Bass Coast Shire Council
Minutes for Council Meeting
Wednesday, 17 February 2021
Virtual Meeting
1.00pm

1. **These minutes are due to be confirmed on 17 March 2021**
2. **Any decision included in these minutes is subject to change resulting from a rescission motion passed by Council.**

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Meeting commenced

The meeting commenced at 1.02pm

Cr Brett Tessari read the Livestreaming Statement.

Livestreaming Statement

As the Meeting Chair, I give my consent for this Open Council Meeting to be streamed live, recorded and published online, in accordance with Council's Livestreaming Policy and Meeting Procedure Local Law 2018.

The Chair and/or the CEO have the discretion and authority at any time to direct the termination or interruption of livestreaming.

Such direction will only be given in exceptional circumstances where deemed relevant. Circumstances may include instances where the content of debate is considered misleading, defamatory or potentially inappropriate to be published.

Attendees are advised that they may be subject to legal action if their actions result in inappropriate and/or unacceptable behaviour and/or comments. Thank you.

Cr Brett Tessari read the Virtual Meeting Statement.

Virtual Meeting Statement

The COVID-19 Omnibus Bill 2020 provision allows Council meeting attendance by electronic means.

The requirement of the meeting being open to the public is satisfied by the meeting being streamed live to Councils internet.

In the event of technical issues with the livestream the meeting will be adjourned.

Councillors are deemed as being in attendance if:

- They can hear proceedings
- They can see other members in attendance and can be seen by other members
- They can be heard (to speak)

Cr Brett Tessari read the Mobile Telephone Reminder.

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.

Cr Rochelle Halstead read the Statement of Acknowledgement.

Statement of Acknowledgement

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

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

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

Cr Leticia Laing read the Councillor Statement.

Councillor Statement

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

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

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

A Present and Apologies

Councillors:

Cr Brett Tessari, Bunurong Ward (Mayor)

Cr Michael Whelan, Island Ward (Deputy Mayor)

Cr Leticia Laing, Bunurong Ward

Cr Ron Bauer, Island Ward

Cr David Rooks, Island Ward

Cr Rochelle Halstead, Western Port Ward

Cr Bruce Kent, Western Port Ward

Cr Clare Le Serve, Western Port Ward

Officers in Attendance:

Ms Ali Wastie, Chief Executive Officer

Mr Wayne Mack, Executive Manager, Business Transformation

Mr David Filmalter, General Manager Finance and Governance

Mr Christian Stefani, Executive Manager Partnerships, Advocacy & Economy

Mr James Stirton, General Manager Place Making

Ms Jodi Kennedy, General Manager Resilient Communities

Ms Robyn Borley, Manager Governance and Property

Apologies:

Cr Les Larke, Bunurong Ward

B Declarations of Interest

There were no Declarations of Interest.

C Confirmation of Minutes

C.1 Council Meeting held on 16 December 2020

Council Decision

Moved: Cr. Clare Le Serve / Seconded: Cr. Bruce Kent

That the minutes of the Council Meeting held on 16 December 2020 be confirmed.

CARRIED

D Public Question Time

D.1 Brendan Webb, Graydens Reserve Play space and Skate park

1. Has the extension of funding given been approved?
2. Can Councillors please explain the process moving forward to complete this project?

Response:
Council is awaiting the outcome of the request for an extension through Sport and Recreation Victoria. It is currently sitting with the Minister for consideration and through constant communication with our Sport and Recreation Victoria representative, we have been informed that a decision is imminent.
Following the outcome of the request for an extension, officers will develop its next steps and share these promptly with Councillors and the community.

D.2 Graham Jolly, Bass Coast Golf Resort

1. Planning permit 030723 Bass Coast Golf Resort had a condition for the construction of Shetland Heights Rd, San Remo. Why did council issue a Statement of Compliance?
2. Did the Bass Coast Golf Resort developer pay monies or land to council as a bond at the time of issuing a Statement of Compliance?

Response
Council deferred the requirement for a contribution to be made under the subdivision permit by issuing Statement of Compliance on the expectation that a contribution would be made under the associated permit for development of the land. The developer commenced works under the development permit and was declared insolvent before a contribution could be retrieved.

A bond of $96,822 was paid by the developer.

D.3 Gay Jolly, Black Spot Risk Assessment

Which land manager to Phillip Island is in a responsible position to allow the release of the Black Spot Risk Assessment for the Bass Coast to the public?

Response

Bass Coast Shire Council has discussed the Coastal Assessment Report with lead organisation, Life Saving Victoria and the appropriate Land Managers on Phillip Island, including Phillip Island Nature Parks and Parks Victoria. The full report will be displayed on Council's website by Friday 26 February.

D.4 Gay Jolly, Cowes Community and Cultural Centre

Council has appointed an architect for the new Cowes Cultural Centre Complex for full design and changes. What is the agreed total cost for the architectural company up to the date of opening to the community?

Response

Council engaged Jackson Clement Burrows under Tender 20005 for architectural services of the Cowes Cultural Community Centre in line with the Council resolution on 20 May 2020 for a sum of $1,348,360 plus GST

D.5 Kevin Griffin, Rates

In past years Bass Coast Shire has without discipline jacked-up annual rates by multiples of the inflation rate prevailing at the time. Will this new Council now publicly commit that it will not seek to exceed the State Government declared rate cap during the term of this current Council?

Response

Bass Coast Shire Council has complied with the State Government's rate cap legislation since the implementation of rate capping in 2016 and has not submitted any rate cap variation requests to the Essential Services Commission (ESC) over the last 5 years.

D.6 Kevin Griffin, Footpaths

At the November meeting Island Ward Cr Michael Whelan emphasized the importance of Council getting on with footpaths across the shire. Will Council now advise the community as to what new footpaths Council has planned to construct during this calendar year, and for the remainder of this Council's term?

Response

Council commits funding to new footpath projects through its Capital Works Program. These footpath project locations will be made available annually through the budget process.

D.7 Andrew Fernbach, Community Engagement Policy

1. Given section 59 of the new Local Government Act specifically INCLUDES CAC decisions as Council decisions, the CAC Committee is selected by Council and manages land owned by Council, why does the engagement policy not explicitly include CACs as part of Council, so covered by the policy?
2. Will Council acknowledge the inconsistency in a policy promoting engagement, while asking polite and well-meaning community members wanting to engage with Council decisions made in their local CAC, to leave and continuing all subsequent meetings in secret, and also the breach of the Council's transparency policy?

Response

1. **Committees with delegated authority, including Community Asset Committees, are considered to be Council when using their delegation and therefore have not been listed separately as part of the definition. This can be considered for inclusion during future reviews of the Policy.**
2. **Council's current policy position is for each individual Community Asset Committee to determine whether regular meetings are open to the public. This approach is being reviewed as part of the development of a Governance Manual which will be available at the end of March. There is no legislated requirement for regular meetings of Community Asset Committees to be open to the public. This approach does not breach Council's Public Transparency Policy.**

D.8 Meryl Tobin, Cr Halstead Urgent Business

Could you please state all six parts of Cr Halstead's 25 November motion re grass trees that were removed at the Grantville Sand Quarry Site and state to what extent each has been addressed?

Response

1. **I move that Council act as a matter of urgency to ensure the grass trees removed at the Grantville Sand Quarry site are handled and cared for in an appropriate manner to ensure they are kept healthy and able to be replanted at the earliest possible time.**

Shortly after the Council meeting a site inspection was conducted. At that time it was concluded that the quarry operation was being managed in a manner consistent with the planning permit and endorsed plans.

2. **That Council seek to have on record the details of the rehabilitation bond and work plan held and monitored by the Earth Resources Regulator for the Grantville Sand Quarry and assess whether the work order appropriately protects our regions distinctive native vegetation and endangered flora. That council seek to include as part of the review any presence of endangered populations of wildlife.**

A referral to the Earth Resources Regulator and Regions was made prior to the November 2020 Council meeting.

3. **The Earth Resources Regulator confirm the rehabilitation bond being held for the Grantville Sand Quarry is sufficient to ensure full rehabilitation of the site**

Information on rehabilitation bonds is managed by Earth Resources and publically available on their website. As the cost of rehabilitation is not yet known an assurance from EER that bonds collects are sufficient was not provided by ERR.

4. **Request that rehabilitation work to any used and closed sections of the site begin immediately**

A referral to the Earth Resources Regulator was made. The referral requested the regulator ensure compliance with the approved Work Authority. The regulator has

provided advice the operator is compliant with the Work Authority.

5. **Council establish through the relevant Victorian State Government Authority what assessments for any Aboriginal or Cultural Heritage Values of the Grantville Sand Quarry site have been undertaken to date and to liaise with the Bunurong Land Council to discuss the significance of the site and what further action is required.**

The planning permit approval pre-dates the Aboriginal Heritage Act. On this basis a Cultural Heritage Assessment was not prepared for this development.

6. **Council seeks to confirm with the Victorian State Government that ERR has demonstrated that it can effectively discharge its regulatory functions by appropriately balancing:**
    - **its commitment to the Minister for Resources' *Statement of Expectations 2018–20* and the Commissioner for Better Regulation's *Getting the Groundwork Right* to reduce the regulatory burden on operators by facilitating and streamlining approval and**
    - **regulatory processes giving effect to the objective of the Act to ensure that risks posed to the environment are identified and eliminated or minimised as set out in the Auditor General's Inquiry into the determination and administration of rehabilitation of bonds for the mining in the state**

A letter reiterating Council's concerns was sent to the Earth Resources Regulator. Since that time officers have been in discussion with the department regarding providing guidance to communities regarding the location of, and planning processes for quarry operations. It is anticipated further advice on the next steps of this process will occur in mid 2021.

D.9 Hartley Tobin, Distinctive Areas and Landscapes

What is Council able to do to ensure the Distinctive Areas and Landscapes project has time to take into account its and the community's wishes to protect certain areas before further expansion of sand mining in Bass Coast Shire and neighbouring shires, especially between Nyora-Lang Lang and Grantville and beyond?

Response

It is anticipated that the Statement of Planning Policy for Bass Coast will be released for community feedback in March 2021. At this time, Council and community feedback on the document will be requested. Council is bound by the requirements of the Planning and Environment Act to assess applications in a timely manner and as such, a decision on this planning application is required prior to the introduction of the policy.

D.10 Jack Bickley, Shared Path Project

What is the amount of expenditure paid to consultants for the design of the Shared Path Project in Surf Parade Inverloch between Veronica Street and the Surf Lifesaving Clubhouse?

Response

The design for the shared path has essentially been completed by Council engineering staff, however, there has been a need to engage external consultants to provide expert advice (surveying, geotechnical, cultural heritage, native vegetation, fauna studies, geomorphic, traffic, etc). $98,859 (ex GST) has been expended on consultancy advice (year to date) for the 2018/19, 2019/20 and 2020/21 financial years.

D.11 Keith Godridge, Shared Path Project

1. Has Councils application to DWLEP for the extension of the Surf Parade Shared Path project been approved?
2. If the application has been refused what are the stated reasons for the refusal?

Response

Council has met with the Department on the 18 December 2020 and 12 January 2021 to discuss its application, however, no formal approval under the Marine and Coastal Act has been provided as yet, nor has it been refused.

As detailed in Council's last correspondence to the Department on the 30 December (refer to Council website for summary), Council has agreed to accept the Department's offer to work in partnership to consider options to provide the shared path. This work is currently underway.

D.12 Barbara Hill, Planning Application 200257 & 200258

1. Please explain how this has now changed from the "Dalyston 2018 Structure Plan and the Department of Environment, Land Water and Planning, for Bass Coast Distinctive Areas and Landscapes Discussion Paper March 2020"?
2. How can this be classed as 'reasonable' and fair to compromise our quality of living with additional dwellings and residents with higher foot traffic in the area, given two already subdivided in 2020 plus in process applications 200257, 200258 and 200308 if approved total 5 subdivisions?

Response

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

D.13 Barbara Moje, H.1 Planning Application 120388-1 - 1381 - 1395 Bass Highway Grantville

1. Will Council review and amend their weak report to include the Minister's Declaration of Bass Coast as a Distinctive Area Landscape 2019, the BCS Council's own Biodiversity Biolinks Strategy 2018 and the BCS Climate Change Action Plan ratified in 2020 with its goal for the shire's carbon neutrality by 2030?
2. Will Council revisit their non-committal attitude in the report towards the enforcement of the Conditions* of the 2013 permit granted to Dandy as not to risk setting a precedent for any further failure of this or other applicant/s to adhere to any future environmental conditions?

   (*revegetation works not completed)

Response

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

D.14 Stephen Edge, H.1 Planning Application 120388-1 - 1381 - 1395 Bass Highway Grantville

1. Dandy Pre Mix are proposing to double (p.34) and within ten years it will establish and protect "to the satisfaction of Council". How can Council say that they are satisfied the agreement will be honored given that they've admitted that they've failed dismally so far?
2. I am genuinely confused. How can the Summary in respect to Planning Application 120388 state that the applicant has "complied" (p.33) when no rehabilitation has taken place? A measure that is "proposed" but not happened isn't "complied" is it.

Response

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

D.15 Glenys Edge, H.1 Planning Application 120388-1 - 1381 - 1395 Bass Highway Grantville

1. Could you please tell me where the submitted rehabilitation plan can be found? And is this enacted only after 40 years or before?

Response

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

D.16 Nola Maxfield, H.1 Planning Application 120388-1 - 1381 - 1395 Bass Highway Grantville

Has Council seen a detailed plan outlining rehabilitation and revegetation by Dandy Premix? If there is such a plan, does it align with Council and Community values and not hold any risks for the environment, community and council finances for the future, should it not be followed?

Response

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

D.17 Sue Packham, H.1 Planning Application 120388-1 - 1381 - 1395 Bass Highway Grantville

1. Why is it that the Biodiversity Biolinks Plan 2018, being such an important policy in guiding revegetation and biodiviersity outcomes in our area, not a reference document or an incorporated document in the Bass Coast Planning Scheme?
2. Has the Biodiversity Biolinks Plan 2018 been purposely ignored because it reflects the community's wishes to build the wildlife corridor between The Gurdies Nature Conservation Reserve and the Grantville Bushland Reserve.

Response

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

D.18 Meryl Tobin, H.1 Planning Application 120388-1 - 1381 - 1395 Bass Highway Grantville

According to its Work Permit of 2013, exactly what revegetation works was Dandy Premix Quarries required to do at its Grantville site and when, and exactly what and when did they do them, who was responsible for overseeing the works, and is the company now fully compliant with requirements?

Response

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

D.19 Hartley Tobin, H.1 Planning Application 120388-1 - 1381 - 1395 Bass Highway Grantville

1. The proposed Amendment to expand the Dandy Premix Quarries is a serious issue for locals. Could Council please organise or ask the company to organise a

public meeting to discuss it at the Grantville Hall as soon as possible as they did when the company wanted to start the quarry?

2. What is Council able to do to ensure the Distinctive Areas and Landscapes project has time to take into account its and the community's wishes to protect certain areas before further expansion of sand mining in Bass Coast Shire and neighbouring shires, especially between Nyora-Lang Lang and Grantville and beyond?

Response

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

D.20 Neil Rankine, H.1 Planning Application 120388-1 - 1381 - 1395 Bass Highway Grantville

1. The Planning Scheme 52.17 allows conditional vegetation removal, however 52.08 says works must accord with acceptable environmental standards & 52.09 says they must not adversely affect the environment.

   Do you think removing the only wildlife link in the corridor between Deep and Colbert Creeks is acceptable or has adverse outcomes?

2. Could I please be furnished with a copy of the written notice of statutory endorsement and the conditions specified under Section 77TD(3) of the Minerals Resources (Sustainable Development) Act 1990 that is mentioned in the H.01 report as having been submitted with the application?

Response

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

D.21 Margaret Lee, H.1 Planning Application 120388-1 - 1381 - 1395 Bass Highway Grantville

I submit that ground stability is not the central issue in regard to planning application 120388 – Geotechnical assessment. Far more important would have been possible detrimental effects of mining below the water table, unfortunately given scant coverage. What is the Council's specific view of seriously upsetting this water table level?

Response

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

E Petitions, Joint Letters, Deputations and Correspondence

There were no Petitions, Joint Letters, Deputations and Correspondence.

Notices of Motion

F Notices of Motion

F.1 230/21 Bin Lid Colour, Cr Ron Bauer

I, Cr Ron Bauer, hereby give notice that I intend to move a motion at the Council Meeting on 17 February 2021, which reads as follows:

BIN LID COLOUR

Motion

That Bass Coast Shire write to the Minister for local Government and request that the State Government adopt as soon as practicable a uniform colour code for the lids of the 3 and eventually 4 domestic and commercial rubbish bins for all municipalities in Victoria.

Background by Councillor

At present there is no uniformity throughout the State for what coloured lid is used for what purpose throughout the State.

We should not "bet against the wheel". As holidaymakers come to our Shire, especially in the waterline townships, many are confused which bin is for what purpose. They do not come here for a recycling lesson but to enjoy what Bass Coast and Phillip Island has to offer. They see a bin and use it.

Bass Coast Shire is a victim of its own success. We are one of the States leaders with recycling and we want it to remain that way. If the lid colours were uniform throughout the state it would reduce the amount of contamination in our recycling endevours.

Officers Comments

A letter can be drafted indicating that we support the State Governments initiative which has seen Sustainability Victoria already receive transition plans submitted by Victorian councils to roll out the 4 bin system (incl FOGO) which will include consistent bin colour lids (R,G,Y,P). Bass Coast already has this in place for our 3 bin system.

Each Council will have different timeframes for delivery from now until 2027 – as you can imagine this is a significant cost for Councils to implement, but we encourage the State Government to support the sector to deliver this outcome in a timely manner.

……..
Cr Ron Bauer, Island Ward
Dated: **17 February 2021**

Attachments

There are no attachments for this report.

Council Decision

Moved: Cr. Ron Bauer / Seconded: Cr. Bruce Kent

That the motion be adopted.

CARRIED

Mayor and Councillors Reports

G Mayor and Councillors Reports

G.1 Mayoral Report - Cr Brett Tessari

Acknowledgements

- I wish to acknowledge our two new Australia Day Award winners – Young Citizen of the Year 2021 Margaret Sands and Citizen of the Year 2021 Mat Bowtell.
- I would also like to acknowledge our new Australian Citizens:
  - Ian John Clegg
  - Karin Patricia Murphy Ellis
  - Margaret Joy Fraser
  - Martial Jean Jules Leconte
  - Michael Brook Mascaros
  - Marianne Paula Pattinson

Activities

- Gippstar Awards Evening
- Harold Hughes Reserve Tennis and Multipurpose Courts Opening
- Phillip Island Contemporary Exhibition Space COVID-19 Resilience Video Project launch
- Australia Day Awards
- Float Safe event – Maritime Safety Victoria
- Tunnerminnerwait and Maulboyheener Commemoration
- Citizenship Ceremonies
- Rotary Club Australia Day Celebrations
- Interview with Coast Connections
- Induction service for the Reverend Graeme Liersch
- Phillip Island Nature Parks tour
- Industry Update and Morning Tea
- Ministerial Event: New San Remo Junior Campus of Wonthaggi Secondary College event

Meetings

Attended Council Workshops and Briefings

Chaired Councillor Only Meetings

Weekly meetings with CEO, Council Support and Communications

Additional Meetings:

- Pre-event meeting: Harold Hughes Reserve Tennis and Multi Purpose Courts Opening
- Meeting with CEO and Cr Larke
- Meeting with Dr Andrew Lemon and Andrea Rieniets
- Grantville Quarrying Meeting
- CEO Employment Matters Committee Meeting
- Regular Bunurong Ward Meeting
- Pre-event meeting: Australia Day Awards
- Meeting with Wonthaggi Power President
- Meeting with Wonthaggi Golf Club President
- Shire Aquatics Meeting
- Ministerial visit: Minister Shaun Leane – Cowes Cultural Centre
- Meeting with Paul Salmon
- Place Making update meeting
- Meeting with Phil Dressing
- Pre-event meeting for The Hon Mark Coulton MP and The Hon Darren Chester MP meeting
- Recreation Funding Projects meeting
- Pre-meeting discussion for Seventh Coastal Connections film and launch of films at Coastal Connections Concert
- Meeting with Joel Goodall
- One Gippsland Meeting: The Hon Mark Coulton MP and The Hon Darren Chester MP
- Meeting with Bass Coast Residents and Ratepayers Association
- Meeting regarding drainage in Wonthaggi
- Community Connections Meeting
- One Gippsland February Planning meeting
- Social and Community Planning Introductions
- Meeting with Neville Goodwin
- Pre-event meeting: Russell Broadbent MP Meeting
- Meeting with Russell Broadbent
- Meeting with Jordan Crugnale
- Planning Briefing
- Dandy Premix Briefing
- Meeting with Robbie Geyer

Other

Media Enquiries/Interviews

Phone calls, emails and letters

Photo opportunity – The Age, Sentinel Times, Inverloch Autumn Festival COVID Safe Video Filming

G.2 Counillor Report - Cr Les Larke

- Extractive Industries Presentation
- Australia Day Awards Ceremony - Virtual
- Cape Paterson Residents and Ratepayers Association AGM
- Australia Day Citizenship Ceremony - Virtual
- South Gippsland Shire Council/Wellways Suicide Prevention (QPR) Training – Virtual
- Councillor/Staff Workshops and Briefings

G.3 Councillor Report - Cr Leticia Laing

Events

- Tunnerminnerwait and Maulboyheener Commemoration Ceremony, Wonthaggi
- Cape Paterson Residents and Ratepayers Association AGM
- Australia Day Awards presentation ceremony
- Citizenship Ceremony – Australia Day public holiday

Meetings

- Robbie Viglietti, Grantville Quarry
- Cape Paterson Surf Life Saving Club, new facility tour with club president Dean Manns
- South Gippsland Conservation Society, Inverloch Coastal Resilience Project update
- Albert Ruttle Wetlands, update with local residents
- West Gippsland Library Corporation meeting with CEO
- South Coast Inclusion Network informal catch up
- Dandy Premix, Garry Cranny briefing
- West Gippsland Regional Library Corporation Board, Strategic Risk Workshop – Narre Warren
- Various meetings with residents

- Phillip Island Nature Parks briefing from CEO

Councillor Briefings

- Placemaking update
- Recreation projects
- Arts & Culture Advisory Group briefing
- Councillor Conduct
- Coastal Erosion
- Budget briefings

Ongoing

Responding to contact from residents via email and phone or in person.

G.4 Councillor Report - Cr Michael Whelan

- 13 January Australia Day Awards
- 20 January Tunnerminnerwait and Maulboyheener Commemoration
- 20 January Local Government Minister Shaun Leane Meeting in Cowes
- 26 January Citizenship Ceremony
- 4 February Climate Emergency Australia Webinar
- 6 February Phillip Island Conservation Society Meet with Committee Bimbadeen
- 11 February Seats Quarterly Meeting Virtual

G.5 Councillor Report - Cr David Rooks

Meetings

- Event Advisory meeting
- Kim Storey – DPI
- Background to PIITS
- Minister Leane visit at CCC
- PI Art and Gallery Group
- Clair Swatzky – PIBN
- Capital works planning
- Councillor only meetings

Briefings

- 4 year capital works program
- Minister Leane visit
- Briefings held on 20th and 27th January

Functions

- Tunnerminnerwait and Maulboyheener Commemoration

Other

- Continued working on PIITS Community Reference Group strategy for 2021 and beyond.
- Councillor contact for updating CRS. Various meetings working on project.
- Worked on agenda for Environment Advisory Group

Ongoing

- Prepared for monthly Councillor meeting
- Dealt with constituents' issue and queries – email, phone

G.6 Councillor Report - Cr Ron Bauer

All Councillors acknowledge Ms Ali Wastie on her two year anniversary with Council and thank her for her services

- Attended the briefing on the redevelopment of the Rhyll boat ramp
- Attended the PINP briefings at the penguin parade pavilion.
- Briefing on the Dandy Mix expansion application
- Attended the meet and greet with Minister Sean Lean at the cultural centre site.
- Attended (in part) Social and community planning introduction the meeting
- Attended PIMHAG monthly meeting
- Attended the Aquacentre monthly meeting
- Attended Island Voice monthly meeting
- Attended meeting with representatives of the Bass Coast Dog Association.
- Attended various constituents issues on site.

G.7 Councillor Report - Cr Bruce Kent

Dealing with my sore foot during this period.

Attended meetings for

- Bass Coast Road Safety Committee 19/01/2020,
- Island Voice meeting 28/01/2020,
- Council Planning meetings,
- Dandy Mix meeting
- Council Wednesday meetings.

G.8 Councillor Report - Cr Rochelle Halstead

Congratulations to all recipients of Australia Day Awards for 2021. The presentation was one full of pride for those in our community who clearly work tirelessly and are so talented in their specialised fields. Each and every nominee contributing to their communities and making a positive difference in other's lives, was well deserving of this honour.

Cr Bauer and I met with the Phillip Island Bass Coast Dog Owners Association to discuss their future hopes and dreams for improving facilities. Our pets play an important role in the lives of many, they provide company for the lonely and play a crucial role in the mental health of their human families. Providing for our furry friends, the opportunity to run freely in a safe and secure location is not only vital for their health but for the health of their owners. The Phillip Island Bass Coast Dog Association is doing some terrific work and I look forward to continuing to work with them in the interests of pet owners and their furry friends.

I was honoured to have joined the Bass Coast South Gippsland Reconciliation Group in the fourth commemoration of two men, Tunnerminnerwait and Maulboyheener, who were hanged in 1842 after their capture in Harmers Haven. A story told by Aunty Di stirred emotion with her account of the atrocities of that era, thank you for your courage and strength in sharing. A very sad recollection.

Cr Le Serve and myself met with long time resident Ian Hitchings to discuss the Powlett River and the opportunity to bring back the natural flow of this crucial waterway. We are keen to find out more about how we can encourage the platypus back to these waters by improving the health of the system and allowing the mouth of the river to return to its natural cycle of opening. We are grateful for the input we have received from Cr Whelan, who himself is doing some great work on the Island in the space of waterways.

It was wonderful to have met with the San Remo Recreation Centre Committee of Management and I am very much looking forward to working with the groups on this site in the hope of creating a community hub for San Remo. We are in the early stages of discussion and there is a great deal more work ahead. A perfect location, this site is central and not far from the main shopping precinct.

Council briefings examples;

- Phillip Island Nature Parks
- VinFast (the old Holden Proving Grounds site)
- Planning
- Coastal Erosion
- Shetland Heights Road

Community Group Meetings:

- Coronet Bay & Reserves Community Asset Committee General Meeting
- Corinella Ratepayers & Residents Association

On a personal note, it was wonderful to have watched my eldest daughter marry her fiancé on Friday 12th February. This was the third attempt and luckily she just scraped in before lockdown. It was a wonderful occasion celebrated at "The Shearers Shed" on Phillip Island. We are lucky to have such a terrific events venue who were professional.

To all residents and businesses of Bass Coast Shire congratulations and thank you for your ability to pivot and adjust to what continues to be turbulent times on the health front. As a business owner myself, I understand the difficulties for small business and the toll the uncertainty can take. You are doing an amazing job! To the emergency workers thank you for your continued dedication in your work that keeps us all safe and to all our Bass Coast students hang in there, your community is right behind you!

G.9 Councillor Report - Cr Clare Le Serve

- Australian Day Award Presentation
- Tunnerminnerwait and Maulboyheener Commemoration
- AGM Meeting – Mornington Peninsula Western Port Biosphere Reserve Foundation
- Meeting at the Phillip island Nature Park
- Vinfast meeting – Proving Ground invitation
- AGM - Corinella Resident & ratepayers Ass

Reports Requiring Council Decision

H Reports Requiring Council Decision

H.1 Planning Application 120388-1 - 1381 - 1395 Bass Highway Grantville

File No: **CM21/37**
Division: **Place Making**
Council Plan Strategic Objective: **Our Character**

Celebrating the uniqueness of our townships

Declaration

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

Executive Summary

Application number:	120388-1
Applicant:	Dandy Premix Quarries Pty Ltd c/- Jack Kraan – Focus CDS Consultants
Land:	1381-1395 Bass Highway Grantville
Proposal	Amendment - Use of the land for sand extraction and associated processing and associated buildings and works, and create access to a road in a Road Zone category 1 in accordance with Work Authority 1488 (WA1488)
Planning controls:	Farming Zone Bushfire Management Overlay
Planning permit triggers:	Clause 35.07-1 Farming Zone Clause 36.05-2 Works with Road Zone Clause 52.08 Earth & Energy Resources Industry
Notification and submissions:	Notification to 1089 Affected Parties 73 Submissions were received
Key planning considerations:	Extractive Industries Environmental and landscape objectives Economic objectives Native Vegetation and ongoing protection Vehicle access and egress Offsite amenity impacts Integrated decision making
Recommendation:	Prepare submission supporting the amendment to the planning permit with conditions

Reason a Council Decision is required

The application has been called in by the Minister for Planning under section 97B(1)(a) of the *Planning and Environment Act 1987*. The application has been referred to a planning panel hearing to commence on Monday 22 March 2021.

Council is requested to adopt a position in regards to the application to enable a submission to be made on Council's behalf at the planning panel hearing.

Council's delegations require applications that attract five or more objections or for developments of more than $3 million to be determined by Council.

This application attracted 73 objections and has a development value of $7 million.

Declaration

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

The Proposal

This application proposes to amend the existing permit conditions to allow for the following:

- The deepening of the existing fine – medium sand extraction area to a depth of 88m and extend the area of extraction to the east.
- To extract coarse sand from an area to the upper eastern end of the existing extraction area to a depth of 55m.
- Allow for the washing of sand and dewatering.
- Expansion the area of extraction to the east of the site for the purposes of coarse sand extraction to a depth of 55m.
- Extend the hours of operation.
- Allow for trucks to turn right when exiting the site and the inclusion of traffic lights.
- Amendment of conditions to allow for the replacement of Section 173 Agreement Dealing No. AL599252K from the land at Lot 2 PS443067 Dunbabbin Road, The Gurdies with an Agreement under Section 69 of the *Conservation Forests & Lands Act 1987*

The following plans and supporting documentation form part of Attachment One:

Plans

- Location and Regional Plans
- Landscape and Vegetation Plan
- Extractive Industry Interest Areas Plan
- Site Layout Plan
- Rehabilitation Plan
- Rehabilitation and Site Closure Plan
- Functional Layout Plan of Intersection
- Dust Management Plan

Specialist Reports

- Native Vegetation Removal Report, Detailed Pathway
- Hydrogeological Assessment
- Surface Water Management
- Landscape & Visual Impact Assessment
- Traffic Engineering Assessment
- Noise Emission Assessment
- Dust Assessment
- Economic and Social Impact Study
- Geotechnical Assessments

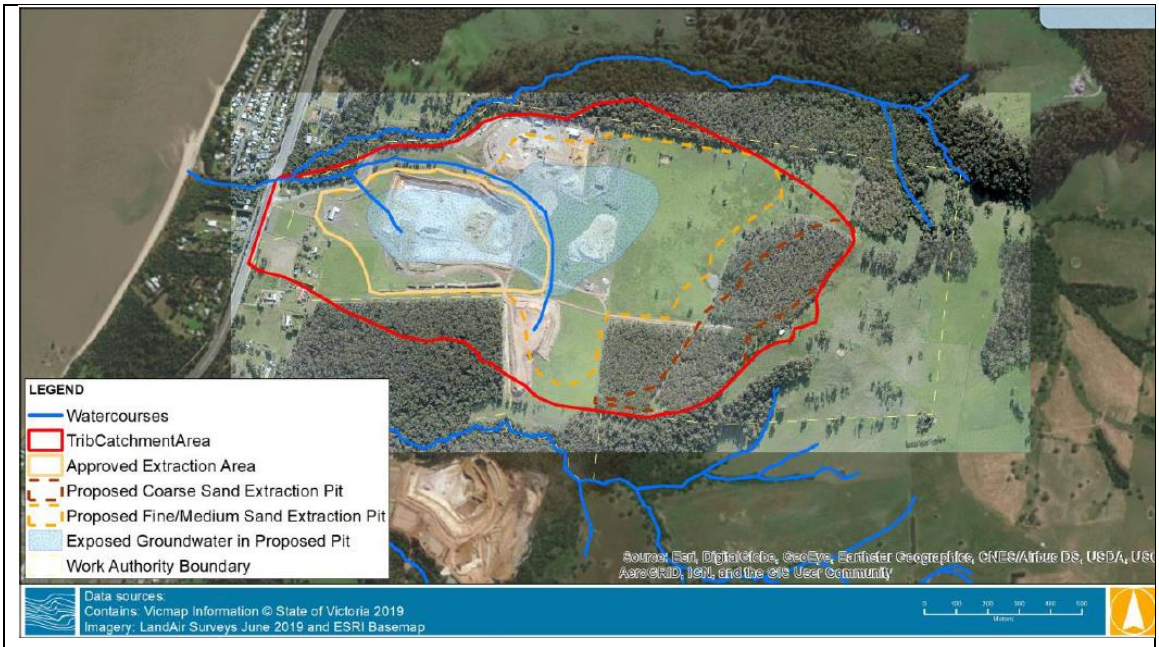


Figure 1 - Proposed Area of Extraction

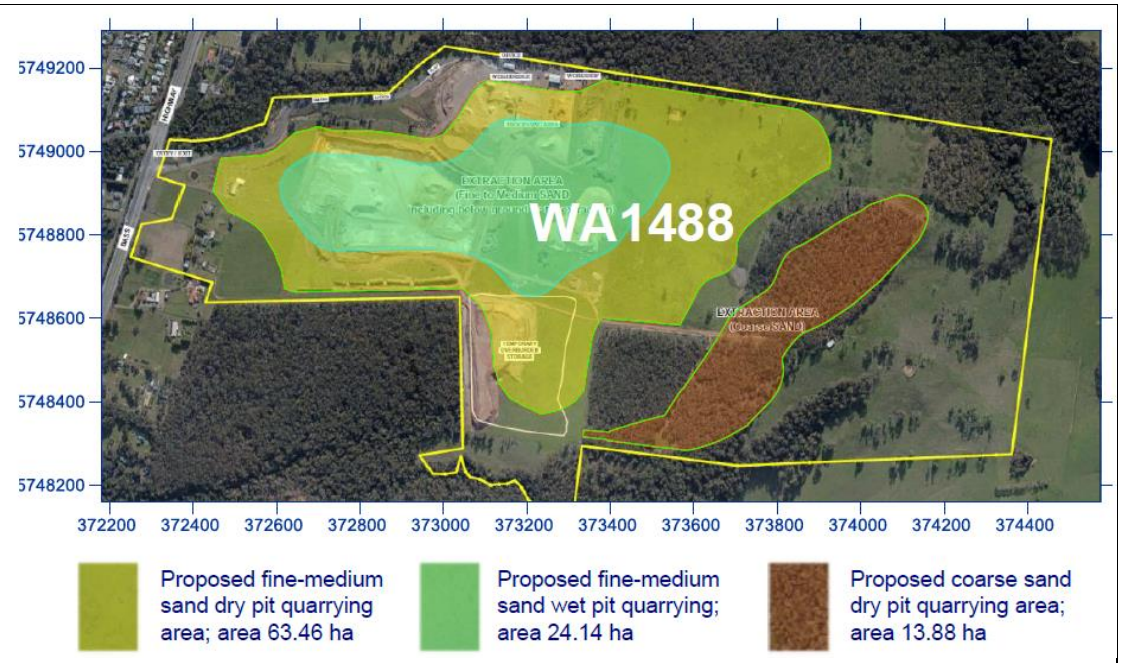


Figure 2 - Proposed Area of Extraction including areas of wet and dry extraction

Background

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

Site Dimensions and Area	The land is irregular in shape and consists of six titles with a total area of approximately 154 ha
Site Frontage	The land has a frontage to the Bass Highway of approximately 285 metres and consists of three allotments fronting the highway each containing a single dwelling and associated outbuildings.
Topography	The western part of the land is gently undulating and sits within the coastal plain between Western Port Bay and the Strzelecki Ranges to the east. An ephemeral tributary to Deep Creek is located within this western section. The eastern part of the land is undulating and forms part of the foothills to the Strzelecki Ranges. The site elevation ranges from 120m AHD on the ridge to the east to less than 10m AHD at the western end of the Deep Creek tributary.
Vegetation Cover	The western section of the site has a significant portion of remnant vegetation running from north to south. Further to the west are scattered trees and patches of remnant vegetation. There is no vegetation cover to the east.
Current Use and Development	Sand extraction
Easements	Lots 4 & 5 of PS 604744H contain a carriageway easement

Restrictive Covenants and/or Section 173 Agreements	Section 173 Agreement Dealing No. AF196772F Lot 5 PS604744H only. All six titles are subject to Section 173 Agreement Dealing No. AL599252K
Aboriginal Cultural Heritage Sensitivity	Lot 176B PP2453, Lot 1 TP398939 and Lot 1 TP515206 are all within an area of Aboriginal Cultural Heritage Sensitivity. The land at Lot 1 TP515206 contains the entrance to the existing quarry. An assessment was undertaken as part of the previously approval by Nicholas Clark (Aboriginal Cultural Heritage Advisor) that concluded there was no impediment or requirements in terms of Aboriginal cultural heritage.
Planning Permit History	120388 Use and develop the land for extractive industry and associated buildings and works in accordance with Work Authority 1488 (WA1488) approved by the Department of Primary Industry on 3/8/2013 and works and create access to a road zone. Issued on 7 August 2013

The subject site is located on the eastern side of the Bass Highway approximately 1 km to the north of the Grantville Township. The main characteristics of the surrounding area are:

- North - The land to the north is owned by Dandy Premix Quarries (Lot 2 Dunbabbin Road The Gurdies). The land is mostly covered by high quality native vegetation surrounding Deep Creek that runs through this parcel of land.
- South – The land to the south consists of small rural allotment abutting the Bass Highway, heavily vegetated Crown Land being the Grantville Bushland Reserve, sand extraction facility operated by Grantville Sand and Gravel pursuant to Work Authority 470 (WA470), and undulating pasture with scattered trees to the south east. Colbert Creek flows in a westerly direction to Western Port Bay.
- East – The land to the east is mostly undulating pasture used for grazing purposes. The vegetation consists of scattered trees and patches of vegetation.
- West – The land abuts the Bass Highway to the west. An established residential area sits between the Bass Highway and Westernport Bay.

The site is within Extractive Industry Interest Area 883998 and is one of a number of sand extraction sites throughout Grantville. The sites are largely screened by remnant native vegetation.



Figure 3- Site and Surrounds



Figure 4 – broader neighbourhood & context

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 1,089 land owners and occupiers; and
- Placed a Notice on the land.
- Place a Notice in The Sentinel Times

In response to notification the application attracted 73 submissions.

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

No additional notification or mediation was undertaken as the application was called in by the Minister for Planning and the application referred to a Planning Panel.

Referrals

The following table outlines the referral requirements of this application.

Table two: Referral Authorities and their comments

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
EPA	EPA advised that they did not consider that the application warranted referral under Section 55 and advised that the Work Plan Variation has been submitted and approved. The EPA does not object and no conditions were recommended should a permit issue.
Department of Transport	No objection to the application subject to the following conditions: • Prior to the operation of the quarry extension hereby approved, traffic signals are to be installed at the access from the Bass Highway to the satisfaction of the Head, Transport for Victoria. • Prior to the increased traffic operation of the quarry, detailed functional layout plans in accordance with Eastern Regions Developer Funded checklists must be submitted and approved by the Head, Transport for Victoria. • Prior to works beginning in the road reserve, detailed plans in accordance with Eastern Regions Developer funded checklists must be submitted and approved by the Head, Transport for Victoria. • Prior to the designs beginning, a pre-design meeting is required to be conducted with the Department of Transport, including the applicant's consultant that must attend. • The traffic signal's phasing and priority is to be to the satisfaction of the Head, Transport for Victoria. • All costs associated with the design and installation of the traffic signals (and associated road infrastructure upgrades) is to be borne by the applicant. • Costs associated with the traffic signals ten-year maintenance agreement is to be borne by the applicant. • Provide additional roadway lighting to V3 standard as part of the intersection upgrades.

	• Provide duplicated advanced warning signals (W3-V101 Signals Ahead) on the southbound carriageway on the Bass Highway to the satisfaction of the Head, Transport for Victoria. • Provide additional signage 'avoid using engine brakes' be installed on the Bass Highway (northbound and southbound carriageways) to the satisfaction of the Head, Transport Victoria. • Provide an acoustic report prepared by a suitably qualified acoustic engineer demonstrating L10 (18 hour) sound contours for adjacent land uses prior to the installation of the traffic signals.
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Environment	The Environment team have objected to the issuing of the application on the basis that it conflicts with the Biolinks Plan adopted by Council but not incorporated in the Planning Scheme.

Statutory Referrals that are ordinarily required under the Planning Scheme are not required when the relevant referrals under the Work Plan Variation have been undertaken.

The following relevant referrals have been undertaken and consent granted under the Work Plan Variation under section 77TE of the *Mineral Resources (Sustainable Development) Act 1990*.

- Southern Rural Water
- Melbourne Water
- CFA
- Department of Environment, Land Water & Planning

The conditions required by these referral authorities form part of the Work Plan Variation. These conditions cannot form part of any planning approval as there is no statutory framework to include these.

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

- Clause 11.03-4S – Coastal settlement
- Clause 12.01-1S – Protection of biodiversity
- Clause 12.01-2S – Native vegetation management
- Clause 12.02-1S – Protection of coastal areas
- Clause 12.02-3S – Bays
- Clause 12.05-1S – Environmentally sensitive areas
- Clause 12.05-2S – Landscapes
- Clause 13.02-1S – Bushfire planning
- Clause 13.04-2S – Erosion and landslip

- Clause 13.05-1S – Noise abatement
- Clause 13.06-1S – Air quality management
- Clause 13.07-1S – Land use compatibility
- Clause 14.02-1S – Catchment planning and management
- Clause 14.02-2S – Water quality
- Clause 14.03-1S – Resource exploration and extraction
- Clause 15.03-2S – Aboriginal cultural heritage
- Clause 17.01-1S – Diversified economy

The relevant Local Planning Policy Framework clauses are as follows:

- Clause 21.01 – Municipal Profile
- Clause 21.03 – Economic development
- Clause 21.04 – Environment
- Clause 21.05 – Landscape and Built Form
- Clause 21.08 – Moderate growth settlements
- Clause 22.02 – Hilltop, ridgeline and prominent coastal landform protection
- Clause 22.06 - Non-Ag Uses in Farming Zone Policy

Incorporated Documents

Melbourne Supply Area: Extractive Industry Interest Areas 1996 Revision 2003

The intent of the relevant policies is to ensure coastal development is balanced with the protection and conservation of biodiversity and environmentally sensitive areas.

Policy also seeks to ensure that where development is approved, significant landscapes that contribute to the character, identity and sustainability of environments and protected. In addition, policy also seeks to protect community amenity, human health and safety by controlling noise effects on sensitive land uses.

Planning policy also encourages exploration and extraction of natural resources while adhering to high environmental standards including, the creation of extensive indigenous vegetation buffers zones. Quarries are to be located or designed so as to minimise impacts on areas of high landscape and environmental quality.

The application meets these policy objectives.

The State and Local Planning Policy Framework recognise the need to explore, protect and utilise the natural resources such as sand for the interests of the State and stresses the importance of the sand resources in the Gurdies-Grantville area for the provision of sand supplies for concrete industry and needs for Metropolitan Melbourne. (Clause 14.03-1S, 21.03)

It is anticipated that the extension of the extraction area will extend the life of the quarry to a minimum life of 30 years and will produce up to 750,000 to 800,000 tonnes per annum by 2026. It is considered that the site is suitable for the proposed use. In addition, the proposal will continue to contribute to local employment opportunities through the creation of approximately 5 additional positions as dredging and washing operations commence this will be supplemented by various trade contractors and casual staff as required. (Clauses 14.03-01S, 17.01-1S, 21.03-7).

The site is located within the Farming Zone and outside the township boundary. The applicant submitted an assessment undertaken by Tract Consultants Pty Ltd. The assessment acknowledges that the location is likely to be considered to have landscape and scenic values given its coastal location and the close proximity to the Public Conservation and Resource Zone. Further the Bass Highway is recognised as an important viewing corridor and forms part of a regional tourism route and the appearance of the site from Bass Highway is important. They identify that the landscaping should be managed to limit off site visual effects. The report recommends a range of measures be undertaken, including the following:

- Mitigation through maintenance of landforms and existing vegetation together with new planting.
- The low western ridgeline and its associated planting to view screening from the Bass Highway and locations to the west.
- Existing vegetation and nominated infill planting on the elevated ridgeline to the east screening / modifying views from the west and east.
- Minimizing the height of overburden stockpile is likely to result in less visibility from the critical viewpoints.

The proposal represents an acceptable change to the landscape and scenic values provided the mitigation measures are implemented.

(Clause 11.03-4S, 12.05-2S, 13.07-1S, 21.01, 21.05, 21.08, 22.02)



Figure 5 Existing and projected vegetation screening at the Bass Highway entrance

The existing obligations to revegetate the subject site will continue and the proposed staged vegetation removal, as out lined in the Native Vegetation Removal Report, Detailed Pathway prepared by Paul Kelly & Associates Ecological Services will be offset on the adjoining property to the north resulting in no net loss to biodiversity. It is proposed to secure these offsets via an agreement under Section 69 of the *Conservation, Forests & Lands Act 1987* providing more stringent requirements than the existing requirements of the Section 173 Agreement currently on the title. (Clauses 12.01-1S, 12.01-2S, 12.05-1S, 21.04)

A geotechnical assessment was undertaken by GHD that identified that the proposal was not likely to result in geotechnical or ground stability related hazards surrounding the site and the revegetation and conservation of the subject site and the adjoining site would minimize the potential for erosion and land instability (Clauses 12.01-1S, 12.01-2S, 12.05-1S, 13.04-2S, 21.01, 21.04)

The main requirement for safeguarding community amenity, human health and safety in the vicinity of sand quarries is ensuring that noise and dust emissions do not give rise to detrimental off-site impacts. A noise emissions assessment undertaken by Watson Moss Growcott Acoustics was submitted with the application. A three dimensional noise model for the site was developed which established that the noise constrains under EPA publication 1141 Noise from Industry in Regional Victoria (NIRV) and the Recommended Maximum Noise Levels for residential premise could be met with the implementation of minimal operational strategies.

A dust emissions assessment undertaken by Environmental Science Associates was submitted with the application. The report has identifies that there has been ongoing dust monitoring on the site at locations set out in the existing endorsed Dust Management Plan. The Dust Management Plan has been revised to reflect the proposal. Compliance with the Dust Management plan will result in no detrimental impact. (Clause 13.05-1S, 13.06-1S, 13.07-1S, 21.01, 21.08)

Consideration must be given to the protection and restoration of catchments, water bodies, groundwater and the marine environment. The hydrogeological assessment undertaken by John Leonard Consulting Services of the proposal concluded that the local drawdown interference is not expected to occur and potential risks to groundwater quality and quantity were low. It is proposed to use the groundwater in the sand washing process. The water would be pumped directly from the dredge pond or recovered from the sand feed. The ground water forms part of the Koo Wee Rup Water Supply Protection Area and historically, the volume of groundwater usage is less than 40 per cent. No additional groundwater licences can be issued. A temporary groundwater licence transfer has been negotiated and approved by Southern Rural Water who have also consented to the Work Plan Variation.

Surface water assessments by Water Technology confirm that the final development of the extraction areas will reduce surface water runoff to Deep Creek downstream of Bass Highway by 14%. This water will flow into the groundwater resulting in an increase of 50ML per annum due to the lessened loss to evaportranspiration. Water Technology submits that the sand quarry expansion will have no significant or detrimental impact on the hydrological characteristics of Deep Creek, Westernport Bay and its environs. (Clause 11.03-4S, 12.01-1S, 12.02-3S, 12.05-1S, 14.02-1S, 14.02-2S, 21.01).

The extraction area is not within an area of Aboriginal Cultural Heritage Sensitivity. (Clause 15.03-2S)

Zone Assessment

Farming Zone

The application triggers the need for a planning permit under Clause 35.07-1 as a permit is required to extend the use and develop the land for extractive industry.

The purpose of the farming zone is to:

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

The application is considered to be consistent with the objectives and decision guidelines of the Farming Zone. It is considered that the current use of the land and the proposed expansion of that use implements the policy relating to Extractive Industry.

One of the main purposes of the Farming Zone is to ensure that non-agricultural uses do not adversely affect the use of the land for agriculture. The existing permitted use occupies an area of land that was considered to be of marginal agricultural quality. The area proposed for coarse sand extraction is vegetated and not productive. The balance of the land to the west forms an area set aside for revegetation and is therefore not suited to agricultural uses.

The land outside the extractive area will be revegetated and maintained. As the sand resources are depleted the land will be rehabilitated and revegetated.

Road Zone Category 1

The application triggers the need for a planning permit under Clause 36.04-2 as a permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 36.04-1.

The purpose of the Road Zone is :

- To implement the Municipal Planning Strategy and the Planning Policy Framework
- To identify significant existing roads
- To identify land which has been acquired for a significant proposed road.

The application is considered to be consistent with the objectives and decision guidelines of the Road Zone. The application was referred to the Department of Transport who have consented to the installation of traffic lights to enable trucks to perform a right turn when existing the site. A report prepared by Traffix Group submitted as part of the application concluded that the installation of traffic signals would reduce the traffic movements through the township of Grantville by in excess of 100 daily truck movements. The signalisation of the intersection will enable the provision of a signalised pedestrian crossing of the Bass Highway.

Overlay Assessments

Clause 44.06 Bushfire Management Overlay

This application does not trigger a planning permit under the overlay. A permit is required to construct a building or construct or carry out works associated with a series of uses specified in Clause 44.06-1 of the Bushfire Management Overlay. Earth and energy resources industry is not a use specified in this clause so there is no requirement for a planning permit for buildings and works under the Bushfire Management Overlay.

Particular Provisions

Clause 52.08 Earth and Energy Resources Industry

The purpose of this clause is:

- To encourage land to be used and developed for exploration and extraction of earth and energy resources in accordance with acceptable environmental standards.
- To ensure that geothermal energy extraction, greenhouse gas sequestration, mining and petroleum production are not prohibited land uses.

- To ensure that planning controls for the use and development of land for the exploration and extraction of earth and energy resources are consistent with other legislation governing these land uses.

A permit is required to use and develop land for earth and energy resources industry unless the table to this clause specifically states that a permit is not required. The permit exemptions do not apply in this instance, therefore a planning permit is required.

Purpose:

- To ensure that use and development of land for extractive industry does not adversely affect the environment or amenity of the area during or after extraction.
- To ensure that excavated areas can be appropriately rehabilitated.
- To ensure that stone resources, which may be required by the community for future use, are protected from inappropriate use and development.

The applicant has complied with this clause in that they have submitted an endorsed Work Plan Variation. The written notice of statutory endorsement and the conditions specified under section 77TD(3) of the *Minerals Resources (Sustainable Development) Act 1990* were submitted with the application.

All boundary buffers are at least 20 metres in width in accordance with the requirements of Clause 52.09-6. The activity on the subject land is screened by the topography and existing vegetation on surround land as well as proposed bunding and screen planting at the western end of the subject land.

Clause 52.09 Extractive Industry and Extractive Industry Interest Areas

The purpose of this clause is:

- To ensure that use and development of land for extractive industry does not adversely affect the environment or amenity of the area during or after extraction.
- To ensure that excavated areas can be appropriately rehabilitated.
- To ensure that stone resources, which may be required by the community for future use, are protected from inappropriate use and development.

This clause sets out the application requirements to be met when an application is made under Clause 52.08. The applicant has complied with the requirements and purpose of this clause.

A native vegetation report considering the native flora and fauna has been submitted and measures proposed to offset any vegetation removal.

Part of the land is within an area of Aboriginal Cultural Heritage and an assessment was undertaken as part of the original permitted development.

A landscape assessment has been undertaken that proposes a range of mitigation measures.

Dust and Noise assessments have establish there will be no noise impacts and a revised Dust Management Plan has been submitted.

A traffic report has been submitted that recommends the installation of traffic signals at the entrance of the site to enable trucks to turn right removing in excess of 100 truck movements per day through the township of Grantville.

A rehabilitation plan has been submitted that propose the rehabilitation of the land and return it to limited agricultural uses.

Surface drainage and groundwater assessments have been submitted that there will be a negligible impact on the ground water and surface water.

Clause 52.17 Native Vegetation

A planning permit is not required to remove native vegetation under this clause.

Extractive Industry is listed in the table to this clause and states that a permit is not required for the following:

"Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable *the carrying out of extractive industry in accordance with a work plan approved under the Mineral Resources (Sustainable Development) Act 1990 and authorized by a work authority under that Act."*

The proposed extension to the extractive industry operation benefits from this exemption. The proposed vegetation removal is exempt.

Section 173 Agreement

The existing Section 173 Agreement is proposed to be removed from the land to the north of the extraction site, Dunbabbin Road The Gurdies to allow for an agreement to be entered into with DELWP under Section 69 Agreement pursuant to the *Conservation, Forests and Lands Act 1987*.

The Agreement associated with the extraction site is proposed to be amended to remove the reference to areas 1 and 4 as they relate to the adjoining land.

Both DELWP and Bass Coast Shire Council are parties to these agreements and the consent of DELWP is required to remove and amend these agreements respectively.

The land at Dunbabbin Road, The Gurdies contains areas 1 and 4 on the endorsed Conservation and Revegetation Site Plan.



Figure 6 Endorsed Conservation & Revegetation Site Plan (Schedule to the Agreement)

Areas 1, 2 and 3 were required to be established and protected within 12 months of the commencement of sand extraction. The applicant has conceded that they have not achieved this. This has been hampered, in part, by unfavorable seasonal conditions with the initial attempts at revegetation failing. A number of alternate approaches to the revegetation of the site have been trialed and replanting has been undertaken. They have taken steps in the last few years to comply with the requirements of Clause 1.1.1 of the Agreement

Area 4 contains a section of Deep Creek. Clause 1.1.2 of the existing Agreement states:

> *'Within 10 years of the commencement of the Sand Extraction Use on the Subject Land it will establish and protect the area of the Subject Land identified and delineated as area 4 in the Schedule as a Native Vegetation Corridor to the satisfaction of Council'*

Sand extraction commenced in 2015 and there is no obligation for the landowner to establish or protect the land in this area until 2025.

Further the Agreement requires Council to monitor and enforce this agreement. Council does not currently have the resources to effectively monitor or enforce this agreement.

The ending of the Agreement on the land within areas 1 and 4 and the creation of the Agreement under Section 69 of the *Conservation, Forests and Lands Act 1987* will allow for:

- The establishment and protection of the vegetation within a shorter timeframe.
- Place requirements on the landowner to provide independent periodic assessments of the condition of the vegetation.

- The responsibility to enforce the agreement falling to DELWP and not Council.
- Area 1 on the land at Dunbabbin Road, The Gurdies will be included in the Section 69 Agreement.

There is no obligation to protect area 5 until the sand extraction operation ceases. The vegetation proposed to be removed to allow for coarse sand extraction is contained within area 5.

Concerns raised by Submitters

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

Submitter Theme	Council Officer Response
Increased traffic noise & volume along Bass Highway.	The application was referred to Department of Transport under Section 55 of the *Planning and Environment Act 1987* who consented to the issue of the permit with conditions. Included in these conditions is the requirement for acoustic assessments of traffic noise along the Bass Highway and where necessary the installation of acoustic fencing to the satisfaction of Department of Transport. A traffic engineering assessment has been prepared by Traffix Group. This report recommends the installation of signalised access with Bass Highway.
The impact installation of traffic lights.	The application was referred to Department of Transport under Section 55 of the *Planning and Environment Act 1987* who consented to the issue of the permit with conditions. Included are conditions for the installation of traffic lights that included the layout and design, early warning signage and engine brake warning signage. A traffic engineering assessment has been prepared by Traffix Group. This report recommends the installation of signalised access with Bass Highway to allow for up to 120 additional truck movements per day. This would also result in a reduction of up to 100 trucks through the Grantville township that currently turn left from the site and conduct a U turn and travel back through Grantville towards Melbourne.
Extraction below the water table • Impact on the aquafer • Concern regarding water quality and contamination of Deep Creek and Westernport Bay • Impact on quality and quantity of available bore water for adjoining landowners • Potential contamination from Sand Washing activities.	A hydrogeological assessment was carried out by John Leonard Consulting Services. This report identified that: • local drawdown interference is not anticipated • the potential risks are low and that risk mitigation measure would result in low residual risks • the current groundwater bore network is considered to be adequate to monitor the impact of the Work Plan Variation The proposal states that the slimes produced from the sand washing activities will not enter the ground water but will be filtered, thickened and pressed to a

	spadeable filter cake and blended with overburden for use in rehabilitation The application was referred to both Southern Rural Water and Melbourne Water as part of the Work Plan Variation application. Both have consented with conditions to the Variation to the Work Authority. These conditions will form part of the Work Plan Variation
Concerns for the loss of wildlife through loss of habitat and the impact of the vegetation removal on the Biolink	A Native Vegetation Removal Report was prepared by Paul Kelly & Associates that identifies the areas of vegetation to be removed. A range of revegetation measures have been and will continue to be undertaken under the requirements of a Section 173 Agreement held on title. The applicant proposes to stage the removal of the vegetation in line with the staged extraction of coarse sand. As a result only partial removal of native vegetation will occur and the revegetated areas will provide an alternate habitat The application for a Work Plan Variation was referred to DELWP who have consented to the Work Plan Variation with conditions. These conditions will form part of the Work Plan Variation. The requirement for a planning permit to remove native vegetation is exempt from the planning scheme in this instance The Biodiversity Biolinks Plan 2018 is an important policy of Council's in guiding revegetation and biodiversity outcomes, it should be noted that is not a reference document or an incorporated document in the Bass Coast Planning Scheme.
Site Noise, Light Spill and Hours of Operation	A Noise Emission Assessment that was prepared by WatsonMossGowcott Acoustics found that the implementation of minimal operational strategies, the proposed changes to the hours of operation and extraction practices including the addition of plant and equipment, will result in the site remaining in compliance with EPA publication 1141 Noise from Industry in Regional Victoria. Condition 19 of the approved permit requires compliance with the EPA publication Noise From Industry in Regional Victoria
Compliance with existing agreement under Section 173 of the *Planning & Environment Act 1987.*	The establishment and management of the revegetation required under the Section 173 Agreement is ongoing and currently being undertaken by the Bass Coast Landcare Network. The obligations under the Section 173 Agreement for the extraction site is proposed to remain. It is proposed to replace the Section 173 Agreement on the land at Dunbabbin Road, The Gurdies with an agreement under Section 69 of the *Conservation, Forests & Land Act.*

	The Agreement relating to the extraction site is proposed to be amended to remove reference to areas 1 and 4
Application to Amend Planning Permit issued at the direction of VCAT	Applications to Amend Planning Permits Issued at the Direction of VCAT cannot be considered in this instance. Council is not determining this application as the Minister has called in the application under Section 97B(1)(a) of the *Planning and Environment Act 1987*
Lack of Community Engagement	The application was advertised to 1,089 Landowners and Occupiers. An advertisement was also placed in the Sentinel Times. No community consultation meetings or town meetings or presentations were made due to the COVID-19 restrictions in relation to public gatherings. It is considered that the extent of public notice undertaken was done in accordance with the requirements of the *Planning and Environment Act 1987*.
Extractive Industry is not in keeping with Council's declared Climate Emergency	While a Climate Emergency has been declared by Council this has not been adopted into the Planning Scheme.
Consideration of the application is premature and should be delayed until the Distinctive Areas and Landscapes is complete	Council is not determining this application as the Minister has called in the application under Section 97B(1)(a) of the *Planning and Environment Act 1987*. Council is however required to form a view on the application for the purpose of the Planning Panel proceedings
Concerns regarding the long term plans for rehabilitation	The rehabilitation requirements form part of the Work Authority and the Work Plan Variation.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and it is considered the comprehensive documentation submitted with the application adequately addresses the range of planning considerations relevant to the proposal.

The application underwent notification and as a result there were 73 submissions received. Concerns raised by submitters were considered in the assessment of the application.

The proposed extension of the extractive area is supported by policy relating to the utilisation of a valuable natural resource and the economic benefits. Any potential detrimental impacts are mitigated through the conditions of the approved planning permit, the proposed amended conditions, entering into an agreement under Section 69 of the *Conservation Forests and Lands Act 1987*, the amended Section 173 Agreement under the *Planning and Environment Act 1987* and the conditions contained within the Work Plan and the Work Plan Variation.

It is recommended that Council resolve to make submissions to the Minister via the Planning Panel in support of the application subject to conditions.

Recommendation

That in relation to planning permit application for an amendment to planning permit 120388 issued for the use of the land for sand extraction and associated processing and associated buildings and works and create access to a road in a Road Zone Category 1 in accordance with Work Authority 1488 (WA1488) located at 1381-1395 Bass Highway Grantville, Council resolves to prepare a submission to the Minister via the Planning Panel, supporting the issue of a Planning Permit Amendment subject to the following conditions:

Plans

1. **The plans to be endorsed and which will then form part of the permit are:**
   a) **Development Plan (Drawing: NS-1903 Rev:0 6/01/2020).**
   b) **Primary Water Quality Management Works around processing and access track areas plan (Figure 7 at page 22 of the Endorsed Work Plan). 3 September 2013**
   c) **DPQ Dust Control Management Plan (Attachment 3 Dust Management Plan Updated 12 December 2019).**
   d) **A Bass Highway Intersection Functional Layout Plan for a signalized intersection approved by VicRoads pursuant to condition 35. 26 September 2017**
   e) **The revised Conservation and Revegetation Plan required by condition 3 of this permit.**
2. **Prior to the commencement of the use and development hereby approved, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must show the following:**
   a) **A revised landscape and vegetation plan, prepared by a qualified person, detailing the location of planting or establishment, botanical and common names, height at maturity of the vegetation (locally indigenous species) and ongoing management of the vegetation to be planted for the purposes of landscaping, screening, vegetation of drainage lines and for a flora and fauna corridor (linking the forested areas to the north and south of the Work Authority area). The plan must be prepared in accordance with the mitigation measure listed in the Landscape and Visual Impact assessment prepared by Tract Consulting dated 6 July 2020.**
3. **Prior to the expansion of the use commencing, a revised Conservation and Revegetation Plan must be submitted to the Responsible Authority for approval. The Conservation and Revegetation Plan must be generally in accordance with Conservation & Revegetation Sites Plan endorsed on 18 November**

2013 and must identify:

a. **The areas to be established, protected and maintained for wildlife corridors, conservation and revegetation purposes.**

b. **The implementation requirements, staging and timeframes pertaining to each area.**
Once endorsed, this plan will form the basis of the Section 173 Agreement required as pursuant to condition 30 of this permit.

4. **Before the expansion of the use and development starts a revised traffic management plan 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. Traffic and parking operations on and in relation to the site must then conform to the endorsed plan. The plan must include (but not be limited to):**

   - **Queuing arrangements.**
   - **Vehicle speed on the land.**
   - **Parking of trucks and other vehicles on the land.**
   - **Trucks exiting from the land.**
   - **Conduct of truck drivers approaching and on the land.**
   - **Any other measures necessary and appropriate to minimise the impacts of vehicle movements on the amenity of the area.**

5. **Prior to the commencement of any works, a construction management plan must be submitted to and approved by the Responsible Authority. The construction management plan must include (but not be limited to):**

   - **Best practice or suitable equivalent surface water management during construction.**
   - **Construction Techniques for Sediment Pollution Control (EPA Publication No. 275, May1991).**
   - **Vehicle movements during construction.**
   - **Dust suppression measures.**

   Once endorsed, this plan will form part of this permit.

6. **The use and development of the subject land must not commence until the Work Authority, including an Approved Work Plan, is issued pursuant to the *Mineral Resources (Sustainable Development) Act 1990* unless with the written consent of the Responsible Authority and Department of State Development, Business and Innovation.**

7. **The use and development of the land must at all times be generally in accordance with the endorsed plans (including management plans) forming part of this permit, to the satisfaction of the Responsible Authority.**

8. **Prior to the use commencing, the acoustic fence must be erected to the satisfaction of the Responsible Authority.**
9. **The layout of the land, and the proposed works as shown on the endorsed plans, must not be altered or modified (whether or not in order to comply with any Statute, Statutory Rule or Local Law or for any other reason) without the prior consent of the Responsible Authority.**

Hours of Operation

10. **The permitted use (including the arrival and departure of heavy vehicles) must operate only between the following hours, except with the prior written consent of the Responsible Authority:**

Activity	Monday to Friday *	Saturday *
Site establishment/Construction	6am-6pm	6am-1pm
Extraction	7am-6pm	7am-1pm
Processing	6am-2am	6am-10pm
Product loading and dispatch	6am-10pm	6am-4pm
Repairs and maintenance	6am-10pm	6am-10pm

Only the Water Clarifier/Thickener, Mud Buffer Tank and Dewatering Belt Press will operate between 6.00pm – 2 am Monday to Friday and 1.00pm – 10pm Saturday. (Public holidays excluded) except for maintenance operations.

11. **Maintenance may be carried out outside the hours specified in condition 10 subject to and in accordance with the conditions and requirements of a Maintenance Management Plan which is to be submitted for approval to the satisfaction of the Responsible Authority. The Maintenance Management Plan must specify what the maintenance activities are, including the location of those activities, and must demonstrate that such activities:**
    a. **will not be audible outside the property boundaries; and**
    b. **will not unreasonably affect the amenity of the area by way of light spill or otherwise.**

Environmental Policy

12. **The use and development of the land must at all times comply with:**
    a) **Environment Protection Authority Protocol for Environmental Management: Mining and Extractive Industries;**
    b) **State Environment Protection Policy – Waters of Victoria;**
    c) **State Environment Protection Policy – Ground Waters of Victoria;**
    d) **State Environment Protection Policy - Air Quality Management;**
    e) **State Environment Protection Policy No. N-1. and**
    f) **Environment Protection Authority Best Practice Environmental Management – Environmental Guidelines for Major Construction**

Sites.

13. **The use and development must be managed, to the satisfaction of the Responsible Authority, 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;**
    d) **presence of vermin; or**
    e) **other matters.**

Dust

14. **Prior to the expansion of the use and development hereby permitted, a revised Dust Management Plan must be prepared to the satisfaction of the Responsible Authority and 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 generally in accordance with:**
    a) **the Environment Protection Authority Protocol for Environmental Management: Mining and Extractive Industries; and**
    b) **the draft Dust Management Plan, prepared by Environmental Science Associates included as Attachment 3 of the Revised Dust Assessment Report by Environmental Sciences Associates (dated 14 December 2019, to the satisfaction of the Responsible Authority.**
15. **The internal access road must be constructed, drained and the pavement sealed prior to the removal of any sand product from the land.**
16. **At all times during the use of the Land for the purpose of sand extraction and processing an adequate water supply must be maintained for dust control measures in accordance with the endorsed Dust Management Plan.**
17. **All trucks entering and exiting the land, whether loaded or not, must have the load area covered (tarped).**

Noise

18. **Prior to the expansion of the use and development hereby permitted, a revised Noise Management Plan must be prepared to the satisfaction of the Responsible Authority and 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 adopt all relevant recommendations of the Noise Emission Assessment by Watson Moss Growcott Acoustics Pty Ltd dated 16 December 2019.**

19. **The use and development hereby permitted must at all times comply with:**
    a) **Environment Protection Authority 'Noise from Industry in Regional Victoria' ('NIRV' - EPA publication no 1411);**
    b) **the endorsed noise management plan; and**
    c) **Environment Protection Authority State Environment Protection Policy No. N-1.**
20. **Reverse beepers installed on mobile plant used within the site must be of a type and design that minimises potential offsite noise impacts and which, among other things, adjust relative to the ambient noise level. The permit holder must use its best endeavours to ensure that the movement of vehicles around the site minimises the potential for offsite noise impacts.**
21. **At 3 months, 6 months, 12 months and 3 years following the commencement of sand extraction approved by this permit, the operator must provide a report prepared by a qualified acoustic consultant measuring compliance with the requirements of condition 19 during the operation of the quarry to the satisfaction of the Responsible Authority. In the event that the testing identifies any non-compliance, the operator must, within three months, obtain and implement any recommendations necessary to achieve compliance to the satisfaction of the Responsible Authority.**

Drainage

22. **Prior to the commencement of any on-site works, a detailed erosion and Sediment Control Plan for the management of sediment pollution must be prepared and submitted to the Responsible Authority for approval. All plans and subsequent works must be prepared and undertaken in accordance with EPA Publication 275 'Construction Techniques for Sediment Pollution Control' to the satisfaction of the Responsible Authority.**
23. **All works must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to minimise soil erosion as appropriate, to the satisfaction of the Responsible Authority.**
24. **No polluted and/or sediment laden run-off is to be discharged directly or indirectly into any tributary to the Deep Creek or to the Deep Creek directly. Pollution, sediment or litter traps must be provided as appropriate on site to the satisfaction of Responsible Authority.**
25. **Surface water monitoring must be undertaken as recommended in the Drainage and Water Quality Management Report (dated 22 May 2012) at Appendix 2 of the endorsed Work Plan.**

Wastewater

26. **All wastewater must be treated and disposed of using an EPA approved system, installed, operated and maintained in compliance with the relevant EPA Code of Practice and Certificate of Approval**

and be to the satisfaction of Council's Environmental Health Department.

27. **The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away from this area. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.**

28. **Within 6 months of the completion of the fixed plant construction stage (and in any event within 3 years of the commencement of development) the permit holder must engage a suitably qualified person to prepare an audit report to satisfaction of the Responsible Authority. The audit report must assess compliance with the landscape and rehabilitation management plan, make recommendations for continual improvement and if it finds any areas of non-compliance, make recommendations to ensure compliance with that plan. The findings of the audit report must be implemented to the satisfaction of the Responsible Authority.**

Native Vegetation

29. **Screening vegetation, landscaping and revegetated areas (including drainage lines and the vegetation corridor) must be planted and maintained in accordance with the endorsed landscape and revegetation plan for the operational life of the quarry to the satisfaction of the Responsible Authority.**
Revegetation at the land must be generally in accordance with the plan titled Conservation and Revegetation Sites (dated 18 November 2013) and which identifies five areas for revegetation and protection.

30. **Prior to the removal of sand product from the land, an agreement under section 173 of the *Planning and Environment Act 1987* must be entered into between the owner of the land, the Responsible Authority and the Department of Environment, Land, Water and Planning, which ensures the establishment, protection and maintenance of the native vegetation corridor areas and drainage line (Melbourne Water 'Waterway 3840') delineated in green and numbered 2 and 3, on the plan 'Conservation and Revegetation Sites Plan', that is endorsed under condition 3 of this permit. The agreement is to provide that the native vegetation values (existing and future) of such areas shall remain available to be used for the purposes of native vegetation offsets to the benefit of the subject land or other land where native vegetation losses are required to be offset as a result of the use and development under this permit.**

The agreement must ensure that staged rehabilitation of area 5 commences within six (6) months of cessation of coarse sand extraction from each stage within area 5, in accordance with the Conservation and Revegetation Plan endorsed under condition 3, to the satisfaction of the Responsible Authority.

The agreement must be registered on title.

All costs associated with the preparation of the agreement shall be borne by the developer/landowner. All costs incurred by the Responsible Authority associated with the preparation, negotiation, execution and recording of the agreement and any amendment to the agreement must be fully reimbursed prior to the registration of the agreement by Council.

Prior to the expansion of the extraction area an agreement under Section 69 of the *Conservation Forests and Lands Act 1987* must be entered into with DELWP and provide for the establishment, protection and conservation of the area marked 1 and 4 on the Conservation and Revegetation Site plan endorsed under this permit.

Car Parking

31. **Prior to the commencement of any onsite works, detailed design plans relating to onsite car parking facilities must be submitted for approval to the satisfaction of the Responsible Authority. The plans must address the following:**

    a) **car parking layout;**

    b) **provision of adequate car spaces;**

    c) **pavement type;**

    d) **site drainage; and**

    e) **car space delineation.**

32. **Prior to the commencement of the use hereby permitted, car park facilities must be constructed by the developer in accordance with the approved plans.**

33. **Parking areas must be provided for employees' cars and all vehicles used on the land in accordance with the endorsed plans, to the satisfaction of the Responsible Authority.**

Department of Transport

34. **The proposed access must generally be in accordance with the 'Traffix Design' Functional Layout Plan, drawing No. G13716A-03 (dated 26 September 2012).**
    Prior to the operation of the quarry extension hereby approved, traffic signals are to be installed at the access from the Bass Highway to the satisfaction of the Head, Transport Victoria

    Prior to the increased traffic operation of the quarry, detailed functional layout plans in accordance with Eastern Regions Developer Funded checklists must be submitted and approved by the Head, Transport for Victoria.

    - **Prior to works beginning in the road reserve, detailed plans in accordance with Eastern Regions Developer funded checklists must be submitted and approved by the Head, Transport for Victoria.**

    - **Prior to the designs beginning, a pre-design meeting is required**

to be conducted with the Department of Transport, including the applicant's consultant that must attend.

- **All costs associated with the design and installation of the traffic signals (and associated road infrastructure upgrades) is to be borne by the applicant.**
- **Costs associated with the traffic signals ten year maintenance agreement is to be borne by the applicant.**

- **Provide additional roadway lighting to V3 standard as part of the intersection upgrades.**
- **Provide duplicated advanced warning signals (W3-V101 Signals Ahead) on the southbound carriageway.**
- **Provide additional signage 'avoid using engine brakes' be installed on the Bass Highway (northbound and southbound carriageways) to the satisfaction of the Head, Transport for Victoria.**
- **Provide an acoustic report prepared by a suitably qualified acoustic engineer demonstrating L10 (18 hour) sound contours for adjacent land uses prior to the installation of the traffic signals.**
- **Complete additional acoustic testing which is to be conducted 6 months after the installation of the traffic signals and a further test once the quarry is at full operational level. If the results of any testing exceed the Department of Transport's intervention levels, mitigation measures are required to be undertaken by the applicant, to the satisfaction and approval of the Head, Transport for Victoria. The measures are to be implemented at no cost to the Department of Transport.**

35. **Road safety audits for the road works must be provided to Department of Transport at functional layout, detail design and post opening.**
36. **Prior to commencement of the development or use hereby 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.**

General

37. **Retail sales of sand or sand products to the general public is not permitted.**
38. **Rehabilitation works must be completed within 2 years of the cessation of sand extraction.**
39. **The operator must advise the Responsible Authority in writing upon the quantity of sand transported from the land exceeding 750,000 tonnes in a 12 month period. Within 28 days of notice being given to the Responsible Authority the operator must provide an audit of compliance with the conditions of this permit, carried out by a suitably qualified and experienced independent consultant or consultants (including but not limited to surface water, acoustic, dust and traffic issues), to the satisfaction of the Responsible Authority.**

The audit must make recommendations for any further measures required to address any noncompliance with the permit or which are otherwise required to protect the amenity of the area. If the quantity of sand being transported from the land exceeds 750,000 tonnes for two or more consecutive 12 month periods, further audit reports must be provided at periods of no greater than 12 months apart for as long as the volume exceeds 750,000 tonnes.

40. **Trucks must not queue in the vicinity of the entrance to the land prior to the commencement of operations on any particular day.**
41. **The number of truck movements in respect of the land must not exceed 240 per day without the written consent of the Responsible Authority.**
42. **Prior to the commencement of the development a Groundwater Management Plan must be submitted to and approved by Southern Rural Water and the Responsible Authority. The Groundwater Management Plan must make provision for the ongoing monitoring of groundwater quality, flow and level for the life of the operation of the quarry.**
43. **The base of the extraction pit must not be excavated below RL75 without the further written consent of Southern Rural Water and the Responsible Authority.**

Expiry

44. **This permit will expire if the use is not started within five years of the date of this permit. In accordance with Section 69 of the *Planning and Environment Act 1987* an application may submitted to the Responsible Authority for an extension of this period.**
45. **This permit will expire if the Work Authority for the use issued under the provisions of the *Mineral Resources (Sustainable Development) Act 1990* is cancelled in accordance with Section 77O of that Act.**

Attachments

AT-1	Plans	69 Pages
AT-2	Specialist Reports Amendment Number 120388 - 1	547 Pages
AT-3	***CONFIDENTIAL*** - Submissions	80 Pages

Council Decision

Moved: Cr. Clare Le Serve / Seconded: Cr. Bruce Kent

That the recommendtion be adopted.

LOST

Moved: Cr. Leticia Laing / Seconded: Cr. Rochelle Halstead

That Council notes:

a) **The Minister for Planning advised the Mayor in a letter on 22 November 2020 that he had determined to call in planning permit amendment application 120388-1 for the Grantville Quarry under section 97B(1)(a) of the Planning and Environment Act 1987 after being requested to do so on Equipe Lawyers' request of 6 October 2020, on behalf of Dandy Premix Quarries Pty Ltd.**

b) **In his letter the Minister stated:**

"The construction sands at the subject site are of strategic value as identified by the quarry's inclusion on the Extractive Industry Priority Project List. Their availability will contribute to the development of land within Metropolitan Melbourne, including the delivery of key public infrastructure projects. Therefore, I consider that the project raises major issues of policy and may have a substantial effect on the achievement planning objectives"

c) **The Application attracted 73 objections to Council, and this included an objection from Council's own Sustainability Department regarding concerns for the loss of the Biolink bushland corridor.**

d) **Significant and valid community concern about existing sand mines were raised by these objections, including for this site in Grantville and areas in the Bass Coast Shire earmarked for sand extraction as per the State Government Extractive Industry Priority Project List.**

e) **The proposal includes the destruction of a key compartment of bushland that constitutes a Biolink corridor between The Gurdies Nature Reserve and the Grantville Bushland Reserve. Removal of the Biolink will have an immediate and irreversible detrimental impact on wildlife by destroying habitat and removing the wildlife corridor that is the only piece of contiguous woodland available to fauna to move north-south between The Gurdies Nature Conservation Reserve and the Grantville Bushland Reserve.**

f) **The proposal directly conflicts with Council's *Biodiversity Biolinks Strategy 2018*, the Bass Coast Shire environment team have objected to the issuing of the application on the basis that it conflicts with the Biolinks Plan adopted by Council.**

g) **The original s.173 planning application approved in 2013 required immediate revegetation works. Dandy Premix Pty Ltd had six years to undertake appropriate revegetation which has not happened.**

h) If the Application is approved the Section 173 Agreement will be replaced with an Agreement under Section 69 of the Conservation Forests and Lands Act 1987 and the responsible authority will become the Department of Environment, Lands, Water and Planning. Council will no longer be responsible for the performance of the matters covered by the permit.

i) Council expresses concern that the Work Authority Plan authorised by the Earth Resources Regulator for Dandy Premix may not have the requirements for a binding rehabilitation plan, liability assessment or appropriate bond which is currently at $90,000.

j) The Ministers' action is Melbourne centric and does not give due consideration to the local environmental and community impacts.

A Community Benefits Scheme like that required for disruptive projects such as wind farms should be required to address the environmental and community impacts.

k) The site is within five kilometres of the Ramsar listed Westernport Biosphere and appears dismissive of issues arising from water table penetration such as the resulting 14 % reduction of flow into Deep Creek. The decision for the Planning Application should be placed on hold until the review on the Marine and Coastal policy is completed.

l) Bass Coast Shire was declared a Distinctive Areas and Landscape for its natural environment legacy. Whilst the Act covers resources, the industry is inconsistent with the Shire's natural environment visitor economy and the economic assessment fails to address the impact on the Regions Visitor Economy.

m) The proposal is at odds with the Council's Climate Emergency Declaration and its stated intention to increase its vegetation cover. The extension of the quarry will remove a significant portion of critical vegetation and therefore a carbon sink that actively functions to mitigate the effects of climate change.

n) The Council's *Biodiversity Biolinks Strategy 2018* and the Climate Emergency Declaration have not yet been incorporated into the Bass Coast Shire Planning Scheme, and therefore may not be duly considered by the Planning Panel.

Council determines that:

1. The proposal would not be supported in its current form. To be considered further, the following amendments to the application would be required:

i. Commitment to a final site rehabilitation plan that takes into account the surrounding environment and potential long-term degradation of the environment as required by the Mineral Resources (Sustainable Development) Act 1990 (MRSD Act).

ii. Determination of an adequate bond to be secured which ensures delivery of the rehabilitation plan should the operator not be in a position to dispense the rehabilitation requirements in future

iii. Work commencing on the Coarse Sand Extraction Pit (CSEP) requiring the clearing of vegetation to be contingent on revegetation areas being established to a level adequate to serve as a biolink as per the original s 173 Agreement with council.

2. That Council write to the Earth Resources Regulator requesting that it review the adequacy of the $90,000 rehabilitation bond currently on the Dandy Premix site to increasing the rehabilitation bond to ensure it is sufficient to cover possible non-compliance with rehabilitation conditions at the site

3. That Council write to the Minister to advise that:

i. Council is concerned at the performance of Dandy Premix Pty Ltd in the execution of the Planning Permit and Works order to date, and advise that Council has acted to date under the existing Section 173 Agreement regarding the rehabilitation of the site and further that this legal avenue has proven to be inadequate

ii. Council is very concerned at the planned loss of the very significant bushland area that constitutes a key component of the Biolink and in the event that he elects to approve the application, to seek a stay on that part of the Works proposed for the Coarse Sand Extraction Pit until an alternative bushland corridor has been rehabilitated before work commences in this area

iii. A Community Benefits Scheme like those adopted in the energy sector is required to be put in place to offset the local environmental and community impacts of the sand extraction works

4. That Council prepare a submission to the Minister via the Planning Panel regarding planning permit application for an amendment to planning permit 120388 issued for the use of the land for sand extraction and associated processing and associated buildings and works and create access to a road in a Road Zone Category 1 in accordance with Work Authority 1488 (WA1488) located at 1381-1395 Bass Highway Grantville and submit that if the Planning Panel determines to issue a Planning Permit Amendment that it should be subject to the following conditions:

1. That in relation to planning permit application for an amendment to planning permit 120388 issued for the use of the land for sand extraction and associated processing and associated buildings and works and create access to a road in a Road Zone Category 1 in accordance with Work Authority 1488 (WA1488) located at 1381-1395 Bass Highway Grantville, Council resolves to prepare a submission to the Minister via the Planning Panel, supporting the

issue of a Planning Permit Amendment subject to the following conditions:

Plans

2. **The plans to be endorsed and which will then form part of the permit are:**
   a) **Development Plan (Drawing: NS-1903 Rev:0 6/01/2020).**
   b) **Primary Water Quality Management Works around processing and access track areas plan (Figure 7 at page 22 of the Endorsed Work Plan). 3 September 2013**
   c) **DPQ Dust Control Management Plan (Attachment 3 Dust Management Plan Updated 12 December 2019).**
   d) **A Bass Highway Intersection Functional Layout Plan for a signalized intersection approved by VicRoads pursuant to condition 36. 26 September 2017**
   e) **The revised Conservation and Revegetation Plan required by condition 3 of this permit.**
3. **Prior to the commencement of the use and development hereby approved, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must show the following:**
   a) **A revised landscape and vegetation plan, prepared by a qualified person, detailing the location of planting or establishment, botanical and common names, height at maturity of the vegetation (locally indigenous species) and ongoing management of the vegetation to be planted for the purposes of landscaping, screening, vegetation of drainage lines and for a flora and fauna corridor (linking the forested areas to the north and south of the Work Authority area). The plan must be prepared in accordance with the mitigation measure listed in the Landscape and Visual Impact assessment prepared by Tract Consulting dated 6 July 2020.**
4. **Prior to the expansion of the use commencing, a revised Conservation and Revegetation Plan must be submitted to the Responsible Authority for approval. The Conservation and Revegetation Plan must be generally in accordance with Conservation & Revegetation Sites Plan endorsed on 18 November 2013 and must identify:**
   a. **The areas to be established, protected and maintained for wildlife corridors, conservation and revegetation purposes.**
   b. **The implementation requirements, staging and timeframes pertaining to each area.**

Once endorsed, this plan will form the basis of the Section 173 Agreement required as pursuant to condition 31 of this permit.

5. **Before the expansion of the use and development starts a revised traffic management plan 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. Traffic and parking operations on and in relation to the site must then conform to the endorsed plan. The plan must include (but not be limited to):**
   - **Queuing arrangements.**
   - **Vehicle speed on the land.**
   - **Parking of trucks and other vehicles on the land.**
   - **Trucks exiting from the land.**
   - **Conduct of truck drivers approaching and on the land.**
   - **Any other measures necessary and appropriate to minimise the impacts of vehicle movements on the amenity of the area.**
6. **Prior to the commencement of any works, a construction management plan must be submitted to and approved by the Responsible Authority. The construction management plan must include (but not be limited to):**
   - **Best practice or suitable equivalent surface water management during construction.**
   - **Construction Techniques for Sediment Pollution Control (EPA Publication No. 275, May1991).**
   - **Vehicle movements during construction.**
   - **Dust suppression measures.**

Once endorsed, this plan will form part of this permit.

7. **The use and development of the subject land must not commence until the Work Authority, including an Approved Work Plan, is issued pursuant to the *Mineral Resources (Sustainable Development) Act 1990* unless with the written consent of the Responsible Authority and Department of State Development, Business and Innovation.**
8. **The use and development of the land must at all times be generally in accordance with the endorsed plans (including management plans) forming part of this permit, to the satisfaction of the Responsible Authority.**
9. **Prior to the use commencing, the acoustic fence must be erected to the satisfaction of the Responsible Authority.**
10. **The layout of the land, and the proposed works as shown on the endorsed plans, must not be altered or modified (whether or not in order to comply with any Statute, Statutory Rule or Local Law or for any other reason) without the prior consent of the**

Responsible Authority.

Hours of Operation

11. The permitted use (including the arrival and departure of heavy vehicles) must operate only between the following hours, except with the prior written consent of the Responsible Authority:

Activity	Monday to Friday *	Saturday *
Site establishment/Construction	6am-6pm	6am-1pm
Extraction	7am-6pm	7am-1pm
Processing	6am-2am	6am-10pm
Product loading and dispatch	6am-10pm	6am-4pm
Repairs and maintenance	6am-10pm	6am-10pm

Only the Water Clarifier/Thickener, Mud Buffer Tank and Dewatering Belt Press will operate between 6.00pm – 2 am Monday to Friday and 1.00pm – 10pm Saturday. (Public holidays excluded) except for maintenance operations.

12. Maintenance may be carried out outside the hours specified in condition 10 subject to and in accordance with the conditions and requirements of a Maintenance Management Plan which is to be submitted for approval to the satisfaction of the Responsible Authority. The Maintenance Management Plan must specify what the maintenance activities are, including the location of those activities, and must demonstrate that such activities:

a. will not be audible outside the property boundaries; and

b. will not unreasonably affect the amenity of the area by way of light spill or otherwise.

Environmental Policy

13. The use and development of the land must at all times comply with:

a) Environment Protection Authority Protocol for Environmental Management: Mining and Extractive Industries;

b) State Environment Protection Policy – Waters of Victoria;

c) State Environment Protection Policy – Ground Waters of Victoria;

d) State Environment Protection Policy - Air Quality Management;

e) State Environment Protection Policy No. N-1. and

f) Environment Protection Authority Best Practice Environmental Management – Environmental Guidelines for Major Construction Sites.

14. The use and development must be managed, to the satisfaction of the Responsible Authority, 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;

d) presence of vermin; or

e) other matters.

Dust

15. Prior to the expansion of the use and development hereby permitted, a revised Dust Management Plan must be prepared to the satisfaction of the Responsible Authority and 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 generally in accordance with:

a) the Environment Protection Authority Protocol for Environmental Management: Mining and Extractive Industries; and

b) the draft Dust Management Plan, prepared by Environmental Science Associates included as Attachment 3 of the Revised Dust Assessment Report by Environmental Sciences Associates (dated 14 December 2019, to the satisfaction of the Responsible Authority.

16. The internal access road must be constructed, drained and the pavement sealed prior to the removal of any sand *product* from the land.

17. At all times during the use of the Land for the purpose of sand extraction and processing an adequate water supply must be maintained for dust control measures in accordance with the endorsed Dust Management Plan.

18. All trucks entering and exiting the *land*, whether loaded or not, must have the load area covered (tarped).

Noise

19. Prior to the expansion of the use and development hereby permitted, a revised Noise Management Plan *must* be prepared to the satisfaction of the Responsible Authority and be submitted to and approved by the Responsible Authority. The Noise Management Plan must include increased measures to protect the amenity in residents of the surrounding residential properties. When approved the plan will be endorsed and will then form part of the permit. The plan must adopt all relevant recommendations of the Noise Emission Assessment by Watson Moss Growcott

Acoustics Pty Ltd dated 16 December 2019.

20. **The use and *development* hereby permitted must at all times comply with:**
    a) **Environment Protection Authority 'Noise from Industry in Regional Victoria' ('NIRV' - EPA publication no 1411);**
    b) **the endorsed noise management plan; and**
    c) **Environment Protection Authority State Environment Protection Policy No. N-1.**
21. **Reverse beepers *installed* on mobile plant used within the site must be of a type and design that minimises potential offsite noise impacts and which, among other things, adjust relative to the ambient noise level. The permit holder must use its best endeavours to ensure that the movement of vehicles around the site minimises the potential for offsite noise impacts.**
22. **At 3 months, 6 months, 12 months and 3 years following the commencement of sand extraction approved by this permit, the operator must provide a report prepared by a qualified acoustic consultant measuring compliance with the requirements of condition 19 during the operation of the quarry to the satisfaction of the Responsible Authority. In the event that the testing identifies any non-compliance, the operator must, within three months, obtain and implement any recommendations necessary to achieve compliance to the satisfaction of the Responsible Authority.**

Drainage

23. **Prior to the commencement of any on-site works, a detailed erosion and Sediment Control Plan for the management of sediment pollution must be prepared and submitted to the Responsible Authority for approval. All plans and subsequent works must be prepared and undertaken in accordance with EPA Publication 275 'Construction Techniques for Sediment Pollution Control' to the satisfaction of the Responsible Authority.**
24. **All works must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to minimise soil erosion as appropriate, to the satisfaction of the Responsible Authority.**
25. **No polluted and/or sediment laden run-off is to be discharged directly or indirectly into any tributary to the Deep Creek or to the Deep Creek directly. Pollution, sediment or litter traps must be provided as appropriate on site to the satisfaction of Responsible Authority.**
26. **Surface water monitoring must be undertaken as recommended in the *Drainage* and Water Quality Management Report (dated 22 May 2012) at Appendix 2 of the endorsed Work Plan.**

Wastewater

27. **All wastewater must be treated and disposed of using an EPA approved system, installed, operated and maintained in compliance with the relevant EPA Code of Practice and Certificate of Approval and be to the satisfaction of Council's Environmental Health Department.**

28. **The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its *performance*. Stormwater must be diverted away from this area. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.**

29. **Within 6 months of the completion of the fixed plant construction stage (and in any event within 3 years of the commencement of development) the permit holder must *engage* a suitably qualified person to prepare an audit report to satisfaction of the Responsible Authority. The audit report must assess compliance with the landscape and rehabilitation management plan, make recommendations for continual improvement and if it finds any areas of non-compliance, make recommendations to ensure compliance with that plan. The findings of the audit report must be implemented to the satisfaction of the Responsible Authority.**

Native Vegetation

30. **Screening *vegetation*, landscaping and revegetated areas (including drainage lines and the vegetation corridor) must be planted and maintained in accordance with the endorsed landscape and revegetation plan for the operational life of the quarry to the satisfaction of the Responsible Authority.**
Revegetation at the land must be generally in accordance with the plan titled Conservation and Revegetation Sites (dated 18 November 2013) and which identifies five areas for revegetation and protection.

31. **Prior to the removal of sand product from the land, an agreement under section 173 of the *Planning and Environment Act 1987* must be entered into between the *owner* of the land, the Responsible Authority and the Department of Environment, Land, Water and Planning, which ensures the establishment, protection and maintenance of the native vegetation corridor areas and drainage line (Melbourne Water 'Waterway 3840') delineated in green and numbered 2 and 3, on the plan 'Conservation and Revegetation Sites Plan', that is endorsed under condition 3 of this permit. The agreement is to provide that the native vegetation values (existing and future) of such areas shall remain available to be used for the purposes of native vegetation offsets to the benefit of the subject land or other land where native vegetation losses are required to be offset as a result of the use and development under this permit. Every 12 months following the commencement of sand extraction**

approved by this permit, unless otherwise agreed in writing by the Responsible Authority, the operator must provide a report prepared by a qualified environmental or arboricultural consultant measuring compliance with the requirements of condition 30 during the operation of the quarry to the satisfaction of the Responsible Authority. In the event that the testing and assessment identifies any non-compliance, the operator must, within three months, obtain and implement any recommendations necessary to achieve compliance to the satisfaction of the Responsible Authority.

The agreement must ensure that staged rehabilitation of area 5 commences within six (6) months of cessation of coarse sand extraction from each stage within area 5, in accordance with the Conservation and Revegetation Plan endorsed under condition 3, to the satisfaction of the Responsible Authority.

The agreement must be registered on title.

All costs associated with the preparation of the agreement shall be borne by the developer/landowner. All costs incurred by the Responsible Authority associated with the preparation, negotiation, execution and recording of the agreement and any amendment to the agreement must be fully reimbursed prior to the registration of the agreement by Council.

Prior to the expansion of the extraction area an agreement under Section 69 of the *Conservation Forests and Lands Act 1987* must be entered into with DELWP and provide for the establishment, protection and conservation of the area marked 1 and 4 on the Conservation and Revegetation Site plan endorsed under this permit.

Rehabilitation

32. **Prior to the commencement of works, a staged enforceable rehabilitation be submitted to the Responsible Authority for approval. The plan must include a provision that works on site will cease if the staged rehabilitation program is not fully implemented.**

Car Parking

33. **Prior to the commencement of any onsite works, detailed design plans relating to onsite car parking facilities must be submitted for approval to the satisfaction of the Responsible Authority. The plans must address the following:**

    a) **car parking layout;**

    b) **provision of adequate car spaces;**

    c) **pavement type;**

    d) **site drainage; and**

    e) **car space delineation.**

34. **Prior to the commencement of the use hereby permitted, car park facilities must be *constructed* by the developer in accordance with the approved plans.**

35. **Parking areas must be provided for employees' cars and all vehicles used on the land in *accordance* with the endorsed plans, to the satisfaction of the Responsible Authority.**

Department of Transport

36. **The proposed access must generally be in accordance with the 'Traffix Design' Functional *Layout* Plan, drawing No. G13716A-03 (dated 26 September 2012).**
Prior to the operation of the quarry extension hereby approved, traffic signals are to be installed at the access from the Bass Highway to the satisfaction of the Head, Transport Victoria
Prior to the increased traffic operation of the quarry, detailed functional layout plans in accordance with Eastern Regions Developer Funded checklists must be submitted and approved by the Head, Transport for Victoria.

- **Prior to works beginning in the road reserve, detailed plans in accordance with Eastern Regions Developer funded checklists must be submitted and approved by the Head, Transport for Victoria.**
- **Prior to the designs beginning, a pre-design meeting is required to be conducted with the Department of Transport, including the applicant's consultant that must attend.**
- **All costs associated with the design and installation of the traffic signals (and associated road infrastructure upgrades) is to be borne by the applicant.**
- **Costs associated with the traffic signals ten year maintenance agreement is to be borne by the applicant.**
- **Provide additional roadway lighting to V3 standard as part of the intersection upgrades.**
- **Provide duplicated advanced warning signals (W3-V101 Signals Ahead) on the southbound carriageway.**
- **Provide additional signage 'avoid using engine brakes' be installed on the Bass Highway (northbound and southbound carriageways) to the satisfaction of the Head, Transport for Victoria.**
- **Provide an acoustic report prepared by a suitably qualified acoustic engineer demonstrating L10 (18 hour) sound contours for adjacent land uses prior to the installation of the traffic signals.**
- **Complete additional acoustic testing which is to be conducted 6 months after the installation of the traffic signals and a further test once the quarry is at full operational level. If the results of any testing exceed the Department of Transport's intervention**

levels, mitigation measures are required to be undertaken by the applicant, to the satisfaction and approval of the Head, Transport for Victoria. The measures are to be implemented at no cost to the Department of Transport.

37. **Road safety audits for the road works must be provided to Department of Transport at functional layout, detail design and post opening.**
38. **Prior to commencement of the development or use hereby 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.**

General

39. **Retail sales of sand or sand products to the general public is not permitted.**
40. **Rehabilitation works must be completed within 2 years of the cessation of sand extraction.**
41. **The operator must advise the Responsible Authority in writing upon the quantity of sand transported from the land exceeding 750,000 tonnes in a 12 month period. Within 28 days of notice being given to the Responsible Authority the operator must provide an audit of compliance with the conditions of this permit, carried out by a suitably qualified and experienced independent consultant or consultants (including but not limited to surface water, acoustic, dust and traffic issues), to the satisfaction of the Responsible Authority. The audit must make recommendations for any further measures required to address any noncompliance with the permit or which are otherwise required to protect the amenity of the area. If the quantity of sand being transported from the land exceeds 750,000 tonnes for two or more consecutive 12 month periods, further audit reports must be provided at periods of no greater than 12 months apart for as long as the volume exceeds 750,000 tonnes.**
42. **Trucks must not queue in the vicinity of the entrance to the land prior to the commencement of operations on any particular day.**
43. **The number of truck movements in respect of the land must not exceed 240 per day without the written consent of the Responsible Authority.**
44. **Prior to the commencement of the development a Groundwater Management Plan must be submitted to and approved by Southern Rural Water and the Responsible Authority. The Groundwater Management Plan must make provision for the ongoing monitoring of groundwater quality, flow and level for the life of the operation of the quarry.**
45. **The base of the extraction pit must not be excavated below RL75 without the further written consent of Southern Rural Water and the Responsible Authority.**

Expiry

46. **This permit will expire if the use is not started within five years of the date of this permit. In accordance with Section 69 of the *Planning and Environment Act 1987* an application may submitted to the Responsible Authority for an extension of this period.**

47. **This permit will expire if the Work Authority for the use issued under the provisions of the *Mineral Resources (Sustainable Development) Act 1990* is cancelled in accordance with Section 77O of that Act.**

CARRIED

H.2 Planning Application 180485 - 42 Howie Lane, Coronet Bay

File No: **CM21/35**
Division: **Place Making**
Council Plan Strategic Objective: **Liveability**

Enjoying the place we live

Executive Summary

Application number:	180485
Applicant:	Russ Williams
Land:	42 Howie Lane, Coronet Bay
Proposal	Use and development of land for Host Farm in the Farming Zone
Planning controls:	Farming Zone No Overlays
Planning permit triggers:	Pursuant to *Clause 35.07*-1 of the Farming Zone, a planning permit is required for the use of land for Host Farm; Pursuant to *Clause 35.07-4* of the Farming Zone a permit is required for building and works in associated with a section 2 use; and Pursuant to *Clause 35.07-4* of the Farming Zone a permit is required to construct a building that is 100 metres to a dwelling not in the same ownership.
Notification and submissions:	Due to the change in the proposed use, VCAT requested the applicant notify all parties to the proceedings. To date Council has not received any submissions relating to the proposed changes.
Key planning considerations:	Whether the change in use from group accommodation to host farm is appropriate. Whether the changes in the application impact the built form that was supported by Bass Coast Shire at the March 2020 meeting.
Recommendation:	Councils resolve to change the preamble of the application from group accommodation to host farm. Council resolve to notify VCAT of the decision.

Reason a Council Decision is required

At the Ordinary Council Meeting on March 18 2020, Council resolved to issue a Notice of Decision to Grant a Planning Permit to use and develop the land for group accommodation. An application for review is currently before the Civil and Administrative Tribunal (VCAT) (P549/2020) initiated by an objector to the original application.

Following a Compulsory Conference on July 24, 2020, the applicant formally amended the application on November 20 2020, from the use of land for group accommodation to a host farm use.

A VCAT hearing scheduled for the February 4, 2021 has been adjourned to enable the Council to make a decision on whether to support the changes to the application.

The VCAT hearing date has now been rescheduled to June 28-29, 2021.

Declaration

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

The Proposal

In essence, the proposal approved by Council at the March 2020 Council meeting has not altered. The purpose of this report is for Council to consider a change in how the use is described from group accommodation to host farm. The proposal and assessment detailed below is consistent with the previous report.

This application proposes the use and development of land for Host Farm in the Farming Zone in accordance with SO Design and Drafting job number 2018:14, Amended plans dated 8/11/2020. The following supporting documents also accompany the amended application:

- Bayview Bush Retreat and Catch and Release Farm Business Plan, Version 1.4
- Arboriculture Assessment Report revised edition, November 6, 2020
- Land Capability Assessment by Andrew Redman 26/ August 2020

A copy of the amended plans is provided as Attachment One (AT-1).

The applicant submitted a business plan which described the intent to establish an Agri-tourism business venture on the subject site.

Stage one of the business is to create an opportunity for residents and visitors of Bass Coast to stay on a 6 person Bayview Bush Retreat property in Coronet Bay and experience the natural environment of a bush setting alongside a self-sustaining Catch and Release fishery operation.

The proposed accommodation building includes three bedrooms, living area with lounge, en-suite, kitchenette, bathroom and deck. The unit is proposed to be located on the northwest section of the property, amongst a cleared space within a bush setting.

A Host Farm is defined as an agricultural property used to provide accommodation for persons, away from their normal place of residence, to experience living on land used for agricultural purposes.
The definition is broad and does not specify what 'experience' a visitor is to have on the host farm site.

The applicant states:

"The business is focused around a large dam that is stocked with the rare species of fish, the Murray Cod and a number of other Australian native fish. This aquaculture enterprise is self-sustaining and has been developed over 16 years. Murray Cod is a highly sought-after species in the recreational fishing sector due to its size and longevity. Ordinarily residents and visitors to Bass Coast would have to travel over 300 km to catch a Murray Cod. The dam set in a very private and picturesque area and would also provide a unique photographic experience a lot closer to Melbourne and Bass Coast. The Bayview Bush Retreat would allow visitors to stay overnight and extend their visit in Bass Coast to other neighboring destinations in line with the Visitor Economy Strategy."

Group Accommodation is defined as Land, in one ownership, containing a number of dwellings used to accommodate persons away from their normal place of residence. It is typically associated with tourist accommodation type cabins. This plan envisioned additional group accommodation cabins, which is why Council originally defined the applications as group accommodation.

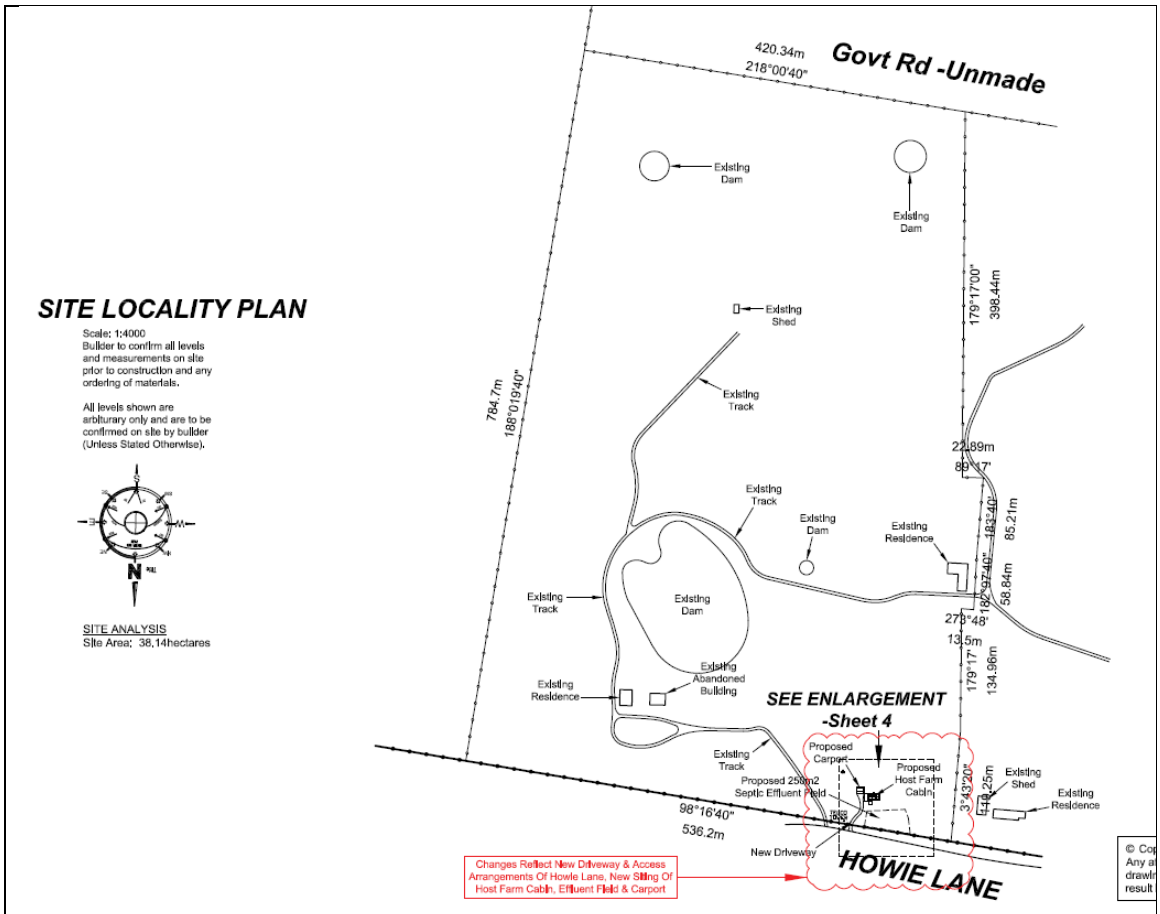


Figure 1 – Site Proposed Plans

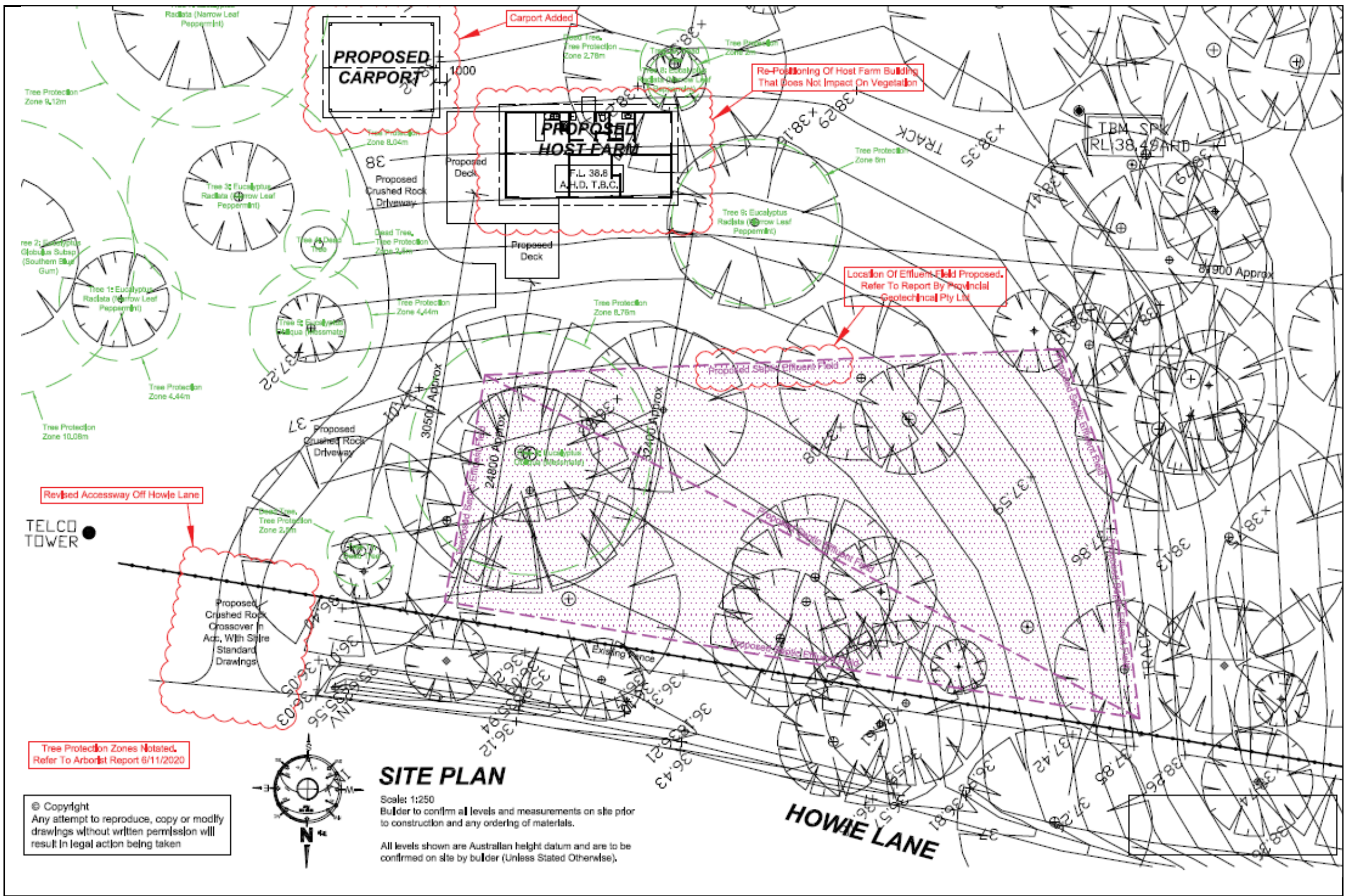


Figure 2 – Site Proposed Plans

Background

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

Site Dimensions	38.14ha
Site Frontage	420m road frontage
Topography	Relatively flat
Vegetation Cover	Most of the site is cleared and used for grazing with a native vegetation corridor located in the north east corner that extends along the western boundary.
Current Use	Rural land which contains two dwellings, with two telecommunication towers. A large dam is situated on the site which contains Murray Cod and other species of fish.
Easements	No easements registered on the title
Restrictive Covenants	No restrictions registered on title
Aboriginal Cultural Heritage Sensitivity	Not located within an area of cultural sensitivity

Planning Permit History	Development of land for a dwelling (97151) Development of land for a second dwelling (050317a) Use and development of land for a telecommunication facility (100352) x 2 Two lot subdivision (120117)

The subject site is located on the southern side of Howie Lane. A ridgeline runs through the site along the east side of the property. The majority of the site has been cleared of vegetation and used for agricultural purposes (grazing of livestock).

There is a large dam, which has been constructed and filled with fish stock. There are two dwellings on the subject site.

Access to the site is available from Howie Lane. Electricity and

telecommunications services are available to the site.

Surrounds

Coronet Bay is a coastal township on Western Port Bay one kilometre south of

Corinella and six kilometres west of the Bass Highway. It has a small commercial centre servicing local needs. It rises from the foreshore flats of Western Port, up a gentle hillside to an inland ridgeline. There are no significant community facilities or services, except a community hall and reserve located in the centre of the town.

Coronet Bay is designated in the Coastal Strategy and the MSS as a settlement with '*low spatial growth capacity*'. The settlement is about ten kilometres by road from the local service centre of Grantville.

The area surrounding the subject land is used for a mixture of rural and residential living. Howie Lane is a gravel road with open drains, grass shoulders and vegetation within the road reserve.



Figure 3- Site and Surrounds

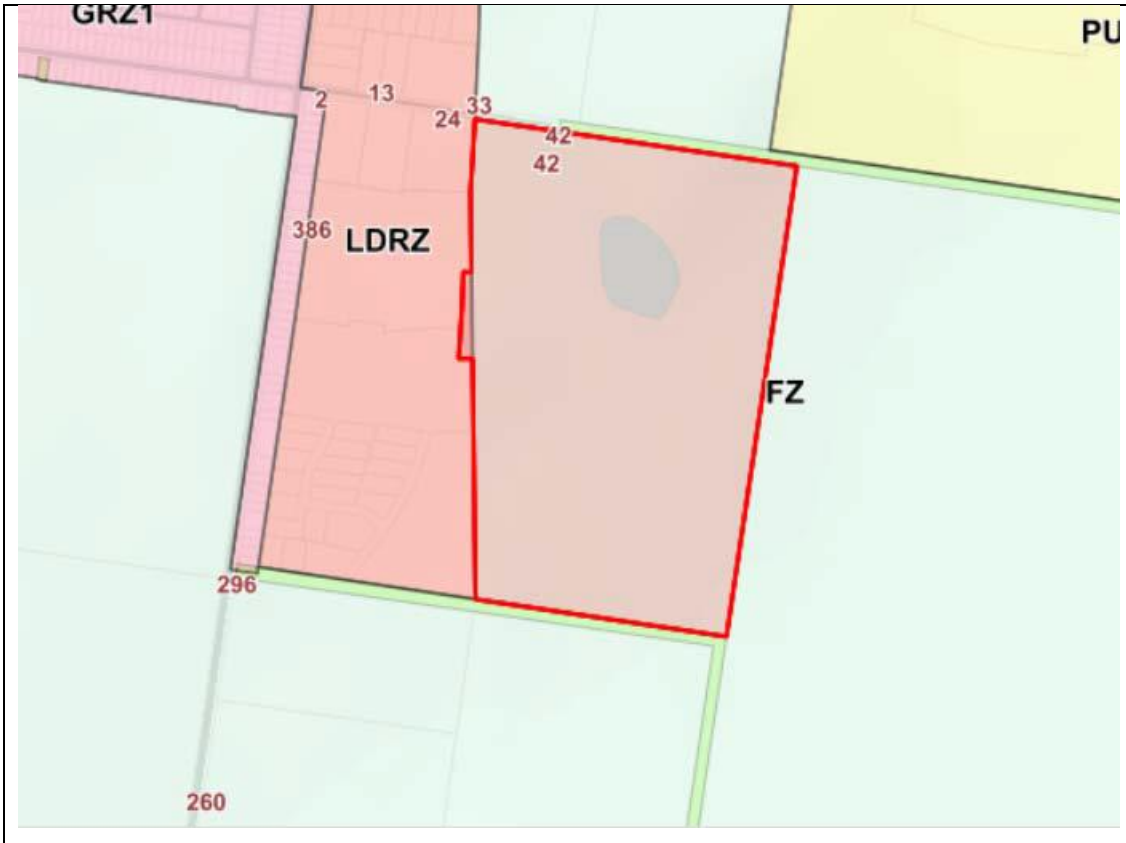


Figure 4 - Zoning Map

Consultation

The applicant informed VCAT of the proposed changes as well as the applicant to the proceedings, and to those who were originally notified of the application. Council has not been notified of any submissions having been received.

Referrals

The following table outlines the referral requirements of this application.

Table One: Referral requirements and their comments

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
Not Applicable	No objection to the application.
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Asset Management	Not Applicable
Health Department	A land capability assessment has been provided and demonstrates the adequate provision for the retention of all wastewater onsite.

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

- Clause 13.02-1S Bushfire Planning
- Clause 14 Agriculture
- Clause 17.04-1S Facilitating tourism
- Clause 17.04-1R Tourism – Gippsland
- Clause 17.05-1 Agriculture
- Clause 21.03-2 Rural
- Clause 21.03-4 Tourism
- Clause 21.03-5 Agriculture
- Clause 21.08-1 Landscape
- Clause 21.08-2 Design and built form
- Clause 21.09-12 Coronet Bay
- Clause 22.01 Stormwater Management Policy
- Clause 22.06 Non-Agricultural Uses in the Farming Zone

The relevant Local Planning Policy Framework clauses are as follows:

- Clause 21.03-2 Rural
- Clause 21.03-4 Tourism
- Clause 21.03-5 Agriculture
- Clause 21.08-1 Landscape

- Clause 21.08-2 Design and built form
- Clause 21.09-12 Coronet Bay
- Clause 22.01 Stormwater Management Policy
- Clause 22.06 Non-Agricultural Uses in the Farming Zone

Other policy documents

- Rural Land Use Strategy 2014
- Design and siting guidelines for coastal and hinterland areas 1999

The following provides a discussion of where the original proposal satisfactorily addressed the relevant *Planning Policy Framework (PPF)* and *Local Planning Policy Framework (LPPF)* under the themes of Agriculture, Tourism, Built Environment and Landscape. These policies are applicable to the use of the land for a host farm

Clause 14 Agriculture states that planning should ensure agricultural land is managed sustainably, while acknowledging the economic importance of agricultural production. The objective to *Clause 14.01-1S* is to protect the state's agricultural base by preserving productive farmland. *Clause 14.01-1R* identifies its strategy is to protect productive land and irrigation assets, that help grow the state as an important food bowl for Australia and Asia.

Clause 21.03-5 Agriculture recognises that agricultural activities particularly beef cattle farming is a significant contributor to the local and regional economies and a major source of local employment. The *Bass Coast Rural Land Use Strategy (2014)* sets out a long-term vision for the Shire's rural areas and identifies Phillip Island – as a mix of commercial agriculture and lifestyle farming. Key issues include protecting the opportunity for agriculture and protecting productive agricultural land but also diversifying agricultural industry and developing value adding rural industries in the Shire.

The proposal is not considered to result in any detrimental impacts to existing

agricultural land or the ongoing farming on the subject site. A host farm enables visitors on the site to participate and experience farming on the site. The location of the host farm accommodation is located between the existing dwelling and the street frontage and does not hinder the agricultural use on the site.

Clause 15.01-2S Building Design Objective is to achieve building design outcomes that contribute positively to the local context and enhance the public realm. *Clause 21.05-4* Design *and Built Form* seeks to encourage high quality buildings and public spaces that are environmentally, economically and socially sustainable. This is through strategies to design and site development to complement the context in which it sits; ensure the siting of buildings contributes positively to the public realm and respects the character of the area; and to ensure a high quality of design in industrial estates. The building proposed to be located on the land is an older style relocated dwelling. The materials and design of the dwelling is not considered inappropriate.

The Bass Coast Planning Scheme recognises at a State level the importance tourism plays in the region with *Clauses 17.04 Tourism, 17.04-01S Facilitating Tourism, 17.04-1R Tourism* – Gippsland emphasising this important sector with objectives and strategies that seeks:

To encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination.

To provide a strengthened and diversified economy through the facilitation of growth in a range of employment sectors including tourism.

The host farm accommodation (tourist style cabin) is considered to be an important asset enabling visitors a base when exploring tourism related activities to both Phillip Island and broader Bass Coast region as day trips and those visitors will increase the visitor spend. The proposed cabin, although of a small scale, will aid in providing agricultural tourism opportunities that complement the existing use of the land.

At a local level, *Clause 21.03-4 Tourism* highlights that tourism is the pillar of the Bass Coast economy with internationally recognised tourism attractions particularly on Phillip Island. Tourism is estimated to generate around $620 million in direct expenditure and over $1 billion in value added expenditure, and supports about 1,400 jobs annually (source: *Bass Coast Rural Land Use Strategy (2014)*).

"Bass Strait, as well as Phillip Island, are major tourist destinations. People visit the Shire because of the unique natural attributes, complemented with built attractions, such as the Phillip Island Motor Racing Track. Tourism is broadening its focus and seeks to capitalise on a wider tourism product based around the agricultural, environmental and landscape values of the rural hinterland."

Clause 21.03-4 Tourism identifies there is potential for further development of tourism in the Shire's rural areas. The proposal is considered to have satisfactorily responded to the objectives and strategies of this clause as the proposed use supports the further development of tourism in the Shire's rural areas but not at the expense of landscape, amenity, environmental and agricultural values of the Shire. If approved, the use and development will attract visitors throughout the year.

Clause 21.03-2 Commercial acknowledges that the role and function of commercial

areas are changing as population and visitation increases with anticipated issues relating to endeavouring to providing business services that cater to both residents and visitors and managing the implications of being a premier tourist destination. The proposal is considered to be a satisfactory response to the objectives and strategies of this clause as the use of the land for host farm will increase in tourism interest of the region and provides for rural based tourism within an agricultural setting in the Farming Zone.

Policy 22.06 Non-agricultural Uses in the Farming Zone Policy discourages uses in the

Farming Zone that are not directly related to, or that have an adverse impact on

agriculture and future agriculture opportunities. The preferred mix of uses in the

Farming Zone includes those that support agricultural activities and associated rural industries that maintain and build the economic base of the Shire.

The proposal strikes a balance in that the majority of the subject land will be retained for traditional agricultural farming with the aqua-farming venture developed on the site. The surrounding agricultural enterprises will also still function and operate side by side with the proposal. The use of host farm is not considered an impediment for neighbouring properties ability to farm.

Clause *21.05-4 Design and Built Form* seeks to encourage high quality buildings that are environmentally, economically, and socially sustainable. This is through strategies to design and site development to complement the context in which it sites; ensure the siting of buildings contributes positively to the public realm and respects the character of the area; and to ensure a high quality of design in industrial estates.

The proposed host farm accommodation buildings are considered to be of a location, siting and design that are sympathetic to the landscape character of the area. The building has been sited so as to limit the impact on the landscape character of the area. Furthermore, the extent of established vegetation between the accommodation unit and front property will provide for effective screening.

The applicant has demonstrated through a Bushfire Assessment that no significant vegetation will be required to be removed to site the cabin and to achieve the required defendable space.

Zone Assessment

Farming Zone

The application triggers the need for a planning permit under the following clauses:

- Pursuant to *Clause 35.07*-1 of the Farming Zone, a planning permit is required for the use of land for Host Farm;
- Pursuant to *Clause 35.07-4* of the Farming Zone a permit is required for building and works in associated with a section 2 use; and
- Pursuant to *Clause 35.07-4* of the Farming Zone a permit is required to construct a building that is 100 metres to a dwelling not in the same ownership.

The purpose of the Farming Zone is:

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

The subject site is relatively flat so there is no topographical issue with the site. There is established vegetation on the subject site will provide for effective screening of the host farm accommodation.

The host farm cabin is constructed in materials and colours that will blend into the landscape, including feature timber cladding, colourbond cladding, and colourbond roofing.

No trees are to be removed from the site nor will significant excavation be required.

The cabin and carport are to be sited in the open area in the north-east corner of a native vegetation patch. The construction of the buildings and the access driveway do have the potential to impact upon the health of the vegetation in the surrounding area. The submitted arborist report provides recommendations in order to retain the existing trees

The site is heavily vegetated to the road frontage and northern boundary that will effectively screen the proposal.

The host farm cabin will require all waste and effluent to be treated onsite via an approved system. The submitted LCA has been reviewed by Council's Environment Health team and considered to be appropriate. A condition on any permit issued will require this to be completed.

A Section 173 Agreement would be required to ensure the Host Farm

will only operate in association with the activities provided in the submitted Business Plan. The agreement will also limit the number of consecutive days any group can stay. This is to ensure that the host farm cabins will not be used as long term dwelling type use.

The building has been sited so as to limit the impact on the landscape character of the area.

As previously discussed, tourism accommodation such as the host farm proposed, is considered to address the requirements of Clause 22.06 *Non-agricultural Uses in the Farming Zone Policy*. The proposal strikes a balance in that the majority of the subject land will be retained for traditional agricultural farming with the aqua-farming venture developed on the site. The visitors will be able to participate and experience the agriculture being undertaken on the subject site.

The application has been considered against the decision guidelines of *Clause 35.07-6 - Agricultural* issues and the impacts from non-agricultural uses, and can be supported for the following reasons:

- The host farm will not limit the operation of the farm
- The host farm will not limit the operation or expansion of adjoining
- land and nearby agricultural uses;
- The host farm accommodation building is located within the properties internal fence line amongst a bush setting and as such it will not take land away from agricultural purposes.

Overlay Assessments

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

Particular Provisions

Clause 52.06 Car Parking

The proposal has been provided with the required number of car spaces in accordance with the planning scheme requirements.

The host farm cabin has been provided with a double carport. This is assessed as providing for a satisfactory outcome when consideration is given the cabin has three (3) bedrooms.

The car parking spaces are considered to be able to provide for the safe and efficient access and egress for the site.

Conclusion

The amended application has been assessed against the relevant policies, zone, overlay and particular provisions of the Bass Coast Planning Scheme and the previously held concerns of the Council.

It is recommended that Council advise the Victorian Civil and Administrative Tribunal that the change of use from group accommodation to host farm can be supported.

Recommendation

That in relation to planning permit application 180485, Council inform the Tribunal that it approves of the amendment of the application from group accommodation to host farm at 42 Howie Lane, Coronet Bay subject to the following conditions

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

Host Farm:

3. **Prior to the issue of an Occupancy Permit for the Host Farm buildings, an Agreement under Section 173 of the *Planning and Environment Act* must be entered into which ensures that:**
   a. **The Host Farm must not be occupied by the same person/s for more than 42 consecutive days/nights and no more than 150 cumulative days/nights per calendar year, unless with the written consent of the Responsible Authority;**
   b. **The Host Farm must not be used as a permanent residence (dwelling);**
   c. **The operator/owner is to keep a log of all visitations/patrons and produce it to the Responsible Authority upon request; and**
   d. **If the use of the land for Host Farm ceases for a period of more than two years, the building(s) must be removed from the land within three months.**
   e. **The use of the Host Farm accommodation must only be used by guests and visitors undertaking the activities described in the 'Bayview Bush Retreat and Catch and Release Farm Business Plan' prepared by Catchment to Coast and dated April 2019.**

The Agreement must be registered on title pursuant to Section 181 of the Planning and Environment Act and confirmation of the Dealing number provided to Council before the issue of an Occupancy Permit or commencement of use of the building(s). All costs relating to the preparation and registration of the Agreement must be borne by the applicant.

4. **Prior to the issue of an Occupancy Permit for the Host Farm, the building must meet the following requirements:**
    a. **Access to the Host Farm building must be provided by an all-weather road with dimensions adequate to accommodate emergency vehicles.**
    b. **The Host Farm building must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.**
    c. **The Host Farm building must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes**
    d. **The Host Farm building must be connected to a reticulated electricity supply or have an alternative energy source.**

Vegetation Protection and Landscaping

5. **The development must be constructed in accordance with the recommendations set out in Section 7 of the Endorsed Arboricultural Report prepared by Chris Johnstone dated 6 November 2020.**
6. **Except where specified on the endorsed plan, no vegetation may be removed from the subject land without the prior written consent of the Responsible Authority.**
7. **No vehicular or pedestrian access, trenching or soil excavation may occur with the tree protection zone without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste may occur within the Tree Protection Zones identified within the Endorsed Arboricultural Report.**
8. **Prior to the commencement of the use, the site must be landscaped in accordance with the Endorsed Plans.**
9. **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 be replaced.**

Waste:

10. **Sewage, sullage and other liquid wastes to arise from the development shall be treated and retained on site by a septic tank system in accordance with the requirements of the *Environment Protection Act 1970*, the *Guidelines for Environmental Management: Code of Practice – Onsite Wastewater Management 891.4 (2016)* and the Responsible Authority.**
11. **No buildings or works shall occur over any part of the approved waste disposal system including the septic tank in accordance with the requirements of the *Environment Protection Act* 1970, the *Guidelines for Environmental Management: Code of Practice – Onsite Wastewater Management 891.4 (2016)* and the Responsible Authority.**
12. **Stormwater from the proposed dwelling/outbuilding must not be permitted to enter the septic tank system, sand filter and disposal field.**
13. **Naturally occurring stormwater must be diverted away from effluent disposal fields to the satisfaction of the Responsible Authority.**

Engineering Conditions:

14. **Before the use hereby permitted commences, all stormwater discharging from the development hereby approved must be discharged to a water tank, soakwell or otherwise discharged so as not to cause erosion, flooding or nuisance to the subject or surrounding land to the satisfaction of the Responsible Authority.**

Amenity:

15. **The use and development must be managed so that the amenity of the area is not detrimentally affected through the:**
    a. **transport of materials, goods or commodities to or from the land;**
    b. **appearance of any building, works or materials;**
    c. **emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, litter, dust, waste water, waste products, grit or oil; and**
    d. **presence of vermin or animals**
16. **No mud, dirt, sand, soil, clay, stones, oil, grease, scum, litter, chemicals, sediments, gross pollutants, animal waste or domestic waste shall be washed into, allowed to enter or discharged to the stormwater drainage system, receiving waters or surrounding land and road reserves, during the construction works hereby approved to the satisfaction of the Responsible Authority.**

Permit Expiry – Development and Use:

17. **This permit will expire if one of the following circumstances applies:**
    a. **The development is not started within two 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 four years of the date of this permit; and

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

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 seven (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.

Attachments

AT-1 Plans Council meeting 6 Pages

Council Decision

Moved: Cr. Bruce Kent / Seconded: Cr. David Rooks

That the recommendation be adopted.

CARRIED

H.3 Planning Application 190385 - 349-357 Church Street, Cowes

File No: **CM21/36**
Division: **Place Making**
Council Plan Strategic Objective: **Our Character**

Celebrating the uniqueness of our townships

Declaration

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

Executive Summary

Application number:	190385
Applicant:	Jaysal Pty Ltd
Land:	349-357 Church Street, Cowes
Proposal:	Development of the land for accommodation associated with an existing Motel use, associated function centre and construction of buildings and works, General liquor license, reduction in car parking and removal of vegetation. Consent of a 97N Declaration for the use the land for a motel
Planning controls:	General Residential 1 Zone Vegetation Protection Overlay, Schedule 2 Existing Use Rights
Planning permit triggers:	Pursuant to Clause 32.08-9 of the GRZ1, a permit is required for buildings and works in association with a section 2 use. Pursuant to Clause 42.02-2 of the VPO, Schedule 2 a planning permit is required to remove, destroy or lop any tree or shrub with a girth greater than 30 centimetres (when measured 30 centimetres above ground level) or a height of at least two metres. Pursuant to Clause 52.06-3, a planning permit is required for a reduction in car parking. Pursuant to Clause 52.27, a planning permit is required for a licensed premises. The establishment of existing use rights pursuant to Clause 63.11 of the Bass Coast Planning Scheme

	The establishment of existing use rights pursuant to Clause 63.11 of the Bass Coast Planning Scheme to issue and 97N Certificate to compliance
Notification and submissions:	The application was advertised and received 18 submissions including one with nine (9) signatures An application for review is currently before the Civil and Administrative Tribunal (VCAT) (P1603/2020) for failure to determine the application within the statutory timeframe. A Compulsory Conference (VCAT mediation) was held on 15 December 2020. A total of five (5) of the objectors are party to the on-going VCAT appeal.
Key planning considerations:	Use of the land for a motel Significant car park reduction Neighbourhood character and amenity An application for review is currently before the Victorian Civil and Administrative Tribunal (VCAT) (P1603/2020) for failure to determine the application within the statutory timeframe. A VCAT hearing is scheduled for the 8, 9 and 12 April 2021. A total of five (5) of the objectors are party to the VCAT appeal. Council is required to determine their position on the matter to take to a VCAT hearing
Recommendation:	If Council had the opportunity to determine the application, it is recommended a Refusal To Grant a Planning Permit be issued.

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 18 submissions including one with nine signatures.

Council is required to determine their position on both the planning application and the application for a section 97N to proceed to a VCAT hearing in April.

The Proposal

This application proposes to develop land for accommodation associated with an existing Motel use, associated function centre and construction of buildings and works, general liquor license, reduction in car parking and removal of vegetation in accordance with the submitted plans referenced Job No 11018, Version L , 8 pages prepared by Dig Design. A copy of the plans are provided as Attachment one.

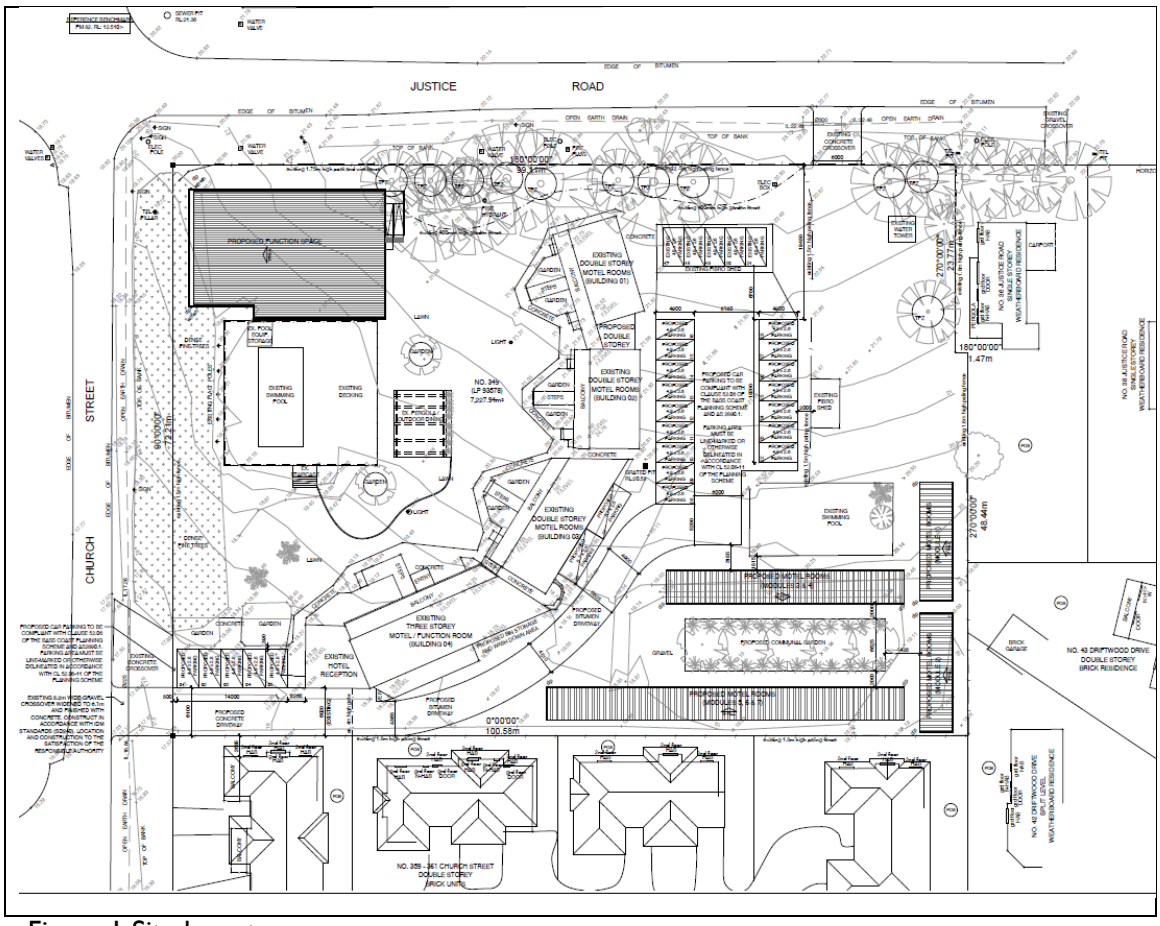


Figure 1 Site layout

Accommodation

The accommodation modules (additional to the existing motel) are arranged in a U shape around a communal garden located in the south west corner of the property. The 28 rooms are divided into 7 modules each module consists of four single bedroom units each with a bathroom, bed room and kitchenette.

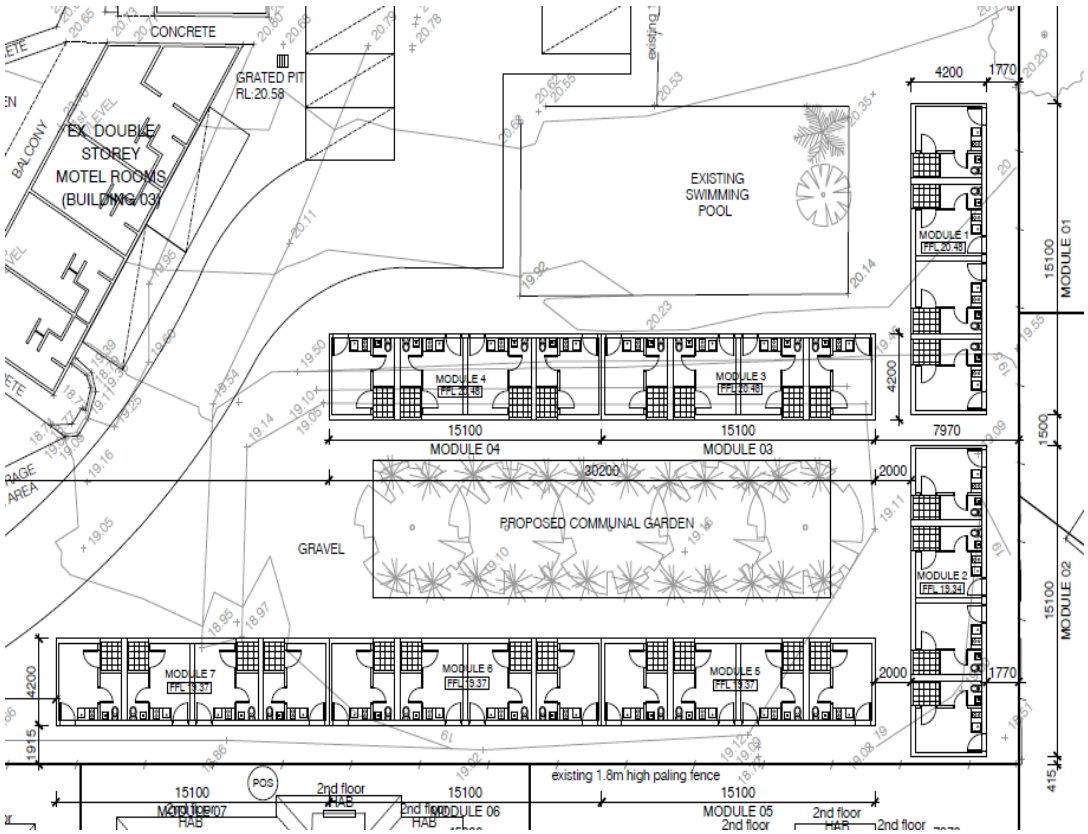


Figure 2 Module Layout

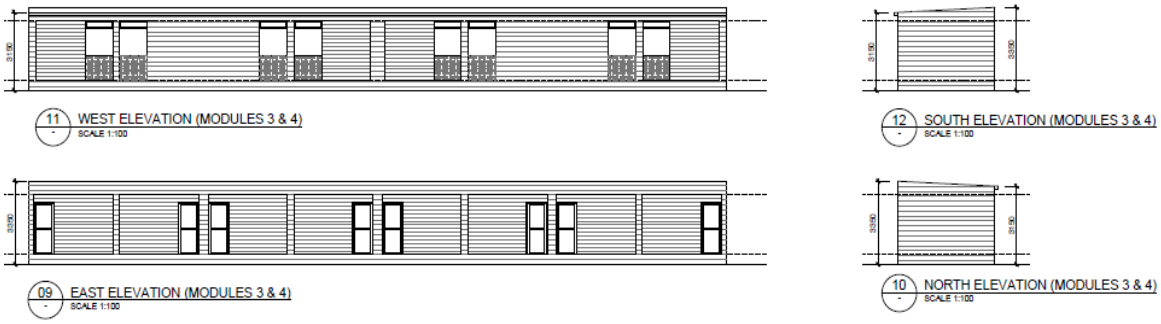


Figure 3 Elevation Plan

The elevation plan demonstrates the modules are constructed from steel coloured black. It is proposed to have an angled roof that slopes to the rear with a maximum height of 3.55m.

Function Centre

The function room is proposed to be situated in the north east corner of Justice Road and Church Street. The function centre building is proposed to be sited 3m from Justice Road and 2m from Church Street. The building is to be 5m in height from natural ground level with access to the building from the west side of the building.

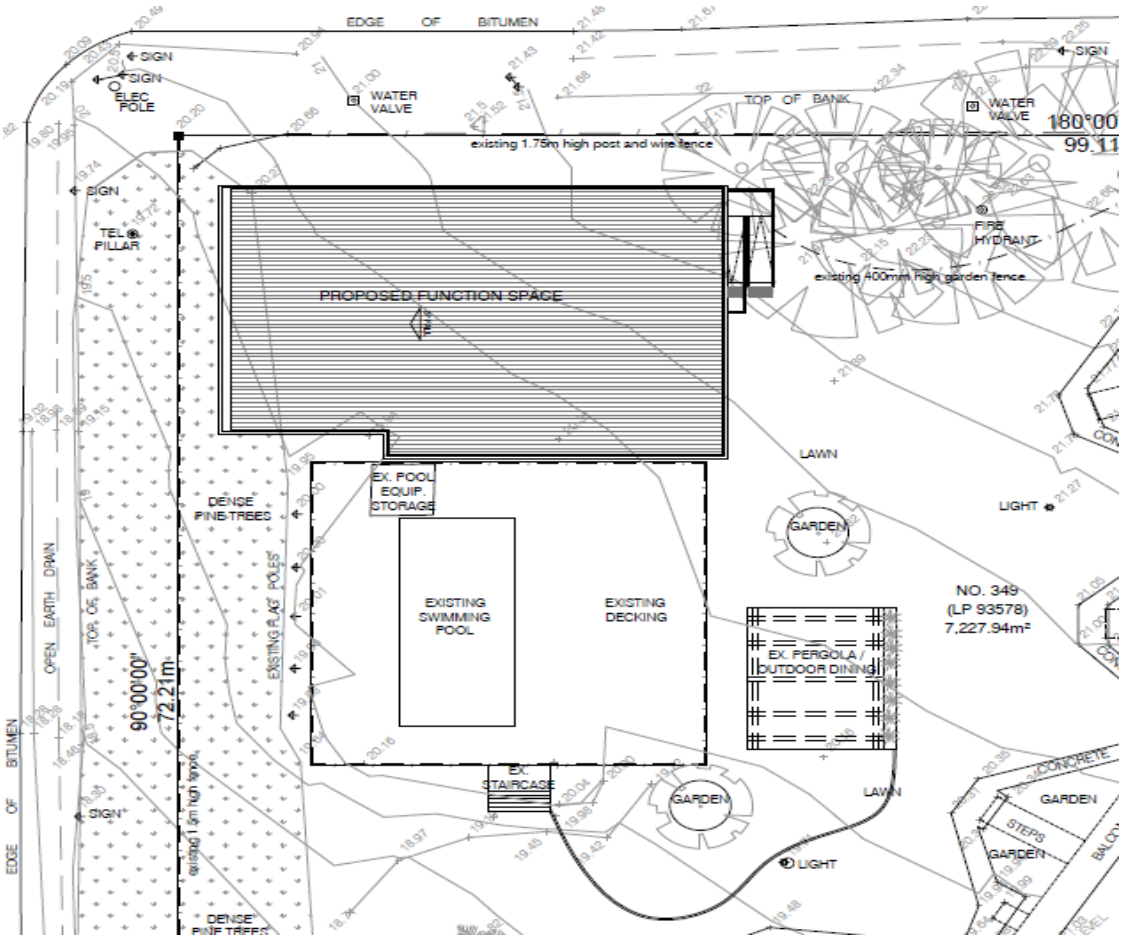


Figure 4 Location of Function Centre

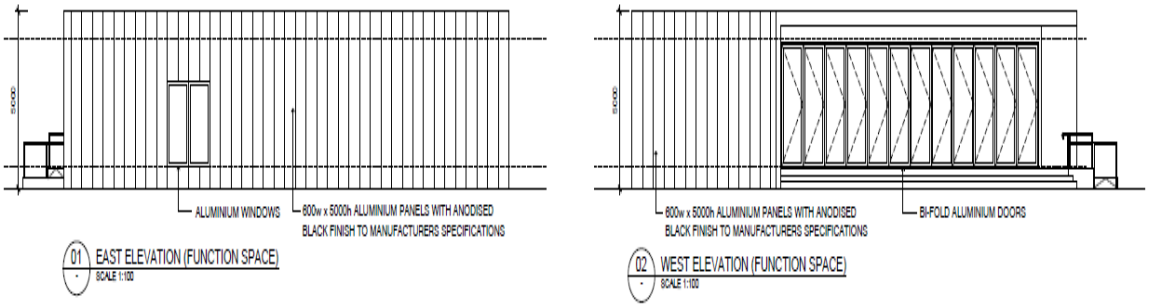


Figure 5 Function Centre Elevation Plan

Licensed Premises

The application also requests a permit it be issued for a liquor license. A general liquor license would authorise the supply of liquor for consumption both on and off the licensed premises. A redline plan has been provided proposing to limit the consumption of liquor to the accommodation rooms, ancillary buildings, function center and through the ground and outdoor pool.

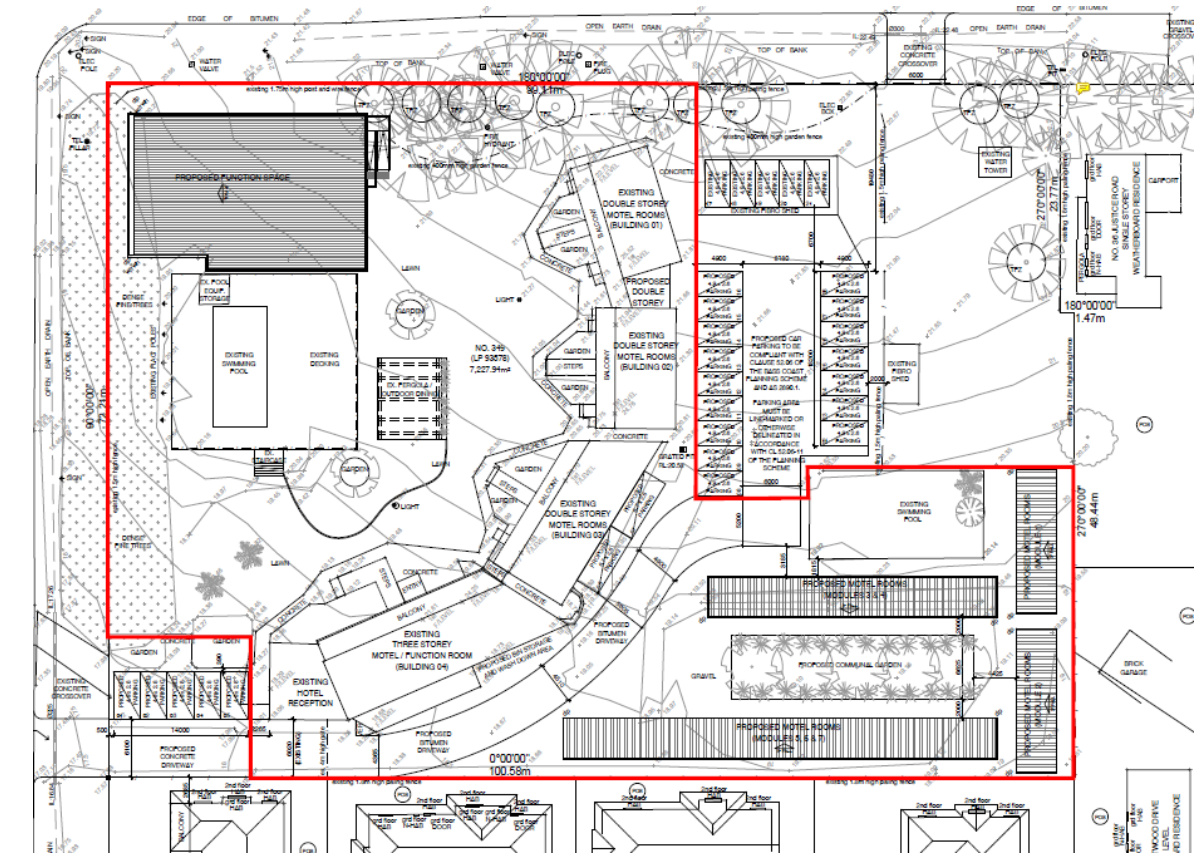


Figure 6 Red Line Plan

Car Parking Reduction

A car parking reduction of 39 spaces is required to be considered which has been applied for as part of the planning application. There is a statutory car parking requirement for 67 car spaces, with only 28 spaces provided on site.

Removal of vegetation

The application also includes the removal of 14 well established trees and 13 smaller shrubs.



Figure 7 Landscape Plan highlighting the trees to be removed

Existing Use Rights – Clause 66.11

Section 68(2)(b) of the Planning and Environment Act 1987 states a use expires if it has been discontinued for more than 2 years. Proving existing use rights is complex and further details are required to prove that the business has been operating as a motel without ceasing for more than 2 years.

Planning officers are not satisfied that existing use of the land for a motel is established from the information submitted pursuant to Clause 63.11 of the Bass Coast Planning Scheme. This will be discussed later in the report.

Existing Use Rights – 97N Certificate

An application has been received for a section 97N. This is a certificate, authorised under the *Planning and Environment Act 1987* that states that an existing use complies with the requirements of the planning scheme at the date of the certificate.

Background

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

Site Dimensions and Area	7227m2 in area (approx.. 99.11m x 72.21m)
Site Frontage	72.21m wide along Church Street road frontage
Topography	Falls to the north
Vegetation Cover	Established vegetation across the north and east boundaries.
Current Use and Development	The site contains an existing motel complex built in the 1950's. The buildings have under gone a recent makeover. Council has concerns as to whether the motel retains 'existing use rights' as defined within

	the Bass Coast Planning Scheme. This will be discussed later in the report. There is a single residence currently under construction in the south east corner of the property. This does not form part of the application and is not shown on the submitted plans.
Easements	No easements registered on title.
Restrictive Covenants and/or Section 173 Agreements	No restrictions registered on title
Aboriginal Cultural Heritage Sensitivity	Not located within an area of cultural sensitivity
Planning Permit History	031014 Develop the land for a motel and associated facilities subdivide the land remove vegetation and reduce car parking requirements 140328 - 8 lot subdivision development of seven (7) dwellings including the removal of vegetation waiver of car parking requirements and ancillary buildings and works was issued 16 June 2015 140328 – 1 - 8 lot subdivision development of seven (7) dwellings including the removal vegetation waiver of car parking requirements and ancillary buildings and works was issued on 6 June, 2017 190385 An application for review is currently before the Victorian Civil and Administrative Tribunal (VCAT) - P1603/2020) for failure to determine planning application

The subject site is located on the south side of Church Street and to the west side of Justice Road. The site currently contains a motel accommodation complex, which includes 24 motel units, manager's residence, 50-seat restaurant, swimming pool and tennis court.

A stand of mature cypress trees is located along the eastern boundary of the site, adjacent to Justice Road. A row of smaller Cypress trees front Church Street within the boundary of Lot 1. There are some exotic trees and a eucalypt located on the southern boundary of the site.

Surrounding the subject site is residential development comprising of generally single detached dwellings on allotments, ranging from single to double storey.



Figure 8 Aerial photo

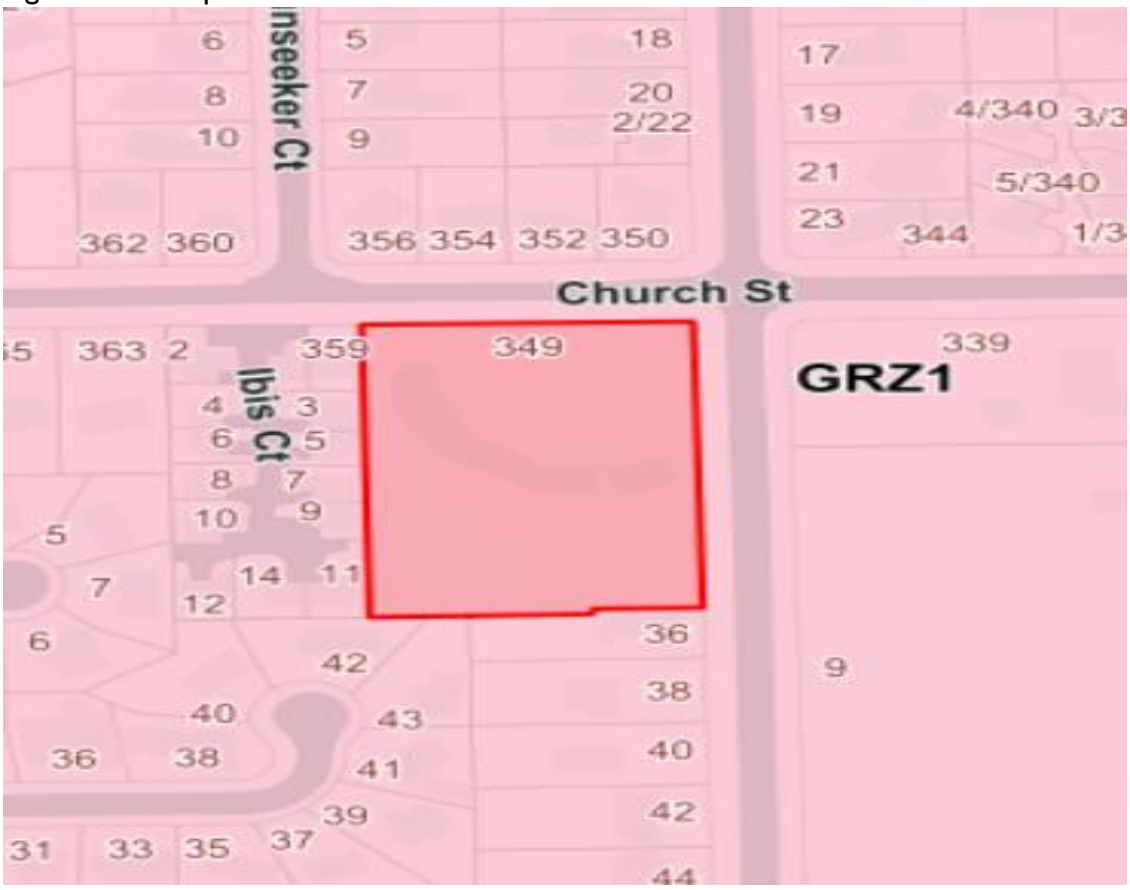


Figure 9 Zoning Map

Consultation

Notice

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

The Applicant gave notice in the following manner:

- Sent copies of the Notice by registered mail to eighty (87) land owners and occupiers;

A copy of each submission is included in Attachment two.

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

Referrals

The following table outlines the referral requirements of this application.

Table two: Referral requirements and their comments

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
Not Applicable	No objection to the application.
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Development Services	Council engineers do not support the initial car parking assessment that only 7 car spaces are required for the original 24 cabins. This will be discussed further in the report The submitted drainage plan is generally supported with no additional information required.

Planning Scheme Provisions

Existing Use Rights

The application submitted to Council is dependent on there being existing use rights being established for the use of the land for a motel. An existing use right occurs when the land is being used in a legal way, either with an approved permit or an approved use where a permit is not required and the planning controls now in place.

Pursuant to Clause 63.11, the protection of existing use rights is lost if the use of the land has stopped for:

- a continuous period of 2 years
- or more periods which together total 2 years in any period of 3 years
- in the case of seasonal use, 2 years in succession.

This is further reinforced under section 68(2)(b) of the Planning and Environment Act 1987 that states a use expires if it has been discontinued for more than 2 years.

Council requested evidence that the subject site retains existing use rights. This was brought about by the discovery that the motel has not been registered with Bass Coast Shire for accommodation and food premises since August 2010. This is a requirement under the *Public Health and Wellbeing Act 2008*.

In relation to an application or proceeding under the Act or the Scheme, including an application for a certificate of compliance under Section 97N of the Act, the extent of any existing use right for a period in excess of 15 years is in question, it is sufficient proof of the establishment of the existing use right if the use has been carried out continuously for 15 years prior to the date of the application or proceeding.

The applicant submitted information, including statutory declarations, from patrons of the business that supports the owner's stance that they have retained existing use rights. This information received does not demonstrate this requirement has been addressed.

Establishing or confirming whether existing use rights are retained plays an important element in this application. The application is not for the use of the land for a motel. The accommodation units proposed are in association with a motel being established. If the motel was established, the car parking reduction allowable would be 15 car spaces. If the motel use is not considered to be established, as the case is in this instance, then the proposal would fall short 30 car spaces of the statutory car parking requirements.

Planning Policy Framework Assessment

Planning Policy Framework

- Clause 11.03-4S Coastal settlement
- Clause 15.01-2S Building Design
- Clause 17.01-1S Diversified economy
- Clause 18.02-4S Car parking

Local Planning Policy Framework

- Clause 21.03-2 Commercial
- Clause 21.03-4 Tourism
- Clause 21.04-1 Environment Overview
- Clause 21.05-4 Design and Built Form
- Clause 21.05-6 Landscape Architecture
- Clause 21.08-5 Cowes & Silverleaves
- Clause 22.01 Stormwater Management Policy

There are a number of provisions within the Planning Policy Framework which are of relevance to this proposal, including Clause 11, 15, and 18. A proposal for additional accommodation units at a motel site are generally supported, but only when there is an established motel where existing use rights are able to be confirmed.

Clause 15.01-2S Building Design's objective is to achieve building design outcomes that contribute positively to the local context and enhance the public realm. The proposed accommodation units are located close to the adjacent south and west side boundary.

The accommodation buildings range from a 450mm to 1900mm from the adjoining property boundaries, which is particularly close when considering the proposal is for a commercial type development in a residential zone.

The proposed function centre is 396m2 in area. The building is setback 2m from the front property boundary and 3m from the east side boundary being located in the north east corner of the property adjacent to the Church Street and Justice Road. The height of the building will be 5m and constructed from black colourbond steel, which doesn't lend itself to blending with the streetscape or neighbourhood character.

Clause 18.02-4S Car parking's objective is to ensure an adequate supply of car parking that is appropriately designed and located. With the reliance on so many car parking spaces on the local road, the amenity of residential area will be severely impacted upon from the effects of road congestion created.

There are a number of provisions within the Local Planning Policy Framework which are of relevance to this proposal, Under Clause 21.05-1, Cowes is recognised as one of the four major population centres within the Shire. Being a coastal settlement it also experiences significant pressure to provide holiday accommodation during the holiday seasons.

The local policy places an emphasis on tourism being the pillar of the Bass Coast economy boundaries. A range of accommodation, eating establishments, and shops contribute to the visitor's experience and to the economy providing local job opportunities, investment, and facilities for residents. There is a growing demand for environmentally sustainable tourism development, and a recent demand for large scale tourism development.

This being said, the application is not for the use of the land for a motel. The application is dependent on the motel as being established, which council officers cannot support.

Clause 21.05-4 Design and Built Form highlight the importance of the municipality's character are not lost through redevelopment. The policy states

> *Where the built form character of an area is established and valued (and the area has not been identified for substantial change), new development should respect this character and add to the overall quality of the urban environment.*

The proposed location of the function centre is not supported. The location is considered to be prominent as it is sited within 2 to 3m from property boundaries where two roads connect. Whilst there are limited opportunities to place a function centre on the site due to the location of the existing buildings and infrastructure, the proposed position is not considered to address the existing residential neighbourhood character.

Clause 21.05-6 Landscape Architecture highlights the importance landscaping plays as part of a development proposal. The expansion of the onsite car park requires the removal of vegetation, together with the siting of the function centre and the location of the accommodation rooms reduce opportunities of landscaping throughout the site.

Zone Assessment

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.*

Pursuant to Clause 32.08-2 of the GRZ1 a permit is required of the use of the land for a function centre (Place of Assembly).

Pursuant to Clause 32.08-9 of the GRZ1, a permit is required for buildings and works in association with a section 2 use.

The proposal is for the development of the land for accommodation associated with an existing Motel use and associated function centre. The development is dependent on the use of the Motel being established, as discussed previously, has not been determined.

Clause 32.08-13 of the General Residential Zone provides Decision Guidelines for which the Responsible Authority needs to consider when assessing planning applications.

As stated previously, the development of the function centre is not considered appropriate in the location. The siting of the function centre is close to the corner of Church Street and Justice Road. It is a large, dominant building located in what is considered to be a prominent position on the allotment. The function space is designed to provide a location for both motel guests and members of the community to attend events for up to 100 patrons.

There is also concern at the noise generated from the venue with bi- fold doors opening up to the west over the outdoor pool and to the south over the subject site towards the accommodation units. Whilst the noise could be mitigated with a requirement to close the door at a certain time in the evening, this would be difficult to enforce and has the potential to significantly impact the neighbouring residences.

The location of the proposed function centre, along with such a significant reduction in car parking is considered to significantly impact the enjoyment of neighbouring residents on their properties.

The proposed development also reduces opportunities for further landscaping. The site is dominated by the location of the existing buildings and infrastructure with in-ground swimming pool, on top of the proposed carpark areas, single dwelling under construction, proposed function centre and proposed accommodation units.

The number of onsite car parking spaces and the position of this insufficient provision of on-site car parking is not considered appropriate. The position of car space 1 is setback only 500mm from the Church Street frontage. This is not supported as there is the risk of the visitor's car parks to be located outside the property line.

A Waste Management Plan was submitted, which states that the rubbish is to be collected via the Council residential garbage pickup. Commercial properties are required to arrange private collection and is not to be reliant on Council collection.

There is also written detail in how the bins area will be kept clean and tidy, however that the location of the bin area is not shown on any of the plans submitted.

As previously stated, the purpose of the land is to encourage development that respects the neighbourhood character of the area. The proposed development is reliant on the use of the land for a motel which is not supported. The proposed development is considered to detrimentally impact the existing neighbourhood character due to the position of the buildings and infrastructure on the subject site.

Overlays

The application triggers the need for a planning permit under the Vegetation Protection Overlay (Schedule 2)

The objectives of the Vegetation Protection Overlay are:

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

Schedule 2 to the Vegetation Protection Overlay applies to the site and broader Phillip Island region and maintains the following vegetation protection objective which states:

"*To protect and enhance existing indigenous and larger native species within the urban area of Phillip Island.".*

A planning permit is required for the removal of 14 trees under the VPO2. The arborist report submitted depicts the trees to be in declining health with a high liability to persons and assets. The trees are dangerous in parts and high risk in others.

The arborist recommends that all cypress trees on the property should be removed. Even though the removal of vegetation is generally supported, Council has concerns regarding the limited landscape opportunities afforded throughout the site due to the extent of building form proposed.

Particular Provisions

Clause 52.06 Car parking

The relevant purpose of Clause 52.06 Car Parking is

'*to ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality*'.

Pursuant to Clause 52.06-5 of the Bass Coast Planning Scheme, the use of the land for a motel requires 1 car space per room plus 50 per cent of the relevant requirement of any ancillary use. The use of the land for a function centre requires 0.3 car spaces to each patron permitted.

As previously stated, the use of the land for a motel has not be established. If the existing accommodation on the site had been assessed as having existing use rights, the car parking requirement for the function centre would total 15 spaces. As the use of the land for a motel has not been satisfactorily determined, 30 spaces are required in accordance with Clause 52.06-5.

Twenty eight (28) spaces have been provided on site for both the existing accommodation building and proposed accommodation together with the function centre. There is a shortfall of 26 spaces on site. The table below demonstrates the number of patron and car parking requirements required under the planning scheme:

Use	Number of Rooms	Number of Patrons	Car Spaces required	Car spaces Provided
Proposed Accommodation Rooms	28		28	21
Function centre		100	15 * 30	
Existing Accommodation Rooms	24		24	7
			54	28

* If there is a motel with existing use rights, the car parking required would total 15 spaces.

The development has proposed 28 car spaces on-site which does not meet the statutory requirement. The applicant is unable to contain the car parking on site without reducing the number of units proposed. The over flow is proposed to be absorbed into the existing road network.

A Transport Impact Assessment prepared by Impact Traffic Engineering Pty Ltd and dated 20 April 2020 (Reference: IMP200225PIA01F01) has provided an assessment and justification for the car parking reduction including a car parking demand assessment as required by the planning scheme.

The report states:

'We expect that the 25 additional spaces will typically be allocated for use by the motel component of the site. Thus, in peak periods (i.e. when motel is fully occupied and function in progress) we can expect a shortfall of up to 18 spaces, including 3 spaces for the motel component and 15 spaces for the ancillary function centre.

It is expected that any surplus parking demand will be taken up on-street in the locality. We understood that parking along the verge is typical in the area (particularly during Summer peak periods), given the lack of parking for beachgoers (located approximately 250 metres walking distance from the subject site).

Based on the foregoing, we expect that the on-street parking resources in the area can be relied upon to take up this additional demand without detriment to the locality'.

Council engineers do not accept this premise and states the traffic management report provided by Impact Traffic Engineering is deeply flawed. The assessment does not address the insufficient on site car parking for the initial 24 motel units. The impact onto the residential streets will be intrusive, especially during peak times - Christmas, Easter and school holidays when the roads are already congested. As mentioned previously in the report, under planning policy Clause 18.02-4S Car parking which requires considerations of the neighbourhoods where development car parking requirements are not met.

The location of the five onsite car spaces adjacent to the Church Street accessway is not supported. The front car parking spaces are positioned 500mm from the property boundary and is rather exposed to the street. There is insufficient room to create a landscape buffer to soften the view from Church Street. In order for Council was to request a suitable landscape buffer, a further reduction of one on-site car park would be required.

Clause 52.34 Bicycle Parking

The development generates a statutory bicycle parking rate one (1) space for motel up to 40 rooms and two (2) spaces for the function centre under 1500m2 in area, which is to be provided on the site in accordance with Planning Scheme requirements. The submitted plans do not demonstrate show the 3 bicycle spaces on the site.

Clause 53.18 Stormwater Management In Urban Development

A concept Stormwater Management Plan has been submitted and reviewed. It is

considered the subject land and proposed development can be satisfactorily drained and that downstream impacts can be satisfactorily managed. Any permit that would be issued will require the submission and endorsement of a detailed Stormwater Management Strategy and an agreement for the ongoing maintenance of on site drainage infrastructure.

Clause 52.27 Licensed premises

The planning application is also for general liquor license. A general license authorises the supply of liquor for consumption both on and off the licensed premises. Any business with appropriate planning permission that wishes to supply alcohol for consumption on the premises, as well as to take away for consumption off the premises. Pubs, hotels and some taverns would normally hold a general license.

Clause 52.17 of the Licensed Premises provisions require the Responsible Authority to consider when assessing licensed premises applications.

The impact of the sale or consumption of liquor permitted by the liquor license within the function centre will impact on the amenity of the surrounding area.

A patron management plan is generally required as a condition of permit for managing licensed premises. With the redline extending across the subject site between the accommodation rooms and the function centre, the management of motel patrons and visitors is considered to be more challenging as the site is situated in a well-established residential neighbourhood .

As the function centre and accommodation rooms are dependent to the motel use being use established, at this stage, a permit for a liquor licence cannot be supported.

Concerns raised by Submitters

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

Theme	Council Officer Response
Car parking Reduction in parking is an issue particularly during peak season. Parking demand not sufficient and reduction in car parking is an issue.	The proposal has been assessed against Clause 52.06 Car Parking of the Bass Coast Planning Scheme; the proposed car reduction is not considered to be to be supported in this instance. The Car Parking Demand Assessment and Traffic Assessment submitted with the application does not account for the needs of the existing 24 motel rooms let along the proposed at 28 rooms. The application that the application fails to demonstrate that a reduction in the car parking will be able to be satisfactorily absorbed into the existing traffic and car parking network. This has been discussed already in the report.
Impact on Native environment	The additional accommodation units together with the proposed function centre is not considered to greatly that impact the native environment. The motel is in a residential area of Cowes adjoining both single and multi-unit developments. Council does not support the removal of the vegetation on site as part for this development approval as previously stated.
Impact on Adjoining properties - light, noise and music	The adjoining neighbours are concerned with the increase in the level of activity with both the function centre and car parks. Lighting along the driveway access and the access to the function centre is via the entrance, which is also of concern. As previously stated, the impacts on the neighbourhood by the use and development of a function centre and additional accommodation units is not supported for reasons outlined previously in this report.
Function Centre – Location on site Bi fold doors Locations Management Noise	The function centre is proposed to be located the in the north east corner adjacent to the Church St and Justice Road. The bi-fold doors open up against the southern side of the building facing into the motel courtyard. Concern by the neighbours include noise management, amplified music, serving of alcohol, potential drunk behaviour by patrons,

	over flow of car parking across the Church St and Justice Road. These concerns have been discussed in the body of the report.
On-street parking impacts	These concerns have been discussed in the body of the report.
Site not been used for 7 years	These concerns have been discussed in the body of the report.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and it is considered that, based on the information provided by the applicant, the application cannot be supported.

The application underwent notification and as a result there were eighteen submissions received of which five objectors are party to the VCAT proceedings. Concerns raised by submitters were considered in the assessment of the application.

It is recommended that Council resolve to refuse planning application on the basis that the proposal has failed to demonstrate that the motel has existing use rights, is an overdevelopment of the site and fails to provide adequate on site car parking for the intended use, and advise the Victorian Civil and Administrative Tribunal of the decision.

Recommendation

That in relation to planning permit application 190385 for the development of the land for accommodation associated with an existing motel use, associated function centre and construction of buildings and works, General liquor license, reduction in car parking and removal of vegetation located at 349-357 Church Street, Cowes, Council resolves to inform the Tribunal that if it had the opportunity to make a decision it would have issued a Notice of Refusal on the following grounds:

1. **The applicant has failed to demonstrate existing use rights in accordance with Cl. 63.01 Existing Use Rights of the Bass Coast Planning Scheme and the application for certificate under section 97N of the P&E Act 1987 is refused.**
2. **The proposal has failed to satisfy clause 52.06 Car parking of the Bass**

Coast Planning Scheme for the following reasons:

a) **The development is inconsistent with the purpose of clause 52.06 car parking**

b) **The development has not provided a sufficient number of car parking spaces in accordance with clause 52.06-5.**

c) **The development has failed to satisfactorily justify the reduction in car parking numbers under clause 52.06-7.**

3. **The reduction in car parking is contrary to Clause 52.06 (Car parking) and creates an unacceptable burden on a neighbouring streets, particularly during the summer season.**
4. **The application is considered to be an over development of the site and is contrary to the objectives of Planning in Victoria as it will not result in a built form outcome suitable to the residential setting.**
5. **The application is contrary to those objectives which seek to ensure that new development respect neighborhood character.**
6. **The proposal for a General Liquor Licence is not supported on the subject site due to any approval enabling packaged liquor to be sold from the premises.**
7. **The proposal is not consistent with the Vegetation Protection Overlay purpose and decision guidelines.**
8. **The submitted plans do not demonstrate compliance with Clause 52.34 Bicycle Parking.**

Attachments

AT-1	Updated Architectural Plans RFI Response - 349-357 Church Street Cowes Failure Number 190385	8 Pages
AT-2	***CONFIDENTIAL*** - Submissions (Pt 1)	73 Pages
AT-3	***CONFIDENTIAL*** - Submissions (Pt 2)	21 Pages

Council Decision

Moved: Cr. Michael Whelan / Seconded: Cr. David Rooks

That the recommendation be adopted.

CARRIED

H.4 Planning Application 200065 - Dwelling extension at 94 Viminaria Road Harmers Haven

File No: **CM21/3**
Division: **Place Making**
Council Plan Strategic Objective: **Our Character**

Celebrating the uniqueness of our townships

Executive Summary

Application number:	200065
Applicant:	Paul Salmon
Land:	94 Viminaria Road Harmers Haven
Proposal	Alteration and extension to an existing dwelling
Planning controls:	Township Zone Design and Development Overlay schedule 1 Bushfire Management Overlay
Planning permit triggers:	Clause 43.02-2 A permit is required for buildings and works with a height of 7m or over.
Notification and submissions:	19 submissions.
Key planning considerations:	Impact on views from the coast. Impact on views from adjacent residential areas to the coast. The impact of development on the coastline.
Recommendation:	To issue a Notice of Decision to grant a planning permit

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 19 objections.

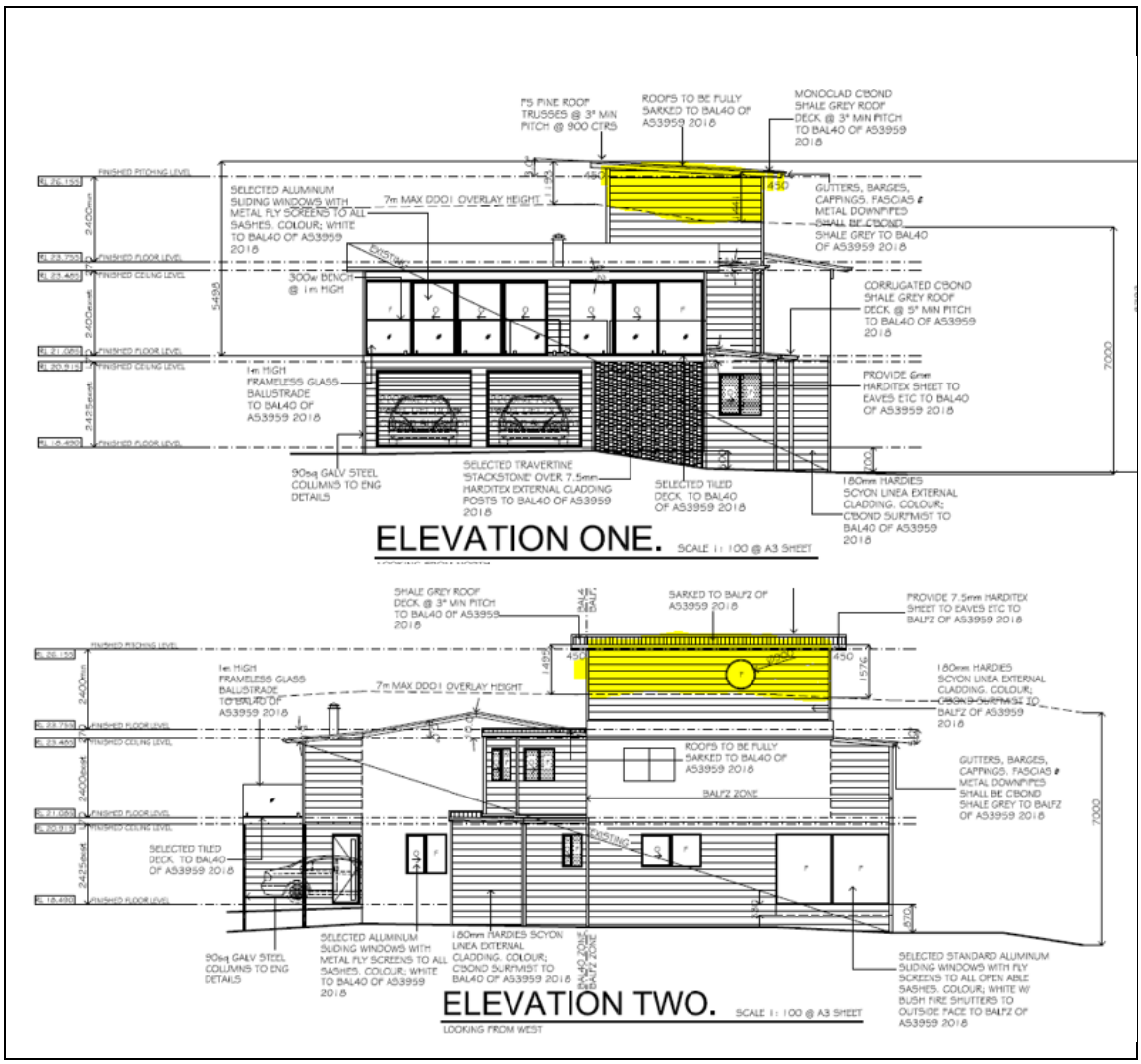
Declaration

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

The Proposal

This application proposes to construct extensions to an existing dwelling at 94 Viminaria Road in accordance with the plans prepared by David Gaskin Designs. The decision plans are provided as Attachment one and are detailed below:

- Revised plans 'additions and alterations' project 080519 dated 08.05.2019 with update stamp 17/11/2020. 11 pages.


F5 PINE ROOF TRUSSES @ 3° MIN PITCH @ 900 CTRS
ROOFS TO BE FULLY SARKED TO BAL40 OF AS3959 2018
MONOCLAD C'BOND SHALE GREY ROOF DECK @ 3° MIN PITCH TO BAL40 OF AS3959 2018
SELECTED ALUMINUM SLIDING WINDOWS WITH METAL FLY SCREENS TO ALL SASHES. COLOUR: WHITE TO BAL40 OF AS3959 2018
7m MAX DDO1 OVERLAY HEIGHT
GUTTERS, BARGES, CAPPINGS, FASCIAS & METAL DOWNPIPES SHALL BE C'BOND SHALE GREY TO BAL40 OF AS3959 2018
300w BENCH @ 1m HIGH
CORRUGATED C'BOND SHALE GREY ROOF DECK @ 5° MIN PITCH TO BAL40 OF AS3959 2018
1m HIGH FRAMELESS GLASS BALUSTRADE TO BAL40 OF AS3959 2018
PROVIDE 6mm HARDITEX SHEET TO EAVES ETC TO BAL40 OF AS3959 2018
90sq GALV STEEL COLUMNS TO ENG DETAILS
SELECTED TRAVERTINE 'STACKSTONE' OVER 7.5mm HARDITEX EXTERNAL CLADDING POSTS TO BAL40 OF AS3959 2018
SELECTED TILED DECK TO BAL40 OF AS3959 2018
180mm HARDIES SCYON LINEA EXTERNAL CLADDING. COLOUR: C'BOND SURFMIST TO BAL40 OF AS3959 2018
ELEVATION ONE. SCALE 1:100 @ A3 SHEET
SHALE GREY ROOF DECK @ 3° MIN PITCH TO BAL40 OF AS3959 2018
SARKED TO BAL12 OF AS3959 2018
PROVIDE 7.5mm HARDITEX SHEET TO EAVES ETC TO BAL12 OF AS3959 2018
1m HIGH FRAMELESS GLASS BALUSTRADE TO BAL40 OF AS3959 2018
7m MAX DDO1 OVERLAY HEIGHT
180mm HARDIES SCYON LINEA EXTERNAL CLADDING. COLOUR: C'BOND SURFMIST TO BAL12 OF AS3959 2018
ROOFS TO BE FULLY SARKED TO BAL40 OF AS3959 2018
GUTTERS, BARGES, CAPPINGS, FASCIAS & METAL DOWNPIPES SHALL BE C'BOND SHALE GREY TO BAL12 OF AS3959 2018
BAL12 ZONE
SELECTED TILED DECK TO BAL40 OF AS3959 2018
90sq GALV STEEL COLUMNS TO ENG DETAILS
SELECTED ALUMINUM SLIDING WINDOWS WITH METAL FLY SCREENS TO ALL SASHES. COLOUR: WHITE TO BAL40 OF AS3959 2018
180mm HARDIES SCYON LINEA EXTERNAL CLADDING. COLOUR: C'BOND SURFMIST TO BAL40 OF AS3959 2018
SELECTED STANDARD ALUMINUM SLIDING WINDOWS WITH FLY SCREENS TO ALL OPEN ABLE SASHES. COLOUR: WHITE W/ BUSH FIRE SHUTTERS TO OUTSIDE FACE TO BAL12 OF AS3959 2018
ELEVATION TWO. SCALE 1:100 @ A3 SHEET
LOOKING FROM WEST

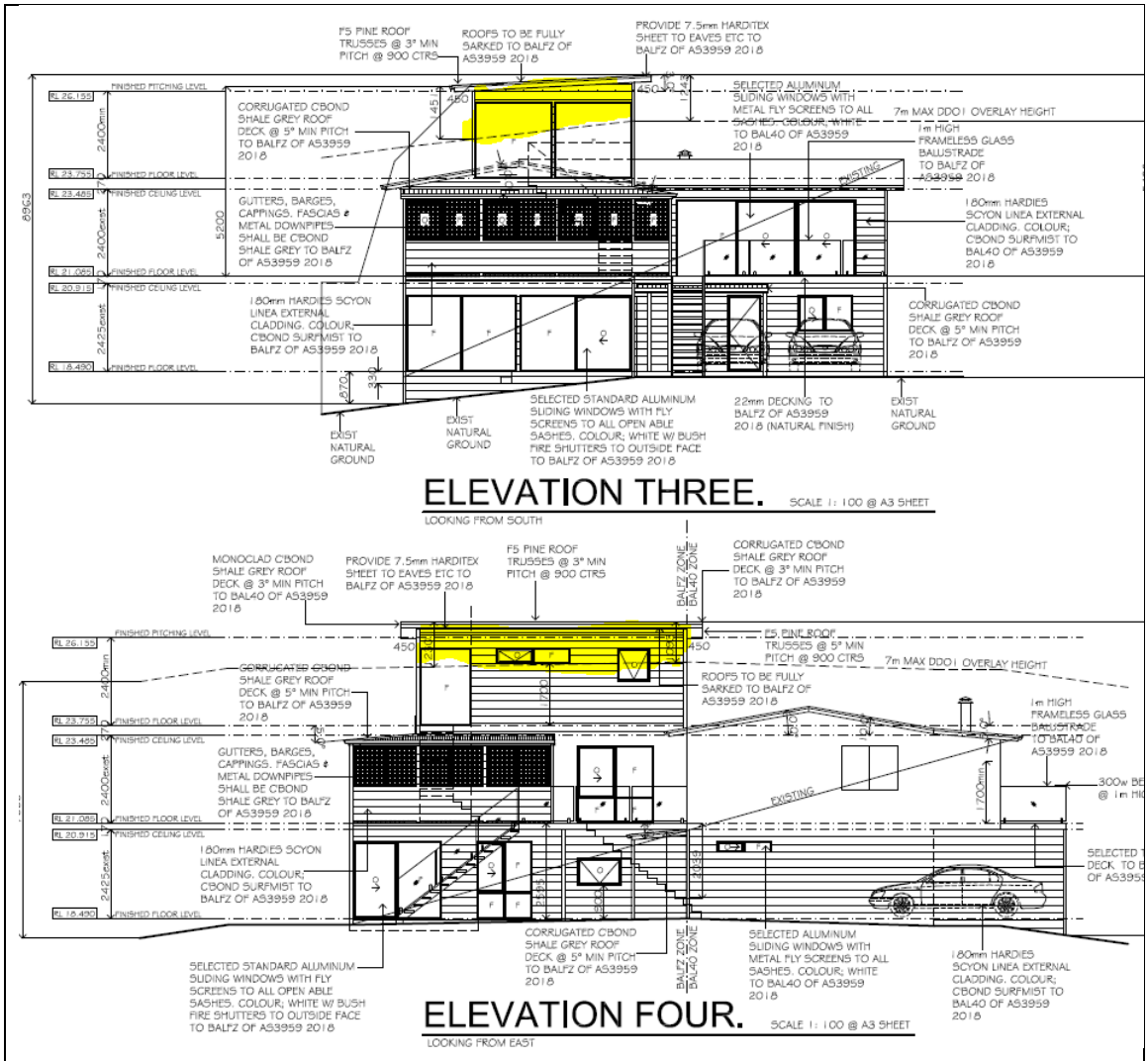


Figure 1 – Proposed elevations

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 and narrow with a north and south boundaries of approximately 16 metres. The east side boundary is approximately 55 metres and shorter than the west at 60m.
Site Frontage	The site fronts Viminaria Road, though dwellings are generally set well back and face away from the road towards an undeveloped southerly outlook. A long informal driveway leads to the house.
Topography	The site drops steeply from 20m AHD at Viminaria Road by 4m and then rises again approximately 40m south of the road to approximately 18m AHD. The subject dwelling and its neighbours perch upon this rise.
Vegetation Cover	The site is heavily vegetated.

Current Use and Development	A single dwelling occupies a southerly rise in the property. It is two storey and well screened by vegetation from the road but in close proximity to neighbouring dwellings.
Easements	An easement for the carriage of drainage and sewer is located in the low middle section of the property. No sewer infrastructure is constructed within the easement.
Restrictive Covenants and/or Section 173 Agreements	There are no restrictions on this property.
Aboriginal Cultural Heritage Sensitivity	The land is within an area of cultural heritage sensitivity however a CHMP is not required.
Planning Permit History	There is no prior planning history.

The main characteristics of the surrounding area are:

North – The land abuts Viminaria Road which is unsealed with dense roadside vegetation. The hinterland on the north side of the road is of a different character with open rural vistas and very large dwellings sited on exposed rises.

South – The property abuts the William Hovell coastal reserve managed by Parks Victoria. Dense native vegetation extends across primary dunes, coastal estuarine waterholes up to and within the properties on the south side of Viminaria Road.

East - the property adjoins 96 Viminaria Road which features a long driveway vegetated with coastal natives and a compact two storey dwelling with hip and gable roofing on the high southern point of the allotment. Properties extend eastward with dwellings sited on high points and the built form varying based on the extent of views.

West– the property adjoins 92 Viminaria Road which features an older two storey dwelling at odd angles with the allotment. Aside from the dwelling the property is vegetated with natives and



Figure 2- Site and Surrounds

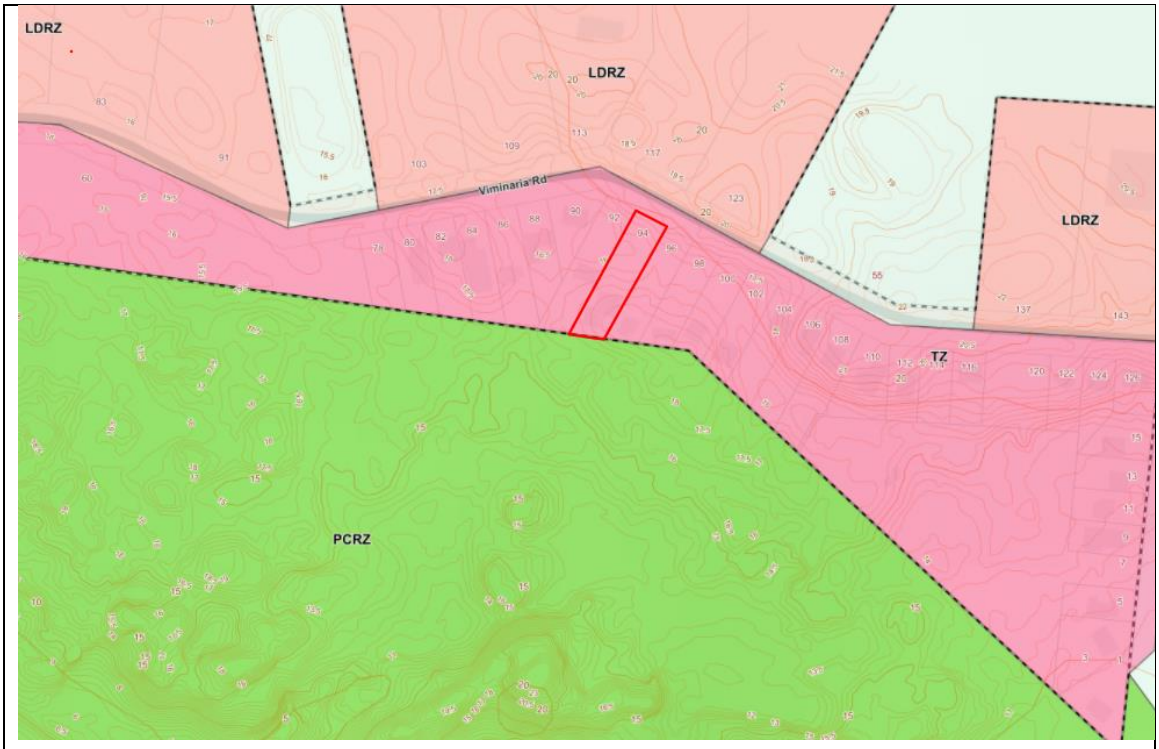


Figure 3 - Zoning Map

Consultation

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

The Applicant gave notice in the following manner:

- Sent copies of the Notice by registered mail to 24 land owners and occupiers of 14 nearby properties; and
- Placed a Notice on the land.

In response to notification the application attracted 20 objections. One objection was withdrawn

A copy of each remaining objection is included in Attachment three.

In response to the objectors, a statement and amended plans were circulated which reduced the proposed heights from 9.4 metres to 8.79 metres were circulated to the objecting parties. The amended drawings also included a substantial reduction of the effluent dispersal envelope from 180m2 spread across the property frontage to 150m2 concentrated in the clearing around the existing dwelling.

The proposed reduction in height of the third storey was not so substantial a change as to warrant the formal re-advertising of the application.

Referrals

The following table outlines the referral requirements of this application.

Table two: Referral Authorities and their comments

Referral Authority	Comments
External (Section 52 of the *Planning and Environment Act 1987*)	
Country Fire Authority	Did not object to the proposal and provided the development did not conflict with the policy at clause 13.02.
Parks Victoria and the Department of Environment, Land, Water and Planning	In a joint response the DELWP and Parks Victoria did not object to the proposal provided a suite of conditions were applied.
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Environmental Health	Environmental health have issued a septic permit on the basis of a 4 bedroom dwelling.

Planning Scheme Provisions

The relevant Planning Policy Framework clauses are as follows:

11.03-4S Coastal Settlement

11.03-5S Distinctive areas and landscapes

12.04-3S Biodiversity Conservation and habitat protection

12.05-2S Landscapes

13.02-1S Bushfire planning

14.02-2S Water quality

15.01-2S Building Design

15.01-5S Neighbourhoood Character

21.04-5 Environmental Hazards

21.05-2 and 3 Character areas

21.05-4 Design and built form

21.05-6 Landscape architecture

21.09-15 Harmers Haven

Response to the planning policy framework

Design

Harmers Haven contains an eclectic mix of dwelling design with no appreciable architectural style and mostly two storeys. There is a consistent theme in siting with dwellings generally located on the highest part of the property. There are few fences and ancillary structures such as sheds. Garages are either non-existing or integrated into the dwellings themselves. The proposal provides for the improvement of existing housing stock in an established and appropriately zoned area. This is consistent with clauses 11.03-4S, 11.03-5S and 21.09-15 which encourage urban uses to be concentrated within established township boundaries.

The works which comprise of a rearrangement and minor extension to an existing building are almost entirely within the existing development footprint minimises the disturbance to soil and retains the existing pattern of development siting and is considered to be consistent with Clauses 12.04-3S, 12.05-2S and 15.01-5S. The retention of substantial vegetation between the road frontage and the property and the proposed works also contribute to a positive response to the public realm which can be secured through this application also contribute to a positive outcome.

The 34m2 amended third storey component is positioned well inside the building envelope and on the south which minimises interference with northerly solar access to adjoining properties, with a narrow exposure to views on the north and south of only 4.4m. It is considered that the design and impact of the proposed third storey is not so inconsistent with the with policy framework as to make it unworkable within the setting.

The third storey component was considered against the guidelines and found to be acceptable in the landscape context. Clauses 12.05-2S, 15.01-2S, 21.05-2, 21,05-4 and 21.05-6 call for development that is subordinate to, settled within, and that do not dominate the landscape.

Environment

The decline and fragmentation of indigenous vegetation and loss of biodiversity is a major environmental issue in the Shire, and a contributing factor towards other land and water degradation issues. Habitat protection and enhancement is a high priority, including minimising changes in drainage, minimising soil disturbance, retaining top soil wherever practical, and retaining habitat trees.

The township areas of Harmers Haven are not affected by any planning controls which identify vegetation as being significant or that prevent the removal, destruction or lopping of vegetation within township boundaries. Protection of vegetation is further limited by the effect of Clause 52.12-1 and subsequently by Clause 52.12-5 (Bushfire Protection exemptions).

It is considered that the proposal is generally consistent with 12.04-3S by restricting impacts on the reserve from adjoining residential uses and containing urban development to urban areas. The improvement of the effluent system will also result in managing environmental impacts while facilitating appropriate use of the land.

Risks

Harmers Haven has been identified as an area threatened by bushfire and the Bushfire Management Overlay applies to all residential land in the township. The township is a single access, remote community and is located within a bushfire prone coastal environment. The proposal did not trigger a planning permit under the provisions of the Bushfire Management Overlay as the proposed additions were less than 50% of the gross area of the dwelling, however - in response to the bushfire risk and in balancing the characteristics of Viminaria Road, the applicant has prepared a Bushfire Management Plan for the property. The Country Fire Authority assisted with the assessment of the application noting some deficiencies however supporting the implementation of a Bushfire Management Plan which is normally only a requirement of development triggered by the BMO.

Summary of policy response

Overall and on balancing the policies of the Bass Coast Shire Planning Scheme – the proposal is considered to meet the policy objectives of improving the quality, safety and environmental impact of existing residential building stock through improved waste water management, and a higher level of bushfire resistant construction and preparedness. The third storey is considered to be acceptable substantially due to the preservation of sufficient vegetation that ensures the extension will not significantly change the visual impact of development on the natural landscapes and valued features.

Zone Assessment

Township Zone.

This application does not trigger a planning permit under the zone however the Township Zone stipulates certain requirements that a proposal must comply with and these are addressed below:

The application is consistent with the objectives and decision guidelines of the township zone as:

1. The proposed dwelling can comply with the requirements of Clause 32.05-3 in particular the treatment of waste in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
2. The proposed extensions are within the exempted height and dimension parameters of standard A4 of Clause 54.03-2. The maximum height does not exceed 9m and the change of height is graduated between this building and adjoining buildings.

Overlay Assessments

The Bushfire Management Overlay

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

The Design and Development Overlay – Schedule 1

The application triggers the need for a planning permit under clause 43.02-2 Buildings and Works of the Design and Development Overlay.

The purpose of the overlay is to identify areas which are affected by specific requirements relating to the design and built form of new development and schedule 1 Residential areas near the coast has the following design objectives:

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

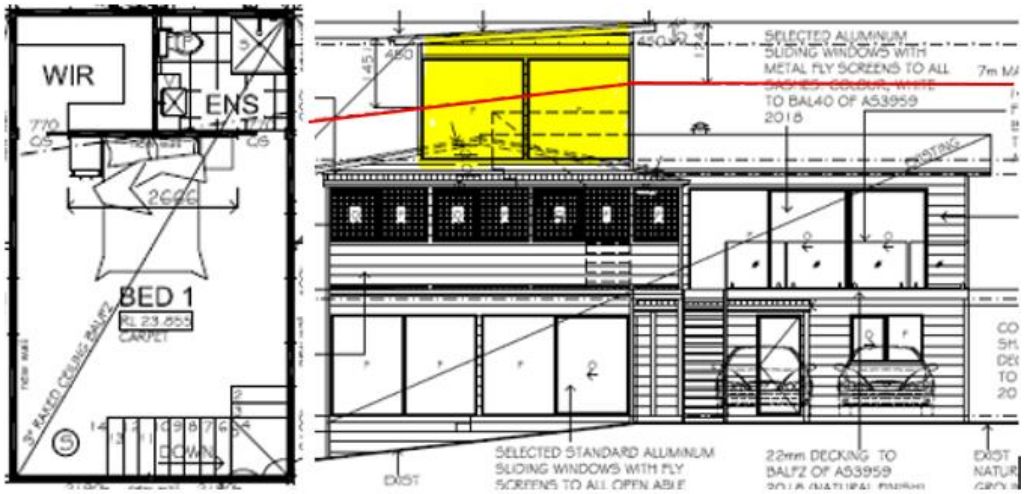
It is a permit requirement (but not a trigger) that all buildings and works must be located and constructed so as to retain as much as possible existing native vegetation on the site. The proponent must justify the removal of any native vegetation.

Built form

The existing building and its associated works occupy the high southerly point of the allotment. The proposed works include a substantial renovation of the existing beach house including larger open living areas and an additional room. The overall size of the dwelling is increased only in length from 17.745 metres to 19.535 metres largely resulting from a north facing balcony and integrated enclosed garage beneath.

It is significant that the bulk of the construction proposed occurs well beneath the seven metre permit trigger of the design and development overlay by infilling much of the underground area and for the most part working within the existing footprint of the dwelling. The construction works for the dwelling would require minimal vegetation removal.

The element of the proposal exceeding seven metres in height comprises a single master bedroom perched in a box like addition atop the existing two storey structure and whether or not the addition is significant enough to have an impact on views to and from the coastline, whether development on the coastline is still minimised were the proposal to be implemented and whether the visual amenity and landscape of the coastal area is detrimentally affected.



The decision guidelines of Schedule 1 Residental areas near the coast were considered in the assessment of the proposal in conjunction with two inspections of the site and the context conducted.

The deisgn, form and material choices were generally consistent with existing development in Harmers Haven consisting of Colorbond surfmist, and shale grey roofing which is appropriate to the coastal setting, particularly for portions of buildings which may breach the canopy line. The roofline was complimentary to the natural ground level and flattened to reduce reflectivity.

The existing dwelling was unable to be identified from the waters edge and only a small number of rooflines and window panes were visible from the informal tracks and the trailhead. It was considered that the third storey of the dwelling was likely to project above the existing coastal canopy, but was of a size and scale that would not dominate the urban edge of Harmers Haven or supercede the natural vista of the William Hovell Reserve.

Landscaping

The proposal was lodged with a landscape plan indicating an intention to remove almost all the vegetation on the property. The justification for this was to provide sufficient space for the treatment of wastewater generated by the dwelling.

It was considered that the extent of vegetation removal was an unacceptable outcome in the context of the design response as there was a need for vegetated screening and the retention of existing taller trees to justify and settle any third storey extension on the dwelling. An amended effluent field was negotiated with the applicant to reduce the areas of removal and a threaded effluent dispersal system was proposed to avoid the need to remove existing larger trees from within the dispersal field areas.

A landscape plan is a recommended condition to ensure that vegetation is planted and maintained.

Concerns raised by Submitters

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

Submitter Theme	Council Officer Response
Inconsistent with Councils guidelines for mainland small coastal towns.	This brochure produced in 2015 is not referenced in the Bass Coast Planning Scheme and bears no statutory weight to a decision on this proposal.
Excessive height	Consideration of the overall height in relation to the Design and Development Overlay Schedule 1 has been provided in the body of this report.
Vegetation loss	A permit is not required to remove or destroy vegetation on this property. Throughout the application process, the amount of vegetation proposed to be removed has been substantially reduced. Should a permit issue, the applicant will be required to prepare a landscape plan which would form part of the permit.
Setting a precedent	The recommendation is based on an assessment of the particular site, the context and a balancing of the policies in the Bass Coast Planning Scheme. Any development in Harmers Haven will be considered upon its individual merits.
Visibility from the coast, walking trails and Viminaria Road	Visibility of the third storey is unlikely from the accessible portions of the beach at low or high tide or from the approximate locations of a potential 'coastal walk.' Where a protrusion may be spotted it is not considered that this would be significant in the context of the landscape setting. The proposal is not considered to create a visual impact equivalent to those dwellings on the west side of Harmers Haven. The impact on the amenity of 'other' trails which may have been formed cannot be properly considered. Parks Victoria and the Department of Environment Land Water and Planning have not objected to the proposal.
Overlooking, overshadowing and the provisions of Clause 54 (rescode)	With the exception of Clause 54.03-2 (Building Height) the provisions of Clause 54 (rescode) are not relevant to an application triggered by schedule 1 of the Design and Development Overlay.
Lack of information made available by council	The information made available on councils website during the notice period was relevant to the key planning issues of the proposal and is in accordance with the requirements of the *Planning and Environment Act*.
Effluent and waste management, errors in report and impact from waste on environment	The Land Capability Assessment and proposed waste management system were referred to Councils Health team for review. Agreement has been sought with the applicant to reduce the size of the effluent fields, implementing a secondary treatment system and reducing the number of bedrooms of the dwelling. Subject to these alterations it is considered that waste water can be adequately treated onsite in accordance with EPA requirements.
Removal of foreshore vegetation	The removal of foreshore vegetation is not supported and the recommended conditions would prohibit any such removal.

Inconsistent with the Bass Coast Strategic Coastal Planning Framework	The Bass Coast Strategic Coastal Planning Framework is a reference document pursuant to Clause 21.10 of the Planning Scheme. The document contains a number of guidelines for development. The proposal is assessed as generally consistent with these requirements.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to achieve an adequate balance of State and Council Policy.

The application underwent notification and as a result there were 19 objections received. Concerns raised by objectors 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 200065, subject to the following conditions.

Recommendation

That in relation to planning permit application 200065 for alterations and additions to a dwelling affected by the design and development overlay located at 94 Viminaria Road, Council resolves to issue a Notice of Decision to Grant a Permit subject to the following conditions:

1. **Before the development commences, amended and new plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plan suite prepared by David Gaskin Design dated 17.11.2020 but modified to show:**
    a. **Amended elevations indicating a BAL rating of FZ to all parts of the dwelling;**
    b. **A schedule of external materials, finishes and colours incorporating colour samples;**
    c. **Identification of all trees and areas of vegetation requiring removal to the minimum extent necessary for the BMP and effluent dispersal areas.**
    d. **Amended BMP illustrating:**
        I. **a reduction of the nominated defendable space on the north side from 30m to 11m or the property boundary – whichever is closer;**
        II. **annotation of BAL FZ to all parts of the dwelling;**
        III. **The location of the static water supply demonstrating that the supply is above the outlet valve;**
    e. **A landscape plan as required by condition 2.**

2. **Prior to the commencement of the development, a landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. The plan must be drawn to scale with dimensions and must generally accord with the site plans prepared by David Gaskin Design dated 17.11.2020 including:**
   a) **The area of managed defendable space;**
   b) **Areas of effluent dispersal;**
   c) **a survey (including botanical names) of all existing native vegetation to be retained and weeds to be removed;**
   d) **buildings and trees (including botanical names) on neighbouring properties within three metres of the proposed works and means of protection of that vegetation;**
   e) **details of surface finishes of pathways and driveways;**
   f) **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;**
   g) **at least one (1) tall tree located in an appropriate position against the southern boundary and replacement planting of one (1) tall tree for each tree removed to facilitate the works located on the north and outside of the 11m defendable space.**
   h) **only the use of plant species indigenous to the locality;**

All species selected must be to the satisfaction of the responsible authority from EVC48 heathy woodland.

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

3. **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.**
4. **Prior to the issue of an Occupancy Permit or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.**

DELWP Conditions

5. **Removal of native vegetation within the adjacent Kilcunda-Harmers Haven Coastal Reserve (Yallock-Bulluk Marine and Coastal Park) is not permitted without written permission of Parks Victoria.**
6. **The proponent shall carry out a detailed survey to determine and mark the title boundaries to ensure that there is no removal of native vegetation within the adjacent Kilcunda-Harmers Haven Coastal Reserve (Yallock-Bulluk Marine and Coastal Park).**
7. **The adjoining Kilcunda-Harmers Haven Coastal Reserve must not be used for turning areas, parking areas, temporary stack sites or any other unauthorised uses during the construction or works.**

HEALTH conditions

8. **Sewage, sullage and other liquid wastes to arise from the development shall be treated and retained on site by a septic tank system in accordance with the requirements of the Environment Protection Act 1970, the Guidelines for Environmental Management: Code of Practice – Onsite Wastewater Management 891.4 (2016) and the Responsible Authority.**
9. **No buildings or works shall occur over any part of the approved waste disposal system including the septic tank in accordance with the requirements of the Environment Protection Act 1970, the Guidelines for Environmental Management: Code of Practice – Onsite Wastewater Management 891.4 (2016) and the Responsible Authority.**
10. **Stormwater from the proposed dwelling/outbuilding must not be permitted to enter the septic tank system, sand filter and disposal field.**
11. **Naturally occurring stormwater must be diverted away from effluent disposal fields to the satisfaction of the responsible authority.**
12. **Proposed works must be set back from the current septic system (including the tank and effluent disposal areas) in accordance with the standard set back distances detailed in the EPA Guidelines for Environmental Management Code of Practice – Onsite Wastewater Management (Publication 891.4).**
13. **An EPA approved secondary wastewater treatment system that provides a 20/30 standard of effluent must be installed to the satisfaction of the responsible authority.**
14. **The existing septic tank must be decommissioned by a licensed plumber – specifically the septic tank must be desludged, the base broken and filled with solid inert material.**
15. **Prior to the commencement of construction of the dwelling or shed, an Application for a Permit to Install a septic tank system must be submitted and approved by Council prior to any installation.**
16. **All works and development associated with this permit must be carried out in line with the Land Capability Assessment and Septic System design 19084 for four bedrooms with a 150m2 effluent dispersal area prepared by dbm Geotech 20 January 2020;**
17. **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.**

18. The development must be managed during construction so that the amenity of the area is not detrimentally affected through the:

a) transport of materials, goods or commodities to or from the land.

b) appearance of any building, works or materials.

c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, litter, dust, waste water, waste products, grit or oil.

d) presence of vermin or animals.

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

a. The development is not started within two years of the date of this permit;

b. The development is not completed within four years of the date of this permit;

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

Notes:

Clause 54 (rescode) was not assessed for this proposal.

Attachments

AT-1	Updated design plans for 94 Viminaria Road Harmers Haven 200065	7 Pages
AT-2	Draft BMP for 94 Viminaria Road Harmers Haven 200065	1 Page
AT-3	***CONFIDENTIAL*** - Submissions	58 Pages
AT-4	LAND Capability Assessment Application for Planning Permit 94 Viminaria Rd Harmers Haven Number 200065	20 Pages

Council Decision

Moved: Cr. Leticia Laing / Seconded: Cr. Bruce Kent

That the recommendation be adopted.

CARRIED

H.5 Planning Application 200257 - Two lot subdivision 3 McCauley View Dalyston

File No: **CM21/11**
Division: **Place Making**
Council Plan Strategic Objective: **Liveability**

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Executive Summary

Application number:	200257
Applicant:	Ben Wilson
Land:	3 McCauley View Dalyston, Lot 38 on Plan of Subdivision 823717N
Proposal:	Two lot subdivision
Planning controls:	Clause 32.05 Township Zone
Planning permit triggers:	Clause 32.05-5 a permit is required to subdivide land
Notification and submissions:	16 submissions
Key planning considerations:	Orderly planning Infill development Urban consolidation, diversity and affordability Neighbourhood character Sustainable development
Recommendation:	Notice of Decision to grant a permit

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 16 submissions comprising 14 objections and two in support of the development.

In addition, the application has been called in by a Councillor.

Declaration

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

The Proposal

This application proposes a two lot subdivision in accordance with *Proposed Plan of Subdivision* drawn by Brosnan Engineering Solutions dated 17 July 2020 Revision A Reference 20033. The decision plans are provided as Attachment one and are detailed below:

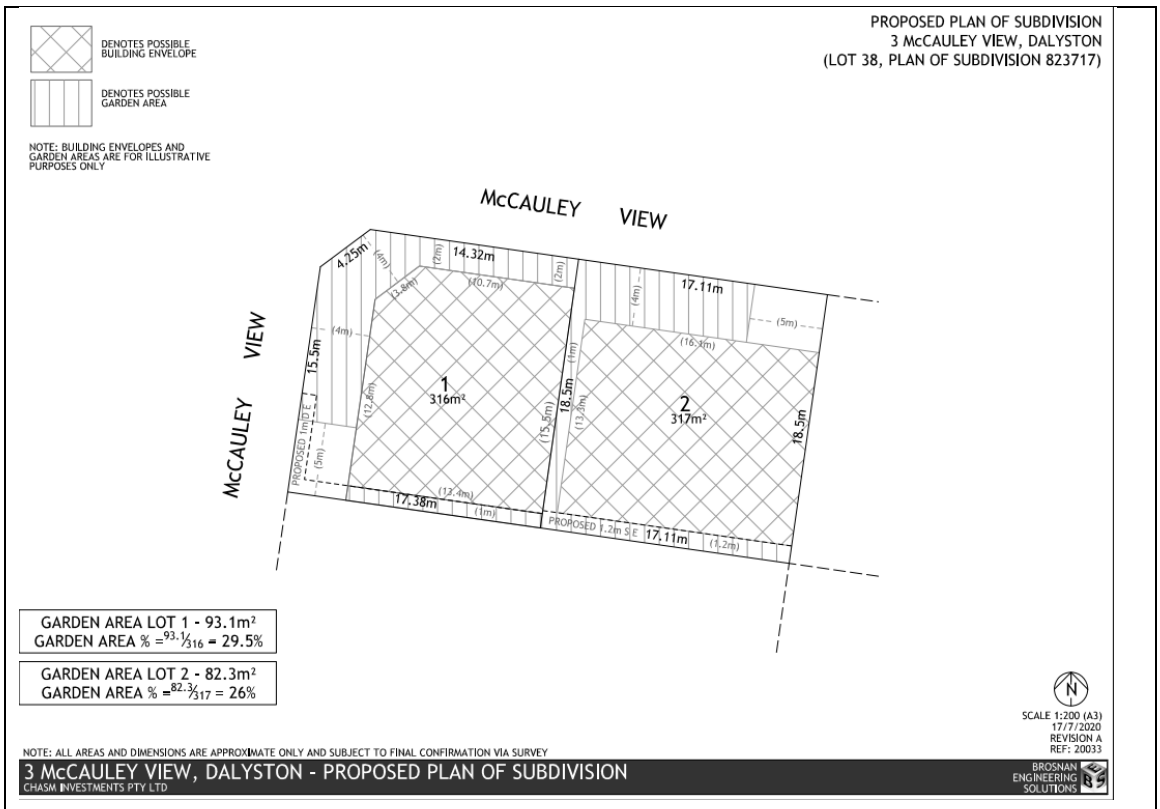


Figure 1 - Proposed Plans

Lot 1: 316 square metres with access from the western side of McCauley View.

Lot 2: 317 square metres with access from the northern side of McCauley View.

Background

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

Site Dimensions and Area	The 633 square metre corner allotment is rectangular in shape with the north boundary fronting McCauley View measuring 31.43 meters. The southern boundary measures 34.49 meters. The west boundary measures 15.50 meters.
Site Frontage	15.5 metres with a 4.25 metre splay on the north west corner.
Topography	Flat.
Vegetation Cover	No vegetation.
Current Use and Development	Vacant residential land.
Easements	No easements.
Restrictive Covenants and/or Section 173 Agreements	Section 173 Agreement AH801579P in relation to provision of roads, footpaths and a playground required in accordance with Permit 090658. Section 173 Agreement AJ775515Q in relation to drainage and water sensitive urban design obligations in accordance with Permit 090658.

Aboriginal Cultural Heritage Sensitivity	Yes (part). However the development is exempt from the requirement to prepare a Cultural Heritage Management Plan.
Planning Permit History	Planning Permit 090658 issued 2 June 2011 allowing for a staged subdivision of land into 145 lots. The subject land is included in the now completed Stage 5 of the subdivision.

The subject site is a corner allotment located at 3 McCauley View Dalyston on the western extent of the Dalyston settlement boundary. The main characteristics of the surrounding area are:

- North – on the opposite side of the road to the subject site are 6, 8 and 10 McCauley View that are vacant residential allotments with areas of approximately 600 square metres. A building permit has issued for a single dwelling at number 6.
- South – adjoining the subject site is 5 McCauley View that is vacant residential land with an approximate area of 600 square metres.
- East – adjoining the site is 28 McRae Drive that is vacant residential land with an approximate area of 600 square metres.
- West – 50 Cloverdale Road is a large agricultural parcel that is outside the Dalyston settlement boundary.

The subject site shown in **figure 2** is located within the defined settlement boundary of Dalyston on the northern side of the Bass Highway within Stage 5 of the Cloverdale Estate subdivision which has recently been completed. McCauley View is a sealed road, with constructed kerb and channel, underground drainage, footpaths and concrete crossovers. Two further stages in the 145 lot subdivision are yet to be completed.

Land uses in Dalyston are predominantly residential with some recreation and community facilities and a small commercial area. **Figure 2** clearly identifies a singular typology of single dwelling lots and undeveloped residential lots with areas of between 500 and 700 square metres prevailing.



Figure 2- Site and Surrounds Source Intramaps

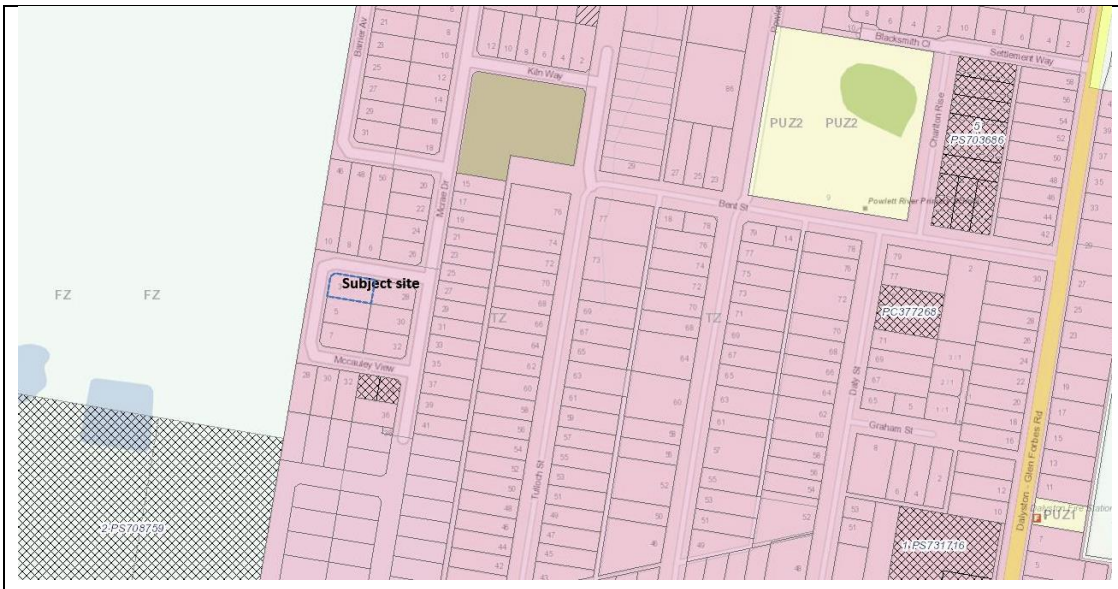


Figure 3 - Zoning Map Source: VicPlan

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

In response to notification the application attracted 16 submissions consisting of 14 objections and two in support of the development.

A copy of each submission is included in Attachment two.

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

The applicant did not provide a written response to submissions.

Referrals

The following table outlines the referral requirements of this application.

Table two: Referral Authorities and their comments

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
	The application was not required to be referred externally. The Bass Coast Planning Scheme provides mandatory conditions for subdivision that must 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	Referred for advice on drainage and access. No objection subject to conditions.

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

- Clause 11.01-1S Settlement
- Clause 11.01-1R Settlement – Gippsland
- Clause 11.02-1S Supply of urban land
- Clause 15.01-3 Subdivision design
- Clause 15.01-5S Neighbourhood character
- Clause 15.02-1S Energy and resource efficiency

The relevant Local Planning Policy Framework clauses are as follows:

- Clause 21.02-1 Growth of Towns (Dalyston)
- Clause 21.02-2 Housing
- Clause 21.09-6 Low growth settlements, Dalyston
- Clause 22.01 Stormwater management policy

The intention of policies relevant to this application include ensuring sufficient land supply to match demand, promotion of urban consolidation to maximise use of available infrastructure, diversity of housing choice and affordability. These intentions need to be balanced with neighbourhood character objectives.

This proposal is consistent with state policy in relation to subdivision design and neighbourhood character objectives and strategies at clauses 15.01-3 and 15.01-5S. The proposal provides for two small lots that are not typical in this estate and this in turn will contribute to the emerging neighbourhood character of the area and provide a typology that is somewhat missing. The development will complement the urban structure and will maximise the use of existing infrastructure without compromise.

Land use, housing and settlement objectives and strategies stated in local policy at clauses 21.02-1, 21.02-2 and 21.09-6 provide local context to state policy and are expected to be used to guide planning decisions. In relation to this application increased densities through infill development within a defined settlement boundary of appropriately zoned land are encouraged.

Local policy at Clause 21.09-6 illustrates the *Dalyston Strategic Framework Plan*. The subject land is located in the area identified as 'Proposed Growth Area' showing that growth in that area is planned for, anticipated and expected.

Zone Assessment

Township Zone

The application triggers the need for a planning permit under Clause 32.05-5 Subdivision, as a permit is required to subdivide land.

The purpose of the Township Zone is:

- 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.

An application to subdivide land must meet the requirements of Clause 56 and:

- Must meet all of the objectives included in the relevant clauses.
- Should meet all of the standards included in the relevant clauses.

The application is consistent with the purpose of the Township Zone as it implements state and local planning policy frameworks and provides for residential development that respects existing and contributes to the emerging neighbourhood character of the Dalyston township. The zone purpose does not seek to limit residential development.

The application is consistent with the decision guidelines of the Township Zone that Council must consider before deciding on an application. In particular, the subdivision is entirely compliant with the relevant objectives and standards of Clause 56 that are discussed in the following section of this report.

Clause 56 Residential Subdivision

Clause 56.03 Liveable and Sustainable Communities

Clause 56.03-5 Neighbourhood character

It is the objective of this clause to *'design subdivision that responds to neighbourhood character'*.

The site is vacant as are most lots in this recently completed stage of the approved 145 lot subdivision. The character of the area comprises a single typology of 500 to 700 square metre residential lots. Planning is to balance urban consolidation within settlement boundaries and housing choice and diversity with neighbourhood character. Neighbourhood character is not *'more of the same'*.

In consideration of this objective, Planning is to ensure the neighbourhood character is consistent with a range of housing outcomes including medium and higher density in areas identified for increased housing as is the case here and clearly identified in the Wonthaggi and Dalyston Structure Plan. The site is in an area where residential growth has been anticipated and is planned for.

This proposed small subdivision will result in one additional lot and will improve neighbourhood character by adding diversity, choice and affordability to meet the needs of all in the community and it is considered that the proposal complies with the objective and standards.

Clause 56.04 Lot Design

Clause 56.04-2 Lot area and building envelope objective

It is the objective of this clause, *'To provide lots with areas and dimensions that enable the appropriate siting and construction of a dwelling, solar access, private open space, vehicle access and parking, water management, easements and the retention of significant vegetation and site features.*'

The lots proposed have areas of 316 and 317 square metres and submitted plans show building envelopment in excess of the required 10 by 15 metres to enable appropriate siting and construction of a dwelling. It is entirely possible to site and construct a dwelling with adequate solar access, private open space and infrastructure to comply with the objective and standards.

Clause 56.04-3 Solar orientation to lots

It is the objective of this clause, '*to provide good solar orientation of lots and solar access for future dwellings'*.

The dimensions of the lots are adequate to protect north solar access to any subsequent dwellings constructed.

Clause 56.06 Access and Mobility Management

Clause 56.06-8 Lot access

It is the objective of this clause as relevant to the application, *'to provide safe vehicle access between roads and lots'*.

Submitted plans identify access to Lot 1 from an existing crossover on the western side of McCauley View and access to Lot 2 from new crossover on the north end of McCauley View. Access is in accordance with Council requirements. Roads and footpaths are constructed and of a standard to accommodate the proposed subdivision.

It is considered that the proposal complies with the objectives and standards.

Clause 56.07 Integrated Water Management

The relevant objectives of this clause are concerned with supply of drinking water and wastewater and stormwater management.

The proposal complies with Council requirements and mandatory subdivision conditions including agreements on titles will ensure matters in relation to design, construction, provision and management can be satisfactorily met.

It is considered that the proposal complies with the relevant objectives and standards.

Clause 56.08 Site management

The objectives of this clause relate to protection of drainage infrastructure and the surrounding area prior to and during construction of subdivision works so as not to cause nuisance.

It is considered that the proposal can comply with the relevant objectives and standards and any permit that issued would include conditions to ensure works did not affect the amenity of the area, interfere with infrastructure or cause nuisance.

Clause 56.09 Utilities

The objectives of this clause relate to shared trenching opportunities for reticulated utility services and provision of same.

It is considered that the proposal complies with relevant objectives and standards and mandatory permit conditions and agreements can satisfactorily be provided and utilities arranged.

The proposal is considered to have satisfied all objectives, standards and decision guidelines of Clause 56.

Particular Provisions

Clause 53.01 Public Open Space Contribution

The application is exempt from the requirement to make a contribution to the council for public open space as it proposes a two lot subdivision and it is unlikely that the lot will be further subdivided.

Concerns raised by Submitters

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

Theme	Council Officer Response
Overdevelopment/intensification	The application proposes two lots; 316 and 317 square metres that are of adequate dimension to facilitate housing that can be appropriately sited and constructed subject to building regulations. This application has not been assessed for dwellings and future development (dwellings), while anticipated, would need to meet building regulations and standards. The subdivision is within the defined settlement boundary of Dalyston where additional residential growth has been planned and anticipated as illustrated in the *Dalyston Structure Plan* (Clause 21.09-6).

	The lot is a corner site with one access on each street frontage and there will be no unreasonable impact on existing infrastructure. The two 300 square metre lots are not considered to significantly increase housing density with just one additional house at some point in the future. The proposal is entirely consistent with local planning policy where infill development in Dalyston is encouraged within the settlement boundary. The Township Zone and ResCode objectives support the proposal and there are no impediments within the planning scheme such that this development would be prohibited.
Neighbourhood character	It is acknowledged that neighbourhood character is emerging in this largely vacant Stage 5 of the Cloverdale Estate. Streetscape character is not compromised, there is no vegetation proposed for removal and the addition of diversity in lot size (and one additional dwelling) will contribute positively to the character of the area. It is not considered that the addition of one dwelling will not negatively impact neighbourhood character.
Amenity – future dwellings	Overlooking The application is for subdivision only, not development. Any subsequent dwelling on either lot would be required to meet the requirements of the Building Code in relation to siting and construction.
Traffic	Several submissions suggested that there would be unreasonable traffic impacts including that safety for pedestrians and other road users would be compromised. Concerns that there would be increases in traffic volume not in keeping with residential areas were also raised. One submission was concerned that traffic noise would affect amenity. McCauley View has been designed and constructed to comply with Council's Infrastructure Design Manual and comprise two sealed lanes. There are well designed footpaths on both sides of the road ensuring safety for users. The application proposes one additional lot and it is not considered that there would be an unreasonable increase in traffic volume (or noise) in the area such that the street network was not designed and constructed to accommodate.
On-street parking impacts	The application is for a two lot subdivision only and proposes a new crossover to the proposed new Lot 2. Further development of the land for dwellings will be subject to assessment under the building code and on-site parking will need to be provided in accordance with standard provisions.
Waste management	Council sponsored waste collection vehicles will have satisfactory access and maneuverability in the street so that they can readily navigate without causing undue impacts. Council supplied bins will need to be kept within property boundaries when not being collected.
Property values	This is not a matter for planning to consider. The Planning Scheme is a legal document that contains policies and provisions that control land use and development.

Future use as public housing	Not a relevant planning matter in this instance.
Transparency in the planning application process and Notice requirements	The application has been considered in accordance with procedural matters for Planning Permit applications that are set out in the *Planning and Environment Act 1987*. This has included ensuring that notice of the application has been undertaken correctly. It is not possible for Council to notify 'potential purchasers' of planning permit applications. This application was advertised on council's website and there was also a sign on the land.
Access for emergency services vehicles	This was considered during lot design and layout of the Cloverdale Estate and is considered satisfactory. Roads are of a suitable width to accommodate access and egress for emergency service vehicles including the secondary streets and for access onto the Bass Highway.
Proposal does not comply with local and state planning policy	Local and state planning policy in the Bass Coast Planning Scheme emphasises consolidation and infill development within defined settlement boundaries. Neighbourhood character does not mean 'more of the same', but rather subdivisions that create a variety of lot sizes to cater for all of the community and to provide affordable options for housing in suitable locations. Decision makers are to promote diversity where the zone and policy allow it as is the case with this application. There are no planning impediments such that would disallow this development. If restriction was preferred the land would have been alternately zoned for example to Neighbourhood Residential and a schedule to the zone would be the appropriate instrument to facilitate lot size restrictions. As this is not the case, the application must be assessed on its merits against the relevant policy and provisions.
Already adequate land supply	The proposal is for one additional lot only and located within the defined settlement boundary of Dalyston and identified as an area of 'residential growth'. Infrastructure and servicing requirements are adequate.
Purchasing expectations	Several submissions emphasised concern that purchasers of lots in the estate were not informed about potential further subdivision of land within the estate. Planning does not control the buying and selling of real estate. These are not matters for Council but rather for purchasers, agents and their respective solicitors. Several submissions suggested the land was characterized as 'low density' and 'country feel'. The estate is zoned Township Zone, not Low Density Residential Zone and the proposal is consistent with both the purpose of the zone, objectives and standards for subdivision and the directions established in the Dalyston Strategic Framework Plan that are all articulated in the Bass Coast Planning Scheme.
Restrictions of title	The restrictions referred to relate to building and are not relevant to this application.

Bushfire rating	Not relevant as the application is for subdivision only.
Support for the application Diversity in lot sizes Affordability Housing choice Contribution to neighbourhood character	Noted.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to satisfy all requirements including compliance with the purpose of the zone, the stated objectives and standards of Clause 56 and the decision guidelines of Clause 65.

The proposal is consistent with state and local planning policy that encourages urban consolidation within defined settlement boundaries, requires a diversity in development that will cater for different household types and provide affordable options to meet the needs of the whole community.

The proposal is consistent with neighbourhood character objectives as it provides for development of a more compact housing type that is currently not evident in this new estate where single dwelling lots dominate.

The application underwent notification and as a result there were 16 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 200257, subject to conditions.

Recommendation

That in relation to planning permit application 200257 for a two lot subdivision located at 3 McCauley View Dalyston, Council resolves to issue a Notice of Decision to Grant a Permit subject to the following conditions:

1. **The subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.**
2. **No buildings or works shall be constructed on any existing easement (including implied sewer, drainage, telephone, gas, power and water easement) or proposed easement without the further approval in writing of the responsible authority and/or the relevant service provider.**

Mandatory Subdivision Conditions

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

4. **All existing and proposed easements and sites for existing and 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.**
5. **The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with Section 8 of that Act.**
6. **The owner of the land must enter into an agreement with:**
   a) **a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and**
   b) **a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network (NBN) will not be provided by optical fibre.**
7. **Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:**
   a) **a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and**
   b) **a suitably qualified person that fibre ready telecommunications facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.**

Site Civil Design Plans

8. **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 and road authorities, and in particular water, sewerage, drainage, telephone, gas and power authorities 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, 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 17tanks to be deferred via a Section 173 Agreement must be noted on the plans.**

b) **Vehicle and pedestrian access and car parking to the satisfaction of the responsible authority including:**

   vii. **A vehicle access to each lot in the subdivision, to be designed in accordance with IDM standards (SD 240). Clearance from obstructions including existing street trees, service authority assets, footpaths, kerb and channel, poles, rain gardens, pits, cables, pipes, bus shelters / stops, street furniture, signs, etc. must be shown on the plans.**

Construction

9. **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 of 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.**

Mud on roads

10. **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.:**

Easements

11. **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.**

Section 173 Agreement

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

a) **Before an Occupancy Permit is issued for a dwelling on each lot, a stormwater tank must be installed in accordance with the endorsed drainage plans.**

Permit Expiry - Subdivision

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

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

b) Registration of the plan of subdivision is not completed within five years of the certification of the plan of subdivision under the *Subdivision Act 1988*.

The responsible authority may extend the time if a request is made in writing before the permit expires or within six 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.

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 SPEAR Proposed Plan 3 McCauley View Dalyston Number 200257 1 Page

AT-2 ***CONFIDENTIAL*** - Submissions 37 Pages

Council Decision

Moved: Cr. Clare Le Serve / Seconded: Cr. Rochelle Halstead

That in relation to planning permit application 200257 for the two lot subdivision of the land located at 3 McCauley View Dalyston, Council resolves to issue a Notice of Refusal on the following grounds:

1. **The application is inconsistent with the relevant policies, strategies and objectives of the Planning Policy Framework and Local Planning Policy Framework of the Bass Coast Planning Scheme in relation to subdivision, neighbourhood character and settlement.**
2. **The application is contrary to the relevant purpose of the Township Zone at Clause 32.05 of the Bass Coast Planning Scheme in that the development does not implement the Municipal Planning Strategy or the Planning Policy Framework sufficiently or respect the neighbourhood character of the area.**
3. **The application does not respond to the decision guidelines of Clause 32.05-13 of the zone with respect to the protection and enhancement of the character of the town and surrounding area.**
4. **The application is inconsistent with the decision guidelines of Clause 65.02 Approval of an Application to subdivide land.**

LOST on the casting vote of the Chair

Moved: Cr. Bruce Kent / Seconded: Cr. Leticia Laing

That the recommendation be adopted.

CARRIED on the casting vote of the Chair

H.6 Planning Application 200258 - Two lot subdivision 32 McRae Drive Dalyston

File No: **CM21/10**
Division: **Place Making**
Council Plan Strategic Objective: **Our Character**

Celebrating the uniqueness of our townships

Executive Summary

Application number:	200258
Applicant:	Ben Wilson
Land:	32 McRae Drive Dalyston, Lot 41 on Plan of Subdivision 823717N
Proposal:	Two lot subdivision
Planning controls:	Clause 32.05 Township Zone
Planning permit triggers:	Clause 32.05-5 a permit is required to subdivide land
Notification and submissions:	16 submissions
Key planning considerations:	Orderly planning Infill development Urban consolidation, diversity and affordability Neighbourhood character Sustainable development
Recommendation:	Notice of Decision to grant a permit

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 16 submissions comprising14 objections and two in support of the development.

In addition, the application has been called in by a Councillor.

Declaration

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

The Proposal

This application proposes a two lot subdivision in accordance with *Proposed Plan of Subdivision* drawn by Brosnan Engineering Solutions dated 17 July 2020 Revision A Reference 20034. The decision plans are provided as Attachment one and are illustrated below:

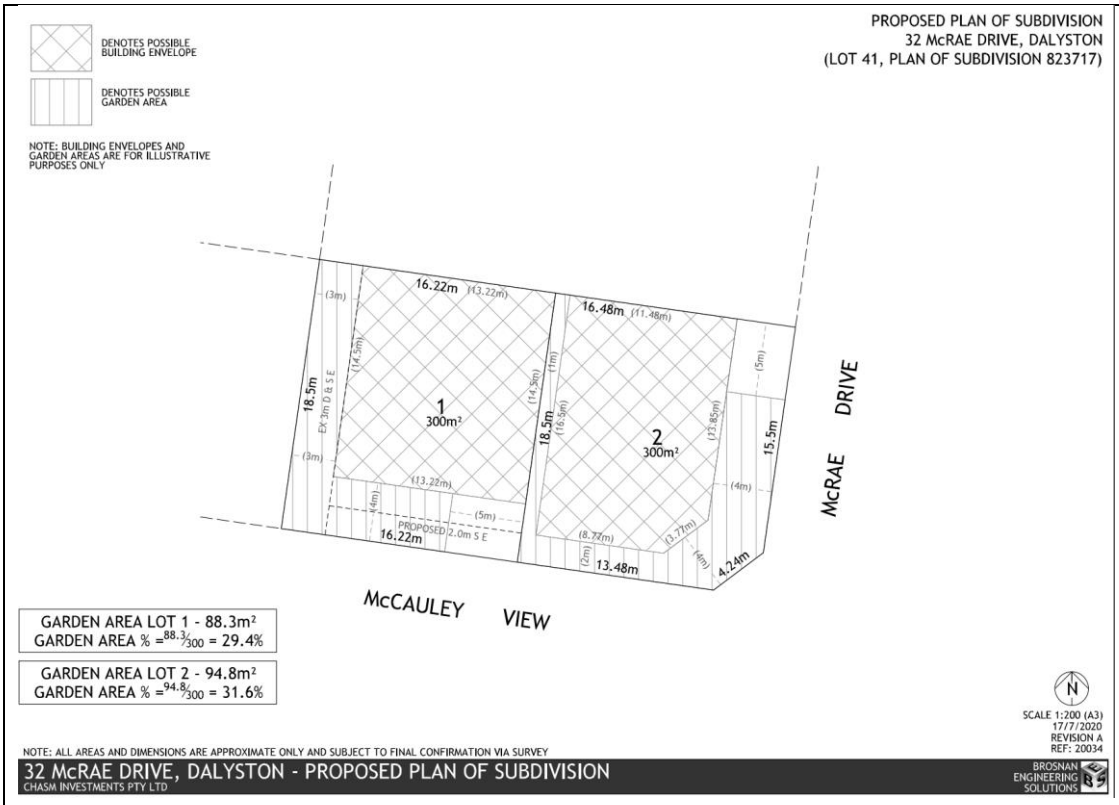


Figure 1 - Proposed Plans

Lot 1: 300 square metres with access from McCauley View.

Lot 2: 300 square metres with access from McRae Drive.

Background

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

Site Dimensions and Area	The 600 square metre lot is located on the corner of McCauley View and McRae Drive in Dalyston. It has dimensions of approximately 32 metres by 18.5 metres and a 4.24 metre splay on the south east corner.
Site Frontage	15.5 metres to McRae Drive. There is an existing crossover on McRae Drive.
Topography	Flat.
Vegetation Cover	No vegetation.
Current Use and Development	Vacant residential land.
Easements	There is a 3 metre wide sewer/drainage easement on the western boundary to benefit Westernport Water and Bass Coast Shire Council.

Restrictive Covenants and/or Section 173 Agreements	Section 173 Agreement AH801579P in relation to provision of roads, footpaths and a playground required in accordance with Permit 090658. Section 173 Agreement AJ775515Q in relation to drainage and water sensitive urban design obligations in accordance with Permit 090658.
Aboriginal Cultural Heritage Sensitivity	No.
Planning Permit History	Planning Permit 090658 issued 2 June 2011 allowing for a staged subdivision of land into 145 lots. The subject land is included in the now completed Stage 5 of the subdivision.

The subject site is a corner allotment located at 32 McRae Drive Dalyston. The main characteristics of the surrounding area are:

- North – 30 McRae Drive adjoining the subject land is a vacant residential lot with an area of 700 square metres. A building permit has issued for a single dwelling and garage.
- South – 34 McRae Drive is a vacant residential lot opposite the subject land with an area of 600 square metres. Planning Permit 200020 has issued subject to conditions to subdivide the land into two lots. It is noted that a planning permit will not be required to develop the resultant 300 square metres lots for dwellings should these lots be registered.
- East – 33 McRae Drive on the east side of the street is a vacant residential lot with an area of approximately 500 square metres. Next door is 35 McRae Drive, a vacant residential lot with an area of approximately 600 square metres. A building permit has issued to construct a single dwelling.
- West – 7 McCauley View is a vacant residential lot with an area of approximately 600 square metres.

The subject site shown in **figure 2** is located within the defined settlement boundary of Dalyston on the northern side of the Bass Highway within Stage 5 of the Cloverdale Estate subdivision which has recently been completed. McRae Drive and McCauley View have sealed roads, kerb and channel, underground drainage, footpaths and concrete crossovers. Two further stages in the 145 lot subdivision are yet to be completed.

Land uses in Dalyston are predominantly residential with some recreation and community facilities and a small commercial area. **Figure 2** clearly identifies a singular typology of single dwelling lots and undeveloped residential lots with areas of between 500 and 700 square metres prevailing.



Figure 2- Site and Surrounds Source Intramaps

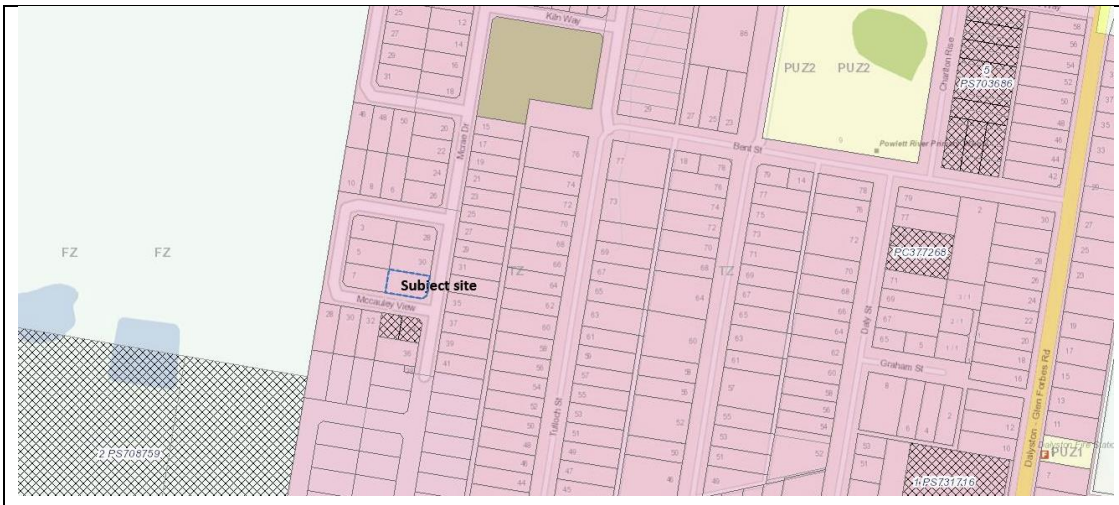


Figure 3 - Zoning Map Source: VicPlan

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

In response to notification the application attracted 16 submissions consisting of 14 objections and two in support of the development.

A copy of each submission is included in Attachment two.

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

The applicant did not provide a written response to submissions.

Referrals

The following table outlines the referral requirements for this application.

Table two: Referral Authorities and their comments

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
	The application was not required to be referred externally. The Bass Coast Planning Scheme provides mandatory conditions for subdivision that must 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	Referred for advice on drainage and access. No objection subject to conditions.

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

- Clause 11.01-1S Settlement
- Clause 11.01-1R Settlement – Gippsland
- Clause 11.02-1S Supply of urban land
- Clause 15.01-3 Subdivision design
- Clause 15.01-5S Neighbourhood character
- Clause 15.02-1S Energy and resource efficiency

The relevant Local Planning Policy Framework clauses are as follows:

- Clause 21.02-1 Growth of Towns (Dalyston)
- Clause 21.02-2 Housing
- Clause 21.09-6 Low growth settlements, Dalyston
- Clause 22.01 Stormwater management policy

The intention of policies relevant to this application include ensuring sufficient land supply to match demand, promotion of urban consolidation to maximise use of available infrastructure, diversity of housing choice and affordability. These intentions need to be balanced with neighbourhood character objectives.

This proposal is consistent with state policy in relation to subdivision design and neighbourhood character objectives and strategies at clauses 15.01-3 and 15.01-5S. The proposal provides for two small lots than are not typical in this estate and this in turn will contribute to the emerging neighbourhood character of the area and provide a typology that is somewhat missing. The development will complement the urban structure and will maximise the use of existing infrastructure without compromise.

Land use, housing and settlement objectives and strategies stated in local policy at clauses 21.02-1, 21.02-2 and 21.09-6 provide local context to state policy and are expected to be used to guide planning decisions. In relation to this application increased densities through infill development within a defined settlement boundary of appropriately zoned land are encouraged.

Local policy at Clause 21.09-6 illustrates the *Dalyston Strategic Framework Plan*. The subject land is located in the area identified as 'Proposed Growth Area' showing that growth in that area is planned for, anticipated and expected.

Zone Assessment

Township Zone

The application triggers the need for a planning permit under Clause 32.05-5 Subdivision, as a permit is required to subdivide land.

The purpose of the Township Zone is:

- 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.

An application to subdivide land must meet the requirements of Clause 56 and:

- Must meet all of the objectives included in the relevant clauses.
- Should meet all of the standards included in the relevant clauses.

The application is consistent with the purpose of the Township Zone as it implements state and local planning policy frameworks and provides for residential development that respects existing and contributes to the emerging neighbourhood character of the Dalyston township. The zone purpose does not seek to limit residential development.

The application is consistent with the decision guidelines of the Township Zone that Council must consider before deciding on an application. In particular, the subdivision is entirely compliant with the relevant objectives and standards of Clause 56 that are discussed in the following section of this report.

Clause 56 Residential Subdivision

Clause 56.03 Liveable and Sustainable Communities

Clause 56.03-5 Neighbourhood character

It is the objective of this clause to *'design subdivision that responds to neighbourhood character'*.

The site is vacant as are most lots in this recently completed stage of the approved 145 lot subdivision. The character of the area comprises a single typology of 500 to 700 square metre residential lots. Planning is to balance urban consolidation within settlement boundaries and housing choice and diversity with neighbourhood character. Neighbourhood character is not *'more of the same'*.

In consideration of this objective, Planning is to ensure the neighbourhood character is consistent with a range of housing outcomes including medium and higher density in areas identified for increased housing as is the case here and clearly identified in the Wonthaggi and Dalyston Structure Plan. The site is in an area where residential growth has been anticipated and is planned for.

This proposed small subdivision will result in one additional lot and will improve neighbourhood character by adding diversity, choice and affordability to meet the needs of all in the community and it is considered that the proposal complies with the objective and standards.

Clause 56.04 Lot Design

Clause 56.04-2 Lot area and building envelope objective

It is the objective of this clause, *'To provide lots with areas and dimensions that enable the appropriate siting and construction of a dwelling, solar access, private open space, vehicle access and parking, water management, easements and the retention of significant vegetation and site features.*'

The lots proposed have an area of 300 square metres each and submitted plans show building envelopment in excess of the required 10 by 15 metres to enable appropriate siting and construction of a dwelling. It is entirely possible to site and construct a dwelling with adequate solar access, private open space and infrastructure to comply with the objective and standards.

Clause 56.04-3 Solar orientation to lots

It is the objective of this clause, '*to provide good solar orientation of lots and solar access for future dwellings'*.

The dimensions of the lots are adequate to protect north solar access to any subsequent dwelling constructed.

Clause 56.06 Access and Mobility Management

Clause 56.06-8 Lot access

It is the objective of this clause as relevant to the application, *'to provide safe vehicle access between roads and lots'*.

Submitted plans identify access to Lot 1 from a proposed new crossover on McCauley View and access to Lot 2 from an existing crossover on McRae Drive. Access is in accordance with Council requirements. Roads and footpaths are constructed and of a standard to accommodate the proposed subdivision.

It is considered that the proposal complies with the objectives and standards.

Clause 56.07 Integrated Water Management

The relevant objectives of this clause are concerned with supply of drinking water and wastewater and stormwater management.

The proposal complies with Council requirements and mandatory subdivision conditions including agreements on titles will ensure matters in relation to design, construction, provision and management can be satisfactorily met.

It is considered that the proposal complies with the relevant objectives and standards.

Clause 56.08 Site management

The objectives of this clause relate to protection of drainage infrastructure and the surrounding area prior to and during construction of subdivision works so as not to cause nuisance.

It is considered that the proposal can comply with the relevant objectives and standards and any permit that issued would include conditions to ensure works did not affect the amenity of the area, interfere with infrastructure or cause nuisance.

Clause 56.09 Utilities

The objectives of this clause relate to shared trenching opportunities for reticulated utility services and provision of same.

It is considered that the proposal complies with relevant objectives and standards and mandatory permit conditions and agreements can satisfactorily be provided and utilities arranged.

The proposal is considered to have satisfied all objectives, standards and decision guidelines of Clause 56.

Particular Provisions

Clause 53.01 Public Open Space Contribution

The application is exempt from the requirement to make a contribution to the council for public open space as it proposes a two lot subdivision and it is unlikely that the lot will be further subdivided.

Concerns raised by Submitters

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

Theme	Council Officer Response
Overdevelopment/intensification	The application proposes two 300 square metre lots that are of adequate dimension to facilitate housing that can be appropriately sited and constructed subject to building regulations. This application has not been assessed for dwellings and future development (dwellings), while anticipated, would need to meet building regulations and standards. The subdivision is within the defined settlement boundary of Dalyston where additional residential growth has been planned and anticipated as illustrated in the *Dalyston Structure Plan* (Clause 21.09-6).

	The lot is a corner site with one access on each street frontage and there will be no unreasonable impact on existing infrastructure. The two 300 square metre lots are not considered to significantly increase housing density with just one additional house at some point in the future. The proposal is entirely consistent with local planning policy where infill development in Dalyston is encouraged within the settlement boundary. The Township Zone and ResCode objectives support the proposal and there are no impediments within the planning scheme such that this development would be prohibited.
Neighbourhood character	It is acknowledged that neighbourhood character is emerging in this largely vacant Stage 5 of the Cloverdale Estate. Streetscape character is not compromised, there is no vegetation proposed for removal and the addition of diversity in lot size (and one additional dwelling) will contribute positively to the character of the area. It is not considered that the addition of one dwelling will not negatively impact neighbourhood character.
Amenity – future dwellings	Overlooking The application is for subdivision only, not development. Any subsequent dwelling on either lot would be required to meet the requirements of the Building Code in relation to siting and construction.
Traffic	Several submissions suggested that there would be unreasonable traffic impacts including that safety for pedestrians and other road users would be compromised. Concerns that there would be increases in traffic volume not in keeping with residential areas were also raised. One submission was concerned that traffic noise would affect amenity. McRae Drive and McCauley View have been designed and constructed to comply with Council's Infrastructure Design Manual and comprise two sealed lanes. There are well designed footpaths on both sides of the road ensuring safety for users. The application proposes one additional lot and it is not considered that there would be an unreasonable increase in traffic volume (or noise) in the area such that the street network was not designed and constructed to accommodate.
On-street parking impacts	The application is for a two lot subdivision only and proposes a new crossover to the proposed new Lot 2. Further development of the land for dwellings will be subject to assessment under the building code and on-site parking will need to be provided in accordance with standard provisions.
Waste management	Council sponsored waste collection vehicles will have satisfactory access and maneuverability in the street so that they can readily navigate without causing undue impacts. Council supplied bins will need to be kept within property boundaries when not being collected.
Property values	This is not a matter for planning to consider. The Planning Scheme is a legal document that contains policies and provisions that control land use and development.

Future use as public housing	Not a relevant planning matter in this instance.
Transparency in the planning application process and Notice requirements	The application has been considered in accordance with procedural matters for Planning Permit applications that are set out in the *Planning and Environment Act 1987*. This has included ensuring that notice of the application has been undertaken correctly. It is not possible for Council to notify 'potential purchasers' of planning permit applications. This application was advertised on council's website and there was also a sign on the land.
Access for emergency services vehicles	This was considered during lot design and layout of the Cloverdale Estate and is considered satisfactory. Roads are of a suitable width to accommodate access and egress for emergency service vehicles including the secondary streets and for access onto the Bass Highway.
Proposal does not comply with local and state planning policy	Local and state planning policy in the Bass Coast Planning Scheme emphasises consolidation and infill development within defined settlement boundaries. Neighbourhood character does not mean 'more of the same', but rather subdivisions that create a variety of lot sizes to cater for all of the community and to provide affordable options for housing in suitable locations. Decision makers are to promote diversity where the zone and policy allow it as is the case with this application. There are no planning impediments such that would disallow this development. If restriction was preferred the land would have been alternately zones for example to Neighbourhood Residential and a schedule to the zone would be the appropriate instrument to facilitate lot size restrictions. As this is not the case, the application must be assessed on its merits against the relevant policy and provisions.
Already adequate land supply	The proposal is for one additional lot only and located within the defined settlement boundary of Dalyston and identified as an area of 'residential growth'. Infrastructure and servicing requirements are adequate.
Purchasing expectations	Several submissions emphasised concern that purchasers of lots in the estate were not informed about potential further subdivision of land within the estate. Planning does not control the buying and selling of real estate. These are not matters for Council but rather for purchasers, agents and their respective solicitors. Several submissions suggested the land was characterized as 'low density' and 'country feel'. The estate is zoned Township Zone, not Low Density Residential Zone and the proposal is consistent with both the purpose of the zone, objectives and standards for subdivision and the directions established in the Dalyston Strategic Framework Plan that are all articulated in the Bass Coast Planning Scheme.
Restrictions on title	The restrictions referred to relate only to building and are not relevant to this application.

Bushfire rating	Not relevant to this application as it is for subdivision only.
Support of the application Affordability Diversity in lot size Housing choice Contribution to neighbourhood character	Noted.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to satisfy all requirements including compliance with the purpose of the zone, the stated objectives and standards of Clause 56 and the decision guidelines of Clause 65.

The proposal is consistent with state and local planning policy that encourages urban consolidation within defined settlement boundaries, requires a diversity in development that will cater for different household types and provide affordable options to meet the needs of the whole community.

The proposal is consistent with neighbourhood character objectives as it provides for development of a more compact housing type that is currently not evident in this new estate where single dwelling lots dominate.

The application underwent notification and as a result there were 16 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 200258, subject to conditions.

Recommendation

That in relation to planning permit application 200258 for a two lot subdivision located at 32 McRae Drive Dalyston, Council resolves to issue a Notice of Decision to Grant a Permit subject to the following conditions:

1. **The subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.**
2. **No buildings or works shall be constructed on any existing easement (including implied sewer, drainage, telephone, gas, power and water easement) or proposed easement without the further approval in writing of the responsible authority and/or the relevant service provider.**

Mandatory Subdivision Conditions

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

4. **All existing and proposed easements and sites for existing and 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.**
5. **The plan of subdivision submitted for certification under the Subdivision *Act 1988* must be referred to the relevant authority in accordance with Section 8 of that Act.**
6. **The owner of the land must enter into an agreement with:**
   a) **a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and**
   b) **a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network (NBN) will not be provided by optical fibre.**
7. **Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:**
   a) **a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and**
   b) **a suitably qualified person that fibre ready telecommunications facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.**

Site Civil Design Plans

8. **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 and road authorities, and in particular water, sewerage, drainage, telephone, gas and power authorities 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, 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 17tanks to be deferred via a Section 173 Agreement must be noted on the plans.**

b) **Vehicle and pedestrian access and car parking to the satisfaction of the responsible authority including:**

   i. **A vehicle access to each lot in the subdivision, to be designed in accordance with IDM standards (SD 240). Clearance from obstructions including existing street trees, service authority assets, footpaths, kerb and channel, poles, rain gardens, pits, cables, pipes, bus shelters / stops, street furniture, signs, etc. must be shown on the plans.**

Construction

9. **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 of 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.

Mud on roads

10. 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.

Easements

11. 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.

Section 173 Agreement

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

a) Before an Occupancy Permit is issued for a dwelling on each lot, a stormwater tank must be installed in accordance with the endorsed drainage plans.

Permit Expiry - Subdivision

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

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

b) Registration of the plan of subdivision is not completed within five years of the certification of the plan of subdivision under the *Subdivision Act 1988*.

The responsible authority may extend the time if a request is made in writing before the permit expires or within six 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.

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	Plan for 32 McRae Drive Dalyston SPEAR Number 200258 Their ref Plan for Endorsement_Ver_1_20200806_1	1 Page
AT-2	***CONFIDENTIAL*** - Submissions	37 Pages

Council Decision

Moved: Cr. Clare Le Serve / Seconded: Cr. Rochelle Halstead

That in relation to planning permit application 200258 for the two lot subdivision of the land located at 32 McRae Drive Dalyston, Council resolves to issue a Notice of Refusal on the following grounds:

1. **The application is inconsistent with the relevant policies, strategies and objectives of the state and local Planning Policy Frameworks of the Bass Coast Planning Scheme in relation to subdivision, neighbourhood character and settlement.**
2. **The application is contrary to the relevant purpose of the Township Zone at Clause 32.05 of the Bass Coast Planning Scheme in that the development does not implement the Municipal Planning Strategy or the Planning Policy Framework sufficiently or respect the neighbourhood character of the area.**
3. **The application does not respond to the decision guidelines of Clause 32.05-13 of the zone with respect to the protection and enhancement of the character of the town and surrounding area.**
4. **The application is inconsistent with the decision guidelines of Clause 65.02 Approval of an Application to subdivide land.**

LOST on the casting vote of the Chair

Moved: Cr. Bruce Kent / Seconded: Cr. David Rooks

That the recommendation be adopted.

CARRIED on the casting vote of the Chair

H.7 Draft Community Engagement Policy 2021

File No:	**CM21/43**
Division:	**Partnerships, Advocacy & Economy**
Council Plan Strategic Objective:	**Governance** We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

The new Victorian *Local Government Act 2020* requires Councils to develop and adopt a Community Engagement Policy by 1 March 2021.

At its meeting on 16 December 2020, Council resolved to release the draft Community Engagement Policy 2021 for a period of community engagement and that a report to consider the feedback and final Policy be presented to Council for consideration at the Ordinary Meeting in February 2021.

Council undertook this engagement using a range of available forums and 38 submissions were received. This report considers these submissions and presents a revised Policy to Council to consider for adoption.

The draft Policy presented to Council for consideration meets the requirements of the new *Local Government Act 2020* and is underpinned by the International Association of Public Participation (IAP2) framework.

The report also highlights that many of the submissions relate to matters that are considerations in the Communications and Engagement Strategy. It is recommended that Council resolves to undertake a detailed review and further community engagement to revise and update the Communication and Engagement Strategy.

Background

Changes to the Victorian *Local Government Act* in March 2020 have made it mandatory for all Councils to have a community engagement policy in place by 1 March 2021.

At its meeting on 16 December 2020, Council considered a draft Community Engagement Policy 2021 that had been developed to meet the requirements of the *Local Government Act 2020* and contemporary community engagement practices.

Council resolved to release the draft Community Engagement Policy 2021 for a period of community engagement and that a report to consider the feedback and final Policy be presented to Council for consideration at the Ordinary Meeting in February 2021.

The requirements of the *Local Government Act 2020* include that a Community Engagement Policy includes the principles of deliberative engagement and be developed in consultation with the community.

The community engagement period commenced in December 2020 and submissions were invited until 17 January 2021.

A review of the Communication and Engagement Strategy 2018 was not required under the *Local Government Act 2020* and did not form part of the scope of the policy review.

Strategic Basis

Council Plan Objective:

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

Major Initiative / Initiative

- The development of a Community Engagement Policy is required to meet the obligations of the *Local Government Act 2020*.

Strategies / Policies

- Bass Coast Shire Council's Community Engagement Policy 2015
- Bass Coast Shire Council's Communication and Engagement Strategy 2018

Statutory Requirements/Codes/Standards/Policies

- *Local* Government *Act 2020*
- *Planning and Environment Act 1987*
- *Public Health and Wellbeing Act 2008*
- *Road Management Act 2004*
- *Equal Opportunity Act 2010*
- *Charter of Human Rights and Responsibilities Act 2006*
- International Association for Public Participation (IAP2) Spectrum

Discussion

Community Engagement and Submissions

To engage the Bass Coast community on the Draft Community Engagement Policy and meet the requirements and timeframes of the *Local Government Act 2020*, officers used the following engagement methods:

- Presented the Draft Policy on Council's website, including a submission form to capture community feedback and suggestions.
- Implemented a range of engagement opportunities to raise awareness of the Draft Policy, encouraging submissions through:
  - Social media posts on Facebook, Twitter and LinkedIn
  - Videos featuring the Mayor and Councillors inviting feedback
  - Advertisements and media releases in local media publications and digital channels
  - Radio show broadcasts
  - Conversations between Council's Community Planning Team and the Bass Coast community

- Broad and targeted email invitations to provide feedback on Draft Policy to Bass Coast Community and Business networks

The Community Engagement program included the following:

Facebook:

- Post – 29 December: reach 12,872, engaged 1,225
- Video 1 – 18 December: reach 3,961, engaged 411
- Video 2 – 11 January: reach 363, engaged 29

Website:

- 479 unique page views

Mayor's Message:

- In local papers on 22 December, 5 and 12 January

Radio Show:

- (3mFM) 22, 24 and 26 December 2020 and 12, 14 and 16 January 2021

Council Update Advertisements:

- 22 December (South Gippsland Sentinel-Times - SGST)
- 23 December (Phillip Island and San Remo Advertiser - PISRA)

Separate Advertisements:

- SGST – 29 December 2020, 5 and 12 January 2021
- PISRA - 7 and 13 January, 2021
- Phillip Island Vibe – January 2021 edition

Emails:

- Community Group newsletter – December 2020 edition (75 recipients)
- Business Newsletter 18 December 2020 (900+ recipients)
- 15 Hall and Reserve Committees
- 45 Sporting Clubs and Groups
- 20 Rural Engagement Group members
- 14 Business and Tourism Associations and Community Groups

Response to Community Submissions

Council received 38 submissions from community members, nine through emails and 29 through the website form.

The key themes of the feedback and officers response are provided below:

- Concern over the duration of the community engagement on the Draft Policy

  Officers note that the duration of the community engagement was limited.

The draft Policy will play a significant role guiding community engagement as part of the development of the Council Plan and Community Vision. It was important that the new Council were provided with the opportunity to shape the Policy. Councillors took the oath of office in November and went on to endorse the draft Policy for community engagement in December. The Policy needs to be considered by Council at the February Council meeting in order to be compliant with the 1 March 2021 timeframe in the *Local Government Act 2020*.

The next review of the Policy will be brought forward.

- Clearer use of language and diagrams

  Feedback incorporated in revised version recommended for adoption.

- Inclusion of the principles of community engagement, as defined under *Section 56* of the *Local Government Act 2020*

  Principles incorporated in revised version recommended for adoption.

- Clearer definition of parties under 'recognise diverse views'

  Definitions incorporated in revised version recommended for adoption.

A revised version of the Policy recommended for adoption is included in the attachments to this report, with Attachment 1 showing marked up 'tracked' changes and Attachment 2 being the final version incorporating these changes.

It is noted that some submissions made suggestions about the methods Council could use to engage with the community. Many of these suggestions relate to the implementation of the Communications and Engagement Strategy and given the level of community interest, it is recommended that the Communication and Engagement Strategy is also reviewed to ensure the community needs and expectations are being met.

As highlighted in response to the submissions, given the concerns raised regarding the duration of community engagement, it is recommended that Council also undertakes a further review of the Community Engagement Policy 2021 in parallel with the review of the Communication and Engagement Strategy 2018. This will also provide an opportunity for lessons learned through the use of deliberative engagement in the development of the Council Vision, Council Plan and 10 Year Financial Plan to be incorporated in to the next revision of the Policy. It is recommended these reviews are considered by Council by no later than 30 June 2022.

Key Policy aspects

The draft policy is underpinned by the International Association of Public Participation (IAP2) framework. The framework emphasises that community engagement should: Inform; Consult; Involve; Collaborate; and Empower.

Also included in the Draft Community Engagement Policy is a commitment to apply deliberative engagement practices as required by legislation.

Among the key features of deliberative engagement is that it must be:

Representative in the sense that it involves a representative cross-section of the community, usually selected at random – with the aim of maximising inclusion.

Deliberative: allowing for extended consideration of a key question; and

Influential: Participants will be informed of the level of influence the community engagement process will have on Council decision-making.

Examples of when Council may undertake deliberative engagement include the long term Community Vision, Four-Year Council plans, Financial Management Plans, Asset Management Plans and in projects of significant scope, complexity and impact.

Based on the feedback received during the consultation period, the Draft Community Engagement Policy continues the seven key themes of the Communications and Engagement Strategy. The themes are:

1. Improve information flow and access between the community and Council.
2. Take a whole of Council approach to community engagement using best practice with clear guidelines to support staff.
3. Build the capacity of Council staff to engage effectively at the local level.
4. Ensure the diversity of community needs and voices is reflected in engagement processes, and that diverse opportunities are created for people to be informed about and have input into issues that impact their quality of life.
5. Provide clarity and transparency about how community input has influenced decisions.
6. Integrate local knowledge and experience in decision making and solution building.
7. Ensure that Council has a 'face' across the community and actively engages with its constituency.

Council is committed to actively encouraging individuals, groups and communities to be involved in Local Government through community engagement. Council's place-based approach to community planning is evidence of our commitment to building strong and sustainable relationships with our community.

Bass Coast Shire residents and ratepayers have diverse needs and opinions, innovative ideas, and a wealth of local knowledge. Council is able to make better decisions on behalf of the community it serves when it draws on those resources.

The Draft Community Engagement Policy includes new requirements from the *Local Government Act 2020*, including Deliberative Engagement Principles as well as reference to our place-based community planning approach.

Deliberative Engagement has a unique approach which places greater emphasis on involving people in decision-making. Compared to other forms of engagement, it affords participants more opportunity and time to discuss and consider an issue in greater detail, which helps community members to reach a more measured, informed view.

Deliberative Engagement principles are considered to be:

- authentic engagement with the community, with a clearly defined objective and scope
- good representation of the community in engagement activities
- clear demonstration of how all views have been considered will influence Council decision-making

- community access to accessible, objective and relevant information and a reasonable level of support
- and the community's level of influence is clear in each instance and that participants are fully informed

Council must apply the principles of Deliberative Engagement in the development of the following documents:

- Community Vision
- Council Plan
- Financial Plan – Ten Year
- Asset Plan

Further to Deliberative Engagement, Council has adopted the International Association for Public Participation (IAP2) Spectrum as the foundation to our approach to community engagement.

The IAP2 is recognised as an international leader in the field of public participation and community engagement. The IAP2 is to be utilised to guide Council's community engagement activities and ensure the IAP2 principles are embedded in the framework.

This gives Council and the community a best practice guide to define our community's role in any public participation process.

Incorporating the IAP2 guiding principles is necessary for there to be a consistent approach from Council.

Finances

The development of the Draft Policy is being funded through internal resources.

Stakeholders

The Draft Community Engagement Policy has relevance to residents, property owners and visitors to Bass Coast. It is also relevant to industry, community organisations, business groups and all levels of Government.

Other Options

Option 1:

Council can consider and adopt the Final Draft Community Engagement Policy 2021. This will meet the requirements of the *Local Government Act 2020.*

Option 2:

Council can defer adopting the Draft Community Engagement Policy 2021 and release it for further community feedback. A deferral will mean Council will be unable to meet the timeframe required by the *Local Government Act 2020* to adopt the Policy prior to 1 March 2021.

Conclusion

The draft Community Engagement Policy is a formal expression of Council's commitment to engaging the Bass Coast Community through the use of appropriate, effective and inclusive practices.

Council encourages individuals, groups and communities to be involved in Local Government. It recognises the value in a diversity of opinions, innovative ideas and life experience – this information allows Council to better understand issues and provide services that are tailored to community needs.

Officers have introduced the new requirements from the *Local Government Act 2020,* including Deliberative Engagement Principles and reference to our place-based approach to community planning into the Draft Policy for Council's consideration.

Council has sought community input and feedback, which has helped finalise the Draft Community Engagement Policy presented with this Report.

38 submissions were received and the Draft Policy has been revised in consideration of this feedback. It is further recommended that a review of the Communications and Engagement Strategy 2018 is undertaken in response to key themes in the feedback.

The development of this Draft Policy intends to replace the Community Engagement Policy 2015 and help guide Council in the development of Council's Community Vision, Council Plan and Financial Plan in 2021.

Recommendation

That Council:

1. **Adopts the Community Engagement Policy 2021 included as Attachment 2 of this report.**
2. **Undertake a review of the Communications and Engagement Strategy 2018, which is to be completed by no later than 30 June 2022.**

Attachments

AT-1	Draft Community Engagement Policy 2021 - Tracked Changes	8 Pages
AT-2	Draft Community Engagement Policy 2021 - Clean Copy	7 Pages

Council Decision

Moved: Cr. David Rooks / Seconded: Cr. Bruce Kent

That the recommendation be adopted.

CARRIED

H.8 Sport and Recreation Victoria Funding Applications

File No:	**CM21/22**
Division:	**Resilient Communities**
Council Plan Strategic Objective:	**Health and Wellbeing**
	We are a healthy and active community

Declaration

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

Summary

The purpose of this report is to seek Council approval to submit two funding applications to Sport and Recreation Victoria (SRV), through the Community Cricket Program (AT-1) and The World Game Facilities Fund (AT-2). These funding applications will assist in funding the delivery of the Thompson Reserve Inverloch Cricket and Multi-Purpose Training Space and the Newhaven Recreation Reserve Pavilion Upgrade.

Background

Active Bass Coast (AT-3), adopted by Council in 2018, is Council's 10-year Plan that sets the vision for the provision and use of open space and recreation activities across the Shire.

Thompson Reserve Inverloch Cricket and Multi-Purpose Training Space and the Newhaven Recreation Reserve Pavilion Upgrade projects are Council's highest priority projects that meet the guidelines set by SRV and are supported within Active Bass Coast.

Thompson Reserve Inverloch Cricket and Multi-Purpose Training Space:

The Inverloch Stingrays Cricket Club play cricket from Thompson Reserve Inverloch. The existing two cricket training nets are open to the general public and accessed by the Club on training days. Recent assessments of the existing cricket training nets and feedback from the Club is that they do not comply with Cricket Victoria standards, do not currently meet the need of the Club.

It is proposed to deliver a four cricket pitch training facility with retractable walls, which will be located off the playing field as per the Thompson Reserve Master Plan (AT-4). By design (AT-5), this training facility will be compliant and be a shared multi-use facility between the Inverloch Stingrays Cricket Club and the Inverloch Stars Soccer Club.

The Community Cricket Program was opened on 9 November 2020 and provides funding to help address the facility challenges and needs of cricketers across Victoria. The Program is underpinned by the Department of Jobs, Precincts and Regions' priorities of ensuring the state's economy benefits all Victorians by creating more jobs for more people, building thriving places and regions and nurturing inclusive communities.

The types of projects that are eligible for support include:

- Cricket training nets/facilities that are publicly accessible and may be multi-sport.
- Sports lighting that enables new programming, improves capacity, inclusion or safety.

Eligible organisations may submit unlimited applications, however the total funding sought cannot exceed $200,000 per LGA or ARB, per round, and no application can exceed the maximum grant amount of $100,000.

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



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

Newhaven Recreation Reserve Pavilion Upgrade

The Phillip Island Breakers Soccer Club play soccer from the Newhaven Recreation Reserve. The existing facilities do not provide privacy, security or accessibility to a fit for purpose standard. Recent assessments of the existing facility and feedback from the Club is that they do not meet the increase growth in the sport of soccer for both females and males and that an upgrade is required as a priority.

The design (AT-6) will see the upgrade of the existing facility and the delivery of fit for purpose and accessible change and shower/toilet facilities and improvements to the existing kitchen and canteen space. The design is under development and progressed in partnership with the Club and meets Football Victoria Facility Guidelines.

The World Game Facilities Fund was opened on 15 December 2020 and is a $20 million state-wide Victorian Government investment program that funds the development of high-quality, accessible community football infrastructure. Funding will assist local football clubs and organisations working with their Local Government Authority or Alpine Resort Board to upgrade existing or develop new facilities across Metropolitan Melbourne and Regional Victoria to support the sustainability and growth of football.

The types of projects that are eligible for support include:

- Building new or redeveloping change rooms and pavilions to increase capacity, inclusion and safety.

Eligible organisations may submit unlimited applications, however the total funding sought cannot exceed $500,000 per LGA or ARB, per round and no application can exceed the maximum grant amount of $500,000.

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



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

Strategic Basis

Council Plan Objective:

Advocacy - *Representing the community*

Health and Wellbeing – *We are a healthy and active community*

Livability – *Enjoying the place we live*

Major Initiative / Initiative

This is not a Major Initiative or Initiative

Strategies / Policies

- Active Bass Coast 2018
- Thompson Reserve Master Plan 2018
- Municipal Health and Wellbeing Plan 2017-21

Statutory Requirements/Codes/Standards/Policies

Australian Standard Lighting

Australian Building Code

Community Cricket Facility Guidelines

Community Cricket Program Guidelines

Football Victoria Facility Guides

The World Game Facilities Fund Guidelines

Discussion

This report requests approval to apply to SRV through their recently opened Community Cricket Program and the World Game Facilities Fund. These funding applications will assist in funding the delivery of the Thompson Reserve Inverloch Cricket and Multi-Purpose Training Space and the Newhaven Recreation Reserve Pavilion Upgrade.

Council relies upon funding programs to assist in the delivery of key recreation projects.

Council has the opportunity to apply annually for funding of recreation based projects through the various State Government, Sport and Recreation Victoria (SRV) grant programs.

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

Through facility assessments, progress of designs and costings and within Council's future Capital Works Program, officers are confident that should the two highlighted priority projects gain external funding, each will be delivered within the agreed funding timeline and budget.

The Community Cricket Program and the World Game Facilities Fund were opened in late 2020 and close in February. Only projects that were both eligible and authorised by Council were considered for these grant programs.

Council is required to have formal authorisation of each funding application as part of its submission. Given the short window of opportunity to submit applications, officers were unable to present these until the February Ordinary Council Meeting.

At time of report writing and to meet the deadlines, officers had prepared both applications and submitted the Community Cricket Program application for the Thompson Reserve Inverloch Cricket and Multi-Purpose Training Space only, as the application closing date had passed (1 February 2021). This was submitted on the basis that it was subject to Council approval.

The World Game Facilities Fund application, which will support the delivery of the Newhaven Recreation Reserve Pavilion Upgrade is finalised and should it be supported by Council, will be submitted by the closing date (19 February 2021).

Finances

Council relies upon funding programs to assist in the delivery of key recreation projects.

Each of the proposed project require contributions that meet the SRV funding ratios, within each respective grant guideline of SRV: $2 – Local: $1.

The table below outlines how each of the projects are proposed to be funded, through external grants and Council.

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

Resort and Recreation Fund: Council's Public Open Space Policy 2017 prescribes that open space contributions can be taken as land, as cash-in-lieu of land, or a combination of the two.

The policy states that cash taken in lieu of open space shall be returned to regional open space, or open space in the vicinity of where it was taken.

Parameters around fund expenditure include the following:

- Funds are to be spent on land acquisition or capital improvements to existing land.
- Must be a project identified in an adopted strategy, plan or masterplan.
- Identified in Council's long term financial plan.
- Monies should be expended in the area that it was collected

- A regional asset can be funded from all Reserves, if it can be demonstrated that the asset will be available to all residents and visitors to Bass Coast.
- Funds can be used to leverage state and federal funding.
- Operational costs such as maintenance, salaries or design cannot be funded.
- Replacements and upgrades to infrastructure cannot be funded.

It is proposed to access the Resort and Recreation Funds for Inverloch ($110k) to support the Thompson Reserve Inverloch Cricket and Multi-Purpose Training Space as it is supported by Active Bass Coast and Thompson Reserve Master Plan.

Capital Works Program Budget: Council, through its Long Term Financial Plan, allocates future capital funds to new and improved facilities and infrastructure across the Shire. It is proposed to allocate $40k from within the 2021/2022 Capital Works Program Budget to leverage the grant application for the Thompson Reserve Inverloch Cricket and Multi-Purpose Training Space.

Annual Renewal Program: Council's Annual Renewal Program is a commitment by Council to continue to maintain and provide fit for purpose and standardised facilities across the Shire. It is proposed to allocate $200k from within the 2021/2022 Annual Renewal Program Budget to leverage the grant application for the Newhaven Recreation Reserve Pavilion Upgrade.

The following table outlines how the three proposed projects will be funded:

Project	Project Cost	SRV Grant	Resort and Recreation	Renewal	Capital	Club
Thompson Reserve Cricket and Multi-Purpose Training Space	**$270k**	$100k	$110k		$40k	$20k in-kind (site cut)
Newhaven Recreation Reserve Pavilion Upgrade	**$600k**	$400k		$200k		

To deliver both projects with an estimated total value of $870k, Council's anticipated contribution is $350k.

The Inverloch Stingrays Cricket Club have offered to provide an in kind contribution of the initial site cut, which will save approximately $20k. This would be overseen by Council to ensure compliance standards.

Should either application be submitted and unsuccessful, it will not be delivered.

Stakeholders

- Inverloch Stingrays Cricket Club
- Inverloch Stars Soccer Club
- Inverloch community and visiting clubs
- Phillip Island Breakers Soccer Club
- Phillip Island Cricket Club
- Newhaven community and visiting clubs

Other Options

Officers submitted the grant application through the Community Cricket Program to deliver the Thompson Reserve Inverloch Cricket and Multi-Purpose Training Space as it closed on 1 February 2021, stating it was subject to Council approval.

Council may choose to withdraw this application and consider further.

Council may choose not to support an application through The World Game Facilities Fund to deliver the Newhaven Recreation Reserve Pavilion Upgrade, which is ready for submission and which closes on 19 February 2021 and consider further.

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

Conclusion

The Community Cricket Program and The World Game Facilities Fund provides Council with an opportunity to access significant State funding to deliver key recreation projects.

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

This report recommends that Council supports the application already submitted through the Community Cricket Program for the Thompson Reserve Inverloch Cricket and Multi-Purpose Training Space and The World Game Facilities Fund for the Newhaven Recreation Reserve Pavilion Upgrade, contributing $350,000 as outlined in the budget table in this report.

Recommendation

That Council:

1. **Endorses the already submitted Community Cricket Program for the Thompson Reserve Inverloch Cricket and Multi-Purpose Training Space and commits $110,000 from Resort and Recreation Funds for Inverloch and $40,000 from the Capital Works Program Budget in the 2021/22 year, should the SRV application be successful.**
2. **Endorses Council officers to apply to The World Game Facilities Fund for the Newhaven Recreation Reserve Pavilion Upgrade and commits $200,000 from the Annual Renewal Program in the 2021/22 year, should the SRV application be successful.**

Attachments

AT-1	SRV Community Cricket Program Guidelines - Copy	21 Pages
AT-2	SRV The World Game Facilities Fund Guidelines	21 Pages
AT-3	Active Bass Coast	47 Pages
AT-4	Thompson Reserve Master Plan	2 Pages
AT-5	Thompson Reserve Cricket and Multi Purpose Training Space Concept Design	1 Page
AT-6	Newhaven Recreation Reserve Pavilion Concept Design	1 Page

Council Decision

Moved: Cr. Rochelle Halstead / Seconded: Cr. David Rooks

That the recommendation be adopted.

CARRIED

H.9 Community Sports Infrastructure Stimulus Program

File No:	**CM21/59**
Division:	**Resilient Communities**
Council Plan Strategic Objective:	**Health and Wellbeing**
	We are a healthy and active community

Declaration

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

Summary

The purpose of this report is to seek Council approval to re-submit two funding applications to the Community Sports Infrastructure Stimulus Program Round 2 (AT-1) to assist in funding the delivery of the 2021 Sports Pavilion Project and the 2021 Field Lighting Project.

Background

Coronavirus (COVID-19) has resulted in far reaching implications for the Victorian community and generating jobs and economic activity will be critical to the revival of Victoria's economy.

In May 2020, the Victorian Government launched the $68 million Community Sports Infrastructure Stimulus Program to fast-track investment into critical shovel-ready community sport and recreation infrastructure. This investment, part of the $2.7 billion Building Works Package, supported 27 projects across Victoria to provide new sport and active recreation participation opportunities while getting hundreds of people back to work.

At the June 2020 Ordinary Council Meeting, Council authorised officers to submit three applications to this grant program for the 2020 Sports Pavilion Project, the 2020 Field Lighting Project and the Guy Road Trail Project. Council was unsuccessful for all three applications submitted.

In December 2020, the Victorian Government has allocated a $110 million boost to the program through the 2020-21 State Budget, recognising the number of high-quality projects that were unable to be funded through the initial investment. This funding provides an important opportunity for many worthy projects to be resubmitted for consideration. 68 unsuccessful projects from across the state in Round 1 were asked by Sport and Recreation Victoria to consider resubmitting applications in Round 2.

On 18 December 2020 Council received a formal invitation to re-submit two of the three project applications in Round 2, the 2021 Sports Pavilion Project and the 2021 Field Lighting Project. Guy Road Trail was not shortlisted to be resubmitted.

Strategic Basis

Council Plan Objective:

Advocacy - *Representing the community*

Health and Wellbeing – *We are a healthy and active community*

Liveability – *Enjoying the place we live*

Major Initiative / Initiative

This is not a Major Initiative or Initiative

Strategies / Policies

- Active Bass Coast 2018
- Bass Coast Shire Council Advocacy Strategy 2018-21
- Blue Gum Reserve Master Plan 2019
- Dalyston Recreation Reserve Master Plan 2019
- Inverloch Recreation Reserve Master Plan 2019
- Municipal Health and Wellbeing Plan 2017-21
- Phillip Island and San Remo Visitor Economy Strategy 2035 – Growing Tourism
- Wonthaggi Recreation Reserve Master Plan 2019

Statutory Requirements/Codes/Standards/Policies

Australian Standard Lighting

Australian Building Code

Discussion

Council relies upon funding programs to assist in the delivery of key recreation projects.

The Community Sports Infrastructure Stimulus Program will support Victoria's economy by working with Local Government Authorities, Alpine Resort Boards and sporting organisations to fast-track shovel-ready community sport and active infrastructure projects across Victoria.

The desired outcomes of the program are to:

- Provide a stimulus to local economic activity by planning, building and operating new or redeveloped significant community sport and active recreation infrastructure.
- Respond to demand for new participation opportunities by considering strategic and well-planned projects that have broad community and sector support.
- Improve diversity and inclusion by increasing participation by disadvantaged and underrepresented groups identified in Active Victoria.

Only Local Government Authorities (LGAs) and the Alpine Resort Boards are eligible to apply for this program.

Funding may be provided for the construction and/or upgrade of significant community sport and active recreation infrastructure that is ready to commence construction within six (6) months of executing a funding agreement with the Department of Jobs, Precincts and Regions.

This may include but is not limited to:

- New sports fields, sports courts and surfaces that increase capacity or improve safety, including provision of sports lighting
- Pavilions including change rooms for participants that are female friendly and accessible
- Active recreation spaces such as significant play spaces and shared recreation trails

Grant applications close on 2 March 2021.



Council officers have identified six (6) designed and shovel ready projects, that meet funding guidelines and that are the highest and most ready priorities for Council as identified in Council's Advocacy Strategy, Active Bass Coast 2018 and relevant Master Plans.

The seven (6) projects have been grouped into two (2) major projects:

1. **2021 Sports Pavilion Project**
    - Phillip Island Croquet Club Pavilion
    - Wonthaggi Croquet Club Pavilion
    - Wonthaggi Tennis Club Pavilion
2. **2021 Field Lighting Project**
    - Cowes Recreation Reserve Field Lighting
    - Dalyston Recreation Reserve Field Lighting
    - Inverloch Recreation Reserve Field Lighting

The **2021 Sports Pavilion Project** continues the significant work of Council to renew and redevelop key recreational pavilions across the Shire.

The Phillip Island Croquet Club Pavilion Project is fully designed and was identified as an action in Active Bass Coast 2018 and Blue Gum Reserve Master Plan 2019 and will provide members and guests a facility which incorporates accessible toilets (including an external toilet for Blue Gum Reserve public use), meeting room, kitchenette, verandah and office space. The Phillip Island Croquet Club has committed $25k to this project should it be successful.

The Wonthaggi Croquet Club Pavilion Project is fully designed and was identified as an action in Active Bass Coast 2018 and Wonthaggi Recreation Reserve Master Plan 2019 and will provide members and guests a facility which incorporates accessible toilets, meeting room, kitchenette, verandah and office space. The Wonthaggi Croquet Club has committed $25k to this project should it be successful.

The Wonthaggi Tennis Club Pavilion Project is fully designed and was identified as an action in Active Bass Coast 2018 and Wonthaggi Recreation Reserve Master Plan 2019 and will provide members and guests a facility which incorporates accessible toilets, meeting room, kitchenette, verandah, storage and office space. The Wonthaggi Tennis Club has committed $35k to this project should it be successful.

The **2021 Field Lighting Project** continues the efforts of Council to provide safe, compliant training spaces for our winter sports clubs. The delivery of these three (3) projects will complete the need to upgrade lighting across the Shire.

The Cowes Recreation Reserve Lighting Project is fully designed and will provide the Phillip Island Football Netball Club members with 200 lux (playing standard) LED lighting. The Phillip Island Football Netball Club has committed $25k to this project should it be successful.

The Dalyston Recreation Reserve Lighting Project is fully designed and will provide the Dalyston Football Netball Club members with 200 lux (playing standard) LED lighting. The Dalyston Football Netball Club has committed $25k to this project should it be successful.

The Inverloch Recreation Reserve Lighting Project is fully designed and will provide the Inverloch Kongwak Football Netball Club members with 200 lux (playing standard) LED lighting. The Inverloch Kongwak Football Netball Club has committed $25k to this project should it be successful.

Should an application be submitted and unsuccessful, it will not be delivered.

Finances

Each of the proposed projects have been fully designed and costed.

Applications for funding from this program must be between $1 million and $10 million.

A 10 percent minimum local financial contribution of the funding amount is required to be committed and confirmed by LGAs or Alpine Resort Boards, for each application submitted. For example, a grant request of $1 million should be matched with a contribution of at least $100,000.

The following table outlines how the three proposed projects will be funded:

Group	Projects	Project $	Club	Council	Total combined contribution (Club/Council)	Grant Request	Project Value
Pavilions	1. Phillip Island Croquet Club 2. Wonthaggi Croquet Club 3. Wonthaggi Tennis Club	1. $610k 2. $510k 3. $975k	1. $25k 2. $25k 3. $35k	$124.5k	$209.5k	$1,885,5m	$2.095m
Lighting	1. PIFNC 2. DFNC 3. IKFNC	1. $400k 2. $400k 3. $400k	1. $25k 2. $25k 3. $25k	$45k	$120k	$1.080k	$1.2m
Totals		**$3.295m**	**$160k**	**$169.5k**	**$329.5k**	**$2.9655m**	**$3.295m**

To deliver the six projects with an estimated total value of $3.295m, Council's anticipated contribution is $169,500.

Club contributions have been agreed and formally committed to Council.

Should an application be submitted and unsuccessful, it will not be delivered.

Stakeholders

- Dalyston Football Netball Club
- Dalyston Recreation Reserve Committee of Management
- Member for the Victorian seat of Bass
- Phillip Island Croquet Club
- Phillip Island Football Netball Club
- Wonthaggi Croquet Club
- Wonthaggi Tennis Club

Other Options

Council may choose not to resubmit to the Community Sports Infrastructure Stimulus Program to apply for funding to deliver the 2021 Sports Pavilion Project and the 2021 Field Lighting Project.

The abovementioned projects have been shortlisted by Sport and Recreation Victoria and formally requested to be resubmitted by Council.

Conclusion

The Community Sports Infrastructure Stimulus Program provides Council with an opportunity to access significant State funding to deliver key recreation projects.

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

This report recommends that Council supports the 2021 Sports Pavilion Project, contributing $124,500 to the Project and the 2021 Field Lighting Project, contributing $45,000 to the Project.

Recommendation

That Council:

1. **Endorses Council officers to apply to the Community Sports Infrastructure Stimulus Program for $1,885,500 to assist in the delivery of the 2021 Sports Pavilion Project and commits $124,500 in the 2021/22 year should the project be successful.**
2. **Endorses Council officers to apply to the Community Sports Infrastructure Stimulus Program for $1,080,000 to assist in the delivery of the 2021 Field Lighting Project and commits $45,000 in the 2021/22 year should the project be successful.**

Attachments

AT-1	Community-Sports Infrastructure Stimulus Program Round 2 Guidelines	15 Pages

Council Decision

Moved: Cr. Bruce Kent / Seconded: Cr. Michael Whelan

That the recommendation be adopted.

CARRIED

H.10 Municipal Emergency Management Planning

File No:	**CM21/5**
Division:	**Resilient Communities**
Council Plan Strategic Objective:	**Health and Wellbeing**
	We are a healthy and active community

Declaration

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

Summary

The purpose of this report is to provide Councillors with information on changes to the *Emergency Management Legislation Amendment Act 2018 (EMLA Act)* that impact on Council's role in emergency management, and to recommend Council authorise the CEO to facilitate the establishment of a Municipal Emergency Management Planning Committee (MEMPC) in accordance with the provisions of s68 of the *EMLA Act.*

Background

An emergency is an event or situation that poses an immediate risk to health, life, property and/or the environment. Emergency management means the organisation and management of resources for dealing with all aspects of emergencies.

Local Government plays an important role in emergency management, both in partnership with other agencies, and through its own legislated emergency management obligations. Councils are not emergency response agencies but do have a long-established role in providing support to response agencies as well as coordinating relief and recovery support for the community.

There are currently two Victorian Acts pertaining to emergency management: the *Emergency Management Act 1986 (EM Act 1986)* and the *Emergency Management Act 2013* (EM Act 2013).

Council fulfils its emergency management responsibilities by having plans, people and processes in place to effectively perform our role in response to significant emergency incidents that might impact on the community.

Until now Councils' key emergency management responsibilities have come from Part 4 of the *EM Act 1986*, which has required council to:

- Establish a MEMPC
- Facilitate the development and maintenance of the Municipal Emergency Management Plan (MEMP) by the MEMPC, for consideration and adoption by council
- Allow the audit of the MEMP, and
- Appoint at least one Municipal Emergency Resource Officer (MERO) to coordinate the use of council resources for emergency response and recovery

A MEMPC is a multi-agency collaboration group whose members bring organisation, industry or personal expertise to the task of developing a comprehensive emergency management plan for the municipality. The MEMP covers arrangements for mitigation, response and recovery, and identifies the roles and responsibilities of agencies in relation to emergency management.

In 2020 the *EMLA Act* amended the *EM Act 2013* establishing Victoria's new governance arrangements for managing emergencies. *The EM Act 2013* is being amended in stages as the *EM Act 1986* is repealed.

From 1 December 2020, key emergency management responsibilities of Council now stem primarily from section 59 of the *EM Act 2013*, which requires:

- Establishment of the MEMPC through a resolution of Council
- The CEO or a senior officer of council to chair the MEMPC
- The Council to participate in the preparation and maintenance of a Municipal Emergency Management Plan (MEMP) through the MEMPC
- Appoint at least one Municipal Emergency Management Officer (MEMO)
- Appoint at least one Municipal Recovery Manager (MRM)

Under section 59F of the *EM Act 2013*, Bass Coast Shire Council will establish a MEMPC and in doing so transfer responsibility for municipal emergency management planning from Council to the multi-agency MEMPC. Council's role is to establish the committee. Once established, the committee exists separately to Council and is not a committee of Council.

This shift of responsibility highlights the intent of emergency management planning reform which supports emergency management planning as an integrated, multi-agency and collaborative effort. All participating agencies are required to contribute their expertise and resource to municipal emergency management planning.

Implementation of reform at the municipal level will align municipal emergency management planning with changes that have already occurred at the state and regional levels. The new municipal arrangements must be in place by 30 April 2021.

Strategic Basis

Council Plan Objective:

Health and Wellbeing – *We are a healthy and active community*

Major Initiative / Initiative

A Strategic Indicator in the Council Plan is Compliance with Municipal Emergency Management Plan – 100% compliance (Plan is audited every 3 years).

Statutory Requirements/Codes/Standards/Policies

The *EMLA Act* amended the *EM Act 2013* and various other acts to establish a new integrated and coordinated framework for emergency management planning at state, region and municipal levels.

At the municipal level, the *EM Act 2013* as amended creates an obligation for a reformed Municipal Emergency Management Planning Committee (MEMPC) to be established in each of Victoria's municipal districts.

Through Section 59(1) of the *Local Government Act 2020*, Council can acquit the responsibility to establish a MEMPC through a council resolution supporting a new MEMPC to be established in accordance with the *EM Act 2013*.

Discussion

Council currently has an active MEMPC formed under the *EM Act 1986*, consisting of representatives from Council, State Emergency Service (SES), Regional & Local CFA, Victoria Police, Red Cross, Department of Human Services, Bass Coast Health, Phillip Island Nature Parks and other organisations and agencies involved in response, relief and recovery activities. This group are aware of the legislative changes and how it will impact on the Committee and ongoing responsibilities for municipal emergency management planning.

The Committee have provided input in to Councils Municipal Emergency Management Plan 2020 that was recently successfully audited by the Victorian State Emergency Service in November 2020. From 1 December 2020 this audit process has been replaced with a new self-assurance arrangement. Under the new assurance process, the MEMPC will be responsible for ensuring that the MEMP complies with the new planning framework which is then provided to the Gippsland Regional Emergency Management Planning Committee for approval.

The current MEMP does not need to be updated to align with the new legislated requirements until the end of its current review period of three years. Council and the newly formed MEMPC may wish to develop a new MEMP before the end of its current review period. Council will continue publishing the MEMP on its website on behalf of the MEMPC.

As required under Section 59B(1) of the *EM Act 2013* Council has recognised the Manager Community, Recreation and Culture as the chairperson of the newly formed MEMPC, with Cr Bruce Kent appointed to the MEMPC, with Council continuing to provide secretariat resources to the Committee.

Council has appointed Council staff members to the role of MEMO and the Manager Community, Recreation and Culture to the role of MRM.

Finances

There are no financial implications to this report. All costs associated with implementing the proposed recommendations are included in current budgets.

Stakeholders

The current MEMPC have been made aware of these changes at quarterly meetings of the Committee during 2020, and how it will impact on the structure and ongoing responsibilities of members. The *EMLA Act 2013* sets out a legislated core membership for MEMPCs:

- Municipal Council appointed representative (Chair)
- Victoria Police
- Country Fire Authority

- Fire Rescue Victoria
- Ambulance Victoria
- Victoria State Emergency Service
- Australian Red Cross
- Department of Health and Human Services
- At least one community representative (elected Councillor)
- At least one recovery representative
- At least one other representative (for example, industry, business or additional agency)

The additional core representatives will be identified through the current MEMPC membership as well as other relevant non-voting members who will support emergency planning in Bass Coast.

Other Options

The *EM Act 2013* creates an obligation for a Municipal Emergency Management Planning Committee (MEMPC) to be established in Bass Coast Shire by Council.

Conclusion

The new Municipal Emergency Management Planning Committee (MEMPC) will be responsible for integrated Emergency Management planning for Bass Coast including mitigation for fires and other emergencies. The proposed changes will bring consistency to state, regional and municipal plans and will improve our current Municipal Emergency Management Planning by providing specific information and planning tailored to Bass Coast's context and risk, without replicating state or regional plans.

Recommendation

That Council:

1. **Authorises the disestablishment of the existing Municipal Emergency Management Planning Committee (MEMPC) established under s21(3)-(5) of the *Emergency Management Act 1986*, in recognition that on 1 December these provisions are repealed by s82(2) of the *Emergency Management Legislation Amendment Act 2018* and replaced by the provisions of s68 of the *Emergency Management Legislation Amendment Act 2018*.**
2. **Authorises the CEO to facilitate the establishment of the Municipal Emergency Management Planning Committee (MEMPC) in accordance with the provisions of s68 of the *Emergency Management Legislation Amendment Act 2018* (which inserts a new 'Part 6-Muncipal Emergency Management Planning Committees' into the *Emergency Management Act 2013* on 1 December 2020).**

Attachments

There are no attachments for this report.

Council Decision

Moved: Cr. Bruce Kent / Seconded: Cr. Michael Whelan

That the recommendation be adopted.

CARRIED

H.11 Councillor Code of Conduct

File No:	**CM21/33**
Division:	**Finance and Governance**
Council Plan Strategic Objective:	**Governance**
	We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

The purpose of this report is to present the draft Councillor Code of Conduct for consideration by Council.

Background

The Councillor Code of Conduct is an important document reflecting the standards that Councillors must uphold and a commitment to the way they will work together on behalf of the community.

The *Local Government Act 2020* requires that Council review and adopt the Councillor Code of Conduct within four months after the general election. To be compliant with the legislation the draft Councillor Code of Conduct 2021 needs to be adopted by 24 February 2021.

Strategic Basis

Council Plan Objective:

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

Major Initiative / Initiative

This is not an Initiative or Major Initiative of Council.

Strategies / Policies

Working Together Policy

Statutory Requirements/Codes/Standards/Policies

Local Government Act 2020

Local Government (Governance and Integrity) Regulations 2020

Discussion

The *Local Government Act 2020* (the Act) sets out that Council must adopt a Councillor Code of Conduct and the minimum requirements to be included in the Councillor Code of Conduct.

The *Local Government (Governance and Integrity) Regulations 2020* set out the prescribed standards that are also to be included in the Councillor Code of Conduct.

Outside of these requirements, each Local Government organisation tailors their Councillor Code of Conduct to meet the needs of their Council.

Local Government Victoria have also developed a structure for a Councillor Code of Conduct that is based around the Standards of Conduct. The draft structure has an extensive range of inclusions for consideration.

The draft Councillor Code of Conduct has been prepared based on Councillor input and feedback.

The decision to adopt the Councillor Code of Conduct is unique. The Councillor Code of Conduct is the only decision that Council makes which must be adopted with at least a two-thirds majority eg at least 6 of the 9 Councillors must vote in support.

Finances

The development of the Councillor Code of Conduct can be completed within the Governance and Property operational budget.

Stakeholders

- Councillors
- Officers
- Community
- Audit and Risk Committee

Other Options

Council could choose not to adopt the draft Councillor Code of Conduct 2021. Councillors would continue to function under the Councillor Code of Conduct 2017, which is outdated. Council would be non-compliant with the *Local Government Act 2020*.

Conclusion

The Councillor Code of Conduct is an important document reflecting the standards that Councillors must uphold and a commitment to the way they will work together on behalf of the community.

The draft Councillor Code of Conduct has been developed with input and feedback from Councillors and reflects the requirements of the *Local Government Act 2020* and the *Local Government (Integrity and Compliance) Regulations 2020*.

Recommendation

That Council adopt the Councillor Code of Conduct 2021.

Attachments

AT-1 DRAFT Councillor Code of Conduct 2021 7 Pages

Council Decision

Moved: Cr. Ron Bauer / Seconded: Cr. Leticia Laing

That the recommendation be adopted.

CARRIED

H.12 Review of Councillor Allowances

File No:	**CM21/34**
Division:	**Finance and Governance**
Council Plan Strategic Objective:	**Governance**
	We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

The purpose of this report is to present to Council the outcomes of the review of Councillor allowances.

As required by Section 74(1) of the *Local Government Act 1989*, Council is required to review and determine the level of Mayoral and Councillor allowances within six months of the Council elections or by next 30 June.

No submissions were received on the Councillor allowances and it is recommended that they remain at the maximum level.

Background

Under the *Local Government Act 2020* (the Act) the Mayor and Councillors are entitled to receive an allowance from Council. A Mayor, Deputy Mayor or Councillor may choose to receive the entire allowance to which they are entitled, to receive a specified part of the allowance to which they are entitled or to receive no allowance.

The State government specifies the Mayoral and Councillor Allowance categories. Bass Coast Shire Council is listed as a category 2 Council within the schedule gazetted on 23 December 2019.

The Minister has conducted a review under section 73B of the *Local Government Act 1989* and determined that, this year, no adjustment to allowances will be made in respect of all Councils. The allowance categories effective from 1 December 2019 will continue to be used. The following allowance ranges apply for category 2 Councils:

- Councillors: $10,914–$26,245 per annum
- Mayors: up to $81,204 per annum

The transition from the *Local Government Act 1989* to the *Local Government Act 2020* creates an unusual situation for the setting of allowances. Despite the repeal of Sections 73B and 74 to 74B of the *Local Government Act 1989*, Council is required to continue to apply these sections until the first determination made by the Victorian Independent Remuneration Tribunal under section 23A of the *Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019* comes into effect.

Therefore, in accordance with Section 74(1) of the *Local Government Act 1989,* Council is required to review and determine the level of Mayoral and Councillor allowances within six months of the Council elections or by next 30 June.

Section 74(4) states that a person has a right to make a submission under section 223 in respect of a review of allowances.

At the 25 November 2020 Council meeting, Council resolved to:

1. *Set the Councillor allowances at $26,245 plus equivalent of 9.5% superannuation guarantee and any future increases as gazetted by the Minister for Local Government effective from 9 November 2020.*
2. *Set the Mayoral allowance at $81,204 plus equivalent of 9.5% superannuation guarantee and any future increases as gazetted by the Minister for Local Government effective from 9 November 2020.*
3. *Commence the Mayor and Councillor allowance review process.*
4. *Receive a report on the outcome of the review at the February 2021 Council meeting.*

Strategic Basis

Council Plan Objective:

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

Major Initiative / Initiative

This is not an Initiative or Major Initiative of Council.

Strategies / Policies

Council Support and Resources Policy.

Statutory Requirements/Codes/Standards/Policies

Local Government Act 2020

Local Government Act 1989

Discussion

The formal Section 223 submission process commenced on Friday 18 December 2020 and closed on Friday 22 January 2021. In line with Section 223 requirements, advertisements were placed in the Sentinel-Times on 22 December 2020 and the Phillip Island and San Remo Advertiser on 23 December 2020. The submission process was also advertised on Council's Facebook page and on Council's website.

No submissions were received.

As there were no submissions to review, it is recommended that allowances remain set at the maximum amount allowed within the category two range.

Finances

Allowances for Mayor and Councillors are contained within Council's operating budget.

Stakeholders

- Councillors
- Community members
- Council Officers

Other Options

The Mayor and Councillors are entitled to receive an allowance within the limits set by the State Government. Council is required to complete the review.

Councillors may choose to set an alternative amount but it must fall within the specified category range.

A Mayor, Deputy Mayor or Councillor may choose to receive the entire allowance to which they are entitled, to receive a specified part of the allowance to which they are entitled or to receive no allowance.

Conclusion

The Mayor and Councillors are legislatively entitled to an allowance.

As part of the transition from the *Local Government Act 1989* to the *Local Government Act 2020* Council is required to continue to apply Sections 73B and 74 to 74B of the *Local Government Act 1989*. In accordance with Section 74(1) of the *Local Government Act 1989,* Council is required to review and determine the level of Mayoral and Councillor allowances within six months of the Council elections or by next 30 June.

Council has completed now completed the required review. No submissions were received through the Section 223 consultation process, therefore it is recommended that the Mayoral allowances remains set at $81,204 per annum with a 9.5% superannuation guarantee and the Councillor allowance remains set at $26,245 per annum with a 9.5% superannuation guarantee.

Recommendation

That Council:

1. **Note that no Section 223 submissions were received on the review of Councillor allowances.**
2. **Confirm that Councillor allowances remain set at $26,245 plus equivalent of 9.5% superannuation guarantee and any future increases as gazetted by the Minister for Local Government effective from 9 November 2020.**
3. **Confirm that the Mayoral allowance remains set at $81,204 plus equivalent of 9.5% superannuation guarantee and any future increases as gazetted by the Minister for Local Government effective from 9 November 2020.**

Attachments

There are no attachments for this report.

Council Decision

Moved: Cr. Bruce Kent / Seconded: Cr. Leticia Laing

That the recommendation be adopted.

CARRIED

H.13 Review of Instrument of Delegation – Council to Staff

File No:	**CM21/54**
Division:	**Finance and Governance**
Council Plan Strategic Objective:	**Governance**
	We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

The purpose of this report is to recommend that Council adopts the Instrument of Delegation from Council to staff and revoke the previously adopted Instrument of Delegation from Council to staff.

This report is presented to Council to ensure the staffs delegations are updated to reflect changes and requirements to all the relevant Acts and Regulations.

Instruments of Delegation are appointed to positions, not people. A power, duty or function applied to any position through an Instrument of Delegation cannot be on-delegated, but does cover anybody who is 'acting' in a position.

Background

Council currently exercises its powers to delegate to positions.

Council subscribes to a suite of Instruments prepared by Maddocks Lawyers, which are then adapted and completed to meet the requirements of Bass Coast Shire Council.

Strategic Basis

Council Plan Objective:

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

Major Initiative / Initiative

This is not a major initiative or initiative of Council.

Strategies / Policies

The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

Statutory Requirements/Codes/Standards/Policies

- *Cemeteries and Crematoria Act 2003*
- *Domestic Animals Act 1994*
- *Environment Protection Act 1970*
- *Food Act 1984*

- *Heritage Act 2017*
- *Local Government Act 1989*
- *Planning and Environment Act 1987*
- *Residential Tenancies Act 1997*
- *Road Management Act 2004*
- *Cemeteries and Crematoria Regulations 2015*
- *Planning and Environment Regulations 2015*
- *Planning and Environment (Fees) Regulations 2016*
- *Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020*
- *Road Management (General) Regulations 2016*
- *Road Management (Works And Infrastructure) Regulations 2015*

Discussion

Delegation facilitates the achievement of good governance for the community by empowering positions to make decisions on behalf of Council and the Chief Executive Officer.

The attached Instrument of Delegation from Council to Staff was adopted 19 August 2020.

There are no changes to Acts/Regulations in the attached Instrument of Delegation.

Delegations under the Heritage Act 2017 and Planning and Environment Act 1987 have been amended to reflect the new structure of the Strategy & Growth Department following a recent service review. In addition, it is proposed that additional delegation be afforded to the General Manager Place Making and Manager Strategy & Growth to enter in Section 173 Agreements on behalf of Council.

Finances

There are no financial implications associated with this report.

Stakeholders

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

Staff – ensuring the ability to undertake their roles.

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

Other Options

1. Endorse the Instrument of Delegation from Council to staff as attached.
2. Council could request amendments to the Instrument of Delegation from Council to staff.
3. Council could choose not to delegate positions, however if this were to occur Council would be responsible for making all decisions and acting on all powers, duties and functions as outlined in each relevant section of each piece of

legislation. This would not allow for timely decision making, nor effective governance.

Conclusion

It is recommended that Council adopt the Instrument of Delegation from Council to staff for the powers, duties and functions under the relevant legislation as outlined in the attachment.

Recommendation

In the exercise of the powers conferred by the legislation referred to in the attached instrument of delegation, Bass Coast Shire Council (Council) Resolves that:

1. **There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached *Instrument of Delegation to members of Council staff*, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.**
2. **The instrument comes into force immediately the common seal of Council is affixed to the instrument.**
3. **On the coming into force of the instrument all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked.**
4. **The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.**

Attachments

AT-1 Instrument of Delegation Council to Staff 169 Pages

Council Decision

Moved: Cr. Rochelle Halstead / Seconded: Cr. Leticia Laing

That the recommendation be adopted.

CARRIED

H.14 Instrument of Appointment and Authorisation - Planning and Environment Act 1987

File No:	**CM21/8**
Division:	**Finance and Governance**
Council Plan Strategic Objective:	**Governance** We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

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

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

Background

Council currently exercises its powers to appoint Authorised Officers.

Strategic Basis

Council Plan Objective:

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

Discussion

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

Finances

There are no financial implications associated with this report.

Stakeholders

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

Staff – ensuring the ability to undertake their roles.

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

Statutory Requirements/Codes/Standards/Policies

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

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

Other Options

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

Conclusion

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

Recommendation

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

1. **The members of Council staff referred to in the attached instruments be appointed and authorised as set out in the instrument.**
2. **The 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.**
3. **Revokes the instrument of Appointment and Authorisation under the Planning and Environment Act 1987 to:**
   - **Wilson Zheng**

Attachments

AT-1	Mary-Ann Bellekom S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-2	Kerryn Ladell S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-3	Isla English S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-4	Danieel Matthews S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-5	Susan Gheller S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-6	Catherine Bryant S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page

Council Decision

Moved: Cr. Bruce Kent / Seconded: Cr. Rochelle Halstead

That the recommendation be adopted.

CARRIED

H.15 2020/21 Major Initiatives, Finance and Capital Works Second Quarter Report

File No:	**CM21/30**
Division:	**Finance and Governance**
Council Plan Strategic Objective:	**Governance**
	We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

The purpose of this report is to provide a progress report on the first two quarters' performance for our Major Initiatives, and Initiatives, adopted Capital Works Program and operating finances.

Background

The Council Plan articulates Council's Vision for the future of Bass Coast and outlines strategies to be used by Council in fulfilling the Vision. It is an important tool for measuring the performance of Council and its Officers. The 2020/21 Budget funds the objectives within the Council Plan and this year identified five Major Initiatives, and six Initiatives. Council also adopted the Capital Works Program within the 2020/21 Budget. These Initiatives, the Capital Works Program and Council's financial performance will be reported on quarterly throughout the year.

Strategic Basis

Council Plan Objective:

Advocacy - *Representing the community*

Economic Development – *Expanding, attracting and retaining business and investment*

Environment – *Maintain and protect the natural environment*

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

Health and Wellbeing – *We are a healthy and active community*

Liveability – *Enjoying the place we live*

Our Character – *Celebrating the uniqueness of our townships*

Stakeholders

Council, ratepayers, external funding bodies, residents and visitors are all affected by the delivery of the services, key initiatives and the capital program.

Statutory Requirements/Codes/Standards/Policies

Section 97 of the *Local Government Act 2020* (Act) requires that each quarter Council (and the community) is provided with a statement comparing the adopted budget with the actual results for the year to date.

The Major Initiatives and Capital Works are allocated in the 2020/21 Budget. All of Council's expenditure is approved and spent in accordance with the Act and the Procurement Policy.

The Act states that the primary objective of Council is to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decisions.

Major Initiative / Initiative

Attached to this report (AT-1) is a detailed progress summary of the five Major Initiatives and six Initiatives which were identified in the 2020/21 Budget.

Strategic Objective	**Initiative**	**Status**
Advocacy	Continue to implement the Advocacy Strategy	On Track
Economic Development	Implement relevant Year 2-5 actions in the Phillip Island and San Remo Visitor Economy Strategy 2035 Growing Tourism - Major Initiative	On Track
Environment	Climate Change Action Plan 2020-2030 (Major)	On Track
Governance	Implement the Local Government Act 2020 (Major)	On Track
Governance	Develop the Council Plan 2021-2025 (Major)	On Track
Governance	Continue Implementation of the Business Transformation program including the OneCouncil Solution	On Track
Health and Wellbeing	Continue the development of the Reconciliation Action Plan	On Track
Liveability	Commence the Municipal Affordable Housing Feasibility Study	On Track
Our Character	Commence design and construction of the Cowes Cultural and Community Centre (Major)	On Track
Our Character	Commence implementation of the Wonthaggi North East Precinct Structure Plan and Developer Contributions Plan (Major)	On Track
Our Character	Commence feasibility and design of the Bass Coast Aquatics facility and Phillip Island Aquatics facility	On Track

Finances

The 2020/21 budget was delayed to allow Council time to revise budget assumptions to determine the best community support required as a result of the COVID-19 pandemic. The quarter two Forecast for 2020/21 is largely aligned to budget. These adjustments included a $2.8 million COVID response and recovery package for our community, with the provision of direct support through direct support programs and economic stimulus.

Material variances seen in the quarter two forecast are largely as a result of Council's success in securing the receipt of additional grant funding for delivery of capital projects and grant funding to help provide employment to those in Victoria whose substantive employment was adversely impacted by the pandemic.

The below key metrics highlight Council's forecast financial position for 2020/21.

	Budget	**Forecast**
Net Result ($'000s)	3,105	5,433
Adjusted Underlying Result	0.22%	-0.99%
Funding Surplus ($'000s)	0	417
Renewal Gap	1.05	1.08
Liquidity	1.93	2.10

Net Result has been favourably impacted by the confirmation of funds to be received from Better Boating Victoria ($4.5 million) for works on the Rhyll boat ramp and Growing Suburbs ($2.5 million) for application on the planned works for the Cowes Cultural Centre. Of this additional $7 million of confirmed funding, $2 million is forecast to be recognised during the 2020/21 financial year. In addition, recognition of cash contributions from the Pioneer Special Charge scheme of $2.2 million are expected during the 2020/21 financial year as the works on this drainage project accelerate.

Additional funding of $4 million was secured at the start of the 2020/21 year, through the Working for Victoria initiative. This funding which is provided by the State Government supports Council in providing short term employment opportunities to around 100 Victorians whose substantive roles were adversely impacted by the pandemic. In addition, this funding has contributed to the additional service levels required for public amenities and business support and recovery as a result of the pandemic. This funding has no overall impact on our financial results, as the increased revenue is directly offset through increased labour costs.

Continued works on projects which were not complete within the 2019/20 financial year have an adverse impact on both our net result and adjusted underlying result. These projects include the allocation of $0.7 million in COVID-19 community grants which were budgeted for payment in June 2020 but paid and expensed in July 2020. These projects were fully funded through the 2019/20 budget and therefore the delayed financial completion has no impact on Council's cash position.

Our cash position, as shown in our funding statement is forecast to be largely in line with budget, with a forecast surplus of $0.4 million projected for the financial year. Council's balance sheet was unfavourably impacted by the required recognition of deferred income (AASB15) and lease liabilities (AASB16) during 2019/20. Regardless of this, Council's liquidity ratio remains within VAGO's low risk category, meaning that Council continues to have the ability to be able to pay debts as they fall due.

Council has forecast a capital works program totalling $28.24 million for 2020/21. While the total capital works program has increased by $3.5 million as a result of securing unbudgeted grant funding from Better Boating Victoria and Growing Suburbs, these funds are expected to be expended next financial year. As we continue through the financial year, the delivery of the 2020/21 capital works program will continue to be monitored.

Capital Works Program

Forecast Capital Program

In August 2020 Council approved its 2020/21 budget, which included a Capital Works Program (CWP) comprising of 88 projects with a total value of $27.9 million.

The COVID-19 Stage 4 restrictions coupled with the Caretaker Period during the Council transition have had a major impact on the timeliness of the capital program delivery. Officers have carried out an in depth review of the projected capital program delivery including the impacts of securing additional grant funding and the forecast carry over. Based on these projections while Council expects to deliver a total of $28.2 million in capital works, it is forecast that $18.9 million in capital projects will be carried over to 21/22. The delayed commencement of a number of projects, significant carry over from the previous year and new funded projects have contributed to this elevated carry over projection. Forward planning for future capital programs needs to consider internal levels and matching these to the scale of the program to improve deliverability outcomes.

Detailed adjustments and associated explanatory comments per project may be seen within the attached report (AT-3).

A summary of the Quarter 2 Forecast is provided within the table below.

Program Element	**Projects**	**$Million**
Adopted Budget 2020/21	88	27.9
Projects carried over from 2019/20	35	15.7
Adopted Budget 2020/21 + 2019/20 Carry overs	**123**	**43.6**
Forecast Q2 adjustments		3.5
Forecast projects for carry over to 2021/22		(18.9)
Total Q2 Forecast		**28.2**

At the end of the 2019/20 financial year, 35 capital projects were identified as financially incomplete and therefore required a carryover of funds to the 2020/21 financial year in order to complete planned works. This resulted in $15.7 million of funding being carried over from the 2019/20 financial year.

Following the adoption of the 2020/21 budget, Council has been successful in securing approximately $7.0 million in capital grants. Council has partnered with Better Boating Victoria (BBV) to deliver the Rhyll Boating Facility, resulting in funding of $4.5 million being provided to Council for the delivery of an upgraded facility. It is forecast that $0.45 million of this funding will be expended in the 2020/21 financial year with works continuing in 2021/22.

An additional $2.5 million in funding has been secured from the Growing Suburbs Fund and has been allocated towards the construction of Cowes Cultural Centre. As a result, funding of $2.5 million has been reallocated to the development of the Guy Road shared path in Corinella, increasing our total capital program by $2.5 million. It is forecast that these funds will be carried forward for spend in the 2021/22 year.

Other increases seen in the forecast include $150K allocation to municipal art, $220K increase in forecast expenditure for fleet renewal (to support WFV), $159K additional funding required to deliver Wonthaggi tennis courts, $100K increase in forecast expenditure for street decorations, $67K in additional funding secured for spend at Wonthaggi historical society, and $300K in completion of 2019/20 projects which were not identified for carryover.

To offset these increases it is forecast that $18.9 million in project expenditure will fall in future financial years, therefore reducing the forecast spend in 2020/21. The largest of these carryovers are detailed below, with full detail on these project carryovers provided in the attachment to this report.

- Regional Skate and Play Space. Due to Council deferring the Regional Skate and Play Space the forecast spend in the 2020/21 financial year has been reduced by $1.7 million. It has been forecast that these funds will be carried over to future years.
- PBN Surf Parade Inverloch – Veronica Street to Goroke Street. Council is currently working through the consent process with all relevant authorities and it is currently forecast that this project works and associated spend will start during the 2021/22 year.
- Pioneer Bay Special Charge Scheme. As this project progresses, it is forecast that $0.9 million of spend (20% of full forecast project spend) will fall in the 2021/22 financial year.
- Cowes Cultural Centre. Works continue to progress, with demolition works now complete. It is forecast that the timing of spend for this project will result in $2.2 million being carried over for spend in future years.
- Guide Park Wonthaggi. Detailed design is currently in progress, with tender documentation programmed to occur in early Quarter 3. Works are forecast to start late in the financial year. $1.2 million is forecast to fall within the 2021/22 year.
- Aquatic Centre Bass Coast. Feasibility study is underway for this large scale and multi-year project. It is forecast that $2.6 million will be carried over for spend in future years.

Progress of the Capital Program

Delivery of the 2020/21 CWP is in progress. $5.4 million has been spent as at 31 December 2020, with a further $11.3 million committed to contractors as project work continues to progress. This spend represents a 19.1% financial completion of the full year CWP forecast.

COVID-19 has impacted our capital delivery program as delays in delivery result from associated Victorian restrictions and the late adoption of the 2020/21 budget. Additional limitations on tenders and community consultations have been experienced as local government elections took place. Our aggregate program completion for full year forecast currently sits at 61%.

Opportunities to enhance the delivery of the CWP are currently being implemented. This includes recruiting additional resources, developing standard templates and reports, establishing a project management framework and portal, and improvements to the scoping process.

Of the 147 active projects currently listed within the CWP:

- 11 are yet to commence (7%)
- 69 are currently in progress (48%)
- 50 have been completed (34%)
- 11 projects have been staged to be delivered over multi-years (7%)
- 6 projects has been either removed, amalgamated or deferred (4%)

Details regarding the delivery status of each project contained within the CWP is provided within AT-3.

Recommendation

That Council

1. **Receives the Finance, Major Initiatives and Capital Works Progress Report for the quarter ended 31 December 2020.**
2. **Authorises adjustment of Capital Works Program project forecasts in accordance with the figures listed within attachment AT-3.**

Attachments

AT-1	Bass Coast Shire Council Quarterly Initiatives Report December 2020	9 Pages
AT-2	Bass Coast Shire Council Quarterly Financial Report December 2020	20 Pages
AT-3	Bass Coast Shire Council Quarterly Capital Works Report December 2020	8 Pages

Council Decision

Moved: Cr. Michael Whelan / Seconded: Cr. David Rooks

That the recommendation be adopted.

CARRIED

Statutory Reports

Council Decision

Moved: Cr. Clare Le Serve / Seconded: Cr. Michael Whelan

That agenda items I.1, I.2, I.3, I.4 and I.5 be considered as a block.

CARRIED

I Statutory Reports

I.1 Informal Meeting of Councillors Records

File No:	**CM20/692**
Division:	**Finance and Governance**
Council Plan Strategic Objective:	**Governance**
	We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

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

Introduction

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

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

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

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

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

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

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

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

Council Plan Objective:

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

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

Recommendation

That the attached Informal Meeting of Councillors Records be received.

Attachments

AT-1	Informal Meeting of Councillors record 9 December 2020 Briefings morning session	1 Page
AT-2	Informal Meeting of Councillors record 9 December 2020 Briefings afternoon session	1 Page
AT-3	Informal Meeting of Councillors record 16 December 2020 Briefings	1 Page

I.2 Planning and Building Statistics - November 2020

File No:	**CM20/674**
Division:	**Place Making**
Council Plan Strategic Objective:	**Our Character**
	Celebrating the uniqueness of our townships

PERMITS REFUSED:

Nil.

PERMITS ISSUED:

Island Ward

200044: Removal of vegetation in PCRZ located at Cowes-Rhyll Road, Rhyll (CA 110B).

200088: Subdivision of land into two lots, creation of carriageway easement and removal of native vegetation in LDRZ located at 4A Hereward Close, Cowes.

200189: Development of land for two dwellings in GRZ1 located at 47 Elvington Avenue. Cowes.

200236: Development of the land for a warehouse located at 6-8 Shorland Way, Cowes.

200242: Development of the land for an outbuilding in association with an existing dwelling in FZ, ESO1, SLO2 located at 'Kennon Head' 303 Watts Road, Ventnor.

200299: Subdivision of land into 13 lots in IN3Z located at 7, 9, 17 and 19 Shorland Way, Cowes.

200304: Extension to an existing dwelling in the BMO located at 38 Hobsons Parade, Cowes.

200327: Building and works for existing dwelling in FZ located at 443 Ventnor Road, Ventnor.

200371: Construction of an in ground swimming pool located at 12a Settlement Road, Silverleaves.

200372: Remove one tree in VPO2 located at 13 Glen Isla Court, Cowes.

200373: Remove one tree in VPO2 located at 13 Glen Isla Court, Cowes.

200381: Removal of 1 tree in VPO2 located at 40 Stradbroke Avenue, Cowes.

Western Port Ward

190405: Subdivision of land into 2 lots and converting existing bungalow to second dwelling located at 4-6 Tampa Road, Cape Woolamai.

200089: Development of land for second dwelling in GRZ1 located at 159 Phillip Island Road, Surf Beach.

200117: Use and development of land for second dwelling in FZ and SLO1 located at 190 Almurta-Glen Forbes Road, Almurta.

200211: Extension to existing dwelling in the FZ located at 205 Korrine Road, Glen Alvie.

200213: Development of land for garage in FZ and SLO1 located at 29 Campbell Road, Kernot.

200215: Subdivision of land into two lots located at 25-27 Semaphore Street, Coronet Bay.

200223: Extension to an existing dwelling in the BMO1 located at 16 Anderson Street, Newhaven.

200240: Subdivide the land into two (2) lots located at 13 Elevation Crescent, San Remo.

200245: Subdivide the land into two (2) lots located at 7 Elevation Crescent, San Remo.

200266: Subdivision of land into two (2) lots in GRZ1 located at 5 Milton Street, Cape Woolamai.

200319 Development of the land for dwelling in HO30 located at 17 Nouvel Crescent, Corinella.

200323: Development of land for a dwelling located at 5 Bunya Drive, Cape Woolamai.

200351: Subdivision of land into 2 lots located at 4 Elevation Crescent, San Remo.

200359: Buildings and works associated with existing dwelling in FZ located at 125 Gurdies-St Helier Road, The Gurdies.

200363: Subdivision of land into two lots located at 11 First Avenue, Cape Woolamai.

200383: Building and works for outbuilding in association to dwelling in RLZ located at 114 Desmond Road, Wattle Bank.

Bunurong Ward

190171: Five (5) lot subdivision located at 2 Surf Beach Road, Cape Paterson.

200066: Subdivision of land into (2) two lots and development of land for a second dwelling located at 47 Alexander Road, South Dudley.

200158: Buildings and works for an outbuilding (shed) in association with existing dwelling in BMO, ESO4 and HO78 located at 46-48 Station Street, South Dudley.

200185: Development of land for dwelling in BMO located at 13 Wheeler Road, Cape Paterson.

200190: Development of land for a dwelling in BMO located at 114 Viminaria Road, Harmers Haven.

200209: Subdivision of land into two lots in the GRZ1 and DDO1 located at 41 Bayview Avenue, Inverloch.

200248: Development of the land for a dwelling located at 91-97 Viminaria Road, Harmers Haven.

200251: Building and works for Shop Front in C1Z and HO located at 134-142 Graham Street, Wonthaggi.

200262: Subdivision of land into two lots located at 7 Parkes Street, North Wonthaggi.

200272: Development of land for a dwelling in the BMO located at 6A Simmons Court, Wonthaggi.

200276: Development of land for a dwelling in BMO and ESO1 located at 13 Piper Place, Inverloch.

200287: Subdivision of land into two lots in the GRZ1 located at 185 Graham Street, Wonthaggi.

200310: Extend a dwelling in GRZ1 located at 23a The Esplanade, Inverloch.

200317: Subdivision of land (boundary realignment) in FZ located at 250 Boundary Road, Wonthaggi.

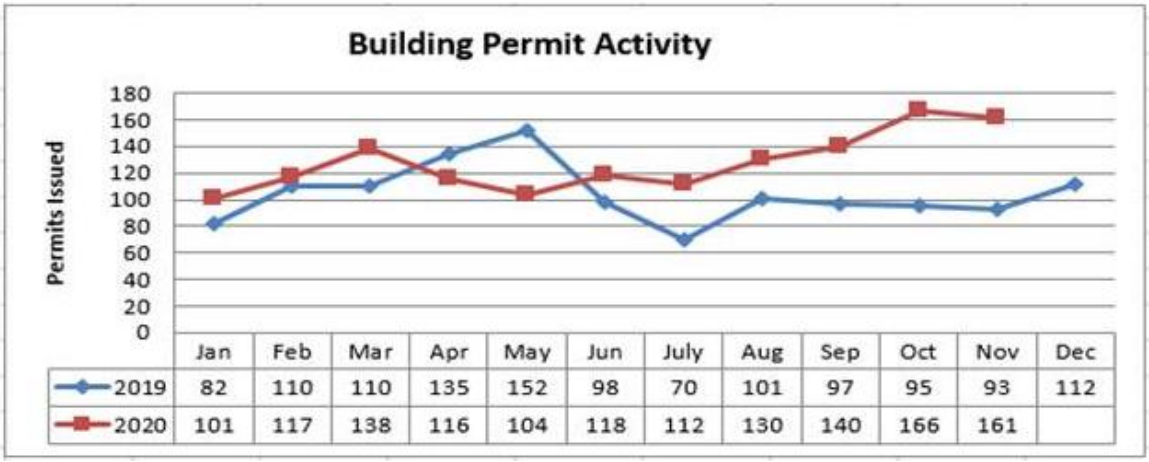
200330: Remove a restriction from title (Building Envelope) located at 8 Lyndhurst Street, North Wonthaggi.

200369: Buildings and works in association with restaurant extension in SUZ5 and ESO5 located at 70 Cape Paterson-Inverloch Road, Inverloch.

PLANNING AND BUILDING ACTIVITY REPORT FOR NOVEMBER 2020

Statutory Planning	**This month (November)**	**Last month**	**Year to date (financial year)**
% of applications determined within statutory timeframe	41	50	66
Average Gross Days (Responsible Authority determination)	134	120	148
(new) Average Gross Days to final outcome	137	131	162
Number of live applications	228	244	-
Number of applications received for the month	32	44	229
Number of Responsible Authority outcomes	53	66	222
Municipal Building Services & Enforcement	**This month (November)**	**Last month**	**Year to date (financial year)**
Essential Safety Measure inspections	0	0	0
Swimming Pool & Spa safety barrier inspections	1	0	3
Report and Consent applications	23	32	116
Siting consents issued for temporary structures	0	0	0

Complaints received requiring investigation	11	4	24
New building enforcement cases	1	0	2
Number of open building enforcement cases	37	37	n/a
Building permits issued by Council	0	0	0



Planning Enforcement	**This month (November)**	**Last month**	**Year to date (financial year)**
Complaints received requiring investigation	14	9	62
New planning enforcement cases	0	0	6
Open enforcement cases	98	100	-
Pre commencement meetings	0	0	0
Official warnings issued	0	0	0
Number of planning infringement notices issued	0	0	0
Total infringements received ($)	0	0	$1652.20

Recommendation

That Council:

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

Attachments

There are no attachments for this report.

I.3 Planning and Building Statistics - December 2020

File No:	**CM21/1**
Division:	**Place Making**
Council Plan Strategic Objective:	**Our Character**
	Celebrating the uniqueness of our townships

PERMITS REFUSED:

Nil.

PERMITS ISSUED:

Island Ward

190396: Development of land for four dwelling on a lot and removal of vegetation in VPO2 located at 5 Grandview Grove, Cowes.

200045: Buildings, works and native vegetation removal for an emergency facility and altered access to a Road Zone Category 1 located at 110 Ventnor Road, Cowes.

200252: Alterations and additions to a dwelling in a DDO1 and LSIO located at 17 Woodland Avenue, Silverleaves.

200268: Removal of native vegetation located at Anderson Road Boat Ramp car park, The Esplanade, Cowes.

200312: Development of the land for dwelling in DDO1 located at 13 Ventnor Boulevard, Ventnor.

200315: Remove restriction created on Plan of Subdivision PS808681T over Lot 566 and remove vegetation (VPO2).

200349: Extension to existing dwelling in LSIO located at 24 Woodland Avenue, Silverleaves.

200405: Construction of solar energy system in association with existing dwelling in HO128 located at 79-83 Lyall Street, Ventnor.

Western Port Ward

200144: Development of land for dwelling in DDO1 located at 8 Earlshall Drive, San Remo.

200177: Subdivision of land into two lots in BMO1 and GRZ1 located at 18 Portview Avenue, Grantville.

200210: Extension to existing dwelling in the FZ, SLO1 and EMO1 located at 445 Korrine Road, Glen Alvie.

200229: Subdivide the land into two lots for 32 Portview Avenue, Grantville.

200274: Development of land for an outbuilding in an EMO1 and SLO1 located at Garry Road, Kernot.

200316: Building and works for existing dwelling in Emo1, SLO1 and BMO located at 203 Mackay Road, Woolamai.

200320: Alterations and additions to an existing shed in FZ and SLO1 located at 215 Nyora-St Helier Road, Loch.

200342: Extension to existing dwelling in SLO1 located at 15 Cochrane Road, Loch.

Bunurong Ward

190105: Development of the land for a dwelling in the BMO, vegetation removal in the VPO12 and variation of restrictive covenant located at 114 Surf Beach Road, Cape Paterson.

200113: Subdivision of land into two lots located at 16 Kirrak Street, North Wonthaggi.

200187: The demolition of a heritage building (dwelling) and the development of a replacement dwelling in Heritage Overlay (HO99) and DDO9 located at 17 Venus Street, Inverloch.

200206: To remove the restriction relating to water supply designated as E-1 on Crown Grant Volume 6593 Folio 536 located at Lot 12 LP211823 Dowson Drive, Wonthaggi.

200253: Development of land for a dwelling in a DDO9 and alteration of access to a Road Zone Category 1 located at 32 Venus Street, Inverloch.

200270: Subdivision of land into two (2) lots in GRZ1, BMO and ESO4 located at 58 Station Street, South Dudley.

200391: Buildings and works for outdoor dining area in the C1Z located at 60 McBride Avenue, Wonthaggi.

200395: Building and works for carport in GRZ1 located at 7/3 Baillieu Street East, Wonthaggi.

200407: Development of land for an outbuilding greater than 100sqm in association with existing dwelling in the FZ located at 45 Murrays Road, Inverloch.

200421: Additions to an existing service station building in the MUZ located at 25 Williams Street, Inverloch.

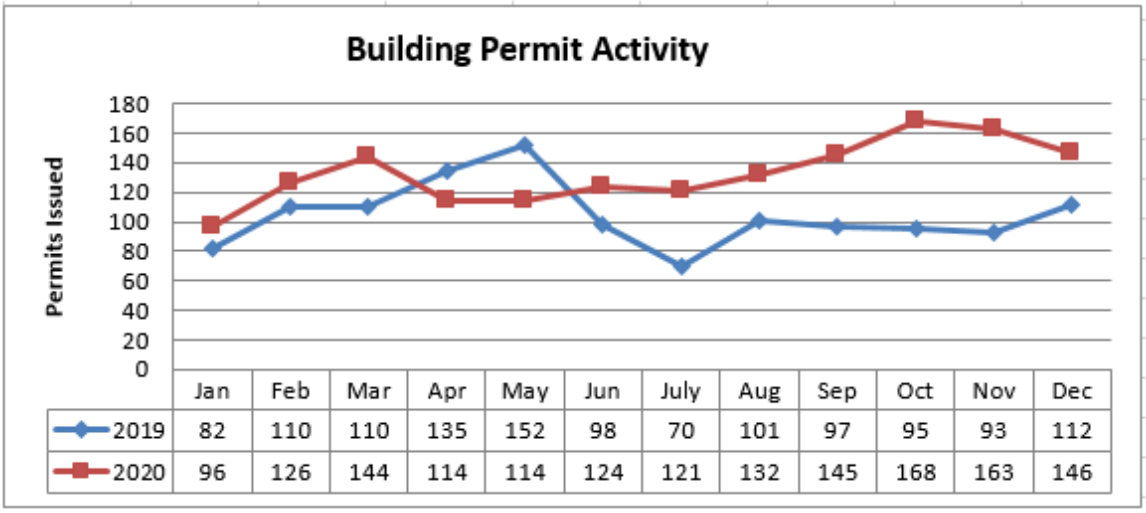
200424: Removal of one tree in the VPO2 located at 174 Surf Parade, Inverloch.

PLANNING AND BUILDING ACTIVITY REPORT FOR DECEMBER 2020

Statutory Planning	This month (December)	Last month	Year to date (financial year)
% of applications determined within statutory timeframe	55	41	52
Average Gross Days (Responsible Authority determination)	162	134	138
(new) Average Gross Days to final outcome	181	123	143
Number of live applications	219	228	-

Number of applications received for the month	42	32	271
Number of Responsible Authority outcomes	54	51	270

Municipal Building Services & Enforcement	**This month (December)**	**Last month**	**Year to date (financial year)**
Essential Safety Measure inspections	0	0	0
Swimming Pool & Spa safety barrier inspections	0	1	3
Report and Consent applications	22	23	138
Siting consents issued for temporary structures	1	0	1
Complaints received requiring investigation	70	11	94
New building enforcement cases	3	1	5
Number of open building enforcement cases	39	37	n/a
Building permits issued by Council	0	0	0



Planning Enforcement	**This month (December)**	**Last month**	**Year to date (financial year)**
Complaints received requiring investigation	14	14	76
New planning enforcement cases	0	0	6
Open enforcement cases	97	98	-
Pre commencement meetings	0	0	0
Official warnings issued	0	0	0
Number of planning infringement notices issued	0	0	0

Total infringements received ($)	0	0	$1652.20

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Recommendation

That Council:

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

Attachments

There are no attachments for this report.

I.4 Contract Award Report

File No: **CM21/25**
Division: **Finance and Governance**
Council Plan Strategic Objective: **Governance**

We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

Contracts Awarded

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

Contract No.	Description	Contractor	Contract Sum
20018	Design Rhyll Boat Upgrade	WGAVIC Pty Ltd	$154,050.00
20019	Seawall Overtopping Works Pier Road Grantville	MACA Civil Pty Ltd	$118,900.00

Contracts Extended

For the period from 1 November 2020 to 31 December 2020, the following contracts were extended under the Procurement Delegation Framework.

Contract No.	Description	Contractor	Contract Sum
18027	Annual Supply of Stabilisation Works	Sure Constructions (Vic) Pty Ltd	SOR Contract*
18028	Annual Supply of Stabilisation Works	Downer EDi Works Pty Ltd	SOR Contract*
18029	Annual Supply of Stabilisation Works	Stabilised Pavements of Australia Pty Ltd	SOR Contract*
18030	Annual Supply of Concreting, Paving & Associated Works	Super Paving Vic Pty Ltd	SOR Contract*
18031	Annual Supply of Concreting, Paving & Associated Works	SR Excavations Pty Ltd	SOR Contract*
18032	Annual Supply of Concreting, Paving & Associated Works	Steve Wheatley Concreting Pty Ltd	SOR Contract*

*Schedule of Rates Contract – there is no guarantee of the value or quantity of work to be issued

Recommendation

That Council receive this report.

Attachments

There are no attachments for this report

I.5 Councillor Expenses for the Council Term - 4 November 2016 to 24 October 2020 and 9 November 2020 to 31 December 2020

File No:	**CM21/2**
Division:	**Finance and Governance**
Council Plan Strategic Objective:	**Governance**
	We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

The 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

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 Objective:

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

Statutory Requirements/Codes/Standards/Policies

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 Council Support and Resources Policy.

Finances

Attachment 1 sets out details of Councillor Expenditure for the full Council term between the dates 4 November 2016 to 24 October 2020.

Attachment 2 sets out details of Councillor Expenditure for the Council term between the dates 9 November 2020 to 31 December 2020.

Stakeholders

Stakeholders include the ratepayers of the municipality and Council.

Recommendation

That Council

1. **Receive the report on Councillor Expenditure for the full Council term to 24 October 2020.**
2. **Receive the report on Councillor Expenditure for the Council term to 31 December 2020.**

Attachments

AT-1 Councillor Expenses Report 4 Nov 2016 to 24 Oct 2020 1 Page

AT-2 Councillor Expenses Report 9 Nov 2020 to 31 Dec 2020 1 Page

Council Decision

Moved: Cr. Michael Whelan / Seconded: Cr. Ron Bauer

That the recommendations attached to agenda items 1.1, 1.2, 1.3, 1.4 and 1.5 be adopted.

CARRIED

J Urgent Business

There was no Urgent Business.

Mayoral Announcement Of Next Meeting Of Council

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

Council will be pausing Community Connection Sessions.

The next Council Meeting will be held virtually 17 March 2021 commencing at 1.00pm. It will be open to the public via livestream.

Meeting closed

The meeting closed at 3.10pm