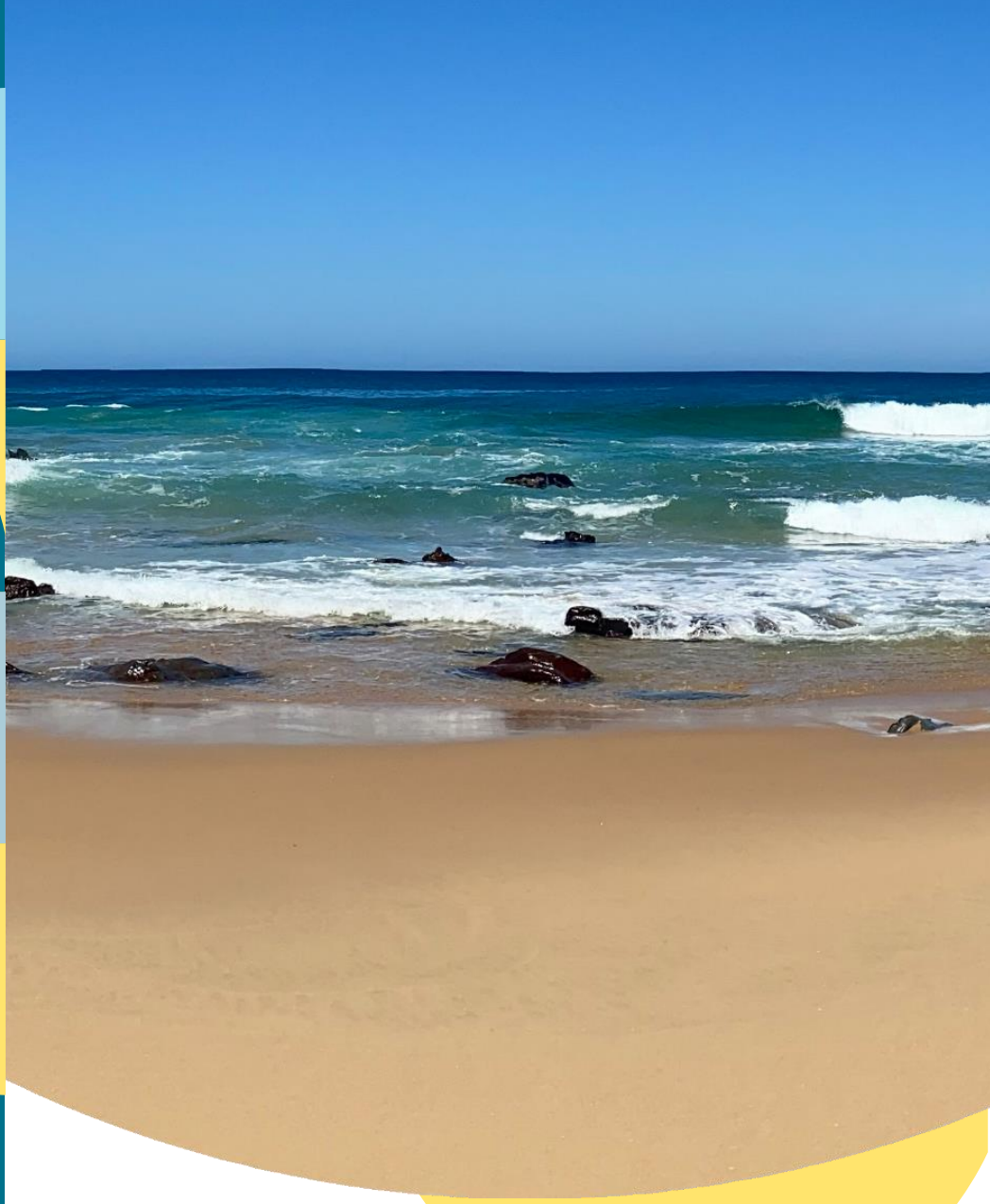


Bass Coast Shire Council

Meeting Agenda

Wednesday 16 February 2022

Commencing at 1.00pm

Note: This Meeting of Council will be held Virtually.

Open to the public via livestream.



Community Vision 2041

Vision Statement

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

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

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

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

Notice of Meeting

Notice is hereby given that the next **Council Meeting** of the Bass Coast Shire Council will be held virtually on 16 February 2022 at **1.00pm**

Date of Notice - 10 February 2022
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 acknowledge the Bunurong as the Traditional Owners and Custodians of the lands and waters, and pays respect to their Elders past, present and emerging, for they hold the memories, the traditions, the culture and Lore.

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

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

Councillor Statement

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

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

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

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A Present and Apologies

B Declarations of Interest

C Confirmation of Minutes

C.1 Council Meeting held on 15 December 2021

Recommendation

That the minutes of the Council Meeting held on 15 December 2021 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.***

Governance Rules

Part C – Meetings Procedure

Division 8 – Public Question Time

53. Question Time

53.1 There must be a public question time at every *Council meeting* fixed under Rule 9 to enable members of the public to submit questions to *Council*.

53.2 Sub-Rule 53.1 does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the *Act*.

53.3 Questions submitted to Council must be:

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

53.3.2 be lodged 48 hours prior to the *Council meeting*.

53.4 No person may submit more than two questions at any one meeting.

53.5 The *Chair* or a member of Council staff nominated by the *Chair* may read at the meeting a question which has been submitted in accordance with this Rule.

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

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

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

53.6.3 deals with a subject matter already answered;

53.6.4 is aimed at embarrassing a Councillor or a member of Council staff;

53.6.5 relates to personnel matters;

53.6.6 relates to the personal hardship of any resident or ratepayer;

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

53.6.8 relates to matters affecting the security of *Council* property; or

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

53.7 Any question which has been disallowed by the *Chair* must be made available to any other Councillor upon request.

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

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

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

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

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

53.13 A Councillor or *the Chief Executive 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 members of the public. The Councillor or *Chief Executive Officer* (as the case may be) must state briefly the reason why the reply should be so given and, unless *Council* resolves to the contrary, the reply to such question must be so given.

E Petitions, Joint Letters, Deputations and Correspondence

E.1 Petition - Proposed establishment of a small car park on Mabilia Road, Kilcunda to support Yallock-Bulluk Marine and Coastal Park Access and Infrastucture Plan

File No:	**CM22/38**
Division:	**Place Making**
Council Plan Strategic Objective:	**Our Places** Strengthening the connection between people and the public places they share

A petition containing 123 signatures has been received. The petition was addressed to The Responsible Parties and included Parks Victoria, Department of Environment, Land, Water and Planning, Victorian State Government and Bass Coast Shire Council. The petition reads:

We the undersigned, residents of the Kilcunda Mabilia Estate Community, wish to bring to the attention of the responsible parties our concerns in relation to a proposed Car Park that was not on community socialised plans, but which has now appeared on the 'final' Infrastructure plan.

***Key concerns**:*

- *Increased traffic puts the safety of our residents at significant risk*
- *Access to Mabilia Road from Bass Hwy for unfamiliar motorists is highly dangerous and will place lives at risk*
- *The impact on local Fauna would be significant*
- *Traffic congestion would severely limit fire truck and emergency service access*
- *Emergency bushfire evacuation of the Mabilia Road Estate residents through its single point of entry / exit would be jeopardised by increased tourist traffic.*

Through the attached petition referencing the more detailed explanations below, residents have shown unanimous agreement that the proposed car park should be removed from both the Final Infrastructure Plan and all associated signage & promotional material and instead have the plan rely upon the proposed improvements to the Shelley Beach facilities to provide access to this part of the coast.

Increased Traffic

The establishment of any size carpark, no matter how small, would encourage tourists, local area walkers and recreational fishermen etc to test availability of parking spaces on a constant and regular basis. The likely volume of traffic would far exceed the availability of, and number of spaces being proposed.

We propose a study and risk assessment be undertaken on the current traffic, projected traffic; submitted to relevant authorities for feedback.

Resident safety on Mabilia Road

There are several safety concerns in relation to the location of the proposed carpark and thereby the manner in which the location will endanger lives as potential users seek to access it.

The Mabilia Road route to the proposed car park is of unmade gravel narrowing to a single lane in many places. Mabilia Road provides no formal pedestrian footpaths as these are mostly precluded by storm water drains on either side. Residents of the estate have little option but to walk along the road to access the George Bass coastal walk. Any increase in unfamiliar tourist traffic at all would significantly increase the danger to our residents and their visitors.

Access to Mabilia Road from Bass Hwy

The turn from the Bass Hwy into Mabilia road to access the proposed carpark is concealed and extremely dangerous turn for both inbound and outbound traffic. The volume of traffic on the highway has increased many fold in recent years and it seems only a matter of time before serious accidents and fatalities occur at this intersection. Cars travelling at 100 kph over the hill will need to suddenly stop to congested traffic waiting to turn into Mabilia road due to busy outward bound traffic coming from the other direction.

Residents who know the area well wait some time for a safe window to turn, even in low season.

The dangers associated with tourists lack of familiarity with the area and intersection are significant.

(nb A recent planning request to Bass Coast Shire Council to have separate access to the highway allowed for a small pocket of homes adjacent to the estate has been denied specifically because of the traffic dangers involved.)

Local Fauna Concerns

The last few years have seen the welcome development of families of Kangaroos and other native fauna in the reserve, but our observation is that negative pressure on their presence has already commenced commensurate with the increase in tourist numbers. Dogs off lead have been observed chasing the kangaroos down through the valley on several occasions.

Reducing available land mass further through the establishment of a car park would result in a further loss of habitat. Any encroachment into the designated Foreshore, Bushland and Crown Land Reserve for car parking purposes seems contrary to current values and stated aims of those tasked to care for such assets. We propose a study should be undertaken on the local fauna impact. This is also of particular importance, given the education ambition of the project.

Emergency Services access

This is a particularly dangerous part of the coastline with steep crumbling clifftops and only narrow goat tracks down to the water. Increasing numbers of lives are being lost by individuals swept off the rocks.

The placement of the proposed car park appears to be immediately adjacent to the single point of access for emergency services to the reserve. Police, ambulance, SES and other rescue services require clear access which would almost certainly be compromised by the congestion and demand for adjacent parking spaces.

Fire truck access in the event of bush fires on the reserve would be significantly hampered for the same reasons.

Mabilia Estate Emergency Evacuation

The 200 plus residents and family members of the Mabilia Estate have only a single point of access and exit to the Bass Hwy in the event of a catastrophic bushfire attack from either the East or West reserves. Any initiative that increases traffic & congestion should be avoided at all costs.

Initiative Support

The residents putting forward this submission would like to also state that we are fully supportive of the wonderful and positive overall initiative, the manner in which it gives both residents and visitors the opportunity to fully appreciate and enjoy our incredible coastline, and also the potential boost to the local economies. This however should not be achieved at the expense of the general publics safety.

Statement

As noted, the carpark at the centre of this petition was not on the plans originally proposed and which garnished local support. For the reasons outlined in this letter and petition, we are seeking to have the carpark removed from the plan and future promotional material & signage and instead have the Infrastructure Plan rely on the proposed improvements to the Shelley Beach facilities to provide access to this part of the coast.

It should be noted that the Shelley Beach car park is only a 15 minute (1.2kms) walk along the track to the Arch end of Mabilia Rd. In our opinion, it would add significantly to the tourist experience for those wishing a short walk to the Arch. This particular short stretch of coastline in between is truly spectacular.

The community wish for the council to join with them in opposing this proposal and advocate on their behalf to responsible parties at Parks Victoria, DELWP and the State Govt.

A representative group of residents would welcome the opportunity to discuss the matter further and can make themselves available at short notice.

Section 54.1 of the Bass Coast Shire Council Governance Rules states that:

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

Officer's Comments

Parks Victoria are the responsible land manager who are proposing the carpark at Mabilia Road on Parks Victoria managed land.

Following receipt of this petition, the head petitioner was contacted by officers to discuss their concerns. A commitment was made to the head petitioner to pass on the petition to Parks Victoria and to meet with them to discuss the concerns raised.

Parks Victoria were met with and it was confirmed that the carpark on the plan has been endorsed by the Minister and is a design response to provide safe access to the coastal trail with a carpark for existing use. The parking is intended to cater for three cars to be provided on Parks Victoria managed land in accordance with land manager responsibility to make provision for it.

Parks Victoria confirmed that they plan to progress with necessary investigation and design to deliver the project. At the meeting Council officers outlined the next steps of tabling this petition at the next Council meeting.

The head petitioner was contacted to inform them of Parks Victoria's position and the next steps that Council would take to table the petition.

It is noted that the petition does not adhere to section 54.6 of the Governance Rules as the full content of the petition is not available on all signed pages.

Recommendation

That Council:

1. **Receives the petition, Proposed establishment of a small car park on Mabilia Road, Kilcunda to support Yallock-Bulluk Marine and Coastal Park Access and Infrastucture Plan, noting that Parks Victoria are the responsible authority for managing this site.**
2. **Resolves to deal with the petition at the Council meeting.**
3. **That the Council CEO writes to Parks Victoria to highlight the concerns raised by the community.**
4. **Writes to the head petitioner to advise of the actions taken.**

Attachments

AT-1	***CONFIDENTIAL*** - Petition - Proposed establishment of a small car park on Mabilia Road, Kilcunda to support Yallock-Bulluk Marine and Coastal Park Access and Infrastucture Plan	22 Pages

Notices of Motion

F Notices of Motion

F.1 243/22 Public Dump Points, Cr Rochelle Halstead

I, Cr *Rochelle Halstead*, hereby give notice that I intend to move a motion at the Council Meeting on 16 February 2022, which reads as follows:

PUBLIC DUMP POINTS

Motion

That the strategic review of camping needs within Bass Coast:

1. **Considers the installation of public dump points at:**
   a. **Newhaven Tourist Information Centre**
   b. **Grantville**
   c. **Dalyston Football Netball Club**
   d. **Wonthaggi Information Centre**
2. **Identifies any other required dump sites within Bass Coast**
3. **Includes cost estimates for consideration in the 2022/23 budget.**

Background by Councillor

I thank Cr. Kent for requesting a strategic review into camping needs within Bass Coast and I look forward to the presentation of the review at our June 2022 meeting. There is no doubt that dump points are needed for the responsible disposing of waste by caravanners and campers. As one of Victorias most travelled tourist destinations and a local government with a high population of retirees, these facilities should already be available. They are reasonably inexpensive to purchase with the installation not needing to be prolonged for the outcome of a camping strategic review.

Officers Comments

At its meeting on 15 December 2021, Council resolved:

> *That Council officers complete a strategic review of camping needs within the municipality and present a report to Council by June 2022.*

Consideration of the need, preferred locations and costs of public dump points will form part of the strategic review and be included in the report scheduled to be presented in June 2022.

……..
Cr Rochelle Halstead, Western Port Ward
Dated: **16 February 2022**

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 190284 26 Maroubra Drive Cape Woolamai

File No:	**CM22/31**
Division:	**Place Making**
Council Plan Strategic Objective:	**Sustainable Development**
	Prepare for growth while ensuring the intrinsic values and character of Bass Coast are retained.

Declaration

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

Executive Summary

Application number:	190284-1
Applicant:	Mr Peter Farrell
Land/Address:	26 Maroubra Drive, Cape Woolamai
Ward:	Western Port Ward
Proposal:	Retrospective permission under Section 72 of the *Planning and Environment Act 1987* (amendment to a Planning Permit) to amend endorsed plans under permit allowing alteration and addition to the existing dwelling over 7 metres in the DDO1
Zone:	General Residential Zone – Schedule 1 (GRZ1)
Overlay:	Design and Development Overlay Schedule 1 (DDO1) Vegetation protection Overlay Schedule 2 (VPO2)
Planning permit triggers:	Clause 43.02-2 (DDO1) - Buildings and works to construct a building in excess of 7 metres from ground level
Number of submissions:	A total of six objections were received
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 six objections.
Officer recommendation:	Notice of Decision to Grant an Amendment to a Planning Permit

Purpose of Report

For Council to consider an amendment to an existing Planning Permit for alteration and additions to an existing dwelling in DDO1 in accordance with the endorsed plans at 26 Maroubra Drive, Cape Woolamai.

Summary of Officer Recommendation

That Council authorise Officers to issue a Notice of Decision Amended Planning Permit 190284 subject to conditions outlined in the Officer Recommendation section of this report.

The proposal is supported for the following reasons:

- The proposed development is acceptable in consideration of the design objectives and the decision guidelines of the Design and Development Overlay Schedule 1; and
- The application is acceptable in consideration of state and local planning policy and:
    - The Design and Siting Guidelines for Coastal and Rural Hinterland Areas (1999).
    - Siting and Design Guidelines for Structures on the Victorian Coast (1998).
    - Phillip Island and San Remo Design Framework (2003).

Main Considerations

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

- Whether the development produces an acceptable outcome in consideration of the design objectives and decision guidelines of the DDO1.
- Existing neighbourhood character and building height, colour and design.
- Preservation and protection of coastal views from and to residential areas in coastal locales.
- Maintenance of the visual and landscape qualities within the coastal landscape.

The Proposal

This application seeks retrospective approval to revise the endorsed plans in accordance with the Development Plans prepared by PP Drafting Services, Rev B, Dated 20 Jan 2020. The decision plans are provided as Attachment one and are detailed below:

- Site Roof Plan, prepared by PP Drafting Services, Rev B, Dated 20/01/2020
- Site Roof Plan (height above natural surface), prepared by PP Drafting Services, Rev B, Dated 20/01/2020
- Elevation Plans, prepared by PP Drafting Services, Rev B, Dated 20/01/2020
- Survey Plan of Existing Conditions, prepared by Raso Consulting Surveyors, Rev C, Dated 26/07/2021
- Report accompanying the Survey Plan of Existing Conditions

Plans endorsed under Permit 190284 are also provided at Attachment one and comprise:

- Site Plan, prepared by owner Dated 10/09/2019
- Existing conditions showing proposed are of second storey, prepared by owner Dated 10/09/2019
- First Floor Plan, prepared by owner Dated 10/09/2019
- Elevation Plans, prepared by owner Dated 10/09/2019

Key features of the amendment application include:

- The maximum height of the permitted dwelling extension has been increased from 8 metres to 8.67 metres.
- The overall footprint of the dwelling remains unchanged.
- The dwelling setback distances from title boundaries remain unchanged.
- No vegetation removal proposed.
- External cladding colours and materials remain unchanged.

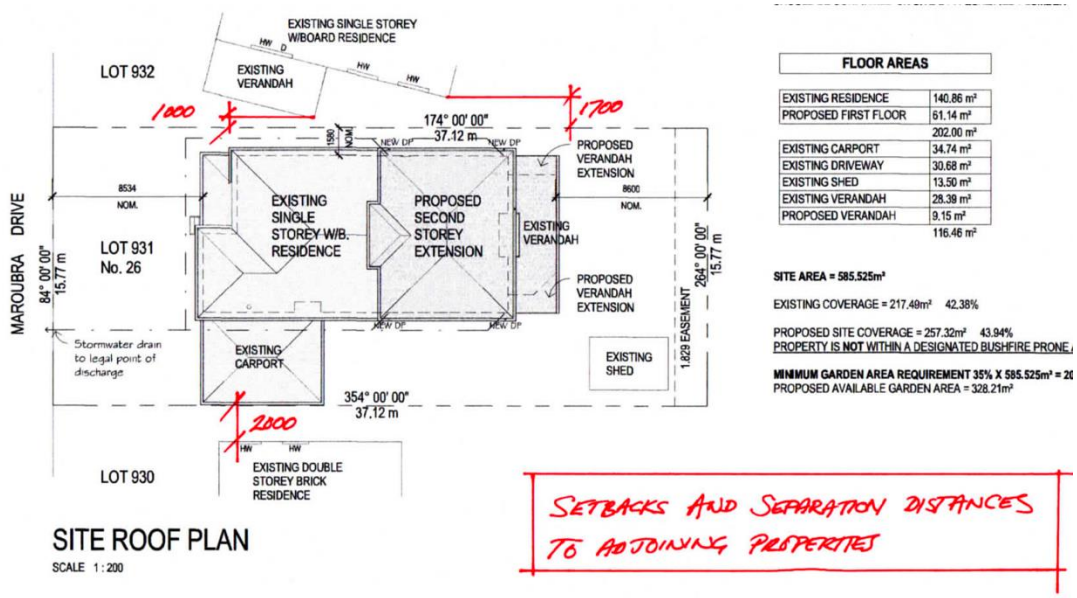


Figure 1 - Site Roof Plan showing setback and separation distance from adjoining properties

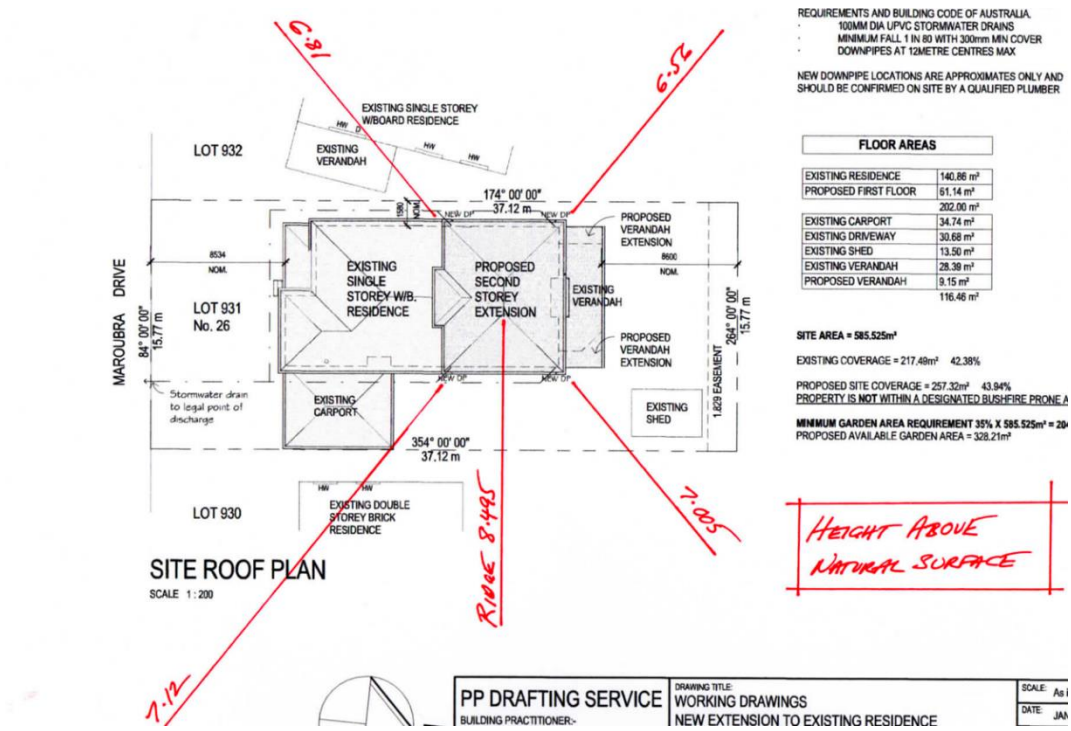


Figure 2 - Site Roof Plan showing height of the dwelling above natural ground level

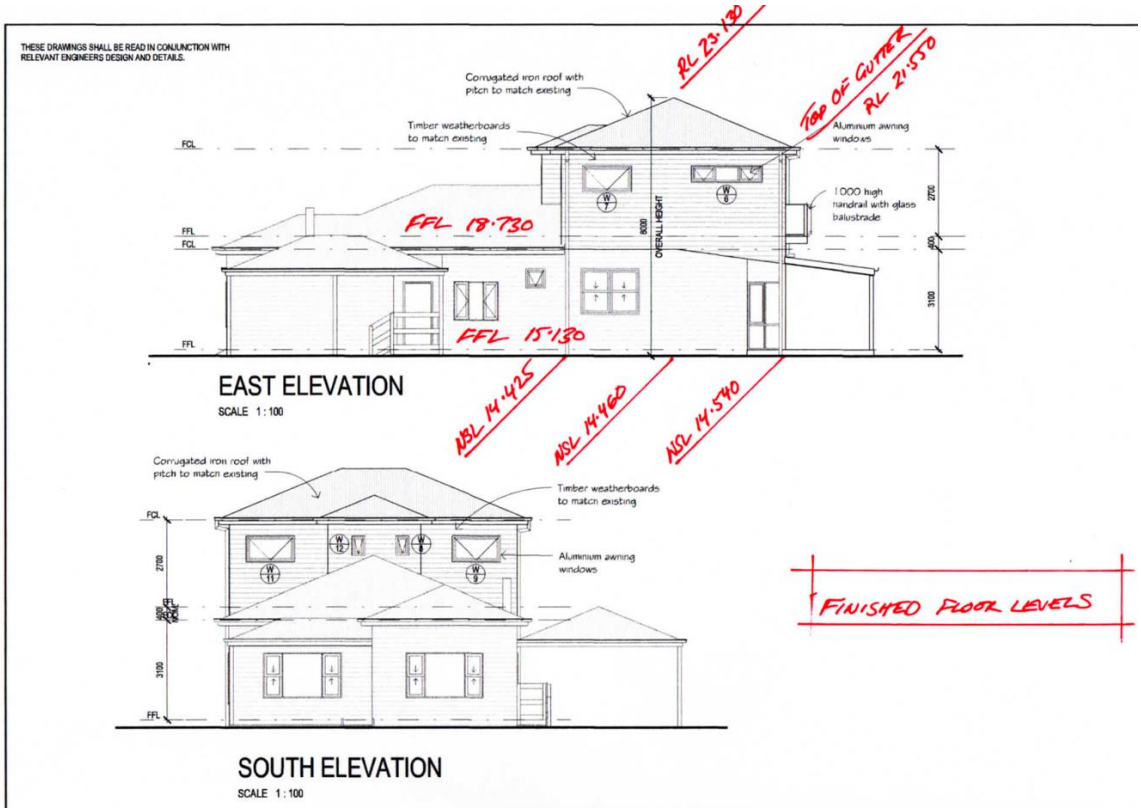


Figure 3 – East and South Elevation Plans showing the overall height of the dwelling to be 8.67 metres to the eastern (adjoining 28 Maroubra Drive) side

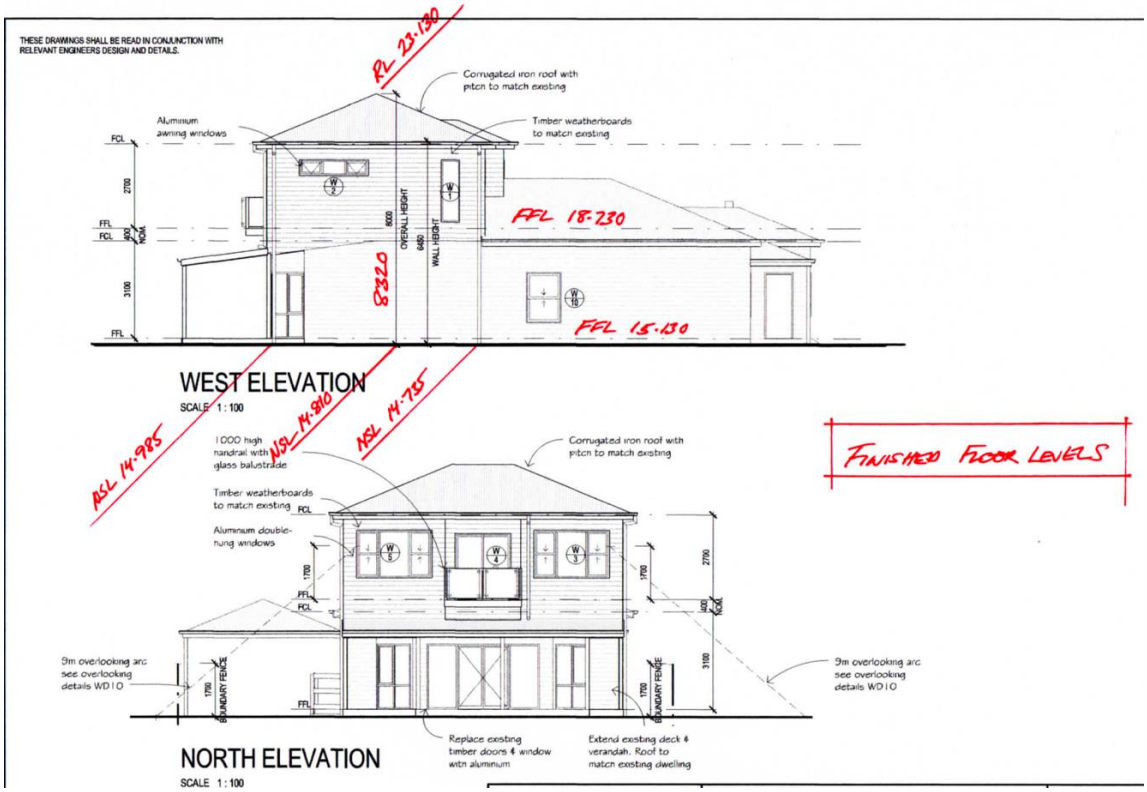


Figure 4 - West and North Elevation Plans showing the overall height of the dwelling to be 8.32 metres along the western (adjoining 24 Maroubra Drive) side

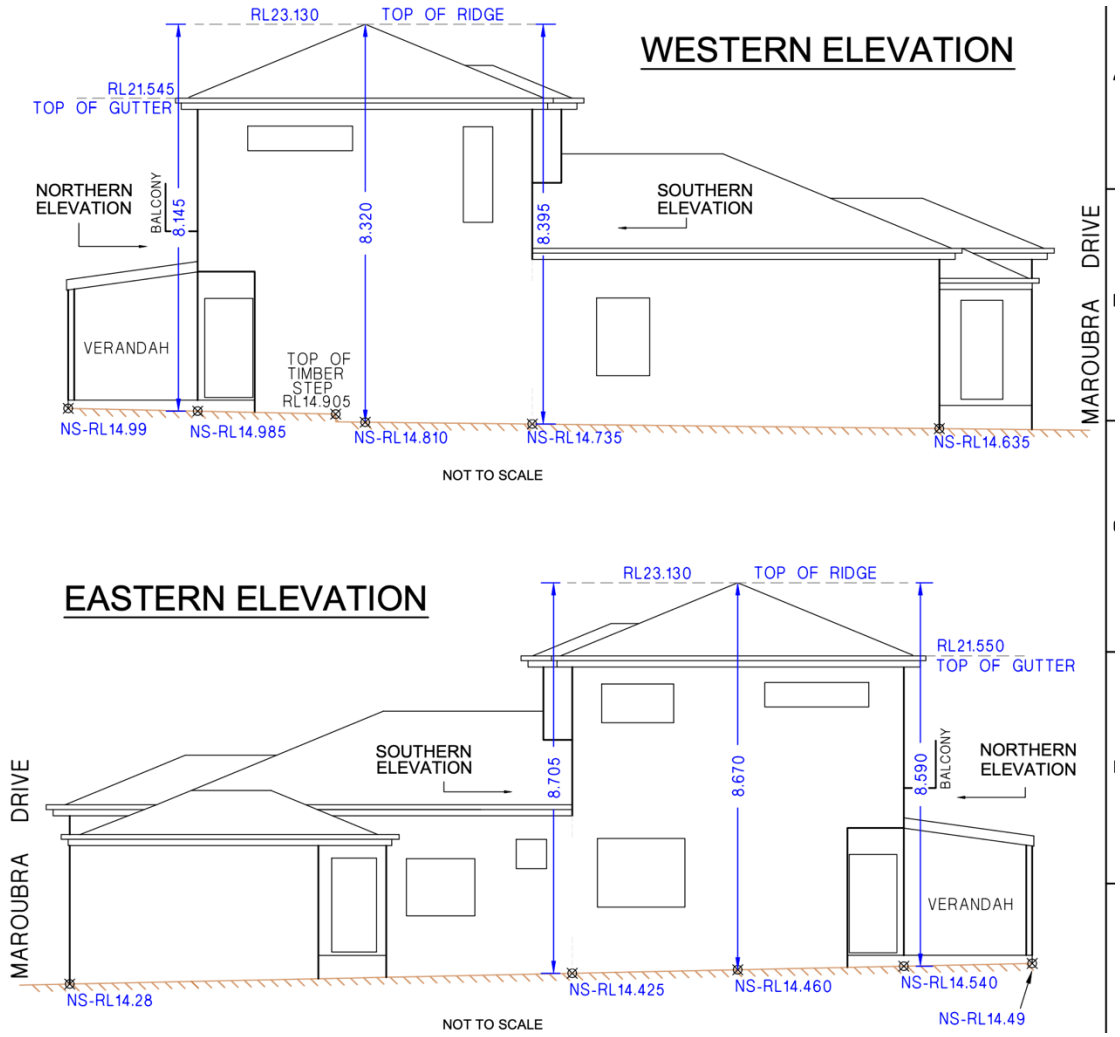


Figure 5 – Survey Plan of existing conditions (plan commissioned by Council and prepared by Raso Consulting Surveyors

Background

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

Site Dimensions and Area	The site is regular in shape with a frontage to Maroubra Drive of 15.77 metres, a depth of 37.12 metres and an overall area of approximately 586 square metres.
Topography	The site has a slope of approximately 1.03 metres from the rear north western corner towards the front south eastern corner.
Vegetation Cover	The site supports scattered canopy vegetation along the title boundaries and within the frontage setback distance.
Current Use and Development	Single dwelling

Easements	A 1.82 metre wide easement runs along the rear title boundary.
Restrictive Covenants and/or Section 173 Agreements	Nil
Aboriginal Cultural Heritage Sensitivity	The land is partially located within an area of identified cultural heritage sensitivity.
Planning Permit History	Planning permit 190284 was issued on 10 January 2020 for alterations and additions to an existing dwelling in DDO1 in accordance with the endorsed plans. The lodgement of this application is in response to a planning enforcement investigation, which established that works had been undertaken without planning approval. The overall height of the second storey extension is greater than the height permitted on the plans endorsed under Planning Permit 190284. The application to amend the permit seeks to remedy the breach.

Relevant Planning History

The following relevant applications have been considered for the subject site:

Application No.	Proposal	Date of Decision
190284	Alterations and additions to an existing dwelling in DDO1 in accordance with the endorsed plans	10 January 2020

The original application was assessed against the design objectives and decision guidelines of Schedule 1 to the Design and Development Overlay and was established to be an acceptable outcome and accordingly, a Planning Permit was issued for the second storey dwelling extension.

Subsequent to the issuance of the planning permit the construction of the development was completed.

Council's Planning Enforcement team was advised that the maximum height of the completed dwelling was higher than the permitted 8 metres.

To understand whether there was a breach of the approved height Council engaged Raso Consulting Surveyors to undertake a survey.

The findings of the survey are shown in the Plan of Existing Conditions Revision C dated 26 July 2021. The survey together with the accompanying report concluded the height was beyond what was approved.

The Planning Enforcement team directed the applicant to seek to rectify the situation by seeking amended planning permission.

Subject Site And Surrounds

The site is located on the north side of Maroubra Drive, between Panorama Drive to the west and The Esplanade to the east. The site is a rectangular shaped lot with a 15.77 metre frontage to Maroubra Drive, a maximum depth of 37.12 metres and a site area of 586 square metres.



Figure 6 - Aerial photography of subject site (Source: VicPlan, dated 17 January 2022)

The site is developed with a double storey weatherboard dwelling and established garden.



Figure 7 - View of subject site from Maroubra Drive Street (Source: Site inspection conducted on 17 September 2021)

The site is located within an established residential area generally characterised by a mix of single and double storey dwellings on regular sized allotments with areas of between 500 and 650 square metres.

The majority of single dwellings in the neighbourhood are double storey, however there are several three storey dwellings and dwellings with third storey viewing platforms. Older dwellings are gradually being altered and extended.

The distance from the subject site to the Crown land foreshore area is approximately 135 metres and the second storey that is the subject of this application is not clearly visible from the bottom of Maroubra Drive, the foreshore area or myriad walking tracks to the beach.

The main characteristics of the surrounding area are:

North Adjoining the land to the north is 25 Palm Beach Avenue. This lot is approximately 580 square metres in area and contains a single dwelling located centrally within the site.
The dwelling is approximately 10.3 metres from the common boundary with the subject site.

South The site abuts Maroubra Drive to the south. Maroubra Drive is a sealed residential street with established street trees and lawn nature strips.

There is a double storey dwelling opposite.

East Adjoining the land to the east is 24 Maroubra Drive. This lot is approximately 580 square metres in area and contains a double storey brick dwelling.
The dwelling is setback approximately 2 metres from the common title boundary with the subject site.

West Adjoining the land to the west is 28 Maroubra Drive. This lot is of similar dimensions to the subject land and contains a single storey weatherboard dwelling.

The dwelling setback varies between 1 and 1.7 metres form the common boundary shared with the subject site.



Figure 8 – Site and surrounds



Figure 9 - Zoning Map

Consultation

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

The Applicant gave notice in the following manner:

- Sent copies of the Notice by registered mail to 37 adjacent and nearby land owners and occupiers; and
- Placed a Notice on the land.

In response to notification the application attracted six submissions.

A copy of each submission is included in Attachment two.

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

Referrals

The following table outlines the referral requirements of this application.

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
Not applicable	No external referrals required.
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Planning Enforcement	The lodgement of this application is in response to a planning enforcement investigation. That investigations established that the overall height of the permitted dwelling extension is greater that approved and reflected on the plans endorsed under the permit.

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

2. VPP11 Settlement

Clause 11.01 - Victoria

- Clause 11-01-1S Settlement
- Clause 11-01-1R Settlement – Gippsland
- Clause 11-01-1L-01 Settlement
- Clause 11-01-1L -16 Cape Woolamai

Clause 12.02 Coastal areas

- Clause 12.02-1S Protection of coastal areas
- Clause 12.02-1L Protection coastal areas

Clause 15.01 Built Environment

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

The intent of relevant state and local planning policies is to ensure development is respectful of identified landscape and neighbourhood character values and to ensure that growth is within established settlement boundaries.

Planning is required to consider the coastal context of the development and ensure adverse impacts resulting from the development are minimised.

The development is within an established treed neighbourhood that is undergoing gradual change as old housing stock is updated or replaced. Single dwellings of double, triple and single storey on regular sized urban allotments are the norm.

The extension is modest at 60 square metres and it positively contributes to neighbourhood character. The design of the extension is somewhat conservative, but nevertheless sympathetic to the existing dwelling. It is setback from the ground floor and blends into the tree canopy being barely visible from the public realm as a consequence of mature plantings in the street and within nearby private property.

The application having been considered within the context of relevant state and local planning policies in relation to residential development warrants support and it meets all relevant the policy objectives.

Zone Assessment

This application does not trigger a planning permit under the zone.

Overlay Assessment

3. Clause 43.02 – Design and Development Overlay (Schedule 1)

The statement of the design objectives of the schedule that are to be achieved include:

- To protect views from the coast to adjacent residential areas.
- To protect views to the coast from adjacent residential areas.
- To minimize 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.

Clause 43.02-6 and Clause 6.0 of the schedule to the overlay contain the following (as relevant) decision guidelines which must be considered:

- The Municipal Planning Strategy and Planning Policy Framework.
- The design objectives of the schedule.
- Siting and design in response to background documents *Design and Siting Guidelines for Coastal Areas and Rural Hinterland (1999),* and *Siting and Design Guidelines for Structures on the Victorian Coast (1998)*.
- The maintenance and improvement of the visual quality of the coastal landscape.
- The preservation of views from the waters of Western Port.
- The siting, colour and design of buildings.

The application is consistent with the design objectives and the decision guidelines of the overlay that applies to the land.

The Plan of Existing Conditions (figure 5) commissioned by Council and prepared by Raso Consulting Engineers established the following.

'Along the western elevation of the house working from the front to the rear of the lot:

1. *The height of the house has a determined height of 8.320m taken from the top steel capping of the ridge line to the Natural Surface directly below the ridge line at ground level.*
2. *The height of the house where the second floor ends towards the rear of the block is 8.145m.*

1 Along the eastern elevation of the house working from the front of the block to the rear of the block, we have determined:

1. *The height of the of the house has a determined height of 8.670m taken from the top steel capping of the ridge line to the Natural Surface directly below the ridge line at ground level.*
2. *The height of the house where the second floor ends towards the rear of the block is 8.59m.*

In consideration of the design objectives, views to and from the coastal area to and from the adjacent residential areas are not diminished and the modest second storey extension does not impact unreasonably on those views. This is an established neighbourhood.

It is considered that visual and landscape qualities are protected. The proposal benefits from canopy tree cover within the neighbourhood including street trees that soften the additional built form. In addition, the location 'mid street' and downslope provide that the development nestles within the tree canopy. The view from the street immediately in front shows a modest second storey extension setback from the first storey.

The roof line further reduces impact and it is the small area of roof that encroaches beyond the preferred 7 metres. The maximum height of 8.67 metres of the building reduces down to a height at gutter level of between 6.56 and 7.005 metres (dependent upon the elevation) as a consequence of the conventional roof slope that flattens on the top.

Maroubra Drives slopes down to the coast from Panorama Drive (west) to The Esplanade (east). The ridge point is located on Panorama Drive and the subject site is approximately halfway down the street. The dwelling sits lower than the double storey dwellings located on the corner of Maroubra and Panorama Drive and the two dwellings directly north of that along Panorama Drive.

The dwelling is proximate to double storey developments along the street that are of varying vintage, design and materials. The overall scale of the dwelling is not excessive in this context.

Concerns Raised By Submitters

Submissions were received that included concerns that were addressed when the original Planning Permit issued.

The land owner has constructed the development .67 metres higher than permitted. The assessment of this application and the consideration of objections is limited to those matters the responsible authority is required to consider being those relevant requirements articulated in the Bass Coast Planning Scheme discussed above and *Planning and Environment Act 1987.*

Enforcement and building permission matters that were raised in submissions cannot be considered. The following table summarises relevant objections into themes and provides a discussion on planning merit:

Submitter Theme	Council Officer Response
Neighbourhood character	There are no neighbourhood character objectives identified specifically within the zone schedule and therefore Planning is to take a nuanced approach to determine 'what' is neighbourhood character and 'whether' a proposal is acceptable in consideration of character. Assessment of this amendment application is limited to the increase in maximum height of the dwelling by 0.67 metres. The development has been previously considered in relation to neighbourhood character and considered to be acceptable. The eastern part of Cape Woolamai is established with a large proportion of double storey dwellings. The height of the dwelling is considered consistent with the emergence of contemporary development within the area. Setbacks and landscaping are retained and no departure from existing or emerging neighbourhood character is discerned. The increase in height being .67 metres over what was approved does not adversely impact on neighbourhood character.

Excessive building height	It is acknowledged that the development presents a maximum building height in excess of the 7 metre provision that is the preferred height for buildings on land where the DDO1 applies. The provision is not mandatory and allowance for built form beyond 7 metres is allowed and expected. Planning considers the proposal in its locational context and whether the resultant development induces unwanted impacts. In this instance, and for practical purposes, it is the roof that exceeds the preferred height. The small footprint of the roof balanced with the design of the extension to suit the existing building provides a satisfactory outcome. The fact that the location of the site (mid-block and down slope), the distance from Crown foreshore land and vegetation and tree canopy minimises visual impacts from the public coastal realm in addition to the extension not unreasonably impacting on views, provides further evidence that the development is acceptable.
Loss of view	It is appreciated that the loss of 'some' view from 'some' neighbouring properties is directly related to the height of the dwelling that at a maximum, is 8.67 metres. However, as outlined in the discussion above in relation to the provisions of the DDO1, the proposed increase in height is consistent with the design objectives at Clause 1.0 of the schedule as relevant to this application that seek to, protect views *'from/to the coast from/to adjacent residential areas and minimize the impact of development along the coastline'.* These design objectives further seek to *'protect and enhance the visual amenity and landscape of the coastal area'.* It is established in Webb v Mornington Peninsular SC (2007) that '*properties away from the foreshore and intercepted by other lots cannot expect no compromise on views. It is also the view that protection of the entire existing views over the review site cannot be guaranteed forever'.* It is considered that the visual amenity and landscape in this area is protected and preserved and that the impact of this modest second storey to an existing dwelling does not unreasonably diminish views. The development is acceptable in consideration of the decision guidelines of the overlay and schedule.

Setting a precedence	Every application is assessed based on the individual circumstances and merits of the proposal. The current application has been assessed against the decision guidelines of DDO1 and it has been established that it provides an acceptable outcome. The application is assessed based on its merits.

Box air conditioner 	It is appreciated that the box air conditioner adds bulk on the roof and that it does not respond positively to surrounding neighbourhood character. A condition on permit will require removal of this and or relocation to below 7 metres above natural ground level.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to result in an acceptable outcome.

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

It is recommended that Council resolve to issue a notice of decision to amend Planning Permit 190284 subject to conditions.

Recommendation

That in relation to planning permit application 190284-1 for alterations and additions to the existing dwelling in the DDO1 in accordance with the endorsed plans located at 26 Maroubra Drive Cape Woolamai, Council resolves to issue a Notice of Decision to Grant an amendment to Permit, subject to the following conditions:

Amended plans required

1. **Within one month of the date of the amended permit, amended plans drawn to scale with dimensions must be submitted to and approved by the responsible authority. The plans must be generally in accordance with the plans submitted but modified to show:**

   a. Removal of the box air conditioner located on the rooftop and/or relocation to below 7 metres above ground level.

The plans must be to the satisfaction of the responsible authority and when approved, the plans will be endorsed to form part of this permit.

Attachments

AT-1	Development plans, height survey and currently endorsed plans	19 Pages
AT-2	Planning provisions	5 Pages
AT-3	***CONFIDENTIAL*** - Submissions	18 Pages

H.2 Planning Application 200141 - 20 Longfin Crescent San Remo - development of five dwellings

File No:	**CM22/19**
Division:	**Place Making**
Council Plan Strategic Objective:	**Sustainable Development** Prepare for growth while ensuring the intrinsic values and character of Bass Coast are retained.

Declaration

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

Executive Summary

Application number:	200141
Applicant:	TCG Doreen Pty Ltd ATF TCG Doreen Family Trust C/- Kostic & Associates Pty Ltd
Land/Address:	20 Longfin Crescent San Remo Lot 51 PS813242S
Ward:	Western Port Ward
Proposal:	Development of five dwellings
Zone:	General Residential Zone – Schedule 1 (GRZ1)
Overlay:	Design and Development Overlay – Schedule 1(DDO1)
Planning permit triggers:	Clause 32.08-2 General Residential Zone – Buildings and works
Number of submissions:	A total of six objections were received.
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 six objections. And The application has been called in by a Councilor.
Officer recommendation:	Notice of Decision to Grant a Planning Permit

Purpose of Report

For Council to consider a planning application 200141 at 20 Longfin Crescent San Remo.

Summary of Officer Recommendation

That Council authorise Officers to issue a Notice of Decision subject to conditions outlined in the Officer Recommendation section of this report.

The proposal is supported for the following reasons:

- The proposal supports Settlement, Housing, Landscape and Infrastructure policies;
- The proposal is sensitively designed to minimise impact on adjoining properties;
- The proposal provides for increased density in an appropriate location;
- The proposal responds appropriately to the existing and emergent character of this neighbourhood.

Main Considerations

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

- Neighbourhood character and building scale.
- Amenity impacts to adjoining properties.

The Proposal

This application proposes the construction of three buildings comprising of five townhouses on the land with common access from Longfin Crescent in accordance with development plans prepared by Kostic and Associates. The decision plans are attached and are detailed below:

- Development response plans by Kostic and Associates dated 30.09.2021 (the decision plans);
- Stormwater Drainage plans and strategy prepared by TSK engineering dated 03.08.2020 and 07.08.2020;
- Traffic sweeps and maneuvering information prepared by 3T8 ZAV Engineering dated 13.08.2021;
- Approved Cultural Heritage Management Plan prepared by JEM Archaeology 03.06.2021
- Waste Management Plan by L.I.D. dated 24.08.2020
- Arboriculture Report by PSY Inv Pty. Ltd. Dated 03.08.2020

Key features of the proposal include:

- Three, two storey buildings which reach a maximum of 6.99 metres from natural ground level at any point and setback from all property boundaries.
- Five, four bedroom townhouses with integrated garages, balconies and access to private open space
- Common property areas providing access from Longfin Crescent extension to each dwelling including a single visitor car space and an electric gate.
- Landscaping of open areas including the provision of trees;



Figure 1 – Layout of the proposed development (Kostic & Assoc 2021)

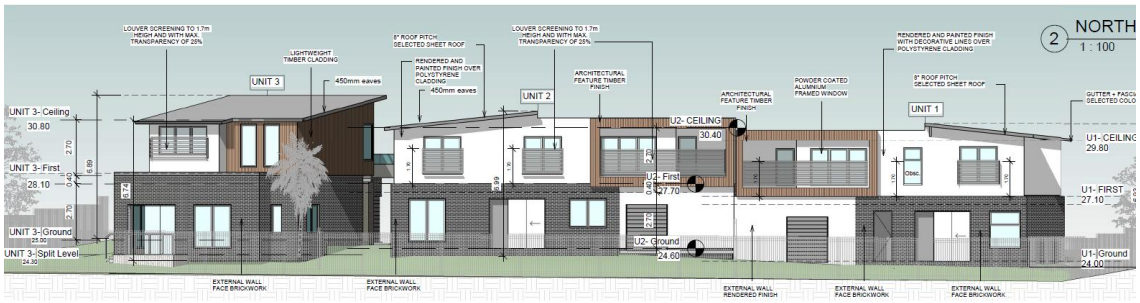


Figure 2 – North elevation Proposed Plans (Kostic & Assoc 2021)

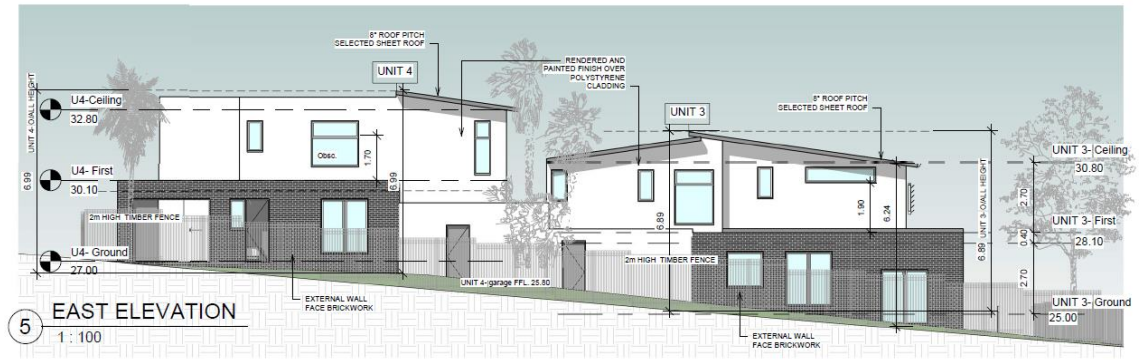


Figure 3 – East elevation Proposed Plans (Kostic & Assoc 2021)

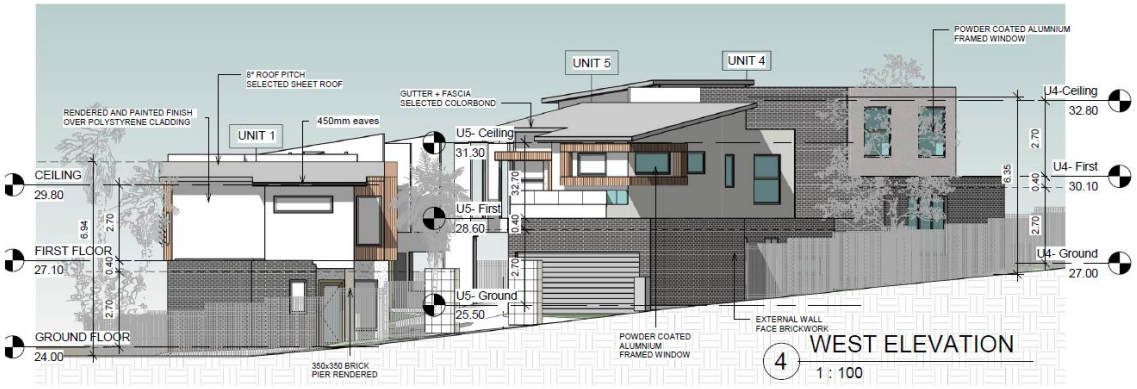


Figure 4 – West elevation Proposed Plans (Kostic & Assoc 2021)

Background

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

Site Dimensions and Area	Southern boundary 47.00m Eastern boundary 14.23m Western boundary 42.92m Rear boundary 55.20m Area: 1343m2
Topography	Falls generally from the south-east corner to the rear northern boundary with a fall of 3.4m along the eastern boundary and a fall of 1.4m along the western boundary.
Vegetation Cover	No vegetation within the site. Some vegetation abutting the boundary on neighbouring properties.
Current Use and Development	Vacant
Easements	There is a 2.5m wide easement along the eastern boundary and a 2.0m wide easement along the western boundary
Restrictive Covenants and/or Section 173 Agreements	Covenant PS813242S S173 Agreement AS35232W
Aboriginal Cultural Heritage Sensitivity	Approved Cultural Heritage Management Plan 17790
Planning Permit History	Lot 51 is a recently created allotment in a new estate. The relevance of the permit which created the estate is limited to the restrictions which remain on title.

Relevant Planning History

The following relevant applications have been considered for the subject site:

Application No.	Proposal	Date of Decision
140355-1	Multi-lot subdivision of land in stages and removal of native vegetation in accordance with the endorsed plans	28.10.2015

Subject Site And Surrounds

The site is located within a new residential subdivision with most of the adjoining and surrounding lots still undeveloped. The wider surrounding area is encompassed by existing residential area with a commercial strip located to the north-west of the site and with the foreshore of San Remo located to the north of the site.



View of subject site looking east from the unnamed Longfin Crescent extension identifying abutting properties (Source: Page 8 of Planning Report prepared by JADAR Pty Ltd, dated 09.09.2021

North Abutting the subject site are three residential properties containing single dwellings and associated outbuildings. The dwellings occupy lots of standard density between 580 and 900 square metres.

A medium density residential village abuts the lowest corner on the northwest containing 33 two storey dwellings with hipped and gable roof form and mixed material composition. This development is the dominant built and visual form between San Remo Parade, Panorama Drive, Genista Street and the new estate.

The residential village is a significant development viewable from Phillip Island Road and screens much of the Hillside from northerly highway views.

South Abutting the subject site are vacant allotments, road works and the natural topography of the San Remo hillside. Looking further south (uphill) two storey dwellings are under construction and the eye is channeled to the medium density astride the ridgeline. This development is accessed from Bonwick Avenue and now abuts Perch St which is two storey in form with hip and gable roofing.

East Abutting the property dwellings built to highest parts of the lot exhibit ranks of parapets and decks taking advantage of expansive views to the bridge, across Western Port Bay and the coast.

West Abutting the subject site are buildings under construction or recently constructed. These are generally single storey where views are obstructed by the units on Genista Street, but are two storey or elevated where opportunity for views allow.



Figure 5 – Site and surrounds

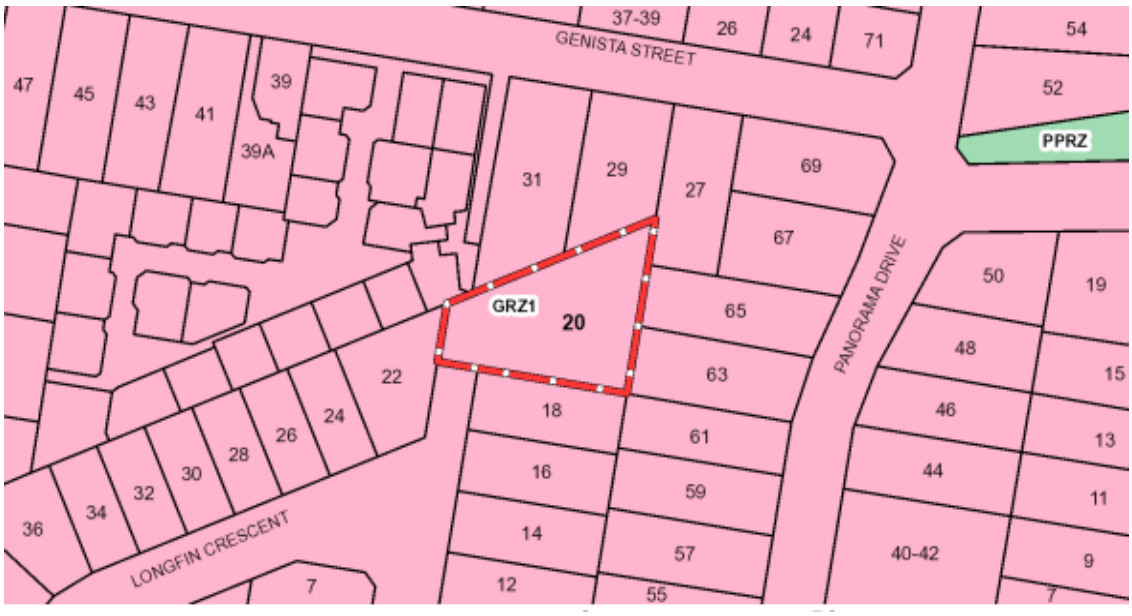


Figure 6 - Zoning Map

Consultation

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

The Applicant gave notice in the following manner:

- Sent copies of the Notice by registered mail to 12 land owners and occupiers; and
- Placed a Notice on the land.

In response to notification the application attracted six submissions.

A copy of each submission is included in Attachment two.

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

The application has not been amended in response to objections.

Referrals

The following table outlines the referral requirements of this application.

Referral Authority	Comments
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Revenue Services	No objection to the application.
Asset Management	No objection to the application subject to conditions for detailed civil design review.
Environmental Health	No objection

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

Clause 11.01 - Victoria

Clause 11.02 - Managing Growth

Clause 11.03 - Planning for Places

Clause 12.05 - Significant Environments and Landscapes

- Clause 14.02-1L Catchment planning and management
- Clause 14.02-2S Water quality
- Clause 14.02-1S Catchment planning and management

Clause 15.01 Built Environment

Clause 15.02 Sustainable Development

Clause 16.01 Residential Development

Clause 19.03 Development Infrastructure

The intent of the relevant policies is to support development in appropriate locations and discourage development in inappropriate locations.

Clause 11.02-1S encourages planning to consider opportunities for the consolidation, redevelopment and intensification of existing urban areas to "*ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses*." This is reinforced in coastal areas by Clause 11.03-24S which seeks to direct new urban development within existing settlement boundaries to discourage urban sprawl.

While the bulk of residential growth is accommodated in the eastern growth area of San Remo, the location of this development is considered appropriate in form due to the sites proximity to the town centre of San Remo, passive and active recreational areas and neighbourhood context.

The form and location of this proposal supports housing policy at clause 16.01-1S to facilitate well located, integrated and diverse housing in relation to jobs, transport and choice of accommodation.

The settlement of San Remo extends up exposed hill sides and significant coastal landforms. The development of the hillside is visibly lacking vegetation coverage in preference of uninterrupted views of the Island, Western Port Bay and the inlet.

Trees and landscaping provide for both the dwelling scale and, if maintained to maturity will eventually reshape the skyline with dwellings set amongst vegetation rather than the current dominance of built form and roofline.

The intent of the relevant policies is to appropriately protect receiving waters from the impacts of development by considering how and where stormwater is collected, treated and dispersed in a development.

The application is considered to be consistent with the objectives of these policies being connected to reticulated infrastructure that collects and treats stormwater in accordance with the Infrastructure Design Manual.

The intention of these clauses is to consider how a development proposal responds to its context and environment. Clause 15.01-1L-01 encourages the design to reflect the coastal setting and coastal architecture through built form and materiality which has been achieved using a mix of external materials providing articulation between the ground and first floor, natural colours blended with modern coastal aesthetic show a response to the urban setting and coastal environs.

The development will be respectful of the surrounding character by providing well-appointed setbacks from side and rear boundaries and articulation at the first floor. Clause 15.01-5L intends that in areas where development will be more substantial, allowance for a greater diversity of built form provided the development is designed to enhance the sense of place and add to the character and overall quality of the urban environment.

The development has been responsive to an area of the lot mapped as having aboriginal cultural significance. A study has been commissioned to investigate the site providing assurance that the development will not harm any sites of significance.

The intent of the relevant policies is to guide responsible authorities in appropriately planning for growth and directing where higher density development or alternative housing should be located.

The application supports Councils strategies of increasing housing density within San Remo particularly as the development is within 200m of an activity centre, well serviced and facilitates diversity in the housing stock.

The intent of the relevant policies is to ensure that new development is located and designed to minimize the cost and strain on existing infrastructure resources. The proposed development is considered to respond well to the infrastructure limitations in San Remo providing for site level stormwater and waste management measures in accordance with advice from relevant qualified professionals.
Zone Assessment

Clause 32.08 – General Residential Zone

The purpose of the General Residential Zone is:

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

The application is consistent with the objectives and decision guidelines of the General Residential Zone.

Garden Area

As per Clause 32.08-4 General Residential Zone the subject site is required to provide 35% of garden area. The proposal sets aside 35.1% (470.5 square metres) of the site for garden area and therefore, the application is consistent with the minimum garden area requirement under the zone.

Given that a planning permit is required under the zone for two dwellings on the land (one existing and one proposed), Clause 55 (Two or More Dwellings on a Lot and Residential Buildings) must be assessed and considered in the decision making process and is discussed below.

Clause 55 - Two or more Dwellings on a lot and Residential Buildings

The proposal is considered to have satisfied all objectives, standards and decision guidelines of clause 55 of the Bass Coast Planning Scheme with the exception of the following where a variation to the standard was considered:

Clause 55.03 Site Layout and Building Massing

The main deficiency in the design is the response of units four and five to the energy efficiency standards B10 of Clause 55.03-5 through limited north facing solar access to living areas and the siting of private open space to the east and south of the buildings. The implications of the design will only affect the occupants of units four and five.

Clause 55.06 Detailed Design

A consequence of the proposed layout is the inability of the proposal to meet standard B29 of Clause 55.05-5 'solar access to proposed private open space' for future residents of the proposal.

The configuration, central driveway and existing building envelopes have confined private open spaces to the boundaries of the allotment which for proposed units four (4) and five (5) places the bulk of the buildings between the open space and the path of the sun. For units 1-3 the 1.8m fencing and long narrow design of open space limits solar access.

These deficiencies have been considered an acceptable variation as the private open spaces do receive direct sunlight and additional outdoor open spaces have been made available to each unit through balconies.

Clause 52.06 Car Parking

The development consists of five (5) four (4) bedroom units which will be provided two (2) undercover parking space within a proposed garage. One (1) visitor parking space will be provided on the western elevation of unit 1 (2.6 m x 6 m).

The width of the car spaces meet the design requirements of 52.06-9 as are the accessway dimensions which have been proven through modelled sweeps for a B85 standard veh**icle**

Clause 53.18 Stormwater Management in Urban Developments

The application was accompanied by a stormwater management design response including detailed calculations which have been assessed by the responsible authority against our Stormwater Management Policy 19.03-3L demonstrating that a satisfactory design can be achieve on site subject to approval of detailed civil plans which are required as conditions.

A construction management plan will be required to detail specific measures which will be implemented during the construction works to protect existing drainage infrastructure and receiving waters from sedimentation and contamination.

Concerns Raised By Submitters

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

Submitter Theme	Council Officer Response
Loss of view	The Victorian Civil and Administrative Tribunal has on a number of occasions deliberated on the issues of views and has generally found that there is no legal entitlement to a view.
Inconsistent or contrary to what was expected under planning permit 140335	The proposed development is not considered to be contrary to the planning permit or ongoing obligations created under that permit. Planning permit 140335 issued at the direction of VCAT authorized the subdivision of the land. This permit has been completed with the issuance of titles to each property within the estate. The decision on this permit included the application of agreements and legal controls which affect every allotment in the estate, in different ways. This has been covered in the discussion of Covenant PS813242S and Agreement AS352532. The subdivision did not alter the planning scheme which applies to the subject land and the residential allotments are subject only to the relevant controls of the General Residential Zone and legal agreements referenced. It is considered that the development is compliant with the provisions of the zone and applicable restrictions.
Impact on surrounding Streets (and their residents) from noise, light and flooding from the proposed development.	The proposal has demonstrated a consideration of the amenity of adjoining properties and it is anticipated that the generation of light, noise are no more than should be expected in a residential setting. Mechanical plant and services are not located near bedrooms of immediately adjacent dwellings while the impact of light beams on adjoining properties is mitigated by the centralised access – buffered by the proposed buildings. Stormwater management is considered to be satisfactory with overall treatment achieved by combination of watertanks plumbed for re-use by occupants to surface pits and traps to collect solids prior to connecting into the existing underground network installed with the estate
Contrary to the prevailing or desired neighbourhood character in particular: Single dwellings on large allotments	The character of the existing residential surrounds and emerging developments in San Remo were considered. The dominant character of single dwellings on large allotments is not observed at this location. The character comprises a mix of medium density townhouses, large dwellings and lot sizes.

Loss of amenity and health impacts due to landscaping	The landscaping comprises of native species indigenous to the Bass Coast Shire which generally have lower asthma impact according to Asthma Australia in *Allergies & asthma in the backyard* 21/09/221 The proposed landscaping plan is considered to respond to councils strategic vision for San Remo and is in accordance with Standard B13 Clause 55.03-9.
Overlooking	The proposal has been assessed against Clause 55 of the Bass Coast Planning Scheme as outlined in the body of the report. The development is found to be compliant. Proposed boundary fences on the northern, eastern, southern and western boundaries are 1.8m and proposed to be 2m while north facing windows and balconies show privacy screens to a height of 1.7m above the finished floor level. It is considered that the design meets standard B22 of Clause 55.04-6 effectively eliminating views into the backyards or service areas of units at 33 Genista Street and the dwelling at 29 Genista Street.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered an acceptable response to the site, its context and the strategic direction of the Bass Coast Planning Scheme

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

It is recommended that Council resolve to issue a notice of decision to grant a planning permit for planning application 200141, subject to conditions.

Recommendation

That in relation to planning permit application 200141 for the development of five dwellings located at 20 Longfin Crescent San Remo, Council resolves to issue a Notice of Decision to issue a Planning Permit subject to the following conditions:

Amended plans required

1. **Before the development starts, the following plans must be endorsed for the hereby approved development generally in accordance with the following documents and plans which accompanied the application:**
    a. **Development plans in accordance with that illustrated by Kostic and Associates plan Revision G dated 3rd September 2021 as approved by the Panorama Design Review Panel;**

b. **Landscape plan generally in accordance with the Landscape Plan Drawing 3429 by Bradbury Culina; and**

c. **Waste Management Plan generally in accordance with that dated 24.08.2020 by Lid consulting clerically updated to exclude the reference under 2.1 to council collection.**

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

When approved, the plan will be endorsed and will then form part of the permit.

2. **The endorsed plans forming part of this permit may not be amended without the written consent of the responsible authority.**
3. **Written confirmation by a Licensed Land Surveyor must be provided to the responsible authority verifying that the development does not exceed 6.99 metres in height above natural ground level. This must be provided at frame stage inspection and at final inspection.**
4. **All dwellings constructed within lot 51 of PS813242S must be constructed to a BAL12.5 in accordance with Agreement AS352532.**
5. **Before a dwelling is occupied or an occupancy permit issued by the relevant survey whichever occurs first, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.**
6. **The landscaping shown on the endorsed plans must be thereafter maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.**
7. **All waste must be managed in accordance with a Waste Management Plan endorsed by the responsible authority. A Waste Management Plan must:**
   i) **Stipulate a level of service and diversion of waste streams that is equal to or exceeding the service offered by council;**
   ii) **Detail the size, quantity and collection frequency of bins;**
   iii) **Detail bulk collection locations, placement of individual residences bins and hard waste storage within the boundaries of the property prior to collection;**
   iv) **Detail the limitations of collection vehicles in accordance with turning sweeps demonstrating that a contracted collection vehicle can manoeuvre within the site;**
   v) **Detail collection times to the satisfaction of the responsible authority; and**
   vi) **Include design inclusions to address contemporary litter spread, traffic management, noise management and odour designs.**

8. **Before the issue of a building permit by a 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 with the requirements of all relevant servicing authorities. The plans must be drawn to scale with dimensions 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. The rate of pre-development stormwater discharge shall be calculated using an allowable discharge rate for the site 37 l/sec/ha.**
        iv. **Provision of over-land surcharge routes for all storm events up to the 1% AEP. This must include cut-off drains and 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 and pedestrian access and car parking to the satisfaction of the Responsible Authority including:**
        i. **A vehicle access to be designed in accordance with IDM standards (SD 240). 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.**

9. **Before the issue of a Certificate of Occupancy, 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 proposed vehicle crossings must be constructed in accordance with the endorsed plans and IDM standards,**
   f. **All redundant infrastructure (including vehicle crossings) abutting the site shall be removed and the kerb, channel, naturestrip and footpath shall be reinstated.**
   g. **Removal of any sheds or redundant buildings located on created land parcels not accommodating a dwelling.**
10. **The onsite stormwater drainage system including stormwater detention, installed in accordance with the endorsed plans, must not be removed or modified without the further approval (in writing) of the Responsible Authority.**
11. **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**
    d. **presence of vermin or animals.**
12. **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.**

13. This Permit will expire if:

a. The development does not start within 2 years from the date of this Permit; or

b. The development is not completed within 4 years of the date of this Permit.

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

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

NOTES:

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.

Covenant

The responsible authority cannot make a decision to vary, alter or otherwise approve a plan for the development shown in the endorsed plans without having first obtained the approval of the Panorama Design Review Panel

Attachments

AT-1	Development and landscape plans	6 Pages
AT-2	Waste Management Plan	22 Pages
AT-3	Arboricultural Report	14 Pages
AT-4	Drainage and Parking Plans	27 Pages
AT-5	Cultural Heritage Management Plan	128 Pages
AT-6	***CONFIDENTIAL*** - Submissions	19 Pages

H.3 Planning Application 210214 Unit 4/6 Cyclone Street, Wonthaggi Use of the Land for a Restricted Recreation Facility (Gym) and Waiver of Car Parking Requirements under Clause 52.06

File No:	**CM22/18**
Division:	**Place Making**
Council Plan Strategic Objective:	**Sustainable Development** Prepare for growth while ensuring the intrinsic values and character of Bass Coast are retained.

Declaration

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

Executive Summary

Application number:	210214
Applicant:	Alli Kinder C/- Beveridge Williams
Land/Address:	Unit 4, 6 Cyclone Street, Wonthaggi VIC 3995
Ward:	Bunurong Ward
Proposal:	Use of the land for a Restricted Recreation Facility (Gym) in the IN1Z and Waiver of Car Parking Requirements under Clause 52.06.
Zone:	Industrial 1 Zone (IN1Z)
Overlay:	N/A
Planning Permit triggers:	Clause 33.01-1 – A permit is required to use the land for a Restricted Recreation Facility Clause 52.06-3 – A permit is required to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5.
Number of submissions:	A total of 11 objections were received.
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 11 objections.
Officer recommendation:	Notice of Decision to Grant a Planning Permit

Purpose of Report

For Council to consider a planning application for the Use of the land for a Restricted Recreation Facility (Gym) in the IN1Z and reduce to zero the number of car parking spaces required at Unit 4, 6 Cyclone Street, Wonthaggi VIC 3995.

Summary of Officer Recommendation

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

- The proposed use is consistent with the objectives of Local and State Planning Policy.
- The proposed use has been assessed as providing a sufficient and satisfactory response to the provisions of the Zone and relevant Particular Provisions.
- The application has demonstrated that there is sufficient on-street and off-street parking on Cyclone Street to accommodate the proposed use.
- The application has demonstrated that noise impacts to adjoining sensitive receptors can be mitigated using appropriate acoustic attenuation measures.

Main Considerations

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

- Use of the Land
- Noise Abatement
- Provision of sufficient car parking.

The Proposal

This application proposes to use the land for a Restricted Recreation Facility and seeks a waiver of car parking requirements in accordance with proposal prepared by Beveridge Williams. The use is proposed to operate Monday to Friday from 5am to 10am, and 5pm to 8pm; and on Saturday from 6am to 9am. No classes are proposed to run on Sunday.

It is proposed to provide classes for up to 20 patrons, with two staff on site during these times. All activity will be confined to the tenancy and will not use the common property area.

The application further seeks a waiver of 22 car parking spaces as required under Clause 52.06 of the Bass Coast Planning Scheme.

The decision plans are provided as Attachment one and are detailed below:

- Planning Policy Response and Description of Use Report
- Site Plan and Detailed Floor Plan prepared by Mitech Building Designs
- Signage Plans prepared by Elite Signs
- Advertised Car Parking Demand Assessment prepared by Beveridge Williams, Dated 14 October 2021
- Amended Car Parking Demand Assessment prepared by Beveridge Williams, Dated 18 January 2022
- Acoustic Assessment Report prepared by Telemetrix Acoustic & Vibration Solutions, Dated 12 January 2022

Key features of the proposal include:

- Internal alterations to the existing warehouse building to retrofit the space for use as a Restricted Recreation Facility (Exempt from the requirements of a Planning Permit)
- Installation of Business Identification Signage (Exempt from the requirements of a Planning Permit)
- Change of Use
- Waiver of Car Parking Requirements.

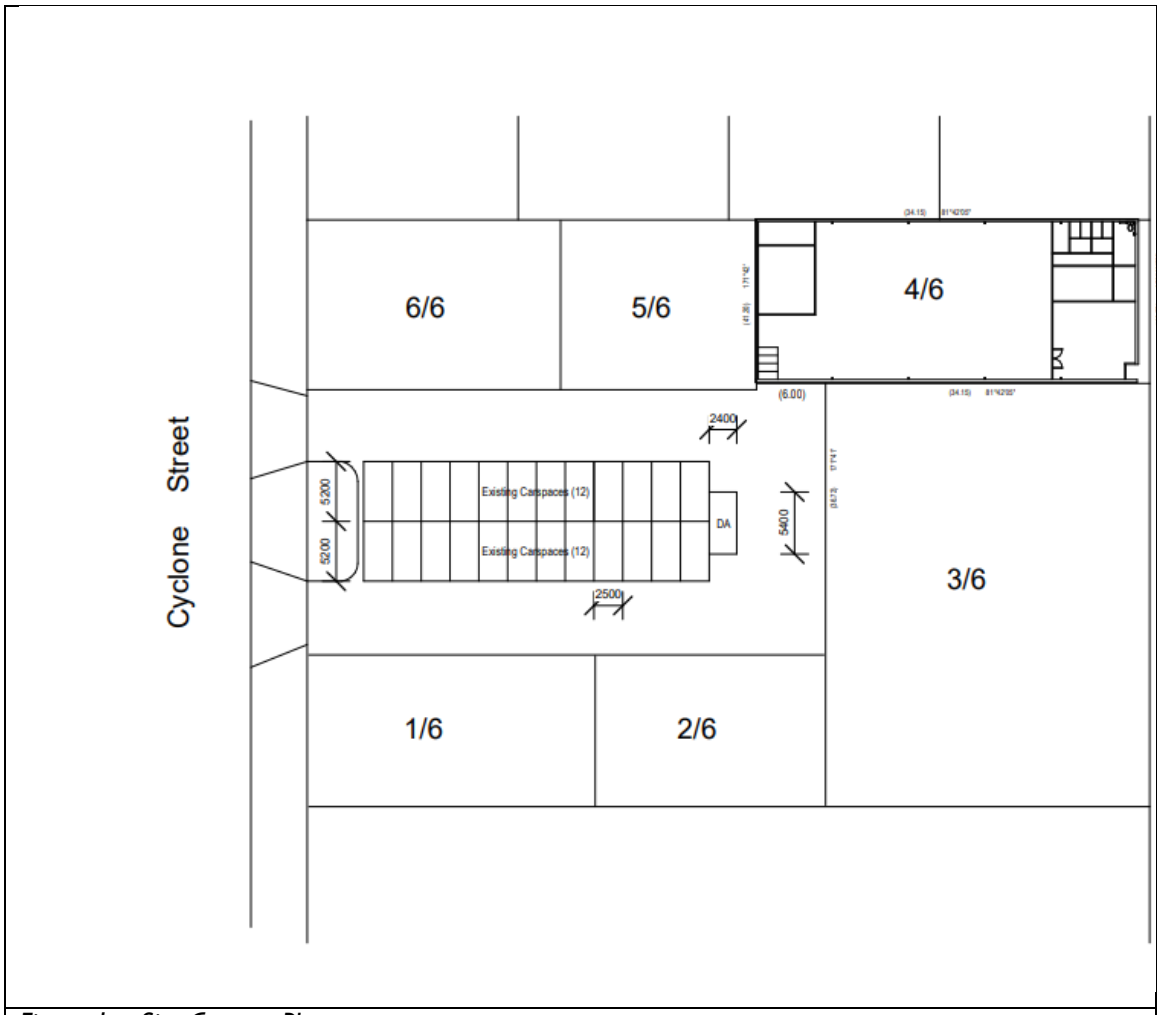


Figure 1 – Site Context Plan

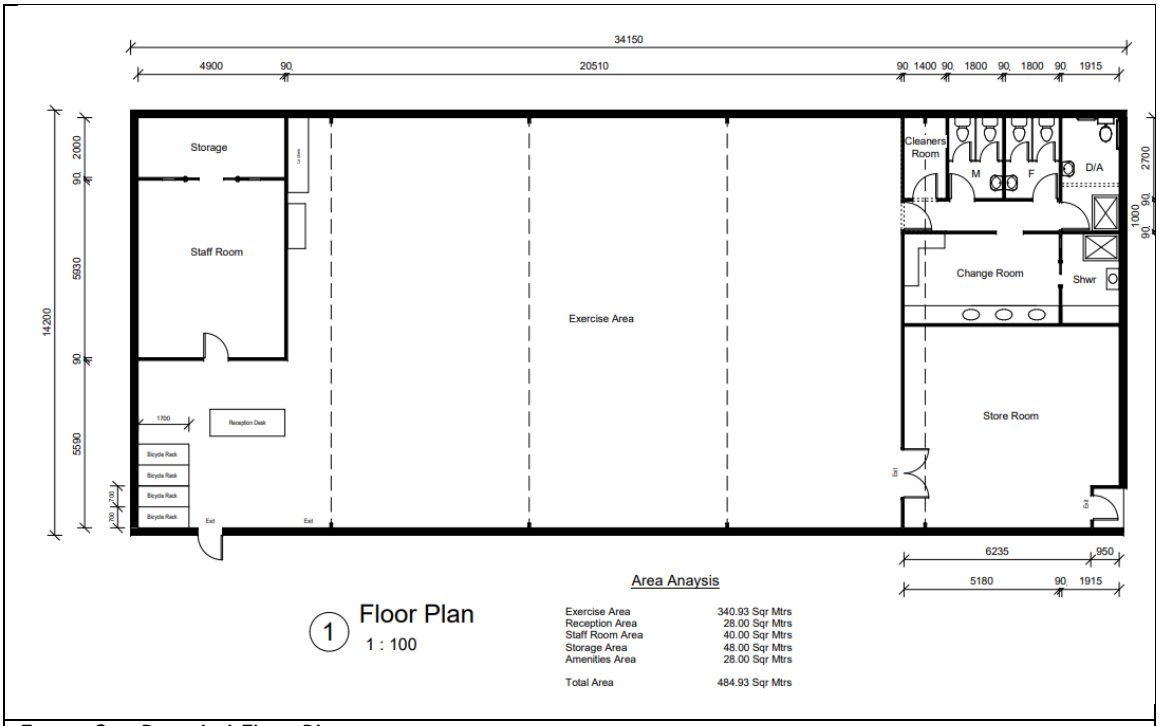


Figure 2 – Detailed Floor Plan

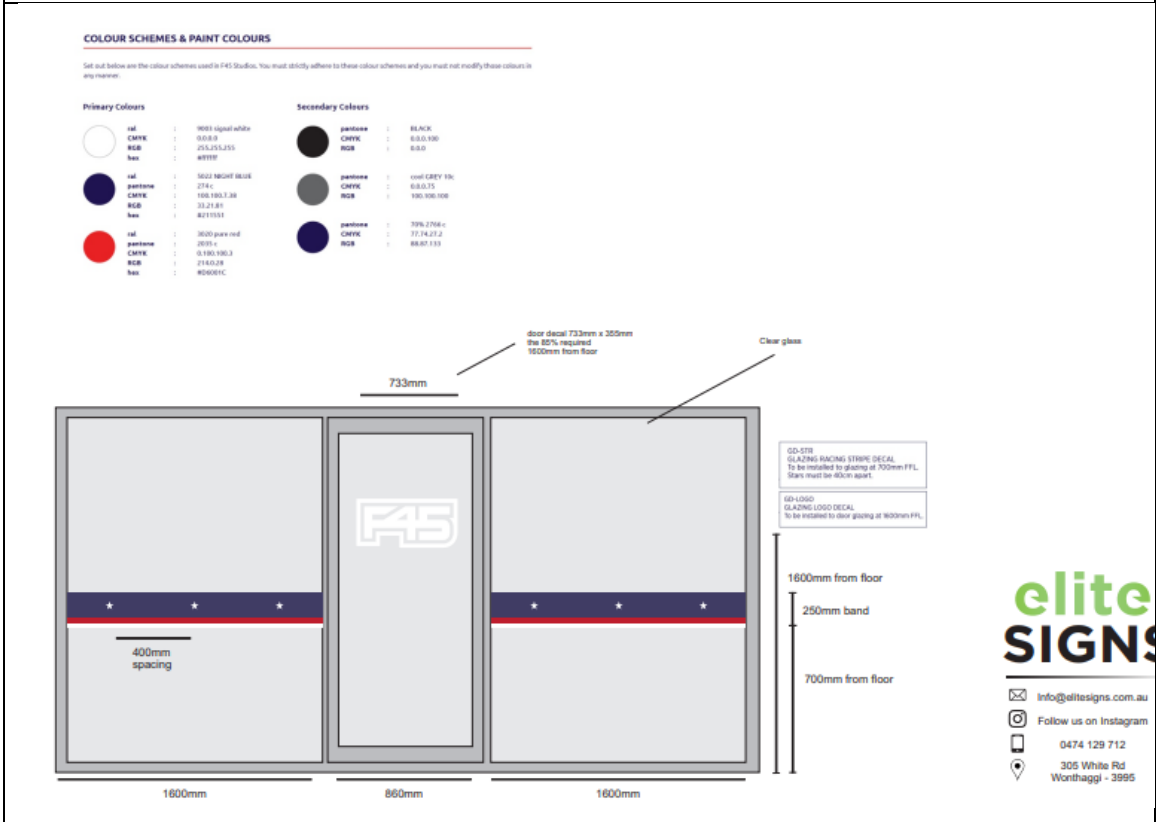


Figure 3 – Signage Plan

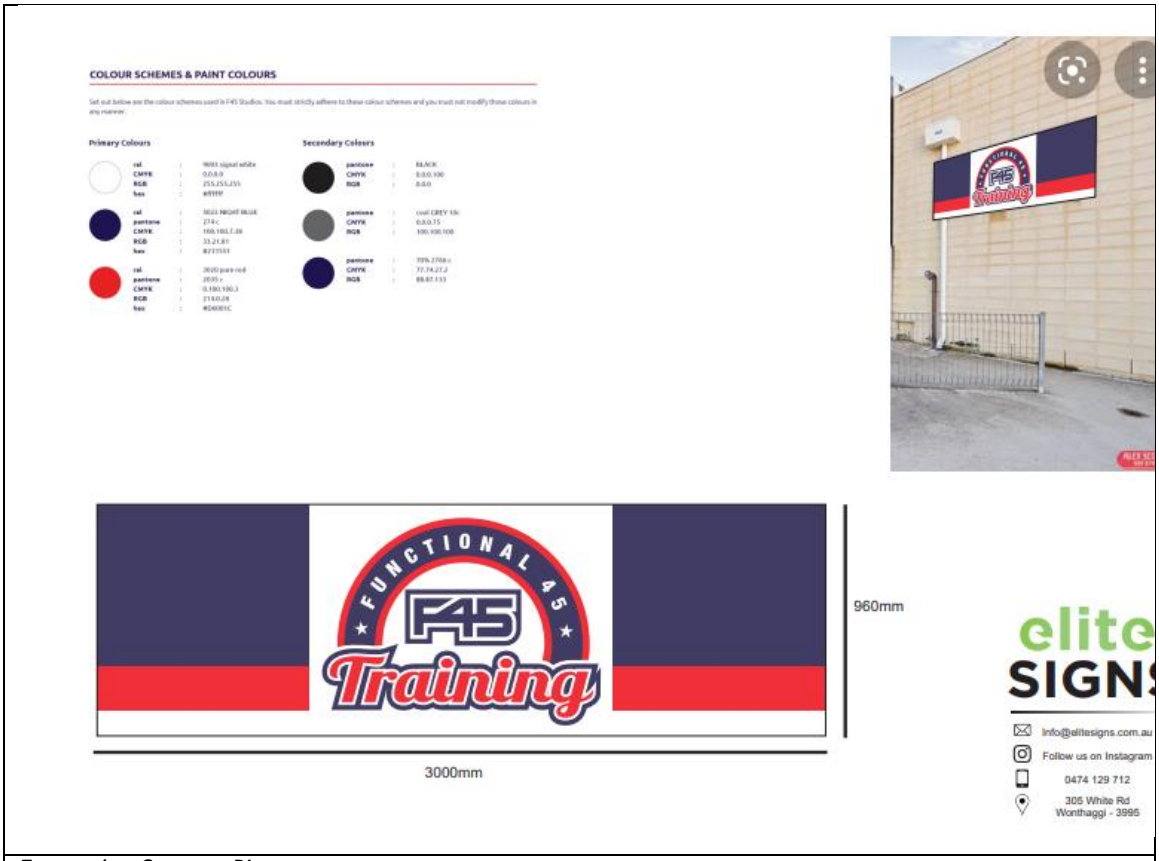


Figure 4 – Signage Plan

Background

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

Site Dimensions and Area	The site is an industrial tenancy bounded by walls, measuring 34.15m by 14.2m and providing a total area of 484.93 square metres of floor space.
Topography	Flat
Vegetation Cover	N/A
Current Use and Development	The tenancy of Unit 4 was previously used as a Children's Play Centre, in accordance with Planning Permit 110450
Easements	N/A
Restrictive Covenants and/or Section 173 Agreements	The subject site is affected by Section 173 Agreement reference AH278960G. This dealing set out requirements for the construction of the original development and has no bearing on this application for use.
Aboriginal Cultural Heritage Sensitivity	The subject site is located within an area of Aboriginal Cultural Heritage Sensitivity; however, it is not considered that a CHMP is required as there are no buildings and works proposed outside the tenancy.

Planning Permit History	A search of Council records indicates prior Planning Permit history relevant to this application as outlined below.

Relevant Planning History

The following relevant applications have been considered for the subject site:

Application No.	Proposal	Date of Decision
110450	Use of the land for an Indoor Play Centre	02 April 2012

The following relevant applications within close proximity of the subject site have been considered:

Address	Proposal
Unit 5, 6 Cyclone Street, Wonthaggi	Planning Permit 180364 was issued on 18 December 2018 under delegation and allowed the use of the land for a Restricted Recreation Facility and the waiver of Car Parking requirements.

Subject Site And Surrounds

The site is located on the east side of Cyclone Street, between Poplar Street to the north and Korumburra Road to the south. The site is a rectangular shaped lot with no frontage to the street, a maximum depth of 31.15m and a width of 14.2m, with a site area of 484.93 square metres.

The site is currently developed as part of an existing warehouse development of six tenancies in total, including a central common property parking area with 25 spaces.

The main characteristics of the surrounding area are:

North Adjacent land to the north of the site are residential properties with access from Back Lane Cyclone Street and Poplar Street. They generally contain single dwellings with infill development, and minimal vegetation.

South To the immediate south are further tenancies within the same industrial warehouse complex at 6 Cyclone Street.

East To the immediate east of the site are residential properties with access provided from McKenzie Street. They generally contain single dwellings and infill unit development, with some landscaping vegetation.

West To the immediate west of the site are further tenancies within the same industrial warehouse complex at 6 Cyclone Street.



Figure 5 – Site and surrounds



Figure 6 - Zoning Map

Consultation

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

The Applicant gave notice in the following manner:

- Sent copies of the Notice by registered mail to 37 landowners and occupiers; and
- Placed two Notices on the land.

In response to notification the application attracted 11 submissions.

A copy of each submission is included in Attachment two.

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

In response to the submitter concerns, the applicant has engaged an Acoustics Specialist to prepare an Acoustic Report to support the application and provide for recommended noise levels to mitigate the potential for adverse amenity impacts.

Referrals

The following table outlines the referral requirements of this application.

Referral Authority	Comments
External (Section 52 of the *Planning and Environment Act 1987*)	
EPA	The application was notified to the EPA under Section 52 of the Act, in order to provide any comments on Noise Abatement. A response was received and contained no objections to the proposal.
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Development Services	Consented subject to the inclusion of conditions which restrict operating hours outside of 10am to 5pm and limiting the number of patrons to 20 per class.

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses include:

- Clause 11-01-1L-02 Wonthaggi
- Clause 13.04-1S Contaminated and potentially contaminated land
- Clause 13.05-1S Noise abatement
- Clause 17.01-1L Diversified economy
- Clause 17.03-1S Industrial land supply

The intent of the relevant policies is to reinforce Wonthaggi's role as the regional centre for southwest Gippsland, the major service centre for Bass Coast Shire and the township where major development should occur.

The application is considered to meet these policy objectives through the provision of a new restricted recreation facility in a central location within the township boundaries of Wonthaggi.

Clause 13.04-1S (Contaminated and Potentially Contaminated Land) sets out strategies to ensure that potentially contaminated land is suitable for the proposed use, prior to the commencement of that use. Although the subject land is located in an Industrial One Zone, it is considered that the previous use of the building as an indoor play centre is unlikely to have resulted in adverse contamination that would affect the outcome of this recommendation.

Clause 13.05-1S (Noise Abatement) and Clause 13.07-1S (Land Use Compatibility) set out to ensure that development is not prejudiced, and community amenity is not adversely impacted by noise emissions; and to ensure that land uses are compatible with adjoining and nearby land uses. In consideration of the proposed use, it is noted that the adjoining building at Unit 5/6 Cyclone Street has previously been used for the purposes of a Restricted Recreation Facility in accordance with Planning Permit 180364, and it is therein considered that precedence has been set for the proposed land use. Whilst the proposal is likely to present some audible noise emanating from the tenancy during activities, the subject site is located within an Industrial Zone whereby it is expected that noise will be generated.

The application has been accompanied by an Acoustics Report prepared by Telemetrix Acoustic & Vibration Solutions, dated 12 January 2022. The report outlines that background noise measurements were undertaken in the surrounding area, and measurements were taken from the F45 Pakenham Facility during a typical training session to outline the expected amount of noise emanating from the proposal.

The report outlines that "The music and trainer voice levels generated inside the gym facility meet the internal noise level recommended for commercial spaces, whereas the noise levels marginally exceed the external noise criteria for residential receivers in Poplar Street and McKenzie Street".

The following recommendations are included in the report in order to mitigate the noise impacts from the proposed facility:

- Limit the overall music and trainer voice levels to 80 dB(A). A noise limiter could be implemented.
- Make sure the orientation of the speakers in not directed towards the walls abutting the nearest sensitive receivers. In addition, vibration isolation of the speakers from the building structure can be implemented using suspension mounts/hangers to reduce structure borne noise levels to the adjacent commercial spaces.
- Optional – add acoustic absorption to reduce the noise 'build up' in space, control sound that travels back and forth successively between parallel surfaces, such as walls, and acoustic reflections from walls and ceiling.

The report further provides the following recommendations to minimise the noise emanating from car parking during the early hours of the morning:

- Patrons arriving or departing the gym facility with their vehicles would normally be expected to do so in a relatively quiet and orderly fashion.
- Management personnel will use their best endeavours to ensure that patrons disperse in an orderly manner and that no patrons associated with the gym facility congregate in the car park or surrounding area.

- Management personnel will be responsible for ensuring that to their best endeavours no disturbance occurs of emanates from the gym facility which would be likely to cause a nuisance to adjoining occupiers or cause detriment to the amenity of the neighbourhood.

In order to provide enforceable controls on the proposed use, it is therefore recommended that the submitted Acoustics Report is endorsed as part of this permit should Council determine to support the recommendation, and a condition be included which provides that the recommendations of the report are implemented in full.

It is considered that the proposal further provides a positive response congruent with the objectives and strategies of Clause 17.01-1S and 17.01-1L (Diversified Economy) as well as Clause 17.02-1S (Business) through providing consumable, recreational and tourism services, the adoption of which is evident in the number of retail or personal service type businesses establishing throughout Wonthaggi.

Zone Assessment

Clause 33.01 - Industrial 1 Zone

The purpose of the Industrial 1 Zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.

Pursuant to Clause 33.01-2, the application was accompanied by a description of the proposed business and the likely effects on the neighbourhood and nearby businesses. Further assessment on the impacts of the proposal on other surrounding businesses, as well as the impacts of surrounding businesses on the proposal, within the context of the provision of car parking, was provided to Council in the form of an empirical car parking demand assessment. Car parking has been assessed independently in later sections of this report against the relevant provisions of Clause 52.06.

The proposal includes the provision of modest business identification signage in a similar location to the previous land use of an indoor play centre. The proposed signage presents a total area of 3.54 square metres, and therefore is below the allowable eight square metres without a Planning Permit.

The application has been considered against the decision guidelines of Clause 33.01-2 and can be supported for the following reasons:

- The proposal is not considered to have an adverse impact on adjoining and nearby land uses;
- The proposal is not considered to be detrimentally impacted by the operation of nearby land uses;
- The subject site is not considered to be at risk of contamination that would present an adverse risk to patrons of the proposed land use;

- The use of the land is unlikely to be to the detriment of adjoining or nearby businesses. This has been assessed with reference to the acoustic assessment submitted with the application.
- The operating hours for the proposed land use are generally outside of the primary operating hours of surrounding businesses.
- Signage is considered to be consistent with the limitations of a Category 2 area in accordance with the provisions of Clause 52.05.
- Parking has been demonstrated to be consistent with the requirements of Clause 52.06.
- Bicycle facilities have been provided in accordance with Clause 52.34.

Particular Provisions

Clause 52.06 Car Parking

The application has been accompanied by a comprehensive Car Parking Demand Assessment prepared by Beveridge Williams, which demonstrates that there is sufficient car parking on street to allow for the provision of 22 spaces during the proposed operational hours. An additional parking survey was undertaken on 13 January 2022 to coincide with the early morning sessions, which further considered an additional area of the street not previously assessed.

The site is contained within an industrial lot, which provides separate ingress and egress vehicle crossovers for the common access to Cyclone Street. The shared car park provides a total of 24 parking spaces including an additional acessible space.

Cyclone Street is a Council operated local road, providing un-restricted on-street parking on both sides generally within the vicinity of the site. A demand survey was undertaken on Tuesday 14 September 2021, and an additional survey was undertaken on Thursday 13 January 2022 between the hours of 8:30am and 5:30pm and 5:00am and 10:00am respectively, and the final report concluded with the following comments:

- The site is to operate as a restricted recreational facility and anticipates being open between 5am-10am and 5pm-8pm on weekdays, between 6am-9am on Saturdays and closed on Sundays.
- The recreational facility will facilitate up to two instructors for fitness & health services and 20 patrons at any given time.
- The Car Parking Demand Survey shows that there are 32 car parking spaces available along the surveyed area during the morning and 63 during the afternoon peak car parking demand periods, which occur between 9:30am-10:30am and 5pm-6pm respectively.
- In accordance with the Bass Coast Planning Scheme, the car parking requirement for a recreational facility is not stated – a parking rate of one space per staff and patron was applied.
- The parking requirement of 22 spaces does not exceed the surveyed parking provision during the proposed operating times.

- The total car parking requirement will be sufficiently accommodated by the on-street and off-street parking provision.

Survey Date:	Tue, 14-Sep-21
Survey StartTime:	8:30 AM
Survey End Time:	5:30 PM
Survey Interval:	1:00

	Supply	Check	Parking Occupancy											
			8:30 AM	9:30 AM	10:30 AM	11:30 AM	12:30 PM	1:30 PM	2:30 PM	3:30 PM	4:30 PM	5:30 PM	Avg	Max.
Road / Nature strip	38	38	14	19	22	32	19	20	18	17	5	3	17	32
Carpark	24	24	13	17	13	13	14	12	13	14	11	2	12	17
	62	62	27	36	35	45	33	32	31	31	16	5	29.1	49
	Available Spaces		35	26	27	17	29	30	31	31	46	57	32.9	13
	Capacity		62	62	62	62	62	62	62	62	62	62	62	62

Planning Permit 110450 for the use of the land for a play centre allowed for up to 60 Patrons during weekdays, and 90 Patrons on weekends at any one time, and it is therefore considered that the proposed use of the land for a Restricted Recreation Facility for 20 Patrons and two staff, requiring a maximum total of 22 car parking spaces is lower than the number of spaces that would have been required for the existing use. Although the use of the land for a Children's Play Centre technically ceased over two years ago and a permit exemption is not applicable, the previous use can still be considered to provide context to the proposal.

Clause 52.34 – Bicycle Facilities

Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. Whilst Table 1 does not contain a reference to a Restricted Recreation Facility, this land use is nested within Minor Sports and Recreation Facility in accordance with Clause 73.03.

A Minor Sports and Recreation Facility is therefore required to provide 1 space per four employees and one space for visitors per 200 square metres of net floor area. Based on the above rates, the application is required to provide a minimum of four bicycle parking spaces within the lot.

The plans provided with the application demonstrate that four spaces will be made available to the left of the entrance to the facility, and therefore the proposal is considered to comply with the provisions of Clause 52.34.

Concerns Raised By Submitters

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

Submitter Theme	Council Officer Response
Insufficient Car Parking	All of the submissions raised concerns related to the provision of car parking within Cyclone Street and the common property of 6 Cyclone Street. Submissions against the proposal indicated that five of the car spaces within 6 Cyclone Street have also been allocated and privately leased to a different company, which would therefore indicate that the onsite provision of parking is consequently 19 spaces.

	Despite this, it is not considered fatal to the application that 19 instead of 24 spaces are available within the common-property area of the site. Based on the car-parking demand assessment provided with the application, there are 26 spaces available during the morning peak time of 9:30am to 10:30am, and a reduction of five spaces would indicate that there are 21 spaces still available within the surrounding area to provide for car parking to morning classes. Spaces typically became less available during the late morning and typical business operating hours of the afternoon, and by the time the proposed use intends to commence afternoon classes there is substantial parking available throughout both the car park and on-street parking on Cyclone Street. Figure 7 above shows the tabulated data collected during the car parking availability assessment which indicates that there will be sufficient parking available during the operational hours of the proposed use, particularly given that the use intends to operate outside of the general business hours of other businesses in the area.
Potential Capacity of the Gym	Concern was raised as to the intended capacity of the proposed use which referred to the potential capacity of 340 square metres under current COVID-19 Restrictions, where it is insinuated that up to 85 people could be using the gym at any given time. The applicants' have provided a business plan and operational capacity of 20 patrons at any given time, and these capacity limits will be included on any permit to issue should Council resolve to issue a Notice of Decision to Grant a Planning Permit.
Traffic Congestion and Movement Issues	Whilst it is acknowledged that the smaller than usual nature of Cyclone Street provides limitations for the movement of larger industrial vehicles through the estate, it is noted that the primary operating hours of the proposed use are outside of the general business hours of generally industrial/light industrial/commercial operations. Reference has been made to the previous use of the site as an indoor play facility and the implications this had on traffic management on Cyclone Street, and it is noted that Planning Permit 110450 allowed for a substantially higher number of patrons during operational hours, being 60 persons excluding staff between 9:30am-5:30pm

	Monday to Friday, and 90 persons excluding staff on Saturday and Sunday. The proposed use as a restricted recreation facility is proposing substantially less patrons than this at 20 pax maximum and is considered to present a decreased traffic impact to this previous use. It is further noted that previous Planning Permit 180364 for the use of the land for a restricted recreation facility at 5/6 Cyclone Street allowed for a maximum number of 25 patrons at any time between 6am-7pm Monday to Friday and it is considered that the proposal before Council presents an improvement on previous traffic impact considerations. Evidence has been provided in submissions of high parking occupancy rates during the day on Cyclone Street, which is further evidenced in the Car Parking Demand Assessment submitted with the application and is not contested by the Responsible Authority. It is however prudent to consider that given the proposed operating hours provided with this application, the availability of parking during the middle of the day and afternoon is not of any adverse impact to the proposed use.
Incompatibility with IN1Z	Whilst the use of Industrial Zoned land for a Restricted Recreation Facility is not an as of right land use, neither is it prohibited. Precedence has been set within the complex allowing multiple non-industrial land-uses both currently and in the past as evidenced by previous permits at Units 4 and 5 of 6 Cyclone Street. It is further noted that Unit 3 is currently occupied by a place of assembly (Church). Previous sections of this report have outlined an assessment of the proposal against the decision guidelines of Clause 33.01-3 and the application has been considered to provide a satisfactory response to these guidelines.
Noise Abatement	Whilst Clause 13.05-1S sets out a higher level consideration of noise impacts from proposed land uses, the proposal is located within an industrial area whereby it is generally expected that businesses will generate some level of noise in excess of standard commercial areas. Noise levels from businesses in industrial areas are managed directly by the Environmental Protection Authority in accordance with the *Noise limit and assessment protocol for the control of noise from*

	*commercial, industrial and trade premises and live entertainment venues (*EPA Publication 1826.2), and enforcement of these standards is the responsibility of the EPA. In order to appease objections, it is proposed to include a condition 1 requirement which requires the submission of an acoustics report which will provide an analysis of the allowable volume for music to be used in classes and demonstrates how this will ensure compliance with the EPA publication 1826.2.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to present a satisfactory response to the relevant provisions of the Scheme.

The application underwent notification and as a result there were 11 submissions received. Concerns raised by submitters were considered in the assessment of the application.

It is recommended that Council resolve to issue a notice of decision to grant a Planning Permit for planning application 210214, subject to conditions.

Recommendation

That in relation to Planning Permit application 210214 for the use of the land for a Restricted Recreation Facility and Waiver of Car Parking Requirements located at 4/6 Cyclone Street, Wonthaggi VIC 3995, Council resolves to issue a Notice of Decision to Grant a Planning Permit subject to the following conditions:

Layout not to be altered – Use

1. **The use as shown on the endorsed plans must not be altered without the written consent of the responsible authority.**
2. **The use of the land for a Restricted Recreation Facility must only occur between the following hours:**
   a. **6.00am to 10.00am and 5:30pm to 8.00pm Monday to Friday (excluding public holidays)**
   b. **6.00am to 9.00am Saturday**

Unless with the further written consent of the Responsible Authority

Amenity

3. **The use must be managed 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**

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

4. **The maximum number of patrons attending the facility at any one time may not exceed 20 without the further written consent of the Responsible Authority.**
5. **Noise levels emanating from the subject land must not exceed those required to be met under State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No-N1. (Sepp N1)**
6. **Noise Attenuation Measures recommended in the Acoustics Report prepared by Telematrix Acoustic & Vibration Solutions, project number 22011001J dated 12 January 2022, and endorsed as part of this permit, must be implemented in full and maintained to the satisfaction of the Responsible Authority.**
7. **There must be a minimum of 15 minutes between classes to allow for the safe ingress and egress of patrons within Cyclone Street.**

Permit Expiry - Use

8. **This permit will expire if one of the following circumstances applies:**
   a. **The use is not started within two years of the date of this permit;**
   b. **The use ceases to operate for a period of two or more years.**

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

Attachments

AT-1	Development and Signage Plans	7 Pages
AT-2	Planning Policy Response & Description of Use	7 Pages
AT-3	Amended Car Parking Demand Assessment and Objection Response	5 Pages
AT-4	Acoustic Report	18 Pages
AT-5	***CONFIDENTIAL*** - Copy of Submissions	27 Pages

H.4 Planning Application 210351 - 88-89 Watt Street, Wonthaggi

File No:	**CM22/5**
Division:	**Place Making**
Council Plan Strategic Objective:	**Sustainable Development**
	Prepare for growth while ensuring the intrinsic values and character of Bass Coast are retained.

Declaration

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

Executive Summary

Application number:	210351
Applicant:	Lindsay Hamilton
Land:	88-98 Watt Street Wonthaggi
Ward	Bunurong Ward
Proposal	Use of the land for on premises consumption of liquor (General Licence) in association with a food and drink premises (diner and pool hall)
Zone:	Clause 34.01 - Commercial 1 Zone
Overlay:	N/a
Planning permit triggers:	Clause 52.27 a permit is required to sell or consume liquor
Number of submissions:	10 objections have been received
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 10 objections
Recommendation:	Notice of Decision to Grant a Planning Permit

Purpose of Report

For Council to consider a planning application for the Use of the land for on premises consumption of liquor (General Licence) in association with a food and drink premises (diner and pool hall) at 88-98 Watt Street, Wonthaggi.

Summary of Officer Recommendation

That Council authorise Officers to issue a Notice of Decision subject to conditions outlined in the Officer Recommendation section of this report.

The proposal is supported for the following reasons:

- The proposed development is consistent with the objectives of Local and State Planning Policy.
- The proposed liquor licence is associated with a use well located within the Wonthaggi Commercial Centre.
- The sale and consumption will not negatively impact the amenity of the area.

Main Considerations

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

- Proposed hours and patron numbers.
- Wonthaggi Commercial Centre.
- Amenity impacts to local area.

The Proposal

This application proposes to sell and consume liquor on the subject site associated with a diner and pool hall in accordance with the Red Line Plan prepared by Shane Osbourne Drafting Dated Dec 2021. The decision plans are provided as Attachment one and are detailed below:

- Redline Plan
- Written Submission

The proposed liquor licence is to be associated with a food and drink premises comprising of a diner and pool hall.

The original application material indicated that a liquor license was sought from 6am, however this was corrected by the applicant and objectors were notified via email.

The proposed hours for the sale and consumption of liquor is now as follows:

- 11am to 11pm (Sunday to Thursday)
- 11am to 1am (Friday and Saturday)

A maximum of 400 patrons is proposed.

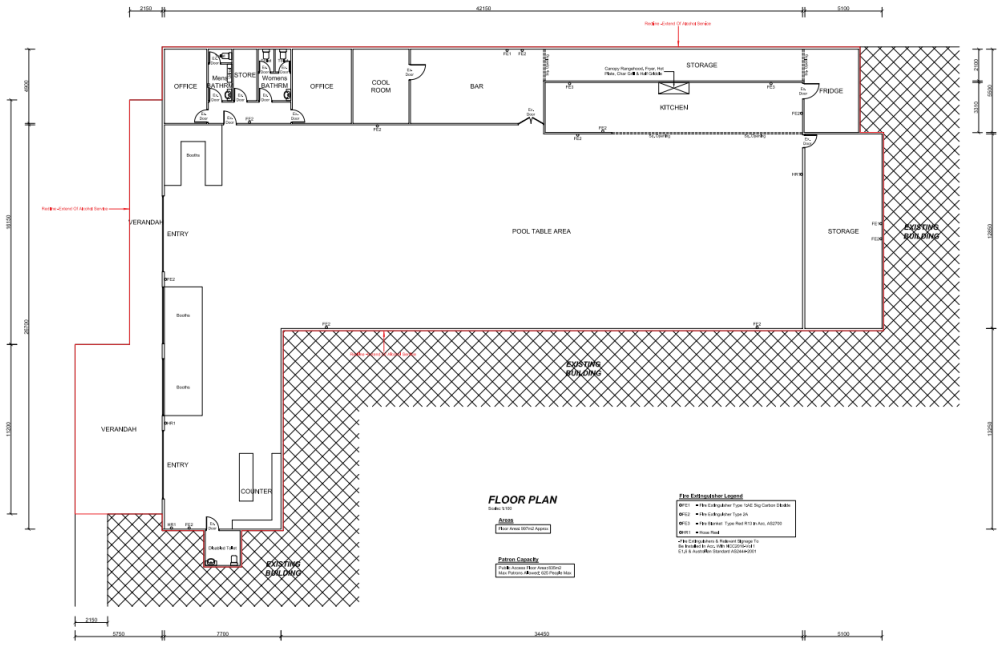


Figure 1 - Proposed Plans

Background

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

Site Dimensions and Area	The subject site a 997 sqm tenancy which is located in a commercial building comprising of two tenancies. The tenancy is roughly 49.4 metres by 31.6 metres. The overall property size is 3090 sqm.
Title particulars:	The site is identified as Lot 2 on Plan of Subdivision 521358Y.
Site Frontage	The site frontage to Watt Street is 66.5 metres.
Topography	The site slopes from the south to the north.
Vegetation Cover	Planting in the street only.
Current Use and Development	Two commercial tenancies with under croft car parking.
Easements	E-1 – in two parts – electricity easement in three parts.
Restrictive Covenants and/or Section 173 Agreements	Section 173 agreement – AC825161L Relating to car parking for public and private use.
Aboriginal Cultural Heritage Sensitivity	In area of Cultural Heritage however no buildings and works proposed which would require a CHMP.
Planning Permit History	02245 - Development and use for a Bi-Lo supermarket, speciality shops and a carpark

Relevant Planning History

The following relevant applications have been considered for the subject site:

Application No.	Proposal	Date of Decision
02245	Development and use for a Bi-Lo supermarket, speciality shops and a car parking reduction	25 June 2003

Subject Site And Surrounds

The site is located on the north side of Watt Street, between Abrahams Lane (east), Wrench Lane(north) and Card Lane (west).

The site is one of two irregular shaped commercial tenancies within a generally rectangular shaped lot with a site frontage to Watt Street is 66.5 metres.

The existing building on site hosts two tenancies, the subject site is the northern tenancy.

The subject site is located Wonthaggi Town Centre. The main characteristics of the surrounding area are:

- North – Commercial Tenancies fronting Graham Street with rear access to Wrench Lane.
- South – Watt Street and south of Watt Street is the Wonthaggi Police Station and Wonthaggi Civic Centre. Some Residential Zoned land is located to the west of the Police Station. No.79 Watt Street is occupied by a medical centre it is noted there is no planning permit history for the use.
- East – Commercial Tenancies fronting McBride Avenue with rear laneway access to Abrahams Lane
- West – Watt Street Public Car Park

Title Particulars



Figure 2- Site and Surrounds

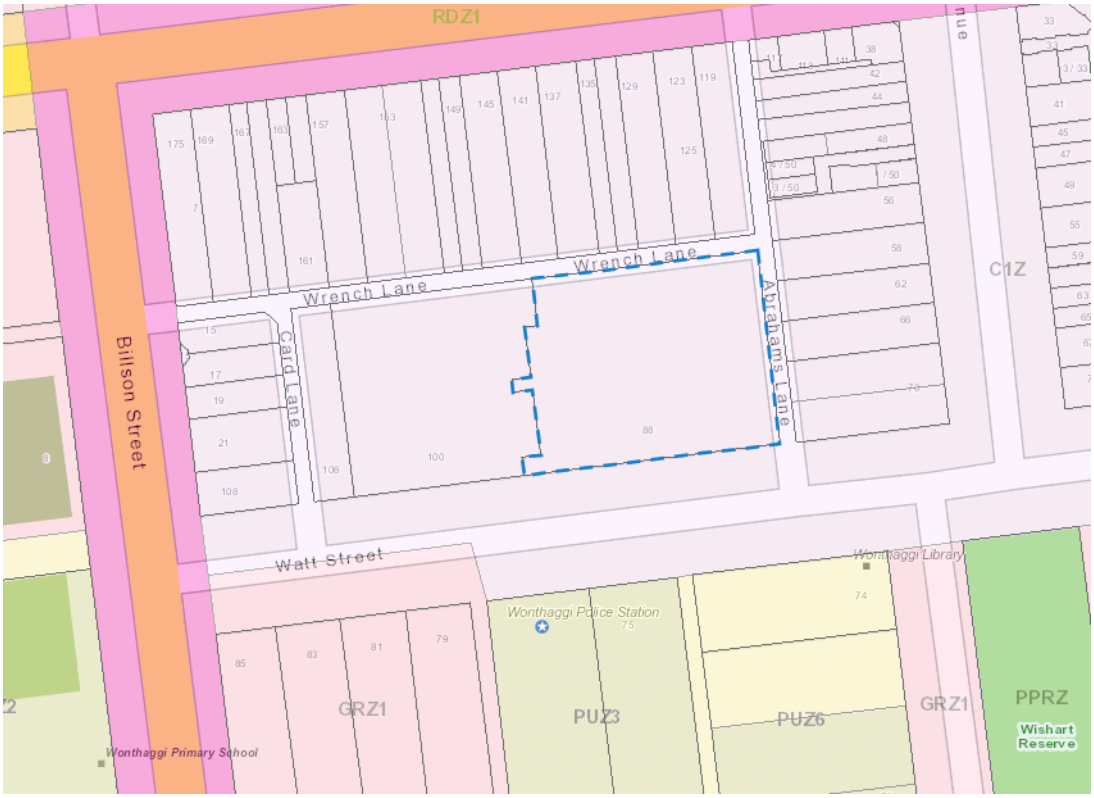


Figure 3 - Zoning Map

Consultation

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

The Applicant gave notice in the following manner:

- Sent copies of the Notice by registered mail to 103 land owners and occupiers; and
- Placed a Notice on the land.
- Notice in the Sentinel Times

In response to notification the application attracted 10 submissions.

A copy of each submission is included in Attachment two.

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

Referrals

The following table outlines the referral requirements of this application.

Table two: Referral Authorities and their comments

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
	No external referrals
VicPol	A conversation was had with Wonthaggi Police who had no objection to the proposal but indicated that they would utilize the VCGLR notice provisions to discuss the license with VCGLR.
Internal (Section 52 of the *Planning and Environment Act 1987*)	
	No referrals

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

Clause 02.03 Strategic Direction

Clause 11.01 - Victoria

Clause 11.03 - Planning for Places

Clause 17.01 Employment

Clause 17.02 Commercial

It is considered that the proposal is consistent with the Planning Policy Framework(PPF) in relation to settlement, the local and visitor economy and tourism. The PPF emphasises objectives and strategies that seek to create vibrant activity centres that respond to population and market conditions.

State planning policy supports providing communities access to a wide range of goods and services and providing local employment opportunities that support local economies. Planning is directed to ensure suitable controls are in place to control amenity impacts on sensitive land uses.

The provision of the consumption of alcohol in an already established commercial centre is considered to be consistent with the Wonthaggi Structure Plan (2018) as the proposal will allow for the provision of alcohol at a food and drink premises. This will introduce variety to the existing commercial uses in the area.

The proposal is consistent with development and investment opportunities in accordance with the settlement framework and supports the continuing role of Activity Centres such as Wonthaggi.

The intention of the relevant policies is to encourage commercial opportunities in Wonthaggi. The PPF encourages diversity in the local economy by supporting tourist development and other commercial enterprises. Wonthaggi identified is as the region's main centre for administrative, retail, commercial, industrial and community facilities. This proposal advances those directions by concentrating business growth in the established precinct.

The food and drink premises will be located in a commercial centre currently has multiple shops and businesses operating at various hours including the subject premises, including Wonthaggi Policy Station. It is considered that the proposal can be satisfactorily managed with conditions should a permit be issued, in order to limit the impact of noise on adjoining and nearby residential areas.

The site is located in a commercial area where it is considered, appropriate to allow a range of commercial uses to serve local community needs. Accordingly, the use of the land for a food and drink premises is an as of right use in the zone, and supporting the establishment of this restaurant will reinforce the role of Wonthaggi commercial area. The introduction of a liquor licence associated with the site within the Wonthaggi commercial centre is considered to be supported by the PPF.

Zone Assessment

Clause 34.01 – Commercial 1 Zone

This application does not trigger a planning permit under the zone as the land use is classified as food and drink premises (diner and pool hall) which are section 1 uses, and do not require planning approval.

Clause 52.06 Car parking

The proposal generates a requirement of car parking spaces of 39 spaces, calculated as follows: The total floor area is 996 sqm (9.96) x 4 (spaces per 100sqm) = 39 spaces.

The tenancy has the access to the 74 space undercroft number of spaces, which are shared with the adjoining tenancy providing 37 spaces to each tenancy. Given, the car parking requirement is 39 spaces there is a shortfall of 2 car spaces.

Pursuant to Clause 52.06-3(Car parking) a permit is not required for a car parking reduction of less than 10 spaces in the Commercial 1 Zone therefore the proposal does not require a permit for a reduction in car parking requirement.

Particular Provisions

Clause 52.27 – Licenced Premises

The purpose of the Licensed Premises is:

- To ensure that licensed premises are situated in appropriate locations.
- To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.

Pursuant to Clause 52.27 a permit is required to use of the land to sell and consume liquor if a license is required under the Liquor Control Reform Act 1998.

The proposal has been assessed against the decision guidelines of Clause 52.27 and it is considered that it can be supported for the following reasons:

- The proposal is generally consistent with relevant state and local planning policy as discussed in the section above.
- The use will be located within an established commercial centre and the proposal responds positively to the purpose of the zone.
- Amenity impacts as a consequence of this proposal are considered to be minimal and suitable mitigation measures can be effectively implemented through planning permit conditions and liquor licensing requirements. Pursuant to Clause 52.27 a permit is required to use of the land to sell and consume liquor if a license is required under the Liquor Control Reform Act 1998.
- The owner/operator and staff are required to maintain responsible service of alcohol qualifications.
- The site is well located to accommodate the proposed numbers with adequate parking provided.
- It is acknowledged that the land where the tenancy is located near some residential uses. However, the subject is zoned Commercial 1 Zone and it does not directly abut residential uses, with the residential uses located south over Watt Street. The proposed scale of the operation and suitable conditions on any permit that may issue in relation to managing amenity in the area can satisfactorily mitigate any unreasonable imposition on resident expectations.
- The Wonthaggi Town Centre will benefit from diversity of uses, especially allowing for afterhours entertainment options.
- The proposed use is predominantly a food and drink premises which is as of right in the Commercial 1 Zone where the purpose is to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- The size of the premises has the ability to accommodate is a maximum of 624 patrons, however 400 maximum have been applied for. It is considered that 300 patrons is a more suitable number for the location and will be conditioning 300 patrons as a condition of approval.
- The proposed hours of operation are considered appropriate in the site and context, it is not unreasonable for a social venue to cease serving of alcohol at 1am on a Friday and Saturday night.

- The impact on the amenity of the surrounding area is considered to have been minimised through the restriction of hours of operation and maximum patron numbers.
- The location of the site in close proximity to the Wonthaggi Police Station is of merit.
- To limit amenity impacts that may arise from the external seating area, conditions have been included which limit noise and patronage of external seating area. This is considered to be an appropriate response in order to create and accommodate viable business outcomes in the area.

It is considered that the premises is entirely suitable for the sale and consumption of alcohol and detrimental amenity impacts can be satisfactorily mitigated and managed via permit conditions should a permit issue.

Concerns raised by Submitters

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

Submitter Theme	Council Officer Response
Impact on businesses such as healthcare providers	It has been established that the Bass Coast Planning Scheme seeks to encourage a variety of business and economic opportunities within commercial centres. The location is considered to be appropriate and responds satisfactorily to the purpose of the commercial zone. While the use may be located in 100 metre proximity to healthcare providers, it is not uncommon in commercial precincts for a variety of uses in fact planning policy encourages diversity.
Impact on school in close proximity	The advertised material indicated 6am which was later corrected by the applicant. The hours of consumption of liquor will be conditioned to not occur prior to 11am daily, however the use is a section 1 use in the Commercial 1 Zone and can operate outside of these hours without selling alcohol. Limited hours of access to liquor will reduce access to alcohol at school drop off times. On the matter of clashing with school drop off times, the liquor license will not allow for sale or consumption of liquor before 11am. It is not unreasonable for traffic to become congested at times with in the Wonthaggi Town Centre and land Zoned Commercial however it is not considered to be an excessive amount should the approval of this proposal be undertaken.
Types of patrons	Planning cannot consider type of patrons that attend venues and uses.
Hours of operation	The use may operation without limited hours. The hours of service of liquor is under consideration only.

Amenity impact of residential uses	While it is acknowledged that there are residential uses within 100 metres of the venue, the use is not under consideration, only the liquor licence. The amenity impacts that result from the use and its proximity have been anticipated and accordingly conditions have been applied to limit external nose from the venue. Illegal car parking considerations are outside of the scope of Planning. The Watt Street car park is a public car park and is used by patrons of various venues and commercial uses. The car parking provision for the use does not require planning consideration, however it is anticipated that the car parking demand is anticipated to meet within the subject site, adjoining public car park and greater street network particularly as the use operates out of hours and on weekends.
Anti-social and harmful behaviour	The owner/operator and staff are required to maintain responsible service of alcohol qualifications. The licence holder will need to comply with planning permit conditions and any requirements of any Liquor Licence must be obtained from Liquor Licensing Victoria, pursuant to the Liquor Control Reform Act 1988.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered that the application should be supported subject to conditions.

The application underwent notification and as a result there were 10 submissions received. Concerns raised by submitters were considered in the assessment of the application.

It is recommended that Council resolve to issue a notice of decision to grant a planning permit for planning application 210351 subject to conditions.

Recommendation

That in relation to planning permit application 210351 for Use of the land for on premises consumption of liquor (General Licence) in association with a food and drink premises (diner and pool hall) located at 88-98 Watt Street, Wonthaggi Council resolves to issue a Notice of Decision to Grant a Permit subject to the following conditions:

General Conditions

1. **Before the provision and/or consumption of liquor hereby permitted starts, a Liquor Licence must be obtained from Liquor Licensing Victoria, pursuant to the Liquor Control Reform Act 1988, as amended.**
2. **The licensed area as shown on the endorsed plans as approved by this permit shall not be altered except with the written consent of the responsible authority.**
3. **The sale and consumption of alcohol must be restricted to areas shown on the endorsed plans.**
4. **Without the prior written consent of the responsible authority, the on premises sale and consumption of liquor shall only occur within the licenced area between the hours of:**
   a. **Sunday to Thursday 11:00 am 11:00pm**
   b. **Friday and Saturday 11:00am and 1:00 am the following day**
5. **No more than 300 patrons (including 20 on the verandah area) may be present on the premises at any one time, without the written consent of the responsible authority.**
6. **No more than 20 patrons may be present in the external seating (verandah) area at any one time, without the written consent of the responsible authority.**
7. **All patrons in the external seating (verandah) area must be seated at all times.**
8. **No alcohol to be consumed in the external seating area(verandah) between Monday to Friday, 11am to 5pm.**
9. **No entertainment or music (live or amplified) must be provided on the external seating area after 9pm each day hereby approved to the satisfaction of the Responsible Authority.**
10. **Food must be available for onsite consumption at all times liquor is available for consumption.**
11. **The hours of operation must be clearly displayed in a prominent position on the exterior window of the premises and also within the interior of the premises.**

12. **At all times during the operation of the use, there must be present on the premises a person over the age of 18 years who is responsible for ensuring that the activities on the premises and the conduct of persons attending the premises do not have a detrimental impact on the amenity of the locality to the satisfaction of the Responsible authority (referred to in this permit as 'the manager').**

    The manager must be authorised by the operator under this permit to make statements at any time on his/her behalf to any officer of the Responsible authority and of the Victoria Police and/or of Liquor Licensing Victoria authorised under section 129 of the Liquor Control Reform Act 1998; and/or to take action on his/her behalf in accordance with a direction by such officer.

13. **The owner/operator must take all responsible measures to ensure that patrons consuming alcohol remain within the licensed area, so as not to breach conditions of the liquor licence, and that patrons' behaviour is acceptable, so as not to create a nuisance to pedestrians or road users.**

14. **Noise levels emanating from the premises must not exceed those required to be met under State Environmental Protection Policy (Control of Music Noise from Public Premises) No. N-2. The provision and or consumption of liquor hereby permitted must not commence until such time as a Liquor Licence has been issued, pursuant to the Liquor Control Reform Act 1988, as amended.**

Permit Expiry

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

    a. **The liquor licence is not commenced within two years of the date of this permit;**

    b. **If the liquor licence ceases for two year or more**

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority before the permit expires or within 6 months afterwards, for the extension periods referred to in this permit.

NOTES:

- **A Building Permit may be required for this development. To obtain a building permit you will need to contact a registered building surveyor.**
- **Permission given under planning legislation cannot be construed as permission relating to any other legislation under Council jurisdiction, such as Health, Food or Tobacco Acts.**
- **The serving of food and /or alcohol on the street requires further consent from Local Laws.**

- **Should the future development be used for a commercial enterprise involving handling of food or drink, hairdressing, beauty therapy, myotherapy, colonic irrigation, skin penetration or tattooing or be providing accommodation to more than four (4) persons then the applicant must contact the Environmental Health Department for further advice concerning legislative requirements.**

Attachments

AT-1	Revised redline plan	1 Page
AT-2	Liquor licence proposal	1 Page
AT-3	***CONFIDENTIAL*** - Submissions	11 Pages

H.5 Response to Petition - Create a Short Bike Path in Shearwater Estate in Cowes

File No:	**CM22/37**
Division:	**Place Making**
Council Plan Strategic Objective:	**Our Places** Strengthening the connection between people and the public places they share

Declaration

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

Summary

The purpose of this report is to provide a response to a petition received by Council to Create a Short Bike Path in Shearwater Estate in Cowes.

A petition was received by Council at the 15 September 2021 Ordinary Meeting of Council regarding the creation of a short bike path in Shearwater Estate in Cowes.

At this meeting, Council resolved:

1. That the petition, Create a Short Bike Path in the Shearwater Estate in Cowes be received, noting in accordance with the Governance Rules section 54.10 it does not adhere to section 54.5, and lie on the table until a future meeting of Council.

2. That the head petitioner be advised of Council's decision.

This report provides an overview of the actions taken to investigate and consider the petition. It recommends that Council writes to the head petitioner thanking them and advising them that Council:

- Has installed this garden bed and rope and bollard fencing due to safety concerns
- Has completed an investigation that considered widening of the existing footpath and found that this would not provide a functional shared path link for bicycle riders

Background

At the 15 September 2021 Council Meeting a petition containing 111 signatures was received by Council (AT-1). The petition reads:

At the junction of Shelly Court and Shoalhaven Road in the Shearwater Estate in Cowes, there is a short public thoroughfare that separates traffic for motor vehicles and enables people to crossover on foot and on recreational vehicles.

However, the Bass Coast Shire has erected in May this year (2021) a total blockade to all recreational vehicles. Unless you are on a bicycle and accompanied by a child aged 12 years or under, you have to dismount your bicycle and walk across, or continue to the busiest street in the Estate.

The Bass Coast Shire initiated the blockade action because one resident complained of mud on the road caused by cyclists riding over soggy grass and continuing onto the road. The problem is the ground surface, not the cyclists. Mud on the road becomes a non-event with a hard surface/concrete path.

A short straight bike path across the thoroughfare is the obvious solution to a public crossing point that should allow all cyclists to safely navigate through the Estate - without having to dismount. The Bass Coast Shire believes cyclists will create a dangerous situation crossing close to driveways. Shelly Court and Shoalhaven Road are extremely quiet streets. Cyclists are used to riding cautiously past driveways, and drivers would naturally check clearance before reversing out of driveways.

It is grossly unfair that recreational cyclists are being blocked from riding across this public thoroughfare because of one minor complaint. The speed of cyclists crossing and entering adjacent streets is easily controlled by the installation on the cycle path of speed humps, obstructing bars and/or deep gutters. All these speed control methods are used effectively throughout other estates, and bike paths, on Phillip Island. This crossover point forms a link between cycle paths to Cowes central and Rhyll - where a connecting cycle path has been newly completed.

We call on the Bass Coast Shire to review this situation and create a short, straight bike path with suitable speed control methods. Recreational cyclists should not be blockaded from riding across a public thoroughfare. Phillip Island promotes itself as a recreational destination. The Bass Coast Shire should encourage the use of the cycle paths on Phillip Island by creating linkages, not blockades.

Council resolved at the 15 September 2021 Ordinary Meeting of Council:

1. That the petition, Create a Short Bike Path in the Shearwater Estate in Cowes be received, noting in accordance with the Governance Rules section 54.10 it does not adhere to section 54.5, and lie on the table until a future meeting of Council.

2. That the head petitioner be advised of Council's decision.

This report responds to the first part of that resolution.

Strategic Basis

Council Plan Strategic Objective:

Our Places - *Strengthening the connection between people and the public places they share*

Governing Documents

Council's Asset Management Policy and Strategy 2017

Council's Road Management Plan 2017

Council's Road Asset Management Plan 2019 – 2023

Council's Aspirational Pathways Plan 2016

Road Management Act 2004

Road Management Act 2004 Code of Practice, Management of Infrastructure in Road Reserves

Discussion

The request

In relation the petition request for a short bike path, the head petitioner initially contacted Council following the construction of the garden bed in the reserve. The garden bed was installed to mitigate road access and safety concerns at Shoalhaven Road with the intent of reducing risk by encouraging safer access. The head petitioner was met on site by Council representatives on 10 May 2021 to discuss their concerns and their proposed removal of garden bed and construction of a new path.

Initial assessment and response

Previous to the construction of a garden bed, bikes and golf carts were informally accessing across Council managed land directly adjacent to the existing footpath and entering Shoalhaven Road at the apex of the corner. The informal access and any potential constructed access was considered unsafe. The situation with path of travel into the apex of the intersection in context with driveway locations was deemed dangerous and an unacceptable risk to the public.

After considering the request Council officers wrote to explain Council's positon. The purpose of the garden bed and rope and pole fencing was explained to mitigate road safety risks. Information was provided to outline that there is existing footpath access in the direct vicinity of this area with a compliant and properly constructed crossing point over Shoalhaven Road. This is in very close proximity to the previous informal access and the footpath provides a short connection to Shelly Court for pedestrians, mobility scooters and those able to ride legally on the footpath or to walk bikes. It was explained that the footpath is not intended for golf carts and legally they must use the road.

The previous road safety risk was mitigated by preventing the informal access with soft landscaping solution and a rope and pole fence.

Further assessment

Following receipt of the petition by Council on 15 September 2021, further assessment has been undertaken. It was found that the risk associated with constructing an extra path into the apex of the intersection at Shoalhaven Road was unacceptable due to safety concerns with potential conflicts of vehicles and path users.

Consideration was given to widening the existing footpath between Shelly Court and Shoalhaven Road. The footpath length between Shelly Court and Shoalhaven Road is approximately 25 metres and it was assessed for potential inclusion and prioritisation in Council's footpath gaps program. To upgrade the section of footpath to shared path would require entry and exit point treatments to prevent vehicle access. As the proposed 25 metre section of shared path would finish at either end on a road or meet a standard width footpath, this section could not functionally form part of the shared path network. Further to this no strategic basis was found for linking to a broader shared path network.

Sustainability Implications

There are no sustainability implications associated with this report.

Finances

There is no cost to implement the recommended option.

Stakeholders

Local residents in the Shearwater Estate, including the head petitioner have been met onsite to discuss their concerns in detail and provided information by Councilors and staff.

Other Options

Consideration was given to providing informal access into the Shoalhaven Road across Council managed land. This was deemed an unacceptable road safety risk and is not recommended.

Widening the existing footpath was investigated. This would involve widening 25 meters of footpath to a 2.5 metre shared path standard at an estimated cost of approximately $10,000. The works could be considered and potentially funded via Council's footpath gaps program. Following assessment this is not recommended as there is no broader shared path network so widening the existing path would not provide for functional shared path access.

Conclusion

Council has taken action to mitigate a safety risk within its road reserve in order to uphold its responsibility as the coordinating road authority under the Road Management Act.

In assessing the petitioners request it was noted that an existing footpath is constructed within a few metres of the previous informal access. The existing footpath has properly constructed pram crossings at either side of Shoalhaven Road and connects into the Shearwater Estate footpath network.

In response to the petition letter, officers investigated an option to widen the existing footpath to shared path standard. It was found that the length of footpath considered to be widened would form an isolated section of shared path approximately 25 metres long. The section would end on either Shelly Court, Shoalhaven Road or connect to the existing standard footpath network. In exploring this option it was deemed that a short isolated section of shared path could not be considered functional as part of a broader link.

Strategic basis to construct the path was sought via Council's aspirational pathways plan or potential to link construction of the short section to other networks. It was determined that no strategic basis for a shared pathway in this part of Cowes exists.

Although this report does not recommend construction of a new path or widening of the existing footpath, Council maintains a strong focus on providing appropriate pathways in urban and regional settings. This report concludes that appropriate pathway connections are provided within the Shearwater Estate. Recent garden bed and rope bollard treatments have been implemented to enhance road safety at this location.

Recommendation

That Council thanks the head petitioner and advises that it:

1. **Has installed this garden bed and rope and bollard fencing due to safety concerns and the treatment is intended to enhance road safety at this location**
2. **Has completed an investigation that considered widening of the existing footpath and found that this would not provide a functional shared path link for bicycle riders**

Attachments

There are no attachments for this report.

H.6 Administrative Update to Dogs off Leash Dates

File No:	**CM22/66**
Division:	**Resilient Communities**
Council Plan Strategic Objective:	**Our Places** Strengthening the connection between people and the public places they share

Declaration

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

Summary

At the December 2021 Council meeting a Notice of Motion (NoM) was presented that included amendments to the dates for Dogs off Leash. The purpose of this report is to seek Council authorisation to amend the Council resolution to make it effective.

Background

Council adopted the Domestic Animal Management Plan (DAMP) at the October 2021 Council Meeting.

At the December 2021 Council meeting a NoM was presented and included amendments to the dates for Dogs off Leash, the Council resolution needs to be amended in order to make it effective.

Strategic Basis

Council Plan Strategic Objective:

Healthy Community - *An inclusive community that embraces its lifestyle and supports health and wellbeing*

Our Places - *Strengthening the connection between people and the public places they share*

Governing Documents

Domestic animal Management Plan 2021-20

Domestic Animals Act 1994

Local Government Act 2020

Discussion

At the December 2021 Council meeting a Notice of Motion (NoM) was presented making a number of changes in relation to the Domestic Animal Management Plan. Council resolved that:

Council prepare a strategy consistent with the aspirations of the community expressed during consultation of the recently adopted Domestic Animal Plan.

1. *Council to immediately provide dog waste bags and dispensers at all current dog beach entrances across the Bass Coast Shire.*

2. *Council to allow access to off leash dog beaches annually from 1st February to 10th December effective from 1st February 2022.*
3. *From 1 December to 1st February dogs must be on a leash on the dog off leash areas from 10am-6pm*
4. *Extend off leash dog beach access at the following locations:*
   a) *San Remo – from Foots Beach to Marine Parade San Remo*
   b) *Current location 350 meters from McKenzie Road to 50 meters short of Anderson Boat Ramp in Cowes West*

As officers have been working to implement the resolution, it has been identified that the dates for off leash beaches needs to be amended to ensure they can be implemented effectively.

The resolution had several points to it. This report proposes to change the following two points of the resolution:

2. Council to allow access to off leash dog beaches annually from 1 February to 10th December effective from the 1 February 2022.
3 From 1 December to 1st February dogs must be on a leash on the dog off leash areas from 10am – 6pm

To:

2 Council to allow access to off leash dog beaches annually from 1 February to 30th November effective from 1 February 2022.
3 From 1 December to 31 January dogs must be on a leash on the dog off leash areas from 10am – 6pml

Sustainability Implications

There are no sustainability implications associated with this report.

Finances

There are no financial implications associated with this report.

Stakeholders

The following are the key stakeholders that will be impacted by this report:

- Dog owners within Bass Coast
- Bass Coast residents and visitors

Other Options

This report seeks to clarify and amend the dates in the NoM December 2021 Council meeting to enable signs to be produced and installed and ensure the dates are enforceable.

Council may choose not to adopt the recommendations in this report which would cause confusion in implementation. This option is not recommended.

Conclusion

That two of the recommendations in the NoM presented to the December 2021 Council meeting be amended to read:

2. Council to allow access to off leash dog beaches annually from 1 February to 30th November effective from 1 February 2022.
3 From 1 December to 31 January dogs must be on a leash on the dog off leash areas from 10am – 6pm.

Recommendation

That Council:

1. **Allow access to off leash dog beaches annually from 1 February to 30th November effective from 1 February 2022.**
2. **Require from 1 December to 31 January dogs must be on a leash on the dog off leash areas from 10am – 6pm.**

Attachments

There are no attachments for this report.

H.7 Sport and Recreation Victoria Funding Applications

File No:	**CM22/39**
Division:	**Resilient Communities**
Council Plan Strategic Objective:	**Healthy Community**
	An inclusive community that embraces its lifestyle and supports health and wellbeing

Declaration

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

Summary

The purpose of this report is to seek Council approval to submit two funding applications to Sport and Recreation Victoria (SRV), through the 2021-2022 Local Sports Infrastructure Fund within the Female Friendly Facilities Stream and the Community Facilities Stream.

The two funding applications will support Council's highest priorities which meet program eligibility, and which are prepared for delivery.

The Female Friendly Facilities Stream and the Community Facilities Stream will assist in funding the delivery of the Wonthaggi Netball Pavilion and Playspace Project and the Kilcunda Foreshore Skate and Play Project.

Background

Active Bass Coast, adopted by Council in 2018, is Council's 10-year Plan that sets the vision for the provision and use of open space and recreation activities across the Shire.

Wonthaggi Netball Change Room and Playspace Project and the Kilcunda Foreshore Skate and Play Project are Council's highest priority projects that meet the guidelines set by SRV and are supported within Active Bass Coast and localised master plans.

Wonthaggi Netball Pavilion and Playspace Project:

The Wonthaggi and District Netball Association and the Wonthaggi Power Football Netball Club both share a facility and play netball from Wonthaggi Recreation Reserve. The Reserve provides seven compliant netball courts which were redeveloped in recent years but lacks a facility which accommodates change rooms for players and umpires, storage, and space for both groups administration needs.

The Wonthaggi Netball Pavilion Design (AT-1) is identified within Council's Wonthaggi Recreation Reserve Master Plan and was developed by Council in partnership with both Wonthaggi and District Netball Association and the Wonthaggi Power Football Netball Club.

By design, this training pavilion will be accessible, compliant and be a shared facility between the Wonthaggi and District Netball Association and the Wonthaggi Power Football Netball Club. The Pavilion has been fully designed with an Opinion of Probable Cost (AT-2) undertaken. The estimated cost for the Pavilion is $1.42 million. This amount includes a 20% contingency to safeguard against the escalating cost of building materials and trades.

By locating the Pavilion to a centralised position along the seven-court facility, there will be a requirement to identify a new location for a playspace at the Reserve. In line with Council's Playspace Strategy 2017, this local playspace is due for renewal and so programming the installation of a new playspace in a new location, in line with the development of the pavilion project, is timely.

An allocation of up to $100,000 is proposed to undertake the delivery of a new local playspace at the Reserve.

The Female Friendly Facilities Stream was opened on 14 October 2021 and supports the development of new and/or redevelopment of existing infrastructure that enables more women and girls to participate in sport and active recreation.

Councils can submit an unlimited number of applications seeking a total of up to $800,000 with a funding ratio of SRV: $2 – Local: $1.

If successful, Council would be required to commence this project within six months of executing a funding agreement with SRV and intend to construct the new play space in 2022/23 and commence construction of the netball pavilion in 2023/24.

Kilcunda Foreshore Skate and Play Project:

The Kilcunda Foreshore Skate and Play Design (AT-3) has been developed throughout 2021, following a thorough community consultation program. It will be located on the foreshore in Kilcunda, adjacent to the recently refurbished public toilet amenity and sit in between the rail trail and Kilcunda Foreshore car park.

The construction of a new skate park for Kilcunda was identified as part of the Bass Coast Skate Strategy which was adopted in February 2018. The Kilcunda Community Association has long been advocating for a new skate park within the town to accommodate local youth as well as visitors to Kilcunda.

The design was completed by Landscape Design Consultants Playce, who Council officers have worked with in the design of the Cowes, Grantville and Corinella Skate Parks over recent years. The design showcases a new skate park that includes a bowl and several street skate components that can be utilised by skaters from a variety of different skill levels.

The new play space will feature a combination play unit, swing set, dry creek bed and log balance beams nature play section that is aimed at accommodating kids aged under 12.

An Opinion of Probable Cost (AT-4) was undertaken by Playce for the delivery of the skate and play design. The estimated cost to deliver the project is $575,000.

The Local Sports Infrastructure Funding presents a funding opportunity to deliver the Kilcunda Skate and Play project in 2022/23.

The Community Facilities Stream was opened on 14 October 2021 and supports a broad range of new or redevelopment of existing community sport and active recreation infrastructure ensuring all infrastructure is high-quality and accessible to all.

Councils can submit an unlimited number of applications up to a total maximum request amount of $500,000, with a maximum individual grant amount of $250,000.

Funding ratios for Regional Victoria are SRV: $2 – Local: $1

If successful, Council would be required to commence this project within six months of executing a funding agreement with SRV.

Strategic Basis

Council Plan Strategic Objective:

Healthy Community - *An inclusive community that embraces its lifestyle and supports health and wellbeing*

Governing Documents

- Active Bass Coast 2018
- Bass Coast Playspace Strategy 2017
- Wonthaggi Recreation Reserve Master Plan 2019
- Bass Coast Skate Strategy 2018

Discussion

This report requests approval to apply to SRV through their recently opened Female Friendly Facilities Stream and Community Facilities Stream that sit within their Local Sports Infrastructure Fund.

If successful, these applications will assist in funding the delivery of the Wonthaggi Netball Pavilion and Playspace Project and the Kilcunda Skate and Play Project.

Council has the opportunity to apply annually for funding of recreation based projects through the various State Government, Sport and Recreation Victoria (SRV) grant programs and rely heavily on these grant opportunities in the delivery of key recreation projects.

Only projects that are both eligible and authorised by Council are considered for these grant programs and as part of the application guidelines, formal authorisation from Council for each application is required. Retrospective authorisation from Council (as will be the case in this instance) is accepted by Sport and Recreation Victoria.

Over recent years, Council has been extremely successful in obtaining external funding for many recreation projects. This is a clear demonstration of the confidence held by SRV in Council for our planning, design, budgeting and delivery process.

Sustainability Implications

There are no sustainability implications associated with this report.

Finances

Council's contribution to each project is proposed to be sourced through varied programs that align to each project.

Council sets out its future infrastructure program through the development of its 10 Year Long Term Financial Plan (LTFP). Bass Coast's LTFP was endorsed by Council at its October 2021 Council Meeting.

The following table breaks down how each project will be funded:

Project	Project Cost	SRV Grant	Resort and Recreation	Renewal	Capital	Club
Wonthaggi Netball Pavilion and Playspace Relocation Project	**$1.42m**	$800k	N/A	N/A	$475k (Pavilion) $100k (Playspace)	$45k (combined – both groups)
Kilcunda Skate and Play Project	**$575k**	$250k	$65k	$30k	$230k (LTFP - $150k, Skate Reserve - $80k)	N/A

In delivering both projects with an estimated total value of $1.995m, Council's anticipated contribution will be $950,000.

Stakeholders

- Netball Victoria
- Wonthaggi and District Netball Association
- Wonthaggi Power Football Netball Club
- Kilcunda Community Association
- Sport and Recreation Victoria
- Residents of Bass Coast Shire

Other Options

1. Council may choose not to submit applications to the Local Sports Infrastructure Fund and consider further consultation for each proposed project.
2. Council may choose not to submit applications to the Local Sports Infrastructure Fund for the two priority projects and propose alternate projects for consideration.

There is currently no other 'shovel ready' projects that meet the grant eligibility criteria for both grant programs, that could be considered within the afforded timelines.

Conclusion

The Female Friendly Facilities Stream and the Community Facilities Stream provide Council with an opportunity to access significant State funding to deliver key recreation projects.

Without grant funding, projects such as those proposed would not be possible through Council's Capital Program for many years. The contribution of grant funding (if successful) allows Council to provide high quality facilities to the community.

This report recommends that Council supports an application for the Wonthaggi Netball Pavilion and Playspace Project and the Kilcunda Skate and Play Project contributing up to $950,000 as outlined in the budget table in this report.

Recommendation

That Council:

1. **Supports the application to the Female Friendly Facilities Stream of the Local Sports Infrastructure Fund for $800K to deliver the Wonthaggi Netball Pavilion and Playspace Project**
2. **Supports the application to the Community Facilities Stream of the Local Sports Infrastructure Fund for $250K to deliver the Kilcunda Skate and Play Project.**

Attachments

AT-1	Netball Pavilion Design	12 Pages
AT-2	Netball Pavilion Cost Analysis	1 Page
AT-3	Kilcunda skate and play design	24 Pages
AT-4	Kilcunda Skate and play Opinion of Probable Cost	2 Pages

H.8 Kilcunda Community Hall Lease

File No:	**CM22/6**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Leading for our Community** Demonstrating leadership through good governance, transparency and accountability

Declaration

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

Summary

At the 15 December Council Meeting Council resolved to:

1. *Receive a report at the February 2022 Council meeting on options for granting the Kilcunda Community Association Inc. a long term lease of the Kilcunda Community Centre.*
2. *That the report considers a lease for a period of 10 years with options for two five year extensions, up to a maximum period of 20 years.*

The purpose of this report is to present options for granting a long-term lease to the Kilcunda Community Association.

Background

The Kilcunda Community Hall sits on Crown land with Council appointed as the Committee of Management. The Kilcunda Community Association are current tenants of the Hall and have requested a 20-year lease. Council's standard lease term is 3-5 years, providing flexibility to adapt to changes in legislation, policy direction and community expectations. The Bass Coast Shire Council Leasing and Licensing Policy 2019 requires Council to make a decision on leases that have a term of 10 years or more.

The Kilcunda Community Association (KCA) have a long history with the Hall. They played a key role in raising funds for the construction of the building in 1994, contributing $120,000, and have maintained and continued to improve the facility over the last 27 years. Through a review of Council's leases and licenses it was identified that a lease agreement had not been put in place for the facility.

Council officers have been in discussion with the KCA regarding a lease since 2017. Negotiations became more frequent throughout 2020 and 2021with officers meeting the Association onsite in late 2021 to discuss matters. The KCA are concerned that a 3-5 year lease does not provide them with any certainty regarding ongoing tenancy or reflect their role in the establishment of the Hall. Officers understand the KCA's concerns, however without a lease in place there is even less certainty for the Association.

Strategic Basis

Council Plan Strategic Objective:

Healthy Community - *An inclusive community that embraces its lifestyle and supports health and wellbeing*

Our Places - *Strengthening the connection between people and the public places they share*

Leading for our Community - *Demonstrating leadership through good governance, transparency and accountability*

Governing Documents

Local Government Act 2020

Bass Coast Shire Council Leasing and Licensing Policy 2019

Leasing Policy for Victorian Crown Land

Discussion

The Kilcunda Community Association (KCA) plays a key role in the local community and Council is supportive of their request to remain as the tenants of the Kilcunda Community Hall.

The 15 December 2021 Council resolution requests options for granting a long term lease and seeks consideration of a 20-year lease made up of 10 years with options for two five year extensions. Under Council's Leasing and Licensing Policy leases with a term of 10 years or longer require a decision of Council.

The purpose of Council's Leasing and Licensing Policy is to provide transparency, consistency, fairness and certainty to organisations seeking to lease Council assets.

Some examples of recent leases to community organisations similar to the Kilcunda Community Association are shown in the table below:

Community Group	Council Asset	Commencement	Term
Corinella & District Community Centre Inc.	Corinella & District Community Centre	2020	5 yrs
Inverloch Community House Inc.	Inverloch Community House at Inverloch Community Hub	2021	5 yrs
Wonthaggi Power Football Club	Clubrooms, Change Rooms and Scoreboard Facility	2021	5 yrs
Country Fire Authority	Country Fire Authority Station - Kilcunda	2021	4 yrs
Phillip Island Senior Citizen's Club Inc.	Senior Citizen's Social Rooms	2021	3 yrs
The South Gippsland Conservation Society Inc.	Bunurong Environment Centre	2020	2 yrs

The Kilcunda Community Hall and the Kilcunda Country Fire Authority (CFA) Station are co-located and share a car park. There is value in aligning the terms of the two leases to ensure that the needs of each lessee can be considered and addressed concurrently. A term of four years would also be consistent with Council's Leasing and Licensing Policy. It is Council's practice to negotiate a new lease once the existing term has expired. This provides continuity for the lessee and also ensures that the lease terms are contemporary and reflective of current practice. The CFA have an extension option in their lease for a further period from its current expiry, and Council officers have committed to the KCA to offer the same extension option in their lease, aligning to a 31 March 2030 end date.

Council does offer longer term and 20 year leases, however these are generally reserved for lessee's who would be required to invest significant funds on capital upgrades, improvements and maintenance but do not get the benefit of the works upon the lease expiry. This type of arrangement is more common in commercial arrangements, such as caravan parks, where Council is required to go to the market at the end of the lease. This is consistent with the Department of Environment Land Water and Planning's (DELWP) Leasing Policy for Victorian Crown Land. The Community Hall is considered to be in very good condition with no major capital works upgrades or investment required, noting the KCA is planning to invest funds they have raised in some further Hall improvements.

The *Local Government Act 2020* requires Council to include any proposal to lease land in its budget if the lease is for 10 years or more. Where this has not occurred Council is required to undertake a community consultation process before entering into the lease. Officers had not planned for a 10 plus year lease for the Kilcunda Community Hall and would therefore be required to undertake the engagement process prior to entering into a lease of 10 years or longer.

Council officers will continue to discuss options to modify some standard lease terms to ensure the management of the site is reflective of the community's role in developing and managing the Hall.

Sustainability Implications

- Economic
- Social

Finances

The Kilcunda Community Association would be eligible for the community rate listed within Council's Leasing and Licensing Policy 2019. The current rate is $318.38 + GST per annum. This amount increases annually in line with CPI.

Stakeholders

- Kilcunda Community Association.
- Department of Environment Land Water and Planning.
- Hall users/hirers
- Kilcunda CFA

Other Options

Council could provide the Kilcunda Community Association with a 20-year lease (10 years with two five year extension options). Both the *Local Government Act 2020* and DELWP Leasing Policy for Victorian Crown Land provide Council with the authority to enter into a lease agreement for that tenure.

While a lease of this tenure provides greater certainty for the lessee, it does constrain both parties to working within the conditions of that lease for the entire term. The lease extensions operate under the same conditions as the original lease.

Conclusion

Officer's recommend that the Kilcunda Community Association be granted a lease of 4 years plus extension option to 31 March 2030 to align with the co-located Kilcunda Country Fire Authority. This option is consistent with leases offered to similar organisations and would allow for contemporary lease conditions that reflect current legislation, policy direction and community expectation.

Recommendation

That Council:

1. **Grant a lease of the Kilcunda Community Hall to the Kilcunda Community Association for a period of four years.**
2. **Include provision for an extension option to 31 March 2030 to align with the adjoining Kilcunda CFA lease.**

Attachments

There are no attachments for this report.

H.9 Lease of the Kilcunda Caravan Park

File No:	**CM21/731**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Growing our Economy**
	Progressing opportunities for visitor economy and business growth in harmony with our natural environment and sustainable values

Declaration

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

Summary

This report to Council presents the outcome of the Expression of Interest (EOI) process to determine a preferred tenant to be granted a lease for the operation of the Kilcunda Caravan Park and to conclude the statutory process for a lease of this type pursuant to Section 115 of the *Local Government Act 2020*.

A panel, consisting of four (4) Council officers was formed for the purpose of evaluating EOI submissions assisted by a panel chair and Council's Coordinator Property.

The objective of the Panel was to assess the submissions in accordance with the Council resolution made on 15 September 2021: "Evaluates submissions made in response to the Expression of Interest in accordance with the attached confidential paper". The conforming submissions were assessed on the evaluation criteria and weightings included in the confidential paper entitled "Kilcunda Caravan Park Evaluation Process".

The Panel concludes that the submission by Holiday Retreats Rivergum Pty Ltd will satisfy the objectives of the EOI and will provide Council with the best value for money outcome.

This Report recommends Council grant a twenty (20) year lease to Holiday Retreats Rivergum Pty Ltd.

This Report contains attachments declared to be confidential under Section 125 of the *Local Government Act 2020* and in line with Council's Tendering & Contract Confidentiality Policy.

Background and Context

In 2015/16 Council completed a service review for managing caravan parks. In September 2016 Council adopted a report recommending that Council continue to manage caravan parks through leasing and seek to maximise income through an open and competitive process.

At the Council Meeting on 15 September 2021 it was resolved that Council:

1. Undertakes an Expression of Interest process to determine a preferred tenant for a long term lease of the Kilcunda Caravan Park that seeks to maximise the benefits of a commercial lease for Council.
2. Evaluates submissions made in response to the Expression of Interest in accordance with the attached confidential paper.
3. Authorises officers to consult with the community on the lease proposal in accordance with Section 115 of the Local Government Act 2020 and Councils Community Engagement Policy by:
   - 3.1 Advertising a Notice of Intention to Lease inviting submissions from interested persons and allowing 28 days for submissions to be received, and
   - 3.2 Notifying submitters that they can speak in support of their submission at the Council meeting to be held on 17 November 2021 before submissions are considered and a final decision is made by Council on whether or not to grant a lease.

Following this, Council entered into an open, transparent and competitive process through an EOI to determine a tenant. This process sought to identify a suitable person or company with the appropriate experience and capability to operate, modernise, and upgrade the caravan park, and address risk related issues (waste management and fire safety), while also providing an appropriate financial return to Council.

Council procurement must be transparent, fair and ethical. This helps ensure there is confidence in the probity and equity of Council's procurement process. A probity advisor was engaged to oversee the EOI process, ensure probity was adequately managed, and all respondents were treated equally. This minimised the probity risk associated with the EOI process.

The proposed lease is subject to Council's Community Engagement Policy. The *Local Government Act 2020* requires that a public notice of the proposed lease is advertised inviting submissions from interested persons. Run concurrently with the EOI process, authorised Officers consulted with the community on the lease proposal in accordance with Section 115 of the *Local Government Act 2020* and Council's Community Engagement Policy. To this end, Council advertised a Notice of Intention to Lease inviting submissions from interested persons and allowing 28 days for submissions to be received. No submissions were received by Council.

Strategic Basis

Council Plan Strategic Objective:

Leading for our Community - *Demonstrating leadership through good governance, transparency and accountability*

Statutory Requirements/Codes/Standards/Policies

The EOI process, commencing with the development of the EOI documents, through to the invitation to make a submission, the evaluation of submissions received and final selection of a preferred operator of the caravan park, 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.
- Bass Coast Shire Council Policy - Tendering & Contract Confidentiality.

The Leasing process has been carried out in accordance with the provisions of:

- Section 115 of the *Local Government Act 2020*.
- Council's Community Engagement Policy.
- Bass Coast Shire Leasing and Licensing Policy 2019.

EOI Process

This EOI was publically advertised. The EOI closed on 20 October 2021; three (3) conforming submissions were received. A fourth submission was excluded from the evaluation as it was not received via the mandatory eTenderBox.

Evaluation Process

The conforming submissions were assessed on the following evaluation criteria and weightings:

Criterion	**Weighting**
Mandatory	
Integrated Management System	Pass/Fail
Insurance and Registration	Pass/Fail
Financial Capacity to Commit to a Lease	Pass/Fail
Weighted	
Plan for the development and operation of the caravan park over time	25%
Experience in developing and operating caravan parks or similar types of premises, including capital works and upgrades, use of technology, marketing and promotion	15%
Capability to resource the caravan park with sufficient, experienced personnel with demonstrated approach to driving Local and Social outcomes	15%
Financial Rental Return to Council	45%
TOTAL	**100%**

An Evaluation Panel consisting of four Council Officers was formed. The panel was chaired by an Officer from the Procurement Team and a specialist Probity Advisor who oversaw the process and did not score the submissions.

Each respondent passed the mandatory selection criteria. For each submission, scoring panel members scored the criteria out of a maximum possible five points. Following the initial independent evaluation, the panel met to discuss their independent scores before the individual scores were averaged to obtain the scores for each criterion. The scores were then multiplied by the relevant weighting to obtain final scores out of 1,000.

The Panel assessed the technical worth of each submission against the specification requirements and the selection criteria, identified issues for further review, clarified issues with respondents, and sought additional information.

Interviews were also conducted with the two top scoring respondents to seek clarification and to assist the panel in its understanding and assessment of the submissions.

Reference checks were not required; the recommended operator, Holiday Retreats Rivergum Pty Ltd, is the current leaseholder of the Kilcunda Caravan Park and has worked cooperatively with Council for more than a decade.

The final weighted scores are displayed in the table below:

Ranking	Name	Financial Return to Council Score*	Non-Financial Score#	Score out of 1000
1	Holiday Retreats Rivergum Pty Ltd	45%	45%	893
2	Submission B	36%	42%	782
3	Submission C	35%	19%	522

* A higher % score indicates a better financial return to Council.

A higher % score indicates a better capability and capacity to undertake the service.

Holiday Retreats Rivergum Pty Ltd presented a comprehensive and well researched submission. Their submission featured:

- A coherent vision for the caravan park backed by a proposed masterplan;
- A substantial and innovative program of capital works;
- An annual rental proposal that is almost double the current rent; and
- Evidence of being a well-resourced, and experienced, park operator.

In accordance with the selection criteria, Holiday Retreats Rivergum Pty Ltd presents the best value to Council.

Lease Process

In accordance with Section 115 of the *Local Government Act 2020* and Council's Community Engagement Policy, Council notified the public of an intention to grant a lease on Council's website giving interested parties 28 days to make a submission. No submissions were received.

Council may now make a decision which will complete the statutory procedures for a lease of this type.

Finances

The proposed lease is for a 20-year term, commencing 1 July 2022.

The total return of the lease to Council (GST exclusive), is outlined below

	GST Exclusive
Total Rental to Council (20 years, subject to market review / adjustment)	$3,040,000
Capital Works on the Caravan Park to the Benefit of Bass Coast Shire Council	$1,975,000
Total Return	**$5,015,000**

Stakeholders

The stakeholders for the lease include:

- DELWP
- Bass Coast Shire Council
- Current Tenant
- Bass Coast residents and business owners
- Visitors to the area
- Caravan Park Annual Permit Holders
- Caravan Park Guests

Other Options

1. Not award a lease at this time and undertake another EOI process. It is unclear though that Council would receive any benefit in doing this and it would delay the start of a new lease to a point that Council would be in breach of the current lease conditions.
2. Award the lease to an alternative respondent. However, as Holiday Retreats Rivergum Pty Ltd scored the highest in the evaluation process such a decision may not be consistent with the advertised evaluation criteria.

Conclusion

The panel report concludes that the submission by Holiday Retreats Rivergum Pty Ltd will provide Council with best value for money for the following reasons:

- Holiday Retreats Rivergum Pty Ltd offered the highest financial return to Council;
- Holiday Retreats Rivergum Pty Ltd were assessed as having the highest non-financial score; and
- Holiday Retreats Rivergum Pty Ltd have the financial capacity to take on this lease and deliver the proposed capital works program.

Recommendation

That Council:

1. **Accept the submission from Holiday Retreats Rivergum Pty Ltd as the preferred tenant for the lease of the Kilcunda Caravan Park.**
2. **Concludes the statutory process under Section 115 of the *Local Government Act 2020* by granting a lease to Holiday Retreats Rivergum Pty Ltd on the following key terms:**
   a. **Length of lease – 20 years.**
   b. **Rent – commencing at $152,000 per annum exclusive of GST, increasing annually by 3% and subject to a market rent review every 5 years.**
   c. **The tenant to complete a program of capital works in accordance with its EOI submission.**
   d. **The tenant to be responsible for all maintenance, rates, levies, fees, taxes and charges.**
3. **Authorise the Chief Executive Officer to execute the lease.**

Attachments

AT-1 ***CONFIDENTIAL*** - 21037 Probity Report 6 Pages

AT-2 ***CONFIDENTIAL*** - 21037 Evaluation Report 6 Pages

H.10 Scenic Estate - Proposed Road Discontinuance

File No:	**CM22/28**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Leading for our Community**
	Demonstrating leadership through good governance, transparency and accountability

Declaration

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

Summary

A subdivision from the 1960s, Scenic Estate was deemed inappropriate for development by the State Government in the 1980s. In 2013 Council resolved to establish Scenic Estate Conservation Reserve, and a process to compulsorily acquire allotments commenced in 2017. The purpose of this report is to consolidate land parcels within Scenic Estate for ease of management into the future, through discontinuance of roads within the estate. These roads are no longer required for general public access and therefore should be discontinued.

Background

Scenic Estate Conservation Reserve overlooks a world heritage RAMSAR wetland and provides a home for native wildlife, many species of native birds including six species of threatened birds, and endangered grasslands and indigenous vegetation. Council worked with Phillip Island Nature Parks (PINP), Parks Victoria and the State Government to develop this 28-hectare site of natural bushland, which was opened for the community and visitors to explore from July 2015. The reserve is now Crown land, managed by PINP.

Originally named Scenic Estate and prior to the existence of planning controls, this parcel of land was subdivided in the 1960s and blocks of land were purchased by people both locally and internationally (refer to attached plan of subdivision). Over the years, applications for permits to develop the land were consistently rejected as the land was incapable of being serviced and had a high conservation value. In the 1980s the State Government declared Scenic Estate development should never be built upon and the subdivision stood abandoned for 30 years.

At its Ordinary Meeting on 17 April 2013 Council resolved that Scenic Estate would be managed for environmental conservation. At its Ordinary Meeting on 19 August 2015 Council resolved to compulsory acquire the remaining 166 allotments that were not in Council's ownership. On 9 February 2017, Notices of Acquisition for 166 blocks in Scenic Estate were Gazetted in the Victorian Parliament. This commenced the process of returning land from this inappropriate subdivision back into public hands. New titles were issued to Council in June 2017.

Council's legal representatives have handled the acquisition process and settlement arrangements on behalf of Council and have been able to make contact with the majority of owners (some international owners could not be reached despite numerous attempts). They will continue to assist with any outstanding matters should they arise.

Discontinuance of the former road reserves is the next step towards consolidation of the titles for the site to be a single parcel (refer to attached land map). The roads include Banksia Grove, Acacia Avenue, Grevillea Grove, Melaleuca Avenue, Baeckia Grove, Coorea Avenue, Boobialla Road, Manna Street, and Ballart Avenue. The roads within the estate are no longer required for general public access and therefore should be discontinued.

Strategic Basis

Council Plan Strategic Objective:

Protecting our natural environment - *Building resilience and protecting and enhancing our natural assets*

Leading for our Community - *Demonstrating leadership through good governance, transparency and accountability*

Governing Documents

- Scenic Estate Landscape Design Masterplan 2013
- Natural Environmental Strategy 2016-26

  - *Action Area 2.2.5 Develop and deliver the Scenic Estate Landscape Master Plan, including establishment and facilitation of a community Friends Group***.**
- Bass Coast Shire Council's Property Strategy 2016 provides a framework for decision making about owning Council property

Discussion

Council's vision for Scenic Estate was to create a conservation reserve for the public to enjoy, with boardwalks, viewing platforms and revegetation programs. A landscape plan and its staged implementation on those lots owned by Council was funded with the assistance of project partners; Regional Development Victoria, PINP, Parks Victoria and Council. This initiative aligns to the achievement of the Natural Environmental Strategy 2016-26. It also aligns with the intent of the adopted Scenic Estate Landscape Design Masterplan 2013. Discontinuance of the former road reserves is the next step towards consolidation of the titles for the site to be a single parcel. The roads within the estate are no longer required for general public access and therefore should be discontinued.

Sustainability Implications

Following the acquisition of lots within Scenic Estate, road discontinuance is a further step in protecting and conserving this environmentally sensitive area. Public roads are also not appropriate in an area subject to future inundation.

Finances

All costs associated with surveying, legal work, and advertising will come out of the Property budget. Owners yet to respond to Council's compulsory acquisition process may come forward. Although considered low risk due to the years that have passed and previous attempts to contact owners with no response (many reside overseas), it is foreseeable that an owner may still come forward seeking compensation. The Property budget includes a small annual amount to cover such cases. Valuation for any future compensation claims will remain at the 2017 amount when the lots were acquired and rates outstanding at the time will be deducted.

Stakeholders

- Community and visitors to Phillip Island
- Friends of Scenic Estate Reserve
- PINP
- Department of Environment Land Water and Planning (DELWP)

The road discontinuance process requires consultation with the community before Council can make a final decision.

Other Options

Council could choose not to proceed with the discontinuance of the roads and consolidation, however Council has articulated its vision to create this site as a conservation reserve. Discontinuing the roads allows the land manager to control public access.

Conclusion

It is recommended that Council commence the statutory procedures to discontinue the roads within the parcel of land formerly known as Scenic Estate. Council must consider any submissions made before making a final decision on road discontinuance.

Recommendation

That Council acting under Clause 3 of Schedule 10 of the Local Government Act 1989:

1. **Resolves that the statutory procedures be commenced to discontinue the roads in Scenic Estate as shown on the plans attached to this report.**
2. **Directs that public notice of the proposed discontinuance be given under Sections 207A and 223 of the Local Government Act 1989.**
3. **Authorises the Chief Executive Officer or delegate to undertake the administrative procedures necessary to enable Council to carry out its functions under Section 223 of the Local Government act 1989.**
4. **Resolves to hear and consider any submissions received pursuant to Section 223 of the Local Government Act 1989 at a future Council meeting.**

Attachments

AT-1 Scenic Estate Land.Vic map 1 Page

AT-2 Scenic Estate LP54996 9 Pages

H.11 2021/22 Quarterly Performance Report - October - December 2021

File No:	**CM22/20**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Leading for our Community** Demonstrating leadership through good governance, transparency and accountability

Declaration

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

Summary

The Quarterly Performance Report provided in Attachment 1 presents a summary of Council's performance for the period of 1 October 2021 to 31 December 2021.

Council made strong progress in the delivery of the Annual Action Plan 2021/22 in the second quarter, with 22 of 25 projects on track or complete, including a number of key strategic documents.

The combined capital works program, current year and multi-year/carryover projects is 27.6% complete. Council is forecasting to achieve an end of year expenditure result of 87.9%, noting some of the balance expenditure is due to budget phasing of multi-year projects.

Council's financial performance remains stable with an adjusted underlying result forecast to reflect a $3.0 million deficit.

Background

Section 96 of the *Local Government Act 2020* (the Act) requires councils to prepare a quarterly budget report that includes a comparison of the actual and budgeted results to date and explanation of any material variations.

Council uses this opportunity to provide a summary of performance against the Annual Action Plan and celebrate achievements to provide transparency in its performance and maintain good governance practices.

Council's quarterly reports are published on the website and are available to the public at any time.

Strategic Basis

Council Plan Strategic Objective:

Leading for our Community - *Demonstrating leadership through good governance, transparency and accountability*

Governing Documents

Local Government Act 2020

Discussion

The purpose of this report is to provide advice on Council's performance for the quarter of October – December 2021 including its performance against the Annual Action Plan 2021/22, financial performance and capital works project delivery.

Annual Action Plan Performance

The Annual Action Plan 2021/22 contains 25 activities and initiatives to be delivered by 30 June 2022. Council is making strong progress with five actions completed including Bass Coast's suite of key strategic documents and key policies required under the *Local Government Act 2020.*

Seventeen of the remaining actions are on track, two need attention and one action is due to commence in the third quarter. The award of tender for the Cowes Cultural and Community Centre is a key highlight for the second quarter.

Financial Performance

Council's forecast net result is favourable to budget by $5.1 million with a $13.6 million surplus forecast for the year ended June 2022. The main contributor to this result is the recognition of unbudgeted capital grants for the upgrade of Rhyll Boat Ramp, Cowes Cultural Centre, Guy Road shared path and Wonthaggi Activity Centre. Once the impact of capital grants and contributions are removed, Council's adjusted underlying result is forecast to reflect a $3.0 million deficit.

This deficit is largely attributable to a higher than budget workers compensation insurance payment following the dissolution of the MAV WorkCare scheme and increased waste related and development planning expenditure. Council's working capital ratio, which measures the ability to pay existing debts as they fall due remains within the Victorian Auditor Generals low risk category, confirming Council's ongoing sustainable financial position.

Full details are provided in the attached quarterly report.

Sustainability Implications

- Economic
- Social
- Environmental
- Climate change

Stakeholders

- Bass Coast Shire community
- Councillors
- Council officers

Other Options

Council is obligated under the Act to prepare a standard quarterly budget report, Council could choose not to include the additional reporting against the Council Plan achievement.

Conclusion

The Quarterly Performance Report (Attachment 1) provides the performance information for the second quarter of the year, October-December 2021.

The provision of progress updates against all annual activities of the Council Plan 2021-25 and a financial report contribute to the ongoing enhancement of good governance across Council.

The October-December 2021 Quarterly Performance Report will be available on Council's website.

Recommendation

That Council receive the October – December 2021 Quarterly Performance Report.

Attachments

AT-1 Quarterly Report to the Community - December 2021 37 Pages

H.12 Appointments to Council Committees and External Committees

File No:	**CM22/30**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Leading for our Community** Demonstrating leadership through good governance, transparency and accountability

Declaration

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

Summary

Council appoints representatives to a number of Council committees and external committees in order to meet its legislative obligations and to enhance its involvement in community activities and to advocate on behalf of the community.

This report recommends that Council appoints a new Councillor representative to one Council and one external committee.

Background

A number of Council committees and external committees exist where the Mayor or Councillors are invited to participate across a broad interest area. Some of these committees have legislative requirements, but most committees operate in an advisory capacity.

It is important for the Mayor and/or Councillors to be represented on committees and networks for a number of reasons including:

- Some committees are legislated to provide input into strategic plans
- Committees provide opportunities for Councillors and the organisation to stay connected to advocacy groups and understand emerging issues
- Provide advice to Council on a variety of issues
- Help Council achieve its Council Plan objectives

To assist with continuity and understanding of subject material, where possible, it is recommended that Councillors are re-appointed for a second term on the same committees.

Strategic Basis.

Council Plan Strategic Objective:

Leading for our Community - *Demonstrating leadership through good governance, transparency and accountability*

Discussion

Changes in Councillor availability have arisen since Council appointed committee representatives at the November 2021 and December 2021 Council meetings.

The Council committee and external committee being tabled for Councillor appointments as part of this report are listed below. These appointments will be reviewed at the November 2022 Council meeting.

Council committees:

Access & Inclusion Advisory Committee	**One Councillor (Chair)**

External committees:

Western Port Biosphere Reserve	**One Councillor**

Sustainability Implications

There are no sustainability implications associated with this report.

Finances

Councillors participation in these committees is covered by their general reimbursement as outlined in the Council Support and Resources to Councillors Policy. These costs are contained within Council's operating budget.

Stakeholders

- Councillors
- Community members
- Council Officers

Other Options

Council could choose not to appoint representation to these committees and networks. This may result in non-compliance of legislation and or, limit the level of interaction and ability to influence key outcomes for the community. It could also contribute to difficulty for Council to achieve its strategic direction articulated in the Council Plan.

Conclusion

A list of Council committees and external committees is presented for the Mayor and or Councillors to be appointed to. If a Councillor is not appointed to any of these committees, a Council Officer may be appointed in their place by agreement.

Recommendation

That Council:

1. **Appoints Councillor representatives to the following Council committees:**

Access & Inclusion Advisory Committee	**Cr Leticia Laing**

2. **Appoints Councillor representatives to the following external committees:**

Western Port Biosphere Reserve	**Cr Michael Whelan**

Attachments

There are no attachments for this report.

H.13 Instrument of Appointment and Authorisation

File No:	**CM22/13**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Leading for our Community** Demonstrating leadership through good governance, transparency and accountability

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:

- *Planning and Environment Act 1987*
- *Environment Protection Act* 2017, and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021

and approve the execution of the attached Instrument of Appointment and Authorisations. Council is also recommended to revoke authorisation to officers that no longer require it.

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 Strategic Objective:

Leading for our Community - *Demonstrating leadership through good governance, transparency and accountability*

Governing Documents

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

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

Section 242 Authorised Officers of the *Environment Protection Act 2017*.

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.

Sustainability Implications

There are no sustainability implications associated with this report.

Finances

There are no financial implications associated with this report.

Stakeholders

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

Staff – ensuring the ability to undertake their roles.

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

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 Authorisation to the named officers as an Authorised Officer under:

- *Planning and Environment Act 1987*
- *Environment Protection Act* 2017, and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021

and approve the execution of the attached Instrument of Appointment and Authorisations. Council is also recommended to revoke authorisation to officers that no longer require it.

Recommendation

That Council:

1. **In the exercise of the powers conferred by s 147(4) of the *Planning and Environment Act 1987*, resolves that:**
   a. **The member of Council staff referred to in the attached instrument be appointed and authorised as set out in the instrument.**
   b. **The instrument comes into force immediately it is signed by Council's Chief Executive Officer and remains in force until Council determines to vary or revoke it.**
   c. **Revokes the instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* to:**
      - **Danieel Matthews**

2. **In the exercise of the power conferred by s 242(2) of the *Environment Protection Act 2017* and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021, resolves that:**
   a. **The member of Council staff referred to in the attached instrument be appointed and authorised as set out in the instrument.**
   b. **The instrument comes into force immediately it is signed by Council's Chief Executive Officer and remains in force until Council determines to vary or revoke it.**
   c. **Revokes the instrument of Appointment and Authorisation under the *Environment Protection Act 2017* to:**
      - **Mark Lindsay**

Attachments

AT-1	Andrea Nino S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987 CURRENT	1 Page
AT-2	Jamey Mullen S11B Instrument of Appointment and Authorisation Environment Protection Act 2017 CURRENT	1 Page

Statutory Reports

1 Statutory Reports

1.1 Informal Meeting of Councillors Records

File No:	**CM22/3**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Leading for our Community**
	Demonstrating leadership through good governance, transparency and accountability

Summary

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

Introduction

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

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

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

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

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

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

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

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

Council Plan Objective:

Leading for our Community - *Demonstrating leadership through good governance, transparency and accountability*

Attached is a summary of the Informal Meeting of Councillors Records completed since the last Council Meeting.

Recommendation

That Council receive the attached Informal Meeting of Councillors records

Attachments

AT-1	Informal Meeting of Councillors Online Conducting Meetings and Workshops Training 24 November 2020	1 Page
AT-2	Informal Meeting of Councillors OHS Training 8 December 2020	1 Page
AT-3	Informal Meeting of Councillors Audit and Risk Committee 15 December 2020	1 Page
AT-4	Informal Meeting of Councillors Policy Workshop 27 Janauary 2021	1 Page
AT-5	Informal Meeting of Councillors Policy Workshop PINP 3 February 2021	2 Pages
AT-6	Informal Meeting of Councillors Policy Workshop 10 February 2021	1 Page
AT-7	Informal Meeting of Councillors Audit Committee 3 March 2021	2 Pages
AT-8	Informal Meeting of Councillors Policy Workshop 3 March 2021	1 Page
AT-9	Informal Meeting of Councillors Councillor Induction Maddocks Training Session 20 April 2021	1 Page
AT-10	Informal Meeting of Councillors Site Visit Powlett River 28 April 2021	2 Pages
AT-11	Informal Meeting of Councillors Policy Workshop 28 April 2021	2 Pages
AT-12	Informal Meeting of Councillors Western Port Ward and Council officers 28 April 2021	1 Page
AT-13	Informal Meeting of Councillors Council Meeting Agenda Discussion 19 May 2021	1 Page
AT-14	Informal Meeting of Councillors Policy Workshop 14 July 2021	1 Page
AT-15	Informal Meetings of Councillors Event Advisory Committee Meeting 8 November 2021	1 Page
AT-16	Informal Meeting of Councillors Policy Workshop 1 December 2021	2 Pages
AT-17	Informal Meeting of Councillors Policy Workshop 8 December 2021	2 Pages
AT-18	Informal Meetings of Councillors Wonthaggi Crossings Update 9 December 2021	1 Page
AT-19	Informal Meetings of Councillors Biggs and Murray Street Intersection Update 16 December 2021	1 Page
AT-20	Informal Meetings of Councillors Event Advisory Committee Meeting 13 December 2021	3 Pages

I.2 Planning and Building Statistics - November 2021

File No:	**CM21/829**
Division:	**Place Making**
Council Plan Strategic Objective:	**Sustainable Development**
	Prepare for growth while ensuring the intrinsic values and character of Bass Coast are retained.

Summary

PERMITS REFUSED:

Nil.

PERMITS ISSUED:

Island Ward

200440: Development of the land for a dwelling in the LSIO located at 52 Honeysuckle Grove, Silverleaves.

210127: Development of land for a dwelling in excess of 7 metres in DDO1 located at 19 Marlin Street, Smiths Beach.

210161: Removal of trees in VPO2 located off 2-3 The Esplanade, Cowes.

210187: Subdivision of land into two lots in the GRZ1 and creation of a restriction located at 6 James Street, Cowes.

210228: Building and works associated with a dwelling in ESO and SLO located at 151 Watts Road, Ventnor.

210289: Building and works associated with a dwelling in the LSIO located at 92 Silverleaves Avenue, Silverleaves.

210312: Removal of vegetation under Clause 52.17 Dunsmore Road, Cowes.

210324: Development of the land for extension to a dwelling in LSIO located at 10 Bruce Road, Silverleaves.

210403: Construction of an outbuilding (machinery shed) exceeding 100sqm in a FZ and SLO located at 251 Watts Road, Ventnor.

210404: Removal of one tree in VPO2 located at 4 Hollywood Crescent, Smiths Beach.

Western Port Ward

200175: Staged Subdivision, remove native vegetation and remove a carriageway easement located at Acacia Road, Grantville.

210033: Buildings and works for the construction of an agricultural shed within SLO1 and EMO located at 780 Loch-Wonthaggi Road, Krowera.

210149: Subdivision of land into 4 lots in GRZ1 and removal of native vegetation located at 14-16 Smythe Street, Corinella.

210233: Building and works in the FZ located at 2125 Bass Highway, Glen Forbes.

210267: Extension to a dwelling in the FZ and SLO1 located at 55 Colliers Road, Loch.

210269: Development of land for an agricultural outbuilding in the SLO1 located at 3030 Bass Highway, Anderson.

210271: Building and works in the PCRZ associated with a public toilet located at CA 130A Parish of Phillip Island, Pyramid Rock Road, Ventnor.

210273: Subdivision of land into two lots in the Township Zone located at 6 Hill Street, Kilcunda.

210275: Development of land for a dwelling exceeding 7 metres in the DDO1 located at 20 Elsa Terrace, San Remo.

210276: Development of land for a Dependent Person's Unit it the BMO located at 70 Acacia Road, Grantville.

210280: Development of land for a machinery shed in the SLO1 and EMO1 located at 90 Boundary Road, Loch.

210283: Development of land for a dwelling in the ESO2 located at 68 Foreshore Road, Jam Jerrup.

210323: Subdivision of land into 4 lots in LDRZ located at 19 Reid Lane Bass.

210343: Development of land for a dwelling in the BMO1 located at 159 Vista Drive, Cape Woolamai.

210384: Buildings and works associated with the construction of a farm shed in RCZ located at 983 Grantville-Glen Alvie Road, Almurta.

210406: Buildings and works in a SUZ and DDO1 located at 17 Potters Hill Road, San Remo.

210424: Construction of a shed in a HO located 28 Wetherall Drive, Corinella.

210429: Additions to a dwelling in the BMO that exceed 50% of the existing floor area located at 12 Cottosloe Avenue, Cape Woolamai.

Bunurong Ward

200382: Subdivide land to realign the common boundary between 2 lots, and remove, destroy or lop native vegetation and vegetation in VPO3 located at 64 Surf Parade, Inverloch.

210056: Subdivision of land into 2 lots in the GRZ located at 109 Hagelthorn Street, Wonthaggi.

210061: Use and development of the land for a Warehouse for both tenancy 1 and 2 and reduction of car parking located at 62 Dixon Street, Inverloch.

210131: Development of land for a dwelling in the BMO located at 9-15 Viminaria Road, Harmers Haven.

210200: Development of land for a dwelling in the DDO1 and LSIO located at 17 The Esplanade, Inverloch.

210237: Two lot subdivision in the LDRZ located at 42 Wallace Street, North Wonthaggi.

210257: Additions to an existing dwelling on a lot less than 300 sqm in the GRZ located at 1/7 Pier Road, Inverloch.

210263: Development of land for a single dwelling in the LSIO and DDO1 located at 2 Cuttriss Street, Inverloch.

210279: Subdivision of land into two lots in GRZ located at 45 Hagelthorn Street, Wonthaggi.

210301: Subdivision of land into two lots in GRZ1 located at 9 Kingston Road, North Wonthaggi.

210310: Development of the land for alteration and extension to an existing dwelling in the ESO1 and SLO4 located at 160 Cape Paterson-Inverloch Road, Inverloch.

210325: Additions and alterations within existing dwelling in the DDO9 located at 13 Halford Street, Inverloch.

210326: Subdivision of land into two lots in the GRZ1 located at 87 Broome Crescent, Wonthaggi.

210344: Subdivision realignment of boundary between two lots in GRZ1 located at 37 & 41 Nelson Street, North Wonthaggi.

210366: Removal of one tree in a VPO3 located at 1 Park Street, Inverloch.

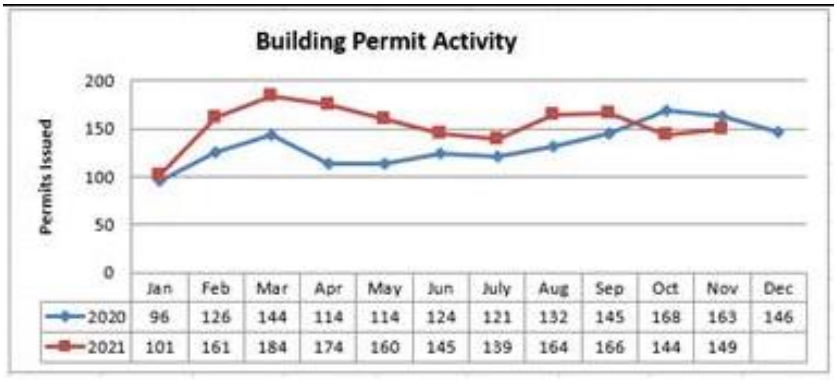
210381: Two lot subdivision located at 4 Peregrine Court, Cape Paterson.

210382: Two lot subdivision located at 6 Peregrine Court, Cape Paterson.

PLANNING AND BUILDING ACTIVITY REPORT FOR NOVEMBER 2021

Statutory Planning	This month (November)	Last month	Year to date (financial year)
% of applications determined within statutory timeframe	64.5	65.4	64.4
Average Gross Days (Responsible Authority determination)	201	151	184
(new) Average Gross Days to final outcome	200	156	197
Average Statutory Days (Responsible Authority)	56	58	
Number of live applications	236	255	-
Number of applications received for the month	54	68	285
Number of Responsible Authority outcomes	64	65	276

Municipal Building Services & Enforcement	This month (November)	Last month	Year to date (financial year)
Essential Safety Measure inspections	0	1	1
Report and Consent applications	25	18	126
Siting consents issued for temporary structures	7	10	0
Complaints received requiring investigation	6	10	43
New building enforcement cases	7	0	20
Number of open building enforcement cases	16	19	n/a
Building permits issued by Council	0	0	0



Planning Enforcement	This month (November)	Last month	Year to date (financial year)
New Reports received for assessment	12	8	342
Reports assessed and closed – no PE	8	3	-
New complaint/case files opened	8	9	46
Complaints/case files closed	11	5	332
Current open complaints/case files	51	51	-

STATUTORY PLANNING DEFINITION:

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

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

Recommendation

That Council:

1. **Receives and notes the Planning Permits issued under delegation report for November 2021; and**
2. **Receives and notes the Planning and Building Activity Report for November 2021.**

Attachments

There are no attachments for this report.

I.3 Planning and Building Statistics - December 2021

File No:	**CM22/2**
Division:	**Place Making**
Council Plan Strategic Objective:	**Sustainable Development**
	Prepare for growth while ensuring the intrinsic values and character of Bass Coast are retained.

Summary

PERMITS REFUSED:

Nil.

PERMITS ISSUED:

Island Ward

210098: Subdivision of land into 2 lots located at 41 Rhyll-Newhaven Road, Rhyll.

210236: Subdivision of land into 2 lots and removal of vegetation in the VPO2 located at 9 Shalfleet Avenue, Ventnor.

210239: Development of land for 2 warehouses in the INZ3 located at 14 Harvey Drive, Cowes.

210250: Construction of a replacement dwelling and associated works on the land in the SLO3 and ESO1 located at 56 McFees Road, Rhyll.

210272: Two lot subdivision in the GRZ located at 51 Walton Street, Cowes.

210288: Development of a dwelling in LSIO located at 31 Silverleaves Avenue, Silverleaves.

210315: Extension to an existing dwelling in the LSIO located at 20 Woodland Avenue, Silverleaves.

210340: Development of the land for alteration and extension to an Indoor Recreation Facility in the FZ, ESO1 and SLO3 located at 1 McFees Road, Rhyll.

210372: Construction of an outbuilding associated with a dwelling located at Lot 1 TP85697 Victoria Road, Ventnor.

210498: Remove 1 tree in Vegetation Protection Overlay, Schedule 2 located at 72 Lock Road, Rhyll.

210505: Removal of a tree in the Vegetation Protection Overlay, Schedule 2 located at 9 Woodland Avenue, Silverleaves.

Western Port Ward

210154: The subdivision of land into 9 lots in two stages, the removal of native vegetation, and the removal of an easement located at 6 Mary Grove, San Remo.

210155: Development of land for two dwellings and subdivision of land into two lots in the GRZ1 and DDO1 located at 56 The Esplanade, Sunderland Bay.

210199: Subdivision of land into two lots in GRZ1 and DDO1 located at 15B Pier Road, Grantville.

210207: Construction of a dwelling in the DDO1 located at 26-28 Palmer Street, Corinella.

210219: Subdivision of land into 11 lots in the MUZ and DPO3 located at 6-8 Grantville-Glen Alvie Road, Grantville.

210297: Development of land for two dwellings in the GRZ located at 3 Second Avenue, Cape Woolamai.

210306: Construction of a dwelling in the DDO1 located at 19 Liberty Crescent, Corinella.

210313: Development of land for a replacement dwelling in the ESO1 located at 5 Rennison Road, Newhaven.

210317: Additions to an existing dwelling in the BMO1 located at 99 Tampa Road, Cape Woolamai.

210354: Development of land for a dwelling in the ESO4 and SLO1 located at 32 Mabilia Road, Kilcunda.

210402: Construction of a dwelling and associate earthworks in the HO28 located at 27 Wetherall Drive, Corinella.

210422: Construction of a building (shed) within 100 metres of a Road Zone Category 1 in a FZ located at 615 Inverloch-Kongwak Road, Wattle Bank.

210433: Additions to an existing dwelling in the RO2 located at 49 June Street, Adams Estate.

210441: Buildings and works associated with an existing winery in a FZ and SLO located at 1835 Dalyston-Glen Forbes Road, Glen Forbes.

210458: Alterations and additions to an existing dwelling in the FZ located at 2034 Dalyston-Glen Forbes Road, Glen Forbes.

210468: Construction of a building (pool shelter) in a Farming Zone located at 240 Dwyer Road, Bass.

Bunurong Ward

210153: Subdivision of land into two lots in the GRZ1 and DDO8 located at 57 Hagelthorn Street, Wonthaggi.

210201: Additions and alterations to existing dwelling exceeding 7 metres in height in the DDO7 located at 128 Lohr Avenue, Inverloch.

210274: Subdivision of land into three lots in the GRZ located at 25 Dunn Street, Wonthaggi.

210342: Demolition of an outbuilding and construction of an outbuilding in the HO located at 32 Campbell Street, Wonthaggi.

210369: Subdivision of land into two lots located at 88 Hagelthorn Street, Wonthaggi.

210374: Removal of a tree I the VPO3 located at 25 Venus Street, Inverloch.

210416: Subdivision of land into 3 lots located at 31 A`Beckett Street, Inverloch.

210417: Development of land for a dwelling in the BMO located at 55-57 Viminaria Road, Harmers Haven.

210425: Two lot subdivision in accordance with development permit for two dwellings located at 34A Freda Street, Inverloch.

210428: Removal of native vegetation under 52.17 located at Crown Land Lease 1202816, 156 Legge Way, Cape Paterson.

210442: Development of land for a dwelling in the BMO located at 22 Silvereye Circuit, Wonthaggi.

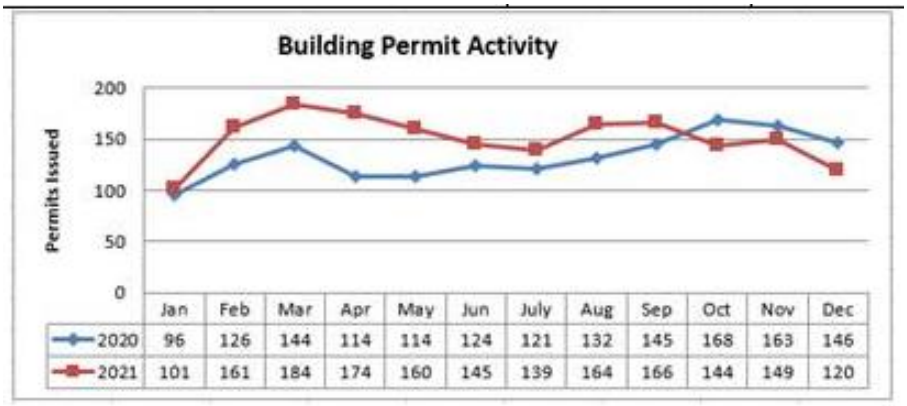
210453: Development of land for business identification signage and an internally illuminated sign in the INIZ located at 1/120 McKenzie Street, Wonthaggi.

210474: Two lot subdivision located at 3 Henry Street East, North Wonthaggi.

PLANNING AND BUILDING ACTIVITY REPORT FOR DECEMBER 2021

Statutory Planning	**This month (December)**	**Last month**	**Year to date (financial year)**
% of applications determined within statutory timeframe	64.6	64.5	64.5
Average Gross Days (Responsible Authority determination)	145	200	178
(new) Average Gross Days to final outcome	162	199	187
Average Statutory Days (Responsible Authority)	44	56	
Number of live applications	249	236	-
Number of applications received for the month	47	56	334
Number of Responsible Authority outcomes	61	64	333
Municipal Building Services & Enforcement	**This month (December)**	**Last month**	**Year to date (financial year)**
Essential Safety Measure inspections	0	0	1
Report and Consent applications	22	25	148
Siting consents issued for temporary structures	0	0	0
Complaints received requiring investigation	10	6	53
New building enforcement cases	4	7	24
Number of open building enforcement cases	14	16	n/a

Building permits issued by Council	0	0	0



Planning Enforcement	**This month (December)**	**Last month**	**Year to date (financial year)**
New Reports received for assessment	11	12	353
Reports assessed and closed – no PE	9	8	-
New complaint/case files opened	8	8	54
Complaints/case files closed	10	11	342
Current open complaints/case files	50	51	-

STATUTORY PLANNING DEFINITION:

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

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

Recommendation

That Council:

1. **Receives and notes the Planning Permits issued under delegation report for December 2021; and**
2. **Receives and notes the Planning and Building Activity Report for December 2021.**

Attachments

There are no attachments for this report.

I.4 Contracts Awarded and Extended

File No:	**CM22/22**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Leading for our Community** Demonstrating leadership through good governance, transparency and accountability

Declaration

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

Summary

Contracts Awarded

For the period from 1 November 2021 to 31 December 2021, the following contracts have been awarded under the Chief Executive Officer's Instrument of Delegation.

Contract No.	Description	Contractor	Contract Sum (excl gst)
21038	Surf Parade Pathway Inverloch Veronica St to Ozone St Stage 3A	SR Excavations Pty Ltd	$828,919.41
21039	Smart Parking Project	Australian Parking & Revenue Control Pty Ltd	$343,471.82
21041	Purchase of 4x2 Tip Truck (MAV Panel - NPN04-13)	Patterson Cheney Isuzu	$188,086.91

Contracts Extended

For the period from 1 November 2021 to 31 December 2021, there were nil contracts that were extended under the Procurement Delegation Framework.

Recommendation

That Council notes the above contracts were awarded in accordance with the Procurement Delegation Framework during November & December 2021.

Attachments

There are no attachments for this report.

I.5 Councillor Expenses for the Council Term - 9 November 2020 to 31 December 2021

File No:	**CM22/36**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Leading for our Community** Demonstrating leadership through good governance, transparency and accountability

Declaration

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

Summary

The *Local Government Act 2020* provides for the Mayor and Councillors to be paid an allowance and be provided with appropriate tools and support to enable them to properly fulfill their roles as Councillors.

Background

The Mayor and Councillors Expense Register includes:

- Mayor and Councillor allowances
- Conferences and professional development expenses
- Information technology and telecommunication expenses
- Travel expenses
- Car mileage travel claims submitted by Councillors
- Vehicle expenses
- Carer expenses

Strategic Basis

The Provision of Resources to Councillors Policy prescribes the range of resources that must be provided to the Mayor and Councillors to enable them to effectively carry out their role.

Council Plan Strategic Objective:

Leading for our Community - *Demonstrating leadership through good governance, transparency and accountability*

Governing Documents

The statutory requirements and standards relevant to the provision of resources to Councillors include:

- Sections 39, 40 and 41 of the *Local Government Act 2020*.
- The provisions of the Council Support and Resources Policy.

Sustainability Implications

There are no sustainability implications associated with this report.

Finances

The attached document sets out details of Councillor Expenditure for the Council term between the dates 9 November 2020 to 31 December 2021.

Stakeholders

Stakeholders include the ratepayers of the municipality and Council.

Recommendation

That Council receive the report on Councillor Expenditure for the Council term between 9 November 2020 and 31 December 2021.

Attachments

AT-1 Councillor Expenses FINAL Report 9 Nov 2020 to 31 Dec 2021 1 Page

J Urgent Business

Mayoral Announcement Of Next Meeting Of Council

The next **Council Meeting** will be held virtually on 16 March 2022 in the Bass Coast Civic Centre Council Chamber, Baillieu Street East, Wonthaggi commencing at 1.00pm.