
























BASS COAST

Ordinary Council Meeting Agenda

Shaping a better Bass Coast

Wednesday, 15 July 2020

Commencing at 1.00pm

Note: This Ordinary Meeting of Council will be held virtually. Open to the public via livestream.

Vision, Mission and Values



Vision

Bass Coast will be known as a region that supports a sustainable and healthy community, and values and protects its natural assets.

Mission

We will engage with and advocate for our community to ensure equity and balance between liveability and environmental protection and be accountable for our financial management in realising the community's vision.

Values

Customer Focus

We will continue to develop effective relationships with customers

Continuous Improvement

We are committed to improving our processes and service delivery

Pride

We take pride in and promote our achievements, our staff and our organisation

Integrity

We act and make decisions that are fair, honest, open and accountable

Respect

We treat people with dignity and respect

Commitment

We value and recognise contributions towards achieving the Bass Coast Vision. We listen, understand, consult and respond to our community and staff. We provide accurate, timely and relevant information.

Notice of Meeting

Notice is hereby given that the next **Ordinary Meeting** of the Bass Coast Shire Council will be held virtually on 15 July 2020 at **1.00pm**

Date of Notice - 9 July 2020
Ali Wastie
CEO

Agenda

Livestreaming

In accordance with the Bass Coast Shire Council Meeting Livestreaming Policy 2020 adopted 15 April 2020 this Meeting will be livestreamed and the video and audio recording of the Meeting will be made publicly available for viewing on Council's webpage.

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 acknowledges Aboriginal and Torres Strait Islander people as the first Australians and recognises that they have a unique relationship with the land and water.

Council further recognises that we are situated on the lands of the traditional owners, the Bunurong, Boon wurrung members of the Kulin Nation who have lived here for thousands of years.

We offer our respect to their elders past and present and through them, all Aboriginal and Torres Strait Islander people where ever they are.

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.

Council Plan Themes

Advocacy
Representing the community

Nil Reports

Economic Development
Expanding, attracting and retaining business and investment

Nil Reports

Environment
Maintain and protect the natural environment

H.5 Local Government Power Purchase Agreement, page 69

H.6 Waste Services Contract Variation - Impact of Recycling Industry Processors, page 74

Governance
We are responsive, open, transparent and financially sustainable

H.7 Draft Governance Rules, page 80

H.8 Local Law - Use of the Common Seal and Council Meeting Offences, page 84

H.9 Community Asset Committees, page 87

H.10 Delegated Committees, page 91

H.11 Instrument of Appointment and Authorisation - Planning and Environment Act 1987, page 94

H.12 Amendment to the report for the Award of Tender 20008 - Wonthaggi Railway Station Exension and Glazing, page 98

Health and Wellbeing
We are a healthy and active community

Nil Report

Liveability
Enjoying the place we live

Nil Reports

Our Character *Celebrating the uniqueness of our townships*

H.1 Planning Application 190055 - 103 Ventnor Beach Road, Ventnor, page 20

H.2 Planning Application 190137 - 31 Silverleaves Avenue, Silverleaves, page 29

H.3 Planning Application 190324 - Two lot subdivision and vegetation removal at 27 McRae Avenue Cowes, page 39

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A Present and Apologies

B Declarations of Interest

C Confirmation of Minutes

C.1 Ordinary Meeting held on 20 May 2020

Recommendation

That the minutes of the Ordinary Meeting held on 20 May 2020 be confirmed.

C.2 Ordinary Meeting held on 17 June 2020

Recommendation

That the minutes of the Ordinary Meeting held on 17 June 2020 be confirmed.

D 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.***

Bass Coast Shire Council Meeting Procedure Local Law 2018

DIVISION 8 - Public Question Time

60. Question Time

60.1 There shall be a public question time at every Ordinary meeting to enable members of the public to submit questions to Council.

60.2 Questions submitted to Council must be in writing, state the name and address of the person submitting the question and generally be in a form approved or permitted by Council.

60.3 Subject to clause 60.8, any question submitted to the Council will be answered at the relevant Council meeting if the question has been submitted no less than 24 hours before the commencement of the Ordinary meeting.

60.4 Any question submitted less than 24 hours before the Ordinary meeting will be answered at that Ordinary meeting if possible and, if no answer can be given, then a written answer will be given to the person asking the question as soon as practicable after the Ordinary meeting.

60.5 No person may submit more than two questions at any Ordinary meeting unless permitted by the Chairperson, in his or her absolute discretion.

60.6 The Chairperson or Officer nominated by the Chairperson may read a question to those present.

60.7 A question may be disallowed by the Chairperson if it:

60.7.1 relates to a matter outside the duties, functions and powers of Council;

60.7.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;

60.7.3 deals with a subject matter already answered;

60.7.4 is aimed at embarrassing a Councillor or an Officer; or

60.7.5 relates to a personnel matter; or

60.7.6 relates to a matter that Council may consider in a meeting closed to the public under section 89(2) of the Act.

60.8 All questions and answers must be as brief as possible, and no discussion is allowed other than for the purposes of clarification.

60.9 The Chairperson may nominate a Councillor or Officer to respond to a question.

60.10 A Councillor or Officer nominated by the Chairperson under clause 60.9 may require a question to be put on notice until the next Ordinary meeting, at which time the question must be answered, or elect to submit a written answer to the person asking the question.

60.11 A Councillor or Officer may advise Council that it is his or her opinion that the reply to a question should be given in a meeting closed to the public under section 89(2) of the Act. The Councillor or Officer must state briefly the reason why the reply should be so given and Council must then resolve that the reply to such question must:

60.11.1 be so given, in which case the question will be deferred until Council resolves to close the Council meeting to the public; or

60.11.2 not be so given, in which case the answer will be given immediately.

E Petitions, Joint Letters, Deputations and Correspondence

Notices of Motion

F Notices of Motion

F.1 221/20 Livestreaming, Cr Geoff Ellis

I, Cr Geoff Ellis hereby give notice that I intend to move a motion at the Ordinary Meeting on 15 July 2020, which reads as follows:

LIVESTREAMING

Motion

That Council

That Council confirm that the implementation of livestreaming of Council Meetings is a success, ceases the current six-month trial, does not ask for a report on its effectiveness, and resolves to continue livestreaming all of Council's Ordinary and Special Meetings into the future.

Councillor Comments

Nil.

Officer's Comments

Nil.

……..
Cr Geoff Ellis, Western Port Ward
Dated: **15 July 2020**

Attachments

There are no attachments for this report

F.2 222/20 Holden Proving Ground, Cr Geoff Ellis

I, Cr Geoff Ellis hereby give notice that I intend to move a motion at the Ordinary Meeting on 15 July 2020, which reads as follows:

HOLDEN PROVING GROUND

Motion

That Council:

1. **Request an urgent meeting with the Minister for Planning to discuss options for protection of the site.**
2. **Advocate for the protection of the site through formal recognition and protection within the Statement of Planning Policy.**
3. **Request a report be prepared a report for the August 2020 Council meeting identifying options for the environmental protection of the site. The report should explore Council's options in regard to formal recognition of the site including the introduction of an overlay within the Bass Coast Planning Scheme.**

Councillor Comments

Nil.

Officer's Comments

The Holden Proving Ground has approximately 800 hectares of very high quality remnant vegetation and is home to hundreds of indigenous plant and wildlife species. Over the last decade Bass Coast Landcare Network has partnered with GM Holden and has undertaken environmental restoration works outside, and more recently inside, the Proving Ground at Lang Lang. This has included extensive flora and fauna surveys, with the results guiding the development of a Bushland Management Plan. The surveys and searches on the threatened species database revealed a number of threatened flora and fauna species that are and/or have recently been present within the Proving Ground.

Community members have expressed concern that as the site is in private ownership and likely to be sold that there is an urgent need for protection of this important and rare remnant of natural bush in Bass Coast. The community have expressed desire to ensure the protection of this unique parcel of West Gippsland coastal forest identified for its habitat value by a number of studies conducted on the site (with the support of GM Holden). The community is also concerned about potential sand mining or other potential extractive industry uses of the site.

The site is currently within the Farming Zone and is also covered by a Bushfire Management Overlay. The site is not affected by any environmental overlays, other than the Bushfire Management Overlay. In saying that, *Clause 52.17 – Native Vegetation*, is a relevant consideration for any development that proposes native vegetation removal.

With regard to the Distinctive Areas and Landscapes project, the site is included within the Bass Coast declared area. For the declaration to have weight, a Statement of Planning Policy (SPP) needs to be prepared. As yet, the SPP has not be prepared. It is likely that the SPP will be a high-level document adding weight to Council's existing planning policy, including those policies related to biodiversity protection and native vegetation removal.

……..
Cr Geoff Ellis, Western Port Ward
Dated: **15 July 2020**

Attachments

There are no attachments for this report

Mayor and Councillor Reports

G Mayor and Councillor Reports

Reports Requiring Council Decision

H Reports Requiring Council Decision

H.1 Planning Application 190055 - 103 Ventnor Beach Road, Ventnor

File No:	**CM20/371**
Division:	**Place Making**
Council Plan Strategic Objective:	**Our Character**
	Celebrating the uniqueness of our townships

Application Details

Use/Development Sought:	**Subdivision of the land into two lots**
The Land:	**103 Ventnor Beach Road, Cowes**
Planning Scheme:	**Bass Coast Planning Scheme**
Zoning:	**Farming Zone**
Overlays:	**No overlays**

Declaration

The author has no direct or indirect interests in relation to this report.

Executive Summary

This application proposes to re-subdivide the land into two lots at 103 Ventnor Beach Road, Ventnor.

The proposal triggers the need for a planning permit under the following clauses of the Bass Coast Planning Scheme:

- Clause 35.07-3 (Farming Zone) a permit is required to subdivide land.

This report addresses the planning merits of the proposal.

It concludes that the proposal does not accord with the relevant polices, objectives and strategies of the Bass Coast Planning Scheme and in particular the Planning Policy Framework, Local Planning Policy Framework and the purpose and decision guidelines of Clause 35.07 Farming Zone.

On this basis, it is recommended that Council resolve to issue a notice of refusal to grant a planning permit for application 190055.

Reason a Council Decision is required

This application was called in by a Councillor for decision at a Council meeting.

Application Details

This application proposes to re-subdivide two lots (boundary realignment).

The subdivision of the land is summarised as follows:

- Proposed Lot 1 is 3.147 ha in area. This lot contains the existing dwelling.
- Proposed Lot 2 is 2.923 ha in area. This lot contains no buildings.

- Both lots are accessed off Ventnor Beach Road.
- No existing vegetation is to be removed from the site.

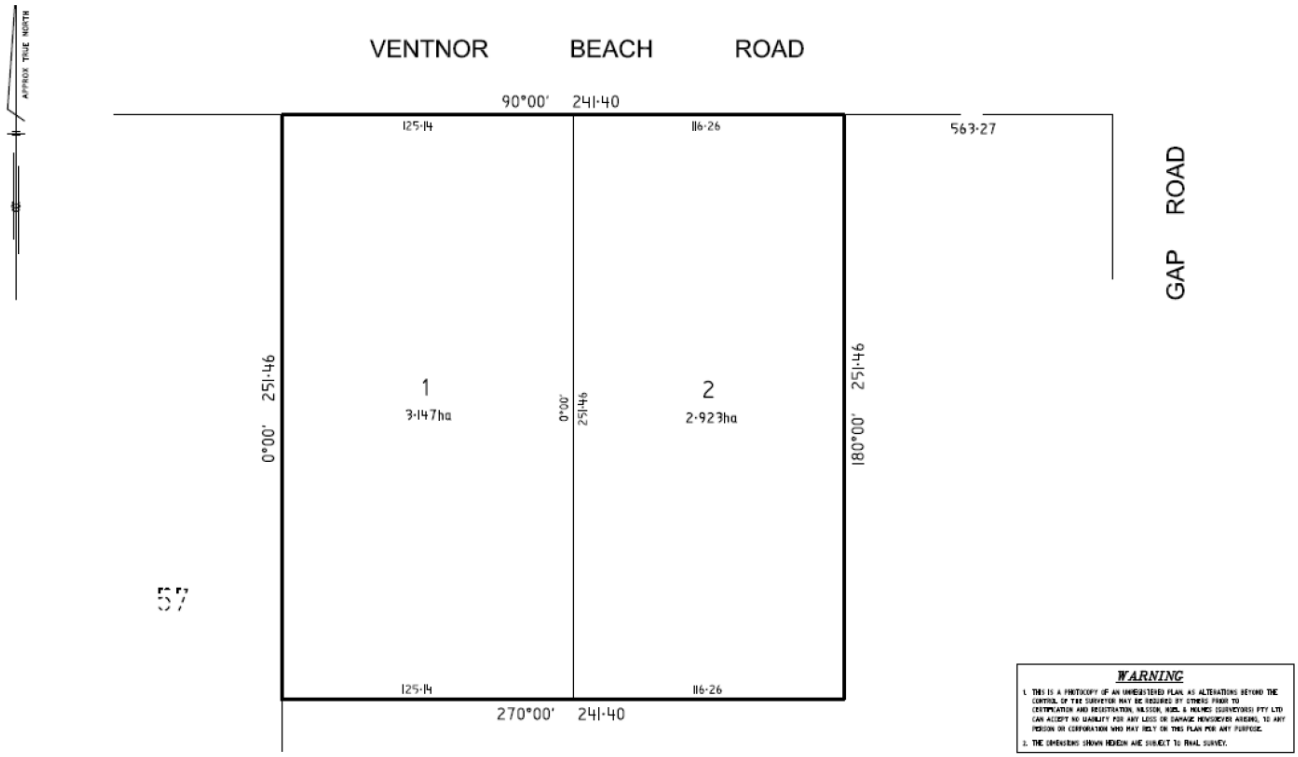


Figure 1 Proposed subdivision

Background

Following is a description of the subject site and other relevant information pertaining to the allotment.

Site Dimensions	The subject land is two allotments with a combined area of 6.075 ha. Lot 1 is currently .2229 ha and Lot 2 is 5.847 ha.
Site Frontage	Both lots front Ventnor Beach Road.
Topography	The land fall 13 metres from the north-east to the south-west.
Vegetation Cover	There is a small olive plantation across the Ventnor Beach Road frontage.
Current Use	Lot 1 is currently used for a dwelling. Lot 2 contains the olive plantation.
Easements	Not applicable.
Restrictive Covenants	Not applicable.
Aboriginal Cultural Heritage Sensitivity	Not affecting this site.

Planning Permit History	Planning permit 060925 was issued for the re-subdivision of the land into two lots. This permit was not acted upon.

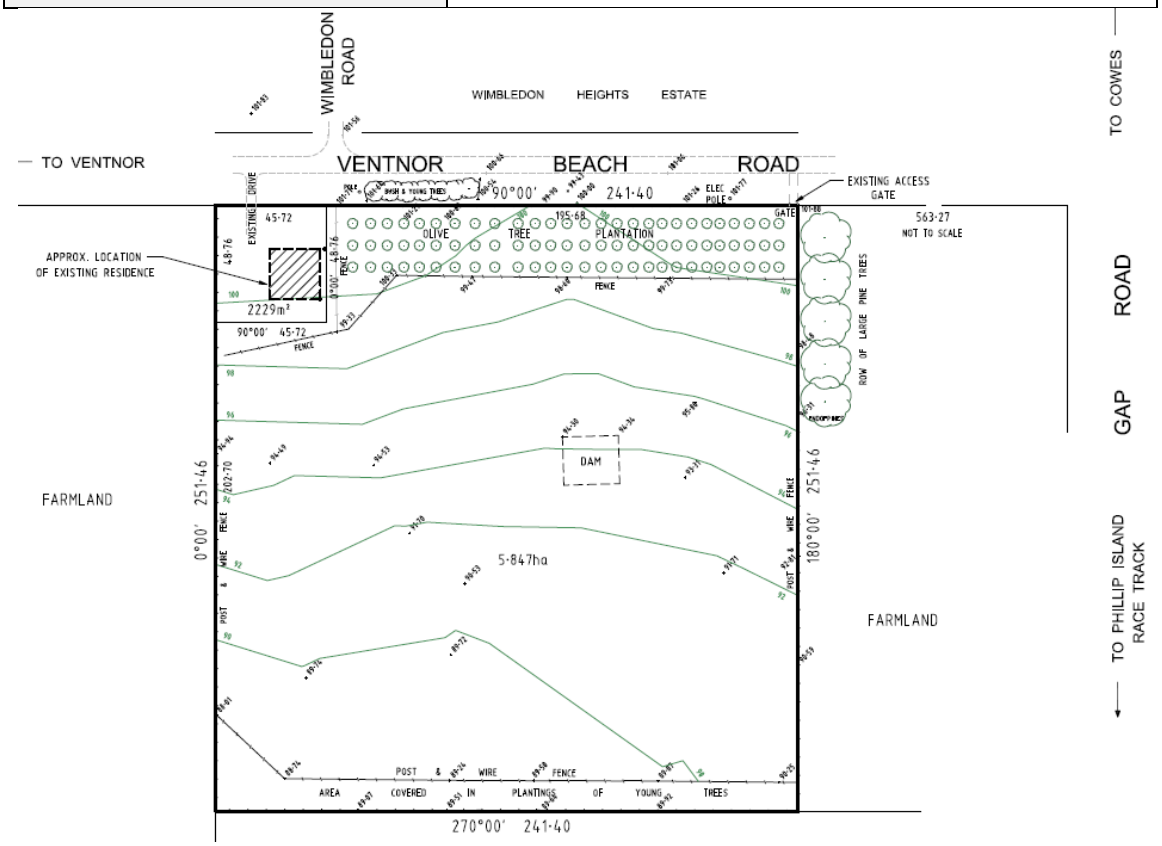


Figure two – Current site layout

The subject site comprises a larger parcel of 5.847ha featuring open pasture and olive trees, and includes a smaller parcel of 0.223ha which contains a dwelling and garden surrounds. Olives produced on the property are currently used for production of olive oil, which is produced under the 'Phillip Island Olives' label.

The native vegetation was planted along the southern boundary in the 1990s by the current owners with the assistance of Landcare. It comprises a range of species common to Swamp Scrub. There is also vegetation surrounding the dwelling in the north-west corner of the property. This is predominantly ornamental.

The land falls moderately from north to south, and features a slight depression running north south through the centre of the property. Views from within the property are generally towards generally low ridges surrounding the property.



Figure three – Aerial image of the subject site.

Notice

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

Public notification was undertaken by applicant on 21st of January 2020 and involved the following:

- Forwarding a copy of the Notice by mail to the owners and occupiers of 33 adjoining and nearby properties.
- Placing a sign on the land to front Ventnor Road

The applicant has provided evidence via a statutory declaration that the notification process was conducted in accordance with Council's requirements. No submissions were received as a result of the notification process.

Referrals

The following table outlines the referral requirements of this application.

Table two: Referral requirements and their comments

Referral Authority	Comments
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Revenue Services	For information.
Asset Management	Consent subject to conditions.
Environmental	Consent.

Officer's Considerations

Planning Policy Framework and Local Planning Policy Framework

The relevant policies of the Planning Policy Framework include:

- Clause 11.01-1S Settlement
- Clause 11.01-1R Settlement – Gippsland
- Clause 11.03-4S Coastal Settlement
- Clause 11.03-5S Distinctive areas and landscapes
- Clause 14 Natural Resource Management
- Clause 14.01 Agriculture
    - 14.01-1S Protection of agricultural land
    - 14.01-2S Sustainable agricultural land use
    - 14-01-1R Protection of agricultural land – Gippsland
    - 14.01-2S Sustainable agricultural land use

The relevant polices of the Local Planning Policy Framework include:

- Clause 21.01 Municipal Profile
- Clause 21.02 Settlement
    - 21.02-1 Growth of towns
    - 21.02-2 Small rural lots
    - 21.02-3 Rural Living and Low Density Residential Development
- Clause 21.03 Economic development
    - 21.03-1 Economic Development Overview
    - 21.03-5 Agriculture
- Clause 22.04 Rural Subdivision Policy
- Clause 22.05 Rural Dwellings Policy

Other:

- Bass Coast Rural Land Use Strategy (Part 1) (2014)
- Bass Coast Rural Land Use Strategy (Part 2) (2014)

The proposed subdivision is inconsistent with Clauses 14.01 Agriculture, 14.01-1S Protection of agricultural land, 14.01-2S Sustainable agricultural land use, 14-01-1R Protection of agricultural land – Gippsland, 14.01-2S Sustainable agricultural land of the Planning Policy Framework and Clauses 21.02-1 Growth of towns, 21.02-2 Small rural lots, 21.02-3 Rural Living and Low Density Residential Development, 21.03-1 Economic Development Overview and 21.03-5 Agriculture of the Local Planning Policy Framework.

The proposed subdivision is considered to be contrary to the relevant policies of both the Planning Policy Framework and Local Planning Policy Framework of the Bass Coast Planning Scheme that seek to protect the state's agricultural base by preserving productive farmland.

Clause 14.01-1S Protection of agricultural land has identified strategies to preserve productive farmland. Following the implementation of the Bass Coast Rural Land Use Strategy (2014), the subject site has been identified in an area that is considered productive agricultural land. The proposed subdivision is considered to result in adverse impacts on this land with the creation of allotments that do not achieve the minimum lot sizes under the Farming Zone.

Clause 21.03-5 Agriculture advises that The Bass Coast Rural Land Use Strategy (2014) sets out a long term vision for the Shire's rural areas and identifies three different rural precincts that reflect the diversity of the landscape and agricultural values (Map 1: Rural Precincts). These are:

- Precinct 1 (East of Bass Highway). The main commercial agriculture area with a strong future for agriculture.
- Precinct 2 (West and South of Bass Highway). A mix of commercial agriculture and lifestyle farming.
- Precinct 3 – Phillip Island. A mix of commercial agriculture and lifestyle farming.

The subject site is located in Precinct 3 (Phillip Island).

In considering the proposed subdivision against Clause 21.03-5 Agriculture, it is assessed as failing to meet the following relevant objectives and strategies of this particular policy:

- The subdivision will further fragment a viable rural holding, on productive agricultural land.
- The policy discourages the subdivision of productive agricultural land and the proposal has failed to satisfactorily justify why the proposed subdivision will benefit agriculture.

Clause 21.01-1 Growth of towns of the Local Planning Policy emphasises the protection of areas of agricultural significance. Clause 21.02-3 Rural Living and Low Density Residential Development recognises the importance of retaining viable rural holdings located on productive agricultural land and restrict inappropriate development within agricultural areas.

Clause 22.04-3 from Council's Rural Subdivision Policy states:

It is policy to:

- Ensure that small lot subdivisions (including house lot excisions and boundary re-alignments) are only undertaken for reasons related to agriculture.
- Discourage small lot subdivisions except where:
    - No new opportunities for additional houses below the minimum specified in the schedule to the Farming Zone are created: and
    - The impact on neighbours and existing or potential agricultural use of nearby land is minimised.

- Ensure that lots resulting from small lot subdivisions are of a sufficient size to be of benefit to agricultural production.
- Limit the cumulative impact of house lot excisions, including serial small lot subdivisions.

In support of the application the applicant has provided a Land Management Plan. The plan describes how lot 2 is currently being utilised for a range of agricultural pursuits (olive growing, hay and small scale grazing). The report proposes an improvement program for the site which includes expanding the area of olive production, continuing hay production, protection of remnant vegetation and weed control.

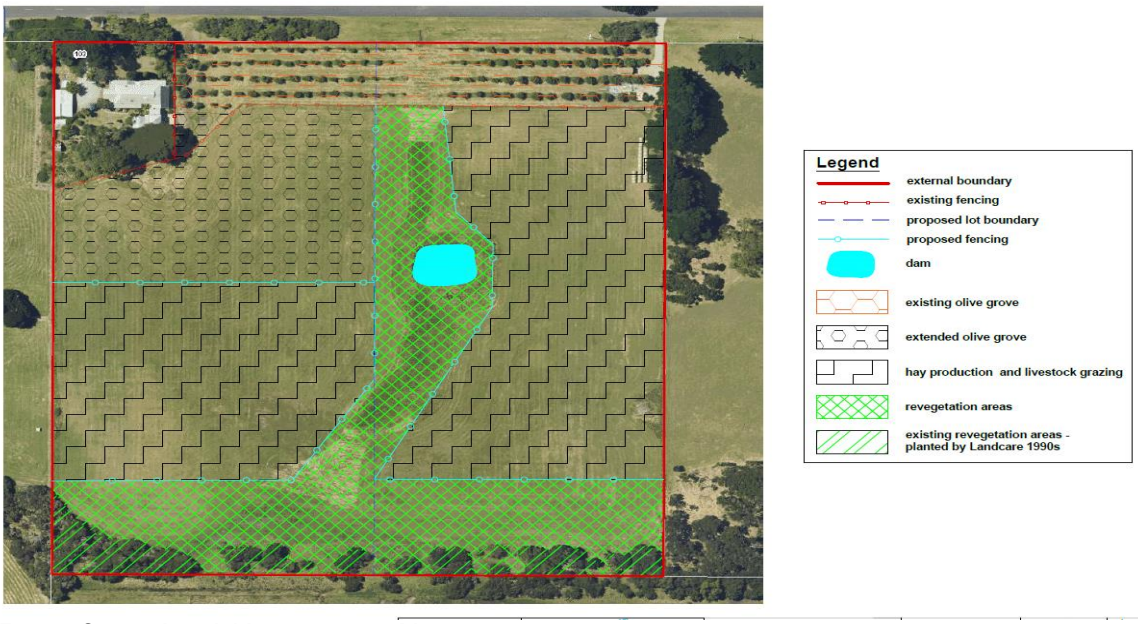


Figure four – Land Management Plan

Whilst the Land Management Plan demonstrates the agricultural and environmental uses on the site can be enhanced, re-subdivision of the land is not required in order to achieve these aims. On the contrary, it is assessed that re-subdivision of the land is inconsistent with local policy and will result in fragmentation of land currently utilised for agricultural purposes.

Zone Assessment

The proposed subdivision does not achieve the minimum subdivision lot area required under Clause 35.07-3 of the Farming Zone and is contrary to Clause 22.04 Rural Subdivision Policy of the Bass Coast Planning Scheme.

However, Clause 35.07-3 Farming Zone does allow the ability for a permit to be granted to create smaller lots if any of the following apply:

- The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.
- The subdivision is the re-subdivision of existing lots and the number of lots is not increased.
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation.

The applicant is relying on the second dot point the total number of lots will not be increased.

Clause 22.04 Rural Subdivision Policy of the Bass Coast Planning Scheme provides guidance on the consideration of the subdivision of land within the Farming Zone. The Policy basis for this particular policy builds on the MSS objective in Clause 21.02-4 to retain and protect viable rural holdings.

When consideration is given to Clause 22.04-2 Rural Subdivision Policy of the Bass Coast Planning Scheme, the proposed subdivision is assessed as not meeting the objectives, policies and decision guidelines for the following reasons:

- The subdivision will further fragment valuable agricultural land.
- The Land Management Plan submitted with the application has not demonstrated that the subdivision of the land is required in order to achieve its objectives.
- The proposed subdivision may lead to an application for an additional dwelling on proposed Lot 2. However, a Section 173 agreement applied to any permit issued could prevent this.
- It is policy to ensure that where land is subdivided lots created should be at least the area specified for the land in a schedule to this zone. The proposal does not achieve this.
- The Farm Management Plan demonstrates that the land is currently being farmed in the current title configuration.

The application is not consistent with the objectives of the Farming Zone.

Overlays

The subject site is not within any overlays.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered inappropriate response to the provisions of the Scheme. The proposed subdivision is considered to be contrary to the relevant policies of both the Planning Policy Framework and Local Planning Policy Framework of the Bass Coast Planning Scheme that seek to protect the state's agricultural base by preserving productive farmland.

On this basis, it is recommended that Council resolve to refuse planning application 190055.

Recommendation

That in relation to planning permit application 190055 for the re-subdivision of land located at 103 Ventnor Beach Road, Ventnor, Council resolves to issue Notice of Refusal subject to the following grounds:

1. **The proposed subdivision is inconsistent with Clauses 14.01 Agriculture, 14.01-1S Protection of agricultural land, 14.01-2S Sustainable agricultural land use, 14-01-1R Protection of agricultural land – Gippsland, 14.01-2S Sustainable agricultural land of the Planning Policy Framework of the Bass Coast Planning Scheme**

2. **The proposal is inconsistent with Clauses 21.02-1 Growth of towns, 21.02-2 Small rural lots, 21.02-3 Rural Living and Low Density Residential Development, 21.03-1 Economic Development Overview and 21.03-5 Agriculture of the Local Planning Policy Framework of the Bass Coast Planning Scheme**
3. **The proposal fails to satisfactorily address Clause 22.04 Rural Subdivision Policy of the Bass Coast Planning Scheme.**
4. **The proposed subdivision is considered to be inconsistent with the purpose and decision guidelines of Clause 35.07 Farming Zone of the Bass Coast Planning Scheme.**
5. **The proposal is inconsistent with Clause 65.02 Approval of an Application to Subdivide Land decision guidelines.**

Attachments

AT-1 Plans 3 Pages

H.2 Planning Application 190137 - 31 Silverleaves Avenue, Silverleaves

File No:	**CM20/355**
Division:	**Place Making**
Council Plan Strategic Objective:	**Our Character** Celebrating the uniqueness of our townships

Application Details

Use/Development Sought:	**Development of land for a dwelling in an LSIO**
The Land:	**31 Silverleaves Avenue, Silverleaves**
Planning Scheme:	**Bass Coast Planning Scheme**
Zoning:	**Clause 32.05 Township Zone (TZ)**
Overlays:	**Clause 43.02 Design and Development Overlay Schedule 1 (DDO1)** **Clause 44.04 Land Subject to Inundation Overlay (LSIO)** **Clause 42.02 Vegetation Protection Overlay Schedule 2 (VPO2)**

Declaration

The author has no direct or indirect interests in relation to this report.

Executive Summary

This application proposes to develop the land for a single dwelling within the Land Subject to Inundation Overlay at 31 Silverleaves Avenue, Silverleaves.

The proposal triggers the need for a planning permit under the following provisions of the Bass Coast Planning Scheme;

- Clause 44.04 Land Subject to Inundation Overlay (LSIO),

The application has been called in by a Councillor for determination by Council.

This report addresses the planning merits of the proposal, issues raised by the external and internal referral authorities. It concludes that the proposal accords with the relevant provisions of the Bass Coast Planning Scheme.

On this basis, it is recommended that Council resolve to issue a Planning Permit for application 190137.

Application Details

This application seeks to construct a dwelling on the land generally in accordance with amended plans received on 3 April 2020, prepared by Graeme Bicknell Pty Ltd on 22 October 2019. The amended plans were formally substituted 3 April 2020 under Section 57(A) of the *Planning and Environment Act 1987* and provided for an amended design to address submitter concerns.

The amended design changes are summarised as follows:

a) Reduce the height of the dwelling from 7.95m to 6.99m

In reducing the height of the dwelling, there is no need for a planning permit under the provisions of the Design and Development Overlay, Schedule 1. The initial planning application was advertised with eight (8) submissions being received A permit is required under the provisions of the LSIO. However the advertising is exempt under Clause 44.04-6 of the LSIO. As a result there are no normal third party appeal rights that now apply and as such, no appeal rights are available to VCAT following the determination of the application.

The application materials comprise:

- A site plan showing the prospered development and adjoining properties
- Floor plans
- Elevation plans

A copy of the decision plans are provided as Attachment One (AT-1)

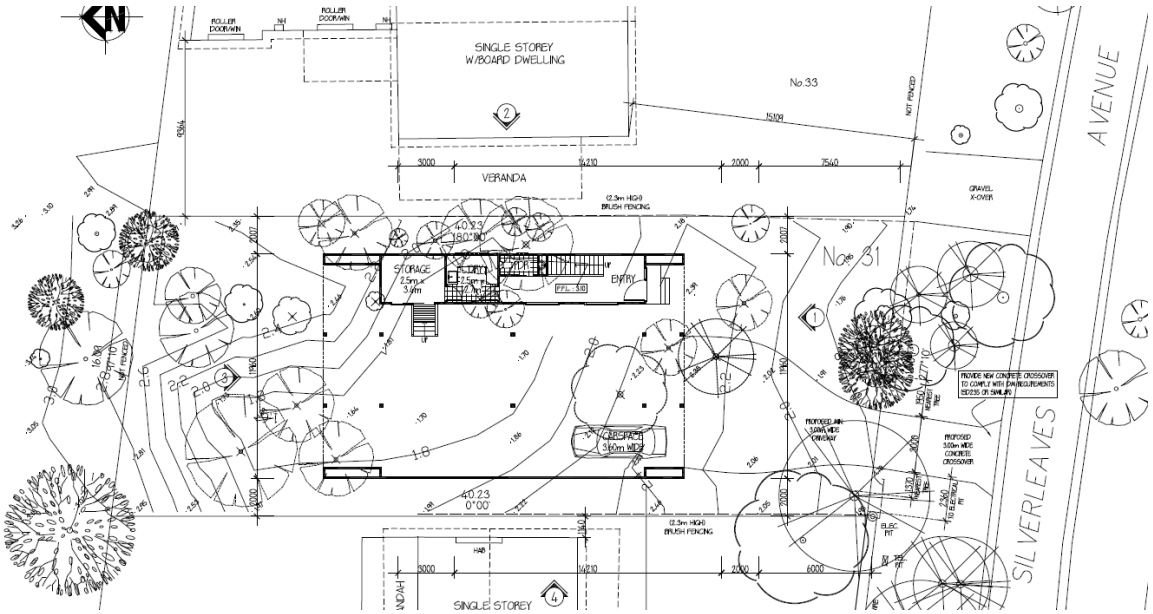


Figure 1 Ground floor site plan

Reason a Council Decision is required

The application has been called in by a Councillor for determination by Council.

Background

Following is a description of the subject site and other relevant information pertaining to the allotment.

Site Dimensions	16.09m x 40.23m (647sqm)
Site Frontage	16.09m wide along Silverleaves Avenue,
Topography	Relatively flat with a slight slope toward the southern boundary.
Vegetation Cover	*Scattered vegetation throughout the site*
Current Use	*Vacant*

Easements	*No easements*
Restrictive Covenants	*Not Applicable*
Aboriginal Cultural Heritage Sensitivity	*Located within an area of cultural heritage sensitivity but does not trigger a CHMP requirement.*
Planning Permit History	There have been no previous planning permits issued for the subject site.

The subject site is a vacant residential allotment, located centrally on Silverleaves Avenue, Silverleaves. The subject site is surrounded by single and double storey dwellings. The township of Silverleaves is bound by Westernport Bay and has a northerly aspect. The town has substantial vegetation cover, meandering roads and no formal footpaths, these elements all contribute to a secluded, coastal character.

The subject site is adjoined with the following properties:

- North: Westernport Bay beach frontage
- West: Single storey detached dwelling
- South: Silverleaves Avenue with the adjoining property being a single detached dwelling orientated towards Silverleaves Avenue.
- East: Single storey detached dwelling

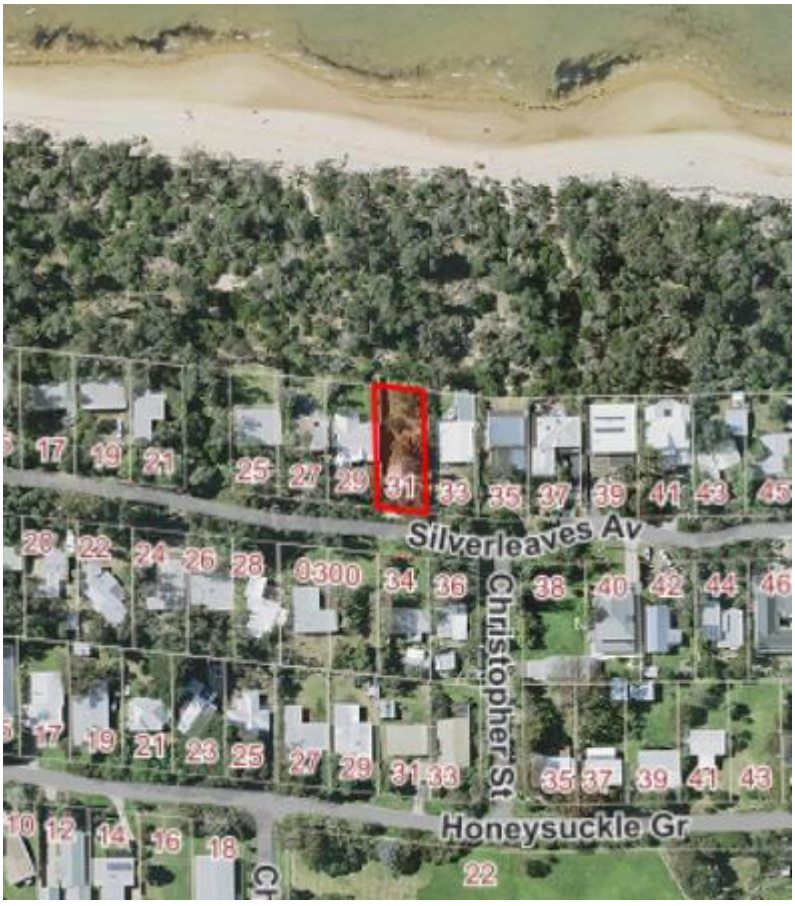


Figure 2 Aerial photo of the subject site (above)



Figure 3 Zoning Map of subject site

Notice

Pursuant to Clause 44.04-6 of the LSIO, an application under this overlay is exempt from the notice requirements of section 52(1) (a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

As stated previously, the initial planning permit was advertised as notice was required when a dwelling exceeds seven metres in height under the provisions of the DDO1. At the completion of the advertising period eight (8) submissions were received. Issues highlighted by the submissions included:

- Height and mass of the building
- Vegetation removal
- High front fence
- Impact on wildlife and indigenous vegetation
- Overlooking from upper storey

Plans were amended at the completion of the notification process. The height and mass of the dwelling has been reduced by a metre to be under 7m in height. Whilst vegetation is to be removed from the site, a permit is not required for their removal. All the vegetation identified for removal meet bushfire exemption requirements of Clause 52.12-1.

As a result of the amended plans, a planning permit is not required for the dwelling under the DDO1, only the LSIO. Notification is exempt under Clause 44.04-6 of the LSIO. There are no normal third party appeal rights that now apply and as such, no appeal rights are available to VCAT following the determination of the application.

Referrals

The following table outlines the referral requirements of this application.

Table two: Referral requirements and their comments

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
Melbourne Water	No objection to the application subject to conditions.
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Asset Management	No objection to the application subject to conditions

Officer's Considerations

Planning Policy Framework

It is the intention of State policy that development by the coast recognise and enhance coastal areas and ensure their sustainable use. Clause 12.02 (Coastal Areas) requires development to be designed to respect the character of coastal settlements. The Planning Scheme at Clause 13.01 (Coastal Inundation and erosion) also requires the impacts of climate change to be managed.

Local policy furthers the intention of State policy. Clause 21.08-1 (Cowes and Silverleaves) includes a policy that recognises that the coastal landscapes with the Shire are highly valued; with six distinct significant character landscapes identified. The one relevant to this application is "*Phillip Island Northern Coast*" where the future coastal character directions (as relevant to residential development) seek settlement to be characterised by indigenous vegetation which extends in corridors between inland reserves and the natural coastal edge. It is a specific objective of Clause 21.08-1 to ensure that development is subordinate to the natural, visual an environmental landscape character.

Clause 21.08-5 requires that development is responsive to the identified flood and coastal inundation identified in the Land Subject to Inundation Overlay. In considering this, the application was referred to Melbourne Water who provided advice on the application including the floor levels.

Clause 22.01 Stormwater requires the Responsible Authority to incorporate stormwater management considerations in the decision making process. This is particularly important for the site which is adjacent to Westernport Bay. Council engineers requested additional information including pre-treatment stormwater runoff and details of stormwater infiltration systems. The additional information was able to ensure that site can be appropriately developed so as not to impact adjoining properties.

The proposed development is consistent with the Planning Policy Framework as the development is located within existing modified coastal environment where the demand for development is evident and the impacts of development can be managed. The site is within an appropriate zone and the development proposed intended for the site. Impacts of potential inundation have been considered.

Zone Assessment

Clause 32.05- Township Zone (TZ)

The purpose of the Township Zone (TZ) is to;

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for residential development and a range of commercial, industrial and other uses in small towns.
- To encourage development that respects the neighbourhood character of the area.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

A permit is not required under the zone provisions.

Overlays

Clause 44.04- Land Subject to Inundation Overlay (LSIO)

The application triggers the need for a planning permit under the Clause 44.04 Land Subject to Inundation Overlay (LSIO).

A permit is required to construct a building or to construct or carry out works associated with a dwelling on land covered by the LSIO. Clause 44.04 requires that any application be referred to the relevant water authority in accordance with Section 55 of the *Planning and Environment Act 1987*. Melbourne Water provided advice in regards to the finished floor levels which has been addressed in the design of the dwelling.

Given the nature of the overlay, the advice of Council's Development Services Team was also sought. The assessment demonstrated that the stormwater generated by the development could be reasonably treated onsite and not cause any offsite impacts that may be of detriment to the coastal environment. On this basis, the application is consistent with the objectives of the overlay.

Clause 42.02- Vegetation Protection Overlay – Schedule 2 (VPO2)

The submitted site plan has demonstrated vegetation is to be removed from the site, however a planning permit is not required under schedule 2 of Clause 42.02 Vegetation Protection Overlay (VPO2).

The applicant submitted a site plan that highlights that the vegetation to be removed meets exemption requirements of Clause 52.12-1. This clause allows vegetation to be removed for bushfire protections, regardless of any other vegetation removal controls.

Clause 43.02- Design and Development Overlay- Schedule 1 (DDO1)

The planning permit is not required under the provisions of the DDO1 as the requirements of the overlay has been met. The proposal meets the Design and Development Overlay – Schedule 1 (DDO1) for residential areas near the coast as the dwelling had been reduced in size so as to not exceed a total building height of seven metres from ground level.

Conclusion

The application has been assessed against the relevant provisions of the Bass Coast Planning Scheme and is considered consistent with the scheme. In response to requirements under the LSIO, amendments to finish floor levels as required by Melbourne Water have been met. On this basis it is recommended that Council issues a Planning Permit for application 190170.

Recommendation

That in relation to planning permit application 190170 for the development of land for a dwelling in a LSIO located at 31 Silverleaves Avenue, Silverleaves, Council resolves to issue a Planning Permit subject to the following conditions:

1. **The development as shown on the endorsed plans must not be amended, altered or modified without the further written consent of the Responsible Authority.**
2. **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 writing of the Responsible Authority and/or the relevant service provider.**

SITE CIVIL DESIGN PLANS

3. **Before the issue of a Building Permit by the relevant Building Surveyor, detailed civil construction plans must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. All construction plans submitted for approval must be consistent with this permit and must conform to the requirements of all relevant servicing and Council. The plans must be drawn to scale with dimensions. An A3 plan and an electronic copy (PDF) must be provided. The plans must show:**
   a) **An onsite effluent disposal system that has an offset of at least 2m away from any drainage apparatus.**

DRAINAGE

4. **Prior to the issue of the Certificate of Occupancy, all stormwater discharging from the site, buildings, vehicle access ways and works must be discharged to a water tank, soakwell or otherwise discharged so as not to cause erosion, flooding or nuisance to the subject or surrounding land to the satisfaction of the Responsible Authority**

CONSTRUCTION

5. **Before the issue of the Certificate of Occupancy, the following works**

6. **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 (excluding any above ground detention tanks deferred via a Section 173 agreement) in accordance with the endorsed civil plans.**
   c) **All proposed vehicle crossings and footpaths must be constructed in accordance with the endorsed plans and IDM standards,**

MUD ON ROADS

7. **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.**
8. **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, waste water, waste products, grit or oil; and presence of vermin or animals.**

Melbourne Water Conditions

9. **All Finished floor levels of the ground units must be set at least 600mm above 100yr flood level to AHD, set at 3.1m to AHD.**
10. **All Finished floor levels of garages must be set at least 300mm above 100year flood level.**
11. **All open space within the property must be set at existing natural surface level so as not to obstruct the passage of overland flows.**
12. **Any new fencing/gates (internal/external) must be of an open style of construction (minimum 50% open) to allow for the passage of overland flows.**
13. **All the setbacks must be maintained as proposed in the plan.**
14. **Any new verandah(s) /decking must be constructed with unenclosed foundations to allow for the passage of overland flows.**

Permit Expiry:

15. **This permit will expire if one of the following circumstances applies:**

a) **the development is not started within two (2) years of the date of this permit; or**

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

In accordance with Section 69 of the *Planning and Environment Act* 1987, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

ADVICE NOTES:

Council:

Prior to the issue of a Septic Tank Permit from the Council Health Department, the permit holder is required to provide a Land Capability Assessment report for the site based on the approved dwelling.

This application has not been assessed under Clause 54 (ResCode) of the Bass Coast Planning Scheme.

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.

Road Occupation Permit

A Bass Coast Shire Road Occupation Permit must be obtained prior to the commencement of the construction of all new vehicle crossings and for the upgrading, alteration or removal of existing vehicle crossings. The relevant fees, charges and conditions of the Road Occupation Permit will apply to all vehicle crossing works. It is a requirement that all vehicle crossing works be inspected by Bass Coast Shire Council's Asset Protection Officer.

Stormwater Discharge Point

A Bass Coast Stormwater Discharge Point must be obtained prior to the connection of all new stormwater drainage into Bass Coast Council's stormwater drainage system. All new stormwater drainage connections must be inspected by Bass Coast Council's Asset Protection Officer before any backfilling of the connection is undertaken.

Melbourne Water Advice

The property is subject to flooding from Sea Level Rise. The existing SLR flood level is 2.3m AHD, rising to 2.5m AHD by 2040 and 3.1m AHD by 2100.

Attachments

AT-1 Amended Plans 4 Pages

H.3 Planning Application 190324 - Two lot subdivision and vegetation removal at 27 McRae Avenue Cowes

File No:	**CM20/380**
Division:	**Place Making**
Council Plan Strategic Objective:	**Our Character**
	Celebrating the uniqueness of our townships

Application Details

Use/Development Sought:	**Two lot subdivision and vegetation removal**
The Land:	**27 McRae Avenue Cowes**
	Lot 12 LP95434
Planning Scheme:	**Bass Coast Planning Scheme**
Zoning:	**General Residential Zone**
Overlays:	**Vegetation Protection Overlay Schedule 2**
	Design and Development Overlay Schedule 1

Declaration

The author has no direct or indirect interests in relation to this report.

Executive Summary

This application proposes to subdivide the land at 27 McRae Avenue into two lots.

The proposal triggers the need for a planning permit under the following clauses of the Bass Coast Planning Scheme:

- Clause 32.08-3 (General Residential Zone) a permit is required to subdivide land;
- Clause 42.02 (Vegetation Protection Overlay) a permit is required to remove destroy or lop vegetation;
- Clause 43.02 (Design and Development Overlay) a permit is required for subdivision within a design and development overlay; and
- Clause 44.06-2 (Bushfire Management Overlay) a permit is required to subdivide land.

The application was advertised and received nine submissions.

This report addresses the planning merits of the proposal and the issues raised by submitters. It concludes that the proposal accords with the relevant provisions of the Planning Scheme and is consistent with Council's plan for settlement growth in Cowes.

On this basis, it is recommended that Council resolve to issue a notice of decision to grant a planning permit for application 190324 subject to the recommended conditions.

Reason a Council Decision is required

Council's delegations require applications that attract five or more objections to be determined by Council. This application attracted nine objections.

Application Details

This application proposes to subdivide the land in accordance with proposed plan of subdivision prepared by Nilsson Noel and Holmes Consulting Surveyors. This plan is provided as attachment one (AT-1).

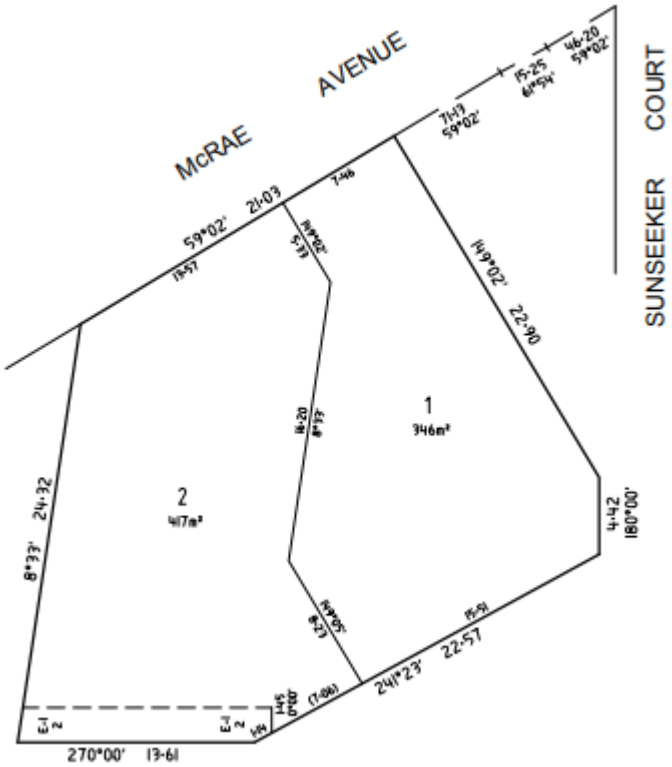


Figure 1 Proposed Subdivision

Vegetation removal is required in accordance with arboricultural advice from Jardine Johnstone Environment and Planning (AT-3). The advice identifies a number of relevant exemptions which have been applied and details protective measures for retained vegetation. Vegetation located centrally within the building envelope (trees 15, 16, 17 and 28 identified in the report) need to be removed to facilitate development of the lot.

The application was accompanied by the appropriate bushfire management assessments required by Clause 44.06-4 and 53.02 'Bushfire Planning' also prepared by Jardine Johnstone Environment and Planning.

Background

Following is a description of the subject site and other relevant information pertaining to the allotment. An aerial image showing the site in the context of surrounding development can be found in attachment two (AT-2).

Site Dimensions	The sites southern boundaries measure approximately 37m and tapers to a narrower north frontage of approximately 20m. East and west boundaries are approximately 24m in length.
Site Frontage	The site has a northerly road frontage of approximately 20m.
Topography	The site slopes north towards the McRae Avenue frontage. From McRae Avenue the topography undulates through coastal scrub until it drops to the foreshore.
Vegetation Cover	Dense vegetation characterises the termination of McRae Avenue. The western section of the road features few remaining street trees and narrow gardened setbacks within private land. The proposed lot contains scattered small trees throughout.
Current Use	The site is currently occupied by a two storey dwelling set well back (south) on the allotment.
Easements	There are no existing easements on the property. A sewer easement extension is proposed on lot 2.
Restrictive Covenants	Not applicable.
Aboriginal Cultural Heritage Sensitivity	Not affecting this site.
Planning Permit History	None.



Figure two – Aerial image of subject site.

Notice

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 12 land owners and occupiers; and
- Placed a Notice on the land to front McRae Avenue.

The applicant has provided evidence via a statutory declaration that the notification process was conducted in accordance with Council's requirements. Following notice, nine objections were received to the proposal.

Submissions

A summary of the remaining objections is listed in the following table and a copy of each submission is included in Attachment five (AT-5).

Table one: Summary of Concerns raised in each submission

Submission	Summary of Concerns
1	Insufficient parking and an inadequate court bowl to service additional dwellings
2	Lot sizes don't respect existing character. The effect on the treed character Parking and rubbish collection issues
3	Impact on single dwelling character Parking Devaluation of property
4	Doesn't respect the character of larger allotments The removal of vegetation Parking
5	Impact on the local ecology Traffic and noise impacts
6	Inconsistent with council strategies for increased density Destruction of vegetation Overshadowing and overlooking of their property Impact on views from their property That the recommendations of the bushfire report were incorrect.
7	Impact on the character 'overcrowding of dwellings' Parking Bin collection

8	Impact on the natural environment Parking Impact on single dwelling character
9	Impact on the natural environment particularly the coastal reserve. Intensive development is out of character with similar coastal foreshore areas in Cowes. Impact on road safety and parking Devaluation of surrounding properties

Referrals

The following table outlines the referral requirements of this application.

Table two: Referral requirements and their comments

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
Country Fire Authority	The Country Fire Authority are a recommending authority pursuant to Clause 66.03 of the Bass Coast Planning Scheme. The CFA have recommended approval of the Bushfire Management Plan subject to specific conditions being applied to the planning permit.
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Development Services	Access arrangements to proposed lot 2 need to be concrete. Drainage from the site can be accommodated by the existing network.

Officer's Considerations

Planning Policy Frameworks and Local Planning Policy Framework

Settlement

'Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social, community and commercial infrastructure and services' Clause 11 – Planning for settlement.

Cowes is the largest settlement on Phillip Island. It has two distinct roles as the main holiday town, and as a community and retail service centre. Cowes has the highest permanent resident population on the Island despite over half of the existing building stock being unoccupied for the majority of the year. Council's policy has anticipated fluctuation in demand on services and responded appropriately to Clause 11.01-1R. land in the residentially zoned areas of Cowes is fully serviced and design to respond to seasonal demand.

There is substantial policy weight in support of development within settlement boundaries. Clause 11.01S Settlement, 11.03-4S Coastal Areas, 11.03-5S Distinctive Areas and Landscapes, 15.02-1S Energy and resource efficiency and 21.02-1 local settlement all encourage infill development within a defined township boundary 'the Cowes structure plan'. This complements Clause 11 which identifies land suitably zoned with services - as appropriate for development, and 11.01S which encourages a form and density of settlement that supports sustainable transport, reduced greenhouse emissions and reinforces the urban boundaries of settlements. Clause 21.08-3 encourages developable land to be made available within urban growth boundaries while the structure plan (at clause 21.08-3) details the extent of change anticipated and where. The site is outside of the designated areas for substantial or moderate change and so this application is considered critically for whether it correctly balances the broader objectives of concentrating development into existing settlement and whether it signifies a substantial change to the character of the area.

The subdivision of appropriately zoned and serviced land within township boundaries is considered to be appropriate in the context of state and local settlement policy and the framework for Cowes.

Housing

Though the proposal does not include development, provision needs to be made for a diverse range of housing types and tenures to cater for the municipality's varied community. Housing in the area is becoming increasingly difficult to afford for many residents in the municipality and urban consolidation is encouraged in areas that have the physical infrastructure, community facilities and commercial facilities to support an increase in population.

An objective for housing is to increase housing densities in appropriate locations and restrict increased densities in inappropriate areas. This means increasing the provision of housing opportunities within settlement boundaries generally and considering what appropriate density is – on a case by case basis. Strategy 1.1 of clause 21.08 'Cowes' identifies where significant growth is encouraged, but does not preclude the consideration of appropriate development in other areas.

An objective of housing is to provide a diversity of lot sizes to meet the needs of all residents and visitors to the municipality. Strategy 4.1 of Clause 21.02 identifies some prescriptive densities that provide a modest increase in the overall housing yield. It is considered that the proposal satisfies the objective by providing diversity to lot sizes within the locality while providing only 'minimal' change to the area in total.

Character and Design

Bass Coast Shire's rural and coastal setting, historic development patterns, and residential architecture, combine to give the municipality its unique appearance and character. The settlements of Phillip Island's northern coast are characterised by indigenous vegetation which extends in corridors between inland reserves and the natural coastal edge. Dwellings on the northern and western side of McRae Avenue directly abut one such contiguous corridor of native vegetation which extends to Saltwater creek and beyond to the Summer lands peninsula linking a five hectare coastal conservation reserve.

The character of Cowes is also defined by a number of different vegetation types. The historical and cultural vegetation on Thompson Avenue and the mature native trees and significant coastal vegetation closer to the foreshore areas which characterise the Cowes residential areas. The proximity of the coastal reserve and landscaped gardens of McRae avenue identify with this description.

Landscape architecture is an integral component of the built and urban environment. Good landscape design contributes to the character of an area and can enhance the quality of the urban environment. Should a planning permit issue, a landscape and building envelope plan will be secured through an agreement on title to ensure that any dwelling constructed on the land will respond to the existing coastal vegetation character consistent with Clause 15 Built Environment and Heritage.

Pursuant to Clause 15.01-5S Neighbourhood character - consideration was given to the lot layout and whether it responded to its context through design. The neighbourhood is laid out in a conventional grid pattern with lots at the termination of McRae Avenue fanned in large wedge shaped allotments with direct but narrow road access and elongated rear boundaries. By virtue of this layout, dwellings are set well back from lot frontages. East of the termination dwellings are set south on lots locating buildings on the highest point of land available.

The proposed subdivision design creates two lots with independent access from McRae Avenue, somewhat wedge shaped and with the optimal building location being set well back from the frontage. The design of the allotments responds well to the neighbourhood character demonstrating that the area of an allotment is not a defining measure of character.

Environment

The coastline of Bass Coast Shire has renowned surf beaches, safe swimming beaches, distinctive coastal cliff formations, fossil sites, fragile mangrove ecosystems and significant aboriginal cultural heritage sites. The relationship between the coastal environment and land use planning highlights the need for effective catchment management strategies. Consistent with Clause 12.01-1S areas of significant biodiversity are protected by applying non-urban zoning or obtaining for public ownership.

The decline and fragmentation of indigenous vegetation and loss of biodiversity is a major environmental issue in the Shire, and a contributing factor towards other land and water degradation issues. Habitat protection and enhancement is a high priority, including minimising changes in drainage, minimising soil disturbance, retaining top soil wherever practical, and retaining habitat trees with hollows (both dead and living) and fallen logs and branches. The vegetation protection overlay assists with the management of vegetation across the shire while facilitating appropriate development.

The property is affected by a Bushfire Management Overlay and is within a designated Bushfire Prone Area. The proposal is consistent with Bushfire Planning Policy at Clause 13.02-1S and 21.04 having appropriately assessed the bushfire risk, engaged with the CFA and prepared a bushfire management plan for future development to minimise the risk to development on the lot, and lessen the risk to surrounding dwellings through appropriate vegetation management.

Zone Assessment

The site is included in the General Residential Zone Schedule 1, the relevant purpose of which is:

- *"To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies;*
- *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."*

Pursuant to Clause 32.08-3 a planning permit is required to subdivide land.

An application to subdivide land that would create a vacant lot less than 400 square metres capable of development for a dwelling or residential building, must ensure that each vacant lot created less than 400 square metres contains at least 25 percent as garden area.

The lot which contains the existing dwelling retains approximately 50% of the proposed lot as garden areas reserved for vegetation and open space.



While a minimum of 25% must be set aside on lot 1 and secured either through agreement or restriction on title, the proposed new allotment (lot 2) satisfies the threshold and the protection of garden areas to a minimum of 25% is determined at the time of building design.

An application to subdivide land, other than an application to subdivide land into lots each containing an existing dwelling or car parking space, must meet the requirements of Clause 56 and its objectives.

Accordingly, it is considered that the proposed subdivision:

- Is designed in a manner that responds to neighbourhood character;

- Provides lots with an area and dimension that enable appropriate siting and construction of a dwelling;
- Provides a lot layout the contributes to social interaction, safety and property security;
- Provides for safe vehicle access between the lot and the road;
- Provides for integrated water management with adequate services such as drinking water, liquid waste disposal and stormwater management;
- Provides for other essential services such as electricity and telecommunications.

Overlays

Vegetation Protection Overlay Schedule 2

- *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 application triggers the need for a planning permit under Schedule 2 (Phillip Island) of the Vegetation Protection Overlay for the removal, destruction or lopping of a tree or shrub with a girth greater than 30cm or a height greater than 2m. The application did not request removal of native vegetation from the road reserve pursuant to Clause 52.17 of the Bass Coast Planning Scheme.

The intent of the overlay is to protect and enhance existing indigenous and larger native species within the urban area of Phillip Island.

The application was accompanied by an arborist report prepared by Jardine Johnstone Environment and Planning which accompanies this report (AT-3). The report assessed 46 trees on and off the site providing recommendations for vegetation management.

It was noted that the application did not request the removal or destruction of any specific tree. It is considered unreasonable to facilitate subdivision without providing for an appropriate building area and access and so conditions have required that certain trees are removed prior to completion of the subdivision while others are protected indefinitely.

<u>Facilitating an appropriate building area.</u>

The building envelope illustrated in the Bushfire Management Plan demonstrates the extent of potential development while planning for bushfire. Trees 15 to 20 are so centrally located that their removal is essential to provide for a usable build area. Trees 21, 26 and 27 may be impacted but would not need to be removed to provide a useable building footprint.

Tree	Name	Significance	TPZ	Exempt
15	*Melaleuca ericifolia* (Swamp paperbark)	Moderate-low	n/a	No
16	*Melaleuca ericifolia* (Swamp paperbark)	Moderate-low	n/a	No
17	*Melaleuca ericifolia* (Swamp paperbark)	Low	n/a	Yes 10'30
18	*Melaleuca ericifolia* (Swamp paperbark)	Moderate-low	n/a	Yes 10'30
19	*Melaleuca ericifolia* (Swamp paperbark)	Moderate-low	n/a	Yes 10'30
20	*Melaleuca ericifolia* (Swamp paperbark)	Low	n/a	No
21	*Melaleuca ericifolia* (Swamp paperbark)	Low	2m	No
26	*Melaleuca ericifolia* (Swamp paperbark)	Low	2.28m	Yes 10'30
27	*Melaleuca ericifolia* (Swamp paperbark)	low	2m	Yes 10'30
28	*Melaleuca ericifolia* (Swamp paperbark)	Moderate	2m	No

Trees 3-7, 10-14, 17-19 and 22-27 are exempt from consideration under the Bass Coast Planning Scheme pursuant to Clause 52.12-1 and 2 (Bushfire protection exemptions also known as the 10'30 rule).

While 20, 21 and 28 are not exempt from planning consideration, that does not mean that these trees are worthy of retention or further protection. The arborist report states that these trees are not proposed to be removed at the subdivision stage and it is considered that they do not interfere with the potential construction of a dwelling on the lot or necessarily contradict the application of the bushfire management plan.

Other vegetation at risk

The boundary of proposed lot two diverges from the existing internal fence-line cutting through the front yard of the existing dwelling on proposed lot 1. While this is not a concern from a design perspective, it does traverse unnecessarily close to tree 46 and through a small thicket at the McRae avenue frontage.

The alignment can be facilitated provided that no vegetation from the McRae Road reserve is removed to facilitate the new alignment (trees 36 to 43). It is also considered unnecessary to remove trees 9 or 46 to facilitate any boundary fencing. These trees will be protected by conditions of the planning permit should one issue.

Conclusion

The application is consistent with the objective of the overlay having regard to the purpose of the zone in which the land is situated. The low quality of the vegetation as assessed by an arborist and the avoidance of removing any vegetation which contributes significantly to the streetscape or the treed character of the neighbourhood demonstrates an adequate response to the overlay.

The vegetation which will be removed or is exempt does not form part of a recognised wildlife corridor, is not on public land and provides limited habitat or support to remnant vegetation classes in the area being cut-off and scattered within a highly urbanised environment.

Design and Development Overlay Schedule 1

The application triggers the need for a planning permit under the Design and Development Overlay for subdivision. Schedule 1 of the overlay which is the relevant control for this area does not specify any lot size or specific dimension to which a subdivision must accord. The purpose of the schedule is:

- *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.*

The application is consistent with the objectives of the overlay and schedule 1 providing an allotment which is responsive to neighbourhood character in design, and which protects the visual amenity of the streetscape. Any future dwelling on the land would also be subject to this overlay.

The purpose of an overlay is not to prohibit development but to guide its design. The proposed allotment provides for adequate area in which to construct a dwelling.

The planting of a large native tree on the road reserve would improve the streetscape character and visual impact of any dwelling proposed on lot 2.

Facilitating appropriate new housing opportunities reduces pressure for urban expansion and vehicle use including parking visitation of the area. It will allow more people who enjoy the area to use the area in a sensitive manner.

Bushfire Management Overlay

The application triggers the need for a planning permit under Clause 44.06-2 of the Bushfire Management Overlay for the subdivision of land.

- *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.*

The application is consistent with the intent and purpose of the overlay including the guidance of Clause 13.02S Bushfire Planning. A bushfire hazard site assessment, landscape assessment and management statement accompanied the application. This information satisfied the requirements of Clause 52.02 Bushfire Planning and has been referred to, and given the approval of the Country Fire Authority.

It is noted that matters considered under Clause 44.06 Bushfire Management Overlay are exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act, unless a schedule to this overlay specifies otherwise.

There is schedule which specifies otherwise.

The Bushfire Management Plan (AT-4) is recommended to be endorsed should a permit issue and secured through an agreement on title in accordance with recommended conditions.

Concerns raised by Submitters

Parking issues within the court

Each lot is capable of containing a dwelling, including parking for vehicles. The proposal is more likely to have a positive or easing effect on street parking by facilitating onsite vehicle storage and accommodation within walking distance to a popular beach.

Insufficient turning area for garbage trucks

This application does not propose to redesign or reconstruct the McRae Avenue termination.

It is not reasonable to require the applicant to reconstruct the McRae Avenue termination to suit the vehicles used by the current waste contractor.

Inconsistent with the neighbourhood character

Block size and density are not ideal indicators of neighbourhood character. The proposal is for two lots directly accessed from the road, sufficiently buffered from significant environments and responsive to the layout and garden surrounds of neighbouring allotments.

The design and layout of the subdivision, if approved, will retain a practice of 'one dwelling per lot' and will maintain visual separation between buildings through a building envelope.

The area is generally consistent with the Cowes neighbourhood character of a 'native treed neighbourhood' though the street reserves are absent of the large canopy trees significant to this description, conditions of this permit will maintain this character.

The density of dwellings remains relatively unchanged and consistent with Councils direction of minimal change. Currently McRae Avenue achieves a net density of 11.25 dwellings per hectare (dpha). With the addition of 1 allotment the net density increases to 11.66 dwellings per hectare, well below the minimum 15 required in growth areas.

The proposal would facilitate a substantially lower level of site coverage than is emerging on McRae Avenue or in the general area. With 23 and 25 McRae Avenue achieving site coverages of approximately 70% each, the proposal provides for a more consistent level of development with the street at 50%.

Impact on the natural environment

The subject site is not considered to be located within or in abuttal to any renowned surf beaches, distinctive coastal cliff formations, fossil sites, fragile mangrove ecosystems or significant aboriginal cultural heritage sites. It is important that significant sites such as those listed are protected by limiting the spatial expansion of townships and encouraging higher yields in established urban areas.

The development will provides for the retention of native vegetation while providing a balance between fire risk, urban development and character retention.

Devaluation of property

The positive or negative impact on the market value of a property is not a planning consideration.

Impact of noise, light and vehicle safety from use as holiday accommodation

This application proposes the subdivision of land into two lots for residential purposes, retaining a single dwelling on one lot. The impacts of any use of an existing holiday home and any potential development or use of the newly created lot is not a consideration of this permit application.

Objections relating to bushfire planning.

The bushfire planning materials and considerations are exempt from the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act and the schedule does not specify otherwise. While the materials accompany an application and are available for inspection. An objection relating to bushfire reports, standards or conclusions is not valid for the purpose of a planning decision.

The Bushfire site assessment, statement, report and plan which accompanied the application complied with the requirements of Bushfire Planning. The materials were considered by the CFA and the responsible authority as appropriate for endorsement should a permit issue.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to be appropriate to the site, neighbourhood and broader policy context.

The application underwent notification and as a result, nine submissions were received. Concerns raised by submitters focussed on the potential change to the neighbourhood, infrastructure preferences and parking. Only minor changes have been required of the applicant in response to objectors concerns. Overall the subdivision is responsive to policy and context providing a net community benefit.

It is recommended that Council resolve to issue a notice of decision to grant a planning permit for application 190324, subject to the recommended conditions.

Recommendation

That in relation to planning permit application 190324 for a two lot subdivision and vegetation removal located at 27 McRae Avenue Cowes, Council resolves to issue a Notice of Decision to Grant a Permit subject to the following conditions :

Subdivision layout

1. **Before the development starts or a plan is certified under the Subdivision Act 1987, plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must show:**
    a. **A building envelope consistent with standard C8 of Clause 56.04-2 for proposed lot 2.**

b. A plan providing for the landscaping of each lot with native vegetation and/or retention of existing vegetation on each lot and showing that at least 25% of each lot is retained for open space or landscaping purposes. The plan must:

i. Illustrate the vegetation to be removed and retained subject to the proposal.
Illustrate revegetation on the west and north boundaries,

ii. Describe protection measures for existing indigenous vegetation;

iii. Describe the species using common and scientific names,

iv. Provide a schedule showing the quantity of each species and a key to their location on the plan.

v. Select and locate new planting consistent with the Bushfire Management Plan by Jardine Johnstone Environment and Planning.

vi. Include where relevant the recommendations from 7.6 Site tree protection measures from Arboriculture assessment and report by Jardine Johnstone December 2019 where existing native vegetation is retained.

Bushfire Protection

2. **The Bushfire Management Plan prepared by Jardine Johnstone, drawing No.: BMP01, dated 13/12/2019 must be endorsed to form part of the permit and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority. When endorsed the plan must be included as an annexure to the section 173 agreement prepared to give effect to Clause 44.06-5 of the Bass Coast Planning Scheme and the conditions of this permit.**

Native vegetation

3. **No native vegetation may be removed from the McRae Avenue road reserve without the written consent of the Responsible Authority.**
4. **With the exception of trees 3-7, 10-14, 17-19, and 22-27, consent is given to remove trees 15, 16, 20 and 28 for the purpose of facilitating a useable building envelope.**
5. **Before any works start, tree protection zones must be established around remaining trees and 29 – 45 inclusive as identified and in accordance with the recommendations of Arboriculture assessment and report by Jardine Johnstone December 2019.**
6. **A qualified Arborist must be present at the time of excavation to ensure suitable protection of the trees to be retained. Any work/lopping required on the trees to be retained must be undertaken by a qualified Arborist. All areas of cut adjacent to the trees to be retained must be mulched to the satisfaction of the Arborist present.**

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 works start.**
8. **Prior to the issue of a statement of compliance trees 15, 16, 17,18,19,20, and 28 must be removed including any stumps, mulched and spread onsite or disposed of offsite at an appropriate organics waste facility.**

Engineering

9. **Before certification of the Plan of Subdivision, detailed civil construction plans must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. All construction plans submitted for approval must be consistent with this permit and must conform to the requirements of all relevant servicing and road authorities, and in particular water, sewerage, drainage, telephone, gas and power authorities, VicRoads and Council. The plans must be drawn to scale with dimensions. An A3 plan and an electronic copy (PDF) must be provided. The plans must show:**
    a. **Drainage of the subject land, including levels or contours of the land (including relevant external catchments) and all hydraulic computations. The drainage plan must be prepared in accordance with the requirements of the Infrastructure Design Manual (IDM) as amended and must provide for the following:**
        i. **How the land including all buildings, open space and paved areas within each lot will be drained for a 20% AEP storm event to the legal point of discharge.**
        ii. **An underground pipe drainage system conveying stormwater to the legal point of discharge and connecting into Bass Coast Shire Council's stormwater drainage system by the existing underground drainage property connection.**
        iii. **The provision of stormwater detention within the site and prior to the point of discharge into Bass Coast Shire Council's drainage system. The stormwater detention system must be designed to ensure that stormwater discharges arising from the proposed development of the land are restricted to pre-development flow rates.**
        iv. **Provision of over-land surcharge routes for all storm events up to the 1% AEP. This must include associated infrastructure for the safe and effective passage of stormwater flows arising from areas upstream of the subject land discharging into Bass Coast Shire Council's drainage system.**
        v. **No part of any above ground stormwater detention system is to be located within a stormwater drainage easement or a sewerage easement unless with the Responsible Authority's written approval.**

vi. Any above ground detention tanks to be deferred via a Section 173 agreement must be noted on the plans.

b. Vehicle access and car parking to the satisfaction of the Responsible Authority including:

i. A vehicle access to each lot in the subdivision, to be designed in accordance with IDM standards (SD 245). Clearance from obstructions including existing street trees, service authority assets, footpaths, kerb and channel, poles, rain gardens, pits, cables, pipes, bus shelters / stops, street furniture, signs, etc. must be shown on the plans.

ii. Building envelopes (existing or proposed), service authority assets on site, all easements (existing, proposed and implied) and other building, drainage and access restrictions / obstructions as applicable

10. The plan of subdivision submitted for certification under the Subdivision Act 1988, must show appropriate easements set aside for drainage purposes, to the satisfaction of the Responsible Authority.

11. Before the issue of a Statement of Compliance for this subdivision under the Subdivision Act 1988, 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 (excluding any above ground detention tanks deferred via a Section 173 agreement) 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. Areas for common property, vehicle access and car parking within the land must be constructed in accordance with the endorsed civil design plans.

e. All redundant infrastructure (including vehicle crossings) abutting the site shall be removed and the kerb, channel, nature strip and footpath shall be reinstated.

f. Removal of any sheds or redundant buildings located on created land parcels not accommodating a dwelling.

12. 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.

Restrictions and agreements

13. **Before the issue of a Statement of Compliance, the owner of the land must enter into an Agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987. The cost of the preparation, lodgement and registration and any subsequent removal of the Agreement shall be borne totally by the owner of the land. The Agreement must be registered on the certificate of title for the land. Evidence of the registration of the agreement must be provided to the Responsible Authority prior to the issue of a Statement of Compliance authorised by this permit. The agreement must:**

- **In relation to the Bushfire Management Overlay**

  i. **State that it has been prepared for the purpose of: an exemption from a planning permit under Clause 44.06-2 of the Bass Coast Planning Scheme Planning Scheme for Lot 2.**

  ii. **to give effect to the conditions of this permit that require bushfire mitigation measures to be implemented on Lot 1.**

  iii. **Incorporate the bushfire management plan prepared in accordance with Clause 52.47-2.4 of this planning scheme and approved under this permit.**

  iv. **State that if a dwelling is constructed on the land without a planning permit that the bushfire mitigation measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.**

- **In relation to Council requirements:**

  v. **State that the owner will maintain and manage the vegetation on the property in accordance with the endorsed landscape plan.**

  vi. **State that the owner will Install a stormwater detention system in accordance with the endorsed drainage plans for permit 190324 before connecting to Council's stormwater drainage system;**

  vii. **State that the owner will maintain and not modify the on-site storm water detention system without prior Council written approval, and**

  viii. **State that the owner will allow the system to be inspected by a duly appointed officer of the Council at mutually agreed times;**

  ix. **State that the owner will pay for all the costs associated with the operation, maintenance and Council inspection of the on-site storm water detention system.**

14. **The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.**
15. **The owner of the land must enter into an agreement with:**
    a. **a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and**
    b. **a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.**
16. **Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:**
    a. **a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and**
    b. **a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.**
17. **All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.**
18. **The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act**
19. **This permit will expire if one of the following circumstances applies:**
    a. **The plan of subdivision is not certified under the Subdivision Act 1988 within two years of the date of this permit; or**
    b. **Registration of the plan of subdivision is not completed within five years of the certification of the plan of subdivision under the Subdivision Act 1988.**

A permit may be extended in accordance with Section 69 of the Planning and Environment Act 1987.

NOTES:

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.

Road Occupation Permit

A Bass Coast Shire Road Occupation Permit must be obtained prior to the commencement of the construction of all new vehicle crossings and for the upgrading, alteration or removal of existing vehicle crossings. The relevant fees, charges and conditions of the Road Occupation Permit will apply to all vehicle crossing works. It is a requirement that all vehicle crossing works be inspected by Bass Coast Shire Council's Asset Protection Officer.

Stormwater Discharge Point

A Bass Coast Stormwater Discharge Point must be obtained prior to the connection of all new stormwater drainage into Bass Coast Council's stormwater drainage system. All new stormwater drainage connections must be inspected by Bass Coast Council's Asset Protection Officer before any backfilling of the connection is undertaken

Attachments

AT-1	Proposed Plan of Subdivision	2 Pages
AT-2	Site and Context Plan	1 Page
AT-3	Arboricultural Assessment and Report	19 Pages
AT-4	Bushfire Management Plan	1 Page
AT-5	Bushfire Management Statement	9 Pages
AT-6	***CONFIDENTIAL*** - Submissions	23 Pages

H.4 Planning Scheme Amendment C150Basc - Consideration of Submissions

File No:	**CM20/354**
Division:	**Place Making**
Council Plan Strategic Objective:	**Our Character**
	Celebrating the uniqueness of our townships

Declaration

The author has no direct or indirect interests in relation to this report.

Summary

The purpose of this report is for Council to consider the submissions received regarding Planning Scheme Amendment C150Basc and to recommend Council request the Minister for Planning appoint an Independent Planning Panel to consider the amendment.

Amendment C150Basc is proponent-led and proposes to change the zoning and overlay controls affecting land at 126 Shetland Heights Road, San Remo to ensure that the most appropriate planning provisions apply to the site.

Specifically the amendment seeks to:

- Rezone part of the land from Low Density Residential Zone (LDRZ) to the General Residential Zone Schedule 1 (GRZ1); and
- Remove the Significant Landscape Overlay Schedule 1 (SLO1) from the land to be rezoned.

The Amendment was exhibited from Thursday 16 April 2020 to Saturday 16 May 2020 and attracted a total of 27 submissions. There were 19 letters of support, three neutral responses from referral authorities and five letters of concern/objections.

In order to progress the amendment, Council must make a decision to;

- Request the Minister for Planning to appoint a Panel and refer all unresolved submissions to it,
- Make changes to the amendment or
- Abandon the amendment.

This report recommends that Council request The Minister for Planning to appoint a Panel to consider the submissions.

Background

Subject Land

The amendment applies to part of 126 Shetland Heights Road, San Remo, more particularly described as part of Lot 30 on Plan of Subdivision 509910X and shown in the following maps:



Figure 1a, 1b and 1c: Subject site at 126 Shetland Heights Road, San Remo

As demonstrated in the aerial imagery, the site has already been developed with an accommodation facility known as Bass Resort. This facility includes 46 accommodation units spread across four pavilions (apartment blocks) and formalised car parking.

The site is included within the settlement boundary of San Remo with the following planning controls applying to it:

- Low Density Residential Zone (LDRZ); and
- Significant Landscape Overlay, Schedule 1 (SLO1).



Figure 2: Subject site in relation to greater San Remo

The site is serviced by reticulated utilities, with a drainage and sewerage easement located along the site's northern boundary.

The subject site is not encumbered by any covenants or agreements. However, it is subject to a number of caveats including one which permits the sale of the 399 year leases to the individual buyers of accommodation units.

Surrounds

The land south of the site is zoned Farming, it was subject to (now expired) planning permit 021014 and 01966 that approved use and development of a golf course, accommodation facility and dwellings.

Land to the immediate east of the subject land is zoned Low Density Residential and is subject to planning permit 180324 which approved the subdivision of land into four allotments (including the excision of the apartment blocks). It is currently vacant.

Further to the south east of the subject land is Cayley Court which contains a number of low density lots that have been developed with large double storey dwellings.

Land to the north of the site is a mix of land zoned General Residential and Low Density Residential and has been subject to a high level of development recently which the establishment of Island Views Estate.

Site History

The site (and various adjoining parcels of land) has a convoluted planning history associated with a failed golf course proposal stemming back to the 1990s.

The accommodation facility on site, Bass Resort, was established via planning permit 030723, issued on 21 October 2003. The permit allowed development of land for 103 resort suites (group accommodation) and an associated administration/recreational building.

At the time the permit was issued, it was intended that these facilities would support a golf course which was to be located on neighbouring land, directly to the south of the site.

As was common at the time, the units were developed and sold through land tenure provided to individual purchases in 399 year leases. In 2007, shortly after completion of 46 of the units, the site went into receivership. The site remained in receivership for five years and during this time development ceased construction and 60 percent of the units remained vacant, thus resulting in limited funds being available for maintenance and improvements.

In 2012, Bass Coast Resort Pty Ltd (BCR PL) purchased the freehold land on which the resort is constructed. A separate company Bass Coast Owners Pty Ltd was set up as the de facto owner's corporation.

In the absence of the resort facilities and golf course, Bass Resort has defaulted to a land use that can be more appropriately aligned with the planning scheme land use description 'dwelling', rather than 'group accommodation' as originally intended. This is because the accommodation offered is a mixture of owner occupier, owner leases and holiday letting.

This becomes problematic as the use of land for more than two dwellings is prohibited in the LDRZ. Further, the subdivision of land so that each of the apartment 'dwelling' is on its own allotment cannot occur in the LDRZ which sets a minimum subdivision area of 2000 square metres.

Effectively, the planning controls currently applying to the site results in the development being a non-conforming land use, which cannot be further subdivided.

This has resulted in the land staying in single ownership with a leasing structure that has proven to be problematic for managing the business, encouraging investment and securing bank funding.

The amendment seeks to resolve these issues by placing the land in the General Residential Zone, allowing the apartments to be subdivided without a restrictive minimum lot area.

The Proposal

Amendment C150Basc was originally made under Section 96A of the *Planning and Environment Act 1987* for a combined planning scheme amendment and planning permit. It proposed listing the site under the schedule of Clause 52.03 *Specific Sites and Exclusions* (now Clause 51.01) to allow the existing units to be subdivided in accordance with an incorporated document.

When the amendment was submitted to the Minister for Planning for authorisation, however, the following conditions were required to be implemented:

- The amendment be modified to rezone the area occupied by the apartment complexes and future common areas to a General Residential Zone.
- The area shown as Lot 500, 600 and 700 on the *Master Plan 126 Shetland Road San Remo* shall be retained in the Low Density Residential Zone.
- The removal of the proposed planning permit and incorporated document from the amendment.

As a result of these conditions, the amendment instead proposes to:

- Rezone part of 126 Shetland Heights Road San Remo from Low Density Residential Zone to General Residential Zone; and
- Delete the Significant Landscape Overlay Schedule 1 from land of the same.

The latter is required as the SLO is not generally applied to land with a residential zoning.

The areas referred to as Lot 500, 600 and 700 remain in the LDRZ but have commenced a subdivision process through Planning Permit 180324 issued in January 2020.

Exhibition

There is a statutory process for exhibiting planning scheme amendments, as outlined in the Section 19 of the *Planning and Environment Act 1987*.

The amendment was placed on public exhibition between Thursday 16 April and Saturday 16 May 2020.

Exhibition involved:

- Notice in the Victorian Government Gazette at the beginning of the exhibition period
- Notice in the Phillip Island and San Remo Advertiser
- Referral to relevant authorities

- Letter to 93 impacted landowners and occupiers.

It should be noted that shortly after exhibition commenced, the *COVID-19 Omnibus (Emergency Measures) Act 2020* was passed which allowed for the requirement to make documents physically available to view at government offices to be met, if the documents were made available for online inspection on Council's internet site.

Hard copy documents were made available at the Wonthaggi Customer Service Centre at the beginning of the exhibition period and arrangements were in place to provide a mail out of documents to impacted stakeholders should a request have been made. Documents were also available on Council's website for viewing for the entirety of exhibition.

To date, the amendment has attracted 27 submissions, 19 letters of support, three neutral responses from referral authorities and five letters of concern/objections.

Current Status

Following exhibition, Council must make a decision on how to progress the amendment. The below flowchart shows where we are currently sitting in the amendment process.



Figure 3: The Planning Scheme Amendment Process

In accordance with established protocols, pre-set panel dates have been set as follows:

- Directions Hearing – week commencing 10 August 2020.
- Panel Hearing – week commencing 14 September 2020.

Should Council resolve to request a Panel, Council will have an opportunity to consider the recommendations of the panel and again make a decision on whether the amendment will be adopted and referred to the Minister for approval, or abandoned.

Strategic Basis

Council Plan Objective:

Our Character – *Celebrating the uniqueness of our townships*

Strategies / Policies

The purpose of the Bass Coast Planning Scheme is:

- *To provide a clear and consistent framework within which decisions about the use and development of land can be made.*
- *To express state, regional, local and community expectations for areas and land uses.*
- *To provide for the implementation of State, regional and local policies affecting land use and development.*

The policies relevant to this amendment include:

Clause 11.01-1S

Objectives

- *To promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.*

Relevant Strategy

- *Limit urban sprawl and direct growth into existing settlements.*

Clause 11.02-1S

Objectives

- *To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.*

Relevant Strategy

- *Ensure the ongoing provision of land and supporting infrastructure to support sustainable urban development.*

Clause 11.03-4S

Objectives

- *To plan for sustainable coastal development*

Relevant Strategy

- *Support a network of diverse coastal settlements that provide for a broad range of housing types, economic opportunities and services.*

Clause 16.01-1S

Objective

- *To promote a housing market that meets community needs.*

Relevant Strategy

- *Ensure housing developments are integrated with infrastructure and services, whether they are located in existing suburbs, growth areas or regional towns.*

Clause 16.01-3S

Objectives

- *To provide for a range of housing types to meet diverse needs.*

Relevant Strategy

- *Ensure housing stock matches changing demand by widening housing choice.*
- *Facilitate diverse housing that offers choice and meets changing household needs through:*
    - *A mix of housing types.*
    - *Adaptable internal dwelling design.*
    - *Universal design.*

- *Encourage the development of well-designed medium-density housing that:*
  - *Respects the neighbourhood character.*
  - *Improves housing choice.*
  - *Makes better use of existing infrastructure.*
  - *Improves energy efficiency of housing.*
- *Support opportunities for a range of income groups to choose housing in well-serviced locations.*

Clause 21.02

- *Identifies San Remo as a district town with a large and diverse population. All essential services are provided to surrounding settlements. Variety of housing and moderate employment base. Popular visitor destination. Population retirement destination.*
- *Expansion and infill capacity is moderate spatial growth capacity. Encourage some growth beyond urban zoned land and infill development within township boundary.*

Clause 21.02-1

Objective 1

- *To ensure that residential development and related urban uses are restricted to existing or identified settlements.*

Relevant Strategy

- *Protect and maintain the existing rural character of the Shire by providing clear definitions and distinctions between rural and urban areas.*

Clause 21.02-2

Objective 1

- *To increase housing densities and the consolidation of urban areas in appropriate locations and restrict increased housing densities and the consolidation of urban areas in inappropriate locations.*

Relevant Strategy

- *Encourage increased housing densities within Wonthaggi, Cowes/Ventnor, San Remo, Inverloch and Grantville:*
  - *In proximity to commercial centres, community facilities and services*
  - *In areas nominated in structure plans or Design Frameworks.*
  - *Within 200 metres of a main commercial activity centre*

Objective 3

- *To provide more affordable housing options in the municipality*

Relevant Strategy

- *Encourage the provision of affordable housing by ensuring that housing:*
  - *Is affordable for different income groups.*
  - *Is of different types and forms.*

- *Is responsive to the needs of households at different life stages.*
- *Includes a range of options that will sustain diverse communities.*

There is clear direction within the Planning Policy Framework to encourage housing and growth to take place within existing settlements, provided there is service and infrastructure availability. San Remo is identified as a district town with essential services in place to provide for not only the township itself, but also surrounding settlements. This, and the fact that the development has coexisted with surrounding land uses for a number of years now, demonstrates that it can be appropriately serviced and would be appropriate for inclusion in the General Residential Zone.

Also of note, San Remo has been denoted as having a moderate spatial growth capacity with the opportunity for growth beyond urban zoned land and infill development within the township boundary. The subject site is in an area experiencing significant change. Land in the immediate area has started being developed with larger double story dwellings and the establishment of Penniwells Estate and Island Views estate demonstrates higher intensity development on the peripheries of the town centre can be contemplated.

In contemplating a rezoning, it's important to understand a site's ultimate and highest use. A change to the General Residential Zone would allow for a higher density development to be considered on the site compared to what would normally be encouraged in the Low Density Residential Zone, but not without it being managed appropriately through Rescode requirements. In this particular circumstance, the apartments already exist and the amendment is not allowing for any net increase in the number of dwellings on site (if this were the case, it would be subject to a separate permit process).The change in zoning would instead be enabling the proper management of the site by placing it in a more appropriate zone.

Statutory Requirements/Codes/Standards/Policies

As an amendment requires Council to begin a process to change the law, the Act requires Council to have regard to certain matters in preparing and progressing an amendment.

Amendment C150Basc is subject to the provisions in Part 3 of the *Planning and Environment Act 1987* which stipulate the process Council must follow when preparing an amendment.

Council must consider all Ministerial directions when preparing an amendment to a planning scheme. The following directions are relevant to the amendment:

- Minister Direction *The Form and Content of Planning Schemes;*
- Ministerial Direction No. 11 *Strategic Assessments of Amendments;* and
- Ministerial Direction No. 15 *The Planning Scheme Amendment Process.*

Council must also consider planning practice notes which provide advice about the operation of planning schemes. The following practice notes are relevant to the amendment:

- Planning Practice Note 46 *Strategic Assessment Guidelines for preparing and evaluating planning scheme amendments*;
- Planning Practice Note 74: *Availability of planning documents*; and

- Planning Practice Note 77: *Pre-setting panel hearing dates.*

Discussion

Submissions

Common themes within the submissions include:

Letters of Support

- Submitters 1, 2, 3, 4, 5, 6, 7, 8, 10, 12, 13, 15, 16, 17, 20, 21, 22, 23, and 27 put forward a high level of support for the amendment as it will facilitate a future subdivision which would allow for the creation of an owners corporation and allow for the apartments to change to a more secure ownership arrangement (as opposed to the current 399 year lease arrangement).

Impacts associated with the removal of the SLO

- Submitters 9 and 14 expressed concern regarding the removal of the Significant Landscape Overlay and the impact this may have on protecting coastal vistas and classified landscapes.

Bushfire Risk

- Submission 11 and 19 raised concerns about the proximity of the existing buildings to the property boundary and question whether the amendment appropriately addresses bushfire risk.

Buildings traversing the property boundary

- Submission 11 expressed concerns about the existing buildings on site potentially traversing the property boundary.

A comprehensive response to each individual submission has been provided in Attachment 2.

In response to the key issues raised in submissions, it is considered that the proposed rezoning and change to overlay controls is appropriate and worthy of testing through a panel hearing process for the following reasons:

- The site is within a well-established urban area;
- The site is serviced by key infrastructure;
- The SLO is not an appropriate tool for managing built form in an existing urban environment;
- The site is already developed;
- A bushfire management plan has been provided as a condition of Planning Permit 180324 as a mechanism for managing bushfire risk on the subject site and a bushfire risk assessment is being undertaken by the applicant to be included in final amendment documentation.
- A re-establishment survey was submitted with Planning Permit 180324 demonstrating that the apartments have not been constructed over the property boundary.

Finances

This is a developer initiated planning scheme amendment that requires statutory fees to be paid to Council to process the amendment.

Planning Panel costs associated with the consideration of any outstanding submissions will be at the cost of the proponent/developer, should Council resolve to progress the amendment.

Costs to Council would principally involve officer time and could include additional resources such as legal representation and/or expert witnesses for a panel hearing.

Budget for presenting Council's position on the amendment has been included in the 2019/2020 budget as part of core business.

Stakeholders

Stakeholders were identified prior to exhibition of the amendment and a communications plan was developed to ensure that requirements of the *Planning and Environment Act 1987* could be met.

Relevant stakeholders for this amendment included:

- Bass Coast Shire Council;
- Bass Resort owners and occupiers;
- Adjacent landowners and managers;
- San Remo residents; and
- Referral authorities.

Should Council resolve to progress this amendment, submitters to the amendment will be made aware of Council's position prior to presenting at an Independent Planning Panel and will have the opportunity to be heard themselves at an Independent Planning Panel.

Options

As public exhibition has now formally closed, a decision is required by Council on how to proceed with Amendment C150Basc. Council has three options, which have been detailed below.

Option 1: The first option is for Council to resolve to endorse the Response to Submissions as its position for Panel and to request an Independent Planning Panel consider the issues raised in submissions.

Implications: By adopting this position, Council will be able to demonstrate to the community and to Planning Panels Victoria that issues raised during public exhibition have been considered and where appropriate, responded to. This option provides an opportunity for the amendment to be tested by an Independent Planning Panel who will be able to provide recommendations for Council to consider going forward.

Option 2: The second option is for Council to resolve to make changes to the amendment in response to submitter concerns.

Implications: Should Council resolve to make significant changes to the Amendment, there is a risk that they may be considered a transformation of the amendment. If considered a transformation, the changes may require strategic justification as well as re-exhibition, which would result in significant resourcing, timing and financial implications.

Option 3: The third option is for Council to resolve to abandon the amendment.

Implications: Abandoning the amendment at this stage in the process presents uncertainty for land owners and occupiers in the future of the site and would not provide the opportunity for the amendment to be tested by Planning Panels Victoria or for submitters to be heard.

Conclusion

Amendment C150Basc has been prepared for the purpose of rectifying the consequences of a failed golf course development on land at Shetland Heights Road, San Remo.

The amendment was exhibited in accordance with the requirements of the *Planning and Environment Act 1987*, and in response 27 submissions were received.

In order to progress the amendment, it is recommended that a request be made to the Minister for Planning to appoint a planning panel so that all outstanding submissions can be considered.

Council's position to the panel (should one be requested) is recommended to be based on the response to submissions found in Attachment 2.

Recommendation

That Council:

1. **Requests the Minister for Planning to appoint a Panel for Amendment C150Basc in accordance with Part 8 of the *Planning and Environment Act 1987*.**
2. **Having considered all submissions, refers the submissions to an Independent Planning Panel in accordance with Section 23 of the *Planning and Environment Act 1987*.**
3. **Endorses the Response to Submissions as its position to be distributed to submitters and to be presented to the Independent Planning Panel appointed to consider Amendment C150Basc.**

Attachments

AT-1	***CONFIDENTIAL*** - Submissions	35 Pages
AT-2	Response to Submissions	6 Pages

H.5 Local Government Power Purchase Agreement

File No:	**CM20/321**
Division:	**Resilient Communities**
Council Plan Strategic Objective:	**Environment**
	Maintain and protect the natural environment

Declaration

The author has no direct or indirect interests in relation to this report.

Summary

The purpose of this report is to review council's participation in a renewable energy procurement project.

At the 17 July 2019 Ordinary Meeting, Council resolved to enter the tender process for procuring 30 per cent of its electricity through a Power Purchase Agreement (PPA) for renewable energy, with other Victorian Councils using Municipal Association of Victoria (MAV) as the procurement agent.

Based on work undertaken by the Local Government Power Purchase Agreement (LG PPA) Working Group and advice from Maddocks, it is recommended that going forward the PPA be brokered by Darebin City Council, supported by a Project Steering Group. It is also recommended that Council increase the nominated electricity load from 30 per cent to 100 per cent, to align with the declaration of a climate emergency and realise greater savings.

Background

This project was first initiated in 2017 via the Victorian Greenhouse Alliances who established a Local Government Electricity Contract Working Group. With the aim of helping Victorian councils save money and reduce greenhouse gas emissions through their electricity contracting.

The project's key objectives, include:

- Delivering on the business case and 'proof of concept' that using a Power Purchase Agreement (PPA) model for procurement to secure 100 per cent renewable energy;
- Undertake collective action on climate change;
- Recognise economies of scale through aggregation of participating council's electricity load;
- Deliver financial savings and long term certainty;
- Demonstrate leadership in the Local Government Sector;
- Manage price volatility through a long term retail contract; and
- Source Victorian based renewable energy and create Victorian jobs.

On the 17 July 2019, Council endorsed Bass Coast Shire's involvement in the LG PPA by nominating 30 per cent electricity load to the project. This included signing an 'Agency Agreement' for the Municipal Association of Victoria (MAV) to manage the procurement activity.

Since July 2019, the LG PPA working group have undertaken the following activities to prepare to go to the market:

- Seek authorisation from the Australian Competition Consumer Commission (ACCC) confirming the approach did not breach anti-competitive characteristics (e.g. collective bargaining, market power) and the project against the Competition and Consumer Act 2010;
- Undertaken an independent review of the governance approach by Maddocks to ensure the project delivers the goals and objectives of the buyers group, is robust and meets the governance requirements of all Councils (buyers group) involved;
- The independent review by Maddocks recommended the project governance arrangements by adjusted to cease using MAV as the procurement agent and appoint a lead Council to run the tender, disband the working group and establish a Project Steering Group of senior officers from Councils across Victoria; and
- Developed a Participation Deed reflecting the governance recommendations and appointing Darebin City Council as the lead Council for all future stages of the project, after substantial consultation with Councils and preparation by Maddocks.

Since the original decision of Council in July 2019 to commit 30 per cent of Council's electricity load to the project, Council has declared a climate emergency. This recognises that climate change is causing significant damage to our economy, society and environment and that urgent action is required to reverse current trends.

Strategic Basis

In September 2019, Council declared a climate emergency and committed to a net zero emissions target by 2030. The LG PPA presents an opportunity for Council to collaborate with other Councils in Victoria to purchase renewable energy at a more favourable market price.

Participating in the LG PPA contributes to Council's commitment to reducing emissions in response to the declared climate emergency, at a speed and scale commensurate with the risk.

Council Plan Objective:

Environment – *Maintain and protect the natural environment*

Strategies / Policies

- Shaping a better Bass Coast – Council Plan 2017-2021;
- Natural Environment Strategy 2016-26;

Statutory Requirements/Codes/Standards/Policies

Legislative and regulatory instruments include:

- *Climate Change Act 2017*

Discussion

It is recommended that Council increases its commitment to the project to 100 per cent electricity load in order to:

- Source 100 per cent of electricity from renewable sources from within Victoria;
- Meet the principles of the climate emergency declaration;
- Achieve savings above the '*business as usual*' approach, as reported within the business case;
- Provide price certainty and buffering from any market shocks through a ten-year contract (seven-year, plus optional three);
- Reduce municipal emissions and show leadership in the Bass Coast community, by being powered by 100 per cent renewable energy;
- Deliver internal contract management efficiencies; and
- Provide Council with continued flexibility to reallocate a portion of council's electricity load to any future projects. This would enable Council to support any potential community renewable energy, or behind the meter municipal solar projects that may arise during the contract period.

Council is developing an evidence based Climate Change Action Plan that will guide Council and its community towards net zero emissions and prepare our community for the impacts of climate change. The recommendation is consistent with the principles of the Climate Change Action Plan.

In order for Council to participate in the next steps of the LG PPA, to secure Victorian produced renewable energy, Council is required to undertake the following actions:

1. Confirm continued participation in the next stages of the project;
2. Conclude the existing agency agreement with MAV, entered into in July 2019 and formally notify MAV;
3. Consider and nominate a quantum of electricity load to the project, (recommended 100 per cent); and
4. Sign the formal agreement between all participating Councils (via a Participation Deed).

Finances

The LG PPA electricity procurement approach will:

- Realise economies of scale through aggregation of participating Victorian Councils respective electricity loads;
- Enable Council to commit to a long-term retail contract without impacting service delivery;

- Manage exposure to higher and more volatile energy costs by fixing price;
- Deliver financial savings and long-term certainty through establishing a long-term agreement with an electricity retailer(s);
- Deliver up to 10% savings on business as usual (BAU) for the cost of electricity, based on the business case; and
- The project allows withdrawal from the project at a number of stages throughout the tender, evaluation and contract confirmation stages, including when receipt of the Best and Final Offer (BAFO).

Project fees for participating in the tender are $4,000 for Bass Coast, as a continuing Council engaged from the project initiation, in 2017. This was included in the 2019/20 operating budget.

Stakeholders

- Bass Coast Shire Council
- Bass Coast Community
- Lead Organisation – Darebin City Council
- Victorian Local Government Power Purchase Agreement, Project Steering Committee.

Other Options

Option 1: Participate in the tender process for procuring 100 per cent of Council's electricity via a Power Purchase Agreement (PPA) for renewable energy, with other Victorian Councils, under the revised governance arrangements.

Option 2: Continue with current brown coal electricity purchase with two-year procurement periods, through procurement agents, such as MAV. Whilst this is a known process it does not address expected uncertainty in the electricity market and alignment with the declaration of a climate emergency.

Option 3: Council could investigate its own individual procurement of a renewable energy / green power contract to meet ongoing electricity requirements. This would potentially not realise the benefits of the economies of scale of the LG PPA project. This is due to the low volume of electricity accounts and electricity loads of Bass Coast Council, compared to the aggregated load of participating LG PPA Councils.

Option 4: Continue participation in the tender process for procuring 30 per cent of its electricity to a Power Purchase Agreement (PPA) for renewable energy, with other Victorian Councils, under the revised governance arrangements.

Conclusion

The report recognises the changes to the Local Government Power Purchase Agreement project and the requirements to make adjustments to governance arrangements overseeing this project.

It is recommended that Council participate in the Local Government Power Purchase Agreement project and increase the nominated load to 100 per cent.

This supports and recognises the Council's September 2019 decision to declare a climate emergency and the target of net zero emissions for Bass Coast by 2030.

Recommendation

That Council:

1. **Commit to the LG PPA tender process for 100 per cent electricity purchases by:**
   a. **Joining with partner councils in a tender process, brokered by Darebin City Council, to find the best PPA offer available in the market; and**
   b. **Accepting the best offer arising from the tender process, provided it falls within the pre-defined parameters (e.g. Net Present Cost impact over the life of the offer etc.).**
2. **Delegates authority to the Chief Executive Officer to sign the relevant documentation to commit Bass Coast Shire Council to participate in the tender process;**
3. **Delegates authority to the Chief Executive Officer to withdraw from the MAV Agency Agreement; and**
4. **Delegates authority to the Chief Executive Officer to sign the PPA retail contracts arising from the tender process, for the supply of electricity to Bass Coast Shire Council.**

Attachments

There are no attachments for this report

H.6 Waste Services Contract Variation - Impact of Recycling Industry Processors

File No:	**CM20/381**
Division:	**Resilient Communities**
Council Plan Strategic Objective:	**Environment**
	Maintain and protect the natural environment

Declaration

The author has no direct or indirect interests in relation to this report.

Summary

The purpose of this report is to Council approval on variations (V2) for the Waste Services Collection Contract (C16005) and the Management of the Inverloch and Wonthaggi Transfer Station Contract (C16040). These services are undertaken on behalf of Council by Wonthaggi Recyclers Pty Ltd, and the original approved variations (V1) and associated costs for managing recyclables expired on 30 June 2020.

These variation (V2) requests replace the original variation (V1) and will cover a period of two years once approved and will ensure continuation of the collection and processing of recyclable material in Bass Coast Shire.

These variations (V2) are required while the recycling industry and State Government establish longer term options in accordance with the State's Circular Economy Policy.

The value of the existing ten (10) year waste management contracts (2017-2027) are currently:

- Waste Services Collection Contract C16005: $5,039,248.19 per annum
- Management of the Inverloch and Wonthaggi Transfer Station Contract C16040: $1,679,223.15 per annum

Officers have reviewed the information provided by Wonthaggi Recyclers to support its variation (V2) requests. These costs have been considered in future annual budgets, and accommodated within the proposed garbage charge for 2020.21.

This report recommends that Council approves the variations (V2) for:

1. $1,716,817 (including GST) to Council's Waste Collection Services Contract (C16005); and
2. $114,155 (including GST) to Council's Management of the Inverloch and Wonthaggi Transfer Station Contract (C16040).

The incremental cost of V2 compared to V1 for the two years ending 30 June 2022 is:

1. $631,611 (including GST) to Council's Waste Collection Services Contract (C16005) and
2. $2,735 (including GST) to Council's Management of the Inverloch and Wonthaggi Transfer Station Contract (C16040).

The increase in Council's annual budget for waste collection and management of the Inverloch and Wonthaggi Transfer Station contracts is $288,340 (GST is recoverable in full by Council and does not have a budgetary impact.

Background

Wonthaggi Recyclers are currently contracted to deliver Council's waste collection service contract (C16005) and operate its transfer stations at Inverloch and Wonthaggi (C16040). The ten (10) year contracts end in August 2027.

As a result of global changes in the recyclable sector a review of recycling operations by Visy Recycling (Wonthaggi Recyclers' subcontractor for processing co-mingled streams), Council approved the original variation (V1) for both contracts (16005 and 16040) for a period of two years. These variation (V1) expired on 30 June 2020.

Long term options for recyclables processing are currently being evaluated and developed by State Government, and have not yet yielded a viable alternative for management of recyclable waste for Bass Coast Shire. The State's recently released Circular Economy Policy (*Recycling Victoria, 2020*) will guide future options and progress.

This report was considered by Council at its June 2020 meeting. At the 17 June 2020 Ordinary Meeting, Council resolved the following:

1. *That Council defer consideration of the Waste Services Contract Variation- Impact of Recycling Industry Processors subject to receiving a report at a future council meeting that provides advice in relation to options to renegotiate with Wonthaggi Recyclers over the $45 per tonne increase and identifies the risks associated with re-negotiating the existing contract.*

Since this resolution, officers have sought advice on the options available to Council to renegotiate with Wonthaggi Recyclers. The options are detailed in the body of the report and the preferred option forms the Council Officer recommendation.

Strategic Basis

Council Plan Objective

Environment – *Maintain and protect the natural environment.*

Major Initiatives / Initiative

Not a Major Initiative / Initiative

Strategies / Policies

Council Plan Objective

Environment – *Maintain and protect the natural environment.*

Major Initiatives / Initiative

Not a Major Initiative / Initiative

Strategies / Policies

Natural Environment Strategy 2016-26

Action 1.1.4 - Identify and invest in environmentally sustainable waste technology and options to increase materials efficiency and reduce consumables.

Action 1.2.4 - Continue to ensure the social, environmental and economic responsible disposal of municipal waste.

Waste Management Strategy 2015-25

Objective - Provision of waste management services and infrastructure to community, residents and businesses to meet their needs as efficiently and equitably as possible, in a financially, socially and environmentally responsible manner.

Statutory Requirements/Codes/Standards/Policies

- Recycling Victoria, 2020
- *Local Government Act 1989*
- *Environment Protection Act 1970*
- National Waste Policy: Less Waste, More Resources
- Getting Full Value: the Victorian Government Waste and Resource Recovery Policy
- Statewide Waste and Resource Recovery Infrastructure Plan
- Regional Waste and Resource Recovery Implementation Plan
- Bass Coast Procurement Policy, April 2017
- Natural Environment Strategy 2016-2026
- Waste Management Strategy 2015-25
- Waste Contracts 2017- 2027

Discussion

The waste and recycling sectors across Australia are currently undergoing significant change and growth. There is a need for additional infrastructure and markets to process and re-use recyclables. Victoria's State Government has recently released its Circular Economy Policy which will be implemented in stages over the next ten years.

Changing community expectations and State and Local Government initiatives in response to environmental pressures have resulted in a marked increase in the volumes of both co-mingled and organic recycling being collected in Bass Coast by Wonthaggi Recyclers. The gate fee imposed by Visy Recycling for Council's recyclable materials has increased from $100 (excluding GST) per tonne to $145 (excluding GST) per tonne.

Officers have reviewed the information provided by Wonthaggi Recyclers in support of its variation (V2) request. Financial modelling was undertaken to substantiate the variation sought by Wonthaggi Recyclers Pty Ltd. The variation sought maintains the return on capital invested in relation to the recycling operations segment of Wonthaggi Recyclers business. The return on capital in this segment is considered to be modest.

In addition to this current request for variation (V2), it is possible that in two years' time, if State efforts to transition to a circular economy have not been significantly progressed, Council will be considering another variation request from Wonthaggi Recyclers beyond 2022.

Although the financial impact on the Management of the Inverloch and Wonthaggi Transfer Station Contract (C16040) is below the threshold requiring a Council resolution in accordance with Council's Procurement Policy, seeking a decision from Council demonstrates transparency and good governance. There is also the potential for another variation request in 2022 with further financial implications for Council.

Finances

Wonthaggi Recyclers recently renegotiated a two-year extension to its contract with Visy Recycling, until 2022. This will result in an additional increase to the contract budgets for Waste Collection Services (C16005) and the Management of the Inverloch and Wonthaggi Transfer Stations (C16040).

The original variations (V1) and associated costs are now finished as of 30 June 2020 and the replacement calculated cost variations (V2) to continue to process recyclable materials are:

- Waste services Collection Contract (C16005) is $1,716,817 (including GST); and
- Management of the Inverloch and Wonthaggi Transfer Station Contract (C16040) is $114,155 (including GST).

These figures are over a two year period. The actual variation (increase from previous variation (V1) to that currently being considered (V2)) is $634,346

These figures are calculated on the actual tonnage of recyclable materials received, growth projections and the net increase to the cost per tonne to process recyclable materials through Visy Recycling.

The recycling processing industry market in Victoria (and Australia) has shifted and a price adjustment has been imposed on the municipal kerbside collection contractors and Councils for the co-mingled municipal recycling material. The increased gate fee for this material has a significant impact on kerbside collection contractors and contracts.

These costs have been considered in future annual budgets, and accommodated within the garbage charge.

Stakeholders

The following stakeholders have been identified:

- Bass Coast Shire Council
- Bass Coast Shire residents and ratepayers
- All Victorian Councils
- State Government
- Wonthaggi Recyclers (WR)
- Municipal Association of Victoria
- Gippsland Waste and Resource Recovery Group
- Metropolitan Waste and Resource Recovery Group,
- Sustainability Victoria

- EPA Victoria
- Recycling materials processors

Other Options

Options to resolve the management of recyclables are currently limited, both in a financial and a practical sense. Council officers have not identified cheaper or feasible alternatives, and are relying on the *Recycling Victoria 2020* action plan to identify and develop broader options for all Victorian local government authorities. Council will participate in Circular Economy initiatives as they develop.

Options for Council to consider are:

1. Council may choose to note this report, the information within and approve the officer's recommendation. This would demonstrate transparency and good governance in line with Council's Procurement Policy regarding seeking a variation to a contract, and would ensure waste services can continue to be provided to the Bass Coast community.
2. Council may choose not to accept the report and officer recommendation, and let the contractor, Wonthaggi Recyclers Pty Ltd, absorb the cost of the additional gate fee imposed by Visy Recycling. This may cause the contractor, a significant local business and employer, to become financially unsustainable and in turn trigger a breach of contract, resulting in cessation of Council's kerbside collection.
3. Council may choose not to accept the report and officer recommendation, and send its collected co-mingled municipal recycling material to landfill. This option would be inconsistent with Council's adopted position as a Climate Emergency Council, exhaust airspace in the landfill and potentially cost more than the gate fee being imposed by Visy Recycling for the recycling material.

Conclusion

These variations (V2) are for a period of two years until 2022, and replace the original variation (V1) which expired on 30 June 2020. The proposed variation (V2) allows for the continuation of Bass Coast's recyclable material to be collected and processed whilst the materials recycling industry and State Government establish longer term changes, including a shift to a circular economy. The proposed contract variations (V2) are considered to be reasonable and responsible.

Recommendation

That Council approves the variations for:

1. **$1,716,817 (including GST) to Council's Waste Collection Services Contract (C16005) for two years;**
2. **$114,155 (including GST) to Council's Management of the Inverloch and Wonthaggi Transfer Station Contract (C16040) for two years; and**

3. **The approval is conditional upon the following:**
   a) **That Wonthaggi Recyclers is not entitled to any extra money due to the variations nor anything arising out of the variations; and**
   b) **Provide evidence and supporting documentation for all progress claims.**

Attachments

There are no attachments for this report

H.7 Draft Governance Rules

File No:	**CM20/365**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Governance**
	We are responsive, open, transparent and financially sustainable

Declaration

The author has no direct or indirect interests in relation to this report.

Summary

The purpose of this report is to present the draft Governance Rules, including the revised Election Period Policy to Council for consideration.

The *Local Government Act 2020* mandates that Council adopt Governance Rules on or before 1 September 2020.

The report recommends that Council endorse the draft Governance Rules including the revised Election Period Policy for community engagement.

Background

The Local Government Act 2020 (the Act) mandates that Council adopt Governance Rules on or before 1 September 2020. Specific inclusions and other requirements are set out in Section 60:

60 Governance Rules

(1) A Council must develop, adopt and keep in force Governance Rules for or with respect to the following—

(a) the conduct of Council meetings;

(b) the conduct of meetings of delegated committees;

(c) the form and availability of meeting records;

(d) the election of the Mayor and the Deputy Mayor;

(da)the appointment of an Acting Mayor;

(e) an election period policy in accordance with section 69;

(f) the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under section 130;

(g) the procedure for the disclosure of a conflict of interest by a Councillor under section 131;

(h) the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of section 126(1);

(i) any other matters prescribed by the regulations.

(2) The Governance Rules must provide for a Council to—

(a) consider and make decisions on any matter being considered by the Council fairly and on the merits; and

(b) institute decision making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests considered.

(3) A Council may amend its Governance Rules.

(4) Subject to subsection (5), a Council must ensure that a process of community engagement is followed in developing or amending its Governance Rules.

(5) Subsection (4) does not apply if the Council is developing and adopting or amending a Governance Rule that only adopts a good practice guideline issued by the Minister under section 87.

(6) A Council must comply with its Governance Rules.

(7) A Council must adopt the first Governance Rules under this section on or before 1 September 2020.

(8) Until a Council adopts Governance Rules under this section, the Local Law Meeting Procedures made by the Council under the ***Local Government Act 1989*** *apply as if the Local Law Meeting Procedures had been adopted as Governance Rules under this section.*

Many of these requirements are currently met through the Bass Coast Shire Council Meeting Procedure Local Law 2018 adopted 16 May 2018.

Strategic Basis

Council Plan Objective:

Governance – *We are responsive, open, transparent and financially sustainable*

Major Initiative / Initiative

This draft Governance Rules 2020, including the revised Election Period Policy 2020 are not an Initiative or Major Initiative in the Budget.

Strategies / Policies

Bass Coast Shire Council Election Period Policy 2020

Bass Coast Shire Council Meeting Procedure Local Law 2018

Statutory Requirements/Codes/Standards/Policies

Local Government Act 2020

Discussion

The Governance rules will supersede major elements of Council's existing Meeting Procedure Local Law 2018. In preparing the draft Governance Rules 2020 officers reviewed the guidance material and draft templates available through Local Government Victoria. Given the significant level of impact the Governance Rules will have on Council meeting procedures, officers sought independent advice and purchased a template.

The specific requirements for inclusion in Governance Rules goes beyond what has previously been included in Council's Meeting Procedure Local Law. Governance Rules are required to address the Good Governance Principles in the Act, include an Election Period Policy and an enhanced approach to addressing Conflict of Interest.

The Election Period Policy sets out what Council is prohibited from determining during the election period which runs from 22 September - 24 October 2020.

The other significant difference between Council's current Meeting Procedure Local Law 2018 and the draft Governance Rules 2020 is the exclusion of sections relating to the Common Seal and offences. This will be addressed through the development of a new Local Law.

The Act specifies the requirement for community engagement in the development of the draft governance rules. Pending Council's endorsement for consultation purposes, officers propose to engage with the community for a two-week period commencing Thursday 16 July.

It is proposed that the community engagement be advertised via Council's website and social media platforms and in the local papers the week of 22 July. Hard copies will also be made available at Customer Service Centres and Libraries.

Following community engagement, the final draft Governance Rules 2020 and revised Election Period Policy would be tabled for adoption at the 19 August 2020 Ordinary Meeting of Council.

Finances

This report has no financial impact.

Stakeholders

- Councillors
- Community members
- Council Officers

The community will have the opportunity to provide feedback on the draft Governance Rules 2020 and revised Election Period Policy 2020 through a two-week community engagement process.

Sections of the draft Governance Rules 2020 are taken directly from the *Local Government Act 2020* and these cannot be altered.

Other Options

1. Council could choose to defer consideration of the draft Governance Rules 2020, including the revised Election Period Policy 2020. A Special Council meeting would be required for Council to adopt the documents in order to achieve the legislated timelines.
2. Council could choose not to endorse the draft Election Period Policy 2020 including the revised Election Period policy 2020 which would place Council in breach of the Act.

Conclusion

Council is mandated to adopt Governance Rules, including an Election Period Policy, on or before 1 September 2020. This includes a requirement for community engagement.

Officers have developed the draft Governance Rules 2020 and revised Election Period Policy 2020 and are seeking endorsement to engage with the community. This ensures that Council is on track to meet its requirements under the *Local Government Act 2020*.

Recommendation

That Council:

1. **Endorse the draft Governance Rules 2020 and revised Election Period Policy 2020.**
2. **Release the draft Governance Rules 2020 including the revised Election Period Policy 2020 for community engagement to receive written feedback between Thursday 16 July to Thursday 30 July 2020.**
3. **Receive a report containing the final draft Governance Rules 2020, including the revised Election Period Policy 2020 at the 19 August 2020 Ordinary Meeting.**

Attachments

AT-1	Draft Governance Rules 2020	35 Pages
AT-2	Comparison Statement	4 Pages
AT-3	Draft Election Period Policy 2020	8 Pages

H.8 Local Law - Use of the Common Seal and Council Meeting Offences

File No:	**CM20/389**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Governance**
	We are responsive, open, transparent and financially sustainable

Declaration

The author has no direct or indirect interests in relation to this report.

Summary

The purpose of this report is for Council to consider the draft Administrative Procedures Local Law 2020.

Council currently manages the use of the Common Seal through the Meeting Procedure Local Law 2018. The Meeting Procedure Local Law will be revoked as of 1 September 2020 when Council's Governance Rules will come into effect as required by the *Local Government Act 2020*.

Background

Section 14(1)(b) of the *Local Government Act 2020* states that Council must have a Common Seal. Section 14(2)(c) requires that the Common Seal be used in accordance with any applicable local law.

Council currently meets this requirement through the Meeting Procedure Local Law 2018. The *Local Government Act 2020* requires that Council develop Governance Rules and these will effectively replace the Meeting Procedure Local Law 2018; however Governance Rules are not a local law and therefore cannot include provision for the use of the Common Seal or penalties for meeting offences.

Council is required to adopt its Governance Rules by 1 September 2020.

Strategic Basis

Council Plan Objective:

Governance – *We are responsive, open, transparent and financially sustainable*

Major Initiative / Initiative

This is not an initiative or major initiative in the Budget.

Statutory Requirements/Codes/Standards/Policies

Local Government Act 2020

Local Government Act 1989

Discussion

Council is required to have Governance Rules in place by 1 September 2020. The Governance Rules will replace the current Meeting Procedure Local Law 2018. As the Governance Rules are not a local law, they cannot include provisions for the use of the Common Seal or penalties for any offences.

Officers have prepared a draft Administrative Procedures Local Law 2020 which makes provision for the use of the Common Seal and also incorporates the meeting offences currently included in the Local Law Meeting Procedures.

Section 119 of the *Local Government Act 1989* sets out the procedure for Council when making a local law:

> *(2) The Council must give a notice in the Government Gazette and a public notice stating—*
>
> *(a) the purpose and general purport of the proposed local law; and*
>
> *(b) that a copy of the proposed local law and any explanatory document can be obtained from the Council office; and*
>
> *(c) that any person affected by the proposed local law may make a submission relating to the proposed local law under section 223.*

Council intends to undertake the Section 223 submission process from 16 July 2020 until 12 August 2020. Council will hold a virtual committee of Council meeting on 13 August 2020, if required, to consider submissions on any proposal or proposals contained in the draft Administrative Procedures Local Law 2020. Officers recommend that the committee of Council include the Mayor, Deputy Mayor and the Chief Executive Officer.

Finances

There are no financial implications associated with this report.

Stakeholders

- Councillors
- Council Officers

Other Options

Council could choose not to create a Local Law. This would be in breach of the requirements of the *Local Government Act 1989* and the *Local Government Act 2020* and is not recommended.

Council could choose to remove the meeting offences section of the Draft Administrative Procedures Local Law 2020.

Conclusion

Council is required to have a Common Seal and to use the Common Seal in accordance with the local law. The draft Administrative Procedures Local Law 2020 will ensure that Council is meeting its legislative requirements.

Recommendation

That Council:

1. **Endorse the draft Administrative Procedures Local Law 2020**
2. **Give notice of the draft Administrative Procedures Local Law in the Government Gazette and publish a public notice, and**
3. **Calls for submissions in accordance with section 223 of the *Local Government Act 1989* on the proposed Administrative Procedures Local Law – written submissions will be accepted until 5.00 pm Thursday 12 August 2020.**
4. **Considers any submissions received and hears any person who wishes to be heard (either personally or by a person acting on their behalf) in support of a submission received, in relation to the draft Administrative Procedures Local Law, if required, at the Committee of Council Meeting to be held virtually on Friday 13 August 2020.**

Attachments

AT-1 Draft Administrative Procedures Local Law 6 Pages

H.9 Community Asset Committees

File No: **CM20/366**
Division: **Business Transformation**
Council Plan Strategic Objective: **Governance**

We are responsive, open, transparent and financially sustainable

Declaration

The author has no direct or indirect interests in relation to this report.

Summary

The purpose of this report is to seek Council's approval to transition the Special Committees of Management currently managing Council facilities to the provision provided within the *Local Government Act 2020*.

The report recommends:

1. Establishing Community Asset Committees in accordance with the *Local Government Act 2020* section 65 (s65) including the appointment of their members.
2. Revocation of the current authorisation under the *Local Government Act 1989* section 86 (s86) Special Committees of the Council.

Background

Council has 15 Special Committees of Management established under s86 to directly manage Council facilities such as halls and reserves on behalf of Council.

Special Committees of Management (s86)	**Ward**
Cape Paterson Hall Committee of Management	Bunurong
Cape Paterson Sports Facility Committee of Management	Bunurong
Pound Creek Recreation Reserve Committee of Management	Bunurong
Rhyll Hall and Reserve Committee of Management	Island
Corinella Community Hall Committee of Management	Western Port
Coronet Bay Reserves Committee of Management	Western Port
Dalyston Hall Committee of Management	Western Port
Dalyston Recreation Reserve Committee of Management	Western Port
Glen Alvie Recreation Reserve Committee of Management	Western Port
Glen Forbes Community Recreation Reserve Committee of Management	Western Port
Kernot Hall & Reserve Committee of Management	Western Port
Krowera Hall Committee of Management	Western Port
Newhaven Hall Committee of Management	Western Port

Pioneer Bay Reserve Committee of Management	Western Port
Surf Beach Community Park Committee of Management	Western Port

Strategic Basis

Council Plan Objective:

Governance – *We are responsive, open, transparent and financially sustainable*

Major Initiative / Initiative

This is not a major initiative or initiative of Council.

Strategies / Policies

Section 86 Governance Manual.

Statutory Requirements/Codes/Standards/Policies

The *Local Government Act 2020* section 65.

65 Community Asset Committee

(1) A Council may establish a Community Asset Committee and appoint as many members to the Community Asset Committee as the Council considers necessary to enable the Community Asset Committee to achieve the purpose specified in subsection (2).

(2) A Council may only establish a Community Asset Committee for the purpose of managing a community asset in the municipal district.

The Instrument of Delegation to a Community Asset Committee member appointed by Council resolution, outlining the powers and functions will be executed under section 47 Delegations by Chief Executive Officer of the Act.

Discussion

Council has a long history of working directly with community volunteers in managing a wide range of community facilities.

Volunteering and community participation is an important avenue through which Bass Coast Shire Council and the community collaborate to deliver a range of services.

Community based committees allows for and encourage:

- delegation of functions, duties and powers to the community, providing direct community involvement, accountability and ownership for properties and projects;
- networking and resource sharing between people working towards a common goal; and
- strengthening of the sense of community within the Shire.

Special Committees of Management s86 are provided with an annual maintenance grant and supported by the Governance and Property Department.

A change to Community Asset Committees s65 will not impact the current maintenance grant and support provided to the committees.

Finances

There are no financial implications associated with this report.

Stakeholders

Stakeholders include Council, the committee members, rate payers, residents, visitors and users of facilities.

Other Options

Council could choose not to establish Community Asset Committees under s65.

The repeal of provision Special Committee of Council s86 will inevitably leave the committees without an authorising environment to operate and manage Council facilities.

This would impact the use of the associated Council facilities pending the formation of an alternate management arrangement.

Conclusion

The establishment of Community Asset Committees will enable the great work being undertaken by community volunteers currently managing Council facilities, such as halls and reserves, to continue.

Recommendation

1. In exercise of the power conferred by s 65 of the *Local Government Act 2020* (the Act), Council resolves that:

a. From 1 September 2020 there be established as a Community Asset Committee (Committee) as listed:

- **Cape Paterson Hall Committee**
- **Cape Paterson Sports Facility Committee**
- **Corinella Community Hall Committee**
- **Coronet Bay Reserves Committee**
- **Dalyston Hall Committee**
- **Dalyston Recreation Reserve Committee**
- **Glen Alvie Recreation Reserve Committee**
- **Glen Forbes Recreation Reserve Committee**
- **Kernot Hall and Reserve Committee**
- **Krowera Hall Committee**
- **Newhaven Hall Committee**
- **Pioneer Bay Reserve Committee**
- **Rhyll Hall and Reserve Committee**

- **Surf Beach Community Park Committee**
- **Pound Creek Recreation Reserve Committee**

b. Note the purpose, power, duty and function of the Committee to be delegated in accordance with s47 of the Act.

c. The members of each Committee as per attachment.

d. A quorum of the Committee is a whole number that is an absolute majority, which is greater than half the total number of members of the Committee.

e. All members of the Committee have voting rights on the Committee.

2. From 1 September revoke the Bass Coast Shire Council Instrument of Delegation (Special Committees) adopted by Council on 20 May 2019 and dissolve the associated committees as listed:

- **Cape Paterson Hall**
- **Cape Paterson Sports Facility**
- **Corinella Community Hall**
- **Coronet Bay Reserves**
- **Dalyston Hall**
- **Dalyston Recreation Reserve**
- **Glen Alvie Recreation Reserve**
- **Glen Forbes Recreation Reserve**
- **Kernot Hall and Reserve**
- **Krowera Hall**
- **Newhaven Hall**
- **Pioneer Bay Reserve**
- **Rhyll Hall and Reserve**
- **Surf Beach Community Park**
- **Pound Creek Recreation Reserve**

Attachments

AT-1 Committee Members 3 Pages

H.10 Delegated Committees

File No:	**CM20/369**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Governance** We are responsive, open, transparent and financially sustainable

Declaration

The author has no direct or indirect interests in relation to this report.

Summary

The purpose of this report is for Council to consider the need to establish a delegated committee under Section 63 of the *Local Government Act 2020 (the Act).*

Council's Place Names Special Committee has delegated authority under the *Local Government Act 1989*. The delegation and authorising environment for the Committee cease as of 1 September 2020.

This report recommends that Council does not transition the Place Names Special Committee to a delegated committee under Section 63 of the *Local Government Act 2020*.

Background

Council has a Place Names Special Committee to exercise Council's functions and powers and to perform Council's duties in relation to obligations under the *Geographic Place Names Act 1998* and parts of Schedule 10 of the *Local Government Act 1989* relating to road names and property addressing.

The membership of the committee includes one Councillor and five Council officers.

The current governance and membership arrangements don't meet the requirements for a delegated committee under the Act.

Section 63 of the *Local Government Act 2020* states:

63 Delegated committees

(1) A delegated committee established by a Council—

(a) must include at least 2 Councillors; and

(b) may include any other persons appointed to the delegated committee by the Council who are entitled to vote.

(2) A meeting of a delegated committee established by a Council must be chaired by—

(a) a Councillor appointed by the Council or the Mayor to chair meetings of the delegated committee; or

(b) if the Councillor appointed by the Council or the Mayor to chair meetings of the delegated committee is not present at the meeting, a Councillor who is present at the meeting and is appointed by the members of the delegated committee who are present at the meeting.

(3) Section 61 applies to a meeting of a delegated committee as if the members were Councillors.

Section 61 Council Meetings sets out a range of requirements including the use of Council's Governance Rules.

Strategic Basis

Council Plan Objective:

Governance – *We are responsive, open, transparent and financially sustainable*

Major Initiative / Initiative

This is not an initiative or major initiative in the Budget.

Statutory Requirements/Codes/Standards/Policies

Local Government Act 2020

Discussion

The membership structure and administrative practices of the Place Names Special Committee do not comply with the requirements of a Section 63 Delegated Committee under the *Local Government Act 2020*. Additionally, the delegation to the Committee will cease as of 1 September 2020.

The Place Names Special Committee is authorised to make the final decision on all road naming issues on behalf of Council. The ultimate decision sits with the Office of Geographic Names and they may choose not to support Council's decision.

The Committee also makes recommendations to Council in regards to locality and feature naming issues and can provide advice on contentious street naming/numbering issues, however the final decision sits with the delegated Council officer.

The need for, or role of the committee, has no impact on the community consultation requirements in relation to road naming, locality and feature naming and road numbering.

This is an opportunity for Council to review current practices and consider the most effective way to manage these issues.

Finances

Should Council determine to create a delegated committee, members would be entitled to the reimbursement of expenses as set out in Council's Support and Resources Policy. Additionally, compliance with the Governance Rules would require a higher level of administrative support which may impact on existing staffing arrangements.

Stakeholders

- Councillors
- Council Officers
- Community Members
- Office of Geographic Names

Other Options

Council could create a delegated committee to take on the functions of the existing Place Names Special Committee.

Council could establish a committee that was advisory in nature and delegate the authority for road naming to a Council officer.

Council could establish a committee that was advisory in nature and retain the authority for road naming.

Council could disband the committee and delegate the authority for road naming to a Council officer.

Council could disband the committee and retain the authority to determine road naming.

Conclusion

The Place Names Special Committee does not meet the requirements to be a delegated committee under Section 63 of the Local Government Act 2020.

Further consultation and discussion is required on the best approach to a place naming committee, however it is not recommended that Council establish a Place Names Delegated Committee.

Recommendation

That Council does not establish a Place Names Delegated Committee.

Attachments

There are no attachments for this report

H.11 Instrument of Appointment and Authorisation - Planning and Environment Act 1987

File No:	**CM20/374**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Governance** We are responsive, open, transparent and financially sustainable

Declaration

The author has no direct or indirect interests in relation to this report.

Summary

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

Previously authorised officers are being presented to Council to reflect the change to the *Local Government Act 2020*.

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

Background

Council currently exercises its powers to appoint Authorised Officers.

Strategic Basis

Council Plan Objective:

Governance – *We are responsive, open, transparent and financially sustainable*

Discussion

Authorisation facilitates the achievement of good governance for the community by empowering appropriate members of staff to make decisions on behalf of Council and the Chief Executive Officer.

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.

Statutory Requirements/Codes/Standards/Policies

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*.

Other Options

Council could choose not to authorise officers, however if this were to occur Council would be responsible for making all decisions and acting on all powers, duties and functions as outlined in each relevant section of each piece of legislation. This would not allow for timely decision making, nor effective governance.

Conclusion

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

Recommendation

That Council in the exercise of the powers conferred by s 313 of the *Local Government Act 2020* (the Act) in the attached Instrument of Appointment and Authorisations (the instrument), Council to Staff under the *Planning and Environment Act 1987* resolves that:

1. **The members of Council staff referred to in the attached instruments be appointed and authorised as set out in the instrument.**
2. **The instruments come into force immediately the common seal of Council is affixed to the instrument, and remains in force until Council determines to vary or revoke it.**
3. **The instruments be sealed.**
4. **Revokes the instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* to:**
   - **Wayne Mack**
   - **Daniella Natautama**
   - **Ashley Pollerd**
   - **Sophie Walker**

Attachments

AT-1 Austin Cram S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987 1 Page

AT-2	Patrick Doyle S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-3	Isla English S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-4	Stephen Fowkes S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-5	Margaret Fox S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-6	Angela Gleeson S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-7	Derek Hibbert S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-8	Allison Jones S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-9	Jodi Kennedy S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-10	Patrick Kennedy S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-11	Kate MacDougall S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-12	David Martin S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-13	Caitlyn Meaden S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-14	Angela Montebello S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-15	Chris Peckett S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-16	Tanvi Rawat S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-17	Rewa Smith S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-18	Lachlan Stephenson S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-19	James Stirton S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-20	Donna Taylor S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-21	Ellen Whatley S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page

AT-22	Diana Whittington S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-23	Ali Wastie S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-24	Wilson Zheng S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page

H.12 Amendment to the report for the Award of Tender 20008 - Wonthaggi Railway Station Exension and Glazing

File No:	**CM20/377**
Division:	**Finance**
Council Plan Strategic Objective:	**Governance**
	We are responsive, open, transparent and financially sustainable

Declaration

The author has no direct or indirect interests in relation to this report.

Summary

The purpose of this report to Council is to correct an error in the Contract Award amount in the report for the Award of Tender No 20008 – Wonthaggi Railway Station Extension and Glazing presented at the Ordinary Council meeting on 17 June 2020.

This report recommends Council note the error in the contract amount in the previous resolution and award Contract No 20008 for the total contract sum of $237,100 plus GST of $23,710.

Background and Context

At the Ordinary Council meeting on 17 June 2020, Council resolved to:

> *Accept the tender from TS Constructions Pty Ltd and award Contract No 20008 – Wonthaggi Railway Station Extension and Glazing for Stage One for the contract sum of $265,810.00 plus GST of $26,581.00 which includes lump sum and provisional amount.*

The figure included in this resolution incorrectly included the contingency amount and the internal project management costs. The total contract sum should have read $237,100.00 plus GST of $23,710.

Strategic Basis

Council Plan Objective:

Governance – *We are responsive, open, transparent and financially sustainable*

Statutory Requirements/Codes/Standards/Policies

The entire tender process, commencing with development of the tender documents, through the invitation to tender, to evaluation of tenders received and culminating in the conclusion reached in this report, has been carried out in accordance with the provisions of:

- The Victorian Local Government Procurement Best Practice Guidelines
- Code of Tendering Australian Standard 4120-1994;
- Bass Coast Shire Council's Procurement Policy; and
- Bass Coast Shire Council Policy - Tender & Contract Confidentiality

Recommendation

That Council:

1. **Note the error in the amount in the previous resolution to award Contract No 20008 at the Ordinary Council Meeting on 17 June 2020.**
2. **Note that the contract has been executed for the correct amount of $237,100.00 plus GST of $23,710.00, which includes lump sum and provisional amount.**

Attachments

There are no attachments for this report.

Statutory Reports

1 Statutory Reports

1.1 Assembly of Councillors

File No: **CM20/85**
Division: **Business Transformation**
Council Plan Strategic Objective: **Governance**

We are responsive, open, transparent and financially sustainable

Declaration

The reporting officer has no direct or indirect interest in this matter

Summary

Section 80A of the *Local Government Act 1989* (the Act) requires all assembly of Councillors records to be reported on at the next practicable ordinary meeting of Council and to be recorded in the minutes of that meeting. This report intends to fulfil the requirements of the legislation.

Introduction

Section 3 of the Act defines an Assembly of Councillors as

'a meeting of an advisory committee of the Council, if at least one Councillor is present, or a planned or scheduled meeting of at least half of the Councillors and one member of Council staff which considers matters that are intended or likely to be-

a. the subject of a decision of the Council; or

b. subject to the exercise of a function, duty or power of the Council that has been delegated to a person or committee-

but does not include a meeting of the Council, a special committee of the Council*, an audit committee established under section139, a club, association, peak body, political party or other organisation.'*

Section 80A requires a written record to be kept of all such assemblies, stating the names of all Councillors and Council staff attending, the matters considered and any conflict of interest disclosures made by a Councillor. These records must be reported, as soon as practicable, at an ordinary meeting of the Council and recorded in the minutes.

Council Plan Objective:

Governance – *We are responsive, open, transparent and financially sustainable*

Attached is a summary of the Assembly of Councillors records completed since the last Ordinary meeting of Council.

Recommendation

That the attached Assembly of Councillors Records be received.

Attachments

AT-1	Assembly of Councillors Municipal Emergency Management Planning Committee 1 June 2020	2 Pages
AT-2	Assembly of Councillors Record 3 June Policy Workshop	1 Page
AT-3	Assembly of Councillors Record 10 June Policy Workshop	2 Pages
AT-4	Assembly of Councillors Municipal Fire Management Planning Committee 11 June 2020	2 Pages
AT-5	Assembly of Councillors Record 17 June Policy Workshop	2 Pages
AT-6	Assembly of Councillors morning session 1 July Policy Workshop	2 Pages

I.2 Planning and Building Statistics - May 2020

File No:	**CM20/336**
Division:	**Place Making**
Council Plan Strategic Objective:	**Our Character**
	Celebrating the uniqueness of our townships

PERMITS REFUSED:

Nil.

PERMITS ISSUED:

Island Ward

190365: Development of land for a warehouse and waiver of car parking located at 14 Shorland Way, Cowes.

190403: Alterations and additions to existing dwelling in DDO1 and BMO1 located at 50 Harris Road, Ventnor.

200054: Removal of Native Vegetation (Removal of (3) three trees) located at 3 Sweet Bursaria Place, Cowes.

200112: Removal of one (1) tree in VPO2 located at 11 Goodenia Place, Cowes.

Western Port Ward

190115: Subdivision of the land into two lots, alterations and additions to an existing dwelling to create two dwellings on the land in the TZ and DDO1 and the creation of access to a RDZ1 located at 3587 Bass Highway, Kilcunda.

190206: Subdivision of the land into two lots, create access from a Road Zone Category 1, development and use of land for a dwelling located at 3340 Bass Highway, Kilcunda.

190329: Use and development of land for dwelling in FZ and SLO located at 172 The Shuntoff, Grantville.

190333: Subdivision of land into two lots located at 14 Paul Street, Grantville.

190415: Use and development of a dwelling and associated works in RLZ and BMO located at 11 Woodland Close, The Gurdies.

200018: Subdivision of land into two lots located at 14 Messmate Road, Kilcunda.

200035: Development of land for a driveway in the SLO2 located at 265 Woodleigh-St Helier Road, Woodleigh.

200082: Development of land for dwelling in DDO1 located at 18-20 Palmer Street, Corinella.

200087: Development of the land for agricultural outbuilding in SLO1 located at Lot 2 PS522720 Bass Highway, Anderson.

200094: Alterations and additions to an existing dwelling located at 706 Loch-Wonthaggi Road, Krowera.

200105: Remove native vegetation for construction of drainage works located in the road reserve on Bass Highway between 28 Station Street and 50 Cloverdale Road, Dalyston.

200137: Development of land for a gate and fence in SLO2 located at The Cape Kitchen, 1215 Phillip Island Road, Newhaven.

200139: Development of land for dwelling in HO located at 23 Nouvel Crescent, Corinella.

Bunurong Ward

190211: Vary the building envelope to accommodate the proposed dwelling located at 17 Tea Tree Court, Inverloch.

190397: Development of land for a dwelling in the DDO9 located at 8 Giardini Court, Inverloch.

190402: Subdivision of land into two lots located at 9 Edgar Street, Inverloch.

200005: Alterations and additions to dwelling in DDO9 located at 20 Veronica Street, Inverloch.

200007: Subdivision of land into two lots with existing buildings in GRZ and DDO9 located at 56 Wishart Street, Wonthaggi.

200030: Development of land for dwelling in DDO1 located at 15 The Esplanade, Inverloch.

200037: Subdivision of the land into two lots located at 38 Griffiths Street, North Wonthaggi.

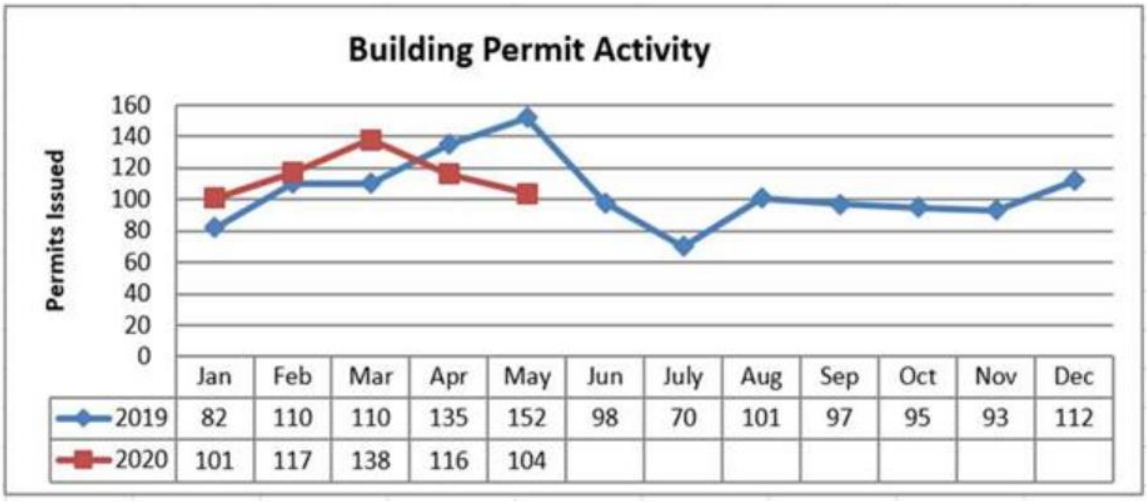
200092: Subdivision of land into two lots located at 28 Diane Place, Inverloch.

200128: Extension to existing Building in IN3Z located at 113 White Road, Wonthaggi.

PLANNING AND BUILDING ACTIVITY REPORT FOR MAY 2020

Statutory Planning	This month (May)	Last month	Year to date (financial year)
% of applications determined within statutory timeframe	74	62	64
Average Gross Days (Responsible Authority determination)	110	128	147
(new) Average Gross Days to final outcome	133	165	162
Number of live applications	223	184	-
Number of applications received for the month	48	28	446
Number of Responsible Authority outcomes	37	44	455

Municipal Building Services & Enforcement	This month (May)	Last month	Year to date (financial year)
Essential Safety Measure inspections	0	0	2
Swimming Pool & Spa safety barrier inspections	0	0	21
Report and Consent applications	28	24	197
Siting consents issued for temporary structures	0	0	11
Complaints received requiring investigation	6	2	46
New building enforcement cases	3	0	21
Number of open building enforcement cases	46	44	n/a
Building permits issued by Council	0	0	0



	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sep	Oct	Nov	Dec
2019	82	110	110	135	152	98	70	101	97	95	93	112
2020	101	117	138	116	104							

Planning Enforcement	This month (May)	Last month	Year to date (financial year)
Complaints received requiring investigation	7	**8**	81
New planning enforcement cases	2	**3**	27
Open enforcement cases	132	142	-
Pre commencement meetings	0	0	13
Official warnings issued	1	0	3
Number of planning infringement notices issued	3	0	9
Total infringements received ($)	0	$1652.20	$9493.80

Recommendation

That Council:

1. **Receives and notes the Planning Permits issued under delegation report for May 2020; and**
2. **Receives and notes the Planning and Building Activity Report for May 2020.**

Attachments

There are no attachments for this report.

I.3 Contracts Awarded Report

File No: **CM20/373**
Division: **Finance**
Council Plan Strategic Objective: **Governance**

We are responsive, open, transparent and financially sustainable

Declaration

The author has no direct or indirect interests in relation to this report.

Summary

Contracts Awarded

For the period from 1 May 2020 to 31 May 20020, the following contracts have been awarded under the Chief Executive Officer's Instrument of Delegation.

Contract No.	Description	Contractor	Contract Sum
20007	Westernport Water Asset Adjustment	Citiwide	$120,225.33 incl GST

Contracts Extended

For the period from 1 May 2020 to 31 May 2020, no contracts were extended under the Procurement Delegation Framework.

Contract No.	Description	Contractor	Contract Sum

Recommendation

That Council:

That Council receives this report.

Attachments

AT-1 Signed Contract Award Report 20007 14 Pages

J Urgent Business

Mayoral Announcement Of Next Meeting Of Council

Council is monitoring and implementing the COVID-19 pandemic response and restrictions set out by the State and Federal Governments.

Council will be pausing Community Connection Sessions for the coming months.

The next Special Council Meeting will be held virtually 29 July 2020 commencing at 11.00am.

It will be open to the public via livestream.

The next Ordinary Council Meeting will be held virtually 19 August 2020 commencing at 1.00pm.

It will be open to the public via livestream.

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**;

K Confirmation of Closed Minutes

K.1 Closed Ordinary Meeting held on 17 June 2020.

Recommendation

That the minutes of the Closed Ordinary Meeting held on 17 June 2020 be confirmed.

L Reports Requiring Council Decision Closed to the Public

L.1 Drainage Risk Matter

It is recommended that the meeting be closed to members of the public pursuant to Section 66 (f) of the Local Government Act 2020, to consider this item as it deals with personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

L.2 Chief Executive Officer Employment Matters Committee meetings 27 May and 22 June 2020, Chief Executive Officer Annual Performance and Remuneration Review 2019/20 and Performance Agreement 2020/21

It is recommended that the meeting be closed to members of the public pursuant to Section 66 (f) of the Local Government Act 2020, to consider this item as it deals with personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

Meeting closed

That the meeting be closed