Matters Report [**8.1.3** - 27 pages]
4. AT-4 EME Report [**8.1.4** - 2 pages]
5. CONFIDENTIAL - AT-5 List of Submissions [**8.1.5** - 68 pages]

8.2 Planning Application PDPLANPER-2023/000481 137-143 Thompson Avenue, Cowes

Division	**Place Making**
Council Plan Strategic Objective	**Growing our Economy** *Progressing opportunities for visitor economy and business growth in harmony with our natural environment and sustainable values*

Declaration

The author has no general or material interests in relation to this report.

Purpose of Report

For Council to consider a planning application for buildings and works, the display of promotional signage and removal of one tree associated with the redevelopment of a camping and caravan park in a Commercial 1 Zone (C1Z), General Residential Zone (GRZ1), Vegetation Protection Overlay (VPO2), and Design and Development Overlay (DDO11) at 137-143 Thompson Avenue Cowes.

Executive Summary

Application number:	PDPLANPER-2023/000481
Applicant:	137-143 Thompson Avenue Cowes Pty Ltd
Land/Address:	137-143 Thompson Avenue Cowes
Ward:	Island Ward
Proposal:	Buildings and works, the display of promotional signage and removal of one tree associated with the redevelopment of a camping and caravan park in a Commercial 1 Zone (C1Z), General Residential Zone (GRZ1), Vegetation Protection Overlay (VPO2), and Design and Development Overlay (DDO11).
Zone:	General Residential Zone, Schedule 1 (GRZ1) Commercial 1 Zone (C1Z)
Overlay:	Design and Development Overlay, Schedule 11 (DDO11) Vegetation Protection Overlay, Schedule 2 (VPO2)
Aboriginal cultural heritage sensitivity	The site is not located within an area of identified cultural heritage sensitivity.
Title:	Lot 11 on Plan of Subdivision 020834 in Volume 07541 Folio 173. No restrictive covenants affect the land.

	The land is encumbered by a 1.2 metre sewerage and drainage easement running along the east rear boundary.
Number of submissions:	A total of 13 objections were received
Reason a Council decision is required:	The application has been called in and supported by three Councillors for the following reasons: The proposal will reduce green space which may adversely impact surrounding neighbourhood character and livability of the camping and caravan park. The application is considered to propose potential overdevelopment of the site. Recent activities on the land have been highly publicized, and the application is suitable for review at a Council Meeting.
Officer recommendation:	Notice of Decision to Grant a Planning Permit

Summary of Officer Recommendation

That Council issue a Notice of Decision to Grant a Planning Permit subject to conditions outlined in the Officer Recommendation section of this report.
The proposal is recommended for support for the following reasons:

- The proposed development is consistent with the existing use rights of the land for a camping and caravan park.
- The proposed development is consistent with the objectives of Local and State Planning Policy.
- The proposed development is consistent with the design objectives of Schedule 11 to the Design and Development Overlay.
- The proposed landscape response is consistent with the vegetation protection objectives of Schedule 2 to the Vegetation protection Overlay.
- The proposed development is consistent with the purpose of the underlying zones on the subject site.

Main Considerations

The following are the main considerations that formed part of the assessment of this application:

- Amenity impacts of built form to adjoining properties and the Thompson Avenue Streetscape.
- Landscape response.

The Proposal

This application proposes buildings and works, the display of promotional signage and removal of one tree associated with the redevelopment of a camping and caravan park in accordance with the plans detailed below:

- Site Layout Plan, Floor and Elevation Plans for Amenities Block, Floor and Elevation Plans for Cabins on Sites 7, 18, 21, 22, 25, 27, 30, 37, 41, 43, 44 and 46, and Signage Plans all prepared by Neil Fletcher Design dated 25 May 2023 Revision D are provided under Attachment One (AT-1).
- Mobile Ensuite Perspectives dated 16 November 2023 is provided under Attachment Two (AT-2).
- Lot Use Plan dated 16 November 2023 is provided under Attachment Three (AT-3).
- Landscape Plan prepared by Coastal Native Gardens dated October 2023 is provided under Attachment Four (AT- 4).

The application is seeking retrospective buildings and works that have already occurred on the site. The development of some of the proposed buildings and works having commenced on site are in various stages of construction.

Key features of the proposal to redevelop an existing camping and caravan park include:

- The decommissioning of the existing camping and caravan park. All pre-existing structures have been demolished or removed from the site aside from the existing caretaker's dwelling and office, and recently upgraded swimming pool which are proposed to be retained.
- An amended site layout which reduces the total number of sites allocated to either cabin, caravan/campervan, or tent accommodation from approximately 100 to 49 sites.
- A new internal gravel driveway which adopts a two-way loop design with all vehicle and pedestrian access being accommodated via the existing crossover to Thompson Avenue.
- The construction of buildings including:
    - Twelve single and double story cabins throughout the site. Cabins are of various designs and sizes containing between two and four bedrooms each and having maximum building heights ranging between 4.072 and 7.116 metres.
    - An amenity block containing communal cooking, laundry, and bathroom facilities with attached decking area. The amenity block has a maximum height of 3.93 metres and is sited adjacent to the existing swimming pool with a setback of approximately 12 metres from the site frontage to Thompson Avenue.
    - The placement of three small mobile ensuites within the site.

- The display of promotional signage along the site frontage to Thompson Avenue. The signage is a temporary banner displayed along the existing fence line which measures 45 by 1.5 metres with a total display area of 67.5 square metres.
- The removal of one tree (Swamp Paperbark) sited along the southern side boundary to accommodate the proposed driveway and fence line.

Council considers that the site benefits from existing use rights for the purpose of a camping and caravan park in accordance with the Bass Coast Planning Scheme. This is discussed in further detail in a latter section of this report.

No subdivision is proposed. The lots shown within the proposed site plan are camping and caravan park sites and are consistent with private leaseholds on title which are not a planning consideration.

This application proposes development only and a planning permit is not required for use of the land for a camping and caravan park or subdivision.

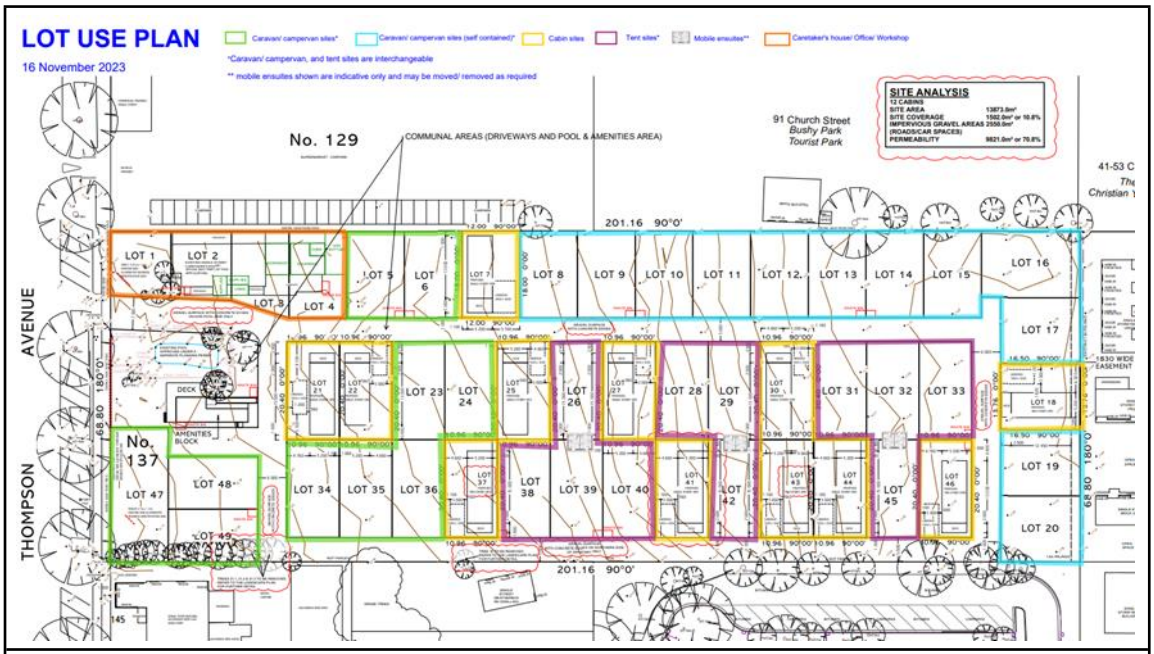


Figure 1 - Proposed site development and lot use plan.

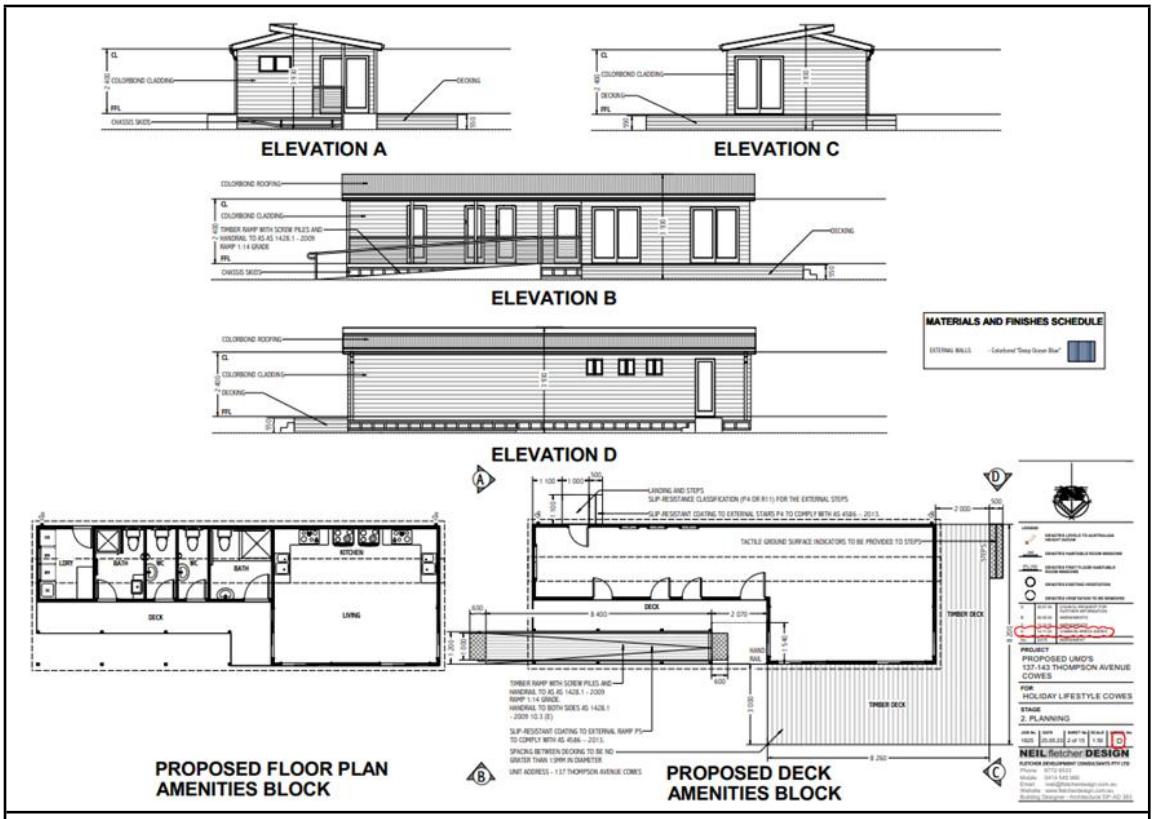


Figure 2 - Proposed amenities block floor and elevation plans.

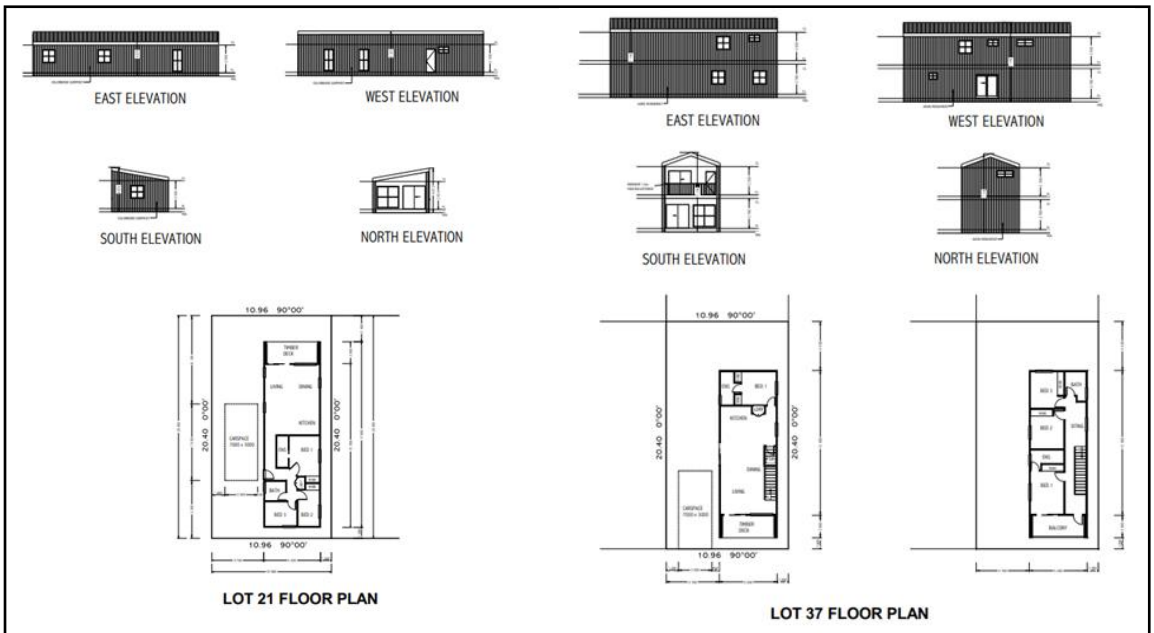


Figure 3 – Example floor and elevation plans for proposed cabins.

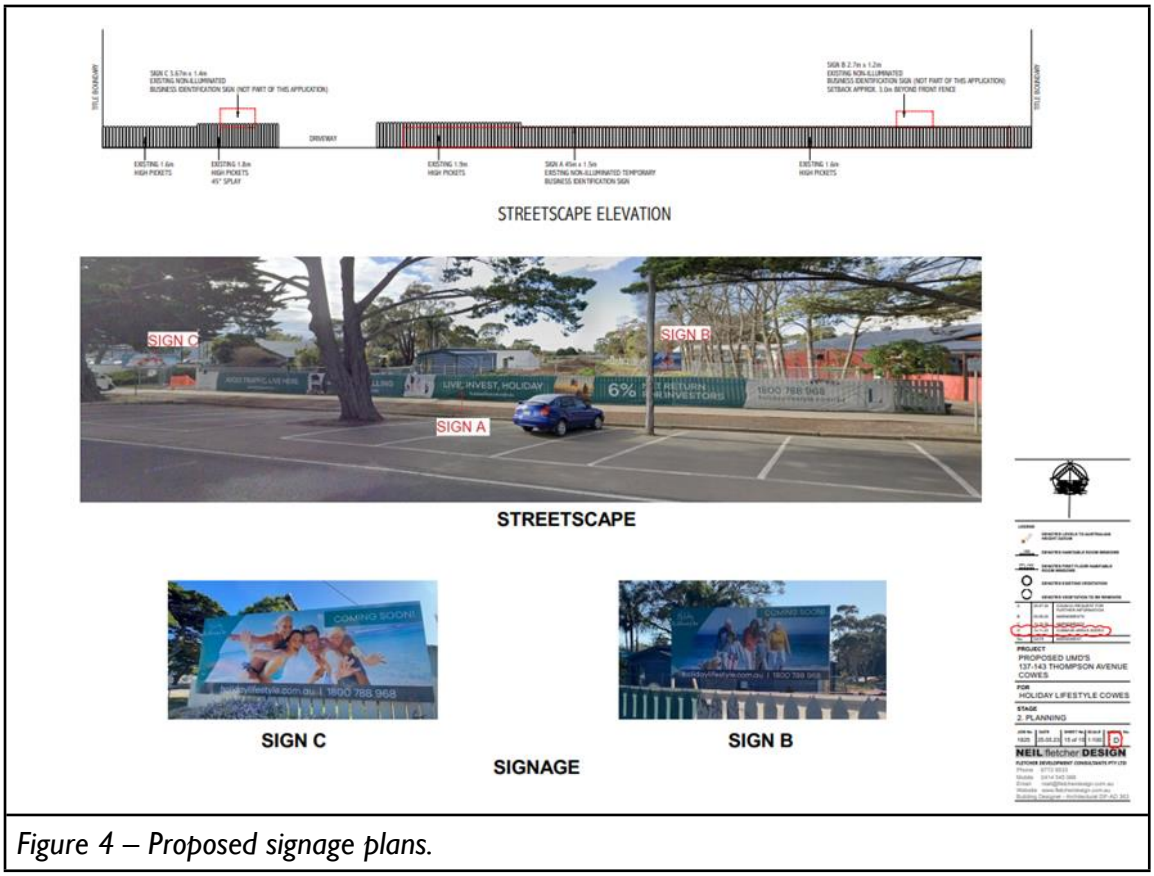


Figure 4 – Proposed signage plans.

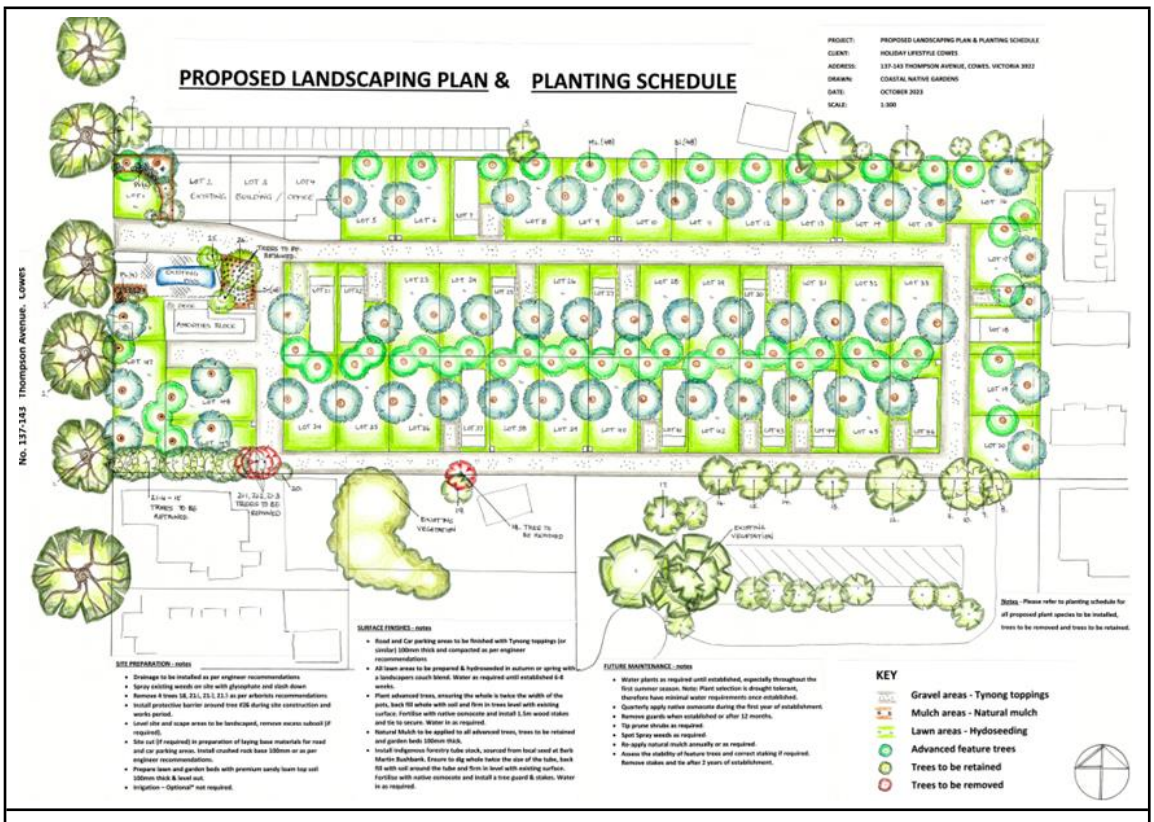


Figure 5 – Proposed landscape plan.

Subject Site and Surrounds

The site is located on the east side of Thompson Avenue, between Church Street to the north and Settlement Road to the south, within the commercial centre of Cowes approximately 750 metres south of Westernport Bay and the Cowes Foreshore. The site is a rectangular shaped lot with a 68.8 metre frontage to Thompson Avenue, a maximum depth of 201.16 metres and a site area of 13,873 square metres.

The former business (The Islander Camping and Caravan Park) existing on the property has been decommissioned and the land currently presents as a largely vacant construction site. The site currently remains developed with a caretaker's dwelling, office, and swimming pool towards the frontage to Thompson Avenue; in addition to the completed amenities block and six cabins in various stages of construction now seeking retrospective planning approval under this application. Picket fencing is constructed along the site frontage and paling fencing along the north and west side boundaries. The former paling fence along the southern side boundary was recently removed and it remains unfenced. The vast majority of the site has been completely cleared of vegetation with the exception of some established introduced and native trees which remain around the existing swimming pool and amenities block, and along the southern site boundary.

The main characteristics of the surrounding area are:

North	Adjoining the land to the north is two different parcels of land as follows: 117-135 Thompson Avenue Cowes. This lot is approximately 14,000 square metres in area and is developed with a large commercial car park and buildings containing Woolworths Supermarket and a variety of other retail stores. 55-67 Church Street Cowes. This lot is approximately 20,000 square metres in area and is operated as Bushy Park Tourist Park camping and caravan park. There are cabins and caravans with annexes constructed throughout the lot including against the shared boundary with the subject site.
South	Adjoining the land to the south is five different parcels of land as follows: 145 Thompson Avenue Cowes. This lot is approximately 800 square metres in area and is developed with Sambreros Restaurant. 147 Thompson Avenue Cowes. This lot is approximately 1,250 square metres in area and is developed with Island Surfboards retail store. The large lot is irregular in shape and only shares a 14-metre section of its northern boundary with the subject site. 2 Watchorn Road Cowes. This lot is approximately 750 square metres in area and is developed with a single-story weatherboard dwelling. The Watchorn Road Reserve abuts the southern boundary of the subject site for a distance of approximately 15 metres. There is no crossover between the court bowl of Watchorn Road and the subject site. The area provides access to a carpark and residential property and contains significant protected Council trees.

	5 Lions Court Cowes. This lot is approximately 4,350 square metres in area and is owned by Council. The portion of the land abutting the subject site contains a car park which services the Phillip Island Senior Citizens Club. The car park also provides direct access to the Melaleuca Aged Care. A row of established native trees exists along the shared boundary with the subject site.
East	Adjoining the land to the east is 4 Lions Court Cowes. The lot is approximately 7,000 square metres in area and is developed with a medium density unit development known as Banksia Park.
West	Adjoining the land to the west is Thompson Avenue which is a Transport Road Zone 2. The road reserve is approximately 30 metres wide with single lane two-way traffic, and angled car parking and pedestrian footpaths along both sides. Thompson Avenue is affected by a Heritage Overlay which protects rows of significant mature cypress trees which contribute to the streetscape. There are multiple lots along the western side of Thompson Avenue opposite the subject site which are developed with a variety of commercial businesses.

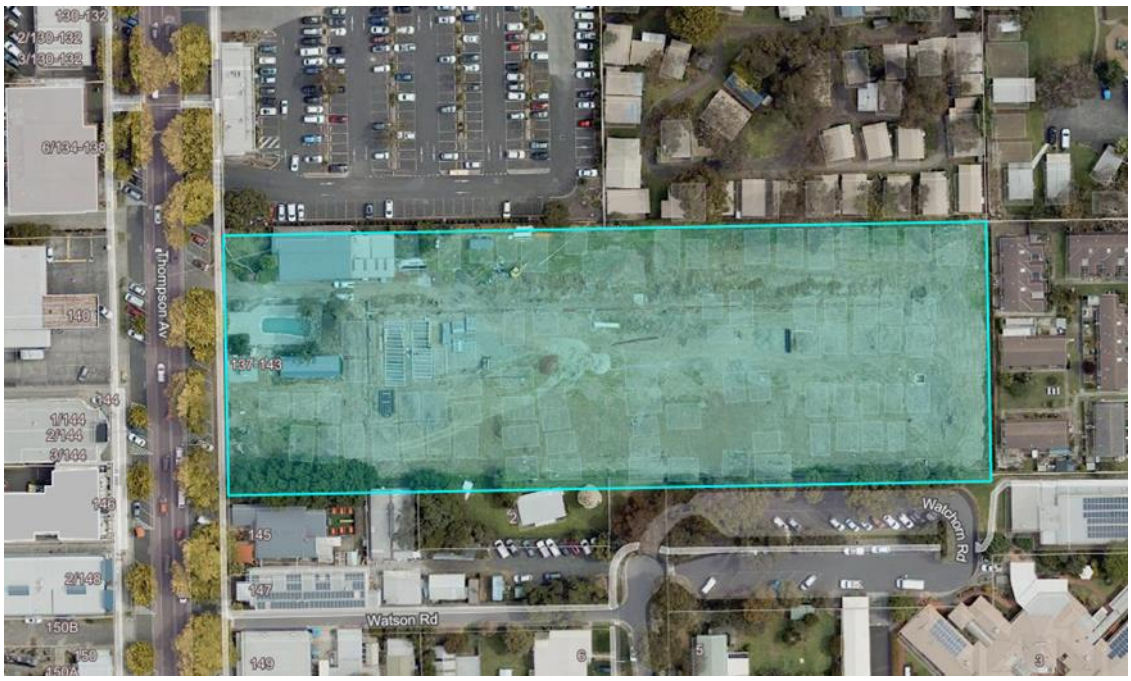


Figure 6 - Aerial view of subject site (Source: Council's GIS System, dated 2023).



Figure 7 - Aerial view of subject site and surrounds (Source: Council's GIS System, dated 2023).





Figure 8 – View towards subject site from Thompson Avenue.





Figure 9 – View towards subject site from Watchorn Road.

Planning Controls

The following controls and permit triggers are considerations for this application:

Zone

Clause 34.01 – Commercial 1 Zone, Schedule 1

In accordance with Clause 34.01-4 of the Commercial 1 Zone (C1Z), a planning permit is required to construct a building or construct or carry out works.

Clause 32.08 – General Residential Zone, Schedule 1

In accordance with Clause 32.08-10 of the General Residential Zone (GRZ) a planning permit is required to construct a building or construct or carry out works associated with a Section 2 use (camping and caravan park).

Overlays

Clause 42.02 – Vegetation Protection Overlay, Schedule 2

In accordance with Clause 42.02-1 of the Vegetation Protection Overlay, Schedule 2 (VPO2) a planning permit is required to remove, destroy, or lop any vegetation specified in a schedule to this overlay. Section 3.0 of Schedule 2 to the VPO states that a permit is required to remove, destroy, or lop any tree or shrub with a girth greater than 30 centimetres (when measured 30 centimetres above ground level) or a height of at least two metres.

The removal of one tree from the site requires a planning permit pursuant to this overlay. It is noted that the additional removal of three trees (Dutch Elms) on the subject site is proposed however this is not subject to planning consideration because the Vegetation Protection Overlay (VPO2) does not impact the frontage of the site where the trees are located.

Clause 43.02 – Design and Development Overlay, Schedule 11

In accordance with Clause 43.02-2 of the Design and Development Overlay, Schedule 11 (DDO11) a planning permit is required to construct a building or construct or carry out works.

Particular Provisions

Clause 52.06 – Car parking

The application does not propose a new use, increase in floor area, or site area of an existing use, or increase of any other measure specified in Clause 52.06-5. The use of camping and caravan park has no specified car parking requirement under Table 1 and therefore in accordance with Clause 52.06-3 a permit is not required pursuant to Clause 52.06-5. Car parking spaces are considered to be provided to the satisfaction of the responsible authority. The updated camping and caravan park layout incorporates generously sized sites of 200 square metres or more which are easily capable of accommodating vehicle parking.

Clause 52.17- Native Vegetation

The proposed removal of trees does not require a planning permit pursuant to Clause 52.17 – Native Vegetation. The removal of three Dutch Elms does not require a planning permit because they are introduced species and not native to Victoria. The Swamp Paperbark proposed to be removed is native but is exempt from requiring a planning permit pursuant to the Fences Exemption under Clause 52.17-1 of the overlay. The tree is located within one metre of the southern site boundary and can be removed to enable the construction of a new boundary fence under this exemption.

Clause 52.05 – Signs

Pursuant to Clause 34.01-9 of the C1Z the front of the subject site is subject to Category 1 of signage controls as set out in Clause 52.05 - Signage. Pursuant to Clause 52.05-11 a planning permit is required to display a promotional sign because the total display area exceeds 8 square metres.

Clause 52.29 – Land Adjacent to the Principal Road Network

A planning permit is not required pursuant to Clause 52.29 - Land Adjacent to the Principal Road Network, because no creation or alteration to access to a Transport Zone 2 is proposed. Thompson Avenue is a Transport Zone 2; however, the proposal is consistent with the existing use of the land for a camping and caravan park and all vehicle access and ingress to the site will continue to be facilitated via the existing crossover.

Consultation

Notice of the application was required under Section 52 of the *Planning & Environment Act 1987*, as the responsible authority was not satisfied that the grant of the permit would not cause material detriment to any person.

The Applicant gave notice in the following manner:

- Sent copies of the Notice by registered mail to 160 landowners and occupiers; and
- Placed two notices on the land to face Thompson Avenue and Watchorn Road.

In response to notification the application attracted 13 objections.

A copy of each submission is included in Attachment Five (AT- 5).

The submitter concerns and comments are summarised further in this report including a Council Officer response in the table provided. It is noted that multiple submissions raised concerns or questions rather than formally objecting to the entire proposal.

A written applicant response to submissions was provided to all objectors via email.

Referrals

The following table outlines the referral requirements of this application.

Referral Authority	Comments
External	
Department of Transport and Planning	Section 52 Notice only No objection to the application
Internal Council Departments	
Development Services	No objection to the application subject to conditions
Environmental Health	No objection to the application
Arboricultural	No objection to the application subject to conditions

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

VPP00 Purpose and Vision

Clause 02 – Municipal Planning Strategy

- Clause 02-02 Vision
- Clause 02-03 Strategic direction
- Clause 02.04 Strategic framework plan

VPP11 Settlement

Clause 11.01 - Victoria

- Clause 11-01-1S Settlement
- Clause 11-01-1R Settlement – Gippsland
- Clause 11-01-1L-01 Settlement
- Clause 11-01-1L-03 Cowes and Silverleaves

Clause 11.03 - Planning for Places

- Clause 11.03-1S Activity centres
- Clause 11.03-1L Cowes activity centre
- Clause 11.03-4S Coastal settlement

VPP 12 Environmental and Landscape Values

Clause 12.01 Biodiversity

- Clause 12.01-1S Protection of biodiversity
- Clause 12.01-1L Protection of biodiversity
- Clause 12.01-2S Native vegetation management

Clause 12.05 Significant Environments and Landscapes

- Clause 12.05-2S Landscapes
- Clause 12.05-22L-01Landscapes

VPP 13 Environmental Risks and Amenity

Clause 13.05 Noise

- Clause 13.05-1S Noise abatement

Clause 13.07 Amenity and Safety

- Clause 13.07-1S Land use compatibility

VPP 15 Built Environment and Heritage

Clause 15.01 Built Environment

- Clause 15.01-1S Urban design
- Clause 15.01-1L-01 Urban Design in Bass Coast
- Clause 15.01-1L-02 Landscape design
- Clause 15.01-1L-03 Signs
- Clause 15.01-2S Building design
- Clause 15.01-2L Building design
- Clause 15.01-4S Healthy neighbourhoods
- Clause 15.01-5S Neighbourhood character
- Clause 15.01-5L Neighbourhood character

VPP 16 Housing

Clause 16.01 Residential Development

- Clause 16.01-1S Housing supply
- Clause 16.01-1L Housing supply
- Clause 16.01-2S Housing affordability

VPP 17 Economic Development

Clause 17.01 Employment

- Clause 17.01-1S Diversified economy
- Clause 17.01-1R Diversified economy - Gippsland
- Clause 17.01-1L Diversified economy

Clause 17.02 Commercial

- Clause 17.02-1S Business
- Clause 17.02-1R Commercial centres - Gippsland

Clause 17.04 Tourism

- Clause 17.04-1S Facilitating tourism
- Clause 17.04-1R Tourism - Gippsland
- Clause 17.04-1L Facilitating tourism
- Clause 17.04-2S Coastal and maritime tourism and recreation

VPP18 Transport

Clause 18.01 Integrated Transport

- Clause 18.01-1S Land use and transport planning

VPP 19 Infrastructure

Clause 19.03 Development Infrastructure

- Clause 19.03-1S Development and infrastructure contributions plans
- Clause 19.03-2S Infrastructure design and provision
- Clause 19.03-2L Infrastructure design and provision
- Clause 19.03-3S Integrated water management
- Clause 19.03-3L Integrated water management

The following provides an assessment of the proposal against the relevant Planning Policy Framework (PPF) under the themes of Settlement, Environmental and Landscape Values, Environmental Risks and Amenity, Built Environment and Heritage, Housing, Economic Development, and Transport and Infrastructure.

The above policies identify Cowes as a key tourist centre within Bass Coast Shire and promote the redevelopment of key sites to contribute to its identity as a coastal holiday and lifestyle destination. Tourism-based development including short-stay accommodation such as units and cabins are supported within the existing settlement boundaries of Cowes. Tourist-based accommodation above retail premises is encouraged along the section of Thompson Avenue between Settlement Road and Church Street where the subject site is located.

Policy encourages built form that is site responsive (in terms of height, scale, and massing) and respects surrounding landscapes and coastal character. Development should protect the amenity of the public realm by considering view lines and a being of a high design standard. Policy also promotes the retention of native vegetation and seeks good landscape design to be incorporated within built form.

The subject site is located within the settlement boundaries and main commercial centre of Cowes and is ideally placed to provide access to necessary community services and facilities for future visitors and residents. The application proposes to rejuvenate an existing camping and caravan park within a key site along Thompson Avenue which will contribute to Cowes' identity as a coastal holiday and tourism centre. Although the site is not proposed to be developed with a retail premises along its frontage as encouraged along the subject section of Thompson Avenue, a camping and caravan park has operated from the site for decades and the proposed redevelopment is largely consistent with the pre-existing interface of the park.

As discussed in latter sections of this report conditional requirements will be placed on any planning permit issued to ensure the amenity of the Thompson Avenue Streetscape is not adversely impacted through the incorporation of landscaping buffers, regulation of built form along the site frontage and limitation of obtrusive signage.

It is considered that the proposal is consistent with the above policy of the Bass Coast Planning Scheme.

Zone Assessment

The subject site is unusually zoned with the frontage of the land to Thompson Avenue being within the Commercial 1 Zone for a depth of approximately 50 metres and the rear of the site being within the General Residential Zone.

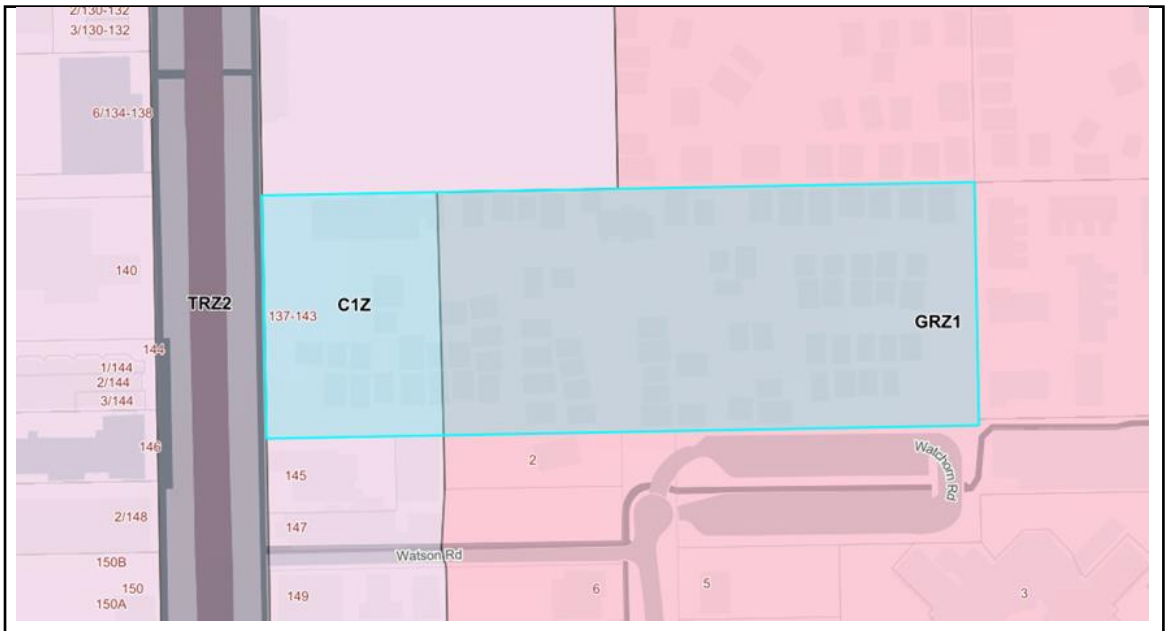


Figure 10 - Zoning Map.

Clause 34.01 – Commercial 1 Zone

The purpose of the Commercial 1 Zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To create vibrant mixed use commercial centres for retail, office, business, entertainment, and community uses.*
- *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*

The proposal has been considered against the decision guidelines under the C1Z in relation to buildings and works, and can be supported for the following reasons:

- The proposed redevelopment of the camping and caravan park is considered compatible with the adjoining commercial and residential areas.
- The application proposes an internal driveway to allow sufficient access and movement for pedestrians, cyclists, vehicles, emergency services and waste removal services.
- Car parking can be accommodated within the generously sized sites as is standard for a camping and caravan park and is considered to be able to be provided to the satisfaction of the responsible authority.
- The development plans show multiple waste collection areas throughout the site, and it will be conditioned on any permit issued that a detailed waste management plan is submitted to council to ensure all waste produced from the development is appropriately managed.
- The setback of proposed buildings from Thompson Avenue is consistent with the existing camping and caravan park. However, Lot 47 which stretches across the property frontage is currently a designated caravan and campervan site which may result in the positioning of vehicles and trailers directly against Thompon Avenue. It is considered appropriate in accordance with decision guidelines of the zone to place a condition on any permit issued to remove Lot 47 from the proposed site plan and require it to be planted and maintained as permanent landscaping area. This will allow Council to regulate built form and associated amenity impacts along the street interface. It will also ensure the provision of a continuous landscaping setback of at least 10 metres across the site frontage to increase urban canopy cover and soften the visual impact of proposed buildings from the public realm.
- The subject site is considered to have an adequate ability to provide connections to essential services.
- The siting and design of buildings are considered to be of an orientation to provide solar access as much as practicable in the context of a camping and caravan park.
- The proposed buildings and works do not inappropriately overshadow adjoining land in residential zones.

- The impacts of overlooking are relevant to the application due to the construction of two-storey cabins in close proximity to residential land. The two-storey cabin proposed on Lot 47 is the only building which raises overlooking concerns. The first-floor balcony is setback approximately 6 metres from the secluded private open space and 9 metres from the habitable windows of the dwelling at 2 Watchorn Road Cowes. It will be conditioned on any permit issued that either the cabin is redesigned, or balcony adequately screened to prevent overlooking.
- The objectives, standards, and decision guidelines of Clauses 54 and 55 (ResCode) do not apply to the development of cabins within a camping and caravan park.

On balance of the above assessment and with application of Condition 1 requirements, the proposal is considered to be consistent with the purpose and decision guidelines of the C1Z.

Clause 32.08 – General Residential Zone

The purpose of the General Residential Zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To encourage development that respects the neighbourhood character of the area.*
- *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

The proposal has been considered against the decision guidelines under the GRZ in relation to buildings and works, and can be supported for the following reasons:

- The proposal is considered to be consistent with the purpose of the zone to provide a diversity of housing types and non-residential uses in appropriate locations that offer good access to services. Whilst the buildings and works are associated with a commercial use largely targeted at short stay holiday accommodation, camping and caravan parks are also able to include a limited provision of accommodation options for permanent residents. The proposed upgrade to the existing camping and caravan park is unique as it incorporates more generously sized sites and well-equipped cabins than standard. This will diversify the existing camping and caravan park and residential accommodation offering across Phillip Island and provide a reasonable character transition between the commercial centre of Thompson Avenue and residential zoning to the rear.
- The proposed buildings and works do not inappropriately overshadow existing rooftop solar energy systems on dwellings on adjoining lots.
- The design, height, setback and appearance of the proposed buildings and works are considered to be appropriate in the context of the surrounding area and existing use of the land for a camping and caravan park.

- No permanent vehicle or pedestrian access is proposed to the residential streets abutting the rear of the site and the development will not have adverse traffic impacts on surrounding residential areas. It will be conditioned on any Planning Permit issued that all access is confined to the existing crossover along Thompson Avenue.
- The objectives, standards, and decision guidelines of Clauses 54 and 55 do not apply to the development of cabins within a camping and caravan park.

Overlay Assessment

The subject site is affected by the DDO11 for a depth of approximately 50 metres along the western frontage to Thompson Avenue in alignment with the C1Z. The VPO2 only applies to the rear of the site in alignment with the GRZ.

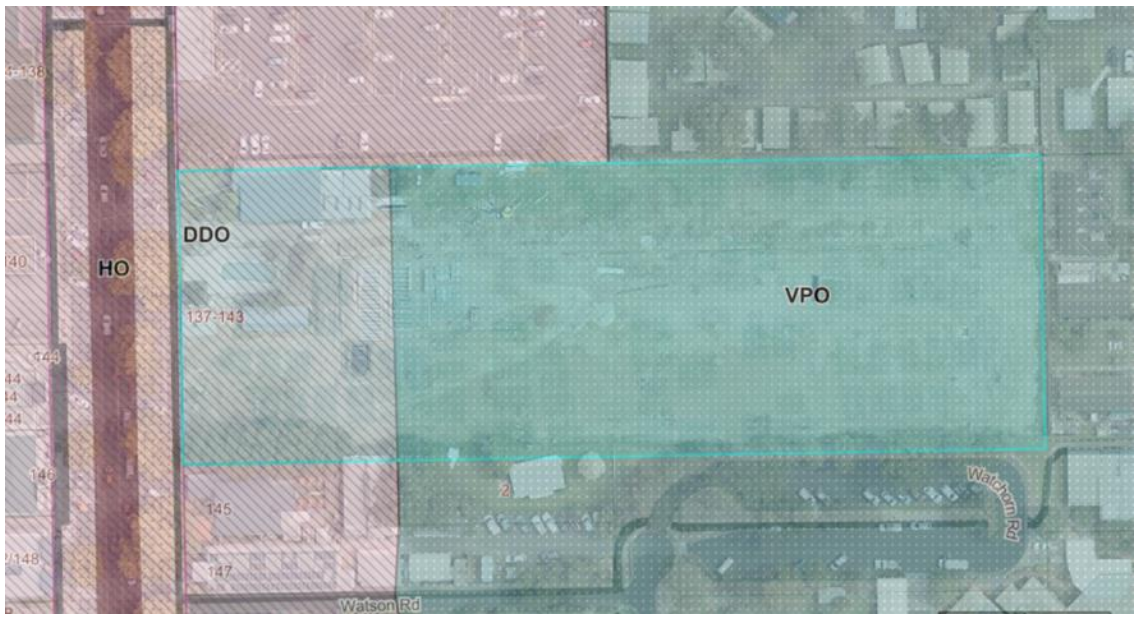


Figure 11 – Overlay Map

Clause 42-02 – Vegetation Protection Overlay, Schedule 2

The purpose of the Vegetation Protection Overlay is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To protect areas of significant vegetation.*
- *To ensure that development minimises loss of vegetation.*
- *To preserve existing trees and other vegetation.*
- *To recognise vegetation protection areas as locations of special significance, natural beauty, interest, and importance.*
- *To maintain and enhance habitat and habitat corridors for indigenous fauna.*
- *To encourage the regeneration of native vegetation.*

The proposal has been considered against the decision guidelines under the VPO2 in relation to buildings and works, and can be supported for the following reasons:

- The Swamp Paperbark proposed to be removed is native but is assessed as being of low retention value and low significance due to being a mature tree with visible signs of physiological decline and canopy lopping.
- The proposed park layout would require a complete redesign to retain the subject tree.
- The tree to be removed does not contribute to the significance of the area or amenity of the public realm.
- The site does not form part of a recognised wildlife corridor.
- The development is accompanied by a landscape plan which proposes to plant a total of 96 native tree species throughout the site which will result in a significant net increase in vegetation in accordance with the statement of significance which strives to enhance the native canopy cover across urban areas of Phillip Island.

Clause 43-02 – Design and Development Overlay, Schedule 11

The purpose of the Design and Development Overlay is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify areas which are affected by specific requirements relating to the design and built form of new development.*

Schedule 11 provides design objectives which seek to create a coherent coastal village character through consistent built form within each precinct of the Activity Centre and to promote design excellence, to facilitate development in commercial and mixed-use areas which fosters street activation, and to facilitate a greater diversity and density of housing.

The DDO11 sets out specific built form requirements regarding height and setbacks for development along Thompson Avenue. There is a preference for the provision of continuous awnings and building facades directly along site frontages to activate the streetscape. The requirements of the DDO11 are not highly applicable to the subject proposal as the entirety of the site has existing use rights to operate as a camping and caravan park and it would not be favorable to construct buildings such as cabins on the front boundary.

The proposal has been considered against the decision guidelines under the DDO11 in relation to buildings and works, and can be supported for the following reasons:

- The subject site is significantly setback from Westernport Bay and the development will have no impact on the character of Cowes when viewed from the coastline.
- The proposed redevelopment is consistent with the built form interface of the preexisting camping and caravan park to Thompson Avenue.
- No change is proposed to existing street access or street parking arrangements.

- Significant native planting is proposed as part of the submitted landscape plan which will positively contribute to the coastal character of Cowes.
- As discussed above it will be conditioned on any Planning Permit issued that a strip of landscaping area is provided across the entirety of the site frontage. This will soften proposed built form and protect adverse amenity impacts on the streetscape. It will also maintain the potential of commercially developing the site frontage in accordance with the requirements of the DDO11 in the future.

Particular Provisions Assessment

Clause 52.05 – Signs

This provision sets out the following purpose:

- *To regulate the development of land for signs and associated structures.*
- *To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.*
- *To ensure signs do not contribute to excessive visual clutter or visual disorder.*
- *To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance, or efficiency of a road.*

The proposed signage has been assessed against the decision guidelines under Clause 52.05 as follows:

- *The character of the area.*

The proposed promotional signage is considered to be of a size and placement inconsistent with the character of the Thompson Avenue Streetscape. Advertising signage is common within the commercial area; however, the placement of a promotional sign with total display area of 67.5 square metres along the front fence line for a length of 45 metres is overly dominant within the streetscape. The signage is not integrated with the proposed built form and is of a temporary appearance that detracts from the amenity of the area.

- *Impacts on views and vistas.*

The proposed signage is not sited as to impede on any long-distance view lines.

- *The relationship to the site, buildings, streetscape, setting or landscape.*

As discussed above the sign is of proportion and placement that is unreasonably dominant. Furthermore, two pre-existing signs are already displayed onsite which clearly identify the business operating on the land from the public realm. The proposed promotional signage is not considered to be necessary to the successful ongoing operation of a camping and caravan park on the site.

- *The impact of structures associated with the sign.*

There are no structures associated with the proposed signage banner.

- *The impact of any illumination.*

The sign is not illuminated.

On balance of the above assessment, the proposed promotional signage is considered to be at odds with the purpose and decision guidelines of Clause 52.05. Whilst the proposed buildings and works should be supported, it will accordingly be conditioned on any planning permit issued that the proposed promotional signage is removed from the development plans and site.

Clause 63 – Existing Uses

The concept of existing use occurs when planning controls for a piece of land have changed, and the existing use of that land becomes a permit requirement or prohibited due to the new controls. There is a current permit requirement for the use of the subject site for a camping and caravan park but no planning permit allowing the use is recorded. However, the subject site has been operating as a camping and caravan park for decades and any such permit would have been issued prior to 1994 and before the Shire of Phillip Island was amalgamated into Bass Coast Shire Council.

Clause 63 of the Victorian Planning Provisions provides the policy basis and statutory requirements for establishing if an existing use right exists. It has been assessed in accordance with Clause 63 and sought legal advice that the land benefits from existing use rights as a camping and caravan park for the following reasons:

- The landowner has demonstrated through the provision of a statutory declaration and supporting documentation and evidence that the land has operated as a camping and caravan park for a continuous 15-year period and that the use right has not expired by ceasing to operate for a two-year period.
- The existing use rights have not been extinguished, despite the significant extent of demolition on the land as the applicant has been able to demonstrate the continued use of the site for the purpose of a camping and caravan park, albeit on a significantly reduced level.
- The proposed application is not a transformation of the existing use.
- The subject site is currently registered with Council as a camping and caravan park.

Concerns Raised By Submitters

The following table summarises submissions into themes and provides a discussion on planning merit:

Submitter Theme	Council Officer Response
The proposed development may divert stormwater onto abutting properties and existing infrastructure will not have the capacity to accommodate increased stormwater volume created by the development.	The application is accompanied by civil design plans which detail required infrastructure upgrades and stormwater management for the site. The plans have been referred to Council's engineering team who have approved of the strategy. The applicant has additionally provided a response demonstrating how the proposed development meets the standards and objectives of Clause 53.18 – Stormwater Management in Urban Development.
The southern boundary of the subject site is not proposed to be fenced and will include the provision of a gate to access Watchorn Road. This will lead to adverse traffic impacts including people parking vehicles in the aged care car park and along Watchorn Road to access the subject site.	The landowners are in the process of reconstructing the southern boundary fence line with a 1.9 metre paling fence and emergency access gate consistent with the pre-existing fence. It will be conditioned on any permit issued that boundary fencing is shown on the development plans and that no pedestrian or vehicle access is facilitated to Watchorn Road. Council recognises the potential adverse impacts of permitting permanent secondary access to Watchorn Road including traffic volume, vegetation impacts and the inappropriate use of the abutting car park.
The lack of fencing along the southern boundary of the site will impact the outlook of abutting properties who will have direct view lines into the camping and caravan park including to portable ensuites.	As discussed above, it will be required that a fence is constructed on the southern site boundary to prevent view lines between the subject site and abutting properties.
The proposed landscaping and number of trees to be planted is not sufficient to offset the amount of native vegetation illegally removed from the subject site and the consequential impact	Council acknowledges community concerns regarding the past removal of vegetation from the land and, whilst unable to disclose specific enforcement activity due to privacy and legal considerations, Council remains committed to

Submitter Theme	Council Officer Response
on fauna. No further vegetation removal from the subject site should be permitted.	protecting the environment and upholding planning regulations. The landscape plan provided proposes to plant a total of 96 native and advanced tree species throughout the site. This is considered to be an appropriate landscape response and will significantly contribute to increasing urban canopy cover.
The proposed buildings are not consistent with traditional cabins constructed in a camping and caravan park and cannot be considered movable.	Council recognises that the proposed cabins are larger and more well-equipped than cabins traditionally associated with a camping and caravan park. However, pursuant to the Bass Coast Planning Scheme cabins are not limited to being movable or of any particular dimension or design. The Residential Tenancies Regulations 2020 sets out what defines a building as an unregistrable movable dwelling (UMD). Furthermore, a camping and caravan park can by definition contain permeant dwellings (cabins) ensuring a building permit is issued for them. These regulations are not relevant or subject to the planning assessment.
Not enough car parking spaces have been provided for people visiting the camping and caravan park.	The use of camping and caravan park has no specified car parking requirement under the Bass Coast Planning Scheme. However, the updated camping and caravan park layout incorporates generously sized sites of 200 square metres or more which are easily capable of accommodating vehicle parking.
External south facing balconies and decks to proposed cabins will create unreasonable noise impacts to abutting residential and aged care properties.	The subject site has operated as a camping and caravan park for decades and the redevelopment of the site is not considered to create further noise impacts. It is reasonable for residents and visitors within the centre of Cowes to have access to alfresco living spaces.
The proposed development is not consistent with the use of the	The site has existing use rights to operate as a camping and caravan park and zoning is not considered to be inconsistent with the proposal.

Submitter Theme	Council Officer Response
land for a camping and caravan park or zoning of the land.	Whilst camping and caravan park is a Section 2 Use under the C1Z and GRZ and requires a planning permit, it is not prohibited. The definition of a camping and caravan park under the Bass Coast Planning Scheme is '*land used to allow accommodation in caravans, cabins, tents, or the like*.' The proposed lot use plan shows sites allocated to a combination of these accommodation types and satisfies the definition of a camping and caravan park.
The location of the southern boundary between the subject site and abutting properties is under dispute and a decision should not be finalised until this is resolved.	The southern boundary identified on development plans is consistent with property boundaries as shown on the certificate of title. Any dispute between landowners over the position of boundaries or rights to land is a civil matter and is not a planning consideration. It is noted that no submissions or objections have been received from any potentially impacted landowners raising such concerns.
The proposed corrugated iron buildings including amenities block and potential development of Lots 1 and 47 along the Thompson Avenue frontage is detrimental to the streetscape.	The setback of proposed built form along the Thompson Avenue frontage is consistent with the previous development of the site. Proposed planting will further assist in screening buildings from Thompson Avenue, and it will be conditioned that Lots 1 and 47 are maintained as landscaping. It is reasonable to expect that relocatable buildings and cabins within a camping and caravan park will be constructed of materials such as corrugated iron rather than materials more commonly used in commercial developments.
It is unclear if the application proposes subdivision of the land.	This application does not propose subdivision of the land. It will be conditioned on any planning permit issued that 'lot' numbers are relabeled as 'site' numbers to accurately reflect this. The lots currently shown on plans reflect separate leasehold boundaries as registered on title. The leaseholds are part of the private investment structure adopted by the camping and caravan park owners and are not relevant to planning consideration.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to be consistent with the Planning Policy Framework, and purpose and decision guidelines of the Commercial 1 Zone, General Residential Zone, Schedule 11 to the Design and Development Overlay and Schedule 2 to the Vegetation Protection Overlay.

The application underwent notification and as a result there were 13 submissions received. Concerns raised by submitters were considered in the assessment of the application.

It is recommended that Council resolve to issue a Notice of Decision to Grant a Planning Permit for planning application PDPLANPER-2023/000481, subject to conditions.

Recommendation

That in relation to planning permit application PDPLANPER-2023/000481 for buildings and works and the removal of one tree associated with the redevelopment of a camping and caravan park in a Commercial 1 Zone (C1Z), General Residential Zone (GRZ1), Vegetation Protection Overlay (VPO2), and Design and Development Overlay (DDO11) at 137-143 Thompson Avenue Cowes, Council resolves to issue a Notice of Decision to Grant a Permit subject to the following conditions:

Amended plans required

1. **Before the development commences, amended plans drawn to scale with dimensions must be submitted to and approved by the responsible authority. The plans must be generally in accordance with the development plans prepared by Neil Fletcher Design dated 25 May 2023 Revision D and to the satisfaction of the responsible authority but modified to show:**
    a) **Removal of all reference to the proposed promotional banner signage from the plans.**
    b) **Proposed construction of a new solid paling fence with minimum height of 1.9 metres along the entire length of the southern site boundary.**
    c) **An annotation that 'the gate along the southern boundary is to be used in the event of an emergency only and no pedestrian or vehicle access will be facilitated to the property from Watchorn Road.'**
    d) **Lots 1 and 47 to be removed from the proposed site plan and allocated as common landscaping areas along the site frontage.**
    e) **Lots 2, 3 and 4 to be removed from the proposed site plan and allocated as area for the existing caretaker's dwelling and office.**

f) **All 'lot' numbers to be relabeled as 'site' numbers and renumbered 1- 42 on site and elevation plans in accordance with the omission of lots required under Condition 1d) and 1e) of this planning permit.**

g) **The setback of the proposed amenities block from the western site frontage.**

h) **The approximate location of the three proposed portable ensuites.**

i) **The first floor south-facing balcony of the proposed cabin on Lot 37 must be appropriately redesigned or screened to prevent overlooking into the residential property at 2 Watchorn Road to the satisfaction of the responsible authority.**

j) **The location of any proposed playground equipment to the satisfaction of the responsible authority.**

k) **An amended landscape plan in accordance with Condition 4.**

l) **A Tree Protection Management Plan (TPMP) in accordance with Condition 8.**

m) **A Waste Management Plan (WMP) in accordance with Condition 15.**

n) **A Site Layout and Use Plan in accordance with Condition 21.**

All to the satisfaction of the responsible authority. When approved, the plans will be endorsed and will then form part of this Permit.

General Conditions

2. **The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.**
3. **No buildings or works shall be constructed on any existing easement (including implied sewer, drainage, telephone, gas, power, and water easement) or proposed easement without the further approval in provider.**

Landscaping

4. **Concurrent with the submission of plans required by Condition 1 and before the development commences, an electronic copy of an accurately dimensioned Landscape Plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. The Landscape Plan must be generally in accordance with the Landscape Plan prepared by Coastal Native Gardens dated October 2023 but modified to show:**

a) **Any updates to the site layout plan as required by Condition 1.**

b) **Additional planting throughout and along the entire length of the site frontage of Lot 47 which is required to be removed as a camping and caravan park site plan in accordance with Condition 1. Proposed**

landscaping within former Lot 47 must include a combination of garden beds, upper-storey (trees) and under-story (shrubs and groundcovers) planting from the species list under Permit Note-A or the Indigenous Plants of Bass Coast Shire Brochure to provide sufficient screening to the satisfaction of the Responsible Authority.

c) **Replacement of at least half of the proposed canopy trees with a higher diversity of species including Eucalypts selected from the species list under Permit Note-A or to the satisfaction of the responsible authority.**

d) **All trees are to be of advanced stock (minimum 45-52L/50cm pot size and 2 metres tall at time of planting).**

e) **All proposed trees to be clearly set back a minimum of 3 metres from buildings on the site and within open ground clear of all hard surfacing, buildings, structures and other tree canopies.**

5. **The planting of trees as shown in the endorsed landscape plan must be conducted in accordance with the following requirements:**

   a) **The hole for the new tree must be 2 - 3 times wider than the pot the tree was grown in and approximately the same depth as the pot. The tree must not be planted any deeper than the soil level in the pot.**

   b) **The soil from the hole to be replaced around the tree root ball, firmed in, and watered in well.**

   c) **The area, a minimum of 1 metre radius from the trunk of the tree, should be mulched with composted mulch at a minimum depth of 50 - 75 millimetres and watered well during dry periods for a minimum of 12 months to ensure the new tree establishes in its new position.**

6. **Within 12 months of the issued date of this Planning Permit, the site whether occupied or not, must be landscaped in accordance with the endorsed landscape plan unless with the written consent of the responsible authority.**

7. **The landscaping shown on the endorsed plans must be thereafter maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced within two months of any failing.**

Tree Protection Management Plan

8. **Concurrent with the submission of plans required by Condition 1 and before the development commences, a TPMP, prepared by a suitably qualified arborist, to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. The TPMP must be provided for Trees Number 9 -17 and 26 as identified in the Arboricultural Construction Impact Assessment prepared by**

Trevor Moulynox of Urban Forestry Victoria dated 1 November 2023 as submitted with the application. The Tree Protection Management Plan must be separated into the following sections and must include the following information:

a) **Background: This section must detail the site, the permit requirements and reference any previous arboricultural reports undertaken on the site (and relevant details such as Author, Company Name etc.).**

b) **Trees to be protected. This section should detail in a table format the trees to be protected. The table must include:**

i) **Tree numbers**

ii) **Botanical species names**

iii) **Diameter at Breast Height (DBH)**

iv) **Tree Protection Zone (TPZ)**

v) **Structural Root Zone (SRZ)**

vi) **Details on the Tree Protection Fence locations and any ground protection requirements.**

vii) **Proposed construction methods to minimise damage to identified trees e.g., use of pier and beam construction or screw pilings as opposed to strip footings.**

viii) **Specifications for tree protection measures should be applied as prescribed in AS 4970-2009.**

ix) **Specification of remedial tree works pre and post development compliant with AS 4373-2007 and AS 4970-2009, if necessary, and in line with recommendations. Specification and scheduling of necessary tree care/maintenance required before, during and post construction (such as watering and fertilising trees).**

c) **General Activities to be isolated from the Tree Protection Zone (TPZ): This should list all the actions that must be isolated from the TPZ unless approved by Council or within the specific detail of the Tree Protection Management Plan.**

d) **Details of Exploratory Root Investigation (where undertaken): Any previous exploratory works should be detailed within this section.**

e) **Proposed inspection schedule: To assess tree health for the various stages of development such as site establishment, construction work, hard and soft landscaping practical completion.**

f) **Tree Protection Plan: This is a site plan that clearly defines:**

i) **All trees clearly numbered and correspond with the tree data.**

ii) Locations of site sheds, building storage area, waste area, site toilets, site access.

iii) Location of TPZ fencing, TPZ areas to be mulched and trees requiring trunk and branch protection.

iv) Location of installations of services and methodology to be used.

9. The following vegetation protection measures must be complied with:

a) All tree protection specifications for the site must be in accordance with the endorsed Tree Protection Management Plan. Tree protection measures must comply with the requirements set out on Page 21, under Section5.2 Tree Protection Plan in AS4970-2009 Protection of Trees on Development Sites.

b) Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorised person only during approved construction within the TPZ and must be restored in accordance with the TPMP requirements at all other times.

c) Prior to the commencement of any site works, including demolition and excavation, the responsible authority must be provided with evidence that a project arborist has been engaged as part of the ongoing consultant team to oversee all buildings and works, and to ensure the development does not have a detrimental impact on the ongoing health and stability of the trees to be retained. The project arborist must have a qualification in arboriculture and hold a minimum Diploma in Horticulture (Arboriculture) to be the project arborist.

10. A qualified Arborist must be present at the time of excavation to ensure suitable protection of the trees to be retained. Any work/pruning required on the trees to be retained must be undertaken by a qualified Arborist and pruning works must conform to AS4373-2007 Pruning of Amenity Trees. All areas of cut adjacent to the trees to be retained must be mulched to the satisfaction of the Arborist present.

11. Works engineers, design engineers, surveyors, works crews, contractors and plant operators must be properly briefed on all relevant conditions contained within this permit before any works start.

12. At the completion of works, the Arborist must submit a written statement, indicating the impact of the proposed works on the trees, pruning works to trees undertaken and methods used to protect the trees to be retained as identified in Condition Protection of vegetation.

13. **No other trees on site that are protected by the Planning Scheme/Local Law may be destroyed, felled, lopped, or uprooted without the written consent of the responsible authority (other than in accordance with a Notice given pursuant to the Local Government Act 2020). All existing trees to be retained and trees required by this permit to be planted shall be maintained to the satisfaction of the responsible authority.**
14. **Any pruning that is required to be done to the canopy of any tree to be retained is to be done by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. Any pruning of the root system of any tree to be retained is to be done by hand by a qualified arborist.**

Waste Management

15. **Concurrent with the submission of plans required by Condition 1 and before the development commences, a WMP for the proposed development, prepared by a suitably qualified person, to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. The WMP must provide for the proposed development of a camping and caravan park with respect to the associated collection and disposal of waste and recyclables providing for the following:**
    a) **Waste separation and collection services to be provided by a private contractor at a standard in accordance with councils' kerbside collection service.**
    b) **Where when and how the portable ensuites will be emptied to not cause unreasonable amenity impacts.**
    c) **The methods of collection and disposal of waste associated with the proposed development, including the provision of bulk waste collection bins or approved alternative, recycling bins, the storage of other refuse and solid wastes in bins or receptacles within locations suitably screened and accessible to the satisfaction of the Responsible Authority.**
    d) **The frequency and days/hours for the collection of waste as not to cause any unreasonable disturbance to nearby residential properties.**
    e) **Any details for best practice waste management once operating.**
16. **All waste must be separated and collected by a private contractor in accordance with Councils' kerbside collection service and the Waste Management Plan as approved by the responsible authority.**
17. **All waste material not required for further on-site processing must be regularly removed from the site. All vehicles removing waste must**

have fully secured and contained loads so that no waste is spilled, or dust or odour is created to the satisfaction of the responsible authority.

18. **Collection of waste must be constructed so as not to cause any unreasonable disturbance to nearby residential properties.**
19. **Adequate provision must be made for the storage and collection of garbage, bottles and solid waste in bins or receptacles to the satisfaction of the responsible authority.**
20. **Storage bins shall be screened from view of the street and adequately covered to the satisfaction of the responsible authority to minimise dispersal of material by wind or water and vermin and pest insect access. Appropriate controls shall be implemented to restrict the movement of windblown litter and prevent the site appearing unsightly. No litter shall be discharged beyond the boundaries of the site. All storage areas shall be surfaced and capable of being washed down with wastewater being directed to sewer via an appropriate litter trap. No odour shall be emitted from any waste storage areas so as to cause offence to adjoining property occupiers to the satisfaction of the responsible authority.**

Camping and Caravan Park Layout

21. **Concurrent with the submission of plans required by Condition 1 and before the development commences, an electronic copy of an accurately dimensioned Site Layout and Use Plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. The plan must be generally in accordance with the Lot Use Plan dated 16 November 2023 as submitted with the application but modified to show:**
    a) **Renaming of the plan as Site Layout and Use Plan.**
    b) **Any updates to the site layout as required by Condition 1 including the removal, renaming, and renumbering of lots.**
22. **All accommodation provided on the land including but not limited to cabins, caravans, campervans, annexes, and tents must be located within numbered camping and caravan park sites as shown on and generally in accordance with the Site Layout and Use Plan, and not within common or landscaping areas.**

Removal of Signage

23. **Within 1 month of the issue date of this planning permit, the promotional signage banner along the western front fence line to Thompson Avenue must be removed.**

24. **Within 1 month of the issue date of this permit, at least 3 high quality photographs (from various angles and distances) are to be provided showing that the promotional signage banner has been removed to the satisfaction of the responsible authority.**

Access

25. **No pedestrian or vehicle access to the property is permitted from Watchorn Road and all access to the property will be via the existing crossover to Thompson Avenue.**

Engineering Conditions

26. **Before occupation of the development hereby permitted, the following works must be completed to the satisfaction of the Responsible Authority including all necessary permits being obtained and inspections undertaken:**
    a) **All civil construction works, must be constructed in accordance with the civil design plans for the property as endorsed by the Responsible Authority pursuant to this planning permit.**
    b) **All drainage works in accordance with the endorsed civil plans.**
    c) **Photographic evidence of the legal point of connection to Council's drainage system must be provided if Council inspection cannot be arranged prior to backfilling.**
    d) **As-constructed levels must be provided to AHD for any new Council assets constructed with the development.**
    e) **All redundant infrastructure (including vehicle crossings) abutting the site shall be removed and the kerb, channel, naturestrip and footpath shall be reinstated.**
27. **The onsite stormwater drainage system including stormwater detention, installed in accordance with the endorsed plans, must not be removed or modified without the further approval in writing of the Responsible Authority.**

Amenity

28. **The exterior colour and cladding of the building must be of a non-reflective nature, natural and muted toning, and not result in any adverse visual impact on the surrounding environment to the satisfaction of the responsible authority.**
29. **All buildings and works must be maintained in good order and appearance to the satisfaction of the responsible authority.**
30. **The development must be managed during construction so that the amenity of the area is not detrimentally affected 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, litter, dust, wastewater, waste products, grit, or oil; and**

d) **presence of vermin or animals.**

31. **Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock, or other debris being carried onto public roads or footpaths from the subject land to the satisfaction of the Responsible authority.**

32. **No mud, dirt, sand, soil, clay, stones, oil, grease, scum, litter, chemicals, sediments, gross pollutants, animal waste or domestic waste shall be washed into, allowed to enter or discharged to the stormwater drainage system, receiving waters or surrounding land and road reserves, during the construction works hereby approved to the satisfaction of the Responsible Authority.**

Permit expiry

33. **This Permit will expire if:**

a) **The development does not start within two (2) years from the date of this Permit; or**

b) **The development is not completed within four (4) years of the date of this Permit.**

The responsible authority may extend the time referred to if a request is made in writing before this Permit expires or within six months after the expiry date if the development has not commenced.

If the development has lawfully commenced, the responsible authority may extend the time referred to if a request is made in writing within twelve months of the expiry date.

NOTES

A. Planting Tree Species List

Large canopy trees (>15 metres in height at maturity)

Botanical Name	Common Name	Origin
Angophora floribunda	Rough Barked Apple	AN
Banksia Integrifolia	Coast Banksia	I
Corymbia citriodora	Lemon Scented Gum	AN
Eucalyptus leucoxylon	South Australian Blue Gum	AN
Corymbia maculata	Spotted Gum	AN
Eucalyptus obliqua	Messmate	I
Eucalyptus ovata	Swamp Gum	I
Eucalyptus pauciflora	Snow Gum	VN
Eucalyptus polyanthemos	Red Box	VN
Eucalyptus pryoriana	Coast Manna Gum	I
Lophostemon confertus	Brush Box	AN

VN – Victorian Native; AN – Australian Native; I – Indigenous to Bass Coast

Medium sized canopy trees (5-10 metres in height at maturity)

Botanical Name	Common Name	Origin
Acacia melanoxylon	Blackwood	I
Agonis flexuosa	Willow Myrtle	AN
Allocasuarina littoralis	Black Sheoak	VN
Allocasuarina verticillata	Drooping Sheoak	I
Banksia marginata	Silver Banksia	AN
Elaeocarpus reticulatus	Blueberry Ash	AN
Eucalyptus kitsoniana	Gippsland Mallee	VN
Hymenosporum flavum	Native Frangipani	AN
Leptospermum laevigatum	Coastal Ti-tree	I
Leptospermum lanigerum	Woolly Ti-tree	I
Melaleuca lanceolata	Moonah	I

VN – Victorian Native; AN – Australian Native; I – Indigenous to Bass Coast

B. Camping and Caravan Park

The premises must comply with the relevant provisions of the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020; and be registered with Council's Health Department as a caravan park.

C. Asset Protection Permit

Unless exempted by the Bass Coast Shire, an Asset Protection Permit must be obtained prior to the commencement of any proposed building works, as defined by Local Law No. 1 Neighbourhood Amenity 2012. Bass Coast Shire Council's Asset Protection Officer must be notified in writing at least 7 days prior to the building works commencing or prior to the delivery of materials/equipment to the site.

D. Building permit

This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all required building permits are obtained.

E. Planning permission

Nothing in the grant of this permit should be constructed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents, or approvals.

F. Local Law Permit – Vegetation Removal

The vegetation approved for removal under this planning permit may require a Local Laws permit from Council. Prior to the commencement of removal of any vegetation, the permit holder must contact Council to ensure a Local Laws permit is obtained (if required).

G. Failure to Comply

Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.

Attachments

1. AT-1 Development Plans [**8.2.1** - 29 pages]
2. AT-2 Mobile Ensuite Perspectives [**8.2.2** - 1 page]
3. AT-3 Lot Use Plan [**8.2.3** - 1 page]
4. AT-4 Landscape Plan [**8.2.4** - 5 pages]
5. CONFIDENTIAL - AT-5 List of Submissions [**8.2.5** - 17 pages]

8.3 Planning Application PDPLANPER-2023/000529 - 42 Bruce Road, Silverleaves

8.3 Planning Application PDPLANPER-2023/000529 - 42 Bruce Road, Silverleaves

Division	**Place Making**
Council Plan Strategic Objective	**Sustainable Development** *Prepare for growth while ensuring the intrinsic values and character of Bass Coast are retained*

Declaration

The author has no general or material interests in relation to this report.

Purpose of Report

For Council to consider a planning application for the construction of a dwelling and removal of vegetation in a Design and Development Overlay (DDO1), Land Subject to Inundation Overlay (LSIO1) and Bushfire Management Overlay (BMO).

Executive Summary

Application number:	PDPLANPER-2023/000529
Applicant:	Damian Orlando Design
Land/Address:	42 Bruce Road, Silverleaves
Ward:	Island Ward
Proposal:	Construct a dwelling and removal vegetation in a Design and Development Overlay (DDO1), Land Subject to Inundation Overlay (LSIO1) and Bushfire Management Overlay (BMO)
Zone:	Township Zone
Overlay:	Land Subject to Inundation Overlay (LSIO) Bushfire Management Overlay (BMO) Vegetation Protection Overlay Schedule 2 (VPO2) Design and Development Overlay Schedule 1 (DDO1)
Aboriginal cultural heritage sensitivity	The land is located within an area of cultural heritage sensitivity.
Title:	Lot 159 on Plan of Subdivision 056251 in Volume 08372 Folio 815. No covenants or easements affect the land.
Number of submissions:	29 objections were received.

Reason a Council decision is required:	Council's delegations require applications that attract fifteen or more objections to be determined by Council. This application attracted 29 objections.
Officer recommendation:	Notice of Decision to Grant a Planning Permit

Summary of Officer Recommendation

That Council issue a Notice of Decision that it issues a permit subject to the conditions outlined in the Officer Recommendation section of this report.

Main Considerations

The following are the main considerations that formed part of the assessment of this application:

- Building height
- Bushfire risk
- Bushfire exemptions
- Vegetation removal
- Inundation risk

The Proposal

This application proposes to construct a dwelling and remove vegetation on land subject to the Design and Development Overlay (DDO1), Land Subject to Inundation Overlay (LSIO1), Bushfire Management Overlay (BMO) and Vegetation Protection Overlay (VPO2) in accordance with Advertised plans prepared by Damian Orlando Design, dated 05/02/2024, Rev C. The decision plans are provided as Attachments and are detailed below:

- Proposed Plans by Orlando design (AT-1)
- Bushfire Management Statement by BPAD (AT-2)
- Applicants Planning Report (AT-3)
- Amended Arborist Report (AT-4)
- Arboricultural Impact Assessment including addendum by Jack Machar (AT-5)
- Arborist addendum addressing the wetland (AT-6)

Key features of the proposal include:

- Existing weatherboard shed to be demolished with a new two storey dwelling comprising four bedrooms with full ensuites, laundry, rumpus room, a double garage with double carport in front and a workshop / storage area leading on the

ground level and kitchen dining, living and a balcony, each, along the front and rear facade on the upper level.

- The dwelling would maintain a front setback distance of 9 metres.
- The maximum height of the dwelling will be 8.03 metres as measured along the East elevation.
- Minimal earthworks have been proposed to facilitate the construction.
- External cladding includes a combination of natural stone and render walls on the ground level and vertical cladding on the upper level with flat metal deck roofing.
- 55 trees proposed for removal from the subject site are exempt from planning permission under Clause 52.12-5.
- Access is proposed via a new concrete vehicle crossover and driveway.

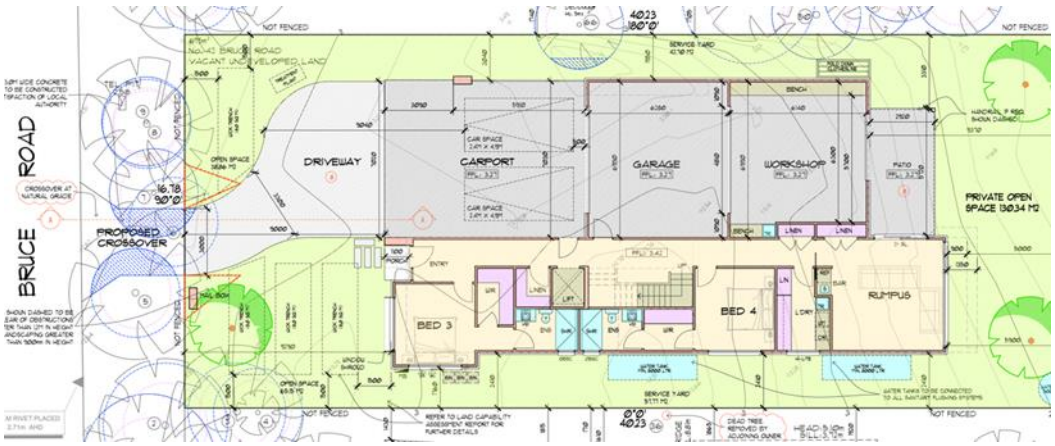


Figure 1 - Proposed Ground Floor Plan



Figure 2 - Proposed First Floor Plan



Figure 3 - Proposed Elevation Plans

Subject Site and Surrounds

The site is developed with a weatherboard shed located adjoining the eastern property boundary of the site. Vehicle access to the subject site is currently provided by an un-made vehicle crossover located in between existing vegetation along the frontage of the subject site.

The subject site currently contains an extensive amount of vegetation on and immediately adjoining the subject site.

The subject site has an undulating topography with a slope of approximately 1 metre from the northern property boundary down to the southern property boundary as well as a cross-fall of approximately 300-400 milimetres from the western boundary to the eastern boundary of the site.

The site is located within a predominantly residential area of Silverleaves with both single and double storey dwellings evident in the vicinity of the site.

The main characteristics of the surrounding area are:

North	The site abuts Bruce Road on the north. Bruce Road is a paved local no-though street with unmade shoulders and no formal drainage.
South	Adjoining the land to the south is included within the Rurakl Conservation Zone and is an extension of the Rhyll inlet.
East	Adjoining the land to the east is 44 Bruce Road which is a similar sized allotment to the subject site and supports a single dwelling.
West	Adjoining the land to the west is 40 Bruce Road which is also a similar sized allotment to the subject site and also supports a single dwelling.



Figure 5 – Site and surrounds

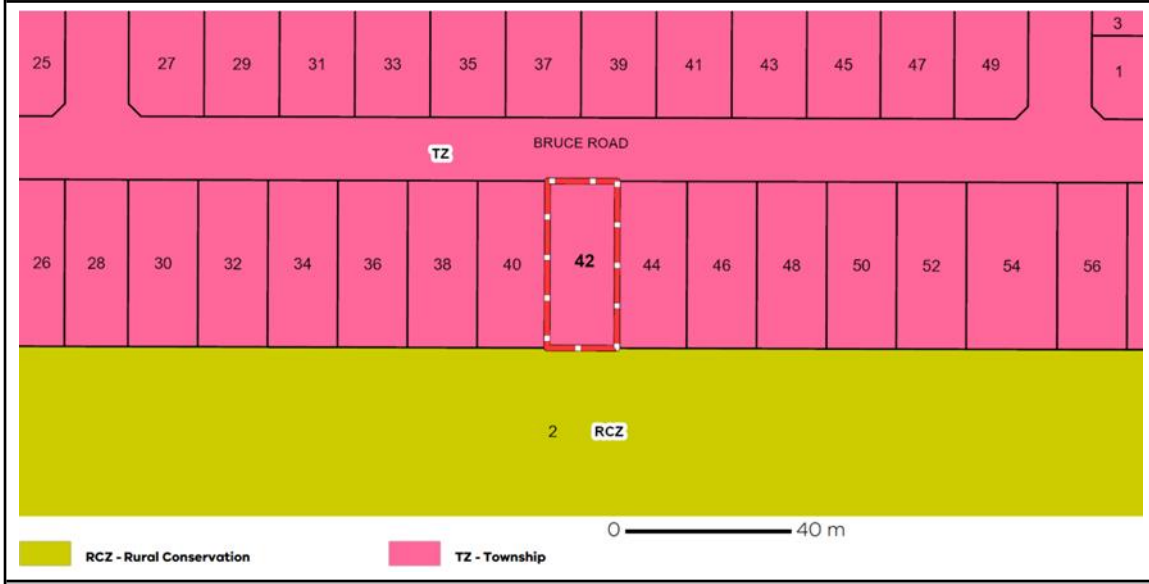


Figure 6 - Zoning Map

Planning Controls

The following controls/permit triggers are considerations for this application:

Zone

Clause 32.05 Township Zone Schedule 1

- In accordance with Clause 32.05-6 a planning permit is not required to construct or carry out works normal to a dwelling.

Overlays

Clause 44.04 Land Subject to Inundation Overlay

- In accordance with Clause 44.04-2 a permit is required to construct a building or to construct or carry out works.

Clause 44.06 Bushfire Management Overlay

- In accordance with Clause 44.06-2 a permit is required to construct a building or construct or carry out works associated with the Accommodation (Dwelling).

Clause 42.02 Vegetation Protection Overlay Schedule 2

- The provisions of Clause 42.02-2 which requires a permit is required to remove, destroy, or lop any vegetation specified in a schedule will not apply to this application.

Clause 43.02 Design and Development Overlay Schedule 1

- In accordance with Section 2.0 of Schedule 1 of the Design and Development Overlay, a permit is required for buildings and works that have a height of more than 7 metres above ground level.

Particular Provisions

Clause 52.12 Bushfire Protection Exemptions

- In accordance with Clause 52.12-1 an exemption applies when creating defendable space around buildings used for accommodation.
- In accordance with clause 52.12-5 an exemption applies when removing vegetation to facilitate the construction and protection of a dwelling in the Bushfire Management Overlay.

Notice of the application was required under Section 52 of the *Planning & Environment Act 1987*, as the responsible authority was not satisfied that the grant of the permit would not cause material detriment to any person.

The Applicant gave notice in the following manner:

- Sent copies of the Notice by registered mail to adjoining landowners and occupiers; and
- Owners and occupiers of property directly opposite.
- Placed a copy of the notice attached to sign on the land facing Bruce Road.

In response to notification the application attracted 29 objections.

A copy of each submission is included in AT-7.

Concerns and comments from the community are summarised further in this report including a Council Officer response in the table provided.

Council officers discussed with the applicant any intention or possibility of reducing the height of the dwelling below the design and development overlay trigger. Such an amendment would satisfy many of the objectors' concerns and exempt the application from appeal rights. This opportunity was not entertained by the applicant.

The applicant agreed to retain trees where they would comply with their obligations under the bushfire management plan and was open to the contribution of offsets and replanting measures (described in their report) and encouraged a landscape plan by condition, however the Council does not have a discretion on these matters.

Referrals

The following table outlines the referral requirements of this application.

Referral Authority	Referrals under the Planning and Environment Act 1987
External	
Country Fire Authority	Section 55 No objection to the application subject to conditions.
Department of Energy Environment and Climate Action	Section 52 No objection to the application.
Melbourne Water	No objection to the application subject to conditions.
Internal Council Departments	
Environmental Health	No objection.
Councils Arborist	No objection.

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

VPP00 Purpose and Vision

Clause 02 – Municipal Planning Strategy

- Clause 02-02 Vision
- Clause 02-03 Strategic direction

VPP11 Settlement

Clause 11.01 - Victoria

- Clause 11-01-1L-03 Cowes and Silverleaves

Clause 11.03 - Planning for Places

- Clause 11.03-4S Coastal settlement

VPP 12 Environmental and Landscape Values

Clause 12.01 Biodiversity

- Clause 12.01-1S Protection of biodiversity
- Clause 12.01-1L Protection of biodiversity
- Clause 12.01-2S Native vegetation management

Clause 12.02 Coastal areas

- Clause 12.02-1S Protection of coastal areas
- Clause 12.02-1L Protection coastal areas
- Clause 12.02-2S Marine and coastal Crown land

Clause 12.03 Water Bodies and Wetlands

- Clause 12.03-1S River corridors, waterways, lakes, and wetlands
- Clause 12.03-1L River corridors, waterways, lakes, and wetlands

Clause 12.05 Significant Environments and Landscapes

- Clause 12.05-1S Environmentally sensitive areas
- Clause 12.05-2S Landscapes
- Clause 12.05-22L-01Landscapes
- Clause 12.05-2L-02 Landscape character areas
- Clause 12.05-2L-03 Hilltops, ridgelines, and prominent costal landform protection in Rural Zones

VPP 13 Environmental Risks and Amenity

Clause 13.01 Climate Change Impacts

- Clause 13.01-1S Natural hazards and climate change
- Clause 13.01-2S Coastal inundation and erosion
- Clause 13.01-2L Coastal inundation and erosion

Clause 13.02 Bushfire

- Clause 13.02-1S Bushfire planning
- Clause 13.02-1L Bushfire planning

Clause 13.03 Floodplains

- Clause 13.03-1S Floodplain management
- Clause 13.03-1L Floodplain management

Clause 13.04 Soil Degradation

- Clause 13.04-1S Contaminated and potentially contaminated land

VPP 15 Built Environment and Heritage

Clause 15.01 Built Environment

- Clause 15.01-1L-02 Landscape design
- Clause 15.01-2S Building design
- Clause 15.01-2L Building design
- Clause 15.01-5S Neighbourhood character
- Clause 15.01-5L Neighbourhood character

The following assesses the proposal against the relevant Planning Policy Framework (PPF) under the themes of Built Environment, Housing, Protection of Vegetation and Landscape.

The PPF recognises the importance of accommodating development within established settlement boundaries in order to limit the impact on the character of the area and coastal areas. The PPF further seeks to ensure that a sufficient supply of land is available for residential use and encourages the consolidation of urban areas within settlement boundaries if that development respects existing neighbourhood character.

The municipal strategic policies confirm that Silverleaves is to accommodate limited housing growth from a broad strategic perspective. This is nominated in Clause 02.03-1 Settlement where the following is noted for Silverleaves:

> *Silverleaves: Silverleaves is a small residential development to the east of Cowes. Development is nestled amongst mature vegetation, the majority of which is classified as vulnerable Ecological Vegetation Class 2 Coast Banksia Woodland. The existing urban area is below 2.5 meters AHD and vulnerable to expected impacts of Climate Change. The scale of Silverleaves is further maintained by the inability to provide reticulated sewage.*

The planning scheme anticipates a level of low housing growth which is expected to occur because of re-development of existing dwellings which are demolished as well as the construction of new dwellings on vacant lots. This is consistent with the permits granted by Council for the construction of single dwellings – namely at properties including 58 Bruce Road to the east, 127 and 131 Silverleaves Avenue to the north-east and 37 Bruce Road to the north which have had single dwellings constructed on vacant lots.

It is considered that the development of a single dwelling on a vacant parcel of land remains consistent with the expected housing growth in Silverleaves and therefore is consistent with the Municipal Planning Strategy.

The proposed development is two storey and consistent with the built form of adjoining and surrounding properties. The overall height of the dwelling at 8.04 metres is not significantly different from existing two storey built form of the surrounding area. The increased height of the dwelling is also partly a result of the stipulated flood level by Melbourne Water.

The proposed materials and finishes of the proposed development are consistent with those found in Bruce Road and are modern and coastal in nature, ensuring that the materials utilised will withstand the tough coastal conditions.

Zone Assessment

Clause 32.05 – Township Zone

This application does not trigger a planning permit under the Township Zone.

Overlay Assessment

Clause 42-02 – Vegetation Protection Overlay Schedule 2

'Phillip Island'

The purpose of the Vegetation Protection Overlay is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To protect areas of significant vegetation.*
- *To ensure that development minimises loss of vegetation.*
- *To preserve existing trees and other vegetation.*
- *To recognise vegetation protection areas as locations of special significance, natural beauty, interest, and importance.*
- *To maintain and enhance habitat and habitat corridors for indigenous fauna.*
- *To encourage the regeneration of native vegetation.*

Schedule 2 of Clause 42.02 has the objective *"To protect and enhance existing indigenous and larger native species within the urban area of Phillip Island."*

A detailed review of the application materials and the Bass Coast Planning Scheme found that there is no applicable trigger once sweeping exemptions for Bushfire protection are considered.

If not for the impact of Victorias Bushfire Protection Exemptions, each tree would have required consideration under the Vegetation Protection Overlay and be a relevant consideration in the overall design and siting of the building and its appurtenances.

All trees and shrubbery within the subject site are exempt from planning permission pursuant to clause 53.12-1 and 53.12-5. Shrubbery adjacent to the site (within 50 metres of adjacent dwellings) are also exempt – which includes the Coast Beard Heath on the road reserve.

While planning consent is not required, the assessment of the vegetation is pertinent to the application to ensure the development has protected third party vegetation.

The application was further referred to councils planning arborist for consideration of the shrub on the road reserve and whether the trees onsite would require additional and separate consent under Council local law. It was found that the trees were not of a size or stature that warranted protection as a 'significant' tree and that removal of the street tree to provide for access would be satisfactory.

Clause 43-02 – Design and Development Overlay Schedule 1

'Residential areas near the coast'

The purpose of the Design and Development Overlay is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify areas which are affected by specific requirements relating to the design and built form of new development.*

Schedule 1 has the following design objectives.

- *To protect views from the coast to adjacent residential areas.*
- *To protect views to the coast from adjacent residential areas.*
- *To minimise the impact of development along the coastline.*
- *To protect and enhance the visual amenity and landscape of the coastal area.*
- *To respond to the potential coastal impacts of climate change.*

Pursuant to Section 2.0 of Schedule 1 of the Design and Development Overlay, a permit is required for buildings and works that have a height of seven metres or more above the natural ground level. When assessed against the decision guidelines of DDO1, the proposal is appropriate given:

- The Design and Siting Guidelines for Coastal Areas and Rural Hinterland (1999) identify that the DDO areas in Cowes and Silverleaves are characterised by one **and** two storey dwellings. The proposed side setbacks are equivalent to neighbouring dwellings and the colours and materials are appropriate and considerate to the context being of dark and natural tone.
- The proposed dwelling is not excessive in height, scale, or site coverage when due consideration is given to the uneven ground levels, heights of surrounding development and canopy coverage. Peak heights occur in the troughs of the natural ground levels. The extent of built form which is 7 metres or more above the natural ground level is considered proportionate to nearby dwellings.

- The streetscape elevation is a conservative 6.5 metres above the natural ground level, which when considered alongside a substantial 9 metres setback is a reasonable expectation.
- Height impacts along the length of the building are generally on the west elevation (between 6.95 and 7.3 metres) where the land is lower.
- Height impacts on the east elevation are limited to the south east corner where the land dips to the Rhyll Wetland.
- Consideration has been given to the building's response to climate change impacts which exacerbate height through raised finished floor levels, absence of fill padding and location of wicking beds at the furthest point from the abutting wetlands.
- Consideration was also given to the purpose of the township zone and the specific allowance of height concessions where inundation issues were prevalent. (Under the Township Zone calculations, the building has a maximum height of 6.295 metres when measured from minimum floor level requirements at 3.42 metres)

Clause 44-04 – Land Subject to Inundation Overlay

The purpose of the Land Subject to Inundation Overlay is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) year flood or any other area determined by the floodplain management authority.*
- *To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, responds to the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.*
- *To minimise the potential flood risk to life, health and safety associated with development.*
- *To reflect a declaration under Division 4 of Part 10 of the Water Act, 1989.*
- *To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.*
- *To ensure that development maintains or improves river, marine, coastal and wetland health, waterway protection and floodplain health.*

Melbourne Water did not require a coastal hazard and vulnerability assessment to accompany the application and provided their consent to the issue of a permit subject to specific conditions.

The decision guidelines of Clause 44.04-8 and the schedule were considered through the assessment process and the required conditions of the catchment manager have been applied to the recommended permit.

Clause 44-06 – Bushfire Management Overlay

The purpose of the Bushfire Management Overlay is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.*
- *To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.*
- *To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.*

Pursuant to Clause 44.06-3 A Bushfire Management Statement and Bushfire Management Plan have been prepared and submitted with the application. This plan establishes the Bushfire Attack Level rating of Bal 29 for the subject site based on vegetation assessed within 150 metres of the subject site and the wider bushfire threat,

The site is located within an urbanized area with a fire hydrant located outside 45 Bruce Road which is less than 120 metres from the subject site. A 5000 litre capacity water tank has been proposed on the site exclusively for firefighting purposes. The site has access to Bruce Road which is sealed local road.

The report has demonstrated compliance with the requirements of Clause 53.02 and accordingly the CFA has provided conditional consent requiring that the Bushfire Management Plan be endorsed with the permit and the land maintained in accordance with that plan.

Particular Provisions Assessment

Clause 52.12 Bushfire Protection Exemptions

The purpose of these exemptions is:

- *To facilitate the removal of vegetation in specified circumstances to support the protection of human life and property from bushfire.*
- *To facilitate the construction and protection of community fire refuges and private bushfire shelters.*

The Bushfire Protection Exemptions of clauses 52.12-1 and 52.12-5 have a substantial impact on the planning assessment of the proposal.

Clause 52.12-1 states (emphasis added):

Any requirement *of a planning permit, including any condition, which has the effect of prohibiting the removal, destruction or lopping of vegetation, or any requirement of this planning scheme to obtain a planning permit, or any provision of this planning scheme that prohibits the removal, destruction or lopping of vegetation or requires the removal, destruction or lopping of vegetation to be carried out in a particular manner, does not apply to any of the following:*

The removal, destruction or lopping of any vegetation within 10 metres of an existing building used for accommodation - and

The removal, destruction or lopping of any vegetation, except trees, within 50 metres of an existing building used for accommodation if all the following requirements are met

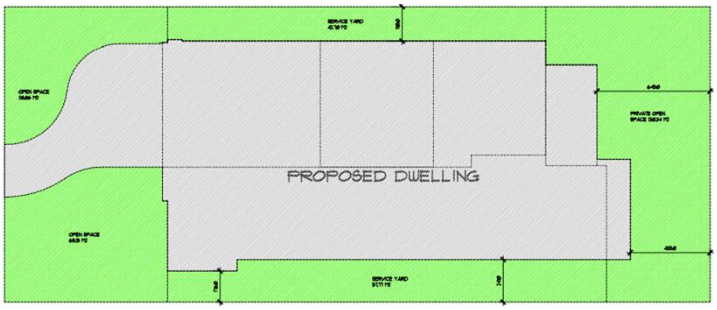
- *The building must be located in an area that is designated as a bushfire prone area under the Building Act 1993.*
- *The building must have been:*
    - *constructed before 10 September 2009; or*
    - *approved by a planning permit or a building permit issued before 10 September 2009; or*
    - *constructed to replace a dwelling or dependent persons unit that was damaged or destroyed by a bushfire that occurred between 1 January 2009 and 31 March 2009.*

On assessment of the application and the relevant facts it is found that all the vegetation onsite and abutting is exempt from planning consideration by the operation of this clause and the size or scale of the dwelling proposed is near irrelevant to the extent of vegetation which is exempt from planning consent to provide for bushfire protection.

Concerns Raised By Submitters

The following table summarises submissions into themes and provides a discussion on planning merit:

Submitter Theme	Council Officer Response
Bulk, size, setting, number of rooms, bathrooms, living areas, overshadowing, and overlooking.	Assessment of this application is limited to the impact of height and design aesthetic. It will be the responsibility of the registered building surveyor to assess direct amenity issues resulting from building design and siting (overlooking, setbacks, overshadowing etc) as part of the building permit stage.
Impact of the building on the character and amenity of the area.	The building is not considered to be contrary to the neighbourhood character and amenity. The design is typically contemporary but uses materials and colours appropriate to the landscape setting.
Overdevelopment	The construction of a single dwelling which occupies just over 50% of the site area is not considered to be overdeveloped. The site can accommodate the proposal.

Submitter Theme	Council Officer Response
Impact on vegetation	The proposed removal of vegetation could not be carefully considered under the planning scheme due to the impact of state bushfire protection exemptions. Planning conditions are limited to protecting third party vegetation during construction. All vegetation proposed to be removed is exempt from the Bass Coast Planning Scheme.
Street tree removal	The street tree proposed to be removed has been assessed by the Council's Planning Arborist. The street tree is exempt from any planning permit consideration due to broad ranging bushfire exemption provisions.
Insufficient space for landscaping	Proposed impervious surfaces equate to 54.64% of the site including driveways leaving 45.36% or 306m2 available for landscaping or open space subject to meeting bushfire protection requirements.  This is considered to be a conservative site coverage in a residential area.
Speculative use (holiday home)	The likely occupation of dwellings, whether it be owner-occupied or rented in some form as a dwelling, is not a planning consideration and would be within the land use definition of a dwelling under the Bass Coast Planning Scheme.
Ability to contain effluent and wastewater	The application was accompanied by a land capability assessment which demonstrates compliance with the EPA requirements. The application has been reviewed by the Council's Environmental Health Officer who have raised no objections to the proposal.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to respond satisfactorily to the relevant controls.

The application underwent notification, and 29 objections were received. Concerns raised by submitters were considered in the assessment of the application.

The height of the proposed dwelling is considered to be reasonable in the physical context of the site conditions and the context of contemporary development in Silverleaves. The design, colouring and material pallette of the development is considered satisfactory in responding to the colours and tones of the natural setting.

It is recommended that Council resolve to issue a Notice of Decision to Grant a Planning Permit for planning application PDPLANPER-2023/000529 subject to conditions.

Recommendation

That in relation to planning permit application PDPLANPER-2023/000529 to Construct a dwelling and vegetation removal in a Design and Development Overlay (DDO1), Land Subject to Inundation Overlay (LSIO1) and Bushfire Management Overlay (BMO) located at 42 Bruce Road, Silverleaves, Council resolves to issue a Notice of Decision to Grant a Permit subject to the following conditions:

Amended plans required

1. **Before the development starts, the following plans which are generally in accordance with those submitted must be endorsed by the responsible authority in accordance with the following requirements:**
    a. **Proposed Dwelling plans by Damian Orlando Designs amended in accordance with condition 2 (streetscape restoration) and 19 of this permit (Melbourne Water Requirements).**
    b. **The Bushfire Management Plan prepared by Keystone Alliance, Reference C23164\3.0, Dated Aug-2023**
    c. **The Arborist report by Jack Machar incorporating additional TPZ and protection measures for third party trees, unless otherwise exempt by the Bushfire Protection measures of the Bass Coast Planning Scheme.**

All to the satisfaction of the responsible authority. When approved, the plans will be endorsed and will then form part of this Permit.

2. **Before the occupation of the dwelling, the road reserve must be restored including the planting of two coast banksias of advanced stock (min 2m high and 50l pot size at time of planting) generally in the location of the former informal access way. An annotation to this effect must be shown on the plans submitted under condition 1 to the satisfaction of the responsible authority.**

3.

4. **A qualified Arborist must be present at the time of excavation to ensure suitable protection of the trees to be retained and any trees on adjoining property that are not otherwise exempt by the Bushfire Exemptions under the Bass Coast Planning Scheme. Any work/pruning required on the trees to be retained must be undertaken by a qualified Arborist and pruning works must conform to AS4373-2007 Pruning of Amenity Trees. All areas of cut adjacent to the trees to be retained must be mulched to the satisfaction of the Arborist present.**

Completion report from Arborist

5. **At the completion of works, the Arborist must submit a written statement, indicating the impact of the proposed works on the trees, lopping works to trees undertaken and methods used to protect the trees to be retained, unless otherwise exempt by the Bushfire Exemptions by the Bass Coast Planning Scheme.**

No other trees to be removed

6. **No other trees on site that are protected by the Planning Scheme/Local Law may be destroyed, felled, lopped, or uprooted without the written consent of the responsible authority (other than in accordance with a Notice given pursuant to the Local Government Act 2020). All existing trees to be retained and trees required by this permit to be planted shall be maintained to the satisfaction of the responsible authority.**

Briefing of contractors

7. **Works engineers, design engineers, surveyors, works crews, contractors and plant operators must be properly briefed on all relevant conditions contained within this permit before any work starts.**

No environmental weeds

8. **No environmental weeds as identified in Bass Coast Landcare Weeds of Gippsland Brochure must be planted on the site or allowed to invade the site and the site managed and maintained to exclude weeds.**

Soil contamination

9. **Where Phytophthora cinnamomic (soil-borne water mould) is present in the soil, all construction vehicles, machinery, and plants must be washed down before entering or leaving known infected areas at a designated site and quarantine practices introduced to prevent further spread to the satisfaction of the responsible authority.**

No damage to surrounding vegetation

10. **Vegetation removal and disposal must not cause damage to vegetation stands to be retained and to drainage lines and/or water courses.**

Pruning of trees to be retained

11. **Any pruning that is required to be done to the canopy of any tree to be retained is to be done by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. Any pruning of the root system of is to any tree to be retained be done by hand by a qualified arborist, unless exempt under the Bushfire Exemptions by the Bass Coast Planning Scheme.**

Layout not to be altered – Use/Development

12. **The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.**

Country Fire Authority Conditions

13. **Before the development starts, the Bushfire Management Plan prepared by Keystone Alliance, Reference C23164\3.0, Dated Aug-2023 must be endorsed by the Responsible Authority. Once endorsed the plan must not be altered unless agreed to in writing by CFA and the Responsible Authority.**

Mandatory Bushfire condition

14. **The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.**

Melbourne Water Conditions

15. **Before the endorsement of plans under this permit, amended plans to the satisfaction of Melbourne water must be submitted to and approved by Melbourne water and Council. The plans must be generally in accordance with the plans submitted with the application but modified to include:**

    a) **The dwelling must be constructed with finished floor levels set no lower than 3.42 metres to Australian Height Datum (AHD), which is 600 millimetres above the applicable flood level of 2.82 metres to AHD.**

    b) **The entry/exit driveway to the basement that leads to the carport/garage/workshop must incorporate a flood proof apex to no lower than 2.82 metres to AHD, which is the applicable flood level.**

16. **Imported fill must be kept to a minimum on the property and must only be used for the sub-floor areas of the dwelling.**

17. **The open space areas within the property must be constructed at natural surfaces levels and no fill or retaining walls should be used in the development of this land.**
18. **Any new fencing must be open style (50%) of construction or timber paling to allow for the conveyance of overland flow.**
19. **This Permit will expire if:**
    a) **The development does not start within 2 years from the date of this Permit; or**
    b) **The development is not completed within 4 years of the date of this Permit.**

The responsible authority may extend the times referred to if a request is made in accordance with Section 69 of the Planning and Environment Act 1987.

Permit Notes

A. Building permit may be required

This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

B. Planning permission

Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents, or approvals.

C. Septic tank permit

A separate application to install an all-waste septic tank system is required to be submitted to and approved by Council's Environmental Health Department prior to the commencement of works.

D. Failure to Comply

Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.

E. Side and rear boundary fencing not part of approval

This Planning Permit represents the Planning approval for the development of the land. Side and rear boundary fences do not form part of this Planning approval. All matters relating to the boundary fences shall be in accordance with the provisions of the *Fences Act 1968*, i.e., Council will not deliberate on which option prevails but rather the permit holder and adjoining owners will need to cooperatively resolve which of the above outcomes is mutually acceptable.

F. Build Over Easement

Separate consent is required to build over the easement. It will be necessary to obtain consent from all relevant authorities prior to construction. Please note that consent may or may not be given, depending on specific site circumstances and conditions.

G. Retention of Existing Street Trees

Nothing in the permit hereby issued may be construed to allow the removal of damage to or pruning of any street tree without the further written consent of the Bass Coast Shire Council. Contact Council Arborists on BCOAST (226 278) or (03) 5671 2211 for further information.

H. ResCode (residential siting) not assessed

This permit application was not assessed against the provisions of Clause 54 – One Dwelling on a Lot of the Bass Coast Planning Scheme. As such, it is the responsibility of the applicant/owner to appoint a Registered Building Surveyor to determine compliance of the endorsed plans associated with the issue of this Planning Permit against Part 5 of the *Building Regulations 2018*. Non-compliance with any Regulation under Part 5 will require the report and consent from Council's Building Department.

I. Permit to Building Surveyor

The permit holder/applicant/owner must provide a copy of the Planning Permit to any appointed Building Surveyor. It is the responsibility of the permit holder/applicant/owner and the Building Surveyor to ensure that the development approved by this Permit is consistent with any Building Permit approved and that all works are consistent with the endorsed plans approved under this Planning Permit."

Attachments

1. AT-1 Proposed Plans [**8.3.1** - 6 pages]
2. AT-2 Bushfire Management Statement [**8.3.2** - 27 pages]
3. AT-3 Applicants Planning Report [**8.3.3** - 39 pages]
4. AT-4 Amended arborist report [**8.3.4** - 25 pages]
5. AT-5 Arboricultural Impact Statement Feb [**8.3.5** - 25 pages]
6. CONFIDENTIAL - AT-7 Compiled Objections 42 Bruce [**8.3.6** - 42 pages]
7. AT-6 Arborist adendum addressing wetland [**8.3.7** - 5 pages]

8.4 Amendment to Development Plan 3 - 1517-1529 Bass Highway Grantville

8.4 Amendment to Development Plan 3 - 1517-1529 Bass Highway Grantville

Division	**Place Making**
Council Plan Strategic Objective	**Growing our Economy** *Progressing opportunities for visitor economy and business growth in harmony with our natural environment and sustainable values*

Declaration

The author has no general or material interests in relation to this report.

Purpose of Report

For Council to consider a proposed amendment to the Development Plan endorsed under Development Plan Overlay, Schedule 3 (DPO3) for the Grantville Northern Mixed-Use Precinct at 1517 – 1529 Bass Highway Grantville.

Executive Summary

Applicant:	Bass Hwy Ptd Ltd
Land/Address:	1517 – 1529 Bass Highway Grantville
Ward:	Western Port Ward
Proposal:	Amendment to the Development Plan endorsed under Development Plan Overlay, Schedule 3 (DPO3) for the Grantville Northern Mixed-Use Precinct
Zone:	Mixed Use Zone Schedule 1(MUZ)1
Overlay:	Development Plan Overlay, Schedule 3 (DPO3)
Aboriginal cultural heritage sensitivity	The site is located within an area of identified cultural heritage sensitivity and an approved Cultural Heritage Management Plan has been provided.
Title:	Lot 1 on Plan of Subdivision 143125 in Volume 09525 Folio 967. No covenants or easements affect the land.
Reason a Council decision is required:	Council's delegations require applications to endorse Developments Plans to be determined by Council.
Officer recommendation:	Endorsement of the amended Development Plan

Summary of Officer Recommendation

That Council resolved to endorse the amended Development Plan with minor amendments as outlined in the Officer Recommendation section of this report.

The proposal is recommended for support for the following reasons:

- The proposed Development Plan is considered to comply with the requirements of Schedule 3 to the Development Plan Overlay.
- The proposed Development Plan is consistent with the relevant provisions of the Bass Coast Planning Scheme.
- The proposed Development Plan will facilitate the development of vital community services (childcare centre) with the Grantville township.

Background and Planning History

The DPO3 applies to all land shown in Figure 1 below. Several different Development Plans have been endorsed for different parcels of land within the DPO3. Of relevance to this application is the Development Plan approved by Council on 14 December 2022 for the land at 1517 – 1529 Bass Highway Grantville as shown in Figure 2.

A copy of the currently endorsed Development Plan for the site is provided under Attachment one (AT-1).

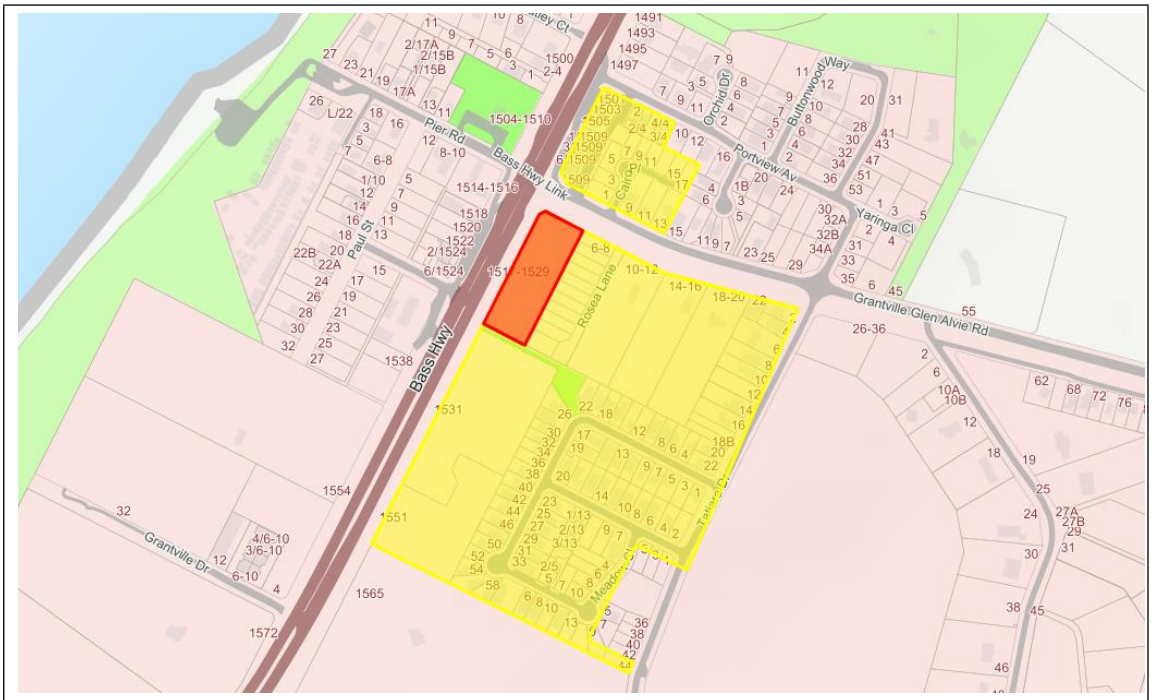


Figure 1 - Area within DPO3 shown in yellow and subject site highlighted in red.

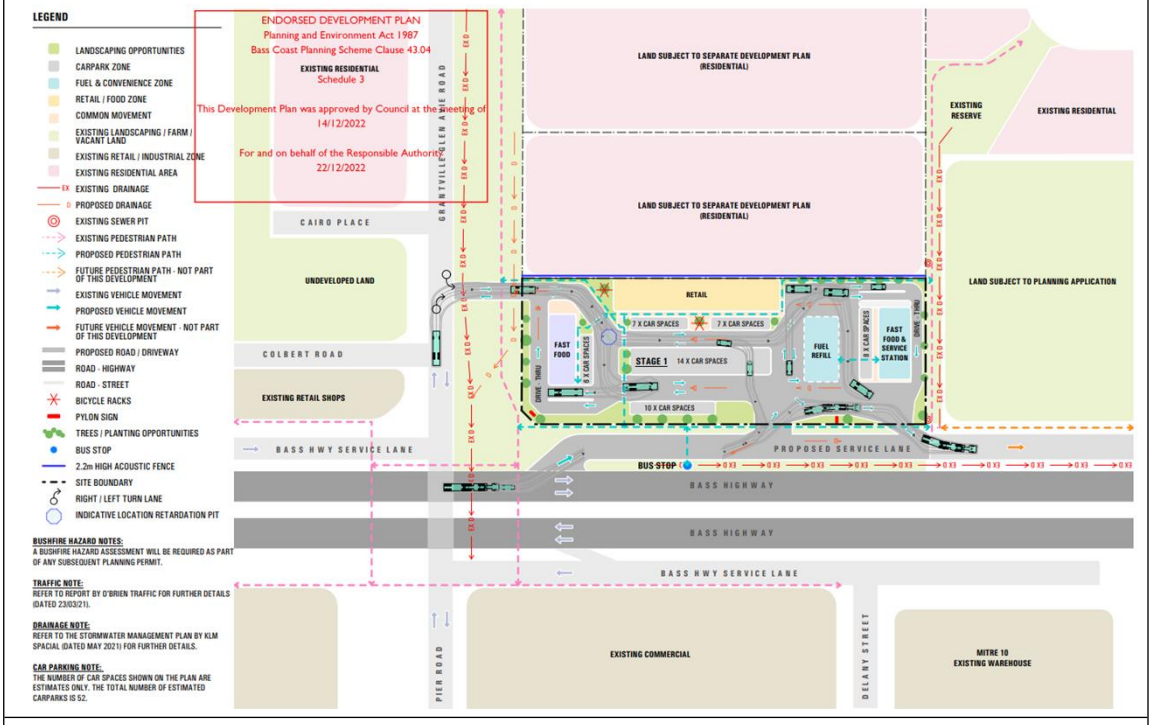


Figure 2 - Currently endorsed Development Plan under DPO3 for the land at 1517 – 1529 Bass Highway Grantville.

The following past planning applications are relevant to the assessment of the application:

Development Plan for 1517 – 1529 Bass Highway Grantville and 6-8 Grantville-Glen Alvie Road approved on 16 June 2021.

Council approved a Development Plan applying to the two above properties. The development allowed incorporated commercial uses comprising two convenience restaurants, a service station, retail space and a land area able to accommodate 52 car parking spaces. Two access points were proposed to the commercial land uses, one via Grantville Glen Alvie Road and the other via a service lane fronting Bass Highway. The Development Plan also approved an abutting area for residential development.

Planning permit 210196 was issued on 15 December 2021 and allowed the use and development of land for service station, convenience restaurant, and retail premises, and subdivision of land into 7 lots, removal of native vegetation under, erection of signage, and alteration of access to a TRZ2 in accordance with the endorsed plans at 1517 – 1529 Bass Highway Grantville.

Council approved the above mixed-use development on the subject site in accordance with the currently approved Development Plan. The permit is still valid but has not been acted upon.

An amendment to this planning permit had been received by Council. The amendment was to replace the approved service station for a child care centre. As the Development Plan shows a service station, this amendment could not be approved. The application was withdrawn so the developer could apply for the current amendment to Development Plan separately.

Should Council resolve to approve the proposed Development Plan, this planning permit will be required to be amended to allow a child care centre use in place of the service station.

Separation of Development Plans for 1517 – 1529 Bass Highway Grantville and 6-8 Grantville-Glen Alvie Road approved on 14 December 2022.

Council approved the separation of the Development Plans applying to each of the above parcels resulting in one distinct Development Plan for the commercial land use and another for the abutting residential land use.

The Proposal

This application proposes to amend the Development Plan endorsed under Development Plan Overlay, Schedule 3 (DPO3) for the Grantville Northern Mixed-Use Precinct. The decision plans are provided as Attachment Two (AT-2) and are detailed below:

- Proposed Development Plan Reference TP01 Revision D as prepared by Rise Architecture dated 04 March 2024.

The applicant is requesting that the following changes are made to the plans:

- Amendment to the overall layout of the mixed-use site plan including service station, convenience restaurant, six retail premises, car parking and landscaping within the site.
- Omission of a second fast food restaurant (convenience restaurant).
- Addition of a childcare centre.
- Relocation of the proposed service lane from the Bass Highway further south.
- The retention of additional native vegetation within the abutting road reserve.

The proposed Development Plan does not show the floor area of the proposed land uses because the Development Plan is indicative in nature and shows only road and land-use layout. A future planning application will be required to consider the process in which the access road, drainage infrastructure and land-uses are constructed.

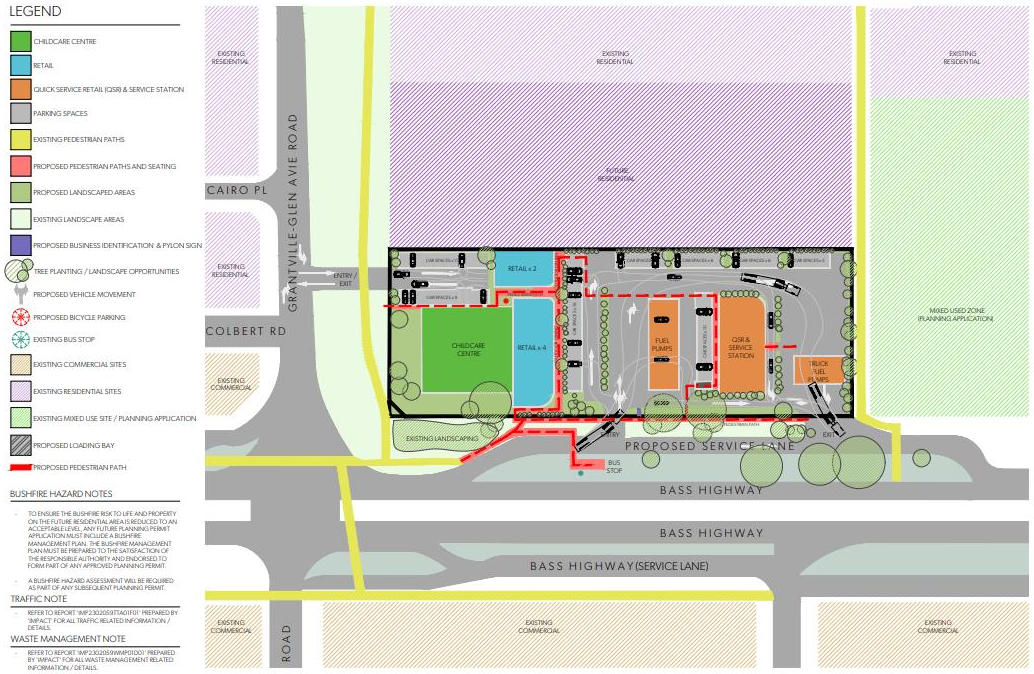


Figure 3 - Proposed Development Plan under DPO3 for the land at 1517 – 1529 Bass Highway Grantville.

Subject Site and Surrounds

The subject land is located centrally within the commercial centre of Grantville and included in the Mixed Used Zone. The DPO3 is the only overlay affecting the land.

The land is at the intersection of Bass Highway (Transport Zone schedule 2) and Grantville Glen Alvie Road (a Council managed Road). The road reserves include mature vegetation.

The land is rectangular in shape except for a small splay to the northwest corner of the site with a total land area of 7,779 square metres. It has a maximum depth of 141.95 metres along Bass Highway and maximum width of 48.06 metres along Grantville-Glen Alvie Road.

The land is vacant but includes a significant amount of mature native trees and shrubs along the western boundary and pasture containing a small number of cattle to the east.

The land is in an area of Aboriginal Cultural Heritage Significance.

The main characteristics of the surrounding area are:

North	Across Grantville-Glen Alvie Road is commercial zoned land which is occupied by an established commercial shopping strip hosting various retail and commercial uses. There is also a recently developed residential subdivision which is part of the Development Plan Overlay 3
South	1531 Bass Highway Grantville is a large vacant allotment in the Mixed-Use Zone. It is approved under Planning Permit 220416 to be used and developed for a large mixed-use development including a supermarket, variety of retail premises and service station. The land is part of the Development Plan Overlay 3
East	6-8 Grantville-Glen Alvie Road Grantville is vacant land in the General Residential Zone. It is approved under Planning Permit 210219 to be subdivided into 11 lots as part of a total 30-lot residential subdivision with the abutting allotment at 10-12 Grantville-Glen Alvie Road.
West	Over the Bass Highway a is a commercial shopping strip occupied by various commercial uses.



Figure 4 - Aerial view of subject site and surrounds.



Figure 5 - View south from Grantville-Glen Alvie Road towards subject site.



Figure 6 – View east from Bass Highway towards subject site.

Strategic Basis

Council Plan Strategic Objective:

Sustainable Development - Prepare for growth while ensuring the intrinsic values and character of Bass Coast are retained.

Strategies / Policies

Within the Bass Coast Planning Scheme, the Planning Policy Framework provides for a range of state and local policies relevant to the proposal. These are discussed in a latter section of the report.

The relevant Planning Policy Framework clauses are as follows:

VPP00 Purpose and Vision

Clause 02 – Municipal Planning Strategy

- Clause 02.02 Vision
- Clause 02.03 Strategic direction
- Clause 02.03-1Settlement
- Clause 02.03-3 Environmental risks and amenity
- Clause 02.03-5 built environment and heritage
- Clause 02.03-9 Infrastructure
- Clause 02.04 Strategic framework plan

VPP11 Settlement

Clause 11.01 - Victoria

- Clause 11-.01-1S Settlement
- Clause 11-01-1L-07 Grantville

VPP 12 Environmental and Landscape Values

Clause 12.01 Biodiversity

- Clause 12.01-2S Native vegetation management

VPP 13 Environmental Risks and Amenity

Clause 13.02 Bushfire

- Clause 13.02-1S Bushfire planning
- Clause 13.02-1L Bushfire planning

Clause 13.07 Amenity and Safety

- Clause 13.07-1S Land use compatibility

VPP 15 Built Environment and Heritage

Clause 15.01 Built Environment

- Clause 15.01-1S Urban design
- Clause 15.01-1L-01 Urban Design in Bass Coast
- Clause 15.01-1L-02 Landscape design
- Clause 15.01-2S Building design
- Clause 15.01-2L Building design
- Clause 15.01-4S Healthy neighbourhoods
- Clause 15.01-5S Neighbourhood character
- Clause 15.01-5L Neighbourhood character

Clause 15.03 Heritage

- Clause 15.03-2S Aboriginal cultural heritage

VPP 17 Economic Development

Clause 17.01 Employment

- Clause 17.01-1S Diversified economy
- Clause 17.01-1R Diversified economy - Gippsland
- Clause 17.01-1L Diversified economy

Clause 17.02 Commercial

- Clause 17.02-1S Business

VPP18 Transport

Clause 18.01 Integrated Transport

- Clause 18.01-1S Land use and transport planning

Clause 18.02 Movement networks

- Clause 18.02-1S Walking
- Clause 18.02-2S Cycling
- Clause 18.02-3S Public Transport
- Clause 18.02-4S Roads
- Clause 18.02-4L Car parking

VPP 19 Infrastructure

Clause 19.02 Community Infrastructure

- Clause 19.02-2S Education facilities

Clause 19.03 Development Infrastructure

- Clause 19.03-2S Infrastructure design and provision
- Clause 19.03-2L Infrastructure design and provision
- Clause 19.03-3S Integrated water management

- Clause 19.03-3L Integrated water management

Statutory Controls/Provisions

A Development Plan endorsement is subject to the provisions of the *Planning and Environment Act 1987*, which stipulates the requirements of the act that must be followed in addition to the requirements of the Bass Coast Planning Scheme.

The relevant statutory controls and provisions are as follows:

- Clause 32.04 - Mixed Use Zone
- Clause 43.04 - Development Plan Overlay, Schedule 3
- Clause 52.06 - Car Parking
- Clause 52.17 - Native vegetation
- Clause 52.29 - Land adjacent to the Principal Road Network
- Clause 52.34 - Bicycle Facilities
- Clause 53.18 - Stormwater Management in Urban Development

Notification

The provisions of the PE Act and the Bass Coast Planning Scheme do not set out advertising requirements for the endorsement of a proposed Development Plan. However, if Council resolve to approve the proposed Development Plan, any future planning permit application which is generally in accordance with the Development Plan is exempt from the normal notification and appeal processes. This means that there is no opportunity for objectors to appeal the merits of Councils' decision for future planning permit applications at the Tribunal. As such, it is important that in making a decision about the proposed Development Plan Council act in a reasonable manner and take into account all relevant considerations, including community feedback.

The amended Development Plan that is being considered through this report has undergone public consultation on 01 November 2023 with a total of 441 landowners and occupiers of the existing allotments within the Development Plan area and beyond were advised in writing of the proposed amendment to the Development Plan.

Two submissions were received, and the submissions are discussed later in this report.

Referrals

Similar to notification, the provisions of the PE Act and the Bass Coast Planning Scheme do not include specific requirements regarding the referral of a proposed Development Plan. However, in the interests of Council acting reasonably and informing itself of all relevant considerations, the proposed Development Plan was referred internally and externally as follows:

Referral Authority	Comments
External	
Department of Transport and Planning	No objection subject to changes which are discussed in detail below.
Country Fire Authority	Raised concerns regarding bushfire protection measures which are discussed in detail below.
Environmental Protection Authority	No objection or concerns raised.
APA Gas	No objection or concerns raised.
Ausnet	No objection or concerns raised.
Melbourne Water	No objection subject to changes which are discussed in detail below.
Westernport Water	No objection or concerns raised.
DEECA	No objection or concerns raised.
Internal Council Departments	
Development Services	No objection to the subject to changes which are discussed in detail below.
Waste Services	No response.

Department of Transport and Planning

The site fronts Bass Highway which is a Transport Road Zone 2. As this is not a Council managed road, the application was referred to the Department of Transport who advised they had no objection to the proposed Development Plan subject to the following changes:

- The plan must show an updated turn lane and V/Line Bus Stop location to ensure an adequate provision for deceleration along the Bass Highway and avoid conflict at the new southern entry to the service lane.

The plan has since been appropriately updated in accordance with these requirements including increasing the length of the proposed service road to ensure that there is a sufficient provision and distance for vehicular deceleration and relocating the V/Line Bus Stop to be consistent with the previously endorsed Development Plan.

Country Fire Authority

The CFA raised that Council should consider the following within our assessment:

- The site is located in a Bushfire Prone Area but no supporting bushfire information was provided with the application.
- Give regard to Clause 13.02-1S - Bushfire planning and determine if the subject site is a suitable location for a childcare centre.
- The childcare centre should have an appropriate emergency management plan which considers bushfire.
- Whether any adjoining sites, if any, rely on this site for bushfire protection measures.
- What mechanisms, if any, will be relied upon to implement the required bushfire protection measures, particularly the interim risks.

The entirety of Grantville is located within a Bushfire Prone Area and it is not possible to site sensitive land use such as a childcare centre outside of this area. Whilst much of Grantville is impacted by the Bushire Management Overlay (BMO), the subject site is not which indicates it is within an area of less bushfire risk than other parts of the township. The site has immediate access to major roads including the Bass Highway which will be able to facilitate vehicle movements including emergency services to and from the site in the event of a bushfire emergency. The site is also well located within the commercial centre of Grantville and is already approved for urban land use. The currently vacant sites abutting the south and east of the property are also impacted by the DPO3 and designated to be residentially and commercially developed which will modify the land and reduce immediate bushfire risks in the long-term.

There is an annotation on the proposed Development Plan specifying that any future planning application must include a Bushfire Management Plan to the satisfaction of the responsible authority. The subject site is an appropriate location to construct a childcare centre when having regard to the context of Grantville and the surrounding bushfire threat. The proposed Development Plan has been assessed as being able to satisfy bushfire protection policy and there will be further opportunity to ensure risks are adequately mitigated during any future planning application.

Development Services

Council's Development Services Team reviewed the proposal and advised that they had no objection to the amendment with the following advice:

- Indicative site drainage annotations should be removed from the plans to ensure that detailed drainage design can be altered in accordance with Melbourne Water and Council requirements during any future planning application.
- Right and left vehicle turning lanes from Grantville – Glen Alvie Road into the childcare centre car park should be included as consistent with the previously endorsed Development Plan.

- The waste collection for the childcare centre be accommodated in the service station area where there is sufficient room for heavy vehicles to access and egress safely.

Drainage annotations have been removed from the Development Plan and turning lanes included in accordance with this advice. Whilst waste areas are not shown on the Development Plan, the supporting Waste Management Plan has been amended to demonstrate that service vehicle movement requirements can be met within the proposed site layout.

Melbourne Water

The proposed drainage strategy will rely on Melbourne Water assets. Melbourne Water advised that they have no objection to the proposal provided that the Development Plans is updated to include the following annotations:

- The indicative building footprints and locations are subject to change dependent on flood modelling that must be submitted as a part of the Stormwater Management Strategy that accompanies any future planning permit application.

- Any future planning permit applications must be in accordance with the applicable Stormwater Management Strategy by DPM dated 26 July 2023 (or as amended from time to time) to the satisfaction of the relevant drainage and floodplain management authority.

Melbourne Water provided a response on 12 March 2024 and the applicant has not had sufficient time to update the Development Plan accordingly. It will be required that the above annotations are added prior to endorsement.

Submissions

Two submissions were received with one providing unconditional support for the development of a childcare centre and additional retail space on the grounds that it will provide vital services to the Grantville community. The other submission was a comment seeking clarification on the extent to which future development of the site would be bound to the Development Plan layout rather than raising concerns.

The submissions are included in Attachment 3 (AT-3).

Discussion

Planning Policy Framework

All Development Plans should be consistent with the local and state-level planning policy.

Clause 11.03-1S (Activity Centres) includes the following strategy:
Support the continued growth and diversification of activity centres to give communities access to a wide range of goods and services, provide local employment and support local economies.
The proposal is highly consistent with this strategy given the amended Development Plan maintains a large commercial component alongside the additional incorporation of a childcare centre to provide a vital community service.

The proposed Development Plan is consistent with Clause 17.02-1S (Business) as it increases the supply of commercial land in the shire and does so within an established centre and in line with local policy.

Clause 02.03-1 (Settlement) sets out a settlement hierarchy which identifies Grantville as a 'Town', and further describes it as being *an established district centre with potential for consolidation and future growth. The town is sufficiently established to support light industrial and essential services*. Clause 11.01-1L-07 (Grantville) encourages the development of Grantville as an emerging district service centre including supporting the extension of the existing commercial area north of the Grantville - Glen Alvie Road and Bass Highway intersection. The proposal to increase services in turn supporting growth is entirely consistent with these strategic directions.

Clause 02.03-7 (Economic Development) further identifies Grantville's role as a business centre providing retail and community facilities for the local and wider population. It also goes on to support the growth of commercial land and enterprises in the main business centres of the shire to cater to both residents and visitors. Beyond the local services Grantville provides to the surrounding coastal and rural hinterland townships, it is also the first commercial centre encountered when entering the shire from the north-west, forming a gateway to the shire and an appropriate road-stop on the journey to Phillip Island/San Remo and the rest of the municipality. The proposed Development Plan is consistent with the evolving role of Grantville.

Mixed Use Zone

The purpose of the Mixed-Use Zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.*
- *To provide for housing at higher densities.*
- *To encourage development that responds to the existing or preferred neighbourhood character of the area.*
- *To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.*

The following land use considerations are made:

Land Use	Assessment
Retail premises (shops)	Retail premises is a parent land use term that encompasses a range of commercial uses including shops and food and drink premises. The use of the term retail premises within the Development Plan will ensure that the specific use of the tenancies moving forward remains flexible. The exact nature and permit triggers applicable to this space will be assessed during the planning permit stage. The provision of further retail space is consistent with the intent of planning policy to expand Grantville's commercial offering.
Service Station	Service station is not specifically listed in the Table of Uses under the Mixed Use Zone and therefore a permit is required. Clause 32.04-3 sets out requirements that use of land for a service station must not adversely affect the amenity of the neighbourhood, including through: • The transport of materials or goods to or from the land. • The appearance of any stored materials or goods. • Traffic generated by the use. • Emissions from the land. The location of the service station is consistent with what has already been endorsed and it's considered reasonable to use land within a commercial centre and abutting a major highway for a service station. Detailed assessment against these provisions will be conducted at the planning permit stage.
Childcare Centre	Childcare centre is not specifically listed in the Table of Uses under the Mixed Use Zone and therefore a permit is required. It is considered that the provision of a childcare centre onsite is consistent with the purpose of the Mixed Use Zone.

Convenience restaurant	It is considered that 'Quick Service Retail' as shown within the proposed service station will incorporate a Convenience restaurant. Convenience restaurant falls under the parent land-use term of food and drink premises. A permit is required for a food and drink premises with a gross floor area exceeding 150 square metres. Detailed assessment can take place at the planning permit stage, but a convenience restaurant is generally consistent with the zone and Grantville's role as an emerging district service centre and would be well-located on the corner of Bass Highway and Grantville-Glen Alvie Road.

The proposal is considered to be consistent with the purpose of the Mixed Use Zone to provide for a range of land uses which complement the mixed-use function of the locality.

Development Plan Overlay, Schedule 3

Section 4.0 of Schedule 3 to the Development Plan Overlay requires that a Development Plan is to be a combination of a report and a diagram and must include the following:

Requirement	**Assessment**
A site analysis plan and design response, identifying and responding to the site's opportunities and constraints.	The report provided with the proposed Development Plan identifies the context of the proposed development and how the proposed design appropriately responds.
The location of vehicle access and egress to the site.	All vehicle access and egress points are shown in the Development Plan layout.
Areas set aside for car parking and loading bays.	Car parking areas are shown in the development plan layout.
Areas set aside for bicycle parking.	Bicycle parking areas are shown in the Development Plan layout.
Turning circles for cars and delivery vehicles, demonstrating that all accessways are capable of handling vehicles expected to use them.	A Traffic and Transport Assessment prepared by Impact Traffic Engineering Pty Ltd dated 9 February 2024 accompanies the amended Development Plan and includes swept paths and accessway information that demonstrates the

	proposed layout is capable of facilitating expected traffic movements.
A conceptual drainage strategy for the site.	A Stormwater Management Strategy prepared by DPM Consulting Group dated 9 August 2023 accompanies the amended Development Plan.
Pedestrian and bicycle paths, accessways and linkages to surrounding areas.	The proposed Development Plan provides linkages with the existing east-west pedestrian and cycle access between Brazier Street and Bass Highway, to the relocated V/line Bus Stop and to the wider pedestrian/cyclist network in Grantville.
Landscaping opportunities and treatment for the site.	Areas designated for future landscaping and existing vegetation to be retained are indicated on the Development Plan. A more detailed landscape plan will be required and reviewed at the planning permit stage.
The stages for the development (if any), and the treatment of land not immediately required for development.	The entirety of the site will be developed in one stage.
The location, proposed use and design of all buildings and works responding to the site in a manner that encourages pedestrian activity and promotes sensitive interfaces with adjoining streets, open space and other public areas.	The amended Development Plan overall presents a more activated interface to abutting roads than the currently endorsed plan. Car parking no longer takes up the centre of the site and the retail/childcare centre land uses are confined to the northern end of the site rather than being positioned between a service station and fast-food restaurants to improve safety and amenity for pedestrians.

It is noted that Section 3.0 of Schedule 3 also specifies conditions that must be placed on any future planning permit issued for the site and any endorsed Development Plan must not conflict with these requirements. The proposed Development Plan can comply with all conditional requirements.

Particular Provisions

Clause 52.06 - Car Parking

The proposed development includes 69 car spaces to service the childcare centre, service station, retail premises and convenience restaurant uses. Under the Bass Coast Planning Scheme, the car parking demand for these uses is based on area and patron/child numbers. It is noted that different types of retail uses generate different car parking requirements and 'shop' has been used as the most applicable land use within

this context. Whilst a proposed Development Plan is not required to include specific land use area and capacity figures, a car parking assessment has been provided by the applicant demonstrating that car parking requirements under Clause 52.06 can be met. It is considered that car parking can be provided to the satisfaction of Council.

Use	Description	Statutory Parking Rate	Statutory Requirement	Provided
Childcare Centre (1)	Expected to have capacity for a maximum of 88 children and area of approximately 600sqm.	0.22 spaces to each child.	19	20
Service Station (1)	Approximately 250sqm in internal area and six double sided fuel pumps.	To the satisfaction of Council	To the satisfaction of Council.	49
Retail Premises/Shop (6)	Approximately 775sqm in area across 6 tenancies.	4 spaces to each 100sqm of leasable floor area	28	
Convenience Restaurant (1)	Expected to cater for a maximum of 50 patrons with an approximate area of 200sqm.	0.3 spaces to each patron permitted.	15	
Total			62 + service station spaces	69

Clause 52.34 - Bicycle Facilities

Clause 52.34 seeks to encourage cycling as a mode of transport and provide secure, accessible, and convenient bicycle parking spaces and associated shower and change facilities.
In accordance with Clause 52.34-5 it is estimated that the proposed use must provide six bicycle parking spaces in association with the Convenience Restaurant only including four employee and two visitor spaces. No shower or change room facilities are required.

The Development Plan includes a bicycle parking area capable of accommodating the required spaces.

Clause 52.29 - Land adjacent to the Principal Road Network

This provision is of relevance because Bass Highway is a Transport Zone 2 managed by the Department of Transport and Planning. The proposal delivers a service and slip lane on the eastern side of Bass Highway to facilitate safe and efficient vehicle access to and from the site which will trigger a planning permit pursuant to this provision for alteration

of access. The siting and design of the proposed service lane and crossovers are generally in accordance with that previously approved under the current Development Plan and the Department of Transport and Planning as a Section 55 determining authority under any future planning application has not raised any objection to the vehicle access arrangements.

Clause 53.18 - Stormwater Management in Urban Development

Clause 53.18 will apply to any future planning application lodged in accordance with the Development Plan and has the purpose to ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits. A Stormwater Drainage Strategy was submitted with this application that demonstrates the proposed strategy can satisfy all relevant standards of this provision. It is considered that the proposed Development Plan will be able to achieve a suitable stormwater management system, that provides for stormwater retention and reuse and water sensitive urban design.

Clause 52.17 - Native vegetation

The proposed Development Plan will require the removal of native vegetation within the subject site pursuant to Clause 52.17. A detailed native vegetation assessment and requirement for biodiversity offsets will be undertaken and applied at the planning permit stage. The proposed amendment retains substantially more existing vegetation than the currently endorsed Development Plan which removed all abutting vegetation within the road reserve. The relocation of the service lane further south has allowed for the patch of vegetation towards the corner of the Bass Highway and Grantville-Glen Alvie Road to be protected. This will minimise vegetation removal as required by this provision, contribute to maintaining the amenity of the major intersection in Grantville, and assist in buffering the abutting childcare centre from any possible traffic impacts. It is also proposed that some additional established trees will be retained and incorporated into proposed landscaping areas. The proposed amendment presents improved compliance with this provision.

Finances

The cost to Council involves the officer time for the review of the Development Plan application.

Stakeholders

The key stakeholders for this project are as follows:

- Submitters to the amendment
- All affected landowners and occupiers
- Bass Coast Shire community
- Statutory referral authorities
- Bass Coast Shire Council

The key stakeholders were notified of the amendment through the planning process.

Conclusion

The proposed Development Plan is considered to comply with the requirements of the Development Plan Overlay Schedule 3 and relevant requirements of the Bass Coast Planning Scheme subject to minor changes to include drainage annotations in accordance with Melbourne Water requirements.

It is recommended that Council resolves to endorse the proposed Development Plan under the Development Plan Overlay Schedule 3 conditional to recommended changes.

Recommendation

That Council:

- **Supersede the currently endorsed Development Plan applying to the land at 1517 – 1529 Bass Highway Grantville preparade by Idle Architecture Studio, dated 31 October 2022, Drawing Number TP1.12, Revision A.**
- **Request an amended Development Plan generally in accordance with the plan prepared by Rise Architecture, dated 04 March 2024, reference TP01, Revision D as submitted but amended to include the following annotations:**
  - **The indicative building footprints and locations are subject to change dependent on flood modelling that must be submitted as a part of the Stormwater Management Strategy that accompanies any future planning permit application.**
  - **Any future planning permit applications must be in accordance with the applicable Stormwater Management Strategy by DPM dated 26 July 2023 (or as amended from time to time) to the satisfaction of the relevant drainage and floodplain management authority.**

Once an amended Development Plan that satisfies the requested amendments is submitted it will be endorsed.

Attachments

AT-1 Endorsed Development Plan

AT-2 Proposed Development Plan

AT-3 Submissions

8.5 One-Way Traffic Flow - The Esplanade Cowes

8.5 One-Way Traffic Flow - The Esplanade Cowes

Division	**Place Making**
Council Plan Strategic Objective	**Our Places** *Strengthening the connection between people and the public places they share*

Declaration

The author has no general or material interests in relation to this report.

Summary

The purpose of this report is to seek Council approval to formalise The Esplanade, Cowes to permanent one-way traffic, in line with concept designs in the Cowes Streetscape Master Plan, and completing the statutory process outlined in the *Local Government Act 1998*.

Recommendation

That Council in accordance with schedule 11, clause 9 of the *Local Government Act 1998,* approves the one-way traffic flow changes to The Esplanade, Cowes in general accordance with Figure 5.1 of the Cowes Streetscape Master Plan.

Background

Adopted in 2022, the Cowes Streetscape Master Plan design requires the formal adoption of a permanent change to one-way traffic along The Esplanade, Cowes. Council officers commenced the statutory process prescribed by the *Local Government Act 1998* (Schedule 11, Clause 9) on 9 October 2023 through a 28-day public notice period. Submissions closed on 6 November 2023, with a total of 14 submissions received.

Discussion

The Cowes Streetscape Master Plan concept design proposes changes to traffic flow along The Esplanade consisting of:

1. Traffic movement from the corner of Thompson Ave to Bass Ave in a single-lane easterly direction.
2. Traffic movement from the corner of Thompson Ave to Warley Ave in a single-lane westerly direction.



In line with the statutory process Council officers:

- Advertised a public notice in the local major newspapers
- Sent written communication to impacted property owners
- Sent written communication to impacted property tenants and occupiers
- Established a project page for submissions on the Engage Bass Coast Page
- Provided a minimum of 28 days' notice of the intention to formalise the change
- Obtained a Head of Transport Victoria Report

At the conclusion of the public notice and consultation period, Council received 14 submissions with no requests for the submission to be heard by Council.

Key points of the feedback included:

- 12 submissions supported the change of traffic conditions along the Esplanade
- Two submissions were opposed to the change of traffic conditions along the Esplanade. The two submitters concerns related to potential confusion with traffic condition changes. Both submitters were contacted and further discussions relating to design, signage and current one-way traffic flow conditions resolved all concerns.
- Two businesses asked Council to ensure adequate short-term parking along The Esplanade was considered in future detailed designs.

Overall, the submissions indicated a strong positive support to formalise the one-way traffic flow along The Esplanade and delivery of further stages of the Cowes Streetscape Master Plan.

The implementation of the one-way traffic along the esplanade is anticipated to occur in line with the delivery of Cowes Streetscape Master Plan.

Sustainability Implications

Formalising permanent one-way traffic along The Esplanade will support Councils aims of reducing car dependency, improving public open spaces, increasing outdoor dining and trading opportunities and supporting social connection. The change will deliver flow on benefits to economic, social and environmental factors within Cowes.

Finances

There are no financial implications associated with this report. Council officers are actively seeking funding through Federal Government Regional Precincts and Partnerships Program grant funding stream that will enable delivery of master plan changes, including formalising traffic flow changes to The Esplanade.

Stakeholders

Identified stakeholders included:

- Impacted property owners
- Impacted property occupants
- Cowes community and residents
- Visitors and Tourists

Conclusion

At the conclusion of the public notice period and a review of all submissions received was completed, it is evident that there is ongoing support for Council to adopt the formalisation of permanent one-way traffic along The Esplanade, Cowes.

Governing Documents

- Cowes Activity Centre Plan 2015
- Cowes Streetscape Master Plan 2022
- Local Government Act 1998

Attachments

1. CONFIDENTIAL - HTV Report The Esplanade, Cowes [**8.5.1** - 1 page]
2. CONFIDENTIAL - The Esplanade Feedback Report [**8.5.2** - 2 pages]

84 Regional Community Sport Infrastructure Fund

8.6 Regional Community Sport Infrastructure Fund

Division	**Place Making**
Council Plan Strategic Objective	**Healthy Community** *An inclusive community that embraces its lifestyle and supports health and wellbeing*

Declaration

The author has no general or material interests in relation to this report.

Summary

The purpose of this report is to seek Council endorsement to apply for funding for the Wonthaggi Netball Pavilion, Corinella Angling Pavillion and Cowes Recreation Reserve Cricket Nets through the Sport and Recreation Victoria (SRV)

This report is to inform Council of a funding opportunity through Sport and Recreation Victoria's (SRV) Regional Community Sports Infrastructure Fund and seek endorsement to the following recommendation.

Recommendation

That Council submit the following applications to Sport and Recreation Victoria in seeking funding through the Regional Community Sports Infrastructure Fund:

- **Wonthaggi Netball Pavilion**
- **Corinella Angling Pavilion**
- **Cowes Recreation Reserve Cricket Nets**

Background

The Regional Community Sports Infrastructure Fund aims to complement the many benefits that active sport and recreation provides for the community.

In recent years, Council has successfully secured external funding through SRV to deliver various recreation infrastructure upgrades across the Shire. These upgrades have included new oval flood lighting, pavilions and sporting surface upgrades.

Submissions are based on projects that have had detailed designs completed and are listed within Council's Long Term Financial Plan. The three projects we are looking to submit are also supported through Council's guiding recreation strategy, Active Bass Coast. The projects all meet funding criteria and address community needs.

The Regional Community Sports Infrastructure Fund (Round 1) provides opportunities for Councils to apply for funding across four streams:

- Indoor Stadiums and Aquatic Facilities
- Community Facilities
- Women and Girls Facilities
- All Abilities Infrastructure

As with all SRV grants, matching funding from Council is a requirement, with this program providing a SRV $4:$1 Council ratio.

Council has matching funding available for projects listed within the Long-Term Financial Plan for two of the funding streams - the Community Facilities and Women and Girls Facilities categories. Council can apply for up to $1 million within each of these categories and submit multiple applications within each stream.

Submissions must be made to SRV by 27 March 2024, with delivery of projects required to be completed within 2 years of funding announcements, which are expected from July onwards this year.

Discussion

Recreation officers have identified the following three projects that meet grant funding guidelines, have detailed designs and cost estimates completed and are strategically supported through Active Bass Coast, to be considered for submission as part of round 1 of the Regional Community Sports Infrastructure Fund:

- Wonthaggi Netball Pavilion
- Corinella Angling Pavilion
- Cowes Cricket Net Facility

Wonthaggi Netball Pavilion – Women and Girls Facilities

At present, netballers from the Wonthaggi Power Netball Club and the Wonthaggi and District Netball Association are using the public toilet block and small storage shed to store bags and get changed before and after netball training/matches at Wonthaggi Recreation Reserve.

The new netball pavilion will include new change rooms with unisex toilets and showers, umpires change facilities, meeting rooms, kitchenette and both internal and external storage that will accommodate the users.

Corinella Angling Pavilion – Community Facilities

The Corinella Angling Club pavilion will be located at 130 Smythe Street in Corinella and provide the club with a meeting place that they have not had previously.

The pavilion will consist of a social space, accessible toilet, storage area, kitchen and large undercover veranda. It is envisioned that the pavilion will be predominantly utilised by the Angling Club and will also be a facility that other community groups based in and around Corinella can use for a variety of activities and meetings.

Cowes Recreation Reserve Cricket Nets – Community Facilities

The existing cricket nets at Cowes Recreation Reserve are coming towards the end of their lifespan and require an upgrade. The nets are used heavily by the community of Cowes as well as the Phillip Island Cricket Club. As usage continues to increase, safe and user-friendly nets are required to meet ongoing demand.

The new four bay cricket nets will be fully enclosed and have new synthetic cricket pitches installed. Two of the nets will be lockable so that the club can have exclusive use, whilst two will remain open and available for the community use at all times.

A second round of the Regional Community Sports Infrastructure Fund will open in late 2024 where officers expect further applications to be submitted based on projects identified within Active Bass Coast and the Long-Term Financial Plan. These projects would be delivered in 2025/26 and could include works such as the construction of a new soccer/cricket pavilion at Thompson Reserve in Inverloch, new sub-regional skate park in Wonthaggi or new netball pavilion for Bass Recreation Reserve.

Sustainability Implications

There are no sustainability implications associated with this report.

Finances

As outlined previously, the projects recommended within this briefing require matching funding from Council to enable applications to be submitted.

Each project has matching funding available within Council's Long-Term Financial Plan that can be utilised to leverage maximum grant amounts. Council's contribution has been worked out based on the SRV $4:$1 Council ratio and includes club contributions for the works.

Council's contribution for Wonthaggi Netball Pavilion and Corinella Angling Club is to be funded by borrowings in line with the Long Term Financial Plan. Cowes Cricket Nets contribution is to be funded by public open space developer contribution reserves allocated for Phillip Island.

The following table details how the projects will be funded and through which funding stream;

Project	SRV	Council	Club	Total Cost
Wonthaggi Netball Pavilion	$1 million	$1.15 million	$25,000 – WPFNC $25,000 - WDNA	**$2.2 million**
Corinella Angling Pavilion	$457,600 (+ up to $200k election commitment)	$74,400	$40,000	**$772,000**
Cowes Cricket Nets	$277,229.60	$69,307.40	$0	**$346,537**

Stakeholders

Recreation officers have consulted with numerous parties in determining the most suitable projects to put forward as part of the Regional Community Sports Infrastructure Fund. These key stakeholders include:

- Sport and Recreation Victoria
- Wonthaggi Power Football netball Club
- Wonthaggi & District Netball Association
- Corinella Boating & Angling Club
- Phillip Island Cricket Club
- Bass Coast Shire Councillors

Conclusion

The Regional Community Sports Infrastructure Fund provides a great opportunity for Council to obtain external funding for the delivery of new recreation infrastructure across the Shire.

The three projects outlined within this document will provide the community with facilities that are fit for purpose, meet State Sporting Associations guidelines surrounding risk and accessibility, whilst enabling users to pursue their recreation and sporting endeavors in a safe and comfortable environment.

Governing Documents

- Active Bass Coast

Attachments

Nil

67 Bass Coast Community Awards

8.7 Bass Coast Community Awards

Division	**Partnerships, Economy & Culture**
Council Plan Strategic Objective	**Healthy Community** *An inclusive community that embraces its lifestyle and supports health and wellbeing*

Declaration

The author has no general or material interests in relation to this report.

Summary

The purpose of this report is to seek Council's endorsement for the 2024 Bass Coast Community Awards program. Endorsement includes this year's Rotating Award Category, the delegated Councillor to the Awards judging panel.

At the 15 February 2023 Council Meeting, Council endorsed a Bass Coast Community Awards Program to be held in May of each year to align with National Volunteer Week. Council also resolved the program Awards in the following categories:

1. Community Leader Award
2. Next Generation Leader Award
3. Community Group Award
4. Rotating Award category

This report recommends the 2024 Bass Coast Community Awards Rotating Award be Contribution to Arts and Culture Award and Cr Brett Tessari be endorsed to the Awards judging panel.

Recommendation

That Council endorses:

1. **the 'Contribution to Arts and Culture Award' as the Rotating Award category for the 2024 Program.**
2. **Cr Brett Tessari as the delegated Councillor to the 2024 Community Awards judging panel.**

Background

At the 15 February 2023 Council Meeting, Council endorsed a Bass Coast Community Awards Program to be held in May of each year to align with National Volunteer Week.

The Bass Coast Community Awards program provides the opportunity to come together to acknowledge the significant contribution made to Bass Coast from those within our community. The program also provides an opportunity for an inclusive celebration for our whole community.

The format for the Bass Coast Community Awards includes:

a. calling for nominations from the community (March-April)

b. judging of submitted nominations by a judging panel (April)

c. scheduling of the Awards presentation ceremony to align with National Volunteer Week.

The 2023 Bass Coast Community Awards program was a significant success with 30 nominations received across all categories. A presentation ceremony was held on 15 May 2023.

Discussion

The report to the 15 February 2023 Council meeting recommended three proposed Award categories for the 2023 year, as well as an approach to the Rotating Award category for future years. The Rotating Award categories proposed were:

a. Environment and Sustainability Award – recognises outstanding contributions towards the protection or enhancement of Bass Coast's natural environment, advocating for climate action and for embracing sustainable living (group or individual).

b. Contribution to Arts and Culture Award – recognises those who have made an outstanding contribution to the arts and cultural life of the community or an outstanding achievement in an arts and cultural activity. This can include, but not limited to individuals, organisations, events and exhibitions.

c. Sports Leadership Award – recognises the outstanding contributions throughout our sport and recreation community to ensure we all have the opportunity to participate in a happy, healthy and inclusive environment (group or individual).

The Environment and Sustainability Award was endorsed by Council to be presented in 2023.

It is proposed the 2024 Rotating Award category be Contribution to Arts and Culture Award. Presenting this Award in 2024 aligns with Council's strong support for arts and culture within Bass Coast and the opening of Berninneit in October 2023.

Council also endorsed a judging panel consisting of:

- Mayor, Deputy Mayor, delegated Councillor
- Previous Community Leader
- Previous Next Generation Leader

Council is requested to endorse the delegated Councillor to the 2024 judging panel.

Sustainability Implications

The Bass Coast Community Awards recognizes leaders in our community. Previous awards and future awards will continue to celebrate achievements in Sustainability.

The Sustainability award was the first Rotating Award in 2023 and recognised Council's strong position on the need for action through its Climate Change Action Plan.

Finances

A budget of $10,000 is allowed for the conduct of the Bass Coast Community Awards program in the 2023/24 Council budget.

Stakeholders

These are civic awards and, as such, the Bass Coast community and Council are stakeholders to the Bass Coast Community Awards program.

Conclusion

Recognising the contribution of our community is an important role for Bass Coast Shire Council. The Bass Coast Community Awards provides the opportunity for due recognition. It is recommended Council endorses the recommended Rotating Award category, Councillor delegate to the judging panel and the date for the presentation ceremony.

Governing Documents

Council supports community involvement and leadership through a number of strategic documents including the overall Council Plan. The following strategies are also relevant:

- Bass Coast Climate Change Action Plan 2020-2030
- Arts and Culture Strategy 2019-2029
- Healthy Communities Plan 2021-25

Attachments

Nil

68 Instruments of Appointment and Authorisation

8.8 Instruments of Appointment and Authorisation

Division	**Business Transformation**
Council Plan Strategic Objective	**Leading for our Community** *Demonstrating leadership through good governance, transparency and accountability*

Declaration

The author has no general or material interests in relation to this report.

Summary

The purpose of this report is to recommend that Council resolve to appoint the named officer/s as an Authorised Officer and approve the execution of the attached Instrument of Appointment and Authorisations. Council is also recommended to revoke authorisation to officer/s that no longer require it under the *Planning and Environment Act 1987.*

Instruments of Appointment and Authorisation are appointed to people, not positions.

Recommendation

That Council in the exercise of the powers conferred by s 147(4) of the *Planning and Environment Act 1987*, resolves that:

1. **The members of Council staff referred to in the attached instrument be appointed and authorised as set out in the instrument:**
   - **Rowan Wagenaar**
2. **The instrument comes into force immediately it is signed by Council's Chief Executive Officer and remains in force until Council determines to vary or revoke it.**

Background

Council currently exercises its powers to appoint Authorised Officers.

Discussion

Authorisation facilitates the achievement of good governance for the community by empowering appropriate members of staff to make decisions.

Sustainability Implications

There are no sustainability implications associated with this report.

Finances

There are no financial implications associated with this report.

Stakeholders

Council – ensuring they can focus on high level strategic and Council planning.

Staff – ensuring the ability to undertake their roles.

Community – knowledge that appropriate delegations and authorisations are in place to allow for the effective and efficient running of Council.

Conclusion

It is recommended that Council adopt the attached Instrument of Appointment and Authorisation to the named officer/s as an Authorised Officer and approve the execution of the attached Instrument of Appointment and Authorisations. Council is also recommended to revoke authorisation to officer/s that no longer require it under the *Planning and Environment Act 1987*.

Governing Documents

Section 313 Proceedings of the *Local Government Act 2020*.

Section 188 Planning authorities and responsible authorities may delegate powers of the *Planning and Environment Act 1987*.

Attachments

1. Rowan Wagenaar S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987 [**8.8.1** - 1 page]

Statutory Reports

9 Statutory Reports

9.1 Informal Meeting of Councillors Records

9.1 Informal Meeting of Councillors Records

Division	**Business Transformation**
Council Plan Strategic Objective	**Leading for our Community** *Demonstrating leadership through good governance, transparency and accountability*

Declaration

The author has no general or material interests in relation to this report.

Summary

The *Bass Coast Shire Council Governance Rules 2020,* requires all Informal Meetings of Councillors records to be reported at the next practicable Council Meeting and to be recorded in the minutes of that meeting. The purpose of this report is to meet this requirement.

Recommendation

That Council receive the attached Informal Meeting of Councillors records.

Introduction

Chapter 6 of the *Bass Coast Shire Council Governance Rules 2020* defines an Informal Meeting of Councillors as a meeting of Councillors that:

1.1 is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors and contains three or more Councillors;

1.2 is a meeting of a Council Committee that a Councillor is appointed to;

1.3 is attended by at least one member of Council staff; and

1.4 is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting.

the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting are:

(a) tabled at the next convenient Council meeting; and

(b) recorded in the minutes of that Council meeting.

Governing Documents

Local Government Act 2020

Governance Rules

Attachments

1. Informal Meeting of Councillors 15 February 2024 Briefings [**9.1.1** - 3 pages]
2. Informal Meeting of Councillors Council Agenda Review 21 February 2024 [**9.1.2** - 2 pages]
3. Informal Meeting of Councillors. 28 February 2024 Briefings [**9.1.3** - 3 pages]

9.2 Planning and Building Statistics - January 2024

9.2 Planning and Building Statistics - January 2024

Division	**Place Making**
Council Plan Strategic Objective	**Sustainable Development** *Prepare for growth while ensuring the intrinsic values and character of Bass Coast are retained*

Declaration

The author has no general or material interests in relation to this report.

Summary

The below provides a list of all Planning Permit, Amendment and VicSmart applications (i.e. both under delegation and by Council) refused or approved for January.

PLANNING PERMITS, AMENDMENTS AND VICSMARTS REFUSED:

Application Number	Address	Proposal
210157	72-84 Shetland Heights Road, San Remo	Use and Development of land for a dwelling in FZ and SLO1 and removal of Native Vegetation under Clause 52.17

PLANNING PERMITS, AMENDMENTS AND VICSMARTS ISSUED:

Island Ward

Application Number	Address	Proposal
PDPLANVIC-2024/001304	60 Scenic Dr COWES	Removal of a tree (Rubber Tree) in a Vegetation Protection Overlay (VPO2)

Western Port Ward

Application Number	Address	Proposal
PDPLANPER-2023/000465	16-20 Gilbert Street, Kilcunda	Buildings and works in a Rural Living Zone (RLZ), Significant Landscape Overlay (SLO1) and Environmental Significance Overlay (ESO4)

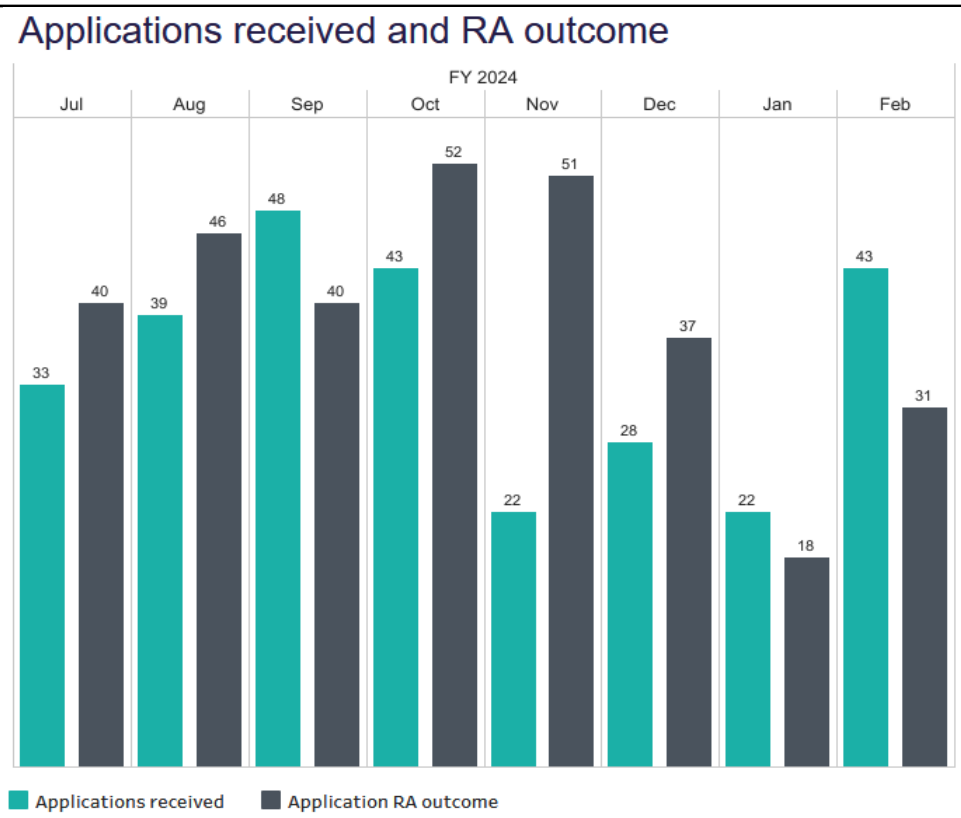
PDPLANPER-2023/000546	215 Bay Road, Jam Jerrup	Construct a dwelling in a Farming Zone (FZ) and Environmental Significance Overlay (ESO2)
PDPLANPER-2023/000494	1 Davis Point Road, San Remo	Buildings and works (construction of replacement cabins) associated with an existing camping and caravan park in a Public Park and Recreation Zone (PPRZ)
PDPLANPER-2023/000653	35 Punch Bowl Road, San Remo	Buildings and works to extend an existing dwelling in a Significant Landscape Overlay (SLO1)
230028	1285 Phillp Island Road, Newhaven	Construct and use a dwelling including buildings and works in the Farming Zone (FZ1), Significant Landscape Overlay (SLO2) and Environmental Significance Overlay (ESO1)
220116	45-53 Cuthbert Street, Corinella	Subdivision of land into 12 lots, removal of native vegetation, and creation of access and subdivision of land adjacent to a road in a Transport Zone 2
220339	50-52 Beresford Drive, Cape Woolamai	Subdivision of land into two (2) lots
PDPERAMD-2023/000358-1	124 Tampa Road, Cape Woolamai	Changes to endorsed plans (internal rearrangement, additional windows and a 2.1m high fence to the front yard)
PDPERAMD-2023/190276-1	3537 Bass Highway, Kilcunda	This letter seeks amendment to condition 7 of the planning permit. a) changes to the operating hours from Monday to Sunday 9.00am to 5.00pm inclusive to Monday to Sunday 8.30am to 10.30pm inclusive. b) ANZAC day operating hours from 1.00pm to 5.00pm to 8.30am to 10.30pm.
PDPERAMD-2023/190276-1	3537 Bass Highway, Kilcunda	Use and Development of the Land for Six Shops and Motel Style Accommodation, A Food and Drink Premises (Café), The Sale and Consumption of Liquor, and Alteration of Access to a Transport Zone Category 2

Bunurong Ward

Application Number	Address	Proposal
PDPLANPER-2023/000430	32 Dunn Street, Wonthaggi	Construction of three dwellings on a lot in a General Residential Zone (GRZ1) and three lot subdivision
230020	46 Hagelthorn Street, Wonthaggi	Development of the land for three dwellings on a lot in a General Residential Zone (GRZ1) and Design and Development Overlay (DDO8)
PDPLANPER-2023/001016	122 Surf Beach Road, Cape Paterson	Development of land for a dwelling in a Bushfire Management Overlay (BMO)
PDPLANPER-2023/000838	170 Surf Parade, Inverloch	Construct two dwellings on a lot in a General Residential Zone (GRZ1), Vegetation Protection Overlay (VPO3) and Design and Development Overlay (DDO9) and remove native vegetation

PLANNING AND BUILDING ACTIVITY REPORT FOR JANUARY 2024

Statutory Planning	This month (January)	Last month	Year to date (financial year)
% of applications determined within statutory timeframe	41.18%	35%	N/A
Average Gross Days	259.5	166.9	N/A
Average Gross Days to final outcome	231.8	159.3	N/A
Number of live applications (Planning Permit, s72 Amendments, Vic Smarts, Ending/ Amending S173 and Appeals)	167	168	N/A
Number of applications received for the month (Planning Permit, Amendments and Vic Smarts)	22	28	N/A
Number of Responsible Authority outcomes (Planning Permit, Amendments and Vic Smarts)	22	40	N/A



Municipal Building Services & Enforcement	**This month (January)**	**Last month**	**Year to date (financial year)**
Essential Safety Measure inspections	0	0	0
Report and Consent applications	21	41	159
POPE and Siting consents issued for temporary structures	2	0	10
Complaints received requiring investigation	1	4	31
Relating to Stormwater	1	0	13
New building enforcement cases	1	0	8
Number of open building enforcement cases	24	26	N/A
Building permits issued by Council	0	0	0
Planning Enforcement	**This month (January)**	**Last month**	**Year to date (financial year)**
New complaints/case files opened	2	5	**42**
Complaints/case files closed	9	3	**23**
Current open complaints/case files	77	72	**N/A**

STATUTORY PLANNING DEFINITION:

Statutory days: In accordance with the *Planning and Environment Act 1987*, a Council is permitted 60 statutory days to determine a planning application. The 60 statutory days includes weekends, public holidays and commences when the application is lodged. The legislation allows for the 60-day statutory clock to be stopped (e.g., when further information is requested) and re-started in certain circumstances (when further information or amended plans are received).

Gross days: The total number of days to determine a planning application inclusive of weekends and public holidays.

Recommendation

That Council:

1. **Receives and notes the Planning Permits issued under delegation report for January 2024; and**
2. **Receives and notes the Planning and Building Activity Report for January 2024.**

Attachments

Nil

9.3 Contracts Awarded and Extended via CEO Delegation

9.3 Contracts Awarded and Extended via CEO Delegation

Division	**Business Transformation**
Council Plan Strategic Objective	**Leading for our Community** *Demonstrating leadership through good governance, transparency and accountability*

Declaration

The author has no general or material interests in relation to this report.

Summary

Contracts Awarded

For the period from 1 January 2024 to 31 January 2024 no contracts were awarded under the Chief Executive Officer's financial delegation in accordance with Council's Procurement Policy.

Contracts Extended

For the period from 1 January 2024 to 31 January 2024, no contracts were extended under the Chief Executive Officer's financial delegation for contract variations and extensions in accordance with Council's Procurement Policy.

Governing Documents

Procurement Policy 2023

Recommendation

That Council notes that no contracts were awarded or extended under the Chief Executive Officer's financial delegation in accordance with the Procurement Policy 2023 during January 2024.

Attachments

Nil

10 Urgent Business

11 Mayoral Announcement of Next Meeting of Council

The next Council Meeting will be held on 17 April 2024 in the Bass Coast Civic Centre Council Chamber, Baillieu Street East, Wonthaggi commencing at 1.00pm.

That the meeting be closed to members of the public pursuant to Section 66 of the *Local Government Act 2020*, to consider an item/s as they deal with:

> (f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;

Meeting adjourned

That the meeting be adjourned

Meeting resumed

That the meeting be resumed

Items Closed to the Public

Excerpt of Section 66 of the Local Government Act 2020.

(5) If a Council or delegated committee determines that a meeting is to be closed to the public to consider confidential information, the Council or delegated committee must record in the minutes of the meeting that are available for public inspection—

(a) the ground or grounds for determining to close the meeting to the public by reference to the grounds specified in the definition of ***confidential information*** in section 3(1); and

(b) an explanation of why the specified ground or grounds applied.

confidential information means the following information—

(a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;

(b) security information, being information that if released is likely to endanger the security of Council property or the safety of any person;

(c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values;

(d) law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;

(e) legal privileged information, being information to which legal professional privilege or client legal privilege applies;

(f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;

(g) private commercial information, being information provided by a business, commercial or financial undertaking that—

i. relates to trade secrets; or

ii. if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;

(h) confidential meeting information, being the records of meetings closed to the public under section 66(2)(a);

(i) internal arbitration information, being information specified in section 145;

(j) Councillor Conduct Panel confidential information, being information specified in section 169;

(k) information prescribed by the regulations to be confidential information for the purposes of this definition;

(l) information that was confidential information for the purposes of section 77 of the **Local Government Act 1989;**

12 Confirmation of Closed Minutes

12.1 Closed Council Meeting held on 21 February 2024

13 Reports Requiring Council Decision Closed to the Public

13.1 Rates Interest Waiver - Financial Hardship

13.1 Rates Interest Waiver - Financial Hardship

It is recommended that the meeting be closed to members of the public pursuant to Section 66 of the *Local Government Act 2020*, to consider this item for the following reason:

(f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;

14 Meeting Closed

That the meeting be closed.