

Bass Coast Shire Council
Council Meeting Agenda

Wednesday 18 May 2022

Council Chamber
Bass Coast Civic Centre
Baillieu Street East
Wonthaggi
Commencing at 1.00pm

BASS COAST



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 at the Council Chamber Bass Coast Civic Centre Baillieu Street East Wonthaggi on 18 May 2022 at **1.00pm**

Date of Notice - 12 May 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 20 April 2022

Recommendation

That the minutes of the Council Meeting held on 20 April 2022 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 - Parking in Marine Parade San Remo

File No: **CM22/248**
Division: **Business Transformation**
Council Plan Strategic Objective: **Leading for our Community**

Demonstrating leadership through good governance, transparency and accountability

A Petition containing 38 signatures has been received. The petition reads:

We the undersigned are writing you with a request to change the current parking restrictians at the east end of Marine Pde San Remo. The main parking in question is located between Bergin grove and Back beach road, see attached map.

There have been various discussions with the Traders Association regarding the parking in Marine Pde over the years with much of it concentrated around the concerns of having people parking long term on the shop (south) side of Marine Pde. These discussions some years ago saw the introduction of shorter-term parking limits, (2hr) on that south side of the road at the west end and shorter term in front of the Dr and Post Office This change had a noticeable impact freeing up those parking spots for a quicker turnover of traffic while causing very little concern for the shop keepers with spaces on the north side remaining un restricted. There had been on-going discussions following the introduction of those restrictions and while some further suggestions were made regarding the west end of town, mostly because of the availability of the extra parking off Marine Pde, there was no mention or a need for any change for the east end of town which was working without problem.

We understand the council have made the recent changes to the parking, especially the east end of Marine Pde with good intentions in mind but it has in fact created far more problems than it was to solve. We have been told that there was a constatation with the local businesses before a decision was made but the first those concerned was when a letter was sent around to explain what was being done and after most of the new signage poles had been installed. By restricting parking, (east end), on the north side of Marine Pde and leaving an unrestricted section between Wynne and Edgar roads staff from the businesses are parking all day in these spots. This is creating dangerous situations with people now forced to carry heavy loads of laundry across the busy road, elderly who would normally use these spots are now forced to park on the north side, also needing to cross the busy road. The restrictions have also created a problem in Back Beach Road, which didn't exist before, where one body corporate has sign written the parking spots, stating that they are for customer use only. One shop keeper even taking to block in people in who park in her spot placing a flyer under the windscreen explaining how to get the car moved. We understand that the section of parking in question is actually private land but by being on a public road it is very confusing, even for the council it would seem who had suggested that shop keepers should use that area when first questioned about the restrictions. There was never a need for restrictions at this end of town and the noticeable change since the

restrictions has been negative and actually creating far more congestion in the smaller side streets.

San Remo is a unique town, especially with parking and requires an availability of both short term and long-term parking and has two very different needs for both east and west end of town. With many older shops in town that were not required to supply staff parking there is no choice but to park in Marine Pde for some of them. There was a need at the west end of town for more short-term parking because of the types of businesses that in that section of the street and because of the available all day parking this works wel.

*Our request is to re-instate the non-restricted parking between Bergin grove and Back Beach Road on the north side of Marie Pde and to establish a 2hr restricted parking section on the south side between Wynne and Edgar roads, This would allow for continual flow of parking spots closest to the shops eliminating the need for the venerable to have to cross the busy road. It would then give availability of parking for those who need longer term parking, on the north side taking much of the congestion off the side roads. A change to the current one-hour parking in Back Beach Road to 2hr as many of the businesses in that section require appointments lasting longer than 1hr. If the current road signage of *Customer Parking", despite all these parks being taken up by the business staff, is to remain then other signage is needed to explain that it is private land before the arguments that are happening become more heated.*

This end of town is slowly starting to re-establish itself again with all shops occupied, it would be detrimental to the town if this was to change because of the restriction of access. We are more than happy to meet with council and discuss this matter further to resolve what has now unfortunately become a problem both with the shop keepers and their customers.

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."

Section 54.6 of the Bass Coast Shire Council Governance Rules states that:

"Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by Council."

Section 54.10 of the Bass Coast Shire Council Governance Rules states that:

"An electronic/online petition, joint letter or other like application is required to adhere to all the requirements of a written petition unless Council resolves otherwise."

Recommendation

1. **That the petition, Parking in Marine Pde San Remo be received, noting in accordance with the Governance Rules section 54.10 it does not adhere to section 54.6 and lie on the table with a report to be presented no later than the 17 August 2022 Council Meeting.**
2. **That the head petitioner be advised of Council's decision.**

Attachments

AT-1 ***CONFIDENTIAL*** - Petition Parking in Marine Pde San Remo 5 Pages

Notices of Motion

F Notices of Motion

Mayor and Councillor Reports

G Mayor and Councillor Reports

Reports Requiring Council Decision

H Reports Requiring Council Decision

H.1 2021/22 Quarterly Performance Report - January - March 2022

File No:	**CM22/239**
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 January 2022 to 31 March 2022.

Council has made significant progress towards the completion of the Annual Action Plan 2021/22 in the third quarter, with 23 of 25 projects on track or complete, including a number of key community planning documents. This is a great result with the Annual Action Plan due for completion by 30 June 2022.

The combined capital works program, current year and multi-year/carryover projects is 32.5% complete. Council is forecasting to achieve an end of year expenditure result of 60.2%, noting 32.1% 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 $1.6 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 January – March 2022 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 six actions completed including Council's contribution to the Biolinks Revegetation Program with 21,000 indigenous plants planted and 32 hectares of remnant vegetation protected.

Twenty three of the remaining actions are on track and two need attention. The highlight for this quarter is the completion of the Cape Paterson Seawall renewal. The new sea wall construction offers a higher protection from wave erosion to nearby assets including the access road and replaces the old bluestone retaining wall which was in poor condition.

Financial Performance

Council's forecast net result is favourable to budget by $4.0 million with a $12.5 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 $1.6 million deficit.

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 third quarter of the year, January-March 2022.

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 January-March 2022 Quarterly Performance Report will be available on Council's website.

Recommendation

That Council receive the January – March 2022 Quarterly Performance Report.

Attachments

AT-1 2022 05 02 - Quarterly Report to the Community - Jan - March 2022 45 Pages

H.2 Planning Application 200053 - 60 - 76 Viminaria Road Harmers Haven - Subdivision of land into two lots, removal of native vegetation and creation of restriction

File No: **CM22/190**
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:	200053
Applicant:	Leigh Hubbard and Others
Land/Address:	60 – 76 Viminaria Road, Harmers Haven Lot 25 LP209328
Ward:	Bunurong Ward
Proposal:	Subdivision of land into two lots, removal of native vegetation and creation of restriction
Zone:	Township Zone (TZ)
Overlay:	Bushfire Management Overlay (BMO) Design and Development Overlay – Schedule 1 (DDO1)
Planning permit triggers:	Clause 32.05-5 (Township Zone) – Subdivision Clause 43.02-3 (DDO1 Overlay) – Subdivision Clause 44.06-2 (BMO Overlay) – Subdivision Clause 52.17 (Native vegetation) – Removal of vegetation
Number of submissions:	A total of 24 objections and 5 submissions of support 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 21 objections.
Officer recommendation:	Refusal to Grant a Planning Permit

Purpose of Report

For Council to consider a planning application for the subdivision of land into two lots and the removal of native vegetation at 60 – 76 Viminaria Road, Harmers Haven.

Summary of Officer Recommendation

That Council issue a Notice of Refusal as outlined in the Recommendation section of this report.
The proposal should not be supported for the following reasons:

- The proposal is inconsistent with the objectives of Planning Policy, which broadly seeks to protect biodiversity, minimise cumulative impacts on the coastal environment, and discourage growth in township of Harmers Haven.
- The removal of the remnant native vegetation can be minimised by developing the land for a single dwelling which would minimise impacts on biodiversity without undermining the use the land for residential purposes.
- The application has not demonstrated storm event flows and consequently impacts on adjoining public and private land can be appropriately managed
- The proposal would not on balance produce an acceptable outcome considering all the relevant decision guidelines of Clause 65.

Main Considerations

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

- Directing growth to appropriate locations
- Removal of native vegetation
- Biodiversity values and impacts
- Bushfire risk and mitigation measures
- Ability to manage storm water in storm events
- Capability of the land to manage effluent

The Proposal

This application proposes to subdivide land into two (2) lots and the removal of vegetation in accordance with the application material prepared by Planning Central. The decision plans are provided as Attachments and are detailed below:

- Proposed subdivision plan, prepared by Planning Central, dated October 2021 (Version 4) – Attachment 1
- Bushfire Management Plan, prepared by Euca Planning & Planning Central, dated October 2021 (Version 3) – Attachment 2
- Vegetation Removal Plan, prepared by Tree Tec, dated 13 October 2021 – Attachment 3
- Native Vegetation Removal Report, prepared by Tree Tec, dated 13 October 2021 – Attachment 4

Supporting documentation submitted with the application includes:

- Planning Report, prepared by Planning Central, dated February 2020 – Attachment 5
- Bushfire Planning Report, prepared by Euca Planning, dated 12 October 2021 – Attachment 6
- Stormwater Management Assessment, prepared by Ark Angel, dated 8 November 2020 - Attachment 7
- Land Capability Assessment (LCA), prepared by Ark Angel, dated 8 August 2020 – Attachment 8

Key features of the proposal include:

- Lot 1 (western lot) with an area of 1,287 square metres, measuring 44.98 metres on the western boundary and marginally larger on the eastern, 28 metres at the southern boundary, and an angled frontage of 28.07m.
- Lot 1 is proposed to contain a building envelope setback 10 metres from the frontage, 13 metres from the western boundary, and 3 metres from the proposed boundary between Lot 1 and 2.
- The balance of the land is proposed to be Lot 2, with a total area of 1.016 hectare (10,016 square metres). This includes the area marked on plans as 'undevelopable due to wet conditions', which is the majority of the land.
- Lot 2 is proposed to contain a building envelope setback 10 metres from the frontage, 13 metres from the shared boundary, and defendable space of 13 metres to the east.
- A waste disposal field (shown in blue in Figure 1 and 2) and rain garden (shown in purple) for each lot. The construction of road side table drain is proposed along Viminaria Road which would require the removal of vegetation.

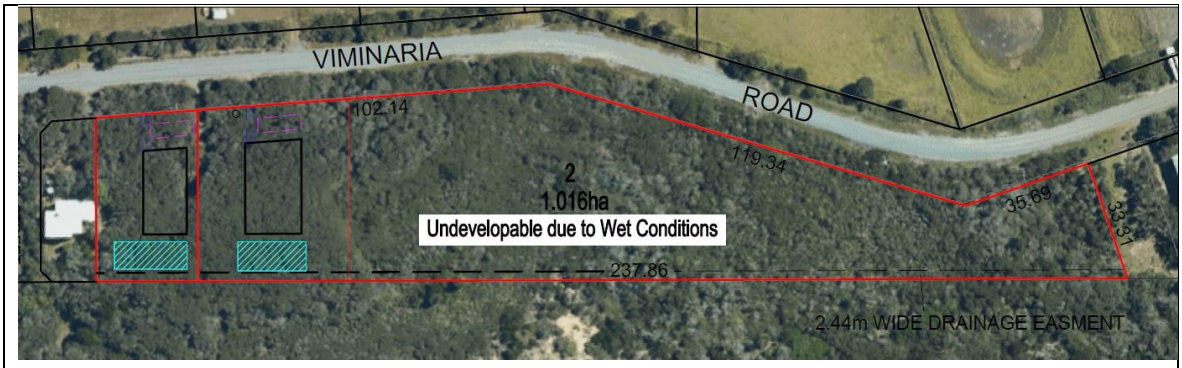


Figure 1 - Proposed Plans

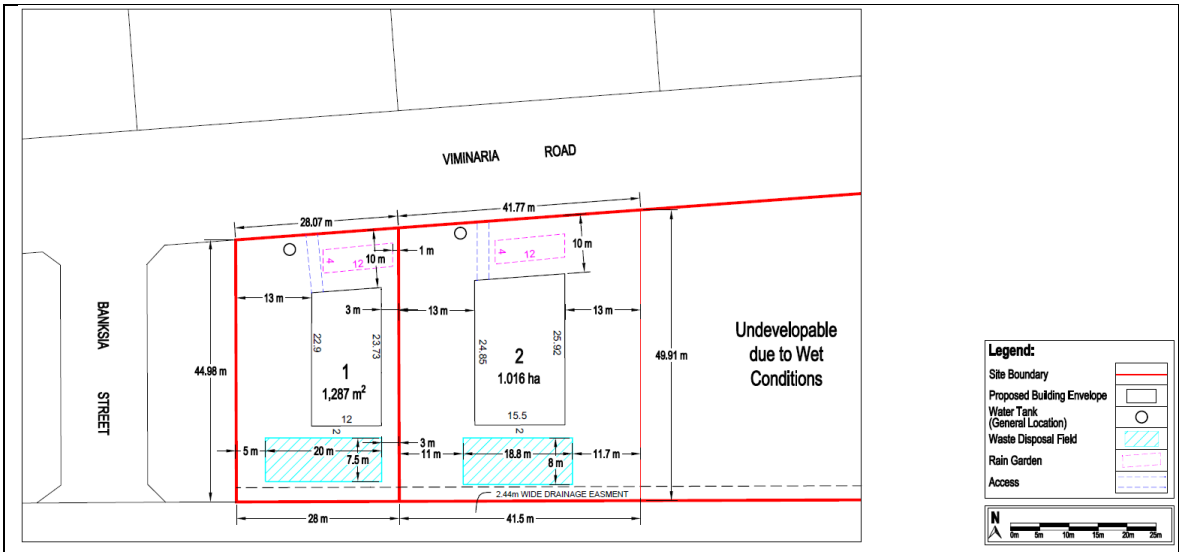


Figure 2 - Proposed Plans – without aerial

- Bushfire mitigation measures are outlined in the Bushfire Management Plan at Attachment 2 and shown below.

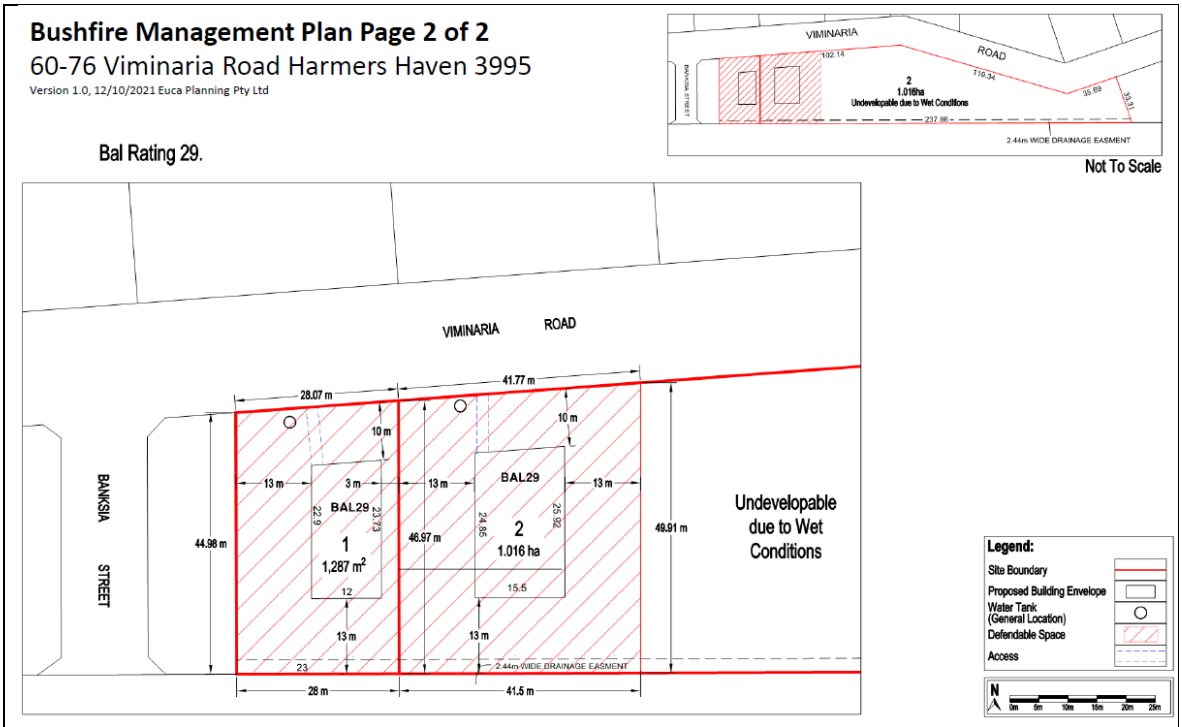


Figure 3 – Proposed Bushfire Management Plan (detailed mitigation measures shown in Attachment 2)

- Vegetation removal, including the:
  - Assumed complete loss (consequential) of native vegetation within proposed Lot 1 (creation of a lot less than 4000 square metres in size);
  - Complete removal of indigenous vegetation within the building envelopes of both parcels;
  - Removal of vegetation within the nature strip to provide for vehicle crossovers;

- Partial clearance to achieve the vegetation management requirements of within the defendable space of proposed Lot 2;

- Retention of the vegetation in the eastern portion of Lot 2 not required for defendable space (marked on plan as 'undevelopable due to wet conditions'). The applicant has advised they are willing to secure this protection through a restriction or agreement on title.

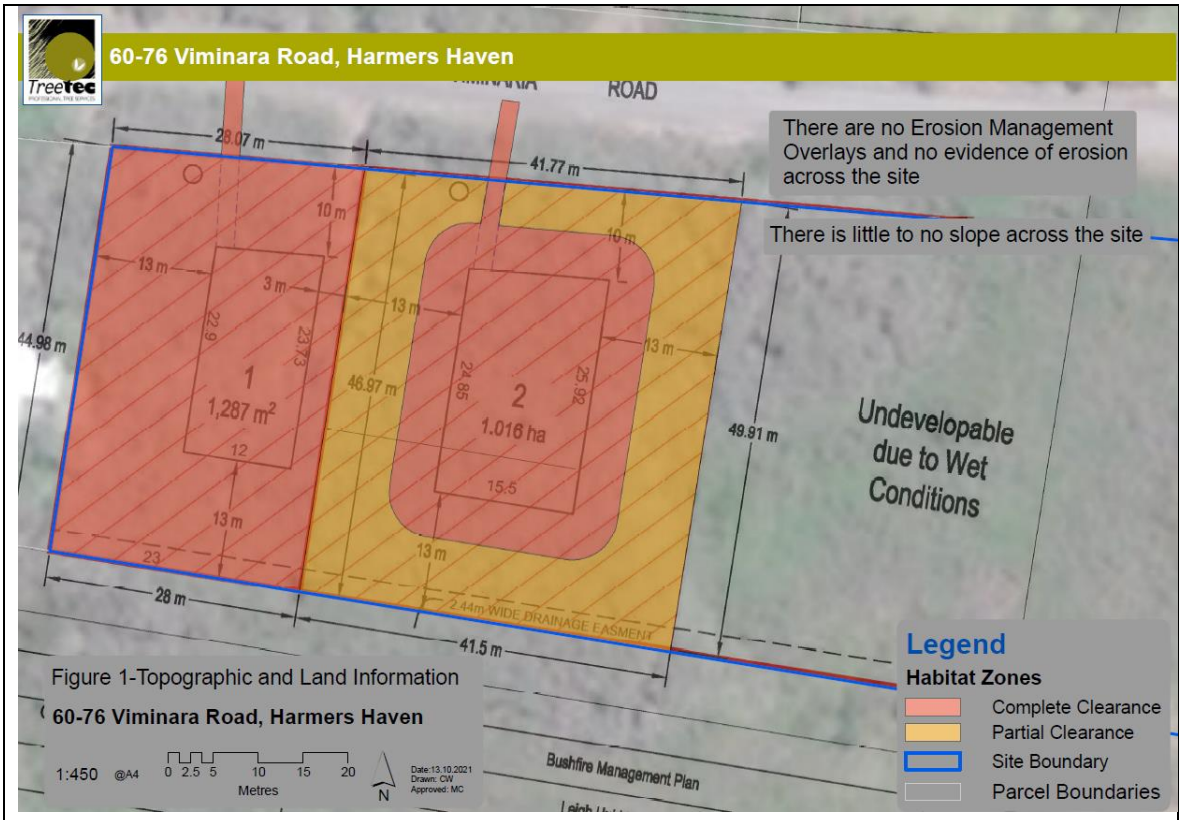


Figure 4 – Proposed vegetation removal

Background

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

Site Dimensions and Area	The site is irregular in shape with a frontage to Viminaria Road of 280.2 metres, a variable depth with a maximum depth of 55 metres and an overall area of approximately 10,140 square metres.
Topography	Variable topography, relatively flat from 15 AHD in the eastern portion to 18 AHD in the western portion.

Vegetation Cover	The entire site is densely vegetated by indigenous vegetation. The vegetation quality and biodiversity value are well documented. The vegetation is outlined in greater detail below.
Current Use and Development	Undeveloped and vacant
Easements	2.44 metre easement set aside for drainage and sewerage purposes at the rear of the lot. The easement is 'empty' and does not contain any infrastructure
Restrictive Covenants and/or Section 173 Agreements	No
Aboriginal Cultural Heritage Sensitivity	The site is located within an area of identified Cultural heritage sensitivity. A Cultural Heritage Management Plan is not required to be prepared for two lot subdivisions.
Planning Permit History	A search of Council records indicates prior Planning Permit history relevant to this application as outlined below.

Relevant Planning History

In 1965 the Borough had sealed a Plan of Subdivision of the subject land, then known as 30 Viminaria, which allowed for 7 lots of then standard residential size and one lot of over two acres. The Plan was not acted upon, however did not expire and was able to be acted upon at any time.

In 1986 a permit was instead sought to subdivide the same parcel into 13 residential allotments and a reserve for municipal purposes, with each residential allotment larger in size, and reduced density, than the 1965 Plan. The Responsible Authority, then Borough of Wonthaggi, refused the application, with a ground of refusal '*that the proposed development will detrimentally affect the amenity of the area and its environment*.'

The Applicant appealed the decision to the Planning Appeals Board (the Board) who in 1987 decided that the appeal should be dismissed and directed no permit to be issued '*so that the detrimental effects on-site and off-site of more intense development can be avoided to the greatest degree possible'*.

The decision (Petti v Borough of Wonthaggi & Miles & Ors [1987]) provides important commentary and a summary of the environmental significance of the site and appropriateness of the area for residential development, which remain of relevance 36 years later within the context of this proposal. The summaries of note are:

- 'The public coastal reserve at Harmer's Haven has a high biological and hence conservation significance as a rare regional vegetation remnant. This also applies to the indigenous vegetation surviving on adjoining private land.'

- 'The most significant vegetation community in the area is the Swamp Paper-bark heath on private and public land.'
- 'Residential development at Harmer's Haven has already had a severe but mostly localised impact on the environment, flora and fauna.'
- 'Further residential development in the area would result in significant direct and indirect losses of vegetation and fauna and cause an increased extent and rate of environmental degradation…'
- 'The Board is convinced by the material before it that the appeal site forms an integral part of a very environmentally significant part of an important segment of the South Gippsland coastline. The value of the remnant pockets of natural vegetation — especially those remnants remaining in the coastal reserves in the area — is such that endangering developments should be curtailed to reflect the need to protect such areas.'
- 'Due principally to the likely intrusive effects of drainage works and other site works required to make the proposed allotments suitable for development — that is, the building of houses, the construction of driveways and paths, the clearance of vegetation for fire protection — the impacts on the land on-site would have unacceptable ramifications on the surrounding area off-site. The area most likely to be affected off-site is, of course, the foreshore coastal reserve which, being downstream from the path of natural drainage across the appeal site will suffer from alterations to the natural drainage pattern. The importance of maintaining the ecological interconnection between the hydrology of the area and the botanical characteristics of the area is accepted by the Board.'
- 'The Board concluded that the 1965 subdivision is certainly inappropriate given the evidence regarding the environmental significance of the area…'
- 'Given that the Applicant can still use this land and develop houses on those allotments which are properly subdivided, the Board considers the only responsible decision is to disallow the appeal so that the detrimental effects on-site and off-site of more intense development can be avoided to the greatest degree possible.'

Following the decision of the Board to uphold the refusal, the 1965 Plan was acted upon in 1987 to create 7 lots, with the subject site (Lot 25) being the largest.

An application was lodged in 2001 to subdivide the subject site (Lot 25) for a 5 lot subdivision and reserve. Records indicate this application was withdrawn and no decision was made.

Subject Site And Surrounds

The site is located within the hamlet settlement of Harmers Haven. The main characteristics of the surrounding area are:

North	Adjoining the land to the north is Viminaria Road, which extends the length of the township from east to west. The southern side of the Viminaria Road Reserve which adjoins the subject site is densely vegetated with native vegetation and some scattered non indigenous species. On the north side of Viminaria Road contains low density developments containing single dwellings and associated outbuildings. Beyond these lots, the surrounding area to the north are large cleared lands used for agricultural purposes.
South	The southern boundary of the land adjoins Kilcunda-Harmers Haven Coastal Reserve, which is the Yallock-Bullock Marine and Coastal Park.
East	Adjoining the land to the north is 78 Viminaria Road Harmers Haven, which is vacant and undeveloped residential parcel. Extending beyond No. 78, each parcel ranges between 600 to 1000 square metres running along the south side of Viminaria Road.
West	Adjoining the land to the west is 58 Viminaria Road Harmers Haven, which contains a single dwelling. The landscape surrounding the house is modified mix of garden and some native vegetation.



Figure 5 - Aerial photography of subject site (Source: Council's GIS System, dated December 2020)

The subject site is densely vegetated, as illustrated by the aerial photography of the site. The vegetation within the proposed building envelopes of both parcels is Coastal Dune Scrub (Ecological Vegetation Class 160), which has a Bioregion Conservation Status of Depleted in the Gippsland Plain bioregion.



Figure 6 - Photo of vegetation (Coastal Dune Scrub) in subject site (Source: Site inspection conducted in March 2022)

The vegetation located in the wetter portion of the land containing Swamp Scrub (Ecological Vegetation Class 53) which has a Bioregion Conservation Status of Endangered in the Gippsland Plain bioregion.



Figure 7 - Photo of Swamp Scrub vegetation viewed from Viminaria Road (Source: Site inspection conducted in March 2022)

The subject land contains the largest piece of remnant native vegetation in private ownership in the area, with the size reflective of the damp conditions which deemed the majority of the land 'undevelopable' by the 1965 subdivision.

The settlement of Harmers Haven is an identified Biolink recognised by the *Bass Coast Biodiversity Biolinks Plan 2018.*



Figure 8 – Site and surrounds

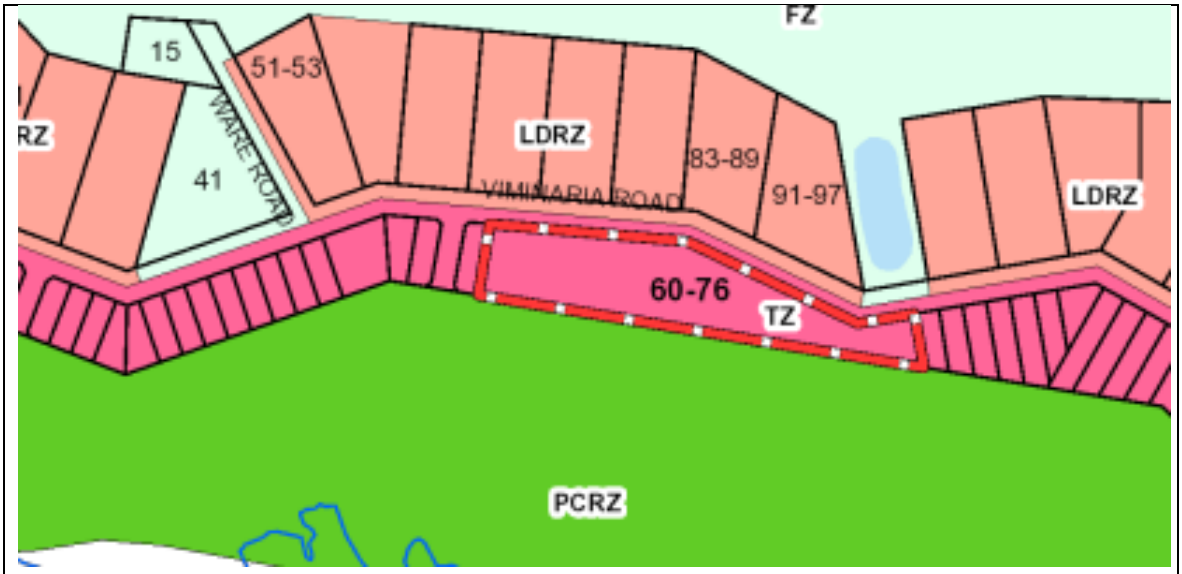


Figure 9 - Zoning Map

Title Particulars

The site is identified as Lot 25 on Plan of Subdivision 209328 in Volume 09775 Folio 940. No covenants affect the land. The land is encumbered by a drainage easement running along the southern boundary.

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 16 land owners and occupiers; and
- Placed a Notice on the land.

In response to notification the application attracted 25 objections and five (5) submission of support.

A copy of each submission is included in Attachment nine.

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

The application was amended on 23 November 2021. The amendment altered the proposed layout of the boundary between Lot 1 and Lot 2 and provided revised Native Vegetation Removal Report and Bushfire Management Assessment, with the substantive nature of the proposal remains unchanged. The revised documentation was uploaded to the website and objectors were updated by email.

Referrals

The following table outlines the referral requirements of this application.

Referral Authority	Comments
External	
DELWP Parks Victoria	Notice in accordance with Section 52 of the *Planning and Environment Act 1987* was required to be given to DELWP as the application adjoins Crown Land. A response was provided by DELWP in consultation with Parks Victoria which represented the views of both organisations. The response provided no objection to the application subject to conditions that relate to the Crown Land. The response also highlighted the declaration of the land as included within the Distinctive Area and Landscape, the need to minimise native vegetation removal and the protection of remaining vegetation.
CFA	The application was required to be referred to CFA in accordance with Section 55 of the *Planning and Environment Act 1987* as a determining referral authority. CFA provided no objection to the application subject to conditions.

Internal	
Environment	Object to the application. The comments outlined vegetation proposed for removal is of a high quality, is contiguous with the Yallock-Bulluk Marine and Coastal Park, part of biolink, and is considered to be regionally significant. Council Officers assessment is consistent with the previous ecological assessments undertaken of the Harmers Haven area. Any removal would be detrimental to the surrounding ecosystem based on its quality and location and is therefore not supported.
Development Services	Object to the application based on the information provided. The application has not demonstrated how the upgrades to the overland drain proposed in the road reserve can cater for the 20% AEP storms. It was also noted that these upgrades would require the removal of vegetation, which did not appear to be captured as part of the application. The serviceability of the overland path would need to be demonstrated through calculations that it could cater to this storm event. Similarly, the application has not demonstrated how the 1% AEP storm event flows will be managed or adverse impact on neighboring properties.
Environmental Health	The response provided no objection to the application subject to conditions, relating to the restrictions on the dwelling size as a result of the site constraints (low depth to groundwater and sensitive location).

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

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-18 Harmers Haven

Clause 11.03 - Planning for Places

- Clause 11.03-4S Coastal settlement
- Clause 11.03-5S Distinctive areas and landscapes

VPP 12 Environmental and Landscape Values

Clause 12.01 Biodiversity

- Clause 12.01-1S Protection of biodiversity
- Clause 12.01-1L Protection of biodiversity

- Clause 12.01-2S Native vegetation management

Clause 12.02 Coastal areas

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

Clause 12.05 Significant Environments and Landscapes

- Clause 12.05-2L-02 Landscape character areas

VPP 13 Environmental Risks and Amenity

Clause 13.02 Bushfire

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

VPP 15 Built Environment and Heritage

Clause 15.01 Built Environment

- Clause 15.01-3S Subdivision design
- Clause 15.01-3L Subdivision design
- Clause 15.01-5S Neighbourhood character

VPP 16 Housing

Clause 16.01 Residential Development

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

The Municipal planning strategy highlights the significance of the coastline of Bass Coast Shire. The decline and fragmentation of indigenous vegetation and loss of biodiversity is a major environmental issue in the Shire and a contributing factor towards other land and water degradation issues.

The subject site is located on the Bunurong Coast, which is identified as an ecologically distinct Character Area, with the Kilcunda to Inverloch Coast of recognised Regional Significance.

The intent of the settlement policies is broadly to manage growth by directing settlement into appropriate locations within existing settlements, and limit development in inappropriate locations. Increased housing densities in towns without the infrastructure or services to support such development or where there are particular environmental or character values or constraints, including in the townships of Harmers Haven, is specifically discouraged.

Harmers Haven is included within the Bass Coast Distinctive Area and Landscape declared under the *Planning and Environment Act* 1987, which seeks to recognise the importance of distinctive areas and landscapes to the people of Victoria and protect and enhance the valued attributes of identified or declared distinctive areas and landscapes.

The intent of the biodiversity policy is to ensure that planning helps to protect the health of ecological systems and the biodiversity they support.

The proposal does not on balance achieve the objectives of policy, as:

- The proposal, in particular the extent of the vegetation removal, does not contribute to the conservation of the environment, including the unique habitats, ecosystems and biodiversity of a declared Distinctive Area and Landscape and fails to achieve the objective of Clause 11.03-5S Distinctive areas and landscapes.
- The proposed intensification of residential development in an area of recognised biodiversity value does not contribute to the protection and conservation of biodiversity and fails to achieve the objective of Clause 12 Biosiversity and Clause 12.01-1S Protection of biodiversity.
- Considering the proposed protection of the 'undevelopable' land, the removal of vegetation would not enhance the overall extent and condition of native habitats and species diversity distributions across public and private land or enhance ecological values of ecosystem in the coastal environment (Clause 12.02-1S Protection of the marine and coastal environment).
- The proposal would contribute to the decline and fragmentation of indigenous vegetation and degradation of the coastline.
- The further subdivision of land, which in itself was considered inappropriate by the Planning Appeals Board in 1987 decision, is inconsistent with the strategy to minimise direct, cumulative and synergistic effects on ecosystems and habitats (Clause 12.02-1S Protection of the marine and coastal environment)
- The vegetation removal required to implement bushfire protection measures for the creation of an addition lot would have an unacceptable biodiversity impacts in an important areas of biodiversity that would be inconsistent with Clause 13.02-1S Bushfire planning.
- While housing and settlement policy broadly seeks to direct infill within existing settlement boundaries, Clause 16.01-1L housing supply specifically discourages increased housing densities in Harmers Haven that is without the infrastructure or services to support such development or where there are particular environmental or character values or constraints.
- The proposal does not seek to minimise the impact of the use and development on significant environmental feature of the endangered coastal ecosystem of the soon to be Yallock-Bulluk Marine and Coastal Park.

Zone Assessment

- **Clause 32.05 – Township Zone**

The purpose of the Township Zone is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for residential development and a range of commercial, industrial and other uses in small towns.
- To encourage development that respects the neighbourhood character of the area.

- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The zone also contains the following (as relevant) decision guidelines which have formed part of this assessment:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The objectives set out in a schedule to this zone.
- The protection and enhancement of the character of the town and surrounding area including the retention of vegetation.
- The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.
- In the absence of reticulated sewerage, a Land Capability Assessment on the risks to human health and the environment of an on-site wastewater management system constructed, installed or altered on the lot in accordance with the requirements of the Environment Protection Regulations under the Environment Protection Act 2017.
- The pattern of subdivision and its effect on the spacing of buildings.
- For subdivision of land for residential development, the objectives and standards of Clause 56.

Given that a planning permit is required under the zone for the subdivision of land, Clauses 56 (Residential subdivision) must be assessed and considered in the decision making process and is discussed below.

For a two lot subdivision, Clause 56.03-5, 56.04-2, 56.04-3, 56.04-5 and 56.06-8 to 56.09-2 are applicable. The proposal achieves technical compliance with the required standards, with the exception of:

Clause 56.07-4 Stormwater management

The application has not demonstrated how it will manage stormwater flows for all storm events including the 20% Average Exceedence Probability (AEP) and events greater than 20% AEP and up to and including 1% AEP standard.

The application is not consistent with the objectives and decision guidelines of the Township Zone as:

- The application has not demonstrated storm event flows can be appropriately managed and consequently has not demonstrated it would not adversely impact on adjoining private and public land.
- The extent of vegetation removal, both on the land and in the road reserve required for the drainage upgrades, would not contribute to the protection and enhancement of the vegetated character of the township.

Overlay Assessments

- **Clause 43.02 – Design and Development Overlay (Schedule 1)**

The purpose/objectives of the overlay is to:

- Implement the Municipal Planning Strategy and the Planning Policy Framework;
- Identify areas which are affected by specific requirements relating to the design and built form of new development;
- To protect views from the coast to adjacent residential areas.
- To protect views to the coast from adjacent residential areas.
- To minimise the impact of development along the coastline.
- To protect and enhance the visual amenity and landscape of the coastal area.
- To respond to the potential coastal impacts of climate change

Clause 43.02-6 also contains the following (as relevant) decision guidelines which have formed part of this assessment:

- The intensity of human activity that the coastal landscape and environment can sustain.
- The extent of any proposed removal of native vegetation.
- The location, dimension and level of any excavation or alteration to the natural surface including works to stabilise buffers in areas of fill or excavation.
- The works to control drainage and stormwater run-off from any building, access road or driveway.
- The location of building envelopes and siting of services in any proposed subdivision.
- The views, if any, of the Department of Environment, Land, Water and Planning.

The application is not consistent with the objectives of the overlay as:

- The application has not demonstrated that stormwater in storm events can be appropriately managed.
- The extent of removal of native vegetation of 3,390 square metres that is required to achieve defendable space, effluent disposal and stormwater management does not achieve an appropriate balance with the ecological impacts to the coastal environment.
- The proposal seeks the intensification of residential development in a sensitive coastal environment.

- **Clause 44.06 – Bushfire Management Overlay**

The purpose/objectives of the overlay is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.

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

The requirements of Clause 53.02 Bushfire planning apply, assessed below.

Other provisions

- **Clause 53.02 – Bushfire planning**

The purpose/objectives of this particular provision is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire
- To ensure that the location, design and construction of development appropriately responds to the bushfire hazard.
- To ensure development is only permitted where the risk to life, property and community infrastructure from bushfire can be reduced to an acceptable level.
- To specify location, design and construction measures for a single dwelling that reduces the bushfire risk to life and property to an acceptable level.

The application has demonstrated through the provision of Bushfire Hazard Landscape Assessment, Bushfire Hazard Assessment and Bushfire Management Plan that it is able to achieve the approved bushfire mitigation measures.

This includes the requirement to create defendable space around each proposed building envelope, which would require the clearing of native vegetation and assessment against Clause 52.17 Native vegetation.

- **Clause 52.17 – Native vegetation**

The purpose of this particular provision is to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017) (the *Guidelines)*:

1. Avoid the removal, destruction or lopping of native vegetation.

2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.

3. Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.

Application material was submitted in line with the requirements of the Guidelines.

As outlined in the proposal, the application proposed to remove a total of 0.339 hectares of vegetation. This vegetation is predominantly Coastal Scrub, which is a depleted ecological status.

The application is not consistent with the purpose and decision guidelines of the native vegetation provision, as:

- The high quality and value of the vegetation of the subject site is well documented, with the site containing some of the last remaining remnant vegetation of particular ecological classes within the region.
- As proposed by the stormwater management plan, vegetation removal would be required within the road reserve to facilitate the upgrade of the roadside drainage to accommodate stormwater flows.
- The application has not demonstrated that the creation of one additional lot justifies the removal of the vegetation proposed.
- Balancing all of the factors, the creation of one additional lot for one additional dwelling does not justify the removal of the vegetation proposed. The removal of any vegetation within this context that could be readily avoided is not supported.

- **Clause 65 Decision guidelines**

Because a permit can be granted does not imply that a permit should or will be granted.

Before deciding on the application, the decision guidelines of Clause 65 must be considered as appropriate:

- The matters set out in section 60 of the Act.
- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The effect on the environment, human health and amenity of the area.
- The proximity of the land to any public land.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.

For the reasons that have been outlined throughout this report, the proposal would not produce acceptable outcomes in terms of the relevant decision guidelines of this clause. Balancing the purpose of the zone for residential purposes, the strategic objectives relating to directing growth in appropriate locations, the extent and character of native vegetation, the effect on the environment, the granting of a permit would not produce an outcome that is consistent with the Bass Coast Planning Scheme.

Concerns Raised By Submitters

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

Objector Theme	Response
The loss of a significant area of native vegetation and potential off-site impacts on endangered, rare and depleted Ecological Vegetation Classes and faunal habitats	The application proposes to remove native vegetation of depleted ecological status. For the reasons outlined in this assessment, the loss is not considered to be an acceptable outcome.
Clearance as an accelerator to climate change	The Planning Scheme does not currently have strategies that relate to trees as a carbon store.
The land should be protected	The application proposes to set aside the 'undevelopable' swamp portion through a protection on title. This is not considered to justify the extent of the vegetation removal currently proposed by the application.
Impact of the proposal on the hydrology of the swamp and adjoining land	The application has not demonstrated that it can appropriately manage the storm flows during storm events, which may result in on-site or off-site impacts.
Impact of effluent disposal on coastal reserve	The application has demonstrated that it can dispose of effluent in line with EPA requirements.
The decision of the Planning Appeals Board	The decision provides background and commentary on the environmental value of the subject site which is relevant to the current application. Each application is assessed on its own merit, and while relevant, the decision does not result in the automatic refusal of the current application. This proposal is determined to be an unacceptable outcome on its own merit based on the current Bass Coast Planning Scheme.
Designation of the site within the Distinctive Area and Landscapes (DAL)	Harmers Haven is included within the Bass Coast Distinctive Area and Landscape declared under the *Planning and Environment Act* 1987. The draft Bass Coast Statement of Planning Policy and proposed landscape planning controls is currently open for public consultation by DELWP. Based on the draft status, this is not able to be considered by this permit application. The State Policy Clause 11.03-5S Distinctive areas and landscapes has informed the policy assessment of the proposal.

Five letters of support was received.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered that the proposal would not result in an acceptable outcome.

The subject site forms an integral part of an environmentally significant section of the Bunurong Coastline with regional significance, containing rare and depleted Ecological Vegetation Classes.

The proposal would result in both on-site and off-site impacts to the environment, including the biodiversity and hydrology, from the loss of a significant extent of remnant vegetation and intensification of residential development and associated infrastructure and human activity.

The application underwent notification and as a result there were 21 submissions received. Concerns raised by submitters were considered in the assessment of the application.

It is recommended that Council resolve to refuse to issue a Planning Permit for planning application 200053.

Recommendation

That in relation to planning permit application 200053 for Subdivision of land into two lots, removal of native vegetation and creation of restriction located at 60 – 76 Viminaria Road, Harmers Haven, Council resolves to issue a Notice of Refusal on the following grounds:

1. **The proposed residential intensification and removal of native vegetation in an area of recognised environmental value is inconsistent with the strategies of the following policies:**
   a. **Clause 11.03-5S Distinctive areas and landscapes**
   b. **Clause 12 Biodiversity**
   c. **Clause 12.01-1S Protection of biodiversity**
   d. **Clause 12.01-1L Protection of biodiversity**
   e. **Clause 12.01-2S Native vegetation management**
   f. **Clause 12.02-1S Protection of the marine and coastal environment**
   g. **Clause 13.02-1S Bushfire planning**
   h. **Clause 16.01-1L Housing supply**
2. **The application is not consistent with the purpose and decision guidelines of Clause 52.17 Native vegetation.**
3. **The application has not demonstrated storm event flows and consequently impacts on adjoining public and private land can be appropriately managed, which is inconsistent with:**
   a. **Clause 56.07-4 Stormwater management**
   b. **Clause 43.02 – Design and Development Overlay (Schedule 1)**

4. **The proposal w ould not on balance produce an acceptable outcome considering all the relevant decision guidelines of Clause 65.**

Attachments

AT-1	Subdivision Plan	2 Pages
AT-2	Bushfire Management Plan	2 Pages
AT-3	Vegetation Removal Plan	1 Page
AT-4	Vegetation Removal Report	23 Pages
AT-5	Planning Report	51 Pages
AT-6	Bushfire Planning Report	36 Pages
AT-7	Stormwater Rain Garden Report	11 Pages
AT-8	Land Capability Assessment	21 Pages
AT-9	***CONFIDENTIAL*** - Submissions	314 Pages
AT-10	***CONFIDENTIAL*** - Late Submissions	17 Pages

H.3 Planning Application 210094 - 24 Churchill Road Newhaven

File No: **CM22/216**
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:	210094
Applicant:	National Vietnam Veterans Museum c/- Tract Consultants Pty Ltd
Land/Address:	24 Churchill Road Newhaven
Ward:	Island Ward
Proposal:	Staged use and development of the land for a museum and restaurant (café), the removal of native vegetation, construction and display of business identification signage and the creation of access to a Transport Zone road
Zone:	Farming Zone (FZ) Transport Zone (TRZ)
Overlay:	No overlays apply to the land.
Planning permit triggers:	Clause 35.07-1 (Farming Zone) a permit is required for the use of the land for a section 2 use Clause 35.07-4 (Farming Zone) a permit is required for building and works Clause 52.05-2 (Signs) a permit is required to construct and display business identification signage Clause 52.17-1 (Native vegetation) a permit is required to remove, destroy or lop vegetation Clause 52.29-2 (Land adjacent to the principle road network)
Number of submissions:	A total of 10 objections and one submission 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 submissions being 10 objections and one in support of the proposal. In addition, Council's delegations require that applications for developments of more than $3 million be received by Council for determination.
Officer recommendation:	Notice of Decision to Grant a Planning Permit

Purpose of Report

For Council to consider a planning application for a staged use and development of the land for a museum and restaurant (café), the removal of native vegetation, construction and display of business identification signage and the creation of access to a TRZ2 road at 24 Churchill Road Newhaven formally Lot 1 on Plan of Subdivision 729804T.

Summary of Officer Recommendation

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

The proposal is supported for the following reasons:

- The proposed development is consistent with the objectives of Local and State Planning Policy.
- The proposal is a significance development for the region with potential to grow the tourism and visitor economy resulting in a net community benefit.
- The built form and scale of the development is not detrimental to identified and valued landscape qualities.

Main Considerations

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

- Whether the use and development accords with the purpose of the Farming Zone and meets the requirements of the relevant decision guidelines.
- Whether the use and development unreasonably impacts protection of sustainable agriculture.
- Whether the built form and layout of the building will adversely affect identified landscape values.
- Whether the application demonstrates avoiding and minimising removal of native vegetation.
- Whether the proposal demonstrates a net community benefit that will be a sustainable cultural addition to the visitor economy.
- Whether stormwater management strategies can be implemented to mitigate impacts on adjoining properties.

- Whether measures can be implemented to mitigate impacts on flood levels, waterways and downstream wetland habitats.
- Whether the proposal provides for safe and efficient vehicle access and egress.

The Proposal

This application proposes a staged use and development of the land for a museum and restaurant (café), the removal of native vegetation, construction and display of business identification signage and the creation of access to a TRZ2 road.

The decision plans, assessments and reports are provided as attachments and are detailed below:

- Town Planning Report prepared by Tract Consultants Pty Ltd dated 8 September 2021 (Attachment 1).
- Architectural Plans prepared by Architectus dated 9 September 2021 (Attachment 2).
- Architectural Design Response Report prepared by Architectus dated 9 September 2021(Attachment 3).
- 3D Views prepared by Tract Consultants Pty Ltd dated 2 March 2021 (Attachment 4).
- Agricultural Land Capability Assessment and Report prepared by Phillips Agribusiness dated July 2021 (Attachment 5).
- Flora and Fauna Assessment prepared by Nature Advisory dated July 2021 (Attachment 6).
- Native Vegetation Assessment prepared by Nature Advisory dated July 2021 (Attachment 7).
- Landscape Schematic Design prepared by Tract Consultants Pty Ltd dated August 2021 (Attachment 8).
- Stormwater Management Strategy Report prepared by TTW dated 30 August 2021 REV 6 dated 17 March 2022 (Attachment 9).
- Waste Management Plan prepared by One Mile Grid dated 14 July 2021 (Attachment 10).
- Traffic Report prepared by Traffix Group dated August 2021 (Attachment 11).
- Sustainability Management Plan prepared by Hip v Hype dated 13 November 2020 (Attachment 12).
- Structural and Civil Schematic Design Report prepared by TTW dated 23 December 2020 (Attachment 13).

Key features of the proposal include:

Establishment of a National Vietnam Veterans Museum to replace the existing museum that is located at 25 Veterans Drive Newhaven. The museum will be used to permanently display and store the collection of over 40,000 items of memorabilia and artefacts. The proposal includes significant landscape and environmental outcomes that will benefit the community more generally.

The building

- The development (figures 1 and 2) consists of the main building with a total area of 4206 square metres containing exhibition areas, visitor services spaces and support area spaces.
- The exhibition spaces are contained in approximately one half of the building and include three areas; a central theme area, a supporting theme area and an indoor memorial space.
- Approximately half of the building will consist of visitor service spaces, support spaces and plant.
- The visitor services spaces include ticketing, retail, reception, café, training, meeting and function rooms and amenities.
- The support spaces contain offices, archives, storage, library and staff amenities.
- The building has a maximum height of 12.93 metres and comprises two levels with level two being a mezzanine level and outdoor viewing deck. A green sculpted roof that includes solar panels is proposed and is not accessible to the public. The construction of berms is proposed so as to minimise the visual impact of the building from the public realm.
- Colours consist of earthy tones and soft green in a mix of materials and finishes.
- The building is located in the south eastern section of the site with much of the remaining land within the southern section to be landscaped. Setbacks to property boundaries are, 115 metres from Phillip Island Road, 270 metres from the rear north, 60 metres from the east and 610 metres from Churchill Road.
- Externally the development includes 60 car parking spaces, an additional overflow parking area to accommodate 30 spaces, bus parking area, special purpose spaces, commemoration garden and several event spaces.
- The setback to landscape works to the northern boundary is 70 metres. Setback to overflow car parking area to the east is 160 metres. The setback to the borrow pit is 10 metres from the western Churchill Road boundary.
- The main site access will be from the newly constructed fourth arm of the Phillip Island Road and Woolamai Beach Road roundabout.

Vegetation removal

It is proposed to remove 0.207 native vegetation (Grassy Woodland).

Landscaping

The Landscape Schematic Design provides details. In summary, the landscaping consists of:

- The landscaped areas are to be publically accessible without the requirement to purchase a ticket for museum entry.
- The landscape berms are proposed to the north of the proposed building and will have a maximum height of 7 metres to the front of the building and 4 metres to the car park area.

- Swamp paperbark woodland area to be developed will include a boardwalk circuit.
- A picnic and event lawn area, commemorative garden and Vietnamese cultural memorial.
- Integrated nature-based water sensitive urban design including swales and wetlands.
- Should a permit issue, the permit holder will be required to prepare and submit a comprehensive landscape plan to Council's satisfaction that is generally in accordance with the schematic submitted for review.

Signage

Business identification signage with an area of 2.5 square metres will be installed and setback 2 metres from Phillip Island Road.



Figure 1 – Site layout



Figure 2 - Perspectives



Figure 2 - Perspectives

Background

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

Site Dimensions and Area	The site has an area of 40 hectares and is an irregular shaped corner lot with a frontage to Phillip Island Road of approximately 905 metres and Churchill Road of approximately 347 metres.
Topography	The site is generally glat with some level change of approximately 3.5 metres. The site falls from west to east with flows being directed from the existing dams overflow towards Churchill Island to the north. There is approximately 7 metres fall across the length of the site. Land is relatively flat save for where it has been built up around the dams.
Vegetation Cover	Pasture is the predominant vegetation cover. Mature shelterbelts are evidenced along the western, southern and eastern boundaries and along internal fence lines. The application identifies 2.7 hectares comprising 17 patches of native vegetation. These patches include Estuarine Swamp Scrub, Plans Grassy Woodland and modified Estuarine Wetland types. There are no native scattered or large trees.

Current Use and Development	Vacant agricultural land that is intermittently used for cattle agistment (extensive grazing). Generally improved with fencing, an outbuilding, dams and shelter belts.
Easements	Encumbering easements for sewer and drainage in favour of Westernport Water. 1.08 hectares Road 1 vested in the Roads Corporation following a compulsory acquisition.
Restrictive Covenants and/or Section 173 Agreements	Nil.
Aboriginal Cultural Heritage Sensitivity	The site is located within an area of identified cultural heritage sensitivity. An approved Cultural Heritage Management Plan has been submitted with the application.
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
180359	Creation of an access to a VicRoads road (Phillip Island Road). VicRoads did not consent to the proposal as no justification was given for an access additional to the existing from Churchill Road. The application was subsequently withdrawn.	3 May 2019

In addition, the land was subdivided to create Road 1 to the front of the site February 2018 following a compulsory acquisition by the Roads Corporation.

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

Address	Proposal
Veterans Drive Newhaven	Directly opposite the subject site. Planning Permit 080291 issued on 3 July 2008 and allowed construction of an aircraft hangar and office. The permit has been extended and is current.

Subject Site and Surrounds

The site is located on Phillip Island west of San Remo, east of Cowes and just north of Cape Woolamai on the northern side of Phillip Island Road, east of Churchill Road in Newhaven. The site is irregular in shape and has an area of approximately 40 hectares.

The site is developed with an outbuilding (hayshed) and used intermittently for cattle grazing.



Image top left view of site from Phillip Island Road/Cape Woolamai roundabout, top right view of site from south east corner, bottom left view to the north west, bottom right view from south west corner of Phillip Island Road and Churchill Road (Source: Applicant supplied pages 11 and 12 Planning Report

The main characteristics of the surrounding area are:

North	Adjoining the land to the north is at 40, 50 and 100 Churchill Road comprising three rural residential lots of approximately 2.8, 12.95 and 47.67 hectares respectively. 100 Churchill Road includes a dwelling and is used for agricultural purposes. Land further north is agricultural.
South	Adjoining the land to the south is Phillip Island Road. A pedestrian and cycle path is located in the road reserve. Directly opposite is the existing National Vietnam Veterans Museum, the Phillip Island Heliport with this land identified as the Phillip Island Airport Investigation Area, retail uses within the Cape Woolamai commercial precinct and the Cape Woolamai township.
East	Adjoining the land to the east is 1 Samuel Amess Drive. The land is used and developed for production horticulture - flower growing (Maxiflora). Flowers are propagated in greenhouses and open fields. This lot has an area of approximately 22 hectares and is generally improved with fencing, greenhouses, outbuildings, stores, offices and water infrastructure commensurate with a large established horticultural enterprise.
West	Adjoining the land to the west is Churchill Road and further west is land used for agricultural purposes.



Figure 3 – Site and surrounds

Title Particulars

The site is identified as Lot 1 on Plan of Subdivision 729804 in Volume 11179 Folio 277.

The land is encumbered by a drainage and sewer easement running along the southern boundary and an area of approximately 1.8 hectares of the south east corner is vested in the Roads Corporation.

Planning Controls

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

Zone

- Clause 35.07- Farming Zone, Schedule 1

In accordance with Clause 35.07-1 a planning permit is required to use the land for a museum and café.

In accordance with Clause 35.07-4 a permit is required for buildings and works associated with a section 2 use.

Particular Provisions

- Clause 52.05 Signs

In accordance with Clause 52.05-2 a permit is required to construct or display business identification signage.

The proposed signage has a total display area of 2.5 square metres setback 2 metres from the front property boundary.

The signage is considered to be an orderly response on a main tourist road that will not distract drivers or lead to visual clutter or detrimentally impact important views or vistas. It is entirely relational to the use of the land and considered acceptable.

A condition on permit will require further particulars.

- Clause 52.06 Car parking

Clause 52.06-1 applies to a new use.

The development requires 42 spaces for the place of assembly (museum use) and 24 spaces for the restaurant (café) use.

A total of 90 car parking spaces will be provided exceeding the statutory car parking requirement and accordingly, no planning permit is required.

- Clause 52.17 Native vegetation

In accordance with Clause 52.17-1 a permit is required to remove, destroy or lop native vegetation.

It is proposed to remove 0.207 hectares of Plains Grassy Woodland.

The application includes flora and fauna assessments and reports. An assessment of native vegetation submitted with the application is considered to appropriately characterise existing vegetation on the site.

The full extent of the native vegetation removal that amounts to approximately 0.207 hectares (patch, no large trees) has been considered as a consequence of the development. The native vegetation that is to be removed is not in an area mapped as an endangered Ecological Vegetation Class.

The application satisfies the purpose of the native vegetation clause to avoid, minimize and offset to compensate for biodiversity impacts if a permit is granted to remove native vegetation. The proposed vegetation removal does not impact faunal habitat.

The application satisfies the relevant decision guidelines specified in the *Guidelines for removal, destruction or lopping of native vegetation*.

Should a permit issue, conditions will be placed on a permit in relation to protection of to be retained vegetation and to secure general offsets.

- Clause 52.34 bicycle facilities

In accordance with Clause 52.34-1 a new use must not commence until the required bicycle facilities and associated signage has been provided on the land.

The number of bicycle facilities required is 10 and 16 have been provided meeting the requirements.

- Clause 52.29 Land adjacent to the principal road network.

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

The applicant proposes to create access by constructing a fourth arm of the Phillip Island Road/Cape Woolamai roundabout.

The Department of Transport has reviewed the proposal and provides consent subject to conditions.

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 54 land owners and occupiers.
- Placed four notices on the land.
- Published one notice in the South Gippsland Sentinal Times.
- Provided notice to Melbourne Water pursuant to Clause 52.

In response to notification the application attracted 11 submissions in the form of 10 objections and one submission of support.

A copy of each submission is included at Attachment 14.

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

In response to concerns and issues raised the applicant provided a written response that was circulated to objectors who were given further opportunity to prepare submissions for consideration.

Referrals

The following table outlines the referral requirements of this application.

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
Department of Transport	Considered the proposed new access from the Phillip Island Road/Cape Woolamai roundabout. No objection to the application subject to conditions.
Melbourne Water Section 52 Notice	Melbourne Water are not a determining referral authority. Preliminary comments were received and the applicant acted upon recommendations. A further re-referral of revised stormwater management strategy was submitted for Melbourne Water Review and Council has not received a response. Preliminary comments will form the basis for conditions on the permit.
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Asset Management	Considered drainage, access and car parking, No objection subject to conditions.
Environmental Health	Considered waste management. No objection subject to conditions.
Environment	Considered vegetation.
DELWP	Informal discussions were held between Council officers and the DALs team that have informed consideration of the application with respect to proposed changes to the Bass Coast Planning Scheme (currently being exhibited) relating to the introduction of the Significant Landscape Overlay (SLO3). Further discussion was held in relation to the draft Statement of Planning Policy. Council officers are satisfied that the proposal can meet the objectives and satisfy strategic intent should the planning scheme be amended and the Statement of Planning Policy be gazetted.

VPP 12 Environmental and Landscape Values

Clause 12.01 Biodiversity

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

Clause 12.02 Coastal areas

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

Clause 12.05 Significant Environments and Landscapes

- Clause 12.05-2S Landscapes
- Clause 12.05-22L-01Landscapes
- Clause 12.05-2L-02 Landscape character areas

The intent of relevant policy objectives is to protect and enhance identified environmental and landscape values.

The application meets these policy objectives for the following reasons:

- The location of the building and associated works are sited to minimise loss of native vegetation.
- The landscape schematic identifies a focus on indigenous replanting, creation of a wetland and habitat replacement to support flora and fauna resulting in positive biodiversity outcomes.
- The design of the building and associated landscaping themes are respectful of the rural landscape.
- The following images from the photo montage submitted with the application show the impact on the landscape.



Figure 5 – Photo montage of existing and proposed view from west of the existing roundabout. Image from 3D photo montage views submitted with the application prepared by Tract Consultants Pty Ltd



Figure 6 – Photo montage of existing and proposed view Newhaven bus stop Phillip Island Road. Image from 3D photo montage views submitted with the application prepared by Tract Consultants Pty Ltd



Figure 7 – Photo montage of existing and proposed view Churchill Road. Image from 3D photo montage views submitted with the application prepared by Tract Consultants Pty Ltd

VPP 13 Environmental Risks and Amenity

Clause 13.01 Climate Change Impacts

- Clause 13.01-1S Natural hazards and climate change

Clause 13.02 Bushfire

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

The intent of the relevant policies is to strengthen the resilience and safety of communities by adopting best practice risk management. Planning should aim to avoid or minimise natural and man-made hazards and environmental impacts or conflict.

The application does meet these policy objectives including in relation to strategies for protection from bushfire risk. Any building will be required to demonstrate compliance with standards relating to construction of buildings in Bushfire Prone Areas during the building approvals process.

VPP 14 Natural Resource Management

Clause 14.01 Agriculture

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

The intent of the relevant policies is to ensure protection of agricultural land and be considerate when understanding the impacts of removing land from productive agricultural purposes.

The application does meet policy objectives as care has been taken to preserve farmland with buildings and associated works being confined to one section of the land in consideration of agricultural land capacity across the whole of the site.

Tourism uses and development are considered to satisfy planning policy on appropriate sites in rural zones.

The determinations and assessment provided by the applicant, *Agricultural Land Capability Assessment* concludes that the effect of the development is to reduce the area of land available for agriculture. Further reading determines that the land class that is lost is largely the saline areas which have low rural productivity and therefore limited impact on margins. It continues that, *'the residual land potentially available to agricutlture after development is the Western Flats and a area of approximately 17 hectares…and could be farmed to achieve gross margins'*. The loss of land is in the order of 7 hectares. The value is low in consideration of the values that the development will bring to the region with the establishment of a national museum.

The proposal is unlikely to have a significant effect on agricultural, commercial or rural residential uses proximate to the site with acceptable separation distances shown on plans to be reasonable.

VPP 15 Built Environment and Heritage

Clause 15.01 Built Environment

- Clause 15.01-1S Urban design
- Clause 15.01-1L-01 Urban Design in Bass Coast
- Clause 15.01-1L-02 Landscape design
- Clause 15.01-1L-03 Signs
- Clause 15.01-2S Building design
- Clause 15.01-2L Building design
- Clause 15.01-5S Neighbourhood character
- Clause 15.01-5L Neighbourhood character
- Clause 15.01-6S Design for rural areas

Clause 15.02 Sustainable Development

- Clause 15.02-1S Energy and resource efficiency

Clause 15.03 Heritage

- Clause 15.03-2S Aboriginal cultural heritage

The intent of the relevant policies is to ensure that development respects rural character by ensuring siting, design and scale are sympathetic to the protection of identified landscape and character values. In addition, Planning is directed to promote and encourage environmentally sustainable development. Further, policy directs planning to ensure the conservation of Aboriginal cultural heritage significance.

The application does meet the policy objectives. The development has been designed to make a positive contribution to identified character and incorporates deep setbacks from Phillip Island Road. The siting of the development and relatively low slung scale that incorporates a green rooftop are elements that seek to reduce impact.

The application documents include an assessment report and plan in relation to incorporating environmentally sustainable design principles that will underpin the development. It is submitted that the development will include; a Construction Management Plan requiring diversion of at least 90% of construction waste from landfill; effective daylighting in the main exhibition space, passive design features combining thermal mass, insulation and well shaded glazing, an extensive green roof, energy efficient plant and equipment, strong emphasis on stormwater management, water reuse and recycling, bike parking and extensive landscaping that includes the establishment of a wetlands area.

Should a permit issue, detailed design work in relation to the Landscape Plan will be required to be submitted for approval.

Significant work was undertaken to prepare a Cultural Heritage Management Plan that is approved and has been submitted with the application.

VPP 17 Economic Development

Clause 17.01 Employment

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

Clause 17.04 Tourism

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

The application meets relevant policy objectives in relation to employment creation and facilitating tourism.

The proposal has the capacity to increase visitation to the area and provide positive economic impacts for the shire specifically and the wider region more generally with flow on effects to accommodation and other tourism providers. Jobs will be created throughout the construction phase and ongoing employment opportunities in the arts and culture space are real outcomes. Of note it is submitted that the current museum has regularly been voted in the top 10 museums in Australia (Trip Advisor 2018).

It is considered that the nuanced design approach that the building presents is entirely respectful of valued landscape characteristics. The form and choice of materials, the raised berms and extensive landscaping that is proposed is entirely in keeping with expectations expressed in policy objectives.

The proposal demonstrates a net environmental gain and proposes a contemporary approach to sustainable design. It can meet expectations in relation to bushfire planning and can adequately respond to risk from flood.

The draft Statement of Planning Policy as relevant to this application states, '*The tourism industry is one of the main drivers of the Bass Coast economy and a major employer. The area boasts world-class, nature-based tourist attractions, pristine surf beaches and major events (such as the Australian Motorcycle Grand Prix at the Phillip Island Grand Prix Circuit) that attract millions of visitors a year.*

Developing a sustainable, year-round visitor economy is a key strategic objective. The 2016 Phillip Island and San Remo Visitor Economy Strategy 2035 projects the number of visitors to the region will double from 1.85 million in 2015 to 3.4 million and be worth upwards of $1.1 billion by 2035.

There are opportunities to increase the diversity and quality of visitors' experiences through agritourism, arts and culture and recreational and educational experiences celebrating the area's Aboriginal cultural and historic heritage.

More visitors, seasonal fluctuations in visitation and climate change impacts will put greater demands on local infrastructure (such as by increasing traffic congestion) and greater pressure on the environment and the lifestyle that attracts visitors to the region. Infrastructure must be designed, maintained and improved so tourism growth is sustainable and the area's Aboriginal cultural and historic heritage, environment and landscapes are preserved and protected.'

Clause18 Transport

Clause 18.01 Integrated Transport

Clause 18.02 Movement networks

- Clause 18.02-1S Sustainable personal transport
- Clause 18.02-1L Sustainable personal transport
- Clause 18.02-2S Public Transport
- Clause 18.02-2L Public transport
- Clause 18.02-3S Road system
- Clause 18.02-4S Car parking
- Clause 18.02-4L Car parking

The application does meet these policy objectives as the development provides acceptable car parking and movement around the site. A separated bike path is proposed providing access from existing infrastructure and there is bus stop adjacent to the site.

Clause 19 Infrastructure

Clause 19.02 Community Infrastructure

- Clause 19.02-2S Education facilities
- Clause 19.02-3S Cultural Facilities
- Clause 19.02-4S Social and cultural infrastructure
- Clause 19.02-4L Social and cultural infrastructure

Clause 19.03 Development Infrastructure

The application does meet relevant policy objectives in particular with regard to the development delivering a significant cultural institution that builds on the success of the current iteration of the museum. Key to the proposal is the accessibility for non-paying visitors. The municipality as a whole will benefit from the inclusion of the additional passive public open space that is proposed providing long term community benefit.

Zone Assessment

Clause 35.07 – Farming Zone

The purpose of the Farming Zone is:

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

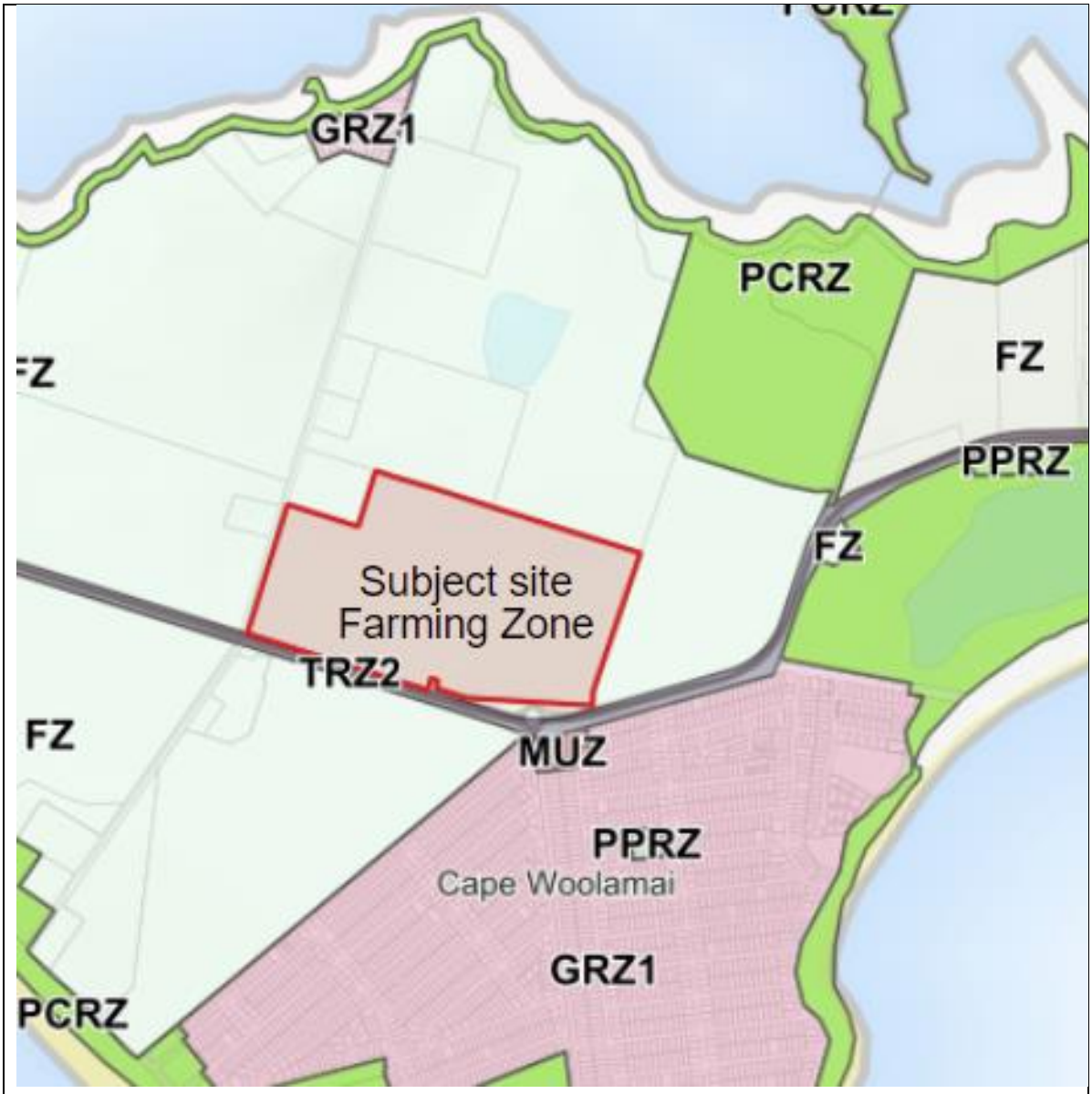


Figure 4 – Zoning Map

The application is consistent with the purpose and decision guidelines of the Farming Zone. The land is not identified as strategically important agricultural land.

A small portion of the application site will be removed from productive agricultural opportunities that are in the main extensive grazing. Losses are identified in the order of $5400 with the majority of land area lost being non-productive.

The zone and planning policy framework allows for non-agricultural uses where amenity is not impacted and where there is a beneficial contribution to the community. In this regard, a national museum built on sustainability principles that includes substantial regeneration of the land through a considered landscaping approach and the delivery of community assets can be seen to balance the small loss of productive land and is considered to be an exceptional circumstance.

Additionally, the economic boost during construction and employment opportunities post development are considered to be extremely beneficial to the region without any undue impacts on the local community of Newhaven.

The land is of a sufficient size to accommodate the development and maintain good separation distances from surrounding properties and the public realm and the development is located in good proximity to other tourist attractions.

Design and siting issues have been addressed and it is considered that the location is suitable. Scale and bulk are addressed in the policy section of this report above. The submitted photo montage shows that impacts as a consequence of design or siting are minimal.

The assessment and report provided by the applicant, *Agricultural Land Capability Assessment* discussed above in the Clause 14 policy section of this report provides detail in relation to removal of agricultural land.

The proposal is unlikely to have a significant effect on agricultural, commercial or rural residential uses proximate to the site with acceptable separation distances shown on plans to be reasonable.

The land is capable of accommodating the proposed development in accordance with information submitted in the Structural and Civil Engineering Report. It is able to will be connected to reticulated sewer system. Soil quality will not be affected as demonstrated in the proposed water sensitive urban design measures that will be implemented.

The applicant proposes to stage the development without any discussion or proposal for how this could be achieved. This has been considered by Council officers who are not satisfied that this represents orderly planning. Accordingly, the application is to be amended to remove 'staged' from the preamble.

Concerns Raised By Submitters

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

Submitter Theme	Council Officer Response
Storm water management, affects from inundation and flood modelling	The extent of built form and earthworks required to realise this development will cause impacts on neighbouring property if adequate stormwater management strategy and design is not implemented. To ensure the development does not increase flood levels, reduce floodplain storage development must be undertaken in accordance with relevant guidelines pursuant to DELWP *Guidelines for Development in Flood Affected Areas.* In relation to waterway and wetland protection, drainage must be suitably managed so as to minimize likelihood of sediment and other pollutants entering the waterway affecting downstream wetland habitats. The applicant has submitted several iterations of the Stormwater Management Strategy Report for review and held discussions with Council officers and Melbourne Water. The final iteration, REV 6 has been

	reviewed by Council's Development Services team. Concerns in relation to drainage and floodplain storage can be adequately managed with conditions requiring further flood modelling and detailed design work. It is noted that this is an unreasonable financial impost to request prior to certainty about whether the development could be supported. On the information submitted, Council is satisfied that suitable drainage solutions are available the will not result in environmental degradation.
Inappropriate use and development on Farming Zone land	Museum and café are section 2 uses in the Farming Zone. A car park is a section 2 use conditional on being used in association with a section 1 or 2 use. They are not section 3, prohibited uses. Because a use is in section 2 it does not imply that a permit should or will be granted. Council is to decide whether the proposal will produce an acceptable outcome in terms of the Municipal Planning Strategy, state and local planning policy, the purpose and decision guidelines of the zone and the relevant decision guidelines in clause 65. Tourism uses and development are considered to satisfy planning policy on appropriate sites in rural zones. The proposal has been assessed in this regard and in consideration of negative and beneficial effects it is considered that on balance, it produces an acceptable outcome that can be managed with appropriate conditions. Further discussion is included in the above 'zone assessment' section of this report.
Ecology Environmental impacts Native vegetation	No environmental overlays apply to the land and it is not located within the mapped Western Port Ramsar wetlands site located to the north. Proximity to sensitive and important environmental assets is acknowledged. It is worth noting that as the land is in the Farming Zone and buildings used for agriculture could be constructed with scant regard to planning controls. The application includes flora and fauna assessments and reports. An assessment of native vegetation submitted with the application is considered to appropriately characterise existing vegetation on the site. The full extent of the native vegetation removal that amounts to approximately 0.207 hectares (patch, no large trees) has been considered as a consequence of the development. The native vegetation that is to be removed is not in an area mapped as an endangered Ecological Vegetation Class. The application satisfies the purpose of the native vegetation clause to avoid, minimize and offset to

	compensate for biodiversity impacts if a permit is granted to remove native vegetation. The proposed vegetation removal does not impact faunal habitat. The application satisfies the relevant decision guidelines specified in the *Guidelines for removal, destruction or lopping of native vegetation*. Should a permit issue, conditions will be placed on a permit in relation to protection of to be retained vegetation and to secure general offsets. Lighting conditions that may affect migration of the Short-tailed Shearwater will be required to ensure it is designed in accordance with recommendations that avoid upward or horizontal lighting and that it should be baffled and facing downwards. No lighting will be permitted on poles over 1.2 metres. Landscaping such as planting wattles and trees next to lighting will be required. In addition to the above, the proposal includes several sustainable design initiatives that will be a condition of permit.
Visual amenity impacts (landscape)	No landscape overlays apply to the site. The land is included in the Distinctive Area and Landscape Strategy. The draft Bass Coast Statement of Planning Policy and proposed controls are currently being exhibited. At this stage the Bass Coast Planning Scheme does not require that consideration be given to this. Council must make decisions reliant on the scheme as it is when the decision is made. Council officers held discussions with DELWP in relation to the anticipated time frame for a Planning Scheme Amendment that would give effect to new planning controls and when the Statement of Planning Policy (SPP) would likely be gazetted. At this stage the SPP is likely to be gazetted before the end of 2022 or shortly thereafter. A Planning Scheme amendment that would introduce a Significant Landscape Overlay is anticipated in 2023. Discussion centred around whether the development would achieve compliance with objectives and strategies articulated in the proposed Significant Landscape Overlay (SLO3). It is considered that the proposal can achieve the objectives and strategies. Of relevance are planning policies related to sustainable tourism, growth in the visitor economy and preferred character of Newhaven. In this regard, the proposal meets objectives. It is acknowledged that there will be visual amenity impacts and that the landscape will be changed. The design of the building and associated areas presents a sympathetic approach to blending with the landscape. Architectural plans show the building will have a maximum height of 12.93 metres in a graduated form.

	Submitted sections and 3D photo montage show the impact from the public realm to be acceptable. Landscaping schematics have been submitted with the application and are considered to adequately characterise desired outcomes. Signification re-vegetation is proposed and the public will have access to the site without the need to purchase tickets.
Traffic, transport and access	Phillip Island Road is capable of sustaining the increase in traffic. Department of Transport and Council officers have reviewed the proposal and provide conditional consent.
Helicopter flight path	There is no planning control on the land or surrounds and as such this is not a planning consideration. The runways at Phillip Island Airport closed approximately 6 years ago and a planning permit would be required to recommence the airport use.
Whether the development should be staged	A staged development has been proposed with no detail from the applicant as to how this will be achieved. This is not considered satisfactory. The application is to be amended to remove 'staged' from the preamble. Should a permit issue, the permit holder will be granted four years to commence the development and eight years to complete works prior to occupancy and use of the building.
Cost of development/feasibility of project, funding and rising development costs	Not a planning consideration in the main. It is however relevant that the proposal is able to provide evidence of a net community benefit. It is considered that the proposal will provide significant tourism benefit to the region. In addition, the land will be available for use by the general public without needing to purchase a ticket.
Lack of community input	The application was placed on notice in accordance with statutory requirements that included notification by post to adjacent, adjoining and nearby owners and occupiers and installation of four signs on the land. The applicant was also required to place one notice in the South Gippsland Sentinel Times. The applicant facilitated separate public consultation sessions at arms-length from Council.
Development will lead to residential land use and development on surplus land	Council is required to consider the application before it and not speculate on future applications. There is no proposal to develop or subdivide the land for residential use.
Letter of support	Noted.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme. In deciding the application, consideration has been given to the change expected and the future use and development directions for land in the municipality that is outlined in the Municipal Planning Strategy.

State and local planning policy has been considered and it is determined that whilst there are competing objectives to be met; protection and enhancement of landscape and environmental values, protection of existing agricultural land uses and encouraging sustainable agriculture mixed with tourism and economic development when considered in an integrated decision making way, the proposal represents sustainable development that results in a net community benefit for current and future generations.

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 210094, subject to conditions.

Recommendation

General Conditions

Amended plans required

1. **Before the use commences, amended plans drawn to scale with dimensions must be submitted to and approved by the responsible authority. The plans must be generally in accordance with the plans submitted with the application but modified to show:**
   a) **Details of proposed signage to include location, size and display area no greater than 2.5 square metres, colour, font and construction material.**
   b) **A detailed lighting plan that is in accordance with the recommendations detailed in the Flora and Fauna Assessment prepared by Nature Advisory dated July 2021.**
   c) **Details of bicycle signage in accordance with Clause 52.34-17 of the Bass Coast Planning Scheme.**
   d) **A landscape master plan and comprehensive landscape plan for each of the areas of the site in accordance with Condition 5.**

Layout not to be altered (Development and signage)

2. **The layout of the site and size, design and location of buildings and works as shown on the endorsed plans must not be altered without the prior written consent of the responsible authority. Note: This does not obviate the need for a permit where one is required.**

Layout not to be altered (Use)

3. **The layout and description of the use(s) as shown on the endorsed plans must not be altered without the prior written consent of the responsible authority. Note: This does not obviate the need for a permit where one is required.**

Layout not altered – activities forming part of use of land

4. **The various activities forming parts of the use as shown on the endorsed plans must not be altered without the written consent of the responsible authority.**

Landscaping Plan and Completion

5. **Before the development commences, a landscape master plan and comprehensive landscape plans for each area of the site to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale, dimensioned and contoured. It must be generally in accordance with the landscape concept plan submitted, Landscape Schematic Design prepared by Tract Consultants Pty Ltd dated 2 August 2021 and show:**

   a) a survey (including botanical names) of all existing vegetation to be retained and/or removed.

   b) details of surface finishes and landscape treatments of pathways and driveways and hard surface areas.

   c) a comprehensive planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, sizes at planting and maturity, and quantities of each plant. It is required that the species are native and indigenous to Bass Coast Shire. The plan must not include the use of any environmental or declared noxious weeds. All Species selected must be to the satisfaction of the responsible authority.

   d) locations of temporary materials storage (eg soil and road construction materials).

   e) location and linkages of pathways, water features, retention basins, park furniture, bridges and shelters.

   f) materials schedule of hard landscaping.

6. **Within 3 months of the issue of an Occupancy Permit for the use and development allowed under the planning permit 210094, or within the next applicable planting season, whichever is the earlier; the landscaping works shown on the endorsed plans must be completed to the satisfaction of the responsible authority.**

Landscaping Maintenance

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

No further vegetation removal

8. **Except where specified on the endorsed plan, no other vegetation may be removed from the subject land, without the further written consent of the responsible authority.**

Native Vegetation – Clause 52.17

9. **Removal of vegetation to be in accordance with endorsed report**
   The removal of* vegetation *must be in accordance with the Endorsed Native Vegetation Removal Report ID 304-20201208-001 dated 08 December 2020.

Native vegetation endorsed plan

10. **The works *and* removal of native vegetation as shown on the endorsed plans must not be altered without the written consent of the responsible authority.**

Vegetation removal consent

11. **No vegetation, apart from that shown on the endorsed plan as vegetation to be removed may be felled, destroyed or lopped without the written consent of the responsible authority.**

Vegetation offset

12. **To offset the removal of 0.207 hectares of native vegetation the permit holder must secure a native vegetation offset, in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) as specified below:**

    a) **A general offset of 0.039 general habitat units:**

       - **located within Port Phillip And Westernport Catchment Management Authority (CMA) or Bass Coast Shire Council boundary with a minimum strategic biodiversity score of at least 0.216.**

Vegetation offset evidence

13. **Before any native vegetation is removed evidence that the required offset for the project has been secured must be provided to the satisfaction of the responsible authority. The offset evidence can be:**

    a) **an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10 year management actions and ongoing management of the site and/or**

    b) **credit extract(s) allocated to the permit from the Native Vegetation Credit Register**
    A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence by the responsible authority, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning.

Signage

14. **The signage on the site must not contain any flashing light/s.**

15. **The signage must be constructed and maintained to the satisfaction of the Responsible Authority.**

16. **All signage must be located within the boundaries of the land.**

Hours of Operation

17. **Except with the written consent of the Responsible Authority the use may operate only between the following hours:**
    a. **10.00am to 11.00pm inclusive.**

Hours of operation displayed

18. **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.**

Patron numbers

19. **Not more than 230 patrons and staff, may be present on the premises at any one time without the prior written consent of the responsible authority.**

Delivery times

20. **Deliveries to and from the site (including waste collection) must only take place between the following hours without the prior written consent of the responsible authority:**
    - **7.00 am and 6.00 pm**

Amenity

21. **The use, development and ongoing operation of the land as approved 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, dust, waste water, waste products, grit or oil, or otherwise;**
    d) **presence of vermin;**
22. **The location and details of the signage and any supporting structures, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.**
23. **No buildings or works shall be constructed on any existing easement (including implied sewer, drainage, telephone, gas, power and water easement) or proposed easement without the further approval in writing of the Responsible Authority and/or the relevant service provider.**
24. **All loading and unloading of goods and deliveries must occur within the boundaries of the land.**
25. **All pipes, fixtures, fittings and vents servicing the building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.**

26. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.

Engineering

Civil Construction Plans

27. Before the issue of a Building Permit, detailed civil construction plans must be prepared to the satisfaction of the Responsible Authority for endorsement by the Responsible Authority. All construction plans submitted for approval must be consistent with this permit and must conform with the requirements of all relevant servicing and road authorities, in particular Melbourne Water, VicRoads and Council. The plans must be drawn to scale with dimensions. An electronic copy (PDF) must be provided. The plans must show:

a) Drainage of the subject land designed generally in accordance with the TTW Stormwater Management Strategy (Rev 06 17/03/2022). 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. Levels or contours of the land (including relevant external catchments) and all hydraulic computations.

ii. How the land including all buildings, open space and paved areas will be drained for a 20% AEP storm event to the legal point of discharge.

iii. The provision of a drainage retardation system within the site and prior to the legal point of discharge. The stormwater retardation system must be designed to ensure that stormwater discharges arising from the proposed development of the land are restricted to pre-development flow rates for storm events up to and including the 1% AEP. The retardation system must be maintained during the maintenance period to the satisfaction of the Responsible Authority.

iv. Provision of over-land surcharge routes for all storm events up to and including 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. Maintain existing flow patterns / discharges to downstream neighbouring land to the north and to the east, to pre-developed flow rates.

vi. Compliance with the Best Practice Environmental Management Guidelines for Urban Stormwater including any quality treatments proposed in accordance with these Guidelines and Clause 22.01 of the Bass Coast Planning Scheme.

b) Vehicle and pedestrian access and car parking in accordance with IDM standards and to the satisfaction of the Responsible Authority, including:

i. Engineering plans and specifications of the proposed works including all roads, intersections, traffic circulation, signage, footpaths and pedestrian linkages.

ii. Car parking areas and access ways onsite to be designed, constructed and sealed with an all-weather pavement. Overflow/excess parking can be unsealed.

iii. Concrete footpath connection from the site to the bus stop on Phillip Island Road.

Construction Management Plan

28. Before the commencement of works onsite, a Construction Management Plan (CMP) must be prepared to the satisfaction of the Responsible Authority for endorsement by the Responsible Authority. The plans must be drawn to scale with dimensions. An electronic copy (PDF) must be provided. The plan must address, but not be limited to following:

a) Address occupational health and safety, traffic management, environmental controls and cultural protection measures to the satisfaction of the responsible authority.

b) Include the proposed route for construction vehicle access to the site including a program for the upgrade and maintenance works required along this route while works are in progress.

c) Include measures to reduce the impact of noise, dust and other emissions created during the construction process.

d) Demonstrate all environmental and cultural protection measures identified on a drawing(s) drawn to scale and prepared in accordance with Melbourne Water standards for such drawings.

e) Measures to ensure that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the storm water drainage system.

f) Include means by which foreign material will be restricted from being deposited on public roads by vehicles associated with the building and works on the land to the satisfaction of the responsible authority.

g) Address any recommendations of any approved Cultural Heritage Management Plan applying to the land.

h) Identify the location and method of any Tree Protection Zones.

i) All machinery bought on the site must be weed and pathogen free.

j) A truck wheel-wash must be installed and used or a similar arrangement employed so vehicles leaving the site do not deposit mud or other materials on roadways. All machinery wash down, lay down and personnel rest areas must be clearly fenced and located in disturbed areas;

k) Contractors working on the site must be inducted into an environmental management program for construction works.

l) Best practice erosion and sediment control techniques must be used to protect any native flora and fauna.

m) Appropriate mechanisms for protecting environmental and heritage assets during the construction phase of subdivision.

n) landscaping, re-vegetation and construction works carried out on the site must be supervised by a person with recognised environmental qualifications;

o) hours of construction work. The CMP must provide that such hours are to be 7.00am to 6.00pm Monday to Friday and 7.00am to 1.00pm Saturday, with no construction on Sunday or public holidays. The CMP must provide that the hours of construction from Monday to Saturday (inclusive) may be extended with the consent of the Responsible Authority provided all adjoining residents are notified prior to the extended hours of construction. All deliveries, unloading and collection of materials associated with the construction phase of the development must occur within the hours of construction work, unless further permission is given in writing by the Responsible Authority;

p) location of the construction workers compound. The compound must be located a reasonable distance from any neighbouring residence to minimise amenity impacts. The compound must be used for the storage of building materials, parking for construction workers and as the location for the site offices and amenities;

q) management of all building and construction waste, including any measures to recycle materials generated during construction;

r) locations of cut and fill stockpiles;

s) the gravel and any other approved soil-derived material used in the construction of pedestrian links and paths must be guaranteed Phytophthora free;

t) a liaison officer for contact by residents and the Responsible Authority in the event of relevant queries or problems experienced;

u) **timing of bulk earth works. The CMP must detail conditions that will cause bulk earth works to be suspended (for example after significant and prolonged rain event);**

v) **reporting requirements to demonstrate compliance with the latest revision of the following documents:**

i. **EPA guidelines for Major Construction Sites and Techniques for Sediment Pollution Control and other provisions of the approved CMP/EMP.**

ii. **Best Practice Environmental Management Guidelines for Urban Stormwater;**

iii. **Environmental Guidelines for Urban Stormwater (EPA Publication)**

iv. **Construction Techniques for Sediment Pollution Control (EPA Publication)**

The Construction Management Plan, once endorsed, will form part of the permit. All works constructed or carried out must be in accordance with the approved Construction Management Plan. All care must be taken to minimise the effect of construction activity on the amenity of the surrounding neighbourhood. Once endorsed the Construction Management Plan must not be altered except with the written consent of the Responsible Authority.

Construction

29. **Before the issue of an Occupancy Permit, the following works must be completed to the satisfaction of the Responsible Authority including all necessary permits being obtained and inspections undertaken:**

a) **All civil construction works, must be constructed in accordance with the civil design plans for the property as endorsed by the Responsible Authority pursuant to this planning permit**

b) **All drainage works in accordance with the endorsed civil plans.**

c) **Areas for vehicle access and car parking within the land must be constructed in accordance with the endorsed civil design plans.**

d) **All redundant infrastructure (including vehicle crossings) abutting the site shall be removed and the kerb, channel, naturestrip and footpath shall be reinstated.**

Construction Car Parking conditions

30. **Before the new use commences, the car parking spaces, access lanes, driveways and associated works and landscaping shown on the endorsed plans must be:**

a) **constructed and available for use in accordance with the plan approved by the responsible authority; and**

b) **formed to such levels and drained so that they can be used in accordance with the plan; and**

c) **treated with an all-weather seal or some other durable surface; and**

d) **line-marked or provided with some other adequate means of showing the car parking spaces.**

Maintenance on Onsite Drainage System

31. **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.**

Mud on Roads

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

Amenity

33. **The location and details of the signage and any supporting structures, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.**

34. **No buildings or works shall be constructed on any existing easement (including implied sewer, drainage, telephone, gas, power and water easement) or proposed easement without the further approval in writing of the Responsible Authority and/or the relevant service provider.**

35. **External lighting proposed on the site must be designed, baffled and located so as to prevent any adverse effect on adjoining land or roads to the satisfaction of the Responsible Authority.**

36. **All loading and unloading of goods and deliveries must occur within the boundaries of the land.**

37. **All pipes, fixtures, fittings and vents servicing the building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.**

38. **All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.**

Waste Management Plan

39. **The use and development of the land must be carried out in accordance with the endorsed Waste Management Plan prepared by One Mile Grid dated 14 July 2021, unless with the written consent of the responsible authority.**

40. **All waste from the development must be collected by a private waste contractor within the property bounds.**

Transport for Victoria

41. **The proposed service vehicle access from Phillip Island Road is not permitted. This must be removed to the satisfaction of the Head, Transport for Victoria.**
42. **Prior to the endorsement of the plans, the access must be removed.**
43. **Only one point of access from Phillip Island Road will be permitted for the development. This must be via a fourth leg to the existing Phillip Island Road and Woolamai Road roundabout.**
44. **The access must be designed in accordance with the Austroads guidelines and to the satisfaction of the Head, Transport for Victoria.**
45. **As part of the construction of the fourth leg of the roundabout must provide for the following at the no cost to the Head, Transport for Victoria:**
    a) **Any land set aside as Road must be labelled "ROAD" on the plan of subdivision.**
    b) **All land to be vested as road or reserve, for which the Department of Transport is to be responsible, must be vested in the name of the Head, Transport for Victoria.**
    c) **Any land to be set aside as Reserve for which the Department of Transport is to be responsible must be labelled "RESERVE FOR USE OF THE HEAD, TRANSPORT FOR VICTORIA" on a plan of subdivision.**
    d) **The original of any Certificate of Title issued by the Registrar of Titles from the plan of subdivision must be posted by registered mail to the Head, Transport for Victoria within one week of it having been received.**
46. **The fourth leg of the roundabout must be constructed at no cost and to the satisfaction of the Head, Transport for Victoria.**
47. **The intersection is to be provided with V3 roadway lighting to the satisfaction of the Head, Transport for Victoria.**
48. **Prior to plans being drafted, the applicant's consultants must attend a pre-design meeting with Gippsland Region. The consultants must be listed in the pre-qualified consultant lists.**
49. **Prior to works beginning on the site (unless approved in writing), detailed functional layout plans in accordance with Gippsland Regions Developer funded checklists must be submitted and approved by the Head, Transport for Victoria.**
50. **Prior to works beginning in the road reserve, detail plans in accordance with Gippsland Regions Developer funded checklist must be submitted and approved by the Head, Transport for Victoria.**

51. Prior to the use of the development, the roadworks must be completed to the satisfaction of the Head, Transport for Victoria.

52. Prior to commencement of the development herby approved a truck wheel-wash must be installed at the property boundary to enable all mud and other tyre borne debris from vehicles to be removed prior to exiting the land.

53. The truck wheel-wash must be maintained in good order during the construction phase of the development and may be removed at the end of the construction phase of the development with the prior approval of the Head, Transport for Victoria.

Flood modelling

54. Assessment and hydraulic modelling to demonstrate the development meets Melbourne Water's requirements pursuant to the DELWP *Guidelines for development in flood affected areas* must be submitted and approved by the responsible authority before the commencement of the development.

Cultural Heritage Management Plan (17219)

55. The use and development of the site must be undertaken in accordance with the Cultural Heritage Management Plan 17219 prepared by Extent People-Centred Heritage, dated 7 December 2021 (their Ref: FP-SR #17219) and approved by the Bunurong Land Council on 9 December 2021, to the satisfaction of the responsible authority.

Permit expiry – Native vegetation removal

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

a) The vegetation removal works have not commenced within four years of the date of this permit.

b) The vegetation removal works have not been completed within eight years of the date of this permit.

Permit expiry – Signs

57. On expiry of the permit the sign and structures built specifically to support and illuminate it must be removed.

58. This permit will expire if one of the following circumstances apply:

a) If the signage hereby permitted is not completed within eight years of the date of this permit;

b) If the land ceases to be used for the purpose which the sign advertises.

Permit expiry – Development and Use

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

a) The development is not started within four years of the date of this permit;

b) **The use has not started within two years of completion of the development;**

c) **The development is not completed within eight years of the date of this permit;**

d) **The use is discontinued for a period of more than two years.**

In accordance with section 69 of the *Planning and Environment Act 1987*, an application may be made to the Responsible authority to extend the periods referred to in these conditions.

Where the development or stage started lawfully before the permit expired, the Responsible Authority may extend the period in which the development or stage must be completed if a request is made in writing before the permit expires or within twelve months afterwards.

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.

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.

Memorandum of Authorisation

Pursuant to Regulations under Part 2 – Installation of Traffic Control Devices – of the Road Safety (Traffic Management) Regulations 2009, the permit operator will need to apply to Council's Operations Team for authorisation to erect, display, place, remove or alter Traffic Control Devices.

Transport for Victoria

Separate consent for works within the road reserve and the specifications of these works is required under the Road Management Act. For the purposes of this application the works will include provision of: Roundabout Fourth leg

Roadway Lighting

Attachments

AT-1	Attachment 1 Town Planning Report	59 Pages
AT-2	Attachment 2 Architectural Plans	12 Pages
AT-3	Attachment 3 Design response	64 Pages
AT-4	Attachment 4 3D Photo montage	10 Pages
AT-5	Attachment 5 Agricultural Land Capability Assessment	10 Pages
AT-6	Attachment 6 Flora and Fauna Assessment	58 Pages
AT-7	Attachment 7 Native Vegetation Assessment	58 Pages
AT-8	Attachment 8 Landscape Schematic Design	16 Pages
AT-9	Attachment 9 Stormwater Management Strategy Report	48 Pages
AT-10	Attachment 10 Waste Management Plan	14 Pages
AT-11	Attachment 11 Traffic Engineering Report	33 Pages
AT-12	Attachment 12 Sustainability Management Plan incl. thermal modelling	27 Pages
AT-13	Attachment 13 Structural and Civil Report	32 Pages
AT-14	***CONFIDENTIAL*** - Attachment 14 Objections and submissions	47 Pages

H.4 Planning Application 210419 - 58 San Remo Parade, San Remo

File No: **CM22/194**
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:	210419
Applicant:	Rhonda Lea Peters C/- Jardine Johnstone Pty Ltd
Land/Address:	58 San Remo Parade, San Remo
Ward:	Western Port Ward
Proposal:	Construction of two dwellings and two lot subdivision
Zone:	General Residential Zone – Schedule 1 (GRZ1)
Overlay:	Design and Development Overlay – Schedule 1 (DDO1)
Planning Permit triggers:	Clause 32.08-3 (GRZ1) a permit is required to construct two dwellings Clause 32.08-6 (GRZ1) a permit is required for the subdivision of land Clause 43.02-2 a permit is required for buildings and works Clause 43.02-3 a permit is required for the subdivision of land
Number of submissions:	A total of 3 objections were received.
Reason a Council decision is required:	The application has been called in by a Councillor.
Officer recommendation:	Notice of Decision to Grant a Planning Permit

Purpose of Report

For Council to consider a planning application for construction of two dwellings and a two lot subdivision at 58 San Remo Parade San Remo.

Summary of Officer Recommendation

That Council issue a Notice of Decision to Grant a Planning Permit subject to conditions.
The proposal is considered to be able to be supported for the following reasons:

- The proposed development is consistent with the objectives of Local and State Planning Policy.
- The proposal accords with the decision guidelines of the relevant zone, overlay and particular provisions of the Bass Coast Planning Scheme in relation to in-fill development and coastal settlement planning in San Remo.
- The proposal satisfied Rescode objectives and standards for the development of two dwellings and subdivision.
- The proposal satisfies the decision guidelines of clause 65.

Main Considerations

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

- Whether the proposal responds satisfactorily to existing and preferred neighbourhood character.
- Whether there are unreasonable amenity impacts on adjoining properties.
- Site lay out, access and building massing.
- Consideration of objections.

The Proposal

This application proposes to construct two dwellings on the subject land, to be located side by side, and to subdivide the land into two lots in accordance with advertised plans prepared by Studio Blakemore, dated 9 December 2021. The decision plans are provided as Attachment one and are detailed below:

- Site response plan TP020
- U1 ground floor plan TP100
- U1 first floor plan TP010
- Elevation plans – TP102 & TP103
- Shed plans TP104
- U2 Ground floor Plan TP200
- U2 first floor plan TP201
- Elevation plans – TP202 and TP203
- Shadow diagrams TP300
- Overlooking plan TP301
- Landscape concept plan 400

Key features of the proposal include:

- Subdivision of the land into two lots.
- Lot 1 has a site area of 555 square metres and contains dwelling one.
- Lot 2 has a site area of 454 square metres and contains dwelling two.
- Construction of two double storey dwellings comprising tree bedrooms each.
- Dwelling one proposes a double garage and has a maximum height of 6.9 metres to the north elevation.
- Dwelling two proposes a triple garage and has a maximum height of 7.2 metres to the west elevation.
- Both dwellings have individual pedestrian and vehicle access from San Remo Parade.
- No front fencing is proposed.
- Existing vegetation is to be removed and does not require planning consideration. A concept landscape plan has been submitted.
- A conventional mix of external materials and finishes palette.
- No common property is proposed.

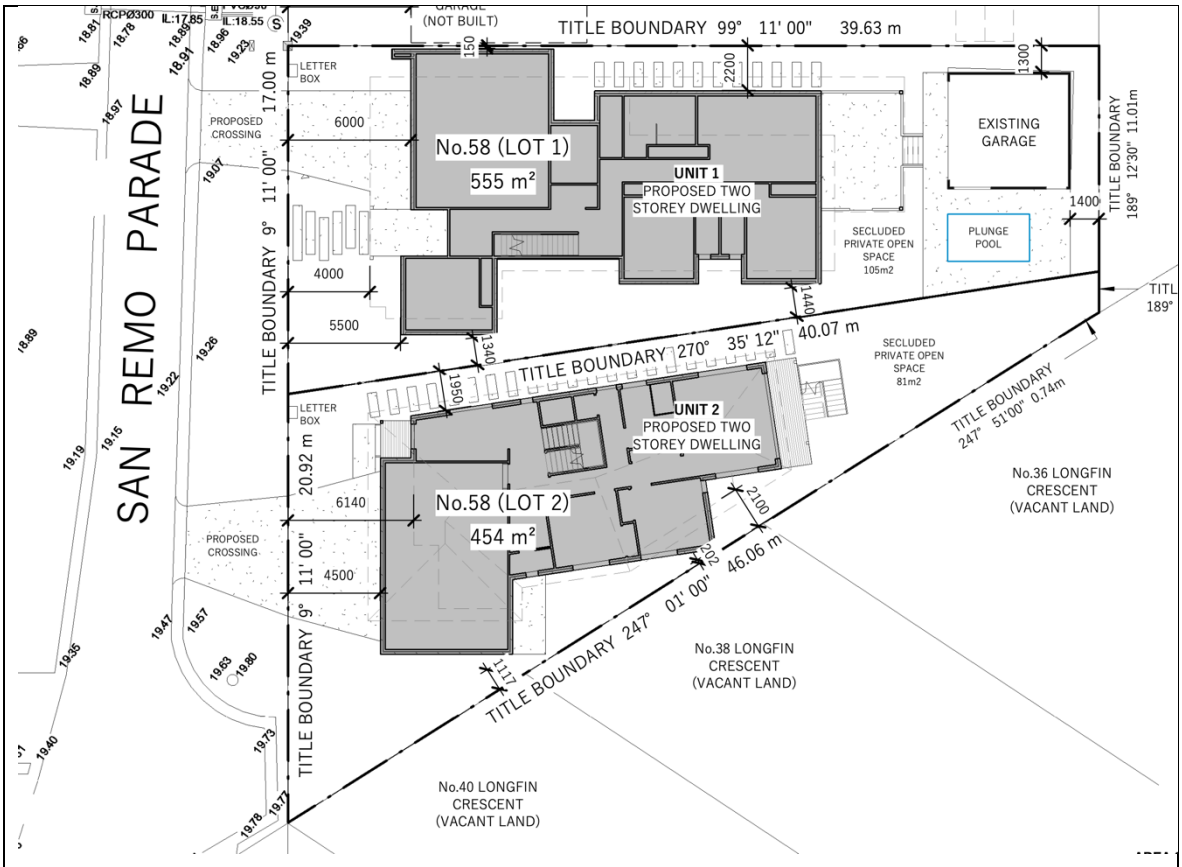


Figure 1 - Site Plan

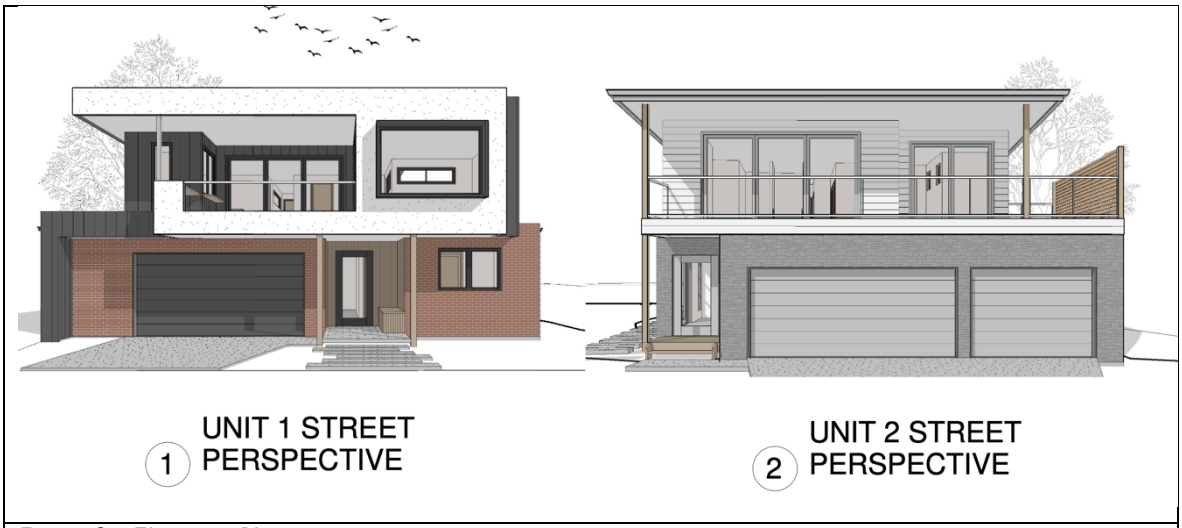


Figure 2 - Elevation Plan - perspectives

Background

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

Site Dimensions and Area	The site is irregular in shape with a frontage to San Remo Parade of 38.95 metres, a depth of 39.63 metres and an overall area of approximately 1009 square metres.
Topography	The land has an upward slope of 1.88 metres towards the southeast.
Vegetation Cover	Sparse vegetation with scattered canopy trees.
Current Use and Development	The land currently supports a single dwelling.
Easements	There are no easements affecting the land.
Restrictive Covenants and/or Section 173 Agreements	Nil registered on title.
Aboriginal Cultural Heritage Sensitivity	The site is subject to Cultural Sensitivity however the proposal is for an exempt activity being a two lot subdivision and development.
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 application has been considered for the subject site:

Application No.	Proposal	Date of Decision
200347	An application for a two lot subdivision was withdrawn.	29 December 2020

Subject Site and Surrounds

The site comprises a single parcel with an area of 1009 square metres and dimensions of 37.95 metres to San Remo Parade and a maximum depth of 39.63 metres. The land is mostly flat with the lowest point located in the north-west corner of the site. There is an existing single storey dwelling that will be demolished and no front fence. Vegetation is sparse consisting of scattered trees, shrubs and grass. The north, south and east boundaries of the site include timber paling fencing.



Aerial photography of subject site (Source: VicPlan imagery 31 March 2022)



View of subject site looking south east from San Remo Parade (Source: Page 2 of Planning Report prepared by Jardine Johnstone October 2021)

The site is located in the northern section of San Remo, an established residential suburb that is the closest mainland suburb to Phillip Island.

Most of the public and recreational facilities are located in the western part of San Remo including Beach Haven Caravan Park, San Remo Coastal Reserve, San Remo Fishermans Co-Op, San Remo Holiday Park, San Remo Recreation Centre and shopping facilities. San Remo Primary School is approximately 500 metres and Phillip Island approximately 1.5 kilometres from the site.

Further south and along Back Beach Road, there are mostly two-storey dwellings to enjoy the views of the beach. The back beach is less than 1 kilometre from the subject site.

The main characteristics of the surrounding area are:

North	Adjoining the land to the north is 60 San Remo Parade. This lot is developed by a double storey dwelling and detached outbuilding. The dwelling maintains a 5.5m front setback distance. Established canopy vegetation lines the north south and eastern boundary of this property.
South	Adjoining the land to the south are three recently subdivided lots No. 36, 38 & 40 Longfin Crescent. These allotments are currently being developed with single dwellings and do not contain vegetation.
East	Adjoining the land to the east is a 24/33-37 Genista Street. This is a relatively smaller allotment and supports a double storey dwelling.
West	Site abuts San Remo Parade that abruptly ends at the court bowl to the front. Directly opposite are 51, 53, 55 and 57 San Remo Parade. These site contain single dwellings that present conventionally on lots ranging in area from 480 to 660 square metres.

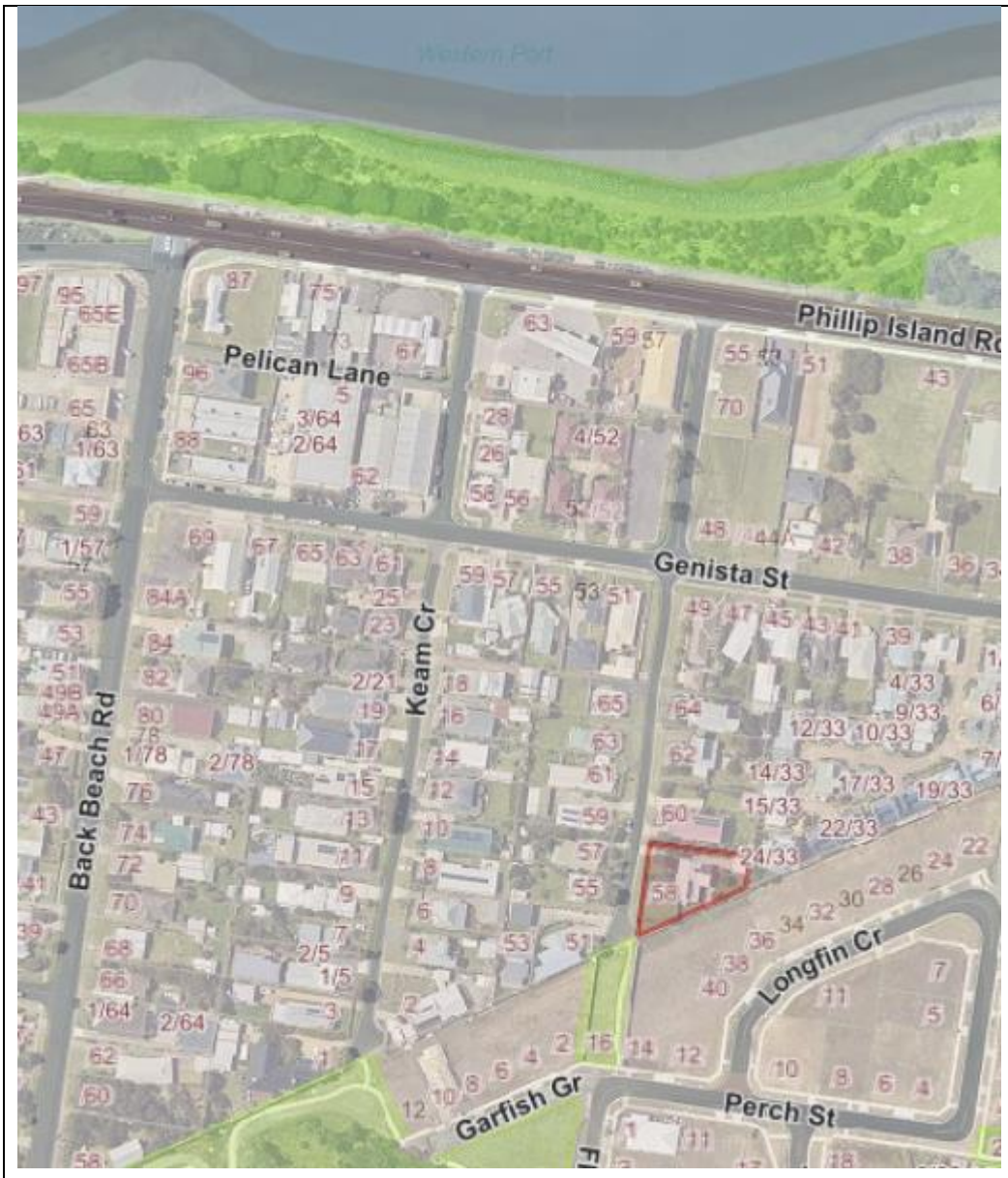


Figure 3 – Site and surrounds



Figure 4 - Zoning Map

Title Particulars

The site is identified as Lot 1 on Title Plan 522242B in Volume 09396 Folio 061. No covenants or easements affect the land.

Planning Controls

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

Zone

- Clause 32.08 General Residential Zone, Schedule 1

In accordance with clauses 32.08-3 and 32.08-6 a permit is required for construction of two dwellings and subdivision.

Overlay

- Clause 43.02 Design and Development Overlay, Schedule 1

In accordance with clauses 43.02-2 and 43.02-3 a planning permit is required to construct a building in excess of 7 metres and for subdivision. Schedule 1 does not provide a specific exemption for the proposed development.
Particular Provisions

- Clause 52.06 – Car parking

Clause 52.06-1 applies to:

a new use; or

- an increase in the floor area or site area of an existing use; or
- an increase to an existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.

A dwelling with three bedrooms requires two car parking spaces. The proposal generates a requirement of two car parking spaces to each dwelling.

The proposal includes two car parking spaces to each dwelling and therefore complies.

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 to 13 land owners and occupiers; and
- Placed a Notice on the land.

In response to notification the application attracted three submissions.

A copy of each submission is included in Attachment three.

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*)	
No external referrals	Mandatory conditions required by the Planning Scheme will be included on a permit should one issue.
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Revenue Services	For information only.
Asset Management	Consent subject to conditions.

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

- Clause 02.03-1 Settlement
- Clause 02.03-2 Environmental and landscape values
- Clause 02.03-5 Built environment and heritage
- Clause 02.03-6 Housing

Clause 11.01 - Victoria

- Clause 11-01-1S Settlement
- Clause 11-01-1R Settlement – Gippsland
- Clause 11-01-1L-01 Settlement
- Clause 11-01-1L-05 San Remo

- Clause 11.03-4S Coastal settlements

Clause 12.02 Coastal areas

- Clause 12.02-1S Protection of coastal areas
- Clause 12.02-1L Protection coastal areas
- Clause 12.05-2S Landscapes
- Clause 12.05-22L-01Landscapes
- Clause 12.05-2L-02 Landscape character 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 15.01-3S Subdivision design
- Clause 15.01-3L Subdivision design
- Clause 15.01-5S Neighbourhood character
- Clause 15.01-5L Neighbourhood character

Clause 16.01 Residential Development

- Clause 16.01-1S Housing supply
- Clause 16.01-1L Housing supply
- Clause 18.02-4L Car parking

Clause 19.03 Development Infrastructure

- Clause 19.03-3S Integrated water management
- Clause 19.03-3L Integrated water management

At the State level, the key policy influences applicable to this application relate to matters including protection of coastal areas, provision of housing diversity, urban design, landscape design, building design, subdivision design, neighbourhood character and housing supply.

In response, the site is well located within an established residential area which is adequately serviced by infrastructure and is well located regarding passive and active recreational opportunities. It is considered that the proposal is supported by State policy and relevant strategic documents.

The use of the land for residential purposes is consistent with the site's zoning and both State and Local Planning Policy.

The site provides a residential infill development opportunity in a location close to community and commercial infrastructure and services. Further to this, the proposal provides for residential development which is consistent with the provisions of the General Residential Zone, and the need for a range of housing types.

Local planning policy provides emphatic support for development which enhances both public and private environments, through quality design and positive landscaping responses. Local policy within the MSS also directs those opportunities for infill development be taken where the provision of services and infrastructure is adequate, and that a range of housing types be provided as required by the Bass Coast community.

The proposal incorporates a design which will maximise the solar access of the proposed dwellings secluded private open space areas.

With regard to state and local policy relevant to development of coastal areas, the development of this site with two dwellings is consistent with current and emerging development of surrounding land and will not affect the visual amenity values of the locality, as the dwellings will sit within an area already well-established with residential buildings and featuring development which has specifically been designed to enjoy views over the adjacent coastline along Phillip Island Road.

In regard to stormwater management, the subject site is connected to the Council's stormwater network, with existing buildings in the area directing stormwater into this system.

The proposal is considered to meet relevant policy objectives.

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.

In accordance with Clause 32.08-3 of the General Residential Zone, a planning permit is required to subdivide land. In accordance with Clause 32.08-6, a planning permit is required to construct two dwellings on the land.

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

An application to subdivide land, other than an application to subdivide land into lots each containing an existing dwelling or car parking space, must meet the requirements of Clause 56 of the Bass Coast Planning Scheme. The objectives and standards of the following clauses are to be met for two lots - Clauses 56.03-5, 56.04-2, 56.04-3, 56.04-5 and 56.06-8 to 56.09-2. This is discussed below.

Garden area

The General Residential Zone at clause 32.08-4 provides that the subject site is required to provide 35% as garden area. The proposal sets aside 42.28% being 426.65 square metres and complies with the minimum garden area requirement under the zone.

The application has been considered against the purpose of the zone and the decision guidelines of Clause 32.08-13 and can be supported for the following reasons:

- The proposal complies and satisfies the relevant state and local planning policies listed and discussed in the above sections.
- The development and subdivision pattern consistently follows the existing and emerging built form character found in the immediately surrounding area.
- The proposed subdivision is responsive to the area given that the lots sizes are similar to commonly found lot sizes within the immediate surrounds.

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

Pursuant to the provisions of the General Residential Zone, the development must comply with the objectives and should comply with the standards of Clause 55 of the Bass Coast Planning Scheme. This clause relates to the development of two or more dwellings on a lot and residential buildings. The purposes of clause 55 are:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *Achieve residential development that respects the existing neighbourhood character or which contributes to a preferred neighbourhood character;*
- *Encourage residential development that provides reasonable standards of amenity for existing and new residents; and*
- *Encourage residential development that is responsive to the site and the neighbourhood.*

The proposal has been assessed and achieves satisfactory compliance with the numerical requirements of Clause 55, and to the existing and preferred neighbourhood character and landscape qualities of the area as identified in the Design and Development Overlay Schedule 1.

The proposal is considered to have satisfied all relevant objectives and most of the standards and decision guidelines of clause 55 of the Bass Coast Planning Scheme with the exception of the following:

Clause 55.03 Site Layout and Building Massing

B6 Street setback

It is considered that the objective is met in relation to front setbacks with a variation proposed to the standard.

Proposed dwelling one has a minimum front setback of 4 metres and dwelling two has a minimum setback of 4.5 metres. The front setback of the adjacent dwelling to the north is 5.5 metres.

When viewed from the public realm the openness of the frontages are not unreasonably compromised and there is opportunity to enhance this space with canopy tree planting. The south west wedge of openness at the frontage of dwelling two compensates for the reduction in setback from front boundary. Given the irregular shape of the allotment this is considered satisfactory.

B7 Building height

It is considered that the proposed building height meets the objective to respect neighbourhood character. Variation is sought to the standard.

Dwelling one complies entirely in that it proposes a maximum height under 7 metres.

Dwelling two exceeds the preferred 7 metre height by 20 centimeters on two of the submitted elevations; north and west. The encroachment is minor and graduated not being for the entire length of the roof line, but rather the apex, with topography playing some part. It is considered acceptable.

Clause 55.04 Amenity Impacts

B17 Side and rear setbacks

It is one of the objectives of this clause to ensure height and setback of new buildings respect neighbourhood character and limit amenity impacts on existing dwellings. It is submitted that the objective is met with variation to the standard requested.

In relation to dwelling one, setback distances articulated in the standard are met save for the southern wall height being 6.73 metres requiring a setback of at least 1.93 metres.

The minimum setback to the south boundary is 1.3 metres. This minimal setback occurs at one juncture of the building. There is a second encroachment where the distance is 1.4 metres. It is clear on submitted plans that most of the southern setback achieves the standard.

In relation to dwelling two, setback distances articulated in the standard are met save for the north and south wall. The north wall height is 7.15 metres requiring a setback of 2.3 metres to the northern boundary. Submitted plans show this setback distance to be 1.95 metres. The variation is not considered acceptable.

The south wall height is 6.7 metres requiring a setback of at least 1.93 metres. Submitted plans show this setback distance to be breached. Notwithstanding most of the southern elevation exceeds the requirement due to the tapered nature of the boundary and the stepped nature of the building. It is considered to be unacceptable.

It is considered that the objectives and standard of standard B17 can be achieved with amended plans and this in turn will reduce amenity impacts and ensure consistency with neighbourhood character. A condition will be placed on permit requiring the permit holder to meet the objective.

B22 Overlooking

In relation to the overlooking objective which seeks to limit views into existing secluded private open space and habitable room windows, if a permit is issued a condition will require amended plans to show compliance with this standard to the satisfaction of the responsible authority.

Clause 56 Residential Subdivision

The proposal is considered to have satisfied all other objectives, standards and decision guidelines of clause 56 of the Bass Coast Planning Scheme.

Overlay Assessments

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

The purpose of this Overlay is:

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

A permit is required for building and works and subdivision unless schedule to this overlay specifically states that a permit is not required.

Schedule 1 to the Design and Development Overlay does not provide specific exemption for the proposed development or subdivision and does specify that a permit is required when the height exceeds 7 metres.

Schedule 1 of Clause 43.02-1 applies to residential areas near the coast and includes specific design objectives as follows

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

The application is consistent with the objectives and decision guidelines of this overlay.

The proposed development is 250 metres away from the coastline and therefore, will have no unreasonable impact on the coastline.

Views towards the site from the coastline that is north of the subject site will be consistent with features visible from residential development located along Phillip Island Road, built to take advantage of coastal views.

The dwellings are located in an area featuring established dwellings of similar scale to that proposed. While the proposed dwellings will be visible from the adjoining properties and will be located within the established building line which features dwellings to the north, west and east, and will not affect the general visual quality of the landscape. The dwellings are not incongruent with the scale of surrounding residential development.

The existing visual amenity and landscape character of the coastal area will be retained, as the proposed dwellings will be confined to an allotment in an established residential area and will be consistent with the prominence of established development along San Remo Parade.

The site is within the existing township boundaries and will not increase human activity within the natural landscape.

The proposed works require some removal of vegetation from the site. A concept landscape plan has been submitted and it is considered that work can be undertaken on the site to improve landscape qualities in time.

Minimal earthworks will be required to carry out the proposed works. These are unlikely to affect the stability of the soil within the site and surrounding area

The proposal is consistent with Council's Siting and Design Guidelines for Structures on the Victorian Coast, Victorian Coastal Council 1998 and Design and Siting Guidelines for Coastal Areas and Rural Hinterland 1999 in the following manner:

- The height of the proposal is consistent with the existing building line, which is demonstrated by built form which is evident at the interface along San Remo Parade.
- The size and scale of the proposed buildings is relative to the scale of dwellings in the surrounding area and due to its location, forms, materials and colours, appear consistent with that of the established built form within this part of San Remo.
- The proposed dwellings will have no unreasonable impact upon existing views from adjacent properties.
- The proposed dwellings incorporate materials and colours which will be non-reflective. The low pitch of the roof minimises visible roof expanse.
- The energy efficiency of the proposed dwellings will be assisted by the orientation of living rooms to the north.
- Boundary setbacks will maintain separation of dwellings between properties.
- A concept landscape plan has been provided and a condition on permit will require a landscape plan to be considered and endorsed prior to commencement of works.

Concerns Raised By Submitters

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

Submitter Theme	Council Officer Response
Overlooking	The proposal has been assessed against Clause 55 of the Bass Coast Planning Scheme as outlined in the body of this report. A condition of approval will require the applicant to show compliance with Standard B22 in relation to overlooking. It is considered that compliance can be achieved.
Overdevelopment	State policy envisages increased housing density and supply of housing diversity from in-fill development in appropriate context and within settlement boundaries. Whilst the proposed two dwellings are a departure from the single dwelling currently on the site it is considered acceptable.
Removal of vegetation	It is noted that the applicant has submitted that previous tree removal has included weed species and vegetation which did not require planning approval. There is no overlay that applies to protect vegetation in San Remo.
Impact on coastline	The land is located at the end of San Remo Parade and is not part of coastline or coastline reserve.
Impact on adjoining property vegetation from proposed garage wall – dwelling one Lot 1	The garage wall shown 150 millimetres inside the northern boundary of proposed dwelling one has a maximum depth of 13 metres from front boundary. Relevant vegetation is approximately 17.5 metres from the front boundary and as such will not be impacted by the garage slab.
Height of dwellings	Dwelling one is below the threshold for consideration under the DDO1. Dwelling two exceeds the threshold by 20 centimetres at the northern and western elevations whilst remaining under 7 metres from the southern and eastern elevations. The encroachment is within a satisfactory margin so as not to be at odds with objectives and decision guidelines of the overlay.
Setback from boundaries	As discussed above, the objectives are met or can be met.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to be satisfactory.

The application underwent notification and as a result there were three 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 210419, subject to conditions.

Recommendation

That in relation to Planning Permit application 210419 for construction of two dwellings and two lot subdivision located at 58 San Remo Parade San Remo, Council resolves to issue a Notice of Decision to Grant a Permit, subject to the following conditions:

Amended plans required

1. **Before the development commences, amended plans drawn to scale with dimensions must be submitted to and approved by the responsible authority. The plans must be generally in accordance with the plans drawn by Studio Blakemore dated 9 December 2021 but modified to show:**

   a) **For all windows of each dwelling, compliance with Rescode standard B22 (overlooking) must be demonstrated on all elevation plans.**

   b) **For each dwelling, compliance with Rescode standard B17 (side and rear setbacks) must be demonstrated on site and elevation plans.**

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

Landscape Plan required

2. **Concurrent with the submission of plans required by Condition 1 and before the commencement of buildings and works, a detailed Landscape Plan to the satisfaction of the responsible authority must be submitted to, and approved by the responsible authority. When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan should be generally in accordance with the landscape concept plan submitted with the application and must incorporate:**

   a) **any design changes as required by Condition 1;**

   b) **a survey (including botanical names) of all existing vegetation to be retained and/or removed;**

c) a survey, including botanical names, of all existing trees on neighbouring properties where their Tree Protection Zones (calculated in accordance with AS4970-2009) encroach into the subject site. details of surface finishes of pathways and driveways;

d) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;

e) landscaping and planting within all open areas of the site;

f) details of all proposed hard surface materials including pathways, patio or decked areas.

g) canopy trees at a minimum height of 2 metres at the time of planting in the following areas:

I. **One within the front setback of each new dwelling;**

II. One within the rear setback of each new dwelling;

h) Trees selected must be from *Indigenous Plants of Bass Coast Shire* and a minimum two metres tall when planted.

The location and area of the planting must consider the height and width of the tree at maturity and are not to be sited over easements.

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

Completion and maintenance of landscaping

3. Within 3 months of the completion of the dwelling or within the next applicable planting season, whichever is the earlier; the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority. The landscaping must thereafter be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.

Layout not to be altered

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

Engineering conditions

5. Site civil design plans

Before certification of the Plan of Subdivision, detailed civil construction plans must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. All construction plans submitted for approval must be consistent with this permit and must conform 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.

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 must be provided to the satisfaction of the responsible authority.

i) A vehicle access to each lot in the subdivision, to be designed in accordance with IDM standards (SD240). 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 must be shown on plans.

6. Easements

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

7. Construction

Before the issue of a Statement of Compliance for this subdivision under the Subdivision Act 1988, the following works must be completed to the satisfaction of the Responsible Authority including all necessary permits being obtained and inspections undertaken:

a) All civil construction works, must be constructed in accordance with the civil design plans for the property as endorsed by the responsible authority pursuant to this planning permit.

b) All drainage works (excluding any above ground detention tanks deferred via a Section 173 agreement) in accordance with the endorsed civil plans.

c) Photographic evidence of the legal point of connection to Council's drainage system must be provided if Council inspection cannot be arranged prior to backfilling.

d) Areas for common property, vehicle access and car parking within the land must be constructed in accordance with the endorsed civil design plans.

e) All 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.

8. Mud on roads

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

Mandatory conditions for subdivision

9. The owner of the land must enter into an agreement with:

a) a tele telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and

b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

10. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications service in accordance with the provider's requirements and relevant legislation at the time; and

b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be providing optical fibre.

11. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.

12. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.

13. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of the Act.

14. 1Time for Starting and Completion

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.

c) The plan of subdivision is not certified under the Subdivision Act 1988 within two years of the date of this permit; or

d) Registration of the plan of subdivision is not completed within five years of the certificate of the plan of subdivision under the Subdivision Act 1988.

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/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.

Attachments

AT-1	Plans	32 Pages
AT-2	Planning Scheme Requirements	36 Pages
AT-3	***CONFIDENTIAL*** - Submissions	26 Pages

H.5 Planning Application 210472 - 41 Teddy Bear Lane, Cowes - Removal of four trees

File No: **CM22/202**
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:	210472
Applicant:	Noleen Bennett
Land/Address:	41 Teddy Bear Lane, Cowes (Lot 495 PS 051970)
Ward:	Island Ward
Proposal:	Removal of four trees
Zone:	General Residential Zone – Schedule 1 (GRZ1)
Overlay:	Vegetation Protection Overlay – Schedule 2 (VPO2)
Planning permit triggers:	Clause 42.02-2 (VPO2) – A permit is required to remove, destroy or lop vegetation
Number of submissions:	A total of 7 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 7 objections.
Officer recommendation:	Notice of Decision to Grant a Planning Permit

Purpose of Report

For Council to consider a planning application at 41 Teddy Bear Lane, Cowes.

Summary of Officer Recommendation

That Council issue a Notice of Decision to Grant a Planning Permit subject to conditions.

The proposal is recommended to be partly for supported with the following recommended to occur:

- Although the proposal is for the removal of four trees, Council Officers are recommending the following to occur:
    - The removal of two trees only being Tree 14 and Tree 17 that are well justified for removal based on the findings of the Aboricultural Assessment submitted with the application.
    - The retention of Tree 20 and Tree 22. These trees are noted as possessing high environmental significance and it is recommended these trees to be retained via condition on any permit issued.
    - The lopping of Tree 20 to the minimum extent necessary to allow for the maintenance of the dwelling located on the northern adjoining property (39 Teddy Bear Lane).

Main Considerations

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

- The reason for vegetation removal;
- Health, condition, location, and significance of the trees;
- Vegetation cover on the site and amount to be retained;
- The findings and information presented within the Preliminary Aboricultural Assessment, Version 1.2, prepared by Urban Foresty Victoria Pty. Ltd., dated 28 September 2021

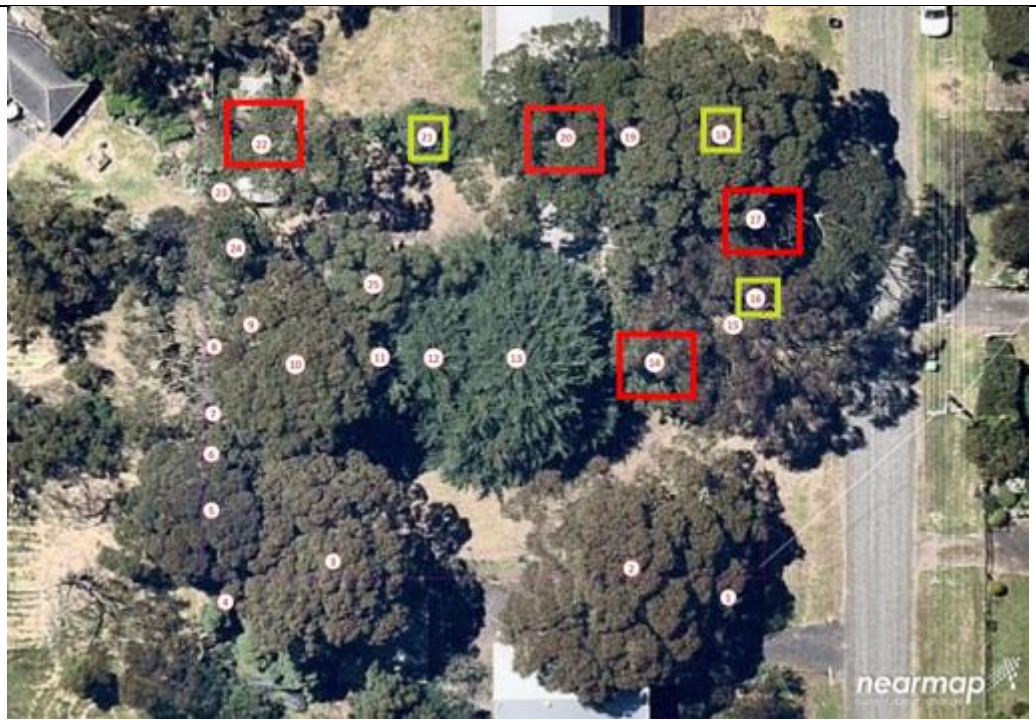
The Proposal

This application proposes to remove 4 trees in the Vegetation Protection Overlay, Schedule 2. The decision plans are provided as Attachment One and are detailed below:

- Preliminary Aboricultural Assessment, Version 1.2by Urban Foresty Victoria Pty. Ltd., dated 28 September 2021
- Proposed Tree Removal Plan, prepared by applicant, edited by planning officer, dated 9 April 2022

Key features of the proposal include:

- The proposed removal of four trees from the subject site which require a planning permit. These trees are identified as Trees 14, 17, 20 and 22.
- The removal of trees 16 and 21 are exempt from requiring a planning permit as they are considered weed species within Bass Coast.
- Tree 18 has already been removed from the subject site under the emergency works exemption. The arboricultural report determined it posed an immediate risk of hazard. Council has already consented to this removal.



Legend:

- denotes tree removal exempt from requiring a planning permit

- denotes trees proposed for removal being considered under the planning application

Figure 1 – proposed tree removal plan (Source: prepared by applicant, edited by planning officer, dated 09 April 2022)

Tree No.	Name	HxW (m)	Health	Age	Significance	ULE	Retention Value
14	**Cedar Wattle**	13x8	Fair	Late Mature	Low	<5	Low
16	**Desert Ash**	6x7	Good	Mature	Low	>15	Low
17	**Southern Mahogany**	18x8	Poor	Mature	High	<5	Low-medium
18	**Southern Mahogany**	20x20	Fair	Mature	High	<5	Medium
21	**Sweet Pittosporum**	4x5	Good	Mature	Low	>20	Low
20	**Southern Mahogany**	20x15	Good	M	H	>20	High
22	**Southern Mahogany**	20X16	Fair	M	H	<5	Medium

Figure 2 – Relevant assessed trees (Source: information from Preliminary Aboricultural Assessment, Version 1.2by Urban Foresty Victoria Pty. Ltd., dated 28 September 2021)

Tree	Origin	Description
14	Australia	Showing symptoms of physiological decline. The tree is codominant and has autely bifurcated unions with included bark present. There is dead wood throughoutthe canopy.
17	Victoria	Showing symptoms of late physiological decline. The tree is codominant. Approx. 2/3 of the tree is dead. The tree has been overpruned for powerline clearance.
20	Victoria	Minor dead wood throughout the canopy.
22	Victoria	Showing symptoms of physiological decline from a fungal pathogen which is present in the stem. There is a fungal fruiting body protruding from a cavity at the tree base.

Legend: arborist recommendations

	Not worth retaining
	May be worth retaining
	Worth retaining

Figure 3 - Tree descriptions and recommendations as presented in Preliminary Aboricultural Assessment, Version 1.2by Urban Foresty Victoria Pty. Ltd., dated 28 September 2021

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 Teddy Bear Lane of 15.24 metres, a depth of 39.62 metres and an overall area of approximately 604 square metres.
Topography	The site is generally flat
Vegetation Cover	The site contains extensive vegetation cover which includes a mix of native and exotic species. The vegetation is predominantly in the form of established trees; these trees are spread throughout much of the site, however, are concentrated around the site boundaries on all sides.
Current Use and Development	Residential - the land contains an existing dwelling
Easements	Easement E1 for drainage runs along the western boundary. It is 1.8 metres wide
Restrictive Covenants and/or Section 173 Agreements	There are no restrictions or covenants registered on title
Aboriginal Cultural Heritage Sensitivity	The site is not located within an area of identified cultural heritage sensitivity.
Planning Permit History	A search of Council records indicates no relevant Planning Permit history.

Subject Site And Surrounds

The site is located on the western side of Teddy Bear Lane, between Settlement Road to the north and Ventor Road to the south.



Aerial photography of subject site (Source: Council's GIS System, dated 2021)

The site is developed with a modest single dwelling in the form of a 'fibro beach shack', which is setback approximately 9 metres from the frontage onto Teddy Bear Lane. The dwelling appears to be offset more towards the northern boundary of the site and assumes a small building footprint relative to the land size.



View of subject site from south-eastern side of Teddy Bear Lane (Source: Applicant supplied, received by Council 09 April, 2022)

The main characteristics of the surrounding area are:

North	Adjoining the land to the north is 39 Teddy Bear Lane. This lot is approximately 625 square metres in area and contains a double storey, weatherboard dwelling with a pitched roof. The site is mostly landscaped with grass, however, appears to contain established native vegetation along the western boundary. Branches from trees on the subject site located along the shared northern/southern boundary overhang into this lot.
South	Adjoining the land to the south is 43 Teddy Bear Lane. This lot is approximately 586 square metres in area and is currently vacant. The site is heavily vegetated with a mix of native of exotic species. As there is no boundary fence between this property and the subject site, many of the trees along the boundary look to overhang both lots.
East	Adjoining the land to the east is 42 Teddy Bear Lane, Cowes. This lot is approximately 629 square metres in area and contains a modest single dwelling and associated outbuilding. The vegetation cover on site includes a mix of both native and exotic species and the open areas landscaped with lawn.
West	Adjoining the land to the north is a council-owned reserve that measures approximately 1.38ha. The land contains extensive native vegetation cover which is manly clustered around the site boundaries and the west-facing frontage onto Bayview Drive. Pedestrian access to the site is provided via Teddy Bear Lane to the east and Bayview Drive to the west.



Figure 4 – Site and surrounds



Figure 5 - Zoning Map

Title Particulars

The site is identified as Lot 495 on Plan of Subdivision 51970 in Volume 365 Folio 364.

No covenants affect the land. The land is encumbered by a drainage easement E1 easement running along the western boundary of the property

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 8 land owners and occupiers; and
- Placed a Notice on the land.

In response to notification the application attracted 7 submissions in the form of objections and 1 letter of support.

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*)	
	No external referrals
Internal (Section 52 of the *Planning and Environment Act 1987*)	
	No internal referrals

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

VPP11 Settlement

Clause 11.01 - Victoria

- Clause 11.01-1L-03 Cowes and Silverleaves
    - VPP 12 Environmental and Landscape Values

Clause 12.01 Biodiversity

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

Clause 12.05 Significant Environments and Landscapes

- Clause 12.05-1S Environmentally sensitive areas
- Clause 12.05-2S Landscapes
- Clause 12.05-22L-01Landscapes
- Clause 12.05-2L-02 Landscape character areas

VPP 15 Built Environment and Heritage

Clause 15.01 Built Environment

- Clause 15.01-1L-02 Landscape design

The above policies seek to balance the conservation of native vegetation with the need to ensure supplies of urban land in appropriately located areas. The policies highlight the retention of existing mature vegetation and, in instances where vegetation loss is unavoidable, undertaking suitable replacement planting to ensure there is no net loss of biodiversity.
The application somewhat meets these policy objectives. The initial application received proposed removal of 13 trees, during the application process, it was amended to reduce the number of trees proposed for removal from 13 down to 4. Consequently, these efforts to minimise vegetation loss are considered consistent with the objectives of the Planning Policy Framework, particularly those at Clause

12.01 *Biodiversity*. However, in the absence of development plans or other circumstances rendering the proposed vegetation loss unavoidable, it is considered that there is scope to retain additional vegetation on site, namely tree 20 and tree 22. This approach is in line with the state and local strategies for native vegetation management.

Zone Assessment

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

Overlay Assessments

Clause 42.02 – Vegetation Protection Overlay (Schedule 2)

The purpose/objectives of the overlay is to:

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

Clause 42.02-2 also contains the following (as relevant) decision guidelines which have formed part of this assessment:

- The effect on the habitat value and long-term viability of remnant vegetation in the locality.
- The significance of the vegetation, particularly if it forms part of a recognised wildlife corridor.
- The reason for any removal of native vegetation and whether alternative option can be developed which conserves the vegetation
- The effect any removal of vegetation will have on groundwater recharge and discharge areas
- The purpose of the underlying zone

The applicant is proposing the removal of 4 trees.

When assessing the application against the decision guidelines of the Vegetation Protection Overlay, Schedule 2, the removal of trees 14 and 17 is broadly supported, while the removal of the remaining trees, tree 20 and 22 requires additional justification.

As discussed in the Aboricultural Assessment prepared by Urban Foresty Victoria Pty. Ltd., dated 28 September 2021, tree 14 and tree 17 are both exhibiting symptoms of physiological decline. Tree 14, an Australian native Cedar Wattle, is noted as being of low retention value and low environmental significance. Although tree 17, a Victorian native Southern Mahogany is considered to possess high environmental significance,

the report notes that approximately 2/3 of the tree is already dead, which informs the recommendation to remove the tree. Although a revegetation plan has not been provided, the application material states that the landowner is willing to undertake replacement planting in a more suitable area of the site, such as along the western boundary which abuts a Council reserve.

While the application seeks to remove two additional mature Southern Mahogany trees from site, trees 20 and 22, this removal is not in line with the recommendations presented in the arboricultural report. As these trees are referenced in the report of being high environmental value and located on a site that abuts a heavily vegetation reserve, they are considered to provide important habitat and contribute to the amenity of the area.

In the absence of sufficient justification for the removal of tree 20 and tree 22 within the context of the Vegetation Protection Overlay decision guidelines, and arboricultural support for their retention, it is considered that these trees should be retained.

Given the proximity of tree 20 to the dwelling at the subject and adjoining property, permitting the ability to undertake lopping for the purposes of maintenance should be considered (see Figure 5). The applicant had been made aware of Council's intent to recommend retention of these trees. Following this and in a statement received from Clem Fries Roofing Contractors, a contractor engaged by the adjoining property owners to undertake work on their roof, it is noted that overhanging branches of tree 20 are preventing the erection of scaffolding to conduct the necessary maintenance. To facilitate this maintenance work and ensure the ongoing use of the land for residential purposes, the lopping of tree 20 to the minimum extent necessary is recommended. However, the consent to undertake this lopping should be subject to a condition requiring the submission of amended arborist advice detailing how this lopping can occur without impacting the overall health and longevity of the tree.



Figure 5 site photos of tree 20 (Source: Applicant supplied)

In summary, after assessing the proposal against the decision guidelines of the Vegetation Protection Overlay, Schedule 2 the following has been recommended for determination:

- The removal of two trees only being trees 14 and 17 only.
- That the remaining two trees be retained on the subject land being trees 20 and 22.

- The lopping of tree 20 to the minimum extent necessary in order to conduct maintenance on the adjoining property's dwelling to be supported subject to the submission of amended arboricultural advice.

Concerns Raised By Submitters

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

Submitter Theme	Council Officer Response
Insufficient justification for removal of the trees, namely tree 20 and tree 22	It is acknowledged by Council Officers that there are inconsistencies between the trees the application seeks to remove, and the recommendations presented within the arboricultural assessment, particularly with regard to tree 20 and tree 22. As the arboricultural report indicates that these trees could be retained on the site, their removal is not well supported under the Vegetation Protection Overlay and broader state and local policies within the Planning Policy Framework. It is also noted that tree 22 is sited in the rear of the property, meaning it poses little risk to the existing residence.
Habitat value and significance of the tree	The trees are noted as providing important habitat for local fauna, along with other integral ecosystem services. These comments are a valid consideration under the scope of both the Vegetation Protection Overlay and polices referenced in the application assessment. Given the site's location abutting parkland, it is reasonable to assume the trees could provide a habitat corridor to local wildlife. It is considered that the retention of trees 20 and 22 would help to mediate these concerns and prioritise the retention of the site's tree of high environmental significance.
Extent of vegetation removal	Some objections were received prior to the application being amended to reduce the extent of proposed vegetation loss. While the proposed loss of four trees is a marked decrease from the original proposal, opportunities for further retention where possible should always be explored. In the assessment against the decision guidelines of the Vegetation Protection Overlay, and in response to these concerns, the retention of trees 20 and 22 is recommended.
Siting of tree 20	Tree 20 abuts the property boundary between the subject site and 39 Teddy Bear Lane, with many overhanging branches extending across the neighbouring residence. It is noted that some of these branches are preventing maintenance work from being undertaken on adjoining property's roof. As property maintenance is critical to the ongoing use of the land for residential purposes, allowing the lopping of tree 20 to the minimum extent necessary to conduct these works is considered to be a satisfactory outcome and is

	consistent with both the Vegetation Protection Overlay and underlying purpose of the residential zone. However, to ensure the tree's health is not jeoparadised by this lopping, additional arboricultural advice should be sought and submitted to Council prior to any works commencing. This can be achieved via condition on any permit issued.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to present a partially satisfactory response to the Vegetation Protection Overlay.

The application underwent notification and as a result there were 7 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 210472, subject to conditions.

Recommendation

That in relation to planning permit application 210472 for the removal and lopping of vegetation located at 41 Teddy Bear Lane, Council resolves to issue a Notice of Decision subject to the following conditions:

Amended plans required

1. **Before the removal of two (2) trees and the lopping of one (1) tree commences, an amended tree retention, removal and revegetation plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will form the form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:**
   a) **A suitable notation that the trees numbered 14 (Cedar Wattle) and 17 (Southern Mahogany) are 'to be removed'.**
   b) **A suitable notation that the of trees numbered 20 and 22 (Southern Mahoganies) are 'to be retained'**
   c) **The lopping to the minimum extent necessary of tree 20 in accordance with the consulting arborist**
   d) **Revegetation of the site in accordance with condition 2 of this permit.**

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

2. **The vegetation removal and lopping as shown on the endorsed plans must not be altered without the written consent of the responsible authority.**
3. **The vegetation removed in accordance with this permit must be replaced by four shrubs from the 'Indigenous plants of Bass Coast Shire guide'. Within three (3) months of planting, evidence of planted vegetation must be provided to the satisfaction of the responsible authority.**
4. **Within three (3) months of the vegetation removal, or within the next applicable planting season, whichever is the earlier; the landscaping works must be carried out and completed to the satisfaction of the responsible authority. The landscaping must thereafter be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.**

Layout not to be altered

5. **The removal as shown on the endorsed plans must not be altered without the written consent of the responsible authority.**
6. **A copy of the permit (A4) must be displayed in a prominent position on the frontage at least 48 hours prior, during, and 48 hours after the removal is undertaken, to the satisfaction of the responsible authority**

No additional vegetation removal to occur

7. **The removal approved by this permit comprises of one Cedar Wattle and one Southern Mahogany referred to as Tree 14 and Tree 17 within the Preliminary Aboricultural Assessment, Version 1.2by Urban Foresty Victoria Pty. Ltd., dated 28 September 2021. Provisions have been made to allow for lopping to the minimum extent necessary of Tree 20, a Southern Mahogany. No other vegetation may be felled, destroyed or lopped without the written consent of the responsible authority.**
8. **Prior to the lopping of Tree 20 only, an amended arboricultural assessment generally in accordance with the assessment submitted with the application must be submitted to the responsible authority but modified to show:**

a) Recommendations for the safe lopping of Tree 20, to the minimum extent necessary in order to allow for the maintenance of the dwelling located at 39 Teddy Bear Lane, Cowes, VIC 3922.

Expiry

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

a) The vegetation removal is not completed within 2 years from 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 removal has not commenced.

Notes:

- **Evidence of planted vegetation can be provided to the satisfaction of the responsible authority by submitting a photograph of the completed planting to planningapplications@basscoast.vic.gov.au referencing the permit number and relevant condition.**
- **The granting of this permit does not obviate the necessity for compliance with the requirements of any other authority under any act, regulation or local law.**

Attachments

There are no attachments for this report.

H.6 Submission to the draft Bass Coast Statment of Planning Policy

File No:	**CM22/215**
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.

Summary

The purpose of this report is to present for adoption Council's submission to the draft Bass Coast Statement of Planning Policy.

Background

On 29 October 2019, the entire Bass Coast was declared a '*distinctive area and landscape*' in accordance with section 46AO of the Planning and Environment Act 1987 (PE Act). The declaration was made by order of the Governor in Council published in the Victorian Government Gazette.

The declaration includes a statement that sets out the significance of the area to the people of Victoria, including the Traditional Owners of the Bass Coast. It describes the attributes that qualify Bass Coast as a distinctive area and landscape.

Following the declaration, section 46AT of the PE Act requires the Minister for Planning to prepare a Statement of Planning Policy. The purpose of a SPP, as outlined by section 46AU of the PE Act is '*to create a framework for the future use and development of the land in the declared area to ensure the protection and conservation of the distinctive attributes of the declared area*'

Sub-section (1) and (2) of 46AV of the PE Act legislate the contents of a SPP. Sub-section (1) explains the SPP must:

- set a vision for a period of at least 50 years that identifies the values, priorities and preferences of the Victorian community in relation to the distinctive attributes of the Bass Coast declared area, including preferences for future land use, protection and development; and
- set out the long-term needs for the integration of decision-making and planning for the Bass Coast declared area; and
- state the parts of the SPP that are binding on responsible public entities and the parts that are in the nature of recommendations to which responsible public entities are only required to have regard; and
- include a declared area framework plan in accordance with subsection (2); and
- set out Aboriginal tangible and intangible cultural values, and other cultural and heritage values, in relation to the declared area.

Subsection (2) requires the declared area framework plan must provide a framework for decision-making in relation to the future use and development of land in the declared area that —

- integrates environmental, social, cultural and economic factors for the benefit of the community and encourages sustainable development and identifies areas for protection and conservation of the distinctive attributes of the declared area; and
- may specify settlement boundaries in the declared area or designate specific settlement boundaries in the declared area as protected settlement boundaries.

The draft Statement of Planning Policy (draft SPP) has been prepared, together with proposed landscape planning controls.

The Department of Environment, Land, Water and Planning have invited the community to review and provide feedback on the draft SPP and proposed landscape controls.

Strategic Basis

Council Plan Strategic Objective:

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

Governing Documents

The relevant legislation includes:

- Planning and Environment Act 1987
- Bass Coast Planning Scheme

Discussion

Council's draft submission is provided as Attachment One. The submission provides feedback on the seven policy domains. With discussion on extractive industries and the proposed landscape controls also included.

The following table provides a summary of Council submission:

Policy Domain	Council Comment
Climate Change Mitigation and Adaptation	Climate change threatens all of the valued attributes identified within Bass Coast. For this reason, it critically important for the draft SPP, in particular this policy domain, to introduce objectives and strategies that will holistically address climate change and ensure delivery of the draft SPP's 50 year visions that amongst other matters aims for '*net zero emissions in the declared area*' (refer to page 18 of the draft SPP) Of concern, is the omission of objectives and strategies that specifically target the reduction of greenhouse gas emissions. For Council to support the draft SPP this policy domain must be amended to address the matters raised in the attached submission, including the introduction of objectives and strategies to address the reduction of greenhouse gas emissions.

Landscape	Council is grateful for the technical landscape assessment known as *Distinctive Areas & Landscapes: Bass Coast Landscape Assessment Review (Volume 1 & Volume 2)* which underpin this policy domain. For Council to support the draft SPP and proposed landscape controls, the matters raised in the attached submission must be addressed. A summary of concerns includes: The policy domain must: • Include objectives and strategies that address both landscape character and landscape significance. • Not include generalised strategies about how development should respond to landscape character. Landscape character is diverse across Bass Coast (there are 9 distinct landscape character areas) so the inclusion of a generalised strategy dilutes the effectiveness and integrity of the draft SPP and the Landscape Character Assessment. The proposed landscape controls: • must be extended to include the Gurdies Hills. • will result in amendments to the planning scheme's Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF). The changes to the MPS and PPF should have been exhibited as part of the proposed landscape control document • have not included SLO's for the regionally significant landscapes of Phillip Island North Coast and Hinterland; and Eastern Westernport Bay Coastal Flatlands. It is unclear why these regionally significant landscapes will not have planning controls but others regionally significant landscapes have had controls drafted • Public land should be affected by the proposed SLOs • Unnecessarily require planning permission of building and works associated with agriculture • Must exempt post and wire fences from permit requirements • Must provide further detailed assessment of the SLOs to better understand the permit requirements for exotic species and windrows

Environment and Biodiversity	This policy domain elevates the importance of, and gives significant weight to Council's adopted Biolinks Strategy. However, before Council accepts the draft SPP this policy domain must address the matters within the submission, including: • Establishment of a strategic biolink through the Lang Lang to Grantville Corridor. • Increased emphasis on retaining and increasing native vegetation cover, including large swathes of indigenous vegetation in the landscape (on private and public land) and coastal reserves.
Historic Heritage	Council places a great emphasis on conserving and enhancing heritage places within the Bass Coast as does this draft policy domain. For this reason, Council is supportive of this policy domain and no changes are recommended.
Sustainable Economic Development	Before Council accepts the draft SPP, this policy domain must provide additional policy guidance about extractive industries, this includes: • ensuring this policy domain is binding on all authorities who govern and have decision making powers about extractive resources. • clearly identify where extractive industries cannot be established. It must be a priority that extraction is exclude and not allowed: o within public land, including nature conservation reserves o beneath any areas of private land that is established with large swathes of vegetation that provides habitat for flora and fauna o with a strategic biolink • reinforcing the strategic biolink from Lang-Lang to Grantville and that extractives must not erode this. • Ensure any proposal for extractive industry must not adversely impact ground water, surface water (including Western Port Bay) or have an adverse visual impact
Strategic Infrastructure	Council is supportive of the policy domain subject to the strategies including a requirement for the State government to deliver public and active transport that maximises environmental benefits.

Settlements	**Protected settlement boundaries** Council accepts the principle of introducing protected settlement boundaries and acknowledges the outward expansion of our settlements is finite. However, Council requires the introduction of protected settlement boundaries to be established upon current data and uphold the core principles of planning in Victoria. Council, even before the insertion of Part 3AAB (Distinctive Areas and Landscapes) into the PE Act, has ensured the Bass Coast Planning Scheme includes an advanced settlement planning framework with settlement boundaries to manage the threats to Bass Coast's distinctive attributes. In fact, Council has always undertaken a rigorous, holistic, evidence based approach to settlement planning. This approach is consistent with how settlement planning is conducted in Victoria and ensures provision of adequate zoned land for the diverse housing needs, employment land, recreation, open space, community facilities and infrastructure. Of primary concern is the draft SPP and draft Settlement Background Paper have applied protected settlement boundaries purely on the aspirations of achieving the object of section 46AN of the PE Act. This has occurred even though Part 3AAB of the Act does not provide any intention that the provisions of section 46AN are elevated above or override any other provision of the PE Act. The draft SPP's narrow approach to settlement planning means there is a complete disregard for managing population growth and there is no understanding of the long term physical, social and economic implications these policies may result in. This flaw raises serious questions about the SPP's integrity in being able to properly manage long-term integrated decision-making within the Bass Coast. Council is willing to accept protected settlement boundaries for all settlements, however further strategic work is required before Council can support protected settlement boundaries in higher order settlements that are intended to absorb growth. **Preferred Township Character** Consistent with the Settlement Policy Domain, Council accepts that for the long-term aspirations for Bass Coast's settlements to be achieved they need to be carefully managed so development respects the preferred township character. However, Council extends this and argues that for the long-term aspirations for the declared areas settlements to be achieved they need to be carefully managed so development of settlements respect: • Landscape character and significance; • Township Character; and

	• Neighbourhood character Council also contends these character levels are interrelated and have cascading elements that together with a housing strategy can be used to develop bespoke planning scheme policy and controls that will place the State Government and Council in a strong position to manage the impact of development and consequently achieve the draft SPP's long term aspirations for each of the Bass Coast's settlements. For this reason, before Council accepts the draft SPP it requires: • Holistic and bespoke character controls to be prepared for each settlement that consider landscape character, landscape significance, township character and neighbourhood character. • Include an updated discussion within the settlement policy domain that clearly explains bespoke planning policy and controls are being prepared that will be informed by the interrelated Landscape Assessment, Township Character Study, Neighbourhood Character Study and Housing Strategy • Delete the preferred township character statements from the draft SPP and Settlement Background Paper.

Sustainability Implications

One of the Overarching governance principles in section 9 of the Local Government Act 2020 is that the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.

The intent of the Statement of Planning Policy is to integrate environmental, social, cultural and economic considerations to encourage sustainable development whilst identify attributes and areas to be conserved and protected.

Finances

Costs associated with Council's submission to the Distinctive Areas and Landscapes Project are included within the 2021/22 budget. If adopted, further strategic planning work will be required in order to ensure alignment between the SPP and Planning Scheme. This work will be considered in future budgets.

Stakeholders

This project is being led by the State government who have over the last three years completed three rounds of community consultation on the project. Should the Minister for Planning approve the SPP, endorsement of the Policy will also be required for all Responsible Public Entities within Bass Coast.

Conclusion

In October 2019, Bass Coast was declared a Distinctive Area and Landscape. Following commissioning of various technical reports and community consultation the draft SPP has been prepared.

Whilst Council is broadly supportive of the objectives of the SPP there are a number of areas in which the policy can be strengthened.

Recommendation

That Council:

1. **Adopts the Bass Coast Shire submission to the draft Statement of Planning Policy.**
2. **Forwards its submission to the Department of Environment, Land, Water and Planning.**
3. **Write to the Minister for Planning requesting:**
   a. **A meeting with the Minister to discuss and resolve the Council's concerns with the draft Statement of Planning Policy**
   b. **Council's concerns are addressed prior to the endorsement of the Statement of Planning Policy**
   c. **Referral of the draft Bass Coast Statement of Planning Policy and proposed landscape planning controls to the appointed Distinctive Areas and Landscapes Standing Advisory Committee for advice**

Attachments

AT-1	Bass Coast Shire Council Submission to the Draft Statement of Planning Policy	64 Pages

H.7 Response to Petition Seal Bay Road and Foreshore Road Jam Jerrup

File No:	**CM22/180**
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 seal Bay Road and Foreshore Road, Jam Jerrup under the Urban Road and Drainage Improvement Policy 2019.

A petition was received by Council at the 16 March 2022 Council Meeting, *Petition - Seal Bay Road & Foreshore Road.*

Council resolved at the 16 March 2022 Council Meeting:

1. That the petition, Seal Bay Road & Foreshore Road, be received, noting in accordance with the Governance Rules it does not adhere to section 54.6 and lie on the table until a future meeting of Council.
2. That the head petitioner be advised of Council's decision.

This report recommends thanking the head petitioner and advising them of the following.

That Council:

- Undertake initial community consultation and survey the property owners to confirm the percentage of owners willing to financially contribute towards a potential road and drainage upgrade project, as part of a special charge scheme in Jam Jerrup.
- In accordance with the Urban Road and Drainage Policy 2019, will consider the results of the consultation, and potential reprioritisation of Jam Jerrup road and drainage upgrades at a future Council meeting.

Background

At the 16 March 2022 Council Meeting a petition containing 48 signatures was presented to Council (refer AT-1). The petition reads:

All residents have had their say with more than 70% wanting the road sealed. Being that we are a public beach we get a lot of tourist traffic and since COVID this has become increasingly worse, the dust is now becoming a health hazard too, particularly our drinking water.

The road is constantly having to be graded (at council's expense) due to corrugation caused by the amount of traffic we receive, particularly along Bay Road, residents are concerned about the damage caused to cars due to road conditions.

One disabled resident on Foreshore Road who takes his dog for a walk in his electric wheel chair has also complained the road surface not being satisfactory for wheel chair access, limiting his ability to get around.

Our understanding is at 70% plus we can have our road upgrade elevated up the list.

Council resolved at the 16 March 2022 Council Meeting:

1. That the petition, Seal Bay Road & Foreshore Road, be received, noting in accordance with the Governance Rules it does not adhere to section 54.6 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

The Local Government Act 2020 and the Road Management Act 2004 set out the statutory obligations that Council has in respect of local roads within the municipality.

There is no statutory obligation for Council to upgrade infrastructure within the Jam Jerrup area.

Bass Coast Planning Scheme (VC205)

Under the current Bass Coast Council Planning Scheme, there are a number of key objectives that each new development needs to achieve prior to it being approved.

In Clause 11.01-1L-21 of the Bass Coast Planning Scheme there are the following strategies:

Avoid any further subdivision along Bay Road.

Protect and improve the linear foreshore reserve through discouraging the creation of additional tracks and drainage lines.

Protect the Ramsar site at Stockyard Point.

The Jam Jerrup Strategy Framework Plan in the Bass Coast Planning Scheme, notes to introduce a management plan to protect and enhance foreshore environment with regard to the narrow reserve and erosion and drainage problems.

In Clause 15.01-5L Neighbourhood Character of the Bass Coast Planning Scheme, there is an action, which this project specifically needs to address. With regards to neighbourhood character in the Jam Jerrup local area, the following is stated:

Protect Jam Jerrup's intimate village character, diverse built form and linear relationship with the foreshore.

Retain the strong unifying element of one main informal road for settlement that provides a protective edge to the fragile coastline.

Asset Management Policy 2017-2021

The intended outcomes of the policy and the processes that support it will facilitate:

Achievement of the management objectives for community, infrastructure and operational assets to meet the present and future needs of the community;

Custodianship of nature and heritage assets in perpetuity;

The rationalisation of existing assets and the development of appropriate new assets to meet the needs of the Bass Coast community for services at an appropriate level now and in the future;

The development or enhancement of the community capital of the Shire;

Delivery of assets at the right cost, at the right time with the right standard;

A service planning approach becoming a way of life at Bass Coast Shire; and

Development of appropriate system, procedures and controls to enable the above.

Urban Roads and Drainage Improvement Policy 2019

The main policy, which guides the implementation of projects such as this, is the Urban Roads and Drainage Improvement Policy (AT-2). The objectives of this policy are;

Establish Council's commitment to:

Improve the liveability of the built and natural environment by endeavouring to provide effective upgrades in urban infrastructure that meet the needs of an increasing population;

Enhance economic, social, environmental and cultural wellbeing of the community and ensure increasing community expectations are considered in decision making;

Ensure that infrastructure upgrades aid the achievement of the Council Plan, Planning Scheme and related Asset Management Plan objectives;

Enable and ensure the effective planning and implementation of urban road and drainage infrastructure upgrade projects by defining the principles to be applied.

The intended outcomes of the policy are:

Enable a robust and impartial priority based system for allocating finite Council resources for investment in urban road and drainage improvement projects;

Ensure that investment is undertaken in a financially sustainable manner and with the wellbeing of the Bass Coast community in mind; and

Enhance transparency and public confidence in Council's decision making process surrounding urban road and drainage improvement projects.

Capital Investment Policy 2019

This policy provides a means of appraising proposed investment into infrastructure and assets, as well as setting priorities within the context of the long-term Capital Works Program (CWP) to address strategic service delivery needs. The objectives of this Policy are to:

Ensure capital investment aids the achievement of the Council Plan, informs the development of a long-term financial plan (LTFP) and a CWP aligned to service needs;

Ensure capital investment delivers the greatest possible improved service outcomes while minimising the quantum of capital required, in accordance with the best value principles;

Ensure capital investment is undertaken in a financially sustainable manner and in accordance with Council's Asset Management Policy 2017-2021 and a lifecycle cost evaluation that identifies the asset's design, construction and maintenance costs and operating cash flow requirements and depreciation, over the course of the LTFP; and

Enable and ensure the effective planning and implementation of capital investment and capital works projects.

The intended outcomes of the policy are:

Enable a robust and impartial priority based system for allocating finite Council resources for investment in infrastructure and assets;

Ensure that investment is undertaken in a financially sustainable manner and in accordance with best practice asset management principles; and

Enhance transparency and public confidence in Council's decision making process surrounding investment of capital.

Discussion

Prior to the implementation of the Town Planning Act (circa 1970), Councils had no way of requiring developers to consider the social, environmental and cultural wellbeing of a community as part of proposed development. This meant there were a large number of residential areas throughout Victoria, which do not meet the most basic of requirements under the planning schemes of today.

Upgrade of the extensive length of unmade roads and insufficient drainage within urban areas across Bass Coast would cost in the order of $144 to $192 million in today's dollars. This is based on 96 kilometres of roads on the unsealed urban road and drainage improvement program priority list at $1.5 to $2 million per kilometre.

Urban Roads and Drainage Improvement Policy

Council has developed a priority list which prioritises all of the areas across Bass Coast that have unconstructed streets and inadequate drainage, with a view to upgrading these areas. The policy, which guides these projects, and their prioritisation, is Council's Urban Roads and Drainage Improvement Policy 2019. The funding mechanism for these types of upgrades shall be adopted through Council resolution. Funding sources may include: direct Council contribution; external grants, funding or contributions; a special rate or charge in accordance with Section 163 of the Local Government Act 1989; and / or a combination of the above.

The special charge provisions in Section 163 of the Local Government Act 1989 allows for costs to be equitably attributed to those property owners that receive a benefit from the works.

If a road and drainage improvement project was supported by the community and the area reprioritised by the Council, the overall cost of the project would most likely be split between Council and the property owners receiving the special benefit. It is likely that a large portion of the project cost (to be calculated at potential future planning phase) would be supported by a contribution from property owners within the project area.

Location and Potential Project Area

Jam Jerrup is located along the coastline to Westernport Bay on the north end of Bass Coast Shire Council. Refer to Fig 1 below.



Fig 1: Locality Plan

The area and property owners involved in the petition referred to are shown in the layout of Jam Jerrup below.

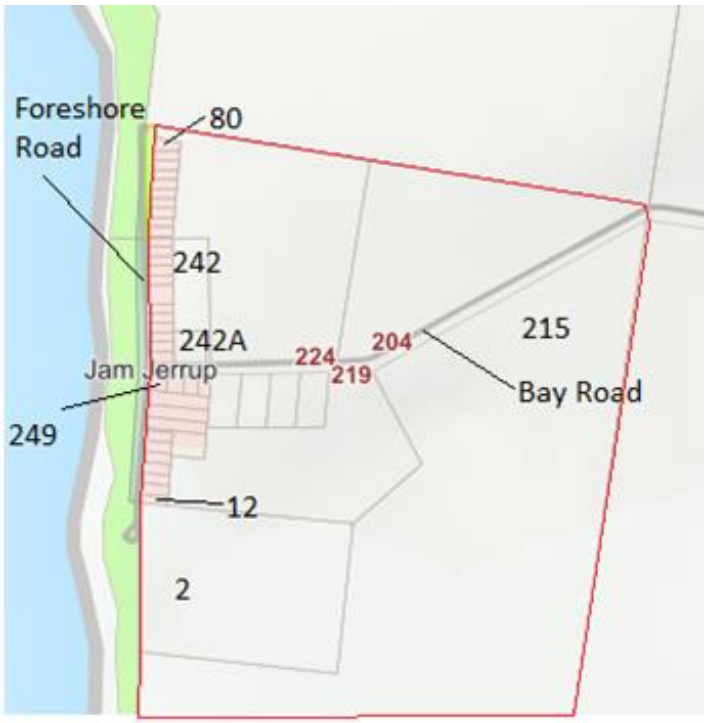


Fig 2: Jam Jerrup petition area

The Petition

The petition highlights that community members see a need for road upgrades in the area, with 81per cent of the responding residents indicating that upgrading and sealing of Bay Road and Foreshore Road is necessary.

The petition is not clear that the property owners will be willing to financially support an upgrade project. This would need to be confirmed to consider project area reprioritisation.

Bay Road and Foreshore Road in Jam Jerrup are on the Urban Road and Drainage Improvement Evaluation List 2019 (AT-3). Jam Jerrup was listed as 20th priority. However, it will move up to 19th priority, now that Pioneer Bay has recently been completed.

The Urban Roads and Drainage Improvement Policy 2019 states "*Council will consider reprioritising an urban road and drainage infrastructure improvement project for a specific designated project area only where the project is identified within the existing Evaluation List, but does not form part of the current Urban Upgrade Priority Program."*

The current Urban Upgrade Priority Program (AT-4) lists the top five priority areas as Pioneer Bay, Surf Beach / Sunderland Bay, Smiths Beach & Beachcomber Estate, Sunset Strip and Koala Estate.

The Urban Roads and Drainage Improvement Policy 2019 states "*Council will consider including projects outside of the adopted Urban Upgrade Priority Program only if an approved percentage of property owners included within that project area actively support the project. The percentage of community support required for the project to be included in the Program, currently 70 per cent or more, can be set and altered by Council resolution only."*

Potential Engagement Method

The new Engage Bass Coast online platform can be utilised for collecting the required information and can confirm the level of property owner support via a questionnaire. A similar online platform was successfully utilised at the initial consultation stage for Surf Beach and Sunderland Bay potential road and drainage upgrade project. The platform was simple to use and property owners could log on during a time that suited them. It also provided a method for participants to view and comment on the other community members opinions on issues raised. The online engagement platform is suitable for the Jam Jerrup area as a proportion of property owners do not permanently reside in the properties and some properties are used for holiday homes or rentals.

Sustainability Implications

Economics

There may be property owners that respond expressing they would likely require additional financial assistance due to financial hardship. This information can be collected through the questionnaire and later managed through Council's financial hardship program.

Social

There was evidence in the petition that the community is of the opinion that upgrades are needed in the area, with 81 per cent of the responding residents indicating that upgrading and sealing of Bay Road and Foreshore Road is necessary.

Environment

The majority of the stormwater flow from Jam Jerrup estate flows into Western Port Bay, which is a protected Ramsar site. There are also erosion issues on the foreshore reserve adjacent to Western Port Bay.

Installation of underground drainage and other potential water treatment options would align with the Western Port Ramsar Site Management Plan developed by DELWP and agency partners. Installing drainage and water treatment solutions will assist to remove rubbish, and reduce sediments, nutrients and toxicants that come from urban areas. The installation of an underground stormwater network would also assist by reducing the number of illegal connections of stormwater pipes into the underground sewerage system, thus reducing the risk of downstream overflows of the sewerage pumping station that would flow into the Westernport Bay.

Climate change

The influence of climate change can be modelled and analysed through the design stages of the project. This can be modelled by using a higher intensity storm event and higher sea levels through drainage calculations and may result in slightly larger pipe sizes and wetlands, thus potentially increasing cost. Options of including design solutions, or not, to cater for climate change can be assessed at a later date when more information on the issue and outcomes are better known.

Finances

The initial consultation works can be undertaken with minimal costs and incorporated into asset management budgets.

There is no Council allocated budget for this potential project as part of the 2021/22 or 2022/23 Capital Works Program should the project proceed to the planning phase.

If the project proceeds to the planning phase, an indicative budget of $120,000 would be required to undertake project development activities such as: community consultation for concept options; liaison with other key stakeholders; feature survey and service proving; geotechnical investigation; traffic counts and pavement design; and cost estimates. If the project proceeds to the planning phase a project budget could be considered for adoption as part of the 2023/24 budget process.

Stakeholders

Key stakeholders within this project include Jam Jerrup estate residents and property owners, other ratepayers of Bass Coast Shire, properties owners visitors and tourists, utility companies, emergency services and Melbourne Water.

A community engagement process is recommended to be undertaken to collate and share the road and drainage concerns of property owners and a follow up questionnaire distributed to understand whether the community is supportive and willing to financially contribute to a potential improvement project or not.

Other Options

Do not proceed to consult the community

This option is not recommended given the community petition and anecdotal evidence indicating that there are a broad range of drainage, dust and road safety concerns in the Jam Jerrup estate that need to be resolved.

Council's current policy is these issues are resolved through works that are undertaken as part of an Urban Road and Drainage Improvement project. The Urban Roads and Drainage Policy includes provision for Council to consider reprioritisation of project areas if 70 per cent of property owners in the area are willing to financially support the upgrade.

Not progressing to confirm the level of support would not be in accordance with Council's policy. It may also represent an opportunity lost and leave a large number of property owners experiencing ongoing dust, road safety and inundation concerns into the future.

Conclusion

The Urban Roads and Drainage Improvement Policy 2019 allows for upgrade areas to be reprioritised. The Jam Jerrup area meets the criteria to be considered for reprioritisation by Council if there is 70 per cent or greater support from property owners to have a road and drainage upgrade project undertaken and they are willing to financial contribute towards the project.

The petition indicates greater than 70 per cent of residents support a road and drainage upgrade. However, the petition is not clear whether property owners will be willing to financially support the project.

Confirmation that 70 per cent or greater of the property owners support a road and drainage upgrade and are willing to financially support the project is required. This can be confirmed by conducting initial consultation with the community, primarily with the online engagement platform and a questionnaire. Other methods of community engagement, such as phone calls, emails, letters and in person meetings would be available. If consultation proceeds, then all information would be collated into the one online platform and made publicly available.

The results of the initial consultation, and potential reprioritisation of the Jam Jerrup area for a road and drainage upgrade, would be presented in a report for consideration at a future Council meeting.

Recommendation

That Council thanks the head petitioner and advises that it will:

1. **Undertake initial community consultation and survey the property owners to confirm the percentage of owners willing to financially contribute towards a potential road and drainage upgrade project, as part of a special charge scheme in Jam Jerrup.**
2. **In accordance with the Urban Road and Drainage Policy 2019, will consider the results of the consultation, and potential reprioritisation of Jam Jerrup road and drainage upgrades at a future Council meeting.**

Attachments

AT-1	***CONFIDENTIAL*** - Petition	7 Pages
AT-2	Urban Roads and Drainage Improvement Policy	4 Pages
AT-3	Urban Upgrade Evaluation List	3 Pages
AT-4	Urban Upgrade Priority Program	1 Page

H.8 RSL Trust Terms of Reference

File No:	**CM22/267**
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 recommend that Council ratify the Terms of Reference of the Bass Coast Phillip Island RSL Trust to allow the funds to be utlised for their intended purpose which is to respond to homelessness and the prevention of suicide, and to nominate council representatives to the Trust.

Background

The Bass Coast Phillip Island RSL Trust ("the Trust") was established under a Section 173 Agreement dated 25 November 2018 between Bass Coast Shire Council ("Council") and Phillip Island RSL Sub-Branch Inc ("Phillip Island RSL").

The Phillip Island RSL agreed to contribute a minimum of $12,500.00, indexed to annual Consumer Price Index increases, to the Trust on 1 July each year from June 2014 until July 2022.

There is currently $110.000 available to contribute to community projects on Phillip Island that respond to homelessness and the prevention of suicide

The Terms of Reference, at Attachment 1, must be ratified in order to release the funds.

Strategic Basis

Council Plan Strategic Objective:

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

Governing Documents

- Council Plan
- Healthy Communities Plan

Discussion

The Trust must be comprised of three (3) Council Representatives and three (3) Phillip Island RSL Representatives ("the Representatives").

The Council Representatives may be any Councillor or appropriate delegated member of Council Staff.

Phillip Island RSL Representatives may be Committee members of Phillip Island RSL or the current General Manager of Phillip Island RSL.

The Representatives must:

- Meet to discuss and determine distributions of the Trust.
- Determine an appropriate grants process.
- Foster collaboration between the Council and Phillip Island RSL.
- Share all relevant communication and information amongst the Representatives.
- Make timely decisions and take action so as to ensure the timely distribution of the Trust.
- Notify Representatives if any matter arises which may be deemed to affect the Trust.
- Undertake ongoing checks of the Trust to ensure compliance.

Conflict of Interest:

Representatives must not be involved in any discussion or decision of the Trust in which they have a conflict of interest. For the sake of clarity, any Representative that has a conflict of interest must leave the room in which a meeting is taking place at the time a discussion or decision is taking place.

This Terms of Reference may be varied in writing as agreed by both parties.

Sustainability Implications

The use of this funding will support the following environments for health:

- Economic
- Social
- Environmental
- Climate change

Finances

The Phillip Island RSL agreed to contribute a minimum of $12,500.00, indexed to annual Consumer Price Index increases, to the Trust on 1 July each year from June 2014 until July 2022.

There is currently $110.000 available to contribute to community projects on Phillip Island that respond to homelessness and the prevention of suicide

Stakeholders

- Phillip Island RSL
- Community Groups
- Broader Phillip Island community

Conclusion

The Bass Coast Phillip Island RSL Trust was established under a Section 173 Agreement as a requirement of a planning permit condition.

As part of the establishment of the Trust the Phillip Island RSL agreed to contribute a minimum of $12,500.00, indexed to annual Consumer Price Index increases, to the Trust on 1 July each year from June 2014 until July 2022.

There is currently $110.000 available to contribute to community projects on Phillip Island that respond to homelessness and the prevention of suicide

It is recommended that Council ratify the Terms of Reference for the Bass Coast Phillip Island RSL Trust and appoint representatives to the trust..

Recommendation

That Council:

1. **Ratify the Terms of Reference for the Bass Coast Phillip Island RSL Trust; and**
2. **Nominate the following three Council representatives to the Trust:**
   - **XX**
   - **XX**
   - **XX**

Attachments

AT-1 Terms of Reference 2 Pages

H.9 Community Group Needs in Cowes

File No:	**CM22/220**
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

The purpose of this report is to seek Council endorsement for the recommendations to create greater community access and utilisation of Blue Gum Reserve and the Council owned CFA building on Settlement Road in Cowes. The report proposes to allocate funding from Council's Resort and Recreation Reserves Fund and amend the Blue Gum Reserve Masterplan to incorporate a Community Garden. It also recommends refurbishment works to the former CFA building be referred for consideration in the 2022/23 budget to support the following community groups:

- Artists Society of Phillip Island (ASPI)
- Phillip Island Arts and Crafts Gallery
- Phillip Island Contemporary Exhibition Space (PICES)
- Boomerang Bags

Background

Following the establishment of the new Community Hospital in Cowes and construction of Cowes Cultural and Community Centre, several community groups who provide services to the Cowes community, require a new location from which to operate.

Phillip Island Community Adult Learning (PICAL) will relocate to the new Warley Avenue site in Cowes where the services they provide to the community will continue to operate.

The exception to this is the Community Garden. It is proposed that a new Community Garden be constructed at Blue Gum Reserve in Cowes, producing fresh food for both the local community and for the food pantry (operated by PICAL). The community garden will provide a gathering place for the local community and provide a site to deliver workshops on sustainability, food production, and gardening.

It is proposed that the community groups identified above be accommodated through refurbishment of the Council owned CFA building on Settlement Road in Cowes.

The utilisation of Blue Gum Reserve and the CFA building provides an opportunity to co-locate several community groups and establish a community hub focused upon arts and gardening, providing a great opportunity for collaboration and community building.

Strategic Basis

Council Plan Strategic Objective:

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

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

Governing Documents

Nil

Discussion

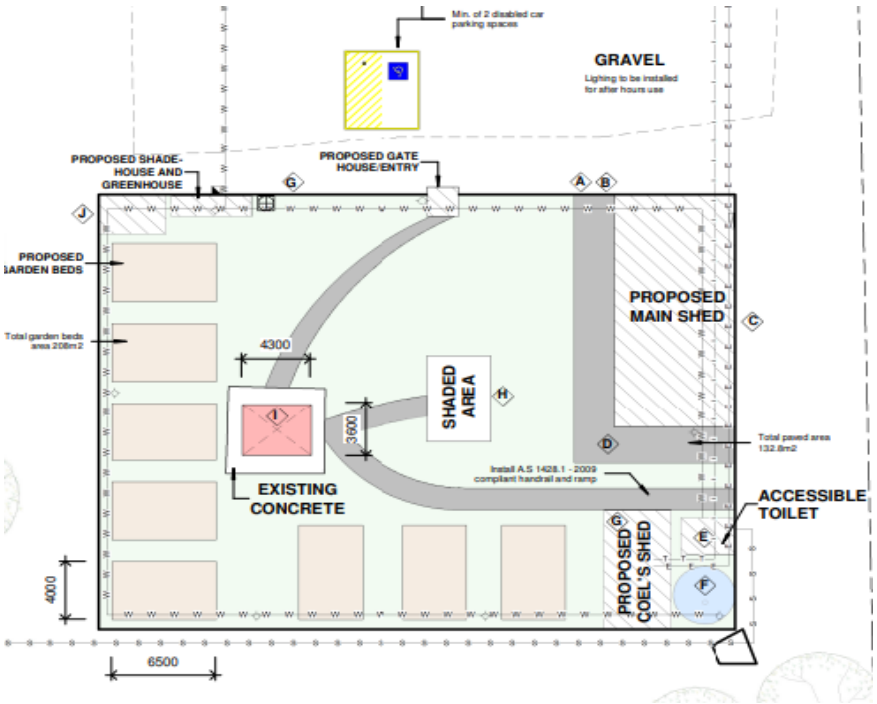
Blue Gum Reserve

An alternate site at Warley Avenue was identified as the preferred location following the purchase of the current PICAL site by the Victorian Government to facilitate a Community Hospital. The new site removed access to the existing community garden and it was agreed an alternate location should be considered.

Officers worked with PICAL and identified Blue Gum Reserve as a potential location. Its proximity to the Cowes township and utilisation by a number of other community groups would create synergies and generate community collaboration at the site.

Officers undertook community consultation in June 2021 for the Blue Gum Reserve Master Plan Amendment 2021 to accommodate the Community Garden. The Blue Gum Reserve user groups, surrounding residents and wider community were invited to engage with council receiving 36 responses. All provided support for the inclusion of the Community Garden at Blue Gum Reserve.

Following the consultation process, Council engaged Andrew Donohue Design to create a concept design for the Community Garden **(Attachment 1)**.



The design includes the installation of 8 garden beds, an accessible toilet with associated pathways, garden shed for storage, perimeter fencing, service connections, accessible car park, and a larger shed that can be used for both classes and the construction of garden materials. The cost estimate **(Attachment 2)** includes the relocation of Coel's Shed, which is currently situated on the Church Street Site and holds historical significance to the area.

The addition of a community garden in Blue Gum Reserve will confirm its role as a gathering place for community to come together and work with a common interest. The fresh produce from the garden will benefit local residents and those who access the food pantry (supported through PICAL).

Community Groups

Council officers worked closely with representatives of PICAL, ASPI, PICES, Phillip Island Arts and Crafts Gallery and Boomerang Bags to ensure that each group has access to adequate facilities to operate from.

The Council owned CFA building located on Settlement Road in Cowes will be vacated by the CFA in August this year as they relocate into their new building on Ventnor Road.

Council further engaged Andrew Donohue Design to create a concept **(Attachment 3)** for the refurbishment of the CFA building. The cost estimate for these works is located in **(Attachment 4).** The design highlights areas to be occupied by each group and showcases the accessible toilet amenities, kitchenette and storage spaces.



Prior to the finalisation of this concept, Council officers facilitated a site walk through with representatives from each of the four groups to ensure the proposed works met requirements and to identify any further modifications.

- The Phillip Island Art and Craft Gallery will be located with street frontage which includes the requisite wall hanging space to display sale items,
- PICES are allocated a multi-use office space to use as a storage area and working space located in the centre of the building,
- ASPI will utilise the truck bay space for their members to practice their art, providing a wet area large enough for several artists to set up concurrently,
- Boomerang Bags will operate from the remaining room adjacent to the truck bays, accommodating a number of sewing machines and large storage area.

The proposed design ensures all user groups have an accessible pathway, either internally or externally to both the toilet amenities and kitchenette located within the pavilion.

Sustainability Implications

There are multiple social benefits associated with the refurbishment of the CFA building and construction of the Community Garden.

It is intended that these alterations and establishment of a garden will generate a 'Community Hub' at Blue Gum Reserve where arts groups and service providers can co-exist generating a genuine sense of community.

The space available at the northern end of the reserve where the CFA building and garden will be located, provides an opportunity for expansion in the future and the potential to welcome additional community groups into the precinct.

Finances

The total cost for the construction of the Community Garden is estimated to be $278,107.

Through their own funds and grants received, PICAL are able to contribute $38,764 to the construction of the Community Garden.

Council's Recreation and Resorts Fund contains a current balance of $522,000 for Phillip Island, which can be attributed to open space and recreation projects. The Community Garden is considered an open space project and the remaining Community Garden construction costs ($239,343) could be entirely funded through the Recreation and Resort fund.

The cost for the refurbishment of the Council owned CFA building is estimated to be $182,582.50 +GST.

There is no existing Council budget allocation for this project and is recommended that funding of the refurbishment of the Council owned CFA building be considered as part of the draft 2022/23 budget.

The table below outlines the costs associated to complete both projects and the total contribution required from Council;

Project	Cost	External Contribution	Council Contribution
Community Garden	$278,107	$38,764 (PICAL)	$239,343*
Refurbishment of CFA Building	$182,582.50	$0	$182,582.50
TOTAL	$460,689.50	$38,764	$421,925.50

*Council contribution via the Recreation and Resort Fund

Stakeholders

- Phillip Island Community Adult Learning (PICAL)
- Artists Society of Phillip Island (ASPI)
- Phillip Island Contemporary Exhibition Spaces (PICES)
- Phillip Island Art and Craft Gallery
- Boomerang Bags
- Broader Phillip Island community

Conclusion

An opportunity has arisen to utilise Blue Gum Reserve to accommodate the Community Garden, and the CFA building on Settlement Road in Cowes to incorporate several community groups impacted by the expansion of the Community Hospital and construction of the Cowes Cultural and Community Centre.

This report recommends that the Blue Gum Reserve Master Plan be amended to incorporate the Community Garden, with an allocation from Council's Resort and Recreation Reserve funds.

It is also recommended that the funding to deliver the refurbishments required to make the CFA building usable be considered as part of the 2022/23 draft Budget.

Recommendation

That Council:

1. **Amend the Blue Gum Reserve Masterplan to incorporate the Community Garden;**
2. **Approve utilisation of up to $239,343 from the Phillip Island Resort and Recreation Reserve fund to deliver the community garden; and**
3. **Refer $182,582.50 for consideration in the draft 2022/23 budget, to deliver the refurbishment of the Council owned CFA building at 119-133 Settlement Road Cowes.**

Attachments

AT-1	Attachment 1 - Community Garden Design	1 Page
AT-2	Attachment 2 - Community Garden Cost estimate	1 Page
AT-3	Attachment 3 - CFA Building Design	4 Pages
AT-4	Attachment 4 - CFA Building cost estimate	2 Pages

H.10 Draft Local Law

File No:	**CM22/176**
Division:	**Resilient Communities**
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 present the draft Bass Coast Shire Council Local Law No. 1 Neighbourhood Amenity 2022 to Council and seek Council approval to commence community feedback on the draft document.

The Local Government Act (2020) allows Councils the ability to make local laws *'for or with respect to any act, matter or thing in respect of which the council has a function or power under this or any other Act' (Local Government Act 2020, section 71(1)).*

Local laws have an automatic sunset clause after 10 years. Council's Local Law No.1 Neighbourhood Amenity 2012 is due to expire in July 2022. Officers have reviewed the current Local Law, which has involved consultation with teams across Council, key stakeholders and the community, and now present to Council the draft Local Law No.1 Neighbourhood Amenity to seek approval to undertake community feedback on the draft.

Background

Council's Local Law covers a wide range of clauses including (but not limited to) animal management, use of Council land and domestic waste, and exists to secure community safety, protect public assets and enhance neighbourhood amenity in a way that is transparent and adheres to principles of good governance and best practice.

Council officers have reviewed the current Local Law and identified opportunities to simplify, strengthen and expand the new Local Law so that it continues to meet the needs of the community.

A Summary of Key Changes document (attached), as well as a survey, were available for community feedback between 10 January and 13 February 2022. A total of 243 survey responses were received through Council's online survey. A further 16 written community submissions were received, collated and summarised. The consultation report from this first phase of community engagement is attached to this report.

Officers have now completed the draft Local Law, and wish to seek community feedback on the draft, prior to the Local Law being adopted in line with the 10 year sunset clause, no later than July 2022.

Strategic Basis

Council Plan Strategic Objective:

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

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*

Growing our Economy - *Progressing opportunities for visitor economy and business growth in harmony with our natural environment and sustainable values*

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

Governing Documents

The Local Government Act (2020) allows Councils the ability to make local laws *'for or with respect to any act, matter or thing in respect of which the council has a function or power under this or any other Act' (Local Government Act 2020, section 71(1)).*

Discussion

The proposed objectives of Bass Coast Shire Local Law No.1 Neighbourhood Amenity 2022 are:

(a) Secure community safety

(b) Protect public assets

(c) Enhance neighbourhood amenity

(d) Ensure the peace, order and good governance of the municipal district.

With these objectives in mind, the drafting of this Local Law has involved significant contributions from Council officers, key stakeholders and our community.

A significant proposed change to the new Local Law is the inclusion of a section relating to Short Stay Accommodation. Previously, Council registered Holiday Homes under *The Public Health and Wellbeing Act (2008)*.

The purpose of the proposed new Short Stay Rental Accommodation local law provisions are to:

- Regulate the control and use of short stay rental accommodation.
- Ensure an appropriate standard of management of such accommodation.
- Minimise the risk of such accommodation affecting the peace of neighbours.
- Implement a registration and renewal requirement of such accommodation.
- Include a 'maximum stay' duration for customers.
- Ensure that any waste is managed to protect the environment that visitors come to enjoy.

There are a number of other new clauses in the draft Local Law, which include:

- Short Stay Rental Accommodation (S.96-103)
- Shopping Trolleys (S.78)
- Bunting (S.26 Obstructions from Private Property)
- Use of Toy Vehicles or Aircraft (S.43)
- Artificial Light (S.24)
- Closing Council Land
  (S.59 Access to Municipal Reserves & Foreshore Reserves / S.106 Urgent Circumstances)
- Bees (S.32)

These clauses were included after being identified through internal Council stakeholders and being supported in the first phase of community engagement for this project.

Sustainability Implications

The comprehensive review of undertaken of the draft Local Law has considered economic, social, environmental and climate change sustainability. Guidance was sought from Council officers with expertise in each of these areas in drafting the Local Law.

Finances

There are no additional cost implications to Council in adopting this draft Local Law, as enforcement will be undertaken through existing Council resources.

The Local Law gives Council the power to issue permits for a range of activities, and to charge fees for these permits. These fees are reviewed each year as part of Council's budget process, and are available for review by the community. Additionally, infringements carry a penalty, which can be set by Council, but according to the *Local Government Act 2020,* cannot exceed 20 penalty units.

Stakeholders

According to the *Local Government Act 2020* Councils must comply with their community engagement policy as part of the process for making local laws. The submission process mandated in section 223 of the 1989 Act no longer applies.

We will undertake a range of engagement activities to ensure broad community feedback on the draft Local Law, which will include but is not limited to the following activities:

- Promote involvement on our Engage Bass Coast website. This will allow for public submissions and documents to be submitted for Council to review. A comparative analysis document showing a summary of key changes will be prepared, so the community can easily see what has changed, what is new and what has been removed.
- Council will advertise through local print and social media

- Council will contact key stakeholders and community members directly who have expressed interest in the Local Law review via email to promote the Draft and provoke though, consideration and feedback

Conclusion

The draft Bass Coast Local Law No.1 Neighbourhood Amenity 2022 has been developed with significant contributions from Council officers, key stakeholders and community members. It is recommended that the draft now be made available for community feedback prior to the final Local Law being adopted by Council no later than July 2022.

Recommendation

That Council:

1. **Endorse the draft Local Law No.1 Neighbourhood Amenity 2022**
2. **Authorise the Chief Executive Officer to deliver the following community engagement pursuant to Councils Community Engagement Policy:**
   a. **Give public notice of the release of the draft Local Law No.1 Neighbourhood Amenity 2022**
   b. **Make available for public inspection a copy of the draft Local Law No.1 Neighbourhood Amenity 2022**
   c. **Call for community feedback on the draft Local Law No.1 Neighbourhood Amenity 2022. Submissions will be accepted until 5.00 pm 16 June 2022**

Attachments

AT-1	Local Law Review Summary of Key Changes for Community Consultation Jan 2022 Final	9 Pages
AT-2	Local Law Review Phase 1 Community Consultation Report	34 Pages
AT-3	Local Law No 1 Neighbourhood Amenity - V7 - May 2022	53 Pages

H.11 Community Grants 2022 Round 1 - Funding Recommendation

File No:	**CM22/207**
Division:	**Resilient Communities**
Council Plan Strategic Objective:	**Healthy Community**
	An inclusive community that embraces its lifestyle and supports health and wellbeing

Declaration

There is no conflict of interest pertaining to Council officers involved in the grants assessment or approval process, or in the authoring of this report.

There are conflicts of interest related to elected members and the uptake of recommendations made in this report. To address this conflict, Council will vote in 3 groups, ensuring a quorum is maintained and that final funding decisions are unbiased.

Summary

This report seeks Council endorsement of the Community Grants 2022 Round 1, presented by Council officers.

All categories were offered in the round including:

- General Community Grant – Equipment, Other Projects
- Festivals, Celebrations and Events Grant
- Minor Capital Works Grant
- Climate Action Grant

The recommendations are based on the funding criteria adopted by Council at its Ordinary Meeting on 21 October 2015 and following a Council officer assessment panel process.

In total 41 applications were submitted for Community Grants 2022 Round 1 with an overall request of $148,742.80 in grant funding.

No applications were submitted to the Climate Action Grant in this round.

It is recommended that 32 projects totalling $104,463.25 (ex GST) be funded, which is within Council's allocated budget for the Program.

Background

At its 18 August 2021 meeting the following recommendation was adopted:

"That Council:

1. Endorse the amended Community Grants Program Policy 2021.
2. Endorse the amended Community Grants Assessment Criteria 2021."

This is the first round of Community Grants to be assessed incorporating the changes to the Community Grants Program Policy 2021 (AT-1) and the Community Grants Assessment Criteria 2021 (AT-2).

Strategic Basis

Council Plan Strategic Objective:

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

Governing Documents

The Community Grants Program Policy 2021 sets out the objectives of the Community Grants Program and the framework that allows facilitation of the Program.

Discussion

Council allocated $254,000 in its 2021/22 budget to fund the Community Grants Program. A further $40,000 was added to specifically fund Climate Action Grants resulting in a total pool of $294,000.

This funding was evenly split between the two rounds with $147,000 made available for Round 1 2022 Community Grants.

Climate Action Grant category

No applications were submitted to the Climate Action Grant category in this round. Therefore, an amount of $22,898.64 (consisting of $20,000 from this round and a carry forward of $2,898.64 from round 2 of the 2021 Community Grants) has not been spent.

The funding has been re-allocated to support community groups who applied for solar projects via the Sustainability Victoria Community Energy and Climate Action Grant. A requirement of the application is that Council commit a 25% contribution, if the application is successful. The following table outlines projects Council is looking to support as part of the Climate Action Grant.

Community Group	Project Description	Total Cost of Project	BCSC contribution
San Remo Preschool	15.54kW Solar system	$13,990.56	$3,497.64
Wonthaggi Neighbourhood House	6.63kW Solar and 13.5kWh Battery	$23,110	$5,777.50
Phillip Island Board Riders Club	8.14kW Solar & 11kWh Battery	$21,400	$5,350
Bass Coast Children Centre	15.6 kW Solar System	$13,000	$3,250
Total	**55.67kW and 23.5kWh battery**	**$71,500.56**	**$17,875.14**

The remaining budget of $4,123.86 will be considered in the delivery of the Climate Action Plan actions for 2021/22.

Quick Response Grants

As per the Community Grant Review a Quick Response Grants (QRG) stream has been added to the Community Grants Program. QRG open on the first day of each month and close on the last Friday of the same month. Applicants can apply for funding up to $1,000 - no co-contribution required - and are advised of the outcome in the first week of the following month.

The funding for the QRG stream is funded from the Community Grants approved budget. From 1 October 2021 until the end of March 2022, 25 applications were funded which resulted in community groups receiving a total of $21,976.27.

Subsequent to this, the funding pool balance available for Round 1 of the Community Grants for 2022 is $105,023.73.

All community grant applications have a funding threshold of $5,000 with three applications per round being recommended for Major Project funding from $5,000 up to $10,000.

Assessment Process

Two assessment meetings, involving Council officers, were held virtually to determine eligibility and to individually assess all applications. Information regarding all applications was forwarded to each assessor prior to each meeting.

Members of the assessment panel were assigned individual applications to assess. The assessment panel then reviewed each application as a group and made their final assessment recommendations.

Assessment recommendations were made in accordance with the Community Grant Guidelines 2021 (AT-3) and ranked against the Community Grants Assessment Criteria 2021.

Subject to the resolution of Council, all groups who are not recommended for funding in this round will be contacted and provided feedback.

Funding recommendations providing a breakdown by electoral ward is attached (AT-4 Community Grants 2022 Round 1 - Funding Recommendations).

In summary, of the 41 applications received:

- 31 applicants are recommended for full funding
- Two applicants applied for major project funding
- Six applications were ineligible
- Three applications were declined

Each of the projects recommended cover a diverse range of activities including minor capital works, sport and recreation, arts, cultural and heritage groups, youth activities, the environment, and projects of benefit to the broader community.

The following table shows the grant categories and total recommended funding allocations (GST excluded).

Community Grants 2022 Round 1 Grant Category	**Funding requested**	**Recommended funding applications**			
		Full	**Part**	**Dec**	**Funding**
General Community Grant:					
• Equipment	$79,798.20	14	1	7	**$46,181.36**
• Other Project	$30,186.00	9	-	-	**$28,589.17**
Festivals, Celebrations and Events	$3,430.00	-	-	1	**$0.00**

Community Grants 2022 Round 1	Funding requested	Recommended funding applications			
Minor Capital Works (includes Major Project)	$35,327.60	8	-	1	**$29,692.72**
Climate Action Grant	$0	-	-	-	**$0.00**
Total	**$148,741.80**	**31**	**1**	**9**	**$104,463.25**

As part of the Community Grants review, Council resolved that all applications be fully funded. Funding amounts have been recommended after taking into account the applicant's request for eligible items and their contribution to the 30/70 funding ratio outlined in the Community Grant Guidelines. The ratio recommends a minimum 30% contribution from the applicant in cash, in-kind or a combination of both, and up to 70% by Council. An explanation has been provided in the Funding Recommendation report.

With each round of Community Grant assessment, the evaluation process includes feedback from applicants regarding the application process.

A 2021/22 financial year Community Grants Summary Report is attached (AT-5).

Sustainability Implications

There are no sustainability implications associated with this report.

Finances

The total funding pool for the 2021/22 Community Grants Program is $294,000.00 exclusive of GST. An amount of $147,000.00 is allocated to each round.

As noted above the balance of funding available for Round 1 2022 after the allocation for Quick Response Grants is $105,023.73.

A total of $104,463.25 (GST excluded) has been recommended for funding in this round, with the remaining $560.48 to be returned to general revenue.

Allocations for funding of applications in this round have been made in accordance with the Community Grant Guidelines.

Stakeholders

- Community Organisations - applicants
- Council officers - assessors

Conclusion

Council could:

- Request changes to the Assessment Panel's recommendations for grant funding; or
- Resolve not to endorse the Assessment Panel's recommendation report and defer the $105,023.73 grant funding to the next round.

The Community Grants Program continues to be well received by the community with 41 applications being submitted.

The applications represent a wide range of activities and highlights the importance of the Community Grants Program in supporting the Bass Coast community to enhance services and facilities.

The applications have been assessed in accordance with the Community Grants Assessment Criteria and it is recommended that Council endorse the allocation of $104,463.25 as outlined in attachment four (AT-4).

Recommendation

That Council:

1. **Endorse 2022 Round 1 Community Grants Funding Recommendations; and**
2. **Endorse the return of unallocated grant funds, $560.48, to general revenue.**

Attachments

AT-1	Community Grants Program Policy 2021	2 Pages
AT-2	Community Grants Assessment Criteria 2021	1 Page
AT-3	Community Grants Guidelines 2021	12 Pages
AT-4	***CONFIDENTIAL*** - Community Grants 2022 R1 funding recommendations report	4 Pages
AT-5	Community Grants Summary Report	1 Page

H.12 Scenic Estate - Proposed Road Discontinuance

File No:	**CM22/247**
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 determine if the roads within Scenic Estate are no longer reasonably required for public access and can be discontinued. If discontinued, roads may be consolidated with remaining land parcels within Scenic Estate to form part of the Scenic Estate Conservation Reserve.

At Councils 16 February 2022 Meeting, Council resolved to commence the statutory procedures for road discontinuance.

Subsequently the proposal was advertised as required by the *Local Government Act 1989*. No submissions were received.

Council can now conclude the statutory process and make a decision regarding road discontinuance. It is recommended that Council approve the discontinuance of the roads within Scenic Estate.

Background

At Councils 16 February 2022 Meeting, the following recommendation was adopted by Council:

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.**

Notice of the *Proposed Road Discontinuance: Public Notice Inviting Submission Under Section 223* was placed in both the Phillip Island and San Remo Advertiser, South Gippsland Sentinel Times and on Councils website as part of the Council Update. The prescribed time frame (28 days or more) was allowed for submissions.

No submissions or requests to be heard at a future Council meeting were received.

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.

Public access roads are not reasonably required or appropriate within this conservation area.

Discontinuance of the road reserves within the estate will allow for consolidation of the land into a single parcel and appropriate management of the site.

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 department operational budget.

Stakeholders

- Community and visitors to Phillip Island
- Friends of Scenic Estate Reserve
- Philip Island Nature Parks

Other Options

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

Conclusion

It is recommended that Council discontinue the roads within Scenic Estate.

The roads are shown in the attached plans and are identified as Banksia Grove, Acacia Avenue, Grevillea Grove, Melaleuca Avenue, Baeckia Grove, Coorea Avenue, Boobialla Road, Manna Street, and Ballart Avenue.

Recommendation

That Council:

1. **Resolves that having followed all the required statutory procedures pursuant to sections 207A and 223 of the *Local Government Act 1989 (Act)* pursuant to its powers under clause 3 of schedule 10 of the Act and noting that no submissions were received in response to the public notice, it discontinues the roads in Scenic Estate as shown on the attached plan.**
2. **Is of the opinion that the road is not reasonably required for public access as:**

   2.1 it is prudent to limit access to the conservation area for proper management, and

   2.2 road status within the estate is not required.
3. **Directs that notice pursuant to the provisions of Clause 3 of Schedule 10 of the Act is published in the Government Gazette.**
4. **Directs that once discontinued, the land in the road is retained for conservation purposes.**

Attachments

AT-1	Scenic Estate Land.Vic map	1 Page
AT-2	Scenic Estate LP54996	9 Pages
AT-3	2022 03 08 Advertisement under S223 for Scenic Estate Road Discontinuance	1 Page

H.13 Instrument of Appointment and Authorisation

File No:	**CM22/278**
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 officer as an Authorised Officer under:

- *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.

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 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.

Conclusion

It is recommended that Council adopt the attached Instrument of Appointment and Authorisation to the named officer as an Authorised Officer under:

- *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.

Recommendation

That Council:

1. **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.**

Attachments

AT-1	Nicola Millward S11B Instrument of Appointment and Authorisation under the EPA 2017	1 Page

H.14 Award of Tender 22003 - Construction of Cricket Practice Enclosure Thompson Reserve Inverloch

File No:	**CM22/250**
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

This Report presents the outcome of the evaluation process for Tender No 22003 – Construction of Cricket Practice Enclosure, Thompson Reserve, Inverloch.

A Panel, consisting of four Council officers, was formed to evaluate tender submissions. The objective of the Panel was to assess the submissions against the evaluation criteria and provide Council with a preferred tenderer to assist in reaching a tender award decision.

The Panel conclude that the Tender submitted by The Trustee for Devenish Family Trust t/a iDwala Pty Ltd (iDwala) will satisfy the requirements of the project and will provide Council with best value for money. As such, this Report recommends awarding Contract No 22003 to iDwala.

This report contains an attachment which is declared to be confidential under Section 125 of the Local Government Act 2020 and in line with Council's Tender and Contract Confidentiality Policy.

Background and Context

Bass Coast Shire Council (BCSC) together with its community partners and advocates work hard to deliver improvements to, and support the future viability of, the many sporting and recreational facilities across the Shire.

Council's Thompson Reserve Master Plan sets out the strategic vision for the Reserve over the next decade and prioritises growth and improvements to the sporting and recreational facilities, including its community cricket and soccer facilities.

Following partial funding support from the State Government and contribution from the Inverloch Cricket and Inverloch Stars Soccer Clubs, Council is set to construct new multi-use cricket nets located at the Reserve under Council's 2021/22 Capital Works Program.

Multi-use training facilities incorporating cricket practice nets are fast growing in popularity due to their flexible nature and capacity to accommodate a range of activities. They provide an essential facility for cricket practice but also seamlessly accommodating other training outside of cricket, such as kick-about space for soccer practice.

The Project will deliver five cricket nets (four private and one public) that are fit for purpose and to Australian Standards. It is planned that works will be completed over an approximate ten-week period commencing end of May to August 2022.

The public tender opened on 16 February 2022 and at the close of the three-week tender period, three tender responses were received for evaluation by the Panel.

The Panel conclude that iDwala achieved the highest evaluation score and provides best value for money to 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 entire tender process, commencing with development of the tender documents, through the invitation to tender, to evaluation of tenders received and culminating in the conclusion reached in this report, has been carried out in accordance with the provisions of:

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

Tender Process

This Tender was publicly advertised in accordance with the Local Government Act 2020

Tenders closed at 2pm on Wednesday 9 March 2022 and Council received three (3) tender submissions.

Evaluation Process

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

CRITERION	WEIGHTING
MANDATORY	
Risk, Insurance and Registration	Pass/Fail
Integrated Management Systems (Work Health and Safety, and Quality Assurance)	Pass/Fail
WEIGHTED	
Price	30%
Environmental Management	5%
Benefit to Local and Social Economy	10%

CRITERION	WEIGHTING
Construction Period and Method, and Site Management (design & environmental efficiencies, traffic management, dealing with public, communication with Council, and site environment management)	20%
Capacity (proposed contractor resources, subcontractors, plant and equipment, and current contractual commitments).	15%
Previous Related Experience and Referees	20%

The three submissions received were deemed conforming and satisfied the mandatory (pass/fail) criterion.

Each Panel member scored the technical criterion out of a maximum possible five points. Following the Panel's independent evaluation, they met to discuss their individual scores before discussing as a group and arriving at a consensus score for each criterion. The scores were then multiplied by the relevant weighting to obtain final scores.

Council QBL criterion is scored as a prescriptive (closed) methodology. Albeit none of the Tenderers are locally owned, the response from iDwala still demonstrated an ability to help Council achieve its QBL (social) outcomes through its ethical sourcing policies including sourcing from a Melbourne cricket nets supplier.

All Tenderer pricing submissions were above the adopted budget allocation; however, as all Tenderers were over the budget threshold, no Tenderer scored zero in the price criterion, in line with the published evaluation methodology.

In the evaluation process, the subject matter experts forming the Panel unanimously concluded that to return to both Tenderers seeking a BAFO response would provide no strategic benefit.

In the wake of the global COVID-19 response, Australia's construction sector continues to experience steep, unprecedented levels of pressure in supply and demand that are expected to continue throughout 2022.

The final weighted scores are set out in Table 2.

TABLE 2 – FINAL WEIGHTED SCORES

NO.	NAME	PRICE SCORE %*	NON-PRICE SCORE %#	TOTAL SCORE %
1	The Devenish Family Trust t/a iDwala Pty Ltd	30%	53%	83%
2	Tender B	26%	50%	76%
3	Tender C	22%	45%	67%

* The higher the price score – lower the tendered price.

The higher the non-price score – represents better capability and capacity to undertake the service.

All submissions were above the adopted budget allocation.

The variance between the budget and tenderer pricing is partly due to re-design work that occurred following budget adoption. The re-designs were done at the request of the local cricket and soccer clubs and improves the functionality of the space for them both by providing an extra cricket practice net (five practice nets total) plus a larger kick-about space for soccer. The local clubs have resolved to contribute towards the additional costs as a result of the re-design work.

Contract Management

Upon Council Approval, the Manager Major Projects will act as Contract Superintendent with the Major Projects Officer and Contract Representative. Contract variations will be in accordance with Council's Procurement Policy adopted on 16 March 2022.

- Contract Commencement: May 2022
- Anticipated Contract Completion: August 2022 (or sooner).

Finances

This project received Council-adopted funding allocation of $300K, which included funding support through the State Government's Sport and Recreation Victoria's Community Cricket Program ($100K).

The Inverloch Cricket Club and the Inverloch Stars Soccer Club have provided a written commitment to Council confirming their contribution towards the additional scope of works for this project. Each club has resolved to provide $25K, resulting in a Council receiving a total of $50K towards the completion of this project.

Upon Council approval, the total contract sum inclusive provisional amount is $349,486 (GST exclusive).

While this is within the CEO's delegation, the total spend on this project has exceeded the overall Council-adopted budget allocation by more than 20%, therefore requiring Council's commitment to approve.

TABLE 3 – FINANCES	
COST COMPONENT	GST EXCLUSIVE **(ROUNDED TO THE NEAREST DOLLAR)**
Lump Sum components	$ 349,486
Provisional Items completed by Contractor	$ 0.00
Total Contract Sum	**$349,486**
Internal Project Management Fees (4%)	$13,979
Contingency (10%)*	$34,949
TOTAL	**$398,414**

* Normal practice for a capital project is to allow for a contingency sum of 10% of the contract value. This contingency refers to unforeseeable costs, likely to be incurred during the contract, if required.

Additional costs to meet the budget shortfall ($50K) will be managed within Council's Capital Works Program.

Stakeholders

The stakeholders for this tender include but is not limited to:

- Bass Coast Shire Council;
- Sport and Recreation Victoria;
- Inverloch Cricket Club and Inverloch Stars Soccer Club; and
- Residents of, and visitors to, Inverloch and the Thompson Reserve.

Conclusion

The Tender Evaluation Panel Report is attached.

For the following key reasons, this Report concludes that the Tender submitted by iDwala will provide Council with best value for money:

- iDwala achieved the highest score based on the method of evaluation and provided a high quality submission, which demonstrated a very good understanding of the Project requirements;
- The company demonstrates a strong level of relevant experience and capability to undertake the works in accordance with the specification;
- Demonstrates a strong, site specific understanding of challenges associated with these works and has the proven ability to manage site works and liaise effectively and harmoniously with Council and stakeholders within which these works will be highly visible; and
- Includes elements that achieve Quadruple Bottom Line (QBL) outcomes for Council.

Recommendation

That Council:

1. **Support increasing the budgeted spend for Thompson Reserve Mutli Purpose Inverloch capital project to $398,414 with a combined $50,000 of funding to be received from the Inverloch Cricket Club and the Inverloch Stars Soccer Club.**
2. **Accept the tender from The Trustee for Devenish Family Trust t/a iDwala Pty Ltd and award *Contract No 22003 – Construction of Cricket Practice Enclosure, Thompson Reserve, Inverloch* for the total contract sum (inclusive provisional items) of $349,486 plus GST of $34,949**
3. **Authorise the Chief Executive Officer to execute Contract No. 22003 between Council and The Trustee for Devenish Family Trust t/a iDwala Pty Ltd.**

Attachments

AT-1 ***CONFIDENTIAL*** - Evaluation Report 22003 10 Pages

Statutory Reports

1 Statutory Reports

1.1 Informal Meeting of Councillors Records

File No:	**CM22/244**
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 Strategic 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	Event Advisory Committee Meeting Informal Meetings of Councillors 14 February 2022	3 Pages
AT-2	Event Advisory Committee Meeting Informal Meetings of Councillors 21 March 2022	3 Pages
AT-3	Councillor Briefings 6 April 2022 Informal Meeting of Councillors Records	2 Pages
AT-4	Council Meeting Agenda Run Through 20 April 2022 Informal Meeting of Councillors	1 Page

I.2 Planning and Building Statistics - March 2022

File No:	**CM22/187**
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:

210179: Use and development of land for a dwelling in the FZ, and buildings and works in SLO2 and ESO1 located at 87 Back Beach Road, Smiths Beach.

220074: Construction of an out-building (shed) in a Farming Zone (FZ) located at 10 Glamis Road, Ventnor.

PERMITS ISSUED:

Island Ward

210379: Buildings and works in association with a dwelling in a LSIO located at 9 Woodland Avenue, Silverleaves.

210418: Development of a dwelling in LSIO and the removal of vegetation in the VPO2 located at 19 Shearwater Drive, Silverleaves.

220025: Removal of one tree in a Vegetation Protection Overlay (VPO2) located at 4 Water View Rise, Cowes.

220059: Removal of one tree in a Vegetation Protection Overlay (VPO2) located at 9 Honolulu Drive, Smiths Beach.

220067: Development of land for a post office in the Commercial 1 Zone (C1Z) & Design and Development Overlay (DDO11) and reduction of car parking located at 73-75 Thompson Avenue, Cowes.

220086: Removal of one tree in Vegetation Protection Overlay (VPO2) located at 104 Scenic Drive, Cowes.

Western Port Ward

210120: Business Identification, Floodlit and Promotional Signage in association with proposed supermarket located at 1528-1536 Bass Highway, Grantville.

210438: Four lot subdivision located at Lot 1 TP414384 McCarthy Street, San Remo.

210443: Development of land for a dwelling within 100m of a waterway in the RLZ located at 66 Desmond Road, Wattle Bank.

210452: Buildings and works associated with an extension to a dwelling exceeding 100sqm in a FZ located at 525 Dalyston-Glen Forbes Road, Ryanston.

210454: Use and development of land for a dwelling in the Rural Activity Zone and buildings and works within the prescribed setback of 100 metres of a TRZ2 located at Lot 4 PS618964 Massie Road, Bass.

210461: Subdivision of land into 2 lots located at 44 Walker Street, Dalyston.

210475: Display of internally illuminated business identification signage and associated buildings and works located at 1/2460 Bass Highway, Bass.

210480: Development of land for a dwelling in the Bushfire Management Overlay (BMO1) located at 38 Bunya Drive, Cape Woolamai.

210504: Construction of buildings and works (shed) in a Significant Landscape Overlay (SLO1) and Farming Zone (FZ) located at 9 Anderson Rise, Anderson.

220035: Construction of an outbuilding and alterations and extensions to a dwelling in SLO1 and ESO4 located at 8 Shanty Lane, Kilcunda.

220058: Development of land for an outbuilding in the Rural Conservation Zone (RCZ), Significant Landscape Overlay (SLO1) & Erosion Management Overlay (EMO1) located at 1036 Glen Alvie Road, Glen Alvie.

220068: Buildings and works in Bushfire Management Overlay (BMO) located at 930 Phillip Island Road, Newhaven.

220082: Buildings and works associated with a shed in a Farming Zone (FZ1) located at 2505 Loch-Wonthaggi Road, Ryanston.

220085: Construction of an outbuilding (shed) in a Farming Zone (FZ) and Significant Landscape Overlay (SLO1) located at 6390 South Gippsland Highway, Loch.

Bunurong Ward

210254: Development of land for 4 dwellings in the GRZ1 located at 23 Ivor Street, North Wonthaggi.

210261: Use of land for a Licensed Premises (Liquor) located at Crown Land Lease 1202208 – Wonthaggi Gun Club, 20 Cape Paterson Road, Wonthaggi.

210270: Dwelling alterations within 100m from waterway in a RAZ, SLO4 and ESO1 located at House & Curtilage, 90a Cape Paterson-Inverloch Road, Inverloch.

210300: Construction of a dwelling in a LDRZ and ESO1 located at 23 Coastal Way, Inverloch.

210303: Buildings and works for food and drinks premise C2Z and alter access to a road in RDZ1 located at 323 White Road, South Dudley.

210389: Construction of buildings (community hub and potting shed) in association with community gardens located at Wilsons Road, (Common Property 1 PS719593) Cape Paterson.

210394: Construction of a double storey dwelling in a DDO9 located at 38A Florida Avenue, Inverloch.

210400: Subdivision of land in to two (2) lots located at 25 Stewart Street, Wonthaggi.

210410: Construction of a dwelling in a LSIO and removal of vegetation (1 tree) in a VPO3 located at 13 Lohr Avenue, Inverloch.

210435: Construction of a dwelling in the Bushfire Management Overlay (BMO) located at 92 Viminaria Road, Harmers Haven.

210437: Change of use from mail centre to postal agency and car parking reduction located at 68 Dixon Street, Inverloch.

210456: Subdivision of land into two lots located at 2 Blue Water Circle, Cape Paterson.

210493: Alterations and Additions for a dwelling in the Bushfire Management Overlay Schedule 1 located at 3 Foam Street, Cape Paterson.

210499: Two lot subdivision in General Residential Zone located at 127-129 Wentworth Road, North Wonthaggi.

210512: Two lot subdivision in a Design and Development Overlay (Schedule 1 and 9) and General Residential Zone located at 6-8 Abbott Street, Inverloch.

210526: Two lot subdivision and creation of restriction located at 7 Beard Street, Wonthaggi.

210527: Two lot subdivision in General Residential Zone (GRZ) located at 97 Broome Crescent, Wonthaggi.

220014: Extension to a dwelling on a lot less than 300sqm in a General Residential Zone (GRZ1) located at 6/20 The Crescent, Inverloch.

220027: Removal of one tree (Banksia) in Vegetation Protection Overlay (VPO3) located at Pymble Avenue, Inverloch.

220039: Buildings and works to construct a dwelling in the DDO9 and associated vegetation removal in the VPO3 located at 119 Lohr Avenue, Inverloch.

220042: Removal of one tree (Tea Tree) in Vegetation Protection Overlay (VPO3) located at 36 Pymble Avenue, Inverloch.

220052: Buildings and works in an Industrial 3 Zone (INZ3) located at 13 Bear Street, Inverloch.

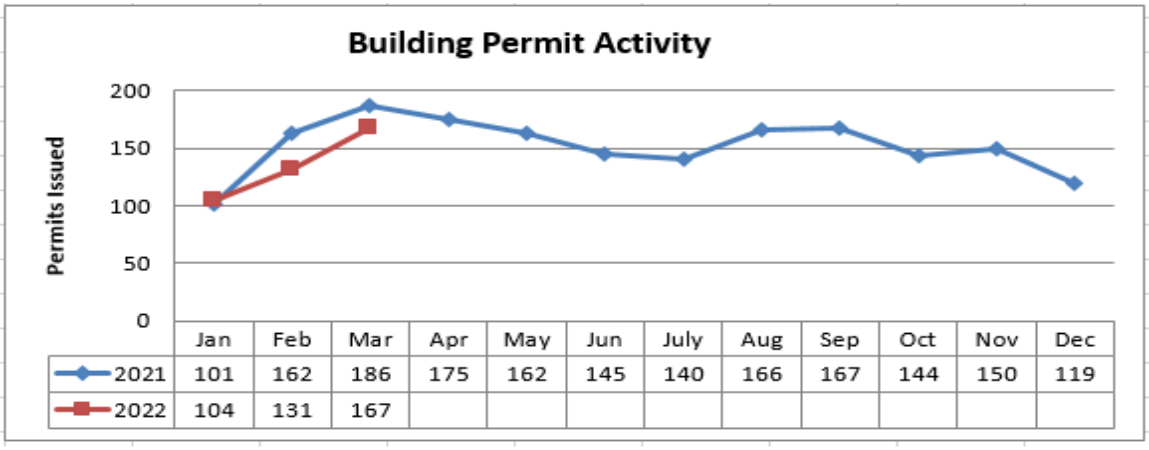
220071: Removal of one tree in a Vegetation Protection Overlay (VPO3) located at 85 Bayview Avenue, Inverloch.

220091: Buildings and works associated with an existing dwelling in a Bushfire Management Overlay (BMO1) located at 581 Cape Paterson Road, Cape Paterson.

PLANNING AND BUILDING ACTIVITY REPORT FOR MARCH 2022

Statutory Planning	This month (March)	Last month	Year to date (financial year)
% of applications determined within statutory timeframe	68.2	60.7	63.3
Average Gross Days (Responsible Authority determination)	129	120	166
(new) Average Gross Days to final outcome	192	134	184
Average Statutory Days (Responsible Authority)	85	45	
Number of live applications	219	224	-
Number of applications received for the month	54	44	452
Number of Responsible Authority outcomes	59	60	480

Municipal Building Services & Enforcement	This month (March)	Last month	Year to date (financial year)
Essential Safety Measure inspections	0	0	0
Report and Consent applications	30	35	226
POPE and Siting consents issued for temporary structures	3	3	9
Complaints received requiring investigation	8	10	90
New building enforcement cases	7	3	38
Number of open building enforcement cases	32	30	n/a
Building permits issued by Council	0	0	0



Planning Enforcement	This month (March)	Last month	Year to date (financial year)
New Reports received for assessment	8	11	385
Reports assessed and closed – no PE	3	5	-
New complaint/case files opened	10	21	85
Complaints/case files closed	14	36	403
Current open complaints/case files	58	58	-

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 March 2022.**
2. **Receives and notes the Planning and Building Activity Report for March 2022.**

Attachments

There are no attachments for this report.

I.3 Contracts Awarded

File No:	**CM22/249**
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 March 2022 to 31 March 2022, no contracts were awarded under the Chief Executive Officer's delegation of procurement authority.

Contracts Extended

For the period from 1 March 2022 to 31 March 2022, no contracts were extended under the Chief Executive Officer's delegation of procurement authority.

Recommendation

That Council notes no contracts were awarded or extended in accordance with the Delegated Procurement Authority during March 2022.

Attachments

There are no attachments for this report

I.4 Councillor Expenses for the Council Term - 9 November 2021 to 31 March 2022

File No:	**CM22/219**
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 March 2022.

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 March 2022.

Attachments

AT-1 Councillor Expenses FINAL Report 9 Nov 2020 to 31 Mar 2022 1 Page

J Urgent Business

Mayoral Announcement Of Next Meeting Of Council

The next **Council Meeting** will be held on 15 June 2022 in the Bass Coast Civic Centre Council Chamber, Baillieu Street East, Wonthaggi commencing at 1.00pm.

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

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

Meeting adjourned

That the meeting be adjourned

Meeting resumed

That the meeting be resumed

Items Closed to the Public

Excerpt of Section 66 of the Local Government Act 2020.

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

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

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

confidential information means the following information—

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

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

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

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

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

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

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

(i) relates to trade secrets; or

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

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

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

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

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

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

K Confirmation of Closed Minutes

K.1 Closed Council Meeting held on 15 December 2021.

Recommendation

That the minutes of the Closed Council Meeting held on 15 December 2021 be confirmed.

L Reports Requiring Council Decision Closed to the Public

L.1 Chief Executive Officer Employment Matters Committee meeting 30 March 2022, Chief Executive Officer Annual Performance and Remuneration Review 2021/22 and Performance Agreement 2022/23

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

Recommendation

That the meeting be reopened to the public.

Meeting closed

That the meeting be closed