

# Bass Coast Shire Council
# Council Meeting Minutes

**Wednesday 20 April 2022**

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

1. These minutes are due to be confirmed on 18 May 2022
2. Any decision included in these minutes is subject to change resulting from a recession motion passed by Council

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**Meeting commenced**

The meeting commenced at 1.09pm

Cr Michael Whelan 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 Governance Rules. To members of the public joining us in the gallery today, by attending this public Meeting of the Council you are consenting to your image, voice and comments being recorded and published.

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 Michael Whelan 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 Michael Whelan 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 Michael Whelan read the Statement of Acknowledgement.

## Statement of Acknowledgement

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

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

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

Cr David Rooks 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 Michael Whelan Island Ward (Mayor)

Cr Leticia Laing, Bunurong Ward (Deputy Mayor)

Cr Ron Bauer, Island Ward

Cr David Rooks, Island Ward

Cr Rochelle Halstead, Western Port Ward

Cr Clare Le Serve, Western Port Ward

Officers in Attendance:

Ms Ali Wastie, Chief Executive Officer

Mr Wayne Mack, General Manager Business Transformation

Mr Greg Box, General Manager Partnerships, Economy and Culture

Mr James Stirton, General Manager Place Making

Mr Simon Woodland, Acting General Manager Resilient Communities

Ms Robyn Borley, Manager Governance and Property

Apologies:

Cr Brett Tessari Bunurong Ward

Cr Les Larke, Bunurong Ward

Cr Bruce Kent, Western Port Ward

## B Declarations of Interest

There were no Declarations of Interest.

# C Confirmation of Minutes

## *C.1 Council Meeting held on 16 March 2022*

**Council Decision**

**Moved: Cr. Clare Le Serve / Seconded: Cr. Ron Bauer**

**That the minutes of the Council Meeting held on 16 March 2022 be confirmed.**

**CARRIED**

# D Public Question Time

## *D.1 Linda Marston, PICAL Relocation*

1. PIMHAG is seeking clarification on the timeline for the relocation of PICAL to Warley Ave, as this will impact the Community Hospital construction. When will PICAL move off of its current site?
2. And when will PICAL's access to the old CFA building be finalised?

**Response:**

**Council continues to work toward the agreed November 2022 timeframe for relocation of PICAL to Warley Avenue. Council is progressing discussions with a range of community groups including PICAL with regards to opportunities at the CFA Building. A report will be presented on this at the May Council Meeting.**

## *D.2 Stacey Dagg, Parking Infringements*

Councils parking infringement officers have issued a number of notices from 1/7/2021-31/3/2022. What is the revenue value for the notices issued?

**Response:**

**During the period of 1 July 2021 to 31 March 2022 there were 2136 parking infringements issued, valued at $287,766**

## *D.3 Kevin Griffin, Bass Coast Ratepayers and Residents Association, Governance Rules*

Councils General Manager Business Transformation has confirmed that Council is reviewing its governance rules and that the Act requires Council to undertake community engagement when developing and reviewing its Governance Rules. When will this development and review be posted to Councils Engage Bass Coast website?

**Response:**

**Should Council support the draft Governance Rules for community consultation at today's meeting, it will be on Engage Bass Coast between 22 April and 20 May 2022.**

### *D.4 Kevin Griffin, Bass Coast Ratepayers and Residents Association, Councils operational costs*

Would Council please provide detailed information to its efficiency measures implemented in 2021/22 that is aimed to reduce Council's operational costs.

**Response:**

**I am pleased to advise that the draft 2022/23 budget includes a $422,000 year on year saving for the Business Transformation Division, representing a 3.4% actual reduction in costs for the core Corporate Services across the organisation. When factoring in rate capping, this real efficiency saving is over 5% and a direct result of targeted efforts over a number of years.**

**These savings have allowed further investment in capital works delivery, supporting growth and development, and arts and culture experiences for our community.**

**The draft 2022/23 budget proposes a 1.75% rate increase which is half the current inflation rate of 3.5%, and includes no reduction in service levels or standards, further highlighting our work on driving efficiencies in operations.**

**Key initiatives that have led to these efficiencies has included:**

- **Implementation of Council's core technology systems to improve processes, customer experience and reduce risks**
- **Service reviews and process improvements for a range of services**
- **Ongoing organisation culture work including our focus on customers**

### *D.5 Graham Jolly, Grantville Transfer Station*

It has been reported council will end the waste contract for the Grantville Transfer Station this month, April 2022. Would council please provide a tabulation of council owned and leased heavy equipment at the Grantville Transfer Station site.

**Response:**

**Council has taken on the operation of Grantville Landfill and Transfer Station, and sourced the necessary equipment to support effective management of the site. Council does not publish a detailed list of plant & equipment.**

### *D.6 Graham Jolly, Storm water roadside pits*

What is councils Roads and Drainage maintenance program for storm water roadside pits. To inspect, remove each lid and clean pits to reduce or stop a road safety problem from occurring when water flows onto roads and intersections.

**Response:**

**Council conducts proactive and reactive inspections on all stormwater pits and they are cleaned and maintained as required in accordance with Council's Road Management Plan.**

### *D.7 Mike and Alex Bridge, H.1 Planning Application 210336- 7 Ocean View Court*

Planning Application 210336. Please confirm the trees to be retained and subject to Conditions 9 and 11 of the Recommendation are as listed in the Landscape Concept and Tree Location Plan prepared by Jardine Johnstone dated 8/12/21, as modified by Condition 1 (a) ?

**Response:**

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

### *D.8 Marg Dumergue, Cape Woolamai Coast Action*

1. How often is monitoring at the site occurring as the destruction continues to increase daily?
2. What action has the council taken to inform the community of the illegal nature of the activities parents are encouraging their children to commit?

**Response:**

1. **Council officers will continue to patrol the site daily, at random times.**
2. **Officers engage with anyone in the area to deter further activity and where necessary, reinforce the protected status that this native vegetation has under state and federal legislation.**

### *D.9 Michael Guz, Public Questions*

The current administration has begun censoring and vanishing reasonable and legitimate public questions by preventing the questions from being presented to ordinary council meetings and by not recording the questions in the meeting minutes. In the past 12 months how many public questions have been censored in this way?

**Response:**

**Council delivers Public Question Time in accordance with the Governance Rules. Submitters are advised when their question has been disallowed.**

# E Petitions, Joint Letters, Deputations and Correspondence

## *E.1 Petition - Shared Path for Pedestrians and Cyclists between Ventnor and Cowes*

| | |
|---|---|
| **File No:** | **CM22/167** |
| **Division:** | **Business Transformation** |
| **Council Plan Strategic Objective:** | **Leading for our Community**<br>Demonstrating leadership through good governance, transparency and accountability |

A petition containing 426 signatures has been received. The petition reads:

*There is a strong desire from local residents, business and holiday makers for a shared path between Ventnor and Cowes. There is currently no safe route between the two locations. There are some sections where it is possible to ride on fire trails and gravel roads near the foreshore, but with little continuity. The local roads are not designed with cyclists in mind, and are particularly unsuitable for young families.*

*A path along the foreshore would be ideal. This has been achieved along Lover's Walk in Cowes and between Kilcunda and Wonthaggi. There will be some challenges such as crossing at Salt Water Creek, but we encourage Council to explore all opportunities to achieve an optimal route that provides excellent access to the wonderful beaches between Cowes and Ventnor. Locals and visitors to the island would greatly benefit from such a path.*

*A path that is aimed at all abilities including wheelchair access and senior citizens who feel insecure about cycling on roads would bring huge benefits to the community. The path should be designed with recreational and commuter users in mind. It is becoming increasingly important as the Island's population increases.*

*There is currently no community link (other than by motor vehicle) between these two major population centres on the island. A shared pathway would greatly contribute to community wellbeing and encourage physical actives for health benefits. For this reason the pathway should be attractive and easy to use.*

*We would be grateful for an opportunity to engage with Council on this proposed shared pathway.*

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

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

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

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

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

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

**Recommendation**

1. **That the petition, Share Path for Pedestrians and Cyclists between Ventnor and Cowes be received, noting in accordance with the Governance Rules section 54.10 it does not adhere to section 54.6 and lie on the table with a report to be presented by no later than the August 2022 Council Meeting.**
2. **That the head petitioner be advised of Council's decision.**

**Attachments**

| | | |
|---|---|---|
| **AT-1** | ***CONFIDENTIAL*** - Petition - Shared Path for Pedestrians and Cyclistis between Ventnor and Cowes | 20 Pages |

**Council Decision**

**Moved: Cr. David Rooks / Seconded: Cr. Rochelle Halstead**

**That the recommendation be adopted.**

**CARRIED**

## *E.2 Petition - Preserve the Harberton Road Nature and Recreation reserves by designating them a Permanent Green Wedge as a Matter of Urgency*

| | |
|---|---|
| **File No:** | **CM22/172** |
| **Division:** | **Business Transformation** |
| **Council Plan Strategic Objective:** | **Leading for our Community**<br>Demonstrating leadership through good governance, transparency and accountability |

A petition containing 93 signatures has been received. The petition reads:

*Since the creation of Cowes, the road reserves at Seascape, Raywood and Highland Avenues and Anderson Road have been enjoyed year-round by residents and tourists as recreation reserves. Our reserves also provide vital habitat for an array of wildlife – particularly numerous birds.*

*We, the undersigned, object to the proposed destruction of our recreation reserves based upon:*

- *The environmental and social impact on the community and wildlife; and*
- *The unsuitability of the proposed location for social housing in the under-resources community of Cowes.*

*We ask that our reserves be preserves as permanent recreation spaces. They provide residents and tourists with quiet leisure spaces; safe thoroughfare away from the busy roads of Church Street and Settlement Road; and are the only open green spaces within the borders of Church Street and Settlement, Anderson and McKenzie Roads.*

*While we understand the importance of social housing, Cowes is the wrong location for same as it lacks the essential infrastructure and facilities that social housing residents require and deserve:*

- *No hospital, no 24/7 police station, no public secondary school, no TAFE or university, no library, no Centrelink office; and*
- *Limited employment opportunities, limited public transport insufficient physical and mental health support, and much more.*

*Bass Coast Shire, Community Housing Limited and others, places listen to the community and save our recreation reserves for our residents, our visitors and our wildlife!*

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

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

**Recommendation**

1. **That the petition, Preserve the Harberton Road Nature and Recreation reserves by designating them a Permanent Green Wedge as a Matter of Urgency, be received and lie on the table with a report to be presented by no later than the July 2022 Council Meeting.**
2. **That the head petitioner be advised of Council's decision.**

**Attachments**

| | | |
|---|---|---|
| **AT-1** | ***CONFIDENTIAL*** - Petition - Preserve the Harberton Road Nature and Recreation reserves by designating them a Permanent Green Wedge as a Matter of Urgency | 5 Pages |
| **AT-2** | ***CONFIDENTIAL*** - Additional Information - Preserve the Harberton Road Nature and Recreation reserves by designating them a Permanent Green Wedge as a Matter of Urgency | 34 Pages |

**Council Decision**

**Moved: Cr. Rochelle Halstead / Seconded: Cr. Ron Bauer**

**That the recommendation be adopted.**

**CARRIED**

# Notices of Motion

# F Notices of Motion

## *F.1 246/22 Bass Coast Skate Strategy 2018-2028, Cr Rochelle Halstead*

I, Cr *Rochelle Halstead*, hereby give notice that I intend to move a motion at the Council Meeting on 20 April 2022, which reads as follows:

### BASS COAST SKATE STRATEGY 2018-2028

### Amended Motion

**That the current Bass Coast Skate Strategy 2018-2028 Review:**

1. **Considers how future skate facilities in Bass Coast will meet regional, local and tourism needs and cater for all abilities**
2. **Confirms that the San Remo and Newhaven are no longer designated as regional facility locations and Graydens Reseve, Newhaven is designated as having a local skate facility**
3. **Considers the provision of a BMX track in the Cape Woolamai area near Veterans Drive to complement the Strategy**
4. **Provides an options and site analysis for an indoor / outdoor facility similar to 'The Shed' in the City of Casey.**
5. **Includes a prioritised plan to refer to Council's Capital Works Program for funding consideration, including the project in Graydens Reserve, Newhaven being identified as a short term priority**

### Background by Councillor

Nil

### Officers Comments

Landscape Design consultants Playce have been engaged to oversee a review of the skate strategy and amend the existing document where required. Playce were lead consultants on the design of the Regional Skate Facility and have recently completed the design of the Kilcunda Skate and Play project. They have commenced the review, which will set clear directions for skate facilities across the Shire and outline guiding principles in selecting a location for a regional skate park. The review will be completed by the end of May and presented to Council thereafter.

Following the completion of the review, Council officers, in consultation with Playce, will then commence community consultation around the design of a local level skate park for Grayden's Reserve in Newhaven.

……..
Cr Rochelle Halstead, Western Port Ward
Dated: **20 April 2022**

**Attachments**

There are no attachments for this report.

**Council Decision**

**Moved: Cr. Rochelle Halstead / Seconded: Cr. Ron Bauer**

**That the amended motion be aopted.**

**LOST on the casting vote of the Chair**

Cr Ron Bauer called for a division

| For | Against |
|---|---|
| Cr Le Serve | Cr Whelan |
| Cr Bauer | Cr Laing |
| Cr Halstead | Cr Rooks |
| | Casting vote - Chair |

### *F.2 247/22 Anderson Street Car Park, Cr Ron Bauer*

I, Cr *Ron Bauer*, hereby give notice that I intend to move a motion at the Council Meeting on 20 April 2022, which reads as follows:

## ANDERSON STREET CAR PARK

### Motion

1. **That the redevelopment of the Anderson Street carpark be halted and the plans be redesigned to incorporate the three gum trees that have been designated to be cleared are in the current plans.**
2. **That in the new design the carpark turning circle is brought back 15metres as in the original concept drawings.**
3. **That council officers obtain an arborist's report confirming the health of the trees.**

### Background by Councillor

These mature gum trees may not be native to Phillip Island however have grown majestically in that location.

As part of our environment policy, grand trees of this nature need to be saved wherever possible.

Council received strong blowback from the community when mature gum trees were removed for the transit centre.

The plans for the new Cowes Cultural Centre went to extortionary lengths to incorporate the existing trees into the plans.

The current plans have extended the carpark by 15metres eastward which has turning cars looking directly into the backyard and rear of the properties at the end of Glen Isla Court.

The carpark should be moved northwards to save the trees and reduced Westward to retain the amenities of the residents.

### Officers Comments

The Anderson Street car park services the nearby boat ramp and accommodates car and trailer parking. The eastern section of the boat ramp is currently gravel and informal. This project will formalise the boat ramp, provide additional parking for users of the boat ramp and improve pedestrian and motorist safety.

Council officers have been working with local community members and residents in designing the eastern section of the car park. As a result of these discussions with community, the alignment of the boat ramp has been altered to appease resident concerns, shifting away from property boundaries.

Tree removal

Three non-indigenous mature gum trees will be removed as part of these works. The species are *Eucalyptus botryoides* (Southern Mahogany) and are listed as a Victorian environmental weed and not indigenous to Phillip Island. Council has received a permit for their removal from the Department of Environment, Land, Water and Planning. Vegetation offsets has been secured.

Car park realignment

Following the initial design, a portion of eastern half of the car park was rotated to the north to increase the offset distance from neighbouring properties by an additional 5m. Any further rotation to the north will impact upon the coastal foreshore vegetation and turning movements for car and boat trailers. In addition, the last 7-8 metres of this proposed carpark is being excavated to 700mm below existing ground level which will reduce the impact of vehicle headlights spilling into neighbouring properties.

The current design has utilised and an avoid and minimise process to reduce the impact of vegetation removal. A reduction in the eastern boundary of the proposed carpark by 15m would reduce the functionality and number of parking spaces available to boat users, and due to the new turning circle alignment, increase the amount of vegetation to be removed and require a new permitting process.

This project is tender ready with all permits/consents approved. Any further design changes will impact the delivery of this project, which is partly funded by Victoria Fisheries Authority (VFA) through the Recreational Fishing and Camping Facilities Program.

……..
Cr Ron Bauer, Island Ward
Dated: **20 April 2022**

## Attachments

There are no attachments for this report.

**Council Decision**

**Moved: Cr. Ron Bauer / Seconded: Cr. Rochelle Halstead**

**That the motion be adopted.**

**LOST**

Cr Ron Bauer called for a division

| For | Against |
|---|---|
| Cr Bauer | Cr Le Serve |
| Cr Halstead | Cr Whelan |
| | Cr Laing |
| | Cr Rooks |

# Mayor and Councillors Reports

# G Mayor and Councillors Reports

## *G.1 Mayoral Report - Cr Michael Whelan*

### Activities

- Mayors Video Message for staff training for Climate Emergency
- Bass Coast Shire Council Community Panel Appreciation Celebration Afternoon Tea
- Shannon's Motorsport Australian Championships Street Party, Cowes Phillip Island
- Photo with Russell Broadbent – Announcement of Australian Communities Grant
- Open the Bass Coast Shorts film festival at WUCAC
- Monash Community Climate Coalition

### Meetings

Attended Council Workshops and Briefings

Chaired Councillor Only Meetings

Weekly meetings with CEO, Council Support and Communications

Additional Meetings:

- Carol Blair, Citizen of the Year
- One Gippsland – March Board Meeting
- Smart Community Energy Innovation Network
- PINP Board Chair (Kevin Love)
- MAV and Alliances Engagement and Advocacy
- One Gippsland - Opposition Round Table Meeting, Parliament House
- One Gippsland - Delegation Meeting with Ms Jordan Crugnale and Ms Harriet Shing
- The Hon Martin Pakula MP, Bass Coast Aquatic Strategy
- Deb Leonard, Monash Re: Advocacy Priorities
- CEO Employment Matters Committee meeting
- Jordan Crugnale/Mayor/CEO
- Rezoning of former Holden Proving Ground, Save Westernport Woodlands
- DELWP Planning statement CPRRA
- Phillip Island Community Hospital program
- Aaron Brown, Bass Re: Advocacy Priorities
- Rachael Sweeney, Collective Position, SECCCA policy platform

- Scott Huther, Rhyll Boat Ramp
- Cr David Clark MAV President

**Other**

Media Enquiries/Interviews

Phone calls, emails and letters

Photo opportunities

### *G.2 Councillor Report - Cr Leticia Laing*

Due to Covid quarantine requirements I have been unable to attend a number of in-person meetings. Fortunately I was able to attend both Council meetings online.

**Events**

- Wonthaggi Pro MX
- Bass Coast College Dudley and San Remo Campuses Student Leader Investiture Assembly
- Bass Coast College Senior Campus Student Leader Investiture Assembly

**Meetings**

- Myli – My Community Library strategic planning workshops
- Cape Paterson Residents and Ratepayers Association AGM
- Wonthaggi Pony Club
- Myli – My Community Library board meeting
- Distinctive Area and Landscapes draft plan Community Workshop

**Councillor Briefings**

- Governance Rules briefing

**Ongoing**

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

### *G.3 Councillor Report - Cr Bruce Kent*

- 23/03/22 In person council meeting
- 29/03/22 Official opening of Coronet Bay solar energy on hall
- 05/04/22 Mental Health meeting at Vietnam Museum
- 05/04/22 Meeting with Ian Hitchins at San Remo
- 05/04/22 Meeting with community reps at San Remo

- 06/04/22 Council meeting in person
- 13/04/22 Community meeting in Wattle Bank
- 13/04/22 Council meeting in person
- 14/04/22 On-line Planning meeting.

### *G.4 Councillor Report - Cr David Rooks*

**Meetings**

- Event Advisory committee - chaired
- Cowes Culture Centre project group monthly meeting
- Island Ward councillor meeting
- CAPRA catch up meeting
- Jodi Kennedy catch up meeting
- PIITS CRG meeting - chaired
- CCC project control group
- DAL workshop with community groups – chaired

**Briefings**

- Weekly Wednesday Council Briefings
- IW planning briefings
- IW brief – capital program

**Training**

- DAL presentation by DELWP with community group representation.

**Other**

- Site visit to Anderson St proposed car park

**Ongoing**

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

### *G.5 Councillor Report - Cr Rochelle Halstead*

I bring this report to Bass Coast on the other side of Easter Holidays and hope everyone got the opportunity to spend time with family and friends. It was wonderful to see Bass Coast town centre's bustling with visitors, a much needed boost for our local economy and such a joyous atmosphere.

**Council Briefings**

- Budget Big Picture
- Engage Bass Coast presentation SAH Policy Update
- Developer briefings x 2
- Smiths Beach consultation summary & implementation plan
- DAL's workshop & planning scheme review
- RaSP
- Draft Local Law
- Asset Management Plan Cowes Wonthaggi streetscape Tracks and Trails
- RRV Workshop
- Road Management Plan Review Report Smart Cities
- Community needs on Phillip Island

**Community Meetings**

- Coronet Bay Ratepayers & Residents Group
- Woodleigh Public Hall 100th Year Celebration
- Distinctive Area & Landscapes Meetings x 2
- Phillip Island Cares – Mental Health Residents x 5
- Cape Woolamai Coastal Action Group

# Reports Requiring Council Decision

# H Reports Requiring Council Decision

## *H.1 Planning Application 210336 - 7 Ocean View Court Inverloch Extension to a dwelling in the DDO1 and in the DDO9 and the removal of vegetation in the VPO3*

**File No:** **CM22/136**
**Division:** **Place Making**
**Council Plan Strategic Objective:** **Sustainable Development**

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

### Declaration

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

### Executive Summary

| | |
|---|---|
| Application number: | 210336 |
| Applicant: | Warren Cook C/- Jardine Johnstone |
| Land/Address: | 7 Ocean View Court, Inverloch |
| Ward: | Bunurong Ward |
| Proposal: | Extension to an existing dwelling in the DDO1, and in DDO9, and removal of vegetation in the VPO3. |
| Zone: | General Residential Zone – Schedule 1 |
| Overlay: | Vegetation Protection Overlay – Schedule 3<br>Design and Development Overlay – Schedule 1<br>Design and Development Overlay – Schedule 9 |
| Planning Permit triggers: | Clause 42.02-2 (VPO3) – A permit is required to remove vegetation listed in the Schedule.<br>Clause 43.02-2 (DDO1) – A permit is required to construct a building or carry out works with a height exceeding 7 metres above finished ground level.<br>Clause 43.02-2 (DDO9) – A permit is required to construct a building or carry out works where the total site coverage exceeds 30%. |
| Number of submissions: | A total of 18 objections were received. |
| Reason a Council decision is required: | Council's delegations require applications that attract five or more objections to be determined by Council. This application attracted 18 objections. |
| Officer recommendation: | Notice of Decision to Grant a Planning Permit |

## Summary of Officer Recommendation

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

The proposal is supported for the following reasons:

- The proposed development is consistent with the objectives of Local and State Planning Policy.
- The proposal has presented a satisfactory design response consistent with the built form and landscaping intentions of Schedule 1 and Schedule 9 to the Design and Development Overlay.
- The proposal has been assessed as providing a satisfactory response to the objectives of Schedule 3 to the Vegetation Protection Overlay.

## Main Considerations

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

- Neighbourhood character and building scale.
- Landscape response.
- Amenity impacts to adjoining properties.
- Vegetation Removal.

## The Proposal

This application proposes an extension to an existing dwelling in accordance with development plans prepared by DB Design. The decision plans are provided as Attachment one and are detailed below:

- Site Plan, Floor Plans, and Elevations prepared by DB Design, dated 01/12/2022, revision PD9.
- Arboricultural Report prepared by Jardine Johnston, dated September 2021 and updated March 2022.
- Landscape Concept and Tree Location Plan prepared by Jardine Johnstone, dated 08/12/2021.

Key features of the proposal include:

- Partial demolition of the existing dwelling (exempt from a Planning Permit).
- Redesign of the existing dwelling by extensions to the lower and upper floor plans, extension of the upper floor towards the east of the site and the site coverage to the south.
- Changes to the style of the built form to a modern design including a flat roof form.
- The proposed overall height will present a maximum height of 8.959m on the southern elevation (exceeding the existing height by 20cm) and 7.239m on the northern elevation.

- Construction of a detached garage in the northern section of the site in addition to existing attached garage.
- The removal of one tree protected under Schedule 3 of the Vegetation Protection Overlay.

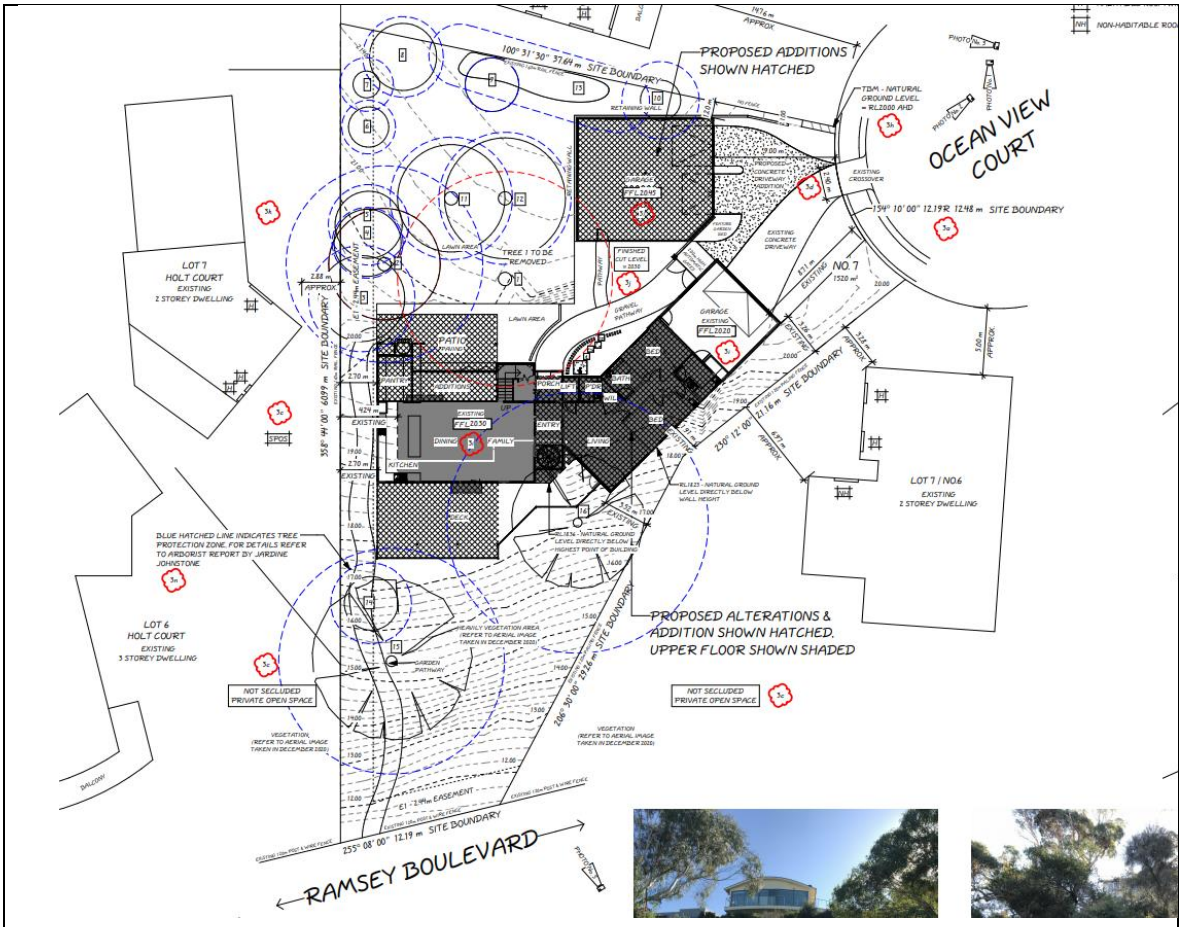



*Figure 1 - Proposed Site Plan*

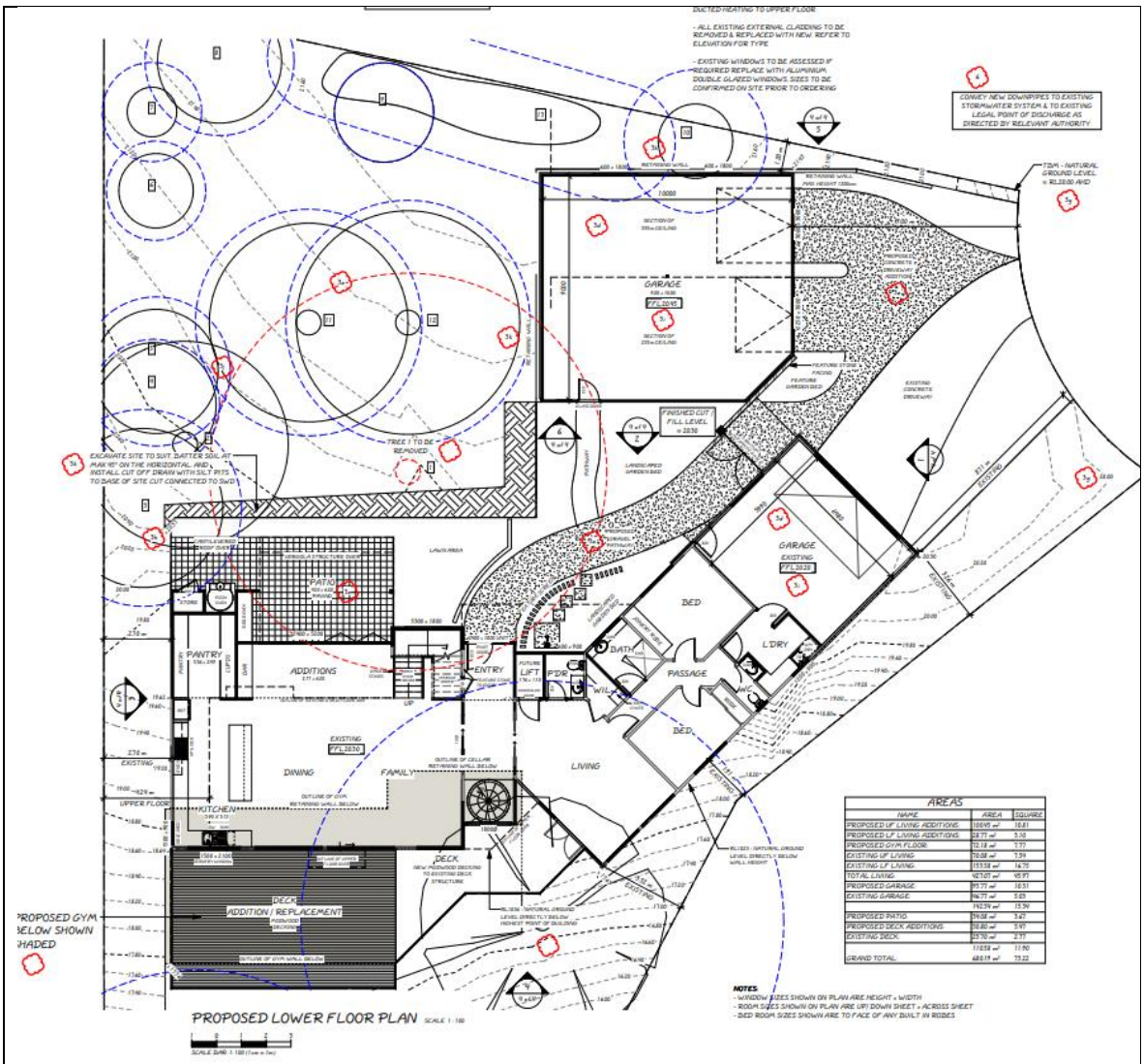



*Figure 2 – Proposed Lower Floor Plan*

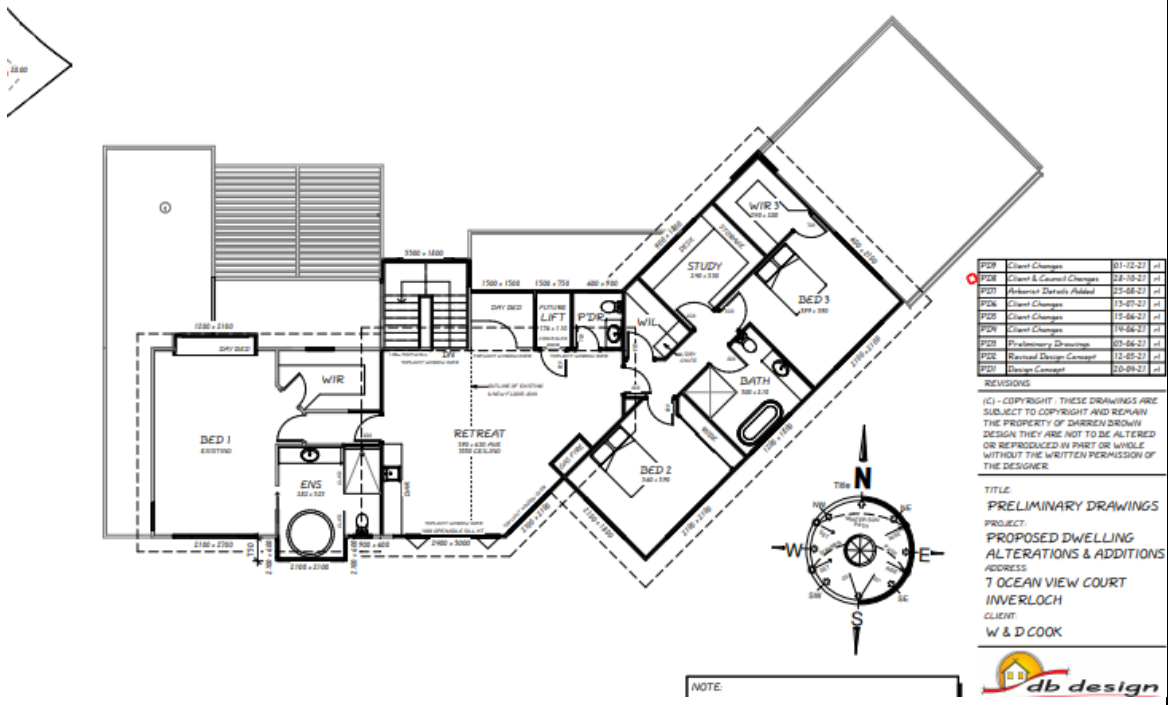



*Figure 3 – Proposed Upper Floor Plan*

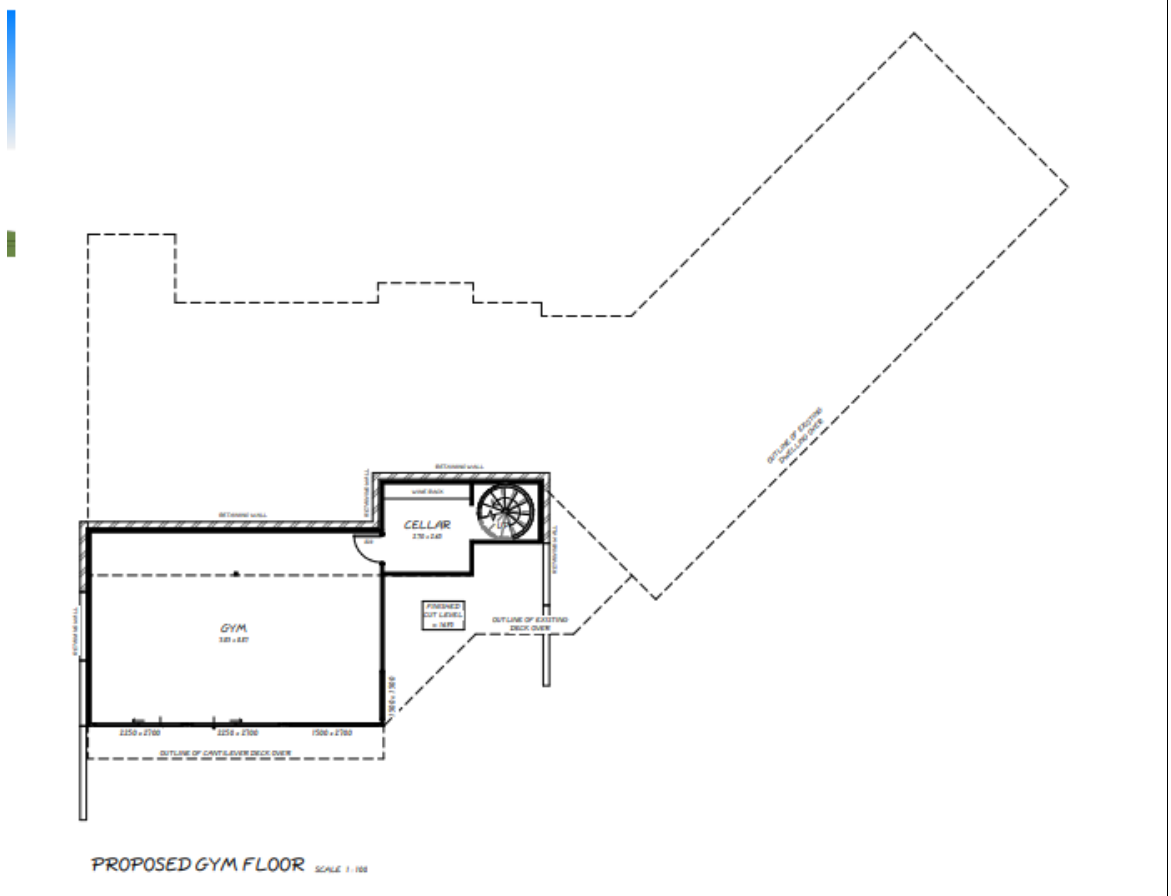



*Figure 4 – Proposed Subfloor Gym Area*

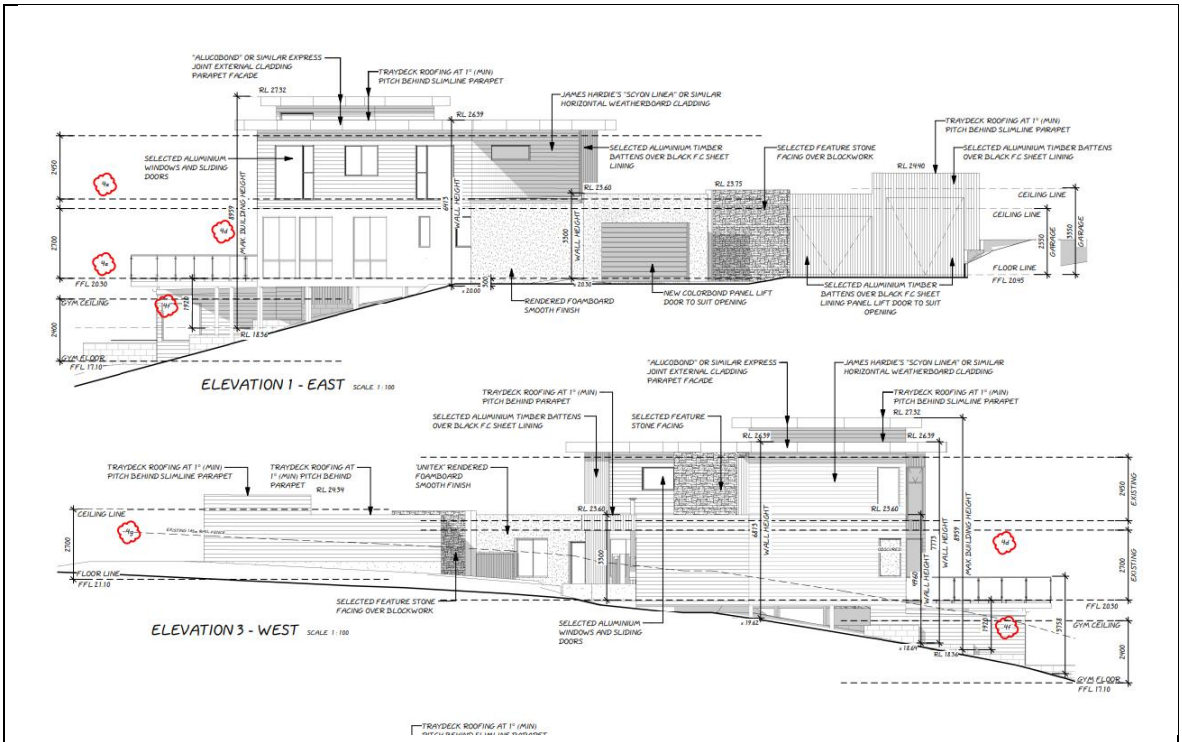



*Figure 5 – Proposed East/West Elevations*

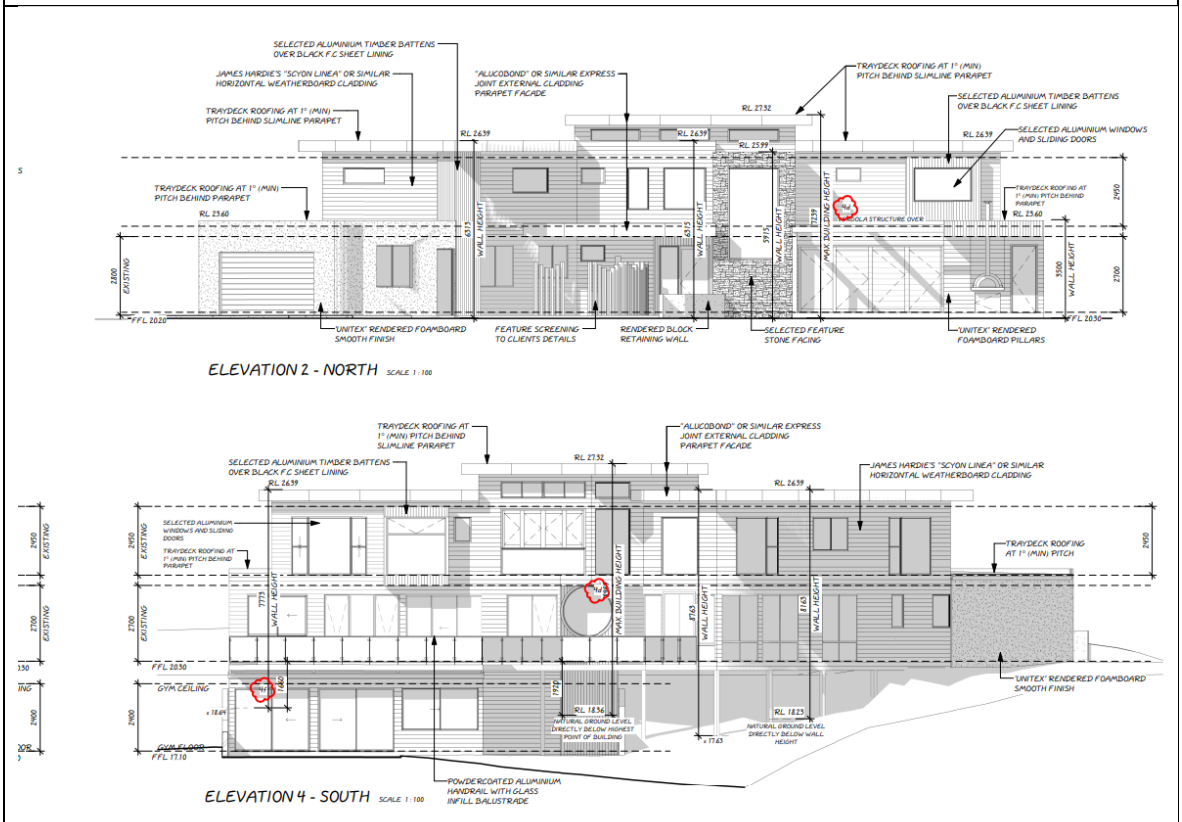



*Figure 6 – Proposed North/South Elevations*

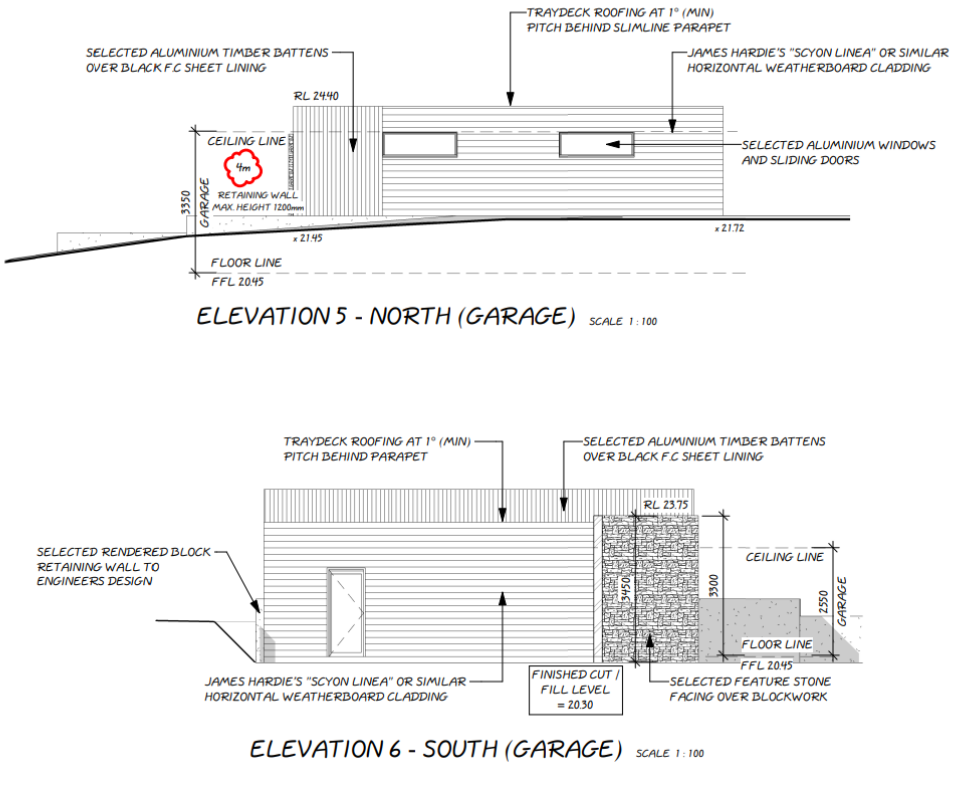



*Figure 7 – Proposed North/South Elevations of Garage*

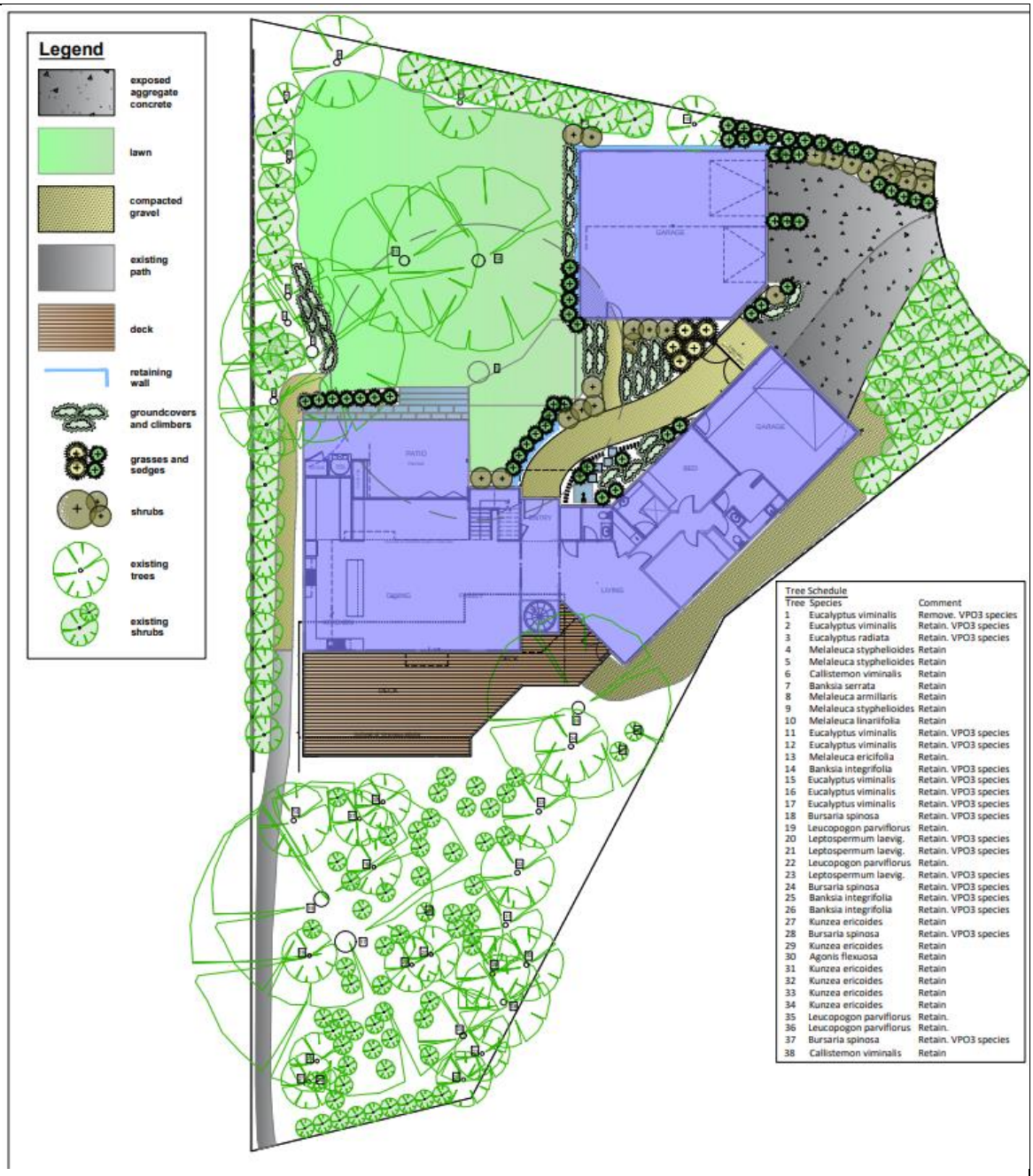



*Figure 8 – Proposed Landscape Concept Plan*

## Background

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

| | |
|---|---|
| Site Dimensions and Area | The site is irregular in shape with a frontage to Ocean View Court of 13.1 metres, a maximum depth of 50.42 metres and an overall area of approximately 1520 square metres. The site also presents a frontage to Ramsey Boulevard along the southern boundary, with pedestrian access only at this frontage. |

| | |
|---|---|
| Topography | The site falls steeply by approximately 11 metres from north to south. |
| Vegetation Cover | The site contains a number of significant and mature exotic and indigenous trees and shrubs, primarily situated to the north and south of the existing dwelling. |
| Current Use and Development | The site comprises a single dwelling with a maximum building height of 8.82m. |
| Easements | A 2.44m easement is situated along the western boundary of the allotment, set aside for the purposes of providing sewerage and drainage infrastructure. |
| Restrictive Covenants and/or Section 173 Agreements | The subject site is not affected by any Restrictive Covenants or Agreements under Section 173 of the *Act.* |
| Aboriginal Cultural Heritage Sensitivity | The subject site is situated in an area of recognised Aboriginal Cultural Heritage Sensitivity, however the construction of an extension to one dwelling on an allotment is an exempt activity pursuant to Regulation 9(1)(b) of the *Aboriginal Heritage Regulations 2018;* and therefore, a Cultural Heritage Management Plan is not required to be prepared. |
| Planning Permit History | A search of Council records indicates prior Planning Permit history relevant to this application as outlined below. |

## Relevant Planning History

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

| Address | Proposal |
|---|---|
| 5 Ocean View Court, Inverloch | Planning Permit 150300 was issued 22 December 2015, authorising alterations and additions to an existing dwelling to convert it into two dwellings. The application is relevant as it presents a maximum height on the southern elevation of 11.60m |

## Subject Site And Surrounds

The site is located in the south-western area of Inverloch, approximately 550 metres from the commercial centre. The site is within approximately 20 metres of the foreshore reserve which abuts the entrance to Anderson Inlet.

The area surrounding the site is characterised by various forms and styles of development, including detached dwelling on typically-sized allotments, and instances of more intensive infill development. It is considered that the surrounding area presents diversity of dwelling typologies and materials.

The typical dwelling typology of Ocean View Court can be described as more substantial two-storey homes which have been designed to take advantage of water and foreshore views to the south.

The main characteristics of the surrounding area are:

| | |
|---|---|
| **North** | Adjoining the land to the north is 8 Ocean View Court. This lot is approximately 908 square metres in area and contains a two-storey dwelling set back approximately 2.88 metres. The dwelling has been constructed to take advantage of views to the south and east. Further to the north are one and two storey dwellings. |
| **South** | Adjoining the land to the south-east is 6 Ocean View Court. This lot is approximately 1114 square metres in area and contains a two-storey dwelling. It features a garage accessed from Ocean View Court set back approximately 5 metres. The dwelling has also been constructed to take advantage of views to the south and east. |
| **East** | Allotments to the east of the subject site within Ocean View Court contain both single and double storey developments which present views to the south and or east over the foreshore. |
| **West** | Adjoining the land to the west is 4 Holt Court. This lot is approximately 615 square metres in area and contains a double storey dwelling which takes advantage of views to the south overlooking the foreshore area. |




*Figure 9 – Site and surrounds*

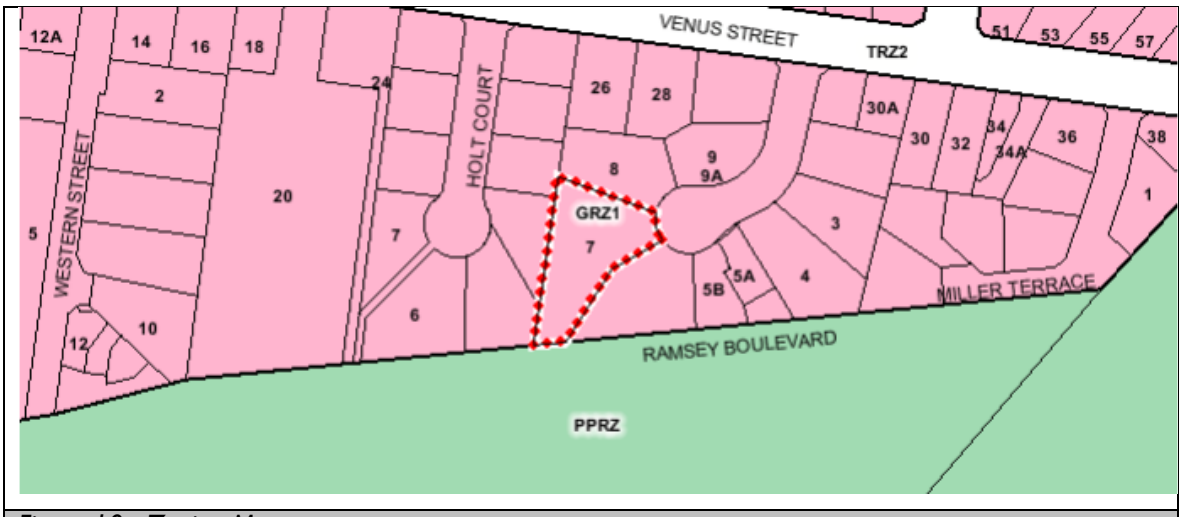



*Figure 10 - Zoning Map*

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

In response to notification the application attracted 18 submissions.

A copy of each submission is included in Attachment two.

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

The applicant provided a written response on 4 March 2022 which **has** been circulated to the objectors to the proposal.

## Referrals

The following table outlines the referral requirements of this application.

| Referral Authority | Comments |
|---|---|
| External (Section 55 of the *Planning and Environment Act 1987*) | |
| N/A | N/A |
| Internal (Section 52 of the *Planning and Environment Act 1987*) | |
| N/A | N/A |

## Planning Scheme Provisions

### Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

- Clause 11.01 - Victoria
- Clause 11.02 - Managing Growth
- Clause 11.03 - Planning for Places
- Clause 12.01 Biodiversity
- Clause 12.02 Coastal areas
- Clause 12.05 Significant Environments and Landscapes
- Clause 13.01 Climate Change Impacts
- Clause 15.01 Built Environment
- Clause 16.01 Residential Development
- Clause 19.03 Development Infrastructure

The intent of the relevant policies is to support the role of towns and small settlements in providing services to their districts, recognising their relationships and dependencies within larger towns and to minimise the impact of use and development on significant environmental features within identified settlement boundaries.

Inverloch is a small coastal town and a popular holiday destination. Its character is defined by natural features including the Anderson Inlet entrance, a foreshore reserve providing opportunities for passive and active recreation, surf beaches, vegetation waterways and inner-residential areas dominated by dense indigenous vegetation. The town centre contains a broad range of commercial, community and recreational uses.

The application is considered to further meet these policy objectives whereby the proposal seeks to establish a renovated development within a similar footprint to the existing dwelling on the land, and primarily aims to ensure the ongoing protection and preservation of a substantial portion of existing remnant vegetation on the subject site. The proposal (subject to permit conditions) will result in all trees protected by the VPO being retained throughout the construction and post-development stage. Furthermore, the proposal will be required to undertake revegetation in areas of the land that are suitable for such replacement plantings.

## Zone Assessment

This application does not trigger a Planning Permit under the zone.

## Overlay Assessments

### Clause 42.02 – Vegetation Protection Overlay – Schedule 3

The purpose/objectives of the overlay is to:

- Implement the Municipal Planning Strategy and the Planning Policy Framework;
- Protect areas of significant vegetation;
- Ensure that development minimises the loss of vegetation;

- Preserve existing trees and other vegetation;
- Recognise vegetation protection areas as locations of special significance; natural beauty, interest and importance;
- Maintain and enhance habitat and habitat corridors for indigenous fauna;
- Encourage the regeneration of native vegetation.

Clause 42.02-5 also contains the following (as relevant) decision guidelines which have formed part of this assessment:

- The statement of nature and significance of the vegetation to be protected and the vegetation protection objective contained in a schedule to this overlay;
- The need to retain vegetation:
  - Within 30 metres of a waterway or wetland;
  - Where ground slopes exceed 20 percent.
- Whether provision is made or is to be made to establish and maintain vegetation elsewhere on the land;
- The reason for any removal of native vegetation and whether an alternative option can be developed which conserves the vegetation;
- The purpose of the underlying zone.

Tree 1 (Manna Gum) has been noted as containing a bifurcation approximately 2 metres above ground level in the trunk, and furthermore presents cavity and decay at the base on the north-eastern side. Notwithstanding, it is identified as being of a high-moderate ornamental value and environmental value. Therefore, the removal of the Manna Gum is not supported due to its high retention value and the ability of the built form being able to be redesigned to avoid impact to the tree protection zone of the tree while still allowing for a new dwelling on the site.

A planning permit condition will require a canopy tree in the front setback which will ensure a contribution is made to the streetscape and local environment whilst also softening the built form. Replacement planting will furthermore provide a net benefit to the local environment over time.

The subject site is not recognised as being situated within a formal wildlife corridor. However, given the prevalence of residential development (dwellings, outbuildings and driveways) the value of existing vegetation is high, particularly tree 1 (Manna Gum) which has high visibility in the local area and therefore is of high local significance.

In order to ensure that the protected trees on the subject site are retained throughout and post construction, relevant conditions will be included on the permit to issue which seek to establish tree protection zones through a Tree Management Plan.

### Clause 43.02 – Design and Development Overlay – Schedule 1

The purpose/objectives of the overlay is to:

- Implement the Municipal Planning Strategy and the Planning Policy Framework;
- Identify areas which are affected by specific requirements relating to the design and built form of new development;

- Protect views from the coast to adjacent residential areas;
- Protect views to the coast from adjacent residential areas;
- Minimise the impact of development along the coastline;
- Protect and enhance the visual amenity and landscape of the coastal area;
- Respond to the potential coastal impacts of climate change.

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

- Whether the bulk, location and appearance of any proposed buildings and works will be in keeping with the character and appearance of adjacent buildings, the streetscape, or the area;
- Whether any proposed landscaping or removal of vegetation will be in keeping with the character and appearance of adjacent buildings, the streetscape, or the area;
- The following relevant decision guidelines apply under Section 6.0 of Schedule 1:
    - The siting and design of proposed development in response to background documents *Design and Siting Guidelines for Coastal Areas and Rural Hinterland 1999,* and *Siting and Design Guidelines for Structures on the Victorian Coast* (Victorian Coastal Council 1998);
    - The maintenance and improvement of the visual quality of the coastal landscape;
    - The extent of any proposed removal of native vegetation;
    - The need for landscaping or vegetation screening.

The application is considered to be consistent with the objectives of the overlay for the following reasons:

- The subject site is located within an existing residential settlement and well set back from the coastline despite being located on the foreshore. It is considered that the proposal will not present a visually substantial built form when viewed from the coastline given the similar types of existing built form within the surrounding area.
- The location of the development within an existing settlement will have minimal impact to views from nearby coastal roads with outlooks to or from the coastline.
- The visual amenity and landscape character of the coastal area will be retained, as the proposed dwelling will be confined to an existing allotment in an established residential area.
- The proposal complies with section 3.1.3 of the *Siting and Design Guidelines for* Structures *on the Victorian Coast (Victorian Coastal Council 1988)* by proposing a new dwelling in a residential setting, therefore 'grouping structures' as encouraged by the guideline.

- The subject site is located within the General Residential Zone, whereby the intended purpose is to provide for low-moderate scale residential development on generously sized lots.
- The site is within the existing township boundaries and therefore will not result in an increase in human activity within the natural landscape.
- The proposal will result in a dwelling which is comparable in size and scale to other double storey built form in the surrounding area.
- Despite exceeding the permit trigger height of 7 metres by up to 1.95m at the apex of the roof, it is considered that the development of the land with an well-designed dwelling presents an appropriate neighbourhood character outcome. It is further noted that the current dwelling on the land already presents a building height 1.74m above seven metres, and therefore a 200mm increase to the overall height is considered to be of minimal impact.
- The proposal presents generous setbacks to all boundaries consistent with the existing surrounding neighbourhood character of single dwellings on a lot, and provides a sufficient amount of secluded private open space to the front and side of the dwelling to accommodate substantial landscape planting.
- The colour scheme contains "Surf Mist" a highly reflective colour, a condition will be placed on the permit requiring the upper floor of the dwelling to be a colour of a low reflectivity.
- The proposal furthermore includes a substantial amount of indigenous planting for a single dwelling on a lot as part of the concept landscape plan, and additional plantings will be required under conditions on the permit should one issue.

**Clause 43.02 – Design and Development Overlay – Schedule 9**

The purpose/objectives of the overlay is to:

- Implement the Municipal Planning Strategy and the Planning Policy Framework;
- Identify areas which are affected by specific requirements relating to the design and built form of new development;
- Protect environmental assets within residential areas;
- Minimise the impact of development on vegetation;
- Minimise the impact of development on coastal character;
- Protect and enhance the visual amenity and landscape of residential areas.

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

- Whether any proposed landscaping or removal of vegetation will be in keeping with the character and appearance of adjacent buildings, the streetscape, or the area;

The following relevant decision guidelines apply under Section 6.0 of Schedule 9:

- The protection of the area for its environmental value;
- The reason for any removal of any vegetation and whether an alternative option can be developed which conserves the vegetation;
- The protection of the established treed environment;
- The maintenance of a low level of redevelopment and consolidation;
- The protection of the dominant character of low density, detached housing.

The application is considered to be consistent with the objectives of the overlay for the following reasons:

- The proposal presents a site coverage in the context of the DDO9 of 35.57%, which although marginally exceeds the threshold preference of 30% within the schedule, is comparable to the site coverage of surrounding properties.
- The proposal includes the removal of one Manna Gum from the subject site protected under the VPO3, which is not supported.
- The removal of the Manna Gum is considered to be inconsistent with the intention of the overlay, it is considered that the site coverage is low enough that a slight redesign of the dwelling foot print would allow for the tree to be retained while not being at odds with the DDO9.
- The application has been accompanied by a concept landscape plan which includes replacement planting of a number of indigenous species of shrubs and groundcovers, and a condition will be included on the permit to issue which requires amended landscaping catering for canopy plantings.
- The amended landscaping plan as a condition of this permit to issue will result in a landscape design outcome consistent with the intended outcomes of the overlay and congruent with the existing and emerging character of the area.
- Ultimately the built form is setback from Ramsey Boulevard and the coast as not to impact the coastal character of the area and supported under the DDO9.

## Concerns Raised By Submitters

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

| Submitter Theme | Council Officer Response |
|---|---|
| Side and rear setbacks, overlooking and overshadowing | Given that the application does not trigger a Planning Permit under the provisions of the General Residential Zone (Clause 32.08) as the lot is over 300sqm, a formal assessment of the proposal is not required against the Residential Development Code of Clause 54. It is therein noted that overshadowing, overlooking and side and rear setbacks are not a formal consideration of assessment for this development, and compliance will be ensured by the relevant Private Building Surveyor under the *Building Regulations 2018.* |

| | |
|---|---|
| Loss of views | The Victorian Civil and Administrative Tribunal has on a number of occasions deliberated on the issues of views and has generally found that there is no legal entitlement to a view.<br>It has been a well established precedent through the Tribunal "that properties away from the foreshore and intercepted by other lots cannot expect no compromise of views. It is also of the view that protection of the entire existing views of the review site cannot be guaranteed forever" (Webb v Mornington Peninsula SC [2007] VCAT 741)<br>Whilst two of the key objectives of the DDO1 are to protect views from the coast to adjacent residential areas, and to protect views to the coast from adjacent residential areas, the development in its proposed form is considered to present a satisfactory design response with respect to existing view lines.<br>The subject site is located in an existing residential area that has generally been developed with single and double storey dwellings, wherein double storey development is generally perceived as being an appropriate design response. |
| Biodiversity impacts (including koalas, wildlife corridors etc, TPZ maintenance) | It is recommended that tree 1(the only tree for which planning approval is required) be retained.<br>A Tree Management Plan will be a condition of any planning permit to be issued which will ensure that these trees remain viable and are not impacted during the construction phase of the proposal. |
| Overdevelopment (built form) | The proposal seeks planning approval for a renovation to an existing single dwelling on the land and is not seeking to increase the residential density of the site. Although the proposed extension is undeniably large, the site area is approaching 1500 square metres. Within this context, the proposal presents a total site coverage of approximately 35% inclusive of all hard surfaces, which is entirely satisfactory with respect to the preferred site coverage ratio's set out in the Zone. |
| Impact on views from the coast | Given that the proposed dwelling extension is largely located within the existing ground footprint of the dwelling on the land, it is considered that whilst there will be an increase in horizontal built form at the first floor the proposal ultimately is respectful of the surrounding character of the neighbourhood.<br>The location of the dwelling within an existing settlement amongst developments of similar size and scale mitigates the direct impact that the extension will have on views to and from the coast, given that the proposal is situated within and surrounded by other dwellings.<br>Furthermore, the vegetation located in the southern portion of the site between the dwelling footprint and Ramsey Avenue will be retained, providing a filter from the public realm to the built form. |

| | |
|---|---|
| Inconsistency with existing neighbourhood character | The proposed dwelling has been assessed as providing a satisfactory design response to the surrounding streetscape and emerging character of gentrified residential areas. The proposal includes a substantial landscaping plan consistent with the preferred landscape character of Inverloch which will be further amended to include the provision of canopy plantings in the front setback of the proposal as well as in the rear of the dwelling where practicable. |
| Overburdening existing stormwater infrastructure | It is not considered that the increase in the size of the dwelling will have a significant impact on existing infrastructure given the density remains unchanged. |
| Roof colour | It is noted that the proposal currently proposes the utilisation of Colorbond roofing in Surfmist – considered to be a highly reflective colour – that may result in light reflectivity to surrounding dwellings; however, it is further noted that the existing dwelling currently presents a roof colour in similar tones.<br>Given the unsuitability of darker roof colours within an urban context due to their contribution to the urban heat island effect balanced with light reflection to adjoining properties, it is considered that a condition should be included on the permit which requires a muted and non-reflective colour proposed for the roof in neutral tones. |
| Excessive building height | The proposed dwelling will present a maximum building height of 9.04m. Although Schedule 1 to the Design and Development Overlay sets a preferred maximum height of 7m, an application can be made to allow a development in excess of 7m.<br>The proposed maximum building height exceeds the DDO1 requirement of 7m by 1.95m; however it is noted that the existing dwelling on the land currently exceeds the 7m requirement by 1.74m.<br>The proposed roof form has been designed to allow the prevalence of views from dwellings to the rear of the subject site over the top by utilising a flat-roof style, and it is noted that the northern elevation of the proposal presents a maximum height of only 9.23m, thereby presenting as a standard double storey dwelling to adjoining allotments to the north and within Ocean View Court. |

## Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to present a satisfactory design response when assessed against the relevant provisions of the Planning Policy Framework, Vegetation Protection Overlay and Design and Development Overlay.

The application underwent notification and as a result there were 18 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 210336 subject to conditions.

**Recommendation**

**That in relation to Planning Permit application 210336 for the Development of the land for a dwelling in the DDO1 and DDO9, and removal of vegetation in the VPO3 located at 7 Ocean View Court, Inverloch, Council resolves to issue a Notice of Decision to Grant a Permit subject to the following conditions:**

**Amended plans required**

1. **Before the development commences, amended plans drawn to scale with dimensions must be submitted to and approved by the responsible authority. The plans must be generally in accordance with the plans submitted with the application but modified to show:**
   a) **An amended Site Plan to show Tree 1 (Manna Gum) to be retained and Tree 10 (Snow in Summer) as being removed with a notation that it is exempt from the requirements of a Planning Permit under the VPO3.**
   b) **Development plans to reflect changes required by Condition 1(a) and 10.**
   c) **The external colour scheme for the upper floor of the dwelling to be a lower reflectivity than "Surf Mist".**
   d) **An amended colour scheme for the roof in accordance with Condition 8.**
   e) **An amended Landscape Plan in accordance with Condition 2.**
   f) **Tree Management Plan in accordance with condition 10.**

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

**Landscape Plan required**

2. **Concurrent with the submission of plans required by Condition 1 and before the commencement of buildings and works an electronic copy of a Landscape Plan (drawn to scale with dimensions) to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. The Landscape Plan must be generally in accordance with the landscape concept plan submitted with the application, except that the plan must show:**
   a) **The inclusion of a VPO3 listed canopy tree in the front setback capable of reaching a mature height of at least 8 metres.**
   b) **Standard landscape notes included on the plan in relation to soil preparation, irrigation of planting beds, replacement of dead plants and planting techniques for trees and shrubs.**
   c) **Adequate instruction on the plan for the protection of existing vegetation to be retained during construction.**

**d) The quantity, intended pot size and geographical location of all species to be planted shown clearly on the plan.**

**e) The type of irrigation listed on the plan to be drippers or aqua hose.**

**f) A 24-month maintenance plan with notes on appropriate weed control, irrigation, mulch replenishment, dead plant replacement and pruning to be included on the plan, in order to ensure the successful establishment, and on-going health, of new planting.**

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

**Completion and maintenance of landscaping**

3. **Within 3 months of the completion of the dwelling/building commencement of the use or within the next applicable planting season, whichever is the earlier; the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.**
4. **The landscaping must thereafter be maintained to the satisfaction of the responsible authority, including that any dead, diseased, or damaged plants are to be replaced.**
5. **At least 3 high quality photographs (from various angles and distances) to be provided within 1 month from when the landscape planting is complete demonstrating the trees as being planted in accordance with the endorsed plans. This may be accompanied by additional evidence including receipts of the purchased trees and/or a formal letter by an arborist confirming the landscaping has been undertaken in accordance with the endorsed plans.**

**General Conditions**

6. **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.**
7. **All stormwater from the approved development must be conveyed to the Legal Point of Discharge to the satisfaction of the responsible authority.**
8. **The development must be constructed in colours muted in tone and non-reflective materials, to the satisfaction of the responsible authority.**

**Vegetation Removal and Retention**

9. **This permit authorises the removal of Tree 10 from the subject site as identified in the endorsed arborist report prepared by Jardine Johnstone, dated March 2022. All other trees on the site must be retained to the satisfaction of the responsible authority.**
10. **Concurrent with the endorsement of development plans a Tree**

**Management Plan prepared by a suitably qualified arborist must be submitted to and approved by the responsible authority. When approved, the Tree Management Plan will form part of this permit and all works must be done in accordance with the Tree Management Plan (AS 4970).**

**The Tree Management Plan must detail measures to protect and ensure the viability of *Eucalyptus viminalis* (Manna Gum) located in the north-west of the site.**

**The Tree Management Plan must include the following information:**

**a) Pre-construction (including demolition) – details to include a tree protection zone, height barrier around the Tree Protection Zone, amount and type of mulch to be placed above the tree protection zone and method of cutting any roots or branches which extend beyond the tree protection zone. A plan must be submitted detailing any tree protection fencing, where the fencing is clearly identified and dimensioned.**

**b) During-construction – details to include watering regime during construction and method of protection of exposed roots.**

**c) Post-construction – details to include watering regime and time of final inspection when barrier can be removed and protection works and regime can cease.**

**11. Prior to the commencement of any buildings or works approved by this permit, tree protection fencing must be erected around all trees and vegetation to be retained as per the endorsed arborist report prepared by Jardine Johnstone, dated March 2022 to define a Tree Protection Zone (TPZ) to the satisfaction of the responsible authority.**
**All TPZ's must comply with the following:**

**a) The fencing must be maintained and remain in place until all buildings and/or works are completed.**

**b) The fencing must be constructed of 1.8m start pickets and brightly coloured plastic meshing to a minimum distance in accordance with the dimensions provided in the endorsed arborist report.**

**c) No vehicular or pedestrian access, excavation, placement of fill, storage of materials or soil disturbance of any kind are to occur within the TPZ.**

**d) Once erected the TPZ fencing may only be moved or otherwise altered with the written consent of the responsible authority;**

**e) The tree protection measures must not extent beyond the site boundaries except into roadside reserve or nature strip areas. They must not prevent the use of an existing road, footpath or accessway.**

**f) The approved works within the TPZ must be supervised by the project arborist.**

**12. The vegetation removal works and protection of vegetation to be retained during the construction of the approved development must also be conducted in accordance with the recommendations of the endorsed arborist report and the following requirements:**

**a) At least 48 hours prior to the removal of trees authorised by this permit the affected trees must be clearly marked with a painted coloured "X" and a copy of the Planning Permit and endorsed plan showing the extent of vegetation removal must be displayed on the site.**

**b) All construction personnel must be appropriately briefed on the recommendations and requirements of the endorsed arborist report prior to works commencing onsite.**

**c) The layout of the site and proposed extent of vegetation to be removed, trimmed, or lopped as shown on the endorsed plan, must not be altered or modified without the written consent of the responsible authority.**

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

**Layout not to be altered – Development**

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

**Time for Starting and Completion**

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

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

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

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

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

**Attachments**

| | | |
|---|---|---|
| **AT-1** | Development and Concept Landscape Plan 7 Ocean View Court Inverloch | 5 Pages |
| **AT-2** | Amended Arborist Report 7 Ocean View Court Inverloch | 30 Pages |
| **AT-3** | ***CONFIDENTIAL*** - Submissions 7 Ocean View Court Inverloch | 49 Pages |
| **AT-4** | Site Photos 7 Ocean View Court Inverloch | 2 Pages |

**Council Decision**

**Moved: Cr. Leticia Laing / Seconded: Cr. David Rooks**

**That the recommendation be adopted.**

**CARRIED**

## *H.2 Planning Application 210497 - Subdivision of the land into 46 lots and buildings and works in an LSIO at 28 Station Street Dalyston*

**File No:** **CM22/143**
**Division:** **Place Making**
**Council Plan Strategic Objective:** **Sustainable Development**

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

### Declaration

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

### Executive Summary

| | |
|---|---|
| Application number: | 210497 |
| Applicant: | John Coleiro |
| Land/Address: | 28 Station Street, Dalyston |
| Ward: | Western Port Ward |
| Proposal: | Staged subdivision of the land into 46 lots, removal of easements, creation of restrictions and works within the Land Subject to Inundation Overlay (LSIO) |
| Zone: | Township Zone (TZ)<br>Public Park and Recreation Zone (PPRZ) |
| Overlay: | Land Subject to Inundation Overlay (LSIO)<br>Development Plan Overlay (DPO18) |
| Planning Permit triggers: | Clause 32.05-5 – Subdivision<br>Clause 44.04-2 – Buildings and works<br>Clause 44.04-3 – Subdivision<br>Clause 52.02 - Under section 23 of the *Subdivision Act 1988* to create, vary or remove an easement or restriction<br>Clause 52.29-2 – Subdivide land adjacent to the principal road network |
| Number of submissions: | An application which is generally in accordance with a Development Plan is exempt from notice or review. |
| Reason a Council decision is required: | Council's delegations require that applications for developments of more than $3 million be received by Council for determination. |
| Officer recommendation: | Planning Permit |

## Summary of Officer Recommendation

That Council issue a Planning Permit subject to conditions outlined in the Officer Recommendation section of this report.

The proposal is supported for the following reasons:

- If implemented the proposal will deliver the necessary drainage infrastructure to service the recently developed west side of Dalyston.
- The proposal satisfactorily implements the requirements of the development plan.
- The proposal offers a diversity of lot sizes, open spaces with appropriate infrastructure.

## Main Considerations

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

- Consistency with the development plan endorsed under schedule 18 of the Development Plan Overlay;
- The provision of stormwater infrastructure that caters to flows from the proposed estate and accommodates a much larger catchment owing to the legacy of poor stormwater infrastructure in Dalyston;
- The balancing of infrastructure needs, timing and risk in an area subject to inundation;
- Connectivity and integration of a new residential estate into the existing neighbourhood;
- The preservation of landscape and urban character in Dalyston while accommodating growth;

## The Proposal

This application proposes to subdivide the land in accordance with the endorsed development plan prepared by Calibre dated 13/12/2018. The decision plans are provided as Attachment one and are detailed below:

1. *Site analysis – existing conditions by 'The Civil Superintendent' revision A 3/11/2021*
2. *Staging plan by 'The Civil Superintendent' revision A 3/11/2021*
3. *Landscape Masterplan by Blue Tree Landscape Architects with Masterplan annexure by the Civil Superintendent Rev A Dated December 2021*
4. *Wetland and subdivision layout by 'The Civil Superintendent' revision A 3/11/2021*
5. *Wetland detailed layout by 'The Civil Superintendent' revision A 3/11/2021*
6. *Traffic assessment by 'Traffix Group' revision A 3/12/2021*

Key features of the proposal include:

- 46 residential allotments of varying orientation, dimension and size;
- A linear drainage reserve collecting stormwater flows from developments north of the Bass Highway and directing them to the south of the estate;

- A substantial drainage reserve and wetland designed to collect and treat flows from the proposed subdivision, land immediately to the north and all new development north of the Bass Highway;
- The provision of a public recreation reserve featuring nature based play space and a landscape feature mound;
- A mixed use connection between the estate and the rail trail including the protection of the southern maintenance access of Station Street, provision of a parking and turning area near the termination of station street;
- A pedestrian thoroughfare linking the Dalyston Recreation Reserve to the southern passive open space proposed in this application.




*Figure 1 - Proposed Plans*

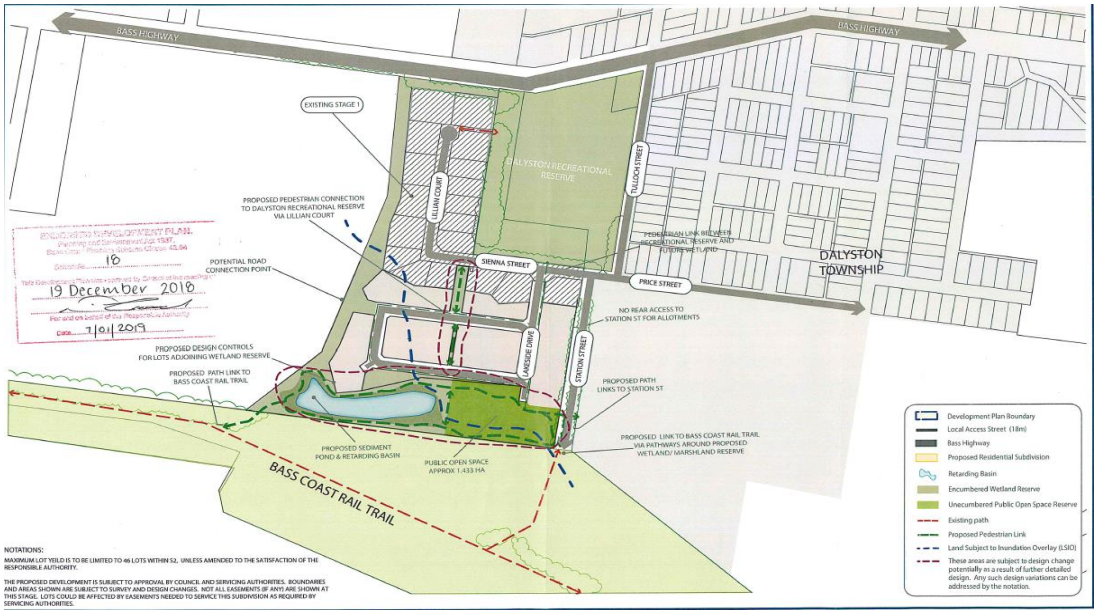



*Figure 2 – Endorsed development plan 19/12/2018*

## Background

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

| | |
|---|---|
| Site Dimensions and Area | The site is irregular in shape with an area of approximately 10 hectares. The bulk of developable land is located south of Sienna St and West of Station Street. |
| Topography | The land is generally flat with a slight fall to the south west corner. |
| Vegetation Cover | The northern abuttal with the Bass Highway is thickly vegetated with scrub vegetation typical to Dalyston. The bulk of the property is generally cleared of native vegetation. |
| Current Use and Development | The property is currently developed with a dwelling, shedding, and low scale agricultural infrastructure. |
| Easements | The site is currently burdened by easements for carriage, sewerage, telecommunications, electricity and drainage. |
| Restrictive Covenants and/or Section 173 Agreements | Three Section 173 agreements apply to the site.<br>AJ560611T<br>AJ775515Q<br>AK057462G |
| Aboriginal Cultural Heritage Sensitivity | The site is located within an area of Aboriginal cultural heritage sensitivity and is affected by an approved Cultural Heritage Management Plan. |
| Planning Permit History | Planning permit 080367 – permit issued for subdivision of land.<br>Planning application 200286 – application for subdivision of land (withdrawn) |

## Subject Site and Surrounds

The site is located on the South side of the Bass Highway Dalyston and comprises approximately 10 hectares located on the southernmost township boundary.

The site is characterised by its history of development as the 'Waterdale Estate' and from the combined storm-water infrastructure impacts from the growth of Dalyston to which it provides a common means of drainage.

In 2011 and concurrent with Planning Permit 080367 the following development plan was approved and the first stage of the Waterdale low density residential estate.

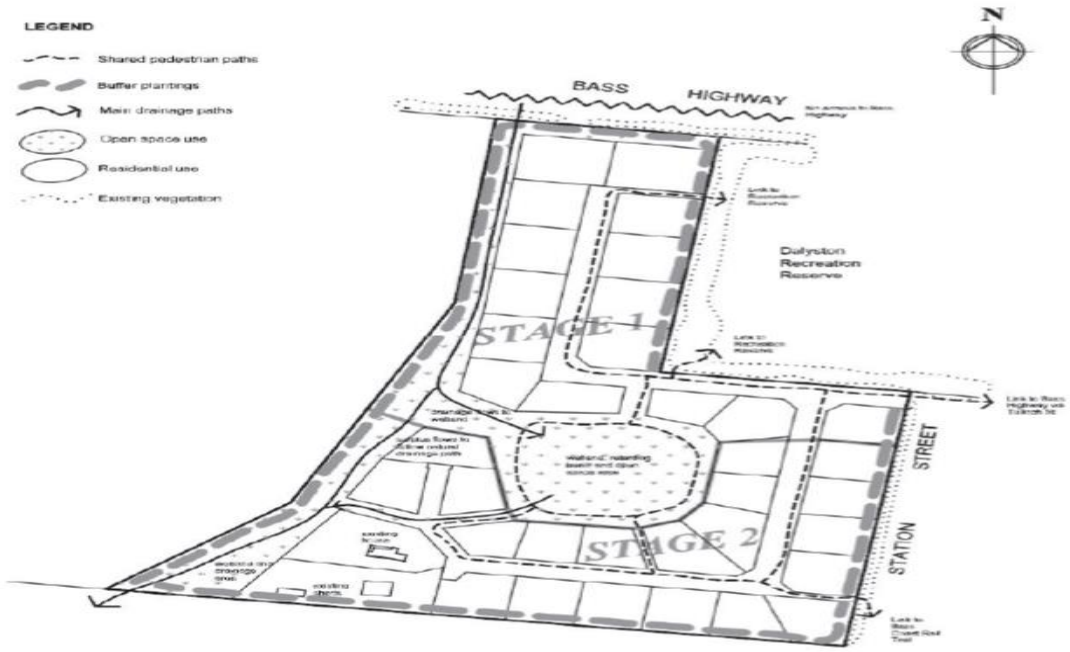



*Figure 3 – Original development plan of 2011.*

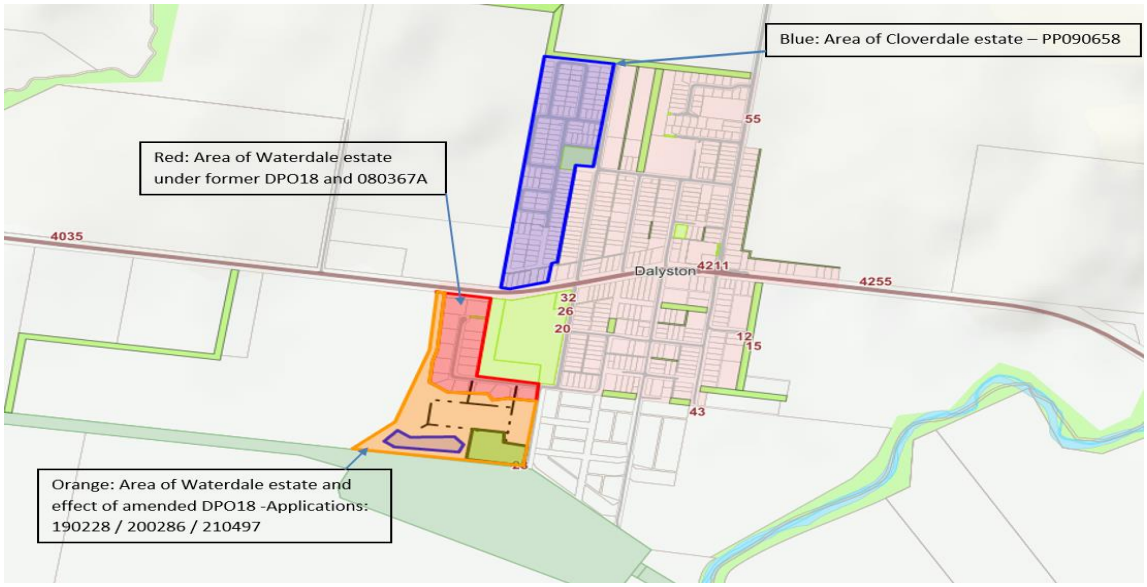



*Figure 4 - Inter-relationship between the estates of West Dalyston and the drainage catchment.*




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

The main characteristics of the surrounding area are:

**North** Adjoining the land to the north comprises lots created under stage 1 of the Waterdale estate plan. These lots have mostly been developed with substantial dwellings and shedding. On the north side of Sienna Street the recreation grounds of Dalyston host the local football club, netball courts and community hall.

**South** Adjoining the land to the south is crown land purposed for public park and recreation. The land contains the rail trail linking Wonthaggi to Woolamai and an open area of pasturage with an informal licence to a nearby farmer. The land was originally reserved for a train station with curtilage for ancillary functions.

**East** The land abuts station street which hosts remnant vegetation within the road reserve and forms the township boundary of Dalyston. East of station street the land is zoned for farming.

**West** The west side of the property forms the township boundary of Dalyston and features open farmland until the township of Kilcunda.




*Figure 6 - Zoning Map*

## Consultation

If a development plan has been prepared to the satisfaction of the responsible authority, an application under any provision of this planning scheme is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

A development plan has been prepared pursuant to the requirements of schedule 18 to the development plan overlay. The development plan has been attached as appendix 6.

## Referrals

The following table outlines the referral requirements of this application.

| Referral Authority | Comments |
|---|---|
| External (Section 55 of the *Planning and Environment Act 1987*) | |
| Westernport Water | No objection to the application, subject to conditions. |
| Ausnet Services Pty Ltd | No objection to the application subject to conditions. |
| Multinet Comdain Pty Ltd | No objection to the application subject to conditions. |
| Department of Transport | No objection to the application subject to conditions. |
| West Gippsland Catchment Management Authority | No objection to the application subject to conditions which detail the impact of the works on riverine flooding and the application of appropriate property protections. |

| Internal (Section 52 of the *Planning and Environment Act 1987*) | |
|---|---|
| Revenue Services | No objection to the application. |
| Asset Management | No objection to the application subject to conditions requiring the delivery of the infrastructure in a methodical way and the protection of properties from flood waters. |
| Open space and recreation team | No objection to the application subject to adoption of a single link to the rail trail via station street and inclusion of historical marker or other recreation information and guidance. |
| Property Team | No objection to the application provided the southern link to the rail trail is provided on the boundaries of public land and avoids vegetation removal. |

## Planning Scheme Provisions

### Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

- Clause 02 Municipal planning strategy
- Clause 11.01 Victoria
- Clause 11.02 Managing Growth
- Clause 11.03 Planning for Places
- Clause 12.05 Significant Environments and Landscapes
- Clause 13.01 Climate Change Impacts
- Clause 13.02 Bushfire
- Clause 13.03 Floodplains
- Clause 14.02 Water
- Clause 15.01 Built Environment
- Clause 15.02 Sustainable Development
- Clause 15.03 Heritage
- Clause 16.01 Residential Development
- Clause 18.01 Integrated Transport
- Clause 18.02 Movement networks
- Clause 19.02 Community Infrastructure
- Clause 19.03 Development Infrastructure

The intent of the relevant policies outlined in Clause 12 is to ensure that the natural environment including its flora and faunal habitat and the landscape character are considered in proposals to use and develop land. This proposal is not located on land which has been identified for its significant character, habitat or floral biodiversity and has been cleared for agricultural purposes.

Clause 13 seeks to ensure that risks associated with natural events or the constraints of land have been properly considered. The land has been identified as bushfire prone and the southern portion subject to inundation from the Powlett River.

The proposed subdivision is considered to achieve the objectives of clauses 13.01 (Bushfire risk) and 13.03 (Floodplain management) by siting residential areas away from the known risks, offering multiple opportunity points to create distance from an environmental risk and by creating managed spaces such as reserves between residential areas and the known risks.

The proposal is considered to satisfy the requirements of Clause 14.02 (Natural Resource Management – Water) with the development proposing to construct a substantial drainage detention network catering not only to the 46 allotments subject of this permit but to a much larger catchment of residential development. The management of stormwater is of significant importance as the quality of water released will impact the Powlett River and by extension the agriculture and sensitive coastal wetland environments that characterise the mouth of the river.




Figure 3-2: Total Catchment Delineation for the Waterdale Development

*Figure 8 – The Catchment catered to by the proposed wetland and detention basin*

The application meets the key policy objectives outlined in Clause 15 (Built Environment and Heritage) for subdivision in that the design achieves an attractive, safe, accessible, diverse and sustainable neighbourhood and an urban environment that is safe, healthy, functional and enjoyable and that contributes to a sense of place and cultural identity. Aboriginal Cultural Heritage impacts have been appropriately considered through the investigation, preparation and approval of a cultural heritage management plan.

The intent of the relevant policies 18.01-1S, 18.01-2S/R, 18.02-1S (Transport) are at a high level to ensure that growth and development are occurring in locations where the state and local transport infrastructure can support the proposal. The proposal provides for an appropriate road network within the site, providing roads and infrastructure sufficient for the likely current and future needs of residents within the estate.

The land benefits from proximity to the Bass Coast Rail Trail and Dalyston Recreation reserve and with a proposed upgrade in connectivity to these assets, the subdivision is considered to support environmentally sustainable transport alternatives that are practical, convenient, attractive and safe.

The intent of Settlement policies at Clause 11 are broadly to ensure that development is occurring in strategically sound locations at the appropriate time and in an appropriate manner. Clauses 11.01, 11.02 and 11.03 have been applied through the strategic framework plan and strategies at Clause 11.01-1L-14 (Dalyston) and further detailed at a site level through the application of the Development Plan Overlay Schedule 18 with its subsequently approved development plan.

The intent of the relevant policies is to ensure that essential infrastructure is provided in a timely manner to service proposed growth. The application undergoes referral to external authorities to address infrastructure needs and the proposal is considered to meet the objectives of infrastructure with capacity for all essential services to be provided to the proposed lots.

A substantial wetland and drainage reserve network is supported by a storm-water strategy that is considered to collect, treat, store and disperse stormwater in accordance with state policies and the Bass Coast Shires more intensive requirements under clauses 19.03-2L and 19.03-3L.

The provision of public open space has been reviewed and though slightly reduced from that illustrated in the development plan is considered to be appropriately located and equipped to service the needs of the local community.

### Zone Assessment

### Clause 32.05 – Township Zone

The proposal is considered to meet the purpose of the Township Zone by responding to the Municipal Planning Strategy and the Planning Policy Framework and through the provision of residential development in small towns whilst respecting the neighbourhood character of the area.

### Clause 56 Residential Subdivision

The proposal is consistent with a Development Plan assessed under clause 56. Notwithstanding the proposal is considered to have satisfied all objectives, standards and decision guidelines of clause 56 of the Bass Coast Planning Scheme relevant to a subdivision of this scale in the Township Zone.

### Overlay Assessments

### Clause 44.04 Development Plan Overlay (Schedule 18)

Schedule 18 of the Development Plan Overlay specifies requirements for permits and the considerations the responsible authority used in the approval of the endorsed development plans.

The endorsed development plan addresses the subdivision in respect to:

- Convenient and safe internal road networks, pedestrian connections and network.
- Providing for a variety of lot sizes and housing types.
- Preventing lots from backing onto public open space and roads.
- Providing for a sensitive residential interface.
- Preventing direct access of lots to the Bass Highway.
- Open space which is visible and accessible.
- The Staging of the development.

In accordance with the requirements of Schedule 18, the application was accompanied by a site analysis plan, stormwater management plans, landscape plans, an assessment against clause 56 and responses to the conditions and annotations of the development plan as follows:

- The inclusion of a central pedestrian connection.
- A sediment pond and retarding basin.
- Public open space.
- Pedestrian paths and links.
- A limitation to 46 lots.

The following requirements of the Schedule to the Development Plan Overlay and the corresponding development plan have been varied in response to consideration of the detailed design:

- The size of the public open space compared to the land required for proposed treatment and storage of stormwater. The area required for treatment has been sizeably increased and the public open space reduced.
- The western pedestrian boardwalk connection to the Bass Coast Rail Trail has been disbanded for the following reasons:
    - The proposed location compromised a substantial and intact strip of native vegetation identified as a biolink.
    - The connection with the Rail Trail coincided with the location of a creek crossing creating design and safety implications for users.
    - The proposed connection was across a low area where water from the drainage reserve would naturally flow and was subject to inundation.
- The western road connection point has not been implemented as development outside of the township boundary for Dalyston is not anticipated.
- The eastern pedestrian connection to Station Street on the north side of the proposed open space on the basis of a free and clear connection on the south-eastern corner.

The following requirements of the development plan and associated schedule are recommended to be applied through conditions of the Planning Permit to achieve an appropriate outcome.

- The redirection of pedestrian connection through a shared use path via Station street to provide a clear and appropriate connection to the rail trail involving the following works:
  - Closure of Station Street southern end with gate, bollard or other obstruction.
  - Maintenance of the southern Station Street extension terminating at the rail trail.
  - Redirection of traffic into a court-bowl incorporating parking at the southern end of the open space reserve.
  - Extension of granitic shared pathway slipway into the rail trail reserve.
- A landscape plan condition will appear on the permit directing overall subdivision strategy and stage by stage detail.
- A building envelope plan requirement will be directed through conditions to provide explicit direction for new owners and developers of lots.

These variations were considered in consultation with the applicant and Council's open space, strategic, property and engineering department.

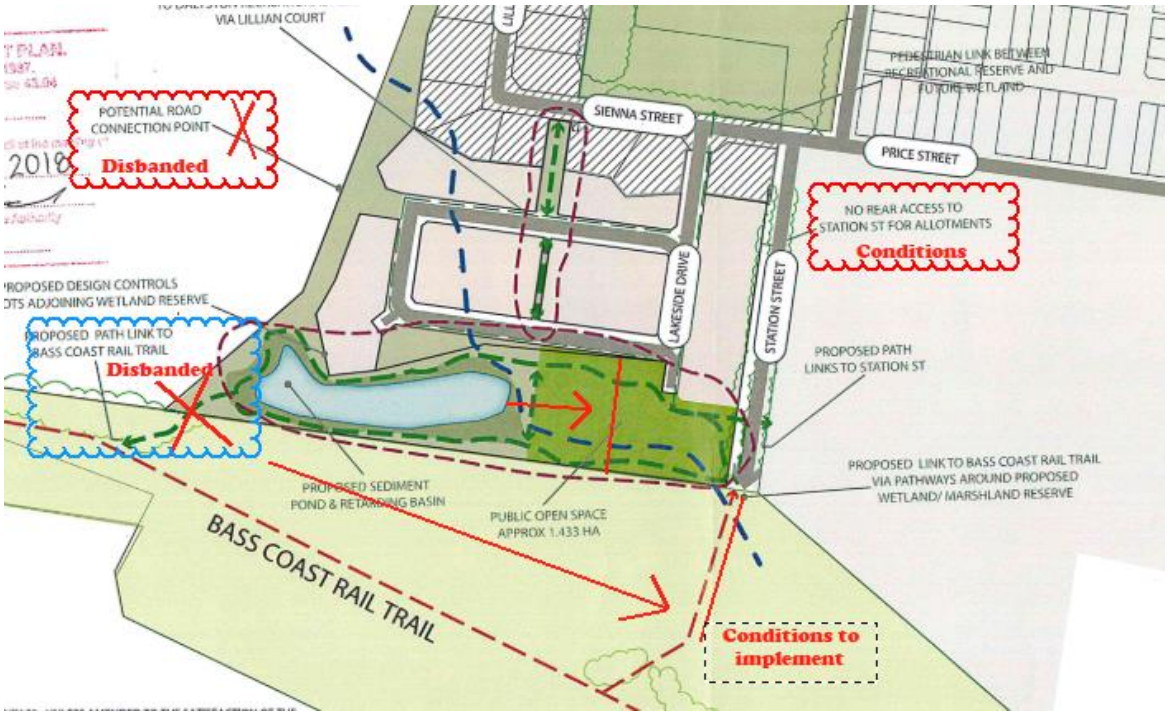



*Figure 9 - Illustration of agreed alternative approach to implementing the development plan*

Consideration was given as to whether the abandonment of the western connection to the rail trail resulted in a development that was not in accordance with the plan. The conclusion is that providing a connection to the rail trail which satisfied connectivity, useability, maintenance and reduced flood risk was to be generally in accordance with the plan and the number and specific location of the access points were of less significance.

### Clause 44.04 Land Subject to Inundation Overlay (Schedule 1)

The broad purpose/objectives of the overlay is to identify flood prone land in a riverine or coastal area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority. The overlay further seeks to minimise the potential flood risk to life, health and safety associated with development.

The application is consistent with the objectives of the overlay and decision guidelines of Clause 44.04-1 for the following reasons:

- The risk to residents from inundation has been mitigated by locating areas of residential development well away from the known areas of inundation.
- The access points from the estate to the rail trail have been redesigned and relocated to minimise the locating of new infrastructure into inundated areas, redirect access and movement to locations less likely to be affected and more readily maintained.
- Drainage infrastructure is designed to capture, hold and disperse natural and displaced stormwater flows from the new residential areas of Dalyston. This infrastructure is located within the natural drainage flow and thus will minimise the environmental effects of redirecting flood and storm water dispersal.
- The Catchment Management Authority (CMA) has been involved at every level of the decision-making process up to and including this proposal. The authority has considered and consented to the proposal subject to conditions.
- The response of the CMA has highlighted to Council the need to set the proposed road network to the flood levels advised by the authority to protect access to dwellings during flood events.
- Conditions are also recommended for 'floodflaps' a mechanism which prevents backwash pressure from spoiling the urban drainage network during flood events.

## Other planning controls

### Clause 52.02 – Easements, Restrictions and Reserves

The application includes the proposed removal of an easement reserved for the purpose of 'drainage.' This easement is to be expunged to allow for the development of drainage works in accordance with the approved stormwater strategy.

A restriction is proposed to control development on land which abuts public open space to ensure appropriate orientation, fencing, flood protection and access is maintained.

### Clause 52.29 Land Adjacent to the Principal Road Network

A permit is required pursuant to clause 52.29-2 before a person proceeds to subdivide land adjacent to a road in a Transport Zone 2.

The land which abuts the principal road network is the northernmost arm of the drainage reserve which contains native vegetation and the outfall for a pipe under the Bass Highway which collects the stormwater from development north of the Highway.

The road network servicing the residential lots does not directly connect to the Bass Highway but filters through the existing street network – with Tulloch Street being the most likely and practical route.

Tulloch Street collects residential traffic from approximately 250 lots north of the Bass Highway and provides access to a small caravan storage business. South of the Bass Highway Tulloch Street provides access to approximately 100 existing residential lots (excluding this proposal) and services the Dalyston Recreation grounds which host netball courts, football field, club houses and a community hall.

North of the Bass Highway the developer of the Cloverdale estate made arrangements for a monetary contribution to the construction of the Bass Highway. The applicants have proposed a similar pro-rata contribution for the intersection works based on the number of lots proposed and those already completed under Stage 1 of the Waterdale Estate.




*Figure 10 - Illustration of Tulloch St, Bass Highway intersection and how the network directs movement.*

**Restrictions and Agreements**

Agreement S173 AK057462G

This agreement was created under permit 080367A allowing subdivision of the land into 19 allotments. The agreement is related to specific vehicle access matters;

- The owner of each lot in PS627341C and PS704192P shall construct a single vehicle crossing to each allotment prior to an occupancy permit being issued.
- The vehicle crossing will extend from the road pavement to lot boundary in accordance with Waterdale Estate plans drawing 2125 Sheet 3.

This agreement is not relevant to the proposed subdivision.

Agreement S173 AJ775515Q

This agreement came into effect in response to application 090658 allowing the subdivision of land north of the Bass Highway into 145 lots and the necessity of the site subject to this permit application being at the receiving end of all water collected and drained from that subdivision.

The agreement requires that the stormwater design for this proposal accommodate the collected flows of the estates constructed north of the Bass Highway.

The agreement stipulates that certain contributions will be made by the parties bound by the agreement in cash contribution provided the infrastructure reaches practical completion.

Agreement S173 AJ560611T

This agreement was created under permit 080367A allowing subdivision of the northern part of the land into 19 allotments. The agreement contains further obligations with respect to infrastructure requirements to be implemented prior to the issue of Statement of Compliance (SOC).

The following have been completed:

- The Station Street link to Tulloch Street (Sienna Street) designed and constructed to the satisfaction of the responsible authority. The road being completed prior to the issue of SOC.
- Pedestrian access to the recreation reserve and a secure gate to the pedestrian access along the western boundary.
- Allotments on the recreation reserve boundary are to be fenced with post and wire at 1.8m on the southern and western boundaries.

The following have not been undertaken:

- Tulloch Street link to the Bass Highway designed, constructed and sealed prior to SOC.
- Two metre concrete footpath constructed along Station/Sienna Street and Tulloch Steet prior to completion of Stage 2. Note: Conditions will be applied to deliver this given it is linked to Stage 2.
- Transferral of the wetland to the responsible authority upon its completion. Note: This application proposes to deliver the wetland.

Agreement S173 AJ560611T has significant implications for the proposed subdivision, namely the substantial infrastructure costs that burden the development of the land and the general nature of the requirements.

The recommendation of this report will provide for the subdivision of the land under the relevant planning scheme provisions but does not and cannot end or amend the Agreement. Such a decision needs to be sought through the process set out under Section 178A of the *Planning and Environment Act 1988*.

## Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to be an appropriate outcome for the site and Dalyston.

It is recommended that Council resolve to issue a Planning Permit for planning application 210497, subject to the recommended conditions.

**Recommendation**

**That in relation to Planning Permit application for the staged subdivision of the land into 46 lots, removal of easements, creation of restrictions and works within the Land Subject to Inundation Overlay (LSIO) located at 28 Station Street, Dalyston Council resolves to issue a Planning Permit subject to the following conditions:**

**Amended plans required**

1. **Before work commences or a plan of subdivision is certified under the *Subdivision Act*, the following amended and new plans must be submitted to and approved by the responsible authority to the satisfaction of the responsible authority as a single package. The package must contain a suite of plans which are generally in accordance with the plans submitted in support of the application, drawn to scale, rotated to MGA use AHD where levels are described and include a title page with version number, author/s, date and content. The package must incorporate the following.**
    a. **An overall development plan generally in accordance with the application plans which show:**
        i. **The whole of the property including the Bass Highway abuttal at the north.**
        ii. **The stages of the development including works external to the site which are to be delivered with a particular stage and identification of stage 1 of the Waterdale estate as 'existing.'**
        iii. **The layout of the development.**
        iv. **The road layout including the approximate location of a turning area for the southern end of Station Street.**
        v. **The footpath connection required by agreement AJ560611T.**
        vi. **The proposed connection of the land to the Bass Coast Rail trail via Station Street.**
        vii. **The approximate layout of the drainage path in the western reserve and the sediment pond and retarding basin.**
        viii. **The approximate layout of unencumbered open space area including annotation for the provision of a playspace and other major features.**
    b. **A subdivision master plan prepared by an appropriately qualified surveyor which shows:**
        i. **The whole of the land comprised in the subdivision.**
        ii. **The anticipated dimension and area of each lot and reserve.**
        iii. **The staging of the subdivision.**
        iv. **Identification of the easement to be expunged.**

v. **Names for all new roads and places in accordance with 'The Naming rules for places in Victoria, statutory requirements for naming roads, features and localities – 2016.'**

c. **A landscape masterplan in accordance with condition 2.**

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

2. **Concurrent with the submission of plans required by Condition 1 and before the commencement of buildings and works an electronic copy of a Landscape Masterplan (drawn to scale with dimensions) to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. The Landscape Masterplan must be generally in accordance with the plan prepared by Blue Tree Landscape Architects December 2021 except that the plan must:**

   a. **Detail the entirety of the land and the staging of landscape works as required by this permit.**

   b. **Realign the connection to the Bass Coast Rail trail to the southern end of station street.**

   c. **Demonstrate a cumulative coverage across all stages of a minimum 80% locally indigenous species;**

   d. **Concept plans for publicly accessible reserves on the plan, in a separate plan, document or attachment which detail features using cross sections or samples to adequately describe the infrastructure being delivered to the satisfaction of the responsible authority.**

   e. **A concept plan for the works proposed in the rail trail reserve to the satisfaction of the responsible authority including:**

      i. **Directional signage.**

      ii. **Removable bollards or gate to access the southern end of Station Street.**

      iii. **A basic Information sign and shelter at the Kilcunda/Wonthaggi split which includes a brief on the historical Dalyston train station and Dalyston in general.**

   f. **For each stage:**

      i. **Trees must be identifiable on the plan using an appropriate key.**

      ii. **Street trees must be provided on both sides of roads/streets in accordance with and not exceeding the following average intervals:**

         - **Small trees (less than 10 metre canopy), at a 8-10 metre interval;**
         - **Medium trees (10-15 metre canopy), at a 10-12 metre interval; and**
         - **Large trees (canopy larger than 15 metres), at a 12-15 metre**

**intervals.**

iii. **A schedule of proposed species that are to be planted in the stage including scientific names.**

iv. **Quantities of all species to be planted on site including their size when mature.**

v. **100% locally indigenous species must be used in the unencumbered public open space, passive open space surrounding the stormwater treatment and the western spillway reserve, selected from the Bass Coast Indigenous Plants guide EVCs appropriate to Dalyston.**

vi. **A notation on the landscape plan providing that the permit holder will maintain all landscaping (including any replacement of dead or diseased plants) as per the endorsed landscape plan for a period of two years to the satisfaction of the responsible authority.**

vii. **All proposed street-tree planting to use semi-advanced trees, with minimum container size of 45 litres.**

viii. **Access to each lot in that stage.**

g. **Exclude vegetation required in the delivery of stormwater quality treatment with annotation 'subject to civil design'.**

3. **The development and subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority. The certification of a plan of subdivision is considered to be written consent for the matters contained in that plan.**

**SUBDIVISION PROCEDURE**

4. **The subdivision must proceed in the sequential order shown on the endorsed plans. Stage two must be the first stage.**

5. **Prior to any works commencing for a stage of the subdivision, a plan of subdivision for that stage must be submitted to the responsible authority in SPEAR for Certification under the *Subdivision Act 1988*. The plan must:**

   a. **Be prepared by a licensed land surveyor and suitable for certification under the *Subdivision Act 1988*.**

   b. **Illustrate appropriate easements set aside for drainage purposes, to the satisfaction of the responsible authority.**

   c. **Illustrate any easement, restriction or reserve in accordance with the conditions of this permit.**

   d. **Generally accord with the layout and dimensions of the subdivision masterplan.**

   e. **This condition excludes works associated with the stormwater management strategy or external to the site.**

**CIVIL INFRASTRUCTURE**

6. **The western waterway open channel is to be fully completed (including the maintenance vehicle access track) before the issue of Statement of Compliance for Stage 4.**
7. **The wetland is to be fully completed (including all water quality plantings) before the issue of Statement of Compliance for Stage 5 and Stage 6.**
8. **Before the certification of a plan of subdivision for the first stage of the development, a functional layout plan must be submitted to and approved by the responsible authority. When approved the functional layout plan will be endorsed and will then form part of the permit. The functional layout plan must be drawn to scale with dimensions. An electronic copy (PDF) must be provided. The functional layout plan must be generally in accordance with the application plans but incorporate the following:**
    a. **A subdivision layout drawn to scale, including proposed street names, lot areas, lot numbers and widths of street reservations.**
    b. **Topography and existing features, including contours for the subject land and any affected adjacent land.**
    c. **The location of all trees (or group of trees) existing on the site, including dead trees and those that overhang the site from adjoining land.**
    d. **Details of tree protection zones for all trees to be retained on site.**
    e. **Any trees proposed for removal from the site clearly designated.**
    f. **Typical cross-sections for each street type.**
    g. **A table of offsets for all utility services and street trees.**
    h. **Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls/calming.**
    i. **The proposed minor drainage network and any land required for maintenance access.**
    j. **The major drainage system, including any watercourse, lake, wetland, silt pond, and/ or piped elements showing preliminary sizing.**
    k. **Overland flow paths (1 % AEP) to indicate how excess runoff will safely be conveyed to its destination.**
    l. **Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for construction and maintenance.**
    m. **Preliminary location of reserves for electrical kiosks.**
    n. **Works external to the subdivision, including both interim and ultimate access requirements.**
    o. **Intersection treatments.**

**p. Road layout to provide efficient and safe traffic flow throughout the development site.**

**9. Before certification of the Plan of Subdivision for each stage, detailed civil construction plans must be prepared to the satisfaction of the responsible authority for endorsement by the responsible authority. All construction plans submitted for approval must be consistent with this permit and must conform with the requirements of all relevant servicing and road authorities. 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. An underground pipe drainage system conveying the 20 % AEP stormwater runoff to the legal point of discharge.**

**ii. The provision of a drainage retardation system within the site and prior to the point of discharge. The stormwater retardation system must be designed to ensure that stormwater discharges arising from the proposed development of the land (including the Cloverdale estate) are restricted to pre-development flow rates for storm events up to and including the 1% AEP. The retardation system must be maintained during the maintenance period to the satisfaction of the responsible authority.**

**iii. Retardation system (wetland) top water level to be no lower than 5.50m AHD being the 2100 flood level set by the WGCMA.**

**iv. Sediment de-watering areas to be included at the sediment basins.**

**v. Design of western waterway to convey 1 % AEP flows from Bass Highway through to the point of discharge, south of the site.**

**vi. Provision of over-land surcharge routes for all storm events up to and including the 1% AEP. This must include associated infrastructure for the safe and effective passage of stormwater flows arising from areas upstream of the subject land discharging into Bass Coast Shire Council's drainage system.**

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

**b. Vehicle and pedestrian access and car parking in accordance with IDM standards and to the satisfaction of the responsible authority, including:**

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

ii. **All roads to have asphalt wearing course pavement with kerb and channel.**

iii. **Intersection treatments for traffic channelization including entry threshold treatments with Statcon signage and splitter islands.**

iv. **Turning for emergency service vehicles and garbage trucks must be provided at Court heads (minimum carriageway radius of 10.5 metres).**

v. **One indented carpark per lot abutting shared driveways.**

vi. **Indented parking bays on roads abutting reserves.**

vii. **End of shared driveways to cater for turn movements for a B99 standard vehicle.**

viii. **Internal roads to have a carriageway width in accordance with the road hierarchy in the IDM (7.3 m wide carriageways).**

ix. **Concrete driveway crossovers serving each lot in accordance with IDM standard drawings (i.e. SD 240).**

x. **A concrete footpath on both sides of residential streets including all path linkages to existing network.**

xi. **2.0m wide concrete path to be constructed from the estate, along Tulloch Street to the existing footpath network at the Tulloch Street/Bass Highway intersection.**

xii. **All paths through the reserve to be minimum width of 2.0m wide.**

**Xiii .Path on the northern side of the open space reserve is to be constructed in concrete.**

xiv. **Maintenance vehicle access tracks to be provided around the perimeter of the wetland.**

xv. **Minimum 3 m wide crushed rock maintenance track to be constructed along the open channel (the waterway down the western side of the site).**

xvi. **Bollards must be provided to prevent direct vehicle access to open space reserves other than via the vehicle crossing(s) shown on the endorsed plans.**

xvii. **Standard street lighting to be provided in accordance with IDM requirements.**

xviii. **Primary cadastral marks (PCMs) to be placed no further than 100 metres apart with 1 in 3 to be Permanent Survey Marks (PSMs). RLs to Australian Height Datum (AHD) must be included.**

**xix. Fire hydrants, spaced no further than 200 metres apart. Fire hydrants must be located to be within 120 metres from the farthest corner of each lot in the subdivision. This distance is to be measured around lot boundaries.**

**All works must be constructed or carried out in accordance with those plans before the issue of Statement of Compliance for the Plan of Subdivision.**

**10. Before the issue of a Statement of Compliance for each stage, the developer must pay:**

**a. 0.75% of the total estimated cost of the civil and landscaping works of the project for the checking of engineering plans associated with the development by this permit; and**

**b. 2.5% of the total estimated cost of the civil and landscaping works of the project for the supervision of works associated with the development approved by this permit.**

**c. A refundable bond of 5% of the total estimated cost of the civil works of the project for the purposes of ensuring any works defects are rectified during the 12 month defects liability period.**

**d. A refundable bond of 35% of the total cost of the landscaping works for the purposes of ensuring soft engineering (e.g. plantings) are maintained including weeding and replacement of missing plants during the 12 month defect liability period.**

**CONSTRUCTION MANAGEMENT PLAN**

**11. Before certification of the Plan of Subdivision for each stage, a Construction Management Plan (CMP) must be prepared to the satisfaction of the responsible authority for endorsement by the responsible authority. The plans must be drawn to scale with dimensions. An electronic copy (PDF) must be provided. The plan must address, but not be limited to following:**

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

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

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

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

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

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

**responsible authority.**

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

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

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

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

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

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

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

**n. Landscaping, re-vegetation and construction works carried out on the site must be supervised by a person with recognised environmental qualifications.**

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

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

**q. Management of all building and construction waste, including any measures to recycle materials generated during construction;**

**r. Locations of cut and fill stockpiles.**

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

t. **A liaison officer for contact by residents and the responsible authority in the event of relevant queries or problems experienced.**

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

v. **Reporting requirements to demonstrate compliance with the latest revision of the following documents:**

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

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

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

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

**The Construction Management Plan, once endorsed, will form part of the permit. All works constructed or carried out must be in accordance with the approved Construction Management Plan.**

**AMENITY**

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

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

a. **Transport of materials, goods or commodities to or from the land.**

b. **Appearance of any building, works or materials.**

c. **Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, litter, dust, waste water, waste products, grit or oil; and**

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

**S173 AGREEMENTS**

14. **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. **No direct vehicle access is to be obtained to any allotments from Station Street.**

b. **Except for lot 28, no building larger than 10m$^2$ may be constructed, sited, moved, extended or otherwise placed on a lot which would allow it closer than the following setbacks to each boundary:**

   i. **Seven metres from the road frontage.**

   ii. **Seven metres from a rear boundary.**

   iii. **Two metres from any other boundary.**

c. **For lots 43, 44, 45, 50, 51, 52 and 69 no vehicle access is permitted to or through the abutting reserve.**

d. **For lots 52 and 69 any new building constructed, moved, placed upon the land or extended must be oriented and designed such that utility services, blank walls or doors in excess of five metres length are not visible from the reserve.**

**COMPLETION OF WORKS**

15. **Before the issue of a Statement of Compliance all public works must be completed in accordance with IDM standard drawings to the satisfaction of the responsible authority including:**

    a. **All roads, paths, drainage, open space and other public infrastructure in accordance with the endorsed civil design plans.**

    b. **Redundant infrastructure must be removed and the area reinstated to the satisfaction of the responsible authority including appropriate kerbing and channelling, footpath and landscaping;**

    c. **Standard street lighting must be provided in accordance with the IDM and the endorsed civil design plans.**

    d. **All landscaping works in accordance with the endorsed landscape plan.**

    e. **The boundary of the allotments abutting the area to be reserved for public open space must be fenced. Such fencing must be constructed to the standard required by the responsible authority and must be constructed so that the fence posts and rails are not exposed on the side of the land so reserved and must be compatible with other residential fences within the subdivision;**

    f. **Any reserves must be cleared of all rubbish, weeds, debris and spoil and must be landscaped to the satisfaction of the responsible authority. Such landscaping must be in accordance with a plan approved by the responsible authority.**

    g. **A Permanent Mark sketch plan, including RLs, as approved under the *Survey Co-ordination Act 1958* and/or *Surveying Act 2004* shall be completed and registered with Land Victoria. Such registration**

**shall be deemed not to have taken place until notarised advice has been forwarded to Bass Coast Shire Council.**

16. **Before the issue of Statement of Compliance for each stage, an independent Road Safety Audit (RSA) must be completed in accordance with the Infrastructure Design Manual (IDM), unless otherwise agreed to in writing by the responsible authority following a Practical Completion inspection. All works must completed in accordance with the recommendations of the RSA to the satisfaction of the responsible authority.**
17. **Before the issue of a Statement of Compliance for each stage, the following must be provided to the responsible authority:**
    a. **CCTV footage of the Council drainage assets in accordance with the IDM.**
    b. **Copies of the "as constructed" engineering roads, drainage, lighting, water reticulation and landscaping drawings as follows:**
        i. **Collated electronic PDF format.**
        ii. **A-SPEC digital data specification.**
    c. **"As constructed" digital data measurements in a GIS ready format. The format required is:**
        i. **ESRI Shapefile format complying with Council's template (subset of A-Spec Digital Data Specification).**
        ii. **Horizontal Datum: GDA94 on MGA94 Zone 55.**
        iii. **Vertical Datum: AHD.**
    d. **Location of any permanent survey marks.**

**WESTERNPORT REGION WATER AUTHORITY**

18. **Pursuant to Section 56(1)(b) of the *Planning and Environment Act 1987*, the Corporation does not object to the granting of a permit, subject to the following specific conditions being placed on the permit:**
    a. **Payment of a New Customer Contribution Fees and distribution contribution for water supply for the development, such amount being determined by the Corporation at the time of payment;**
    b. **Provision of a reticulated water supply and associated construction works to each allotment within the development, at the developers expense, in accordance with standards of construction adopted by and to the satisfaction of Westernport Region Water Corporation.**
    c. **Payment of any outstanding contributions towards existing water schemes, such amount being determined by the Corporation at the time of payment.**
    d. **Provision of separate water services and individual water supply to each allotment within the development.**

e. **Any existing water service which crosses any of the proposed allotment boundaries within the proposed development must be disconnected and re-located at the developer's expense, to be wholly within one allotment only and to the satisfaction of Westernport Region Water Corporation.**

f. **Payment of a New Customer Contribution Fees and trunk sewer contribution for sewerage services to the development, such amount being determined by the Corporation at the time of payment.**

g. **Provision of reticulated sewerage and associated construction works to each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of Westernport Region Water Corporation.**

h. **Payment of any outstanding contributions towards existing sewerage schemes, such amount being determined by the Corporation at the time of payment.**

i. **Disconnection of any existing house connection drain crossing over proposed allotment boundaries, and each allotment to be independently and directly connected to a sewer main of Westernport Region Water Corporation.**

j. **Provision of easements in favour of Westernport Region Water Corporation over all existing and proposed sewer mains located within private property.**

k. **A notation is to be placed on the plan of subdivision to note that pursuant to Section 12(2) of the *Subdivision Act 1988*, there exists "implied easements" over all of the allotments and the common property within the development.**

l. **Alternatively, the developer is to provide a two metre wide easement over the common portion of the house connection drain, in favour of the benefiting land, to the satisfaction of Westernport Water Region Water Corporation.**

m. **Pursuant to Section 36 of the *Subdivision Act 1988*, Westernport Region Water Corporation considers that for the economical and efficient subdivision and servicing of the land covered by the Application for Permit it requires the owner of the land to acquire an easement over other land in the vicinity, namely any land not owned by the Developer through which a sewerage extension to service the development is to be located. The easements shall be created at the developers expense and shall be in favour of Westernport Region Water Corporation.**

n. **Preparation of a digitised plan of subdivision and ancillary requirements in accordance with the Corporations drafting standards and practices.**

o. **The operator under this permit must enter into an Agreement with Westernport Region Water Corporation relating to the design and construction of any sewerage or water works required to service the proposed development.**

p. **The form of such Agreement shall be to the satisfaction of Westernport Region Water Corporation. A copy of the format of the Agreement will be provided on request.**

q. **The plan of subdivision lodged for certification is to be referred to Westernport Water Region Water Corporation pursuant to Section 8(1) of the *Subdivision Act 1988*.**

**WEST GIPPSLAND CATCHMENT MANAGEMENT AUTHORITY**

19. **Prior to the consent to Certification being issued, a flood study which demonstrates that no off-site impacts to the flood height, extent or flow velocity will result from the works must be completed by a suitably qualified and experienced professional to the satisfaction of West Gippsland Catchment Management Authority. The flood study must consider the flow from the northern catchment above the Bass Highway as well as inundation from the Powlett River to the south under existing and 2100 climate conditions.**

20. **Prior to Certification of the Subdivision a Waterway Management Plan (WMP) must be endorsed in writing by the West Gippsland Catchment Management Authority. The WMP must include:**

    a. **Details of existing environmental values.**

    b. **Details of any initial stabilisation and vegetation works.**

    c. **A landscape plan for revegetation of land within a 30-metre buffer either side of the constructed channel, including a species list and proposed density of the plantings. The vegetation must be representative of the Ecological Vegetation Class for the site. Revegetation within the buffer must not encroach into an area required to be cleared of vegetation to create defendable space.**

    d. **A maintenance plan detailing the sequencing and periods of short, medium and long term actions, including inspections, and the parties responsible for each action.**

21. **Prior to the issue of a Statement of Compliance for the subdivision, the water quality treatment works outlined in the "Waterdale Development – Stormwater Management Strategy – 31 October 2018" must be undertaken to the satisfaction of the West Gippsland Catchment Management Authority.**

**COUNTRY FIRE AUTHORITY**

22. **Hydrants**
    **Prior to the issue of a statement of compliance under the *Subdivision Act 1988* the following requirements must be met to the satisfaction of the CFA:**

a. **Above or below ground operable hydrants must be provided. The maximum distance between these hydrants must be no more than 200 metres apart. These distances must be measure around lot boundaries.**

b. **The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the CFA.**

**23. Roads**

**Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.**

a. **The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 meters. Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle.**

b. **Curves must have a minimum inner radius of 10 metres.**

c. **Have a minimum trafficable width of 3.5 metres and be clear of encroachments for at least 0.5 metres on each side and 4 metres above the access way.**

d. **Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.**

**AUSNET ELECTRICITY SERVICES**

**24. The applicant must –**

a. **Enter in an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for supply of electricity to each lot on the endorsed plan.**

b. **Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for the rearrangement of the existing electricity supply system.**

c. **Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by AUSNET ELECTRICITY SERVICES PTY LTD.**

d. **Provide easements satisfactory to AUSNET ELECTRICITY SERVICES PTY LTD for the purpose of "Power Line" in the favour of "AUSNET ELECTRICITY SERVICES PTY LTD" pursuant to Section 88 of the *Electricity Industry Act 2000*, where easements have not been otherwise provided, for all existing AUSNET ELECTRICITY SERVICES PTY LTD electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.**

e. **Obtain for the use of AUSNET ELECTRICITY SERVICES PTY LTD any other easement required to service the lots.**

f. **Adjust the position of any existing AUSNET ELECTRICITY SERVICES PTY LTD easement to accord with the position of the electricity line(s) as determined by survey.**

g. **Set aside on the plan of subdivision Reserves for the use of AUSNET ELECTRICITY SERVICES PTY LTD for electric substations**

h. **Provide survey plans for any electric substations required by AUSNET ELECTRICITY SERVICES PTY LTD and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. AUSNET ELECTRICITY SERVICES PTY LTD requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the *Transfer of Land Act* prior to the registration of the plan of subdivision.**

i. **Provide to AUSNET ELECTRICITY SERVICES PTY LTD a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.**

j. **Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by AUSNET ELECTRICITY SERVICES PTY LTD. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with *the Electricity Safety Act 1998*.**

k. **Ensure that all necessary auditing is completed to the satisfaction of AUSNET ELECTRICITY SERVICES PTY LTD to allow the new network assets to be safely connected to the distribution network.**

**Multinet Comdain Gas**

25. **A statement of compliance be obtained from Multinet Gas prior to the plan of subdivision being released from the Titles Office.**

**Department of Transport**

26. **Prior to the certification, a signed agreement between the Developer and the Head Transport for Victoria must be drafted and executed. The Agreement must provide for a contribution of $53,000 towards future intersection improvement works at Bass Highway and Tulloch Street in Dalyston.**

**Telecommunications**

27. **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.**

**28. 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**

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

**a. Stage two of the subdivision being the first stage to be delivered under this permit is not certified under the *Subdivision Act 1988* within four years of the date of this permit.**

**b. Works associated with the drainage retardation and treatment infrastructure are not commenced within four years of the date of this permit.**

**c. Each subsequent stage is not certified under the *Subdivision Act 1988* within two years of the previous stage.**

**d. Registration of a certified plan has not been completed within five years of the date of first certification of that plan.**

**The responsible authority may extend the time required to certify a plan of subdivision if a request is made in accordance with Section 69 of the *Planning and Environment Act 1987*.**

## Attachments

| | | |
|---|---|---|
| **AT-1** | Site description | 1 Page |
| **AT-2** | Subdivision Staging plan | 1 Page |
| **AT-3** | Concept landscape plan | 7 Pages |
| **AT-4** | Wetland and open space layout plan | 1 Page |
| **AT-5** | Wetland design | 1 Page |
| **AT-6** | Traffic Report | 15 Pages |

**AT-7** Endorsed Development Plan 18 1 Page

**Council Decision**

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

**That the recommendation be adopted.**

**CARRIED**

## *H.3 Planning Application 210501 - 4 Raywood Avenue Cowes Vegetation removal*

**File No:** **CM22/157**
**Division:** **Place Making**
**Council Plan Strategic Objective:** **Sustainable Development**

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

### Declaration

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

### Executive Summary

| | |
|---|---|
| Application number: | 210501 |
| Applicant: | Taylors Development Strategists |
| Land/Address: | 4 Raywood Avenue Cowes |
| Ward: | Island Ward |
| Proposal: | Remove eight trees in a VPO2 |
| Zone: | Clause 32.08 - General Residential Zone – Schedule 1 (GRZ1) |
| Overlay: | Clause 42.02 - Vegetation Protection Overlay – Schedule 2 (VPO2) |
| Planning permit triggers: | Clause 42.02-2 a permit is required to remove, destroy or lop any tree or shrub with a girth greater than 30 centimetres (when measured 30 centimetres above ground level) or a height of at least two metres. |
| Number of submissions: | A total of three objections were received. |
| Reason a Council decision is required: | The application has been called in by a Councillor. |
| Officer recommendation: | Notice of Decision to Grant a Planning Permit |

### Summary of Officer Recommendation

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

The proposal is supported for the following reasons:

- The proposed vegetation removal is for the construction of a new dwelling which is an as of use right under the General Residential Zone
- The site is not located within a strategic biolink or wildlife corridor for native, endangered and protected flora and fauna.

- The application meets the requirement of the State Planning Policy Framework.
- The application meets the decision guidelines of the Vegetation Protection Overlay – Schedule 2 in regards to unavoidable vegetation removal.

## Main Considerations

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

- Health, condition and significance of the trees;
- Contribution of the trees to the amenity of the area;
- Landscape response.

## The Proposal

This application proposes to remove 8 trees in the Vegetation Protection Overlay, Schedule 2 for the development of the land for a dwelling.

The decision documentation is attached and detailed below:

- Tree Removal and retention plan prepared by Boutique Homes.
- Arboricultural Impact Assessment Report, prepared by McLeod Trees, dated Friday 26th November 2021.

No planning consideration can be given to the built form of the dwelling.

Key features of the proposal include the removal of the following 8 trees within the subject site and detailed as per below in the accompanying arborists report:

| Tree No | Botanical Name | Common Name | Height (m) | DBH (cm) | Comments |
|---|---|---|---|---|---|
| 1 | *Eucalyptus camaadulensis* | Red Gum (Vic. Native) | 9m | 43cm | Health is fair, moderate retention value, minor deadwood and previous failures. |
| 2 | *Eucalyptus camaadulensis* | Red Gum (Vic. Native) | 17m | 99 cm | Health is good, high retention value, minor deadwood and previous failures. |
| 3 | *Eucalyptus camaadulensis* | Red Gum (Vic. Native) | 11m | 44cm | Health is fair, moderate retention value, partly suppressed, bifurcation in upper canopy, |
| 4 | *Eucalyptus camaadulensis* | Red Gum (Vic. Native) | 15m | 105cm | Health is good, high retention value, Bifurcation in upper canopy, over extending lateral limbs, minor deadwood. |

| | | | | | |
|---|---|---|---|---|---|
| 5 | *Melaleuca Lanceolata* | Moonah (Vic. Native) | 2m | 14cm | Health is fair, low retention value, partly suppressed habit, bifurcation in upper canopy, minor deadwood. |
| 6 | *Eucalyptus camaadulensis* | Red Gum (Vic. Native) | 15m | 64cm | Health is fair, moderate retention value, partly suppressed habit, bifurcation in upper canopy, minor deadwood. |
| 13 | *Syagrus romanzoffiana* | Cocos Palm (exotic) | 8m | 54cm | Health is good, moderate retention value, will hinder development within the subject site |
| 15 | *Eucalyptus viminalis pryoriana* | Rough bark manna gum (Vic. Native) | 14m | 113cm | Health is fair, moderate retention value, previous failures, past stem removal and deadwood |

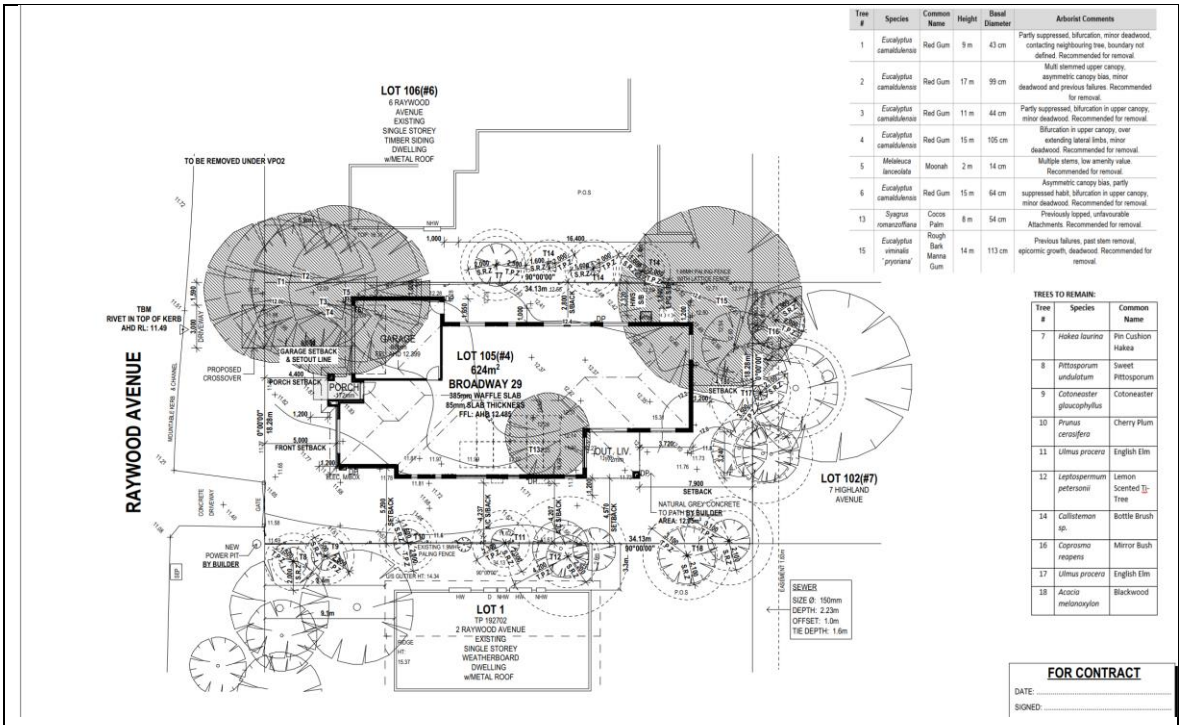



*Figure 1 - Proposed Vegetation retention and removal plan*

## Background

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

| | |
|---|---|
| Site Dimensions and Area | The site is rectangular in shape with a frontage of 18.1 metres abutting Raywood Avenue, a maximum depth of 34.5 metres on the southern boundary and an overall area of approximately 624 square metres. |

| | |
|---|---|
| Topography | Generally Flat |
| Vegetation Cover | A mix of exotic and native vegetation throughout but particularly along the southern and western boundaries of the subject site. |
| Current Use and Development | Residential – existing dwelling and associated outbuilding onsite. |
| Easements | No easements are listed on title. |
| Restrictive Covenants and/or Section 173 Agreements | No resections and/or covenants are listed on title. |
| Aboriginal Cultural Heritage Sensitivity | The site is not located within an area of identified Aboriginal cultural heritage sensitivity. |
| Planning Permit History | N\A |

## Subject Site And Surrounds

The site is located on the western side of Raymond Avenue, between Church Street to the north and Settlement Road to the south.

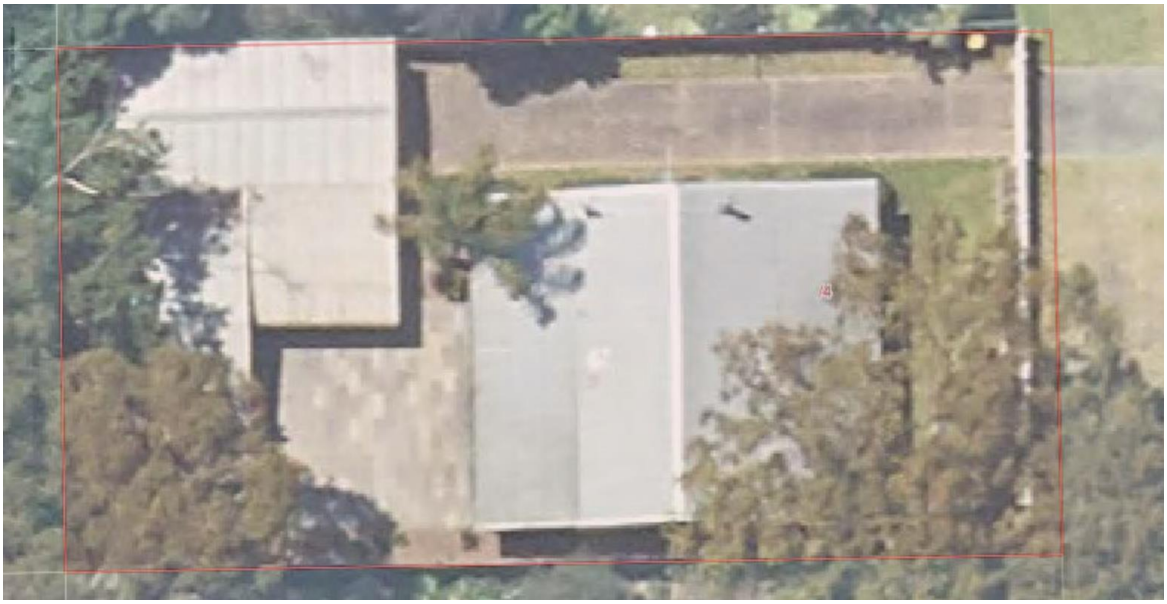


*Figure 2. Aerial photography of subject site (Source: Council's GIS System, dated 2021)*

The main characteristics of the surrounding area are:

| | |
|---|---|
| **North** | Adjoining the land to the north is a 2 Raywood Avenue, Cowes. This lot is approximately 656 square metres in area and contains a detached 1970's weatherboard dwelling with steel hipped roof with the site being accessed via an existing crossover from Raywood Avenue. The site is heavily vegetated along all four boundaries by mature vegetation. |
| **South** | Adjoining the land to the south is 6 Raywood Avenue, Cowes. This lot is approximately 643 square metres in area and contains a recently developed dwelling constructed of a mix of Colorbond cladding and hardiplank cladding for the external walls and Colorbond cladding for the roof. |

| | |
|---|---|
| **East** | Adjoining the land to the east is 3 Raywood Avenue, Cowes. This lot is approximately 642 square metres in area and contains a detached 1980's brick veneer dwelling with tiled roof and access being afforded via an existing crossover from Raywood Crescent. The site contains mostly planted vegetation with mature vegetation located along the eastern (rear) boundary. |
| **West** | Adjoining the land to the west is 7 Highland Avenue, Cowes. This lot is approximately 618 square metres in area and contains a detached 1990's bick veneer dwelling with steel roof. The site is heavily vegetated with mature trees along the eastern (rear) boundary. |




*Figure 3 – Site and surrounds*

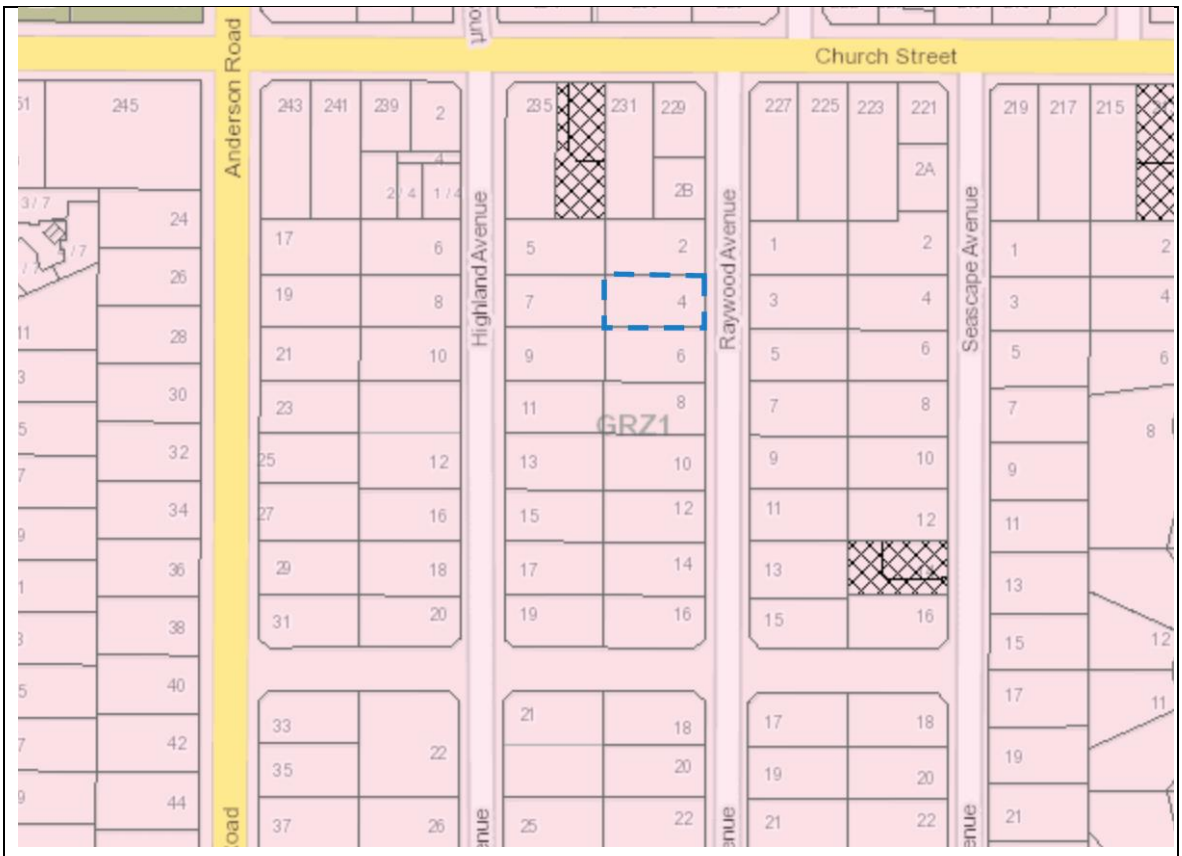



*Figure 4 - Zoning Map*

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

In response to notification the application attracted two submissions.

A copy of each submission is included in Attachment two.

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

## Referrals

The application was referred to Councils Environment team who provided advice on the species proposed for removal and advocated for the protection of the Moonah (Melaleuca lanceolata).

### Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

**VPP11 Settlement**

Clause 11.01 - Victoria

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

**VPP 12 Environmental and Landscape Values**

Clause 12.01 Biodiversity

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

Clause 12.05 Significant Environments and Landscapes

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

Planning Policy seeks the protection of biodiversity and minimisation of vegetation loss, it is considered that there are no alternatives for the removal of vegetation from the site while providing for a modest dwelling on the land. A planning permit is not required for the use or construction of a dwelling on the land.

## Zone Assessment

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

## Overlay Assessments

### Clause 42.02 – Vegetation Protection Overlay (Schedule 2)

The purpose/objectives of the overlay is to:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To protect areas of significant vegetation.*
- *To ensure that development minimises loss of vegetation.*
- *To preserve existing trees and other vegetation.*
- *To 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.*

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

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

The reason for the removal of vegetation is to allow for the development of a dwelling, the removal of most of the vegetation is unavoidable due to the size of the trees, the width of the block and the residential setting.

The construction and use of a single dwelling is anticipated by the general residential zone and supported by the Planning Policy Framework for minimal change areas.

To inform assessment of the application a plan for the proposed dwelling was provided by the application. It is assessed that whilst all trees cannot be retained, the application is not responsive to the constraints of the site and its context;

- The Moonah (tree 5) was assessed as a tree of low significance, however the Moonah is endemic to Phillip Island, culturally and environmentally significant and worthy of retention;
- Should a permit issue, it is recommended that amended plans been required to retain trees 1 & 2 (Red Gums) and 5 (Moonah) with any works needing to respond to the protection of these trees.

### Concerns Raised By Submitters

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

| Submitter Theme | Council Officer Response |
|---|---|
| Vegetation protection and biodiversity | The application is consistent with the intent of the Vegetation Protection Overlay as assessed above. The trees are to be removed for the construction of a dwelling under the zone.<br>The trees proposed to be removed are of low to fair condition and low to moderate retention value in the context of the urban setting. The site is not connected to or located within an area that is determined to be a biolink or wildlife habitat corridor.<br>Proposed conditions on the permit issued will require new planting which consists of locally indigenous species elsewhere on the property to offset the proposed removal.<br>The conditions would require the re-siting or modification of the dwelling design to accommodate key trees. |

| | |
|---|---|
| Dwelling siting and design | Though the detailed design and siting of the dwelling is not being assessed, it is considered that if the dwelling illustrated was sited to the north, the footings would likely still encroach within 5 metres of the structural root zone of the mature vegetation along the southern boundary and will most likely result in the consequential loss of the vegetation.<br>Conditions are recommended to protect key trees and any building or works must adapt to the recommended constraints. |
| Impact on the amenity of the street and the neighbourhood | Trees on private property within Raywood Avenue are contributory to the character of the street. It is considered that the removal of some of the redwood gum trees would not detrimentally affect that character.<br>It is considered that the trees nominated for retention by conditions of this permit will retain the key contribution to the streetscape from these tall trees while providing for reasonable use and development of the land. |

## Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered meet the requirements of the State and Local policies and the Vegetation Protection Overlay, subject to the amendments required by proposed permit conditions.

It is recommended that Council resolve to issue a Notice of Decision to Grant a Permit for planning application 210501, subject to conditions.

## Recommendation

**That in relation to planning permit application 210501 for Vegetation removal of five (5) trees in the Vegetation Protection Overlay, Schedule 2 (VPO2) located at 4 Raywood Avenue Cowes, Council resolves to issue a Notice of Decision to Grant a Permit, subject to the following conditions:**

1. **Before the plans are endorsed, 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 three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show**
    a. **An amended tree retention and removal plan which shows:**
        i. **The retention of trees numbered 1, 2 (Red gums) and 5 (Moonah) in the accompanying arboricultural report by McLeod trees**

**ii. The delineation of separate Tree Protection Zones (TPZ) and Tree Protection Fencing (TPF) for the Trees 1 and 2 at a radius of 5m from the base of the trunk of the tree/s and at the recommendation of an arborist after investigation of the root zones for tree 5;**

**iii. Any encroachment illustrated within the TPZ of Trees 1,2 and 5, must be demonstrated as in accordance with Australian Standard AS4970-2009 (Protection of trees on development sites) and/or with the written advice of an arborist to the satisfaction of the responsible authority;**

**b. A revegetation landscape plan to offset the loss of vegetation permitted by this permit, to include:**

**i. A total of 4 medium to large (10-18m in height at maturity) trees selected from EVC 48 Indigenous Plants of Bass Coast Shire on the land in suitable locations that will not compromise stormwater detention.**

**ii. A total of 3 small to medium trees (5-10m in height at maturity) selected from EVC 48 Indigenous Plants of Bass Coast Shire on the land in suitable locations that will not compromise stormwater detention or effluent disposal.**

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

**Vegetation Removal**

**2. At least one week prior to removal of the 5 trees referred to as Trees 3 (Red Gum), 4 (Red Gum), 6 (Red Gum), 13 (Cocos Palm) and 15 (Rough Bark Manna Gum) on the endorsed plan, the trees must be identified for removal onsite by marking with a large X in white, yellow or red and an A3 copy of the permit laminated and positioned in a prominent location at the frontage of the property until all trees are removed from the property in accordance with this permit.**

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

**Tree Protection Measures During Construction**

**4. Before the commencement of the development (including demolition), a tree protection fence must be erected around protected trees at a radius of 5 metres from the base of the trunk(s) to define a 'Tree Protection Zone'. The fence must be constructed of star pickets and chain mesh or similar to the satisfaction of the responsible authority. The tree protection fence must remain in place until construction is completed.**

**5. Within the tree protection fenced area there must not be any vehicular or pedestrian access, trenching or soil excavation, storage or dumping of tools, equipment or waste.**

**Landscaping Maintenance**

6. **Within six months of the occupancy of the dwelling, 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.**
7. **The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.**
8. **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.**

**Amenity**

9. **The development must be managed during construction so that the amenity of the area is not detrimentally affected through the:**
   a. **transport of materials, goods or commodities to or from the land;**
   b. **appearance of any building, works or materials;**
   c. **emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, litter, dust, waste water, waste products, grit or oil; and**
   d. **presence of vermin or animals.**
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 works hereby approved to the satisfaction of the responsible authority.**

**Permit Expiry - Development**

11. **This permit will expire if one of the following circumstances applies:**
    a. **The removal is not started within two years of the date of this permit.**
    b. **The removal is not completed within four years of the date of this permit.**

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

**Attachments**

| | | |
|---|---|---|
| **AT-1** | Arborist Report | 25 Pages |
| **AT-2** | Vegetation and Retention Plan | 1 Page |
| **AT-3** | ***CONFIDENTIAL*** - Submissions | 4 Pages |

**Council Decision**

**Moved: Cr. David Rooks / Seconded: Cr. Rochelle Halstead**

**That in relation to planning permit application 210501 for removal of five (5) trees in the Vegetation Protection Overlay, Schedule 2 (VPO2) located at 4 Raywood Avenue Cowes, Council resolves to issue a Notice of Decision to Grant a Permit, subject to the following conditions:**

1. **Before the plans are endorsed, 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 three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show**
   a. **An amended tree retention and removal plan which shows:**
      i. **The retention of trees numbered 1, 2 (Red gums), 5 (Moonah) and 15 (Rough Bark Manna Gum) in the accompanying arboricultural report by McLeod trees**
      ii. **The delineation of separate Tree Protection Zones (TPZ) and Tree Protection Fencing (TPF) for the Trees 1 and 2 at a radius of 5m from the base of the trunk of the tree/s and at the recommendation of an arborist after investigation of the root zones for tree 5;**
      iii. **Any encroachment illustrated within the TPZ of Trees 1,2 and 5, must be demonstrated as in accordance with Australian Standard AS4970-2009 (Protection of trees on development sites) and/or with the written advice of an arborist to the satisfaction of the responsible authority;**
   b. **A revegetation landscape plan to offset the loss of vegetation permitted by this permit, to include:**
      i. **A total of 4 medium to large (10-18m in height at maturity) trees selected from EVC 48 Indigenous Plants of Bass Coast Shire on the land in suitable locations that will not compromise stormwater detention.**
      ii. **A total of 3 small to medium trees (5-10m in height at maturity) selected from EVC 48 Indigenous Plants of Bass Coast Shire on the land in suitable locations that will not compromise stormwater detention or effluent disposal.**

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

**Vegetation Removal**

2. **At least one week prior to removal of the 5 trees referred to as Trees 3 (Red Gum), 4 (Red Gum), 6 (Red Gum) and 13 (Cocos Palm) on the endorsed plan, the trees must be identified for removal onsite by marking with a large X in white, yellow or red and an A3 copy of the permit laminated and positioned in a prominent location at the frontage of the property until all trees are removed from the property in accordance with this permit.**
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5. **Within the tree protection fenced area there must not be any vehicular or pedestrian access, trenching or soil excavation, storage or dumping of tools, equipment or waste.**

**Landscaping Maintenance**

6. **Within six months of the occupancy of the dwelling, 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.**
7. **The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.**
8. **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.**

**Amenity**

9. **The development must be managed during construction so that the amenity of the area is not detrimentally affected through the:**
   a. **transport of materials, goods or commodities to or from the land;**
   b. **appearance of any building, works or materials;**
   c. **emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, litter, dust, waste water, waste products, grit or oil; and**
   d. **presence of vermin or animals.**

**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 works hereby approved to the satisfaction of the responsible authority.**

**Permit Expiry - Development**

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

**a. The removal is not started within two years of the date of this permit.**

**b. The removal is not completed within four years of the date of this permit.**

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

**CARRIED**

### *H.4 Smiths Beach Town Plan*

| | |
|---|---|
| **File No:** | **CM22/146** |
| **Division:** | **Place Making** |
| **Council Plan Strategic Objective:** | **Sustainable Development**<br>Prepare for growth while ensuring the intrinsic values and character of Bass Coast are retained. |

## Declaration

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

## Summary

The purpose of this report is to present the Smiths Beach Town Plan to Council for consideration.

The final plan has been informed through a rigorous consultation process between 22 July and 15 October 2021 in which Council received 107 survey responses, 59 written submissions and one verbal submission.

In response to this feedback from the community, several revisions and refinements have been made to the plan.

This report recommends adoption of the final plan.

## Background

In June 2019, Council approved the budget initiative to commence work on the Smiths Beach Master Plan which was a result of a budget submission from the Smiths Beachcombers Association (SBA).

Council developed five key milestones for the project as follows:

1. Collate background material and prepare a 'Context Summary'
2. Consult the community to develop the vision, objectives and key themes of the masterplan and develop an 'Engagement Summary'
3. Prepare a Draft Master Plan based on the information gathered
4. Engage the community on the Draft Master Plan.
5. Prepare a *Final Master Plan* based on community feedback

Milestones one and two were completed in the 2020 calendar year with a community engagement program and the Smiths Beach Town Plan Community Consultation Summary. Through this process, the project was renamed the "Smiths Beach Town Plan" to better represent community aspirations for the project.

In early 2021, Council undertook an "Inquiry by Design" process to collaborate with two groups to transform the opportunities and constraints identified into the draft plan. The first group was a Reference Group made up of key stakeholders such as the SBA, Phillip Island Nature Parks, St Bede's College and the Department of Environment, Land, Water and Planning. The second group was a community panel

made up of 10 community members who live (permanently and seasonally) or work in the Smiths Beach township.

The draft plan included over 70 individual actions across the seven key themes relating to a wide range of aspects of life in Smiths Beach. The plan also included four "Game Changer" projects that will have the highest social, economic and environmental effect on the community. Those projects are:

- Game Changer Project 1: Create a Trail to Link the Beaches
- Game Changer Project 2: Complete the YCW Activity Area Master Plan
- Game Changer Project 3: Reimagine Smiths Beach Car Park
- Game Changer Project 4: Enhance the Town Centre




Figure 1: Town Plan including 4 "Game Changer" projects

Following a resolution at the 21 July 2021 Council meeting, the draft Smiths Beach Town Plan was released for community consultation. Community consultation was originally planned from 22 July until 31 August 2021 and included the following activities:

- A mailout to all ratepayers and interested parties,
- Document review by the Bunurong Land Council,
- Website story and survey with targeted questions,
- Physical signage placed at Smiths Beach, YCW Beach, the Smiths Beach shops and Mitchell Reserve.

- Media Release, Social Media Posts and Print Media Advertisements
- Three physical drop-in sessions

Soon after the commencement of consultation, public health directions required the cancellation of the physical drop in sessions. In response, officers extended the consultation period an additional month (30 September 2021). In mid-September, officers also invited those that had submitted or registered their interest in the project to two virtual "Q&A Sessions" on the 27th and 29th of September.

At and following these sessions, Council officers received further requests for an extension to the exhibition timeframe. In response, officers extended the period a further two weeks to 15 October. Submissions formally closed on this date, marking just over 12 weeks of consultation.

Since this consultation concluded, Council officers have worked with Kinetica to ensure the community's feedback is incorporated into the plan. A summary of this feedback and the changes made as a result is included in the discussion section.

## Strategic Basis

### Council Plan Strategic Objective:

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

### Governing Documents

The relevant strategies and policies influencing the Draft Plan, are listed as follows:

- Smiths Beach Town Plan Community Consultation Summary 2020
- Council's Urban Road and Drainage Improvement Policy
- YCW Beach Masterplan (2014)
- The Bass Coast Planning Scheme
- Victorian Marine and Coastal Policy (2020)
- Distinctive Areas and Landscape Program
- Biodiversity Biolinks Plan
- Bass Coast Aspirational Pathways Program
- Bass Coast Playspace Strategy 2017
- Phillip Island and San Remo Visitor Economy Strategy 2035

## Discussion

As described above, community consultation occurred between 22 July and 15 October 2021. Over the exhibition period, Council received 107 Survey responses, 59 written submissions in the form of letter or emails and one verbal submission. A more detailed summary of the consultation findings is attached.

Demographics

Council officers were able to collect demographic data of respondents through the survey. Of the respondents, approximately 28% lived at Smiths Beach a majority of the time while 44% were seasonal residents. 11% identified as visitors and 7% were local to the surrounding area.

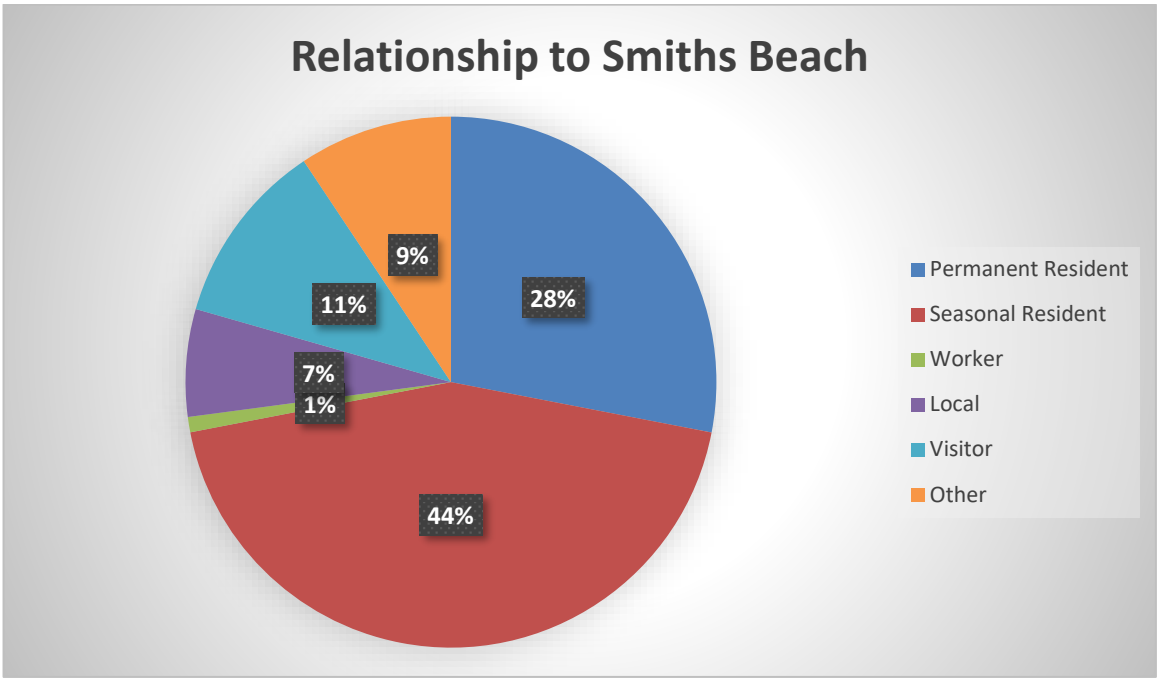



*Figure 2: Responses to Survey Question 11: What's your relationship to Smiths Beach? (107 responses)*

Further demographic details, and quantitative findings of responses to the proposed vision, key directions. Responses about the Game Changer projects are summarised below.

Game Changer Project 1: Create a Trail to Link the Beaches

Of the 147 individual submissions, 22 submitters were positive about the trail while 72 highlighted issues with the proposed concept.

Of the 72 submissions numerous issues were raised, the most common being:

- The trail is unnecessary or will not bring any value to the community
- Impacts on the local flora, fauna and environment more generally
- The fence separating the trail from St Bede's land will be unsightly and/or disrupt wildlife
- The proposed trail will be unsightly
- The proposed trail will impact the safety and security of adjacent residents and/or the school children, especially if 24hr access is allowed

13 submitters also suggested an alternate connection between the two beaches through the construction of a board walk at the high tide mark. While two others proposed an alternate connection along the clifftop.

*Officer response*

The proposed connection between the two car parks was developed as a concept for a number of reasons. Principally, the path is proposed as an innovative response to parking pressures at Smiths Beach to allow the use of YCW Beach Car Park as overflow parking.

Car Parking is one of the biggest challenges for Smiths Beach with the Smiths Beach Road Use Hierarchy and Car Parking Study (2021) highlighting the issue. The survey found that on a 28-degree Saturday, the Smiths Beach Car Park was at 100% capacity at 11am with the majority of cars (60%) parked for more than 4 hours, and a further 38% parked between 2 to 4 hours. YCW Beach car park was 80% full by 11am and remained so for most of the day. In contrast, 6% of cars were parked for more than 4 hours, while 65% were parked for 1 to 2 hours.

The plan is effectively responding to this by identifying YCW Beach Car Park for long-term car parking and reimagining Smiths Beach Car Park for short-term and drop off parking during peak season. It is clear from the existing informal "desire line" created by people already crossing this land that there is evidence that such a link would be utilised by visitors.

The location of the pathway was selected to minimise disruption to the environment and to the operations of St Bede's College. The potential for erosion on the southern end of this land has been previously identified by Phillip Island Nature Parks and additionally includes a greater concentration of established vegetation. The use of the existing "desire line" along the south of this land also creates a safety and environmental risk.

Making a simple but formal access between the two beaches and along the north of the Cypress Lodge land will provide a safe and critical link between these two key areas in the town with less environmental impact than the current informal "desire line".

In response to submissions requesting the acquisition of additional land to create a park or an alternative cliff-top or high tide boardwalk, it is considered that these changes would result in a significantly larger cost and scope to the project and would inherently be more disruptive to the environment. In the case of a high-tide board walk, this would also be far removed from the car parks and therefore not provide as much benefit in terms of car parking and pedestrian access. It is not recommended to explore these concepts further.

Given the long list of more specific concerns listed, there are many relevant considerations. Nevertheless, the concerns raised are not insurmountable and can be resolved with both further technical work and further collaboration with the community. The specific concerns raised will be addressed in the detailed design of the project to ensure the final design of the concept has properly considered the relevant elements.

Game Changer Project 2: Complete the YCW Activity Area Master Plan

36 submitters provided a position on Game Changer Project 2: YCW Beach Masterplan. 18 submitters were positive while 16 were negative or had specific concerns with elements of the plan.

Four submitters that were negative but did not give a specific concern were negative about all four "Game Changer" projects more generally. However, 8 Submitters raised specific concern about the inclusion of a BBQ on the plan as this may encourage illegal camping, antisocial behaviour or because it is not appropriate for the location.

*Officer Response*

No changes were recommended to the project.

Game Changer Project 3: Re-imagining Smiths Beach Carpark

38 Submitters provided a position on this project. 12 were generally supportive or raised minor concern while 25 raised concerns.

Of the issues raised, 8 submitters were opposed to a multi-use community space in the car park and 8 raised issues with the drop-off zone concept or the potential loss of year-round all-day parking.

*Officer Response*

The proposed game changer is a direct result of the communities' desire to have focal point for activities and events. Centering this at the Smiths Beach foreshore was a means to make better use of existing available land and leverage off Council's intended upgrade to the existing facilities. The project would see the existing buildings transformed to include a multi-purpose room that could be used for training, meetings, community interest groups, small events, it could also include provision of a kiosk. The forecourt to the hub could include a gathering space for picnics and performances. However, given the community opposition to the multi-use building, it is recommended this game changer be scaled back to only include, the upgrade of the existing facilities and renewal of a forecourt area that allows for community gatherings.

In response to concerns about loss of parking, it is considered appropriate to specify that any future design attempts should maximise the use of the car park, whether through capacity or flow-through.

Game Changer Project 4: Enhance the Town Centre

33 Submitters provided a position on this project. 22 were unconditionally positive while 11 raised concerns.

Concerns generally related to how a shared zone would alter access to their property.

*Officer Response*

Considerations relating to access to individual properties will be resolved as part of detailed design forming part of this project. It is not recommended to alter this game changer.

Other Matters

The following additional changes were also made in response to consultation feedback:

- The safe family atmosphere created by surf lifesavers is now included in the vision
- Accessibility has been further incorporated into the vision

- Action E1a relating to vegetation management has been revised to mention the added benefit of community safety.
- New action E3d created, asking Council to review emergency management plans and procedures which include Smiths Beach alongside the CFA to ensure compliance is met.
- Action LU3b has been deleted and replaced with a new action LI3b to remove reference to any non-residential uses being appropriate at 218 Smiths Beach Road in the planning policy to ensure any future development of this site is residential and fits within the character of the surrounding dwellings.
- Mitchell Reserve Master Plan has been listed as a high priority in the implementation plan.
- Actions SCC2a and SCC2d relating to special events and a regular community market have been amended to place the community as leaders of this action with the role of Council to support the community rather than lead.
- Advocacy to Lifesaving Victoria for additional patrols has been listed as a high priority in the implementation plan
- Action G3a relating to community leaders has been amended to add the words "and other community leaders" after SBA and "where wider consultation is not possible" to the end of the action.

Neighbourhood Character Study

In respect of the ongoing work on the Bass Coast Neighbourhood Character Study which has commenced since the preparation of the draft plan, Actions PRCF1b, PRCF1c and PRCG1d, that relate to neighbourhood character have been deleted as they pre-empt the outcomes of the Bass Coast Residential Development Framework.

## Finances

The costs designated to the Smiths Beach Town Plan project were included in the 2019/2020 Council budget.

Actions resulting from the Smiths Beach Town Plan requiring finance will either form part of separate existing budgets or be the subject of future budget items.

## Stakeholders

The stakeholders in which consultation targeted were as follows:

- Smiths Beachcombers Association (SBA)
- Phillip Island Nature Parks (PINP)
- Parks Victoria
- Country Fire Authority (CFA)
- Department of Environment, Land, Water and Planning (DELWP)
- St. Bede's College
- Bunurong Land Council
- Woolamai Beach Surf Life Saving Club

- Department of Transport (DoT)
- Smiths Beach General Store
- Island Surf Store
- Melbourne Water
- Phillip Island Board Riders
- YMCA
- Phillip Island Adventure Resort
- Destination Phillip Island
- Phillip Island Conservation Society (PICS)
- Totally Renewable Phillip Island (TRPI)
- Phillip Island Business Association
- Phillip Island Integrated Transport Strategy (PITS)
- Phillip Island Progress Association
- Targeted landowners
- Public of Smiths Beach, Phillip Island and Bass Coast Shire more broadly
- Internal Council teams

## Conclusion

The adoption of the final Smiths Beach Town Plan represents the fifth and final milestone in the Smiths Beach Town Plan project and is necessary to facilitate the implementation of the actions and projects recommended by the plan.

The Smiths Beach Town Plan has undergone an extensive community engagement program including engagement in 2020 on community priorities, the establishment of a reference group and community panel to collaborate on the plan and almost three months of consultation on the draft document which attracted well over a hundred individual submissions.

The changes made in response to the consultation feedback from the community position the final Smiths Beach Town Plan as a near-comprehensive vision for the future of the settlement, its two beaches and the community that call Smith Beach home. Adoption of the plan will allow this "one-in-a-generation" plan to begin its long awaited implementation.

## Recommendation

**That Council adopt the Smiths Beach Town Plan**

## Attachments

| | | |
|---|---|---|
| **AT-1** | Smiths Beach Town Plan Background Report (Vol 1) | 82 Pages |
| **AT-2** | Smiths Beach Town Plan Report (Vol 2) | 66 Pages |

**Council Decision**

**Moved: Cr. David Rooks / Seconded: Cr. Rochelle Halstead**

**That the recommendation be adopted.**

**CARRIED**

## *H.5 Wonthaggi Cemetery Abstract of Account 2020/21*

| | |
|---|---|
| **File No:** | **CM22/170** |
| **Division:** | **Business Transformation** |
| **Council Plan Strategic Objective:** | **Leading for our Community**<br>Demonstrating leadership through good governance, transparency and accountability |

### Declaration

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

### Summary

The purpose of this report is to present the Abstract of Accounts for Wonthaggi Cemetery 2020/2021 financial year.

### Background

The Wonthaggi Cemetery abstract of accounts is an annual statutory reporting requirement regarding the financial position and performance of the trust for Class B cemeteries reporting to the Department of Health and Human Services.

Council acting as the Cemetery Trust for Wonthaggi Cemetery is responsible for the governance of the cemetery including the key roles of setting strategic direction, approving the annual budget, setting cemetery fees, monitoring performance, ensuring compliance, developing policy, high level stakeholder management, and ensuring that a risk management framework is in place. The day-to-day management of the cemetery is delegated to Council Officers.

### Strategic Basis

#### Council Plan Strategic Objective:

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

#### Governing Documents

*Cemeteries and Crematoria Act 2003*

*Cemeteries and Crematoria Regulations 2015*.

### Discussion

Wonthaggi Cemetery returned a net loss of $20,478.60 in 2020/21. This was impacted by a slight reduction in bodily interments and Council's decision to pause the adopted fee increase. Council subsidizes the delivery of general maintenance and administration support which prevented further impact to the net result. In 2020/21 there was a slight increase in the interments of cremated remains.

The COVID-19 pandemic had a negative impact on the delivery of capital works and other projects. While physical progress on the Master Plan implementation was hindered by lockdowns and lack of availability of internal and external resources, project planning was completed for the provision of future burial sites and drainage works. Other areas of focus included a review of Council's perpetual maintenance obligations and opportunities to improve the financial sustainability of the cemetery.

A transfer of $13,014.71 to perpetual maintenance was recorded and derived from the built-in fee structure. No additional profit transfers were made due to a net loss across the financial year.

Overall, the financial performance of the Wonthaggi Cemetery remained steady however significant future investment is required to deliver supply of burial sites, rectify drainage issues, implement the Master Plan and address perpetual maintenance requirements. Delivery of burial sites, drainage works, and Master Plan implementation are addressed through the 2021/22 Capital Works Program as well as the Long Term Financial Plan.

## Sustainability Implications

Financial Sustainability – Ongoing net losses would impact the long-term financial sustainability of Wonthaggi Cemetery as well the trust's ability to meet its perpetual maintenance obligations. Lack of financial viability would require further subsidization from Council.

## Finances

There are no financial implications associated with the recommendations in this report.

## Stakeholders

- Cemetery Trustees;
- Community members;
- Council Officers;
- DHHS;
- Funeral Directors

## Conclusion

Overall performance of the Wonthaggi Cemetery in the 2020/21 financial year was significantly impacted by the COVID-19 pandemic and resulted in a net loss of $20,478.60 and a perpetual trust contribution of $13,014.71. It is recommended that the Abstract of Accounts 2020/21 Wonthaggi Cemetery be submitted to the Department of Health and Human Services to meet statutory obligations.

## Recommendation

**That Council notes the Abstract of Accounts 2020/21 Wonthaggi Cemetery.**

**Attachments**

**AT-1** Abstract of Accounts 2020-21 Wonthaggi Cemetery 7 Pages

**Council Decision**

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

**That the recommendation be adopted.**

**CARRIED**

## *H.6 San Remo Cemetery Abstract of Accounts 2020/21*

| | |
|---|---|
| **File No:** | **CM22/171** |
| **Division:** | **Business Transformation** |
| **Council Plan Strategic Objective:** | **Leading for our Community**<br>Demonstrating leadership through good governance, transparency and accountability |

### Declaration

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

### Summary

The purpose of this report is to present the Abstract of Accounts for the San Remo Cemetery 2020/2021 financial year.

### Background

The San Remo Cemetery abstract of accounts is an annual statutory reporting requirement regarding the financial position and performance of the trust for Class B cemeteries reporting to the Department of Health and Human Services.

Council acting as the Cemetery Trust for Wonthaggi Cemetery is responsible for the governance of the cemetery including the key roles of setting strategic direction, approving the annual budget, setting cemetery fees, monitoring performance, ensuring compliance, developing policy, high level stakeholder management, and ensuring that a risk management framework is in place. The day-to-day management of the cemetery is delegated to Council Officers.

### Strategic Basis

#### Council Plan Strategic Objective:

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

#### Governing Documents

*Cemeteries and Crematoria Act 2003*

*Cemeteries and Crematoria Regulations 2015*.

### Discussion

San Remo Cemetery returned a net loss of $14,540.65 in 2020/21. The most significant impact was a reduction in interment of bodily remains with the already low average dropping from four to one. Interments of cremated remains was stable. Due to the low number of interments, Council's decision to pause the adopted fee increase had only a minor impact on the overall result. Council's ongoing subsidy of general maintenance and administration support did help prevent a greater loss, particularly as there was an increased demand for maintenance due to community feedback.

The COVID-19 pandemic had a negative impact on the delivery of capital works and other projects. While physical progress on the Master Plan implementation was hindered by lockdowns and lack of availability of internal and external resources, project planning was completed for the provision of future burial sites and drainage works. Other areas of focus included a review of Council's perpetual maintenance obligations and opportunities to improve the financial sustainability of the cemetery.

A transfer of $377.71 to perpetual maintenance was recorded and derived from the built-in fee structure. No additional profit transfers were made due to a net loss across the financial year.

Overall, the financial performance of the San Remo Cemetery was slightly poorer than expected and significant future investment is required to deliver supply of burial sites, implement the Master Plan and address perpetual maintenance requirements. Delivery of burial sites and Master Plan implementation are addressed through the 2021/22 Capital Works Program as well as the Long Term Financial Plan.

## Sustainability Implications

Financial Sustainability – Ongoing net losses would impact the long-term financial sustainability of San Remo Cemetery as well the trust's ability to meet its perpetual maintenance obligations. Lack of financial viability would require further subsidisation from Council.

## Finances

There are no financial implications associated with the recommendations in this report.

## Stakeholders

- Cemetery Trustees;
- Community members;
- Council Officers;
- DHHS;
- Funeral Directors

## Conclusion

Overall performance of the San Remo Cemetery in the 2020/21 financial year was significantly impacted by very low interment rates and the COVID-19 pandemic resulting in a net loss of $14, 540.65 and a perpetual trust contribution of $377.71. It is recommended that the Abstract of Accounts 2020/21 San Remo Cemetery be submitted to the Department of Health and Human Services to meet statutory obligations.

## Recommendation

**That Council note the Abstract of Accounts 2020/21 San Remo Cemetery.**

**Attachments**

**AT-1** Abstract of Accounts 2020-21 San Remo Cemetery 7 Pages

**Council Decision**

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

**That the recommendation be adopted.**

**CARRIED**

## *H.7 Governance Rules*

| | |
|---|---|
| **File No:** | **CM22/173** |
| **Division:** | **Business Transformation** |
| **Council Plan Strategic Objective:** | **Leading for our Community**<br>Demonstrating leadership through good governance, transparency and accountability |

### Declaration

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

### Summary

This report presents updated draft Governance Rules to Council seeking endorsement for community consultation.

### Background

Council adopted the Governance Rules 2020 on 19 August 2020 as part of the implementation of the *Local Government Act 2020 (*the Act*). The Governance Rules 2020* replaced the former Meeting Procedure Local Law which primarily governed the conduct of Council and/or delegated committee meetings.

### Strategic Basis

#### Council Plan Strategic Objective:

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

#### Governing Documents

*Local Government Act 2020*

Governance Rules 2020

### Discussion

The Governance Rules 2020 have been in place for over 12 months and have guided Council through the 2020 Local Government Election Period, 19 Council meetings, including a Council meeting called by the Mayor, and the 2020 and 2021 election of the Mayor and Deputy. The practical application of the Governance Rules has identified opportunities to clarify processes, address inconsistencies and strengthen good governance practices during election periods.

A comparison statement highlighting proposed areas of change is included as Attachment A. In summary, proposed areas of change include:

- Election of the Mayor – Removal of the provision of lots in determining the election of the Mayor. Election of the Mayor must be by absolute majority, the provision of 'lots' is no longer allowed under the Act.
- Electronic/Remote attendance – Additional provisions to support electronic/virtual attendance at meetings where permitted by legislation.

- Notices of Motion – Amended provision to align with Rescission motions. A motion that is lost cannot come before Council for a period of three months.
- Election Period Policy – updated to include provisions for Councillor candidates in State and Federal elections. These are consistent with the Act and reflect 2021 Municipal Association of Victoria Guidelines.
- Public Question Time – to provide clarity that a question that has been disallowed will not be read out at the meeting.
- Administrative changes – small changes have been made to clarify or simplify processes.

Council is required to undertake a process of community engagement when adopting or making changes to the Governance Rules. It is recommended that the updated draft Governance Rules be made available for public feedback for a period of 4 weeks commencing Friday 22 April and closing Friday 20 May. A report would then be presented to the June Council recommending the final draft to Council for adoption, including any changes to address community feedback.

## Sustainability Implications

There are no sustainability implications associated with this report.

## Finances

There are no financial implications associated with this report.

## Stakeholders

- Councillors
- Council Officers
- Community members

This report seeks endorsement to commence community engagement. On the IAP2 Spectrum of Public Participation officers are recommending the level of engagement defined as 'consult'.

## Conclusion

Changes are proposed to Governance Rules to clarify processes, address inconsistencies and strengthen good governance practices during election periods. Pending endorsement from Council, there will be a four week consultation process, before the final version is presented to Council for adoption.

## Recommendation

**That Council endorse the draft Governance Rules for community consultation.**

**Attachments**

| | | |
|---|---|---|
| **AT-1** | Governance Rules - Review - 2022 - Comparison Statement | 3 Pages |
| **AT-2** | Governance Rules - Review - 2022 | 42 Pages |

**Council Decision**

**Moved: Cr. Ron Bauer / Seconded: Cr. Rochelle Halstead**

**That Council defer consideration of the draft Governance Rules for community consultation until the May 2022 Council Meeting.**

**LOST on the casting vote of the Chair**

Cr Ron Bauer called for a division

| For | Against |
|---|---|
| Cr Le Serve | Cr Whelan |
| Cr Bauer | Cr Laing |
| Cr Halstead | Cr Rooks |
| | Casting vote - Chair |

**Moved: Cr. David Rooks / Seconded: Cr. Leticia Laing**

**That the recommendation be adopted.**

**CARRIED**

Cr Ron Bauer called for a division

| For | Against |
|---|---|
| Cr Le Serve | Cr Bauer |
| Cr Whelan | Cr Halstead |
| Cr Laing | |
| Cr Rooks | |

## *H.8 Review of Instrument of Delegation - Council to Staff*

| | |
|---|---|
| **File No:** | **CM22/125** |
| **Division:** | **Business Transformation** |
| **Council Plan Strategic Objective:** | **Leading for our Community**<br>Demonstrating leadership through good governance, transparency and accountability |

### Declaration

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

### Summary

The purpose of this report is to recommend that Council 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 Strategic Objective:

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

#### Governing Documents

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.

- *Cemeteries and Crematoria Act 2003*
- *Domestic Animals Act 1994*
- *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*
- *Residential Tenancies Regulations 2021*
- *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.

The previous Instrument of Delegation from Council to Staff was adopted 18 August 2021 and updates from Maddocks have identified changes to the following Acts/Regulations:

- A number of changes have been made to the *Cemeteries and Crematoria Act 2003* (*Cemeteries and Crematoria Act*). For example, s 74 has been inserted which, pursuant to the *Cemeteries and Crematoria Amendment Act 2003*, will commence on 1 March 2022 unless proclaimed earlier. Sections 84F(2)(d), 84H(4), 84I(5), 84I(6)(a) and (b), 110(1A) of the *Cemeteries and Crematoria Act* have also been inserted, and s 83(2) of the *Cemeteries and Crematoria Act* has been amended to remove reference to '(sole holder)'.
- Sections 19EA(3), 19N(2), 38G(2), 39(2) and 43 of the *Food Act 1984 (Food Act)* have been, inserted pursuant to the *Food Amendment Act 2020*. Section 39A has also been amended to reflect the new power to register or renew the registration of a food premises. These provisions are in force.
- Sections 19IA(1) and (2), 39A(6), 40(1) and 40E of the *Food Act* have also been inserted. While they contain duties, rather than powers, it was thought it may assist to have these noted in the instrument.
- Section 45AC of the *Food Act* has been inserted to enable a delegate to authorise a person for the purposes of bringing proceedings.
- Section 38G(4) of the *Food Act* has been amended to reference the correct provision.
- Section 12A of the *Planning and Environment Act 1987 (P&E Act)* has been removed as it has been repealed.
- Section 113(2) of the *P&E Act* has been inserted pursuant to the *Planning and Environment Amendment Act 2021*. It relates to the power to request the Minister for a declaration for land to be proposed to be reserved for public purposes.

- Sections 91ZU, 91ZZC, 91ZZE, 142D, 142G, 142I, 206AZA, 207ZE, 311A and 317ZDA of the *Residential Tenancies Act 1997 (RT Act)* have been removed from the S6 and inserted in the S7. This is because the specific power of delegation provided under the *RT Act* only applies to Part 14 and regulations under this part. Therefore, the delegation of other powers and functions under the *RT Act* comes from the *Local Government Act 2020*.
- Section 96 of the *Road Management Act 2004* has been inserted to enable a delegate to authorise a person for the purpose of instituting legal proceedings.
- The *Residential Tenancies Regulations 2021* have been removed from the S6. Upon review, it was determined that the power to approve any other toilet system is not a power under the *Residential Tenancies Regulations 2021* but rather a power under other legislation, such as the *Environment Protection Regulations 2021*.

Position titles have also been updated accordingly.

## Sustainability Implications

There are no sustainability implications associated with this report.

## Finances

There are no financial implications associated with this report.

## Stakeholders

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

Staff – ensuring the ability to undertake their roles.

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

## 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 when 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** | Draft S6 Instrument of Delegation Council to Members of Council Staff | 181 Pages |

**Council Decision**

**Moved: Cr. David Rooks / Seconded: Cr. Clare Le Serve**

**That the recommendation be adopted.**

**CARRIED**

## *H.9 Review of Instrument of Sub-Delegation Environment Protection Act 2017 – Council to Staff*

| | |
|---|---|
| **File No:** | **CM22/149** |
| **Division:** | **Business Transformation** |
| **Council Plan Strategic Objective:** | **Leading for our Community**<br>Demonstrating leadership through good governance, transparency and accountability |

### Declaration

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

### Summary

The purpose of this report is to update the staff positions within the Instrument of Sub-Delegation *Environment Protection Act 2017* from Council to staff.

### Background

Council currently exercises its powers to delegate to positions.

Instruments of Sub-Delegation are appointed to positions, not people. A power, duty or function applied to any position through an Instrument of Sub-Delegation cannot be on-delegated, but does cover anybody who is 'acting' in a position.

### Strategic Basis

#### Council Plan Strategic Objective:

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

#### Governing Documents

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.

- *Environment Protection Act 2017*

### 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 18 August 2021.

There are no changes to the legislation in the attached Instrument of Sub-Delegation.

Position titles have been updated to include:

- Manager Community Safety and Wellbeing

## Sustainability Implications

There are no sustainability implications associated with this report.

## Finances

There are no financial implications associated with this report.

## Stakeholders

- Council – ensuring they can focus on high level strategic and Council planning.
- Staff – ensuring the ability to undertake their roles.
- Community – knowledge that appropriate delegations and authorisations are in place to allow for the effective and efficient running of Council.

## Conclusion

It is recommended that Council adopt the Instrument of Sub-Delegation *Environment Protection Act 2017* 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 power conferred by s 437(2) of the Environment Protection Act 2017 and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021, 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. **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** | Draft S18 Instrument of Sub-Delegation Environment Protection Act 2017 | 6 Pages |

**Council Decision**

**Moved: Cr. David Rooks / Seconded: Cr. Clare Le Serve**

**That the recommendation be adopted.**

**CARRIED**

### *H.10 Instrument of Appointment and Authorisation*

| | |
|---|---|
| **File No:** | **CM22/137** |
| **Division:** | **Business Transformation** |
| **Council Plan Strategic Objective:** | **Leading for our Community**<br>Demonstrating leadership through good governance, transparency and accountability |

## Declaration

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

## Summary

The purpose of this report is to recommend that Council resolve to appoint the named officers as an Authorised Officer under:

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

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

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

## Background

Council currently exercises its powers to appoint Authorised Officers.

## Strategic Basis

### Council Plan Strategic Objective:

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

### Governing Documents

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

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

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

## Discussion

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

### Sustainability Implications

There are no sustainability implications associated with this report.

### Finances

There are no financial implications associated with this report.

### Stakeholders

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

Staff – ensuring the ability to undertake their roles.

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

### Conclusion

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

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

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

### Recommendation

**That Council:**

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

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

**Attachments**

| | | |
|---|---|---|
| **AT-1** | Kevin Kwon S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987 | 1 Page |
| **AT-2** | Cyleste O'Neill S11B Instrument of Appointment and Authorisation under the EPA 2017 | 1 Page |
| **AT-3** | Bianca Rayner S11B Instrument of Appointment and Authorisation under the EPA 2017 | 1 Page |
| **AT-4** | Scott Edwards S11B Instrument of Appointment and Authorisation under the EPA 2017 | 1 Page |

**Council Decision**

**Moved: Cr. David Rooks / Seconded: Cr. Rochelle Halstead**

**That the recommendation be adopted.**

**CARRIED**

## *H.11 Draft Budget 2022/23*

| | |
|---|---|
| **File No:** | **CM22/169** |
| **Division:** | **Business Transformation** |
| **Council Plan Strategic Objective:** | **Leading for our Community**<br>Demonstrating leadership through good governance, transparency and accountability |

### Declaration

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

### Summary

The purpose of this report is to seek Council authorisation to release the Draft Budget and Draft Fees and Charges for community consultation.

Council has prepared a Draft Budget for 2022/23 which seeks to maintain our existing services and infrastructure as well as deliver projects and services that are valued by our community. It contains a capital program of $28.8 million, which will provide the community with a number of public realm improvements, upgraded infrastructure and recreational facilities. In setting the budget Council has applied fiscal constraint by reducing the standard waste service charge by $8.84 (or 1.8%) and containing rates increases to 1.75% in line with the mandated State Government rate cap.

The Draft Budget is closely aligned to the Long Term Financial Plan, maintains the scope and standard of existing services while increasing investment in the future of the Shire through the delivery of significant inter- generational projects, capital upgrades and renewal of the existing infrastructure network.

Council has reviewed the Draft Council Fees and Charges 2022/23. Council fees and charges are adjusted annually to ensure that an equitable balance between user funded services and ratepayer funded services is maintained.

The report recommends that Council release the Draft Budget and Draft Fees and Charges 2022/23 for public exhibition and submissions from 21 April 2022 - 16 May 2022.

### Background

The Council Plan 2021-25 and the Long Term Financial Plan 2021-25 sets the framework for strategic decision making for Council and is the base on which the Budget is developed.

The Draft Budget provides authorisation for the delivery of all services and capital works projects. It includes performance measures, details of proposed borrowings, and sets the rates and charges for the year. It also identifies the funded Capital Works projects that are planned for delivery during the 2022/23 financial year.

The Draft Budget includes a Strategic Resource Plan, providing a four-year financial outlook for the Council including forward cash flow, balance sheet and capital works projections. Projections for a number of Financial Indicators including indicators set by the Victorian Auditor-General's Office (VAGO) and Local Government Victoria (LGV) have been included in the Draft Budget. The forward indicators confirm that Bass Coast's financial position will remain sound with a stable liquidity ratio and increased investment in capital expenditure. While the Draft Budget reflects increased Council borrowings, this is tied to the major capital investment program and the level of debt is still expected to remain within prudential guidelines (indebtedness ratio less than 60 % of rates revenue). Council plans to reduce its discretionary reserves over the four-year period to support investment in the capital program.

## Strategic Basis

### Council Plan Strategic Objective:

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

### Governing Documents

The provisions of sections 94 and 96 of the *Local Government Act 2020* and sections 7 and 8 of the *Local Government (Planning and Reporting) Regulations 2020* apply to the budget process.

Council is subject to the provisions of the National Competition Policy. Under the Competition Principles agreement, Council is obliged to apply competitive neutrality principles to all significant business activities undertaken by Council.

Goods and Services Tax may apply to the price of some services. Council will identify which services will attract GST having regard to determinations made by the Federal Treasurer from time to time.

The community must be engaged on the budget documents in line with the Community Engagement Policy.

## Discussion

The Draft Budget includes a 1.75% rates increase (in line with the State Government mandated rate cap) and a 1.8% reduction in the standard waste service charge. These price adjustments are significantly lower than the current headline inflation rate of 3.5% per annum (December 2021 CPI) and reflects value from ongoing business and efficiency improvements.

Capital works investment is maintained with $28.8 million in funding for the capital program. This includes an array of major strategic projects for delivery across a number of different precincts and growth and development within the shire. The landmark Cowes Cultural and Community Centre is planned for completion by the end of the financial year. Council continues to fund a number of actions targeted at reducing CO2 emissions. The Grantville Landfill micro turbines project which will enable the use of landfill gas emission to power the site is an excellent example of CO2 emission reduction being complemented by financial savings.

The Draft Budget projects an operating surplus of $2.2 million for 2022-2023 and a balanced Funding Statement position. A liquidity ratio of 1.74 reinforces Councils strong financial position.

The adjusted underlying deficit of $3.5 million is largely attributable to the significant one-off landfill rehabilitation works totaling $4.1 million that are required to be completed within the 2022/23 financial year. These works are funded through Council reserves (set aside from prior year surpluses for this purpose) and are in line with what was expected in the Long Term Financial Plan.

The Draft Budget 2022/23 provides for the following total income and expenditure (cash basis):

- Total Expenditure $115.2 million
  - Operations $73.9 million
  - Capital Works $28.8 million
  - Debt Servicing $12.5 million
- Funded by:
  - Rates and Charges $69.4 million
  - Grants and Subsidies $13.3 million
  - Fees and Charges $8.6 million
  - Borrowings $17.1 million
  - Contributions $0.7 million
  - Asset Sales $0.5 million
  - Interest $0.4 million
  - Transfers from Reserves $4.0 million
  - Other Revenue $1.2 million

New funding has been provided in the draft operating budget for the following strategic plans and projects:

- Neighbourhood Character and Housing Strategy $150,000
- San Remo Structure Plan $150,000
- Finalisation of Wonthaggi North East Structure Plan $250,000

Council's investment in capital projects continues to be a priority with a draft program of $28.8 million. More specifically, the draft capital budget 2022/23 includes:

- Final stage of Cowes Cultural and Community Center Redevelopment $2.8 million and surrounding Public Realm Improvements $2.2 million
- Grantville Landfill Micro Turbines $1.6 million
- Wonthaggi Activity Centre Plan priorities $3.0 million
- Shetland Heights/Potters Hill Roads, Drainage and Footpaths $1.8 million

The Draft Budget continues to support our agricultural community with a rating differential of 80% plus the opportunity to apply for the Rural Land Management Program, which returns approximately $665,000 to the rural community for land management.

## Sustainability Implications

Council has in response to the Climate Change Emergency that was declared in 2019, committed funding in the Draft Budget for a number of projects that will support its objective of having zero net emissions over the next 10 years.

## Finances

The Draft Budget for 2022/23 provides for total operating income of $93.7 million and total operating expenditure of $91.5 million – a budgeted surplus of $2.2 million (underlying deficit of $3.5 million).

On a cash basis, the Funding Statement projects a balanced budget with Council reserves funding the one off landfill rehabilitation works required within the 2022/23 financial year.

Total Equity is budgeted to increase from a forecast $820 million at 30 June 2022 to $823 million at 30 June 2023.

## Stakeholders

All residents, ratepayers, visitors, businesses and other government agencies have an interest in the proposed Budget.

A community consultation program will be undertaken during May to provide stakeholders with the opportunity to discuss the Draft Budget and Draft Fees and Charges schedule. The Draft documents will be available on Council's Engage Bass Coast website at engage.basscoast.vic.gov.au as well as Council's website at www.basscoast.vic.gov.au or at any of our Customer Service Centres.

There will be an on-line forum which will provide people an opportunity to chat about the draft documents or provide their input including any specific questions through a Facebook link. The date and time of the proposed session is:

- **Facebook** – Wednesday 4 May at www.facebook.com/basscoastshire from 6.00 pm to 7.30 pm

The Draft Budget and Draft Fees and Charges schedule will also be open for submissions from Thursday, 21 April 2022 until 5.00 p.m. Monday, 16 May 2022. Council will receive and hear submissions on Wednesday 25 May 2022.

Historically Council's Fees and Charges schedule has been adopted ahead of the Draft Budget document. The Draft Fees and Charges schedule has been made available for community consultation along with the Draft Budget for the 2022/23 financial year. This provides the community an opportunity to provide feedback and is in line with Council's Community Engagement Policy.

## Conclusion

The Draft Budget identifies how the priorities identified through the development of the Council Plan will be funded and is an important tool for measuring the performance of Council and determining where Council's financial resources will be directed. It is also used in association with other plans and strategies to provide direction to Council in decision making.

Copies of the Draft Budget 2022/23 and Draft Fees and Charges register are attached to this report.

**Recommendation**

**That Council:**

1. **Approve the Draft Budget 2022/23 and Draft Fees and Charges 2022/23 prepared by the Council pursuant to section 94 and 96 of the *Local Government Act 2020*.**
2. **Authorises the Chief Executive Officer to deliver the following community engagement pursuant to Councils Community Engagement Policy:**
   a. **Give public notice of the release of the Draft Budget including Fees and Charges register**
   b. **Make available for public inspection a copy of the Draft Budget**
   c. **Call for written submissions on the proposals contained in the Draft Budget to be received up to 5.00 pm Monday 16 May 2022.**
3. **Considers any submissions received and hears any person who wishes to be heard (either personally or by a person acting on their behalf) in support of a submission received, in relation to the Draft Budget on Wednesday, 25 May 2022 either at the Bass Coast Civic Centre, or virtually.**

**Attachments**

| | | |
|---|---|---|
| **AT-1** | Draft Budget 2022/23 | 67 Pages |
| **AT-2** | Draft Fees and Charges Register 2022/23 | 7 Pages |

**Council Decision**

**Moved: Cr. Leticia Laing / Seconded: Cr. David Rooks**

**That the recommendation be adopted.**

**CARRIED**

## *H.12 Delegated Authority to the CEO for Acceptance of Loan Tender Quotations*

| | |
|---|---|
| **File No:** | **CM22/168** |
| **Division:** | **Business Transformation** |
| **Council Plan Strategic Objective:** | **Leading for our Community**<br>Demonstrating leadership through good governance, transparency and accountability |

### Declaration

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

### Summary

The purpose of this report is to provide the Chief Executive Officer with specific authority to accept quotations received by Council for the purpose of refinancing the $11.737 million one year interim funding facility that was established in 2018.

Quotations received pursuant to a loan tender or request for quotation are valid at the time the financial institution provides the response. This requires Council to agree to and lock in the quoted interest rate on the same day.

While the Chief Executive Officer has delegated procurement authority of up to $1 million for budgeted expenditure, all loans and borrowings transactions require approval through a Council resolution.

### Background

The interim funding facility that Council has with the CBA was established as a result of the third issue or tranche of the municipal bond or LGFV being deferred indefinitely. This facility is renewable annually. It has become apparent that the LGFV appears to have lost momentum and it is now appropriate to market test this loan. Officers recommend going to a market to refinance this $11.737 million interim funding facility (line of credit) on similar terms rather than converting it into a longer term principal and interest loan.

### Strategic Basis

#### Council Plan Strategic Objective:

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

#### Governing Documents

Long Term Financial Plan

## Discussion

Council has included in its Long Term Financial Plan principles that are in place to responsibly guide the use of borrowings, with a focus on borrowing only for new intergenerational projects. The interim funding facility is a legacy arrangement that was put in place to enable Council to access planned funding that has been deferred indefinitely. This facility is tied to the delivery of a number of projects in the Capital Works Program and is identified in our Long Term Financial Plan.

Council needs to delegate authority to the Chief Executive Officer that will enable her to:

- Provide a same day acceptance of the most beneficial loan re-financing offer provided by the market and
- Commit Bass Coast Shire Council to the proposed loan re-financing offer.

## Sustainability Implications

There are no sustainability implications associated with this report.

## Finances

The financial impact of the proposed loan transactions is summarised below. The projected interest costs are broadly in line with Council's forward estimates and will have an insignificant impact on its financial plan.

- Rollover of loan amount of $11.737 million at an interest rate in the range of 1.75% to 2.5% per annum.
- Council's annual interest costs in relation to this loan rollover are expected to be between $205,000 and $293,000 in 2022/23.

## Stakeholders

Bass Coast Councillors

Bass Coast Community

The community were invited to provide feedback and submissions on Council's Long Term Financial Plan 2021-25 which was adopted in October 2021. This Plan included a specific reference to the use of borrowings – 'Borrowings have been identified as an important funding source for the capital works program.' The Plan also details some guiding principles for the use of borrowings including the need to cap borrowings at 60 percent of rates and charges revenue.

## Conclusion

Specific authority is required from Council to enable the Chief Executive Officer to accept loan quotations on Council's behalf and to commit Bass Coast Shire Council to entering into new borrowing arrangements for the rollover of an existing interim funding facility.

**Recommendation**

**That Council:**

1. **Authorise the Chief Executive Officer to accept loan proposals and pricing for a new interim funding facility and a new principal and interest loan.**
2. **Authorise the Chief Executive Officer to execute the applicable loan facility agreements with the successful lender(s) on behalf of Bass Coast Shire Council.**

**Attachments**

There are no attachments for this report.

**Council Decision**

**Moved: Cr. David Rooks / Seconded: Cr. Ron Bauer**

**That the recommendation be adopted.**

**CARRIED**

# Statutory Reports

**Council Decision**

**Moved: Cr. Ron Bauer / Seconded: Cr. Clare Le Serve**

**That agenda items I.1, I.2 I.3 and I.4 be considered as a block.**

**CARRIED**

# I Statutory Reports

## *I.1 Informal Meeting of Councillors Records*

| | |
|---|---|
| **File No:** | **CM22/131** |
| **Division:** | **Business Transformation** |
| **Council Plan Strategic Objective:** | **Leading for our Community** |
| | Demonstrating leadership through good governance, transparency and accountability |

### Summary

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

### Introduction

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

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

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

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

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

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

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

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

### Council Plan Strategic Objective:

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

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

### Recommendation

**That Council receive the attached Informal Meeting of Councillors records**

**Attachments**

| | | |
|---|---|---|
| **AT-1** | Audit and Risk Committee 2 March 2022 Informal Meeting of Councillors record | 2 Pages |
| **AT-2** | Councillor Briefings 2 March 2022 Informal Meeting of Councillors record | 3 Pages |
| **AT-3** | Western Port Ward Councillors Project Updates 2 March 2022 Informal Meeting of Councillors record | 2 Pages |
| **AT-4** | Councillor Briefing DALS 3 March 2022 Informal Meetings of Councillors Record | 2 Pages |
| **AT-5** | Councillor Briefings 9 March 2022 Informal Meeting of Councillors record | 3 Pages |
| **AT-6** | Councillor Briefings 16 March 2022 Informal Meeting of Councillors record | 2 Pages |
| **AT-7** | Councillor Briefings 23 March 2022 Informal Meeting of Councillors record | 2 Pages |
| **AT-8** | DELWP Update of DAL 4 April 2022 Informal Meeting of Councillors Report | 1 Page |

## *I.2 Planning and Building Statistics - February 2022*

| | |
|---|---|
| **File No:** | **CM22/134** |
| **Division:** | **Place Making** |
| **Council Plan Strategic Objective:** | **Sustainable Development** |
| | Prepare for growth while ensuring the intrinsic values and character of Bass Coast are retained. |

### Summary

**PERMITS REFUSED:**

Nil.

**PERMITS ISSUED:**

**Island Ward**

210281: Development of land for a dwelling in the LSIO and DDO1 located at 95 Silverleaves Avenue, Silverleaves.

210352: Creation of access to a road in Transport Zone 2 located at 23 Phillip Island Road, Sunset Strip.

210360: Buildings and works associated with the construction of a dwelling in a LSIO located at 13-17 Settlement Road, Rhyll.

210405: Two lot subdivision located at 349-357 Church Street, Cowes.

210440: Removal of vegetation in the VPO2 located at 5 Hastings Street, Ventnor.

210476: Development of land for a dwelling in the BMO located at 6 Blossom Road, Cowes.

210484: Removal of two trees in a Vegetation Protection Overlay (VPO2) located at 9 Hazelwood Court, Silverleaves.

210488: Development of land for a dwelling in the BMO located at 629 Settlement Road, Cowes.

220013: Removal of one tree in a Vegetation Protection Overlay (VPO2) located at 9 Darryl Court, Cowes.

220029: Buildings and works to a dwelling in a Farming Zone (FZ1) and Significant Landscape Overlay (SLO2) located at 9 Glamis Road, Ventnor.

220034: Construction of buildings and works (shed) in a Significant Landscape Overlay (SLO2) and Farming Zone (FZ) located at 8 Glamis Road, Ventnor.

**Western Port Ward**

210262: Buildings and works associated with the construction of a dwelling, shed and ancillary works within the Environmental Significance Overlay – Schedule 4 and Significant Landscape Overlay – Schedule 1 locate at 10 Shanty Lane, Kilcunda.

210265: Buildings and works in the BMO and SLO located at 1105 Loch-Kernot Road, Kernot.

210287: Removal of 'Restriction A' from PS537158T located at 1, 4-5, 8-9, 11-16, 20, 22, 24, 26, 28, 30 Breeze Court, San Remo.

210320: Buildings and works for an agricultural shed in SLO1, EMO1 and FZ located at 65 Powell Road, Woolamai.

210331: Development of the land for two dwellings and an outbuilding, and two lot subdivision in GRZ1 and DDO1 located at 190 The Esplanade, Surf Beach.

210356: Use and development of a dwelling in the RLZ and Bushfire Management Overlay located at 24 Hurdy Gurdy Lane, The Gurdies.

210390: Development of land for a dwelling in the EMO1 and SLO1 located at CA 36C Parish of Jumbunna, Crawford Road, Loch.

210427: Buildings and works (milking shed) in a FZ and LSIO located at 468 Inverloch-Kongwak Road, Kongwak

210444: Development of land for a single dwelling subject to schedule 1 of the Design and Development Overlay with a height in excess of 7 metres located at 23 Laurette Avenue, San Remo.

210448: Two lot subdivision located at 3 Furlong Crescent, Dalyston.

210509: Two lot subdivision located at 20 Breeze Court, San Remo.

210524: Development of land for a dwelling in the Heritage Overlay (HO28) located at 17 Wetherall Drive, Corinella.

220021: Construction of a dwelling over 7m in height in Design and Development Overlay (DDO1) located at 9 Paterson Drive, San Remo.

220030: Development of an outbuilding in a Farming Zone (FZ1) located at 380 Kongwak Road, Glen Alvie.

220033: Development of an outbuilding used for agriculture in the Significant Landscape Overlay (SLO1) located at 1105 Loch-Kernot Road, Kernot.

220046: Buildings and works associated with the construction of a farm shed in a REZ, SLO and EMO located at 983 Grantville-Glen Alvie Road, Almurta.

**Bunurong Ward**

200160: Development of land for dwelling in DDO1 and BMO located at 109-111 Viminaria Road, Harmers Haven.

200306: Development of a dwelling exceeding 7 metres in the DDO1 located at 2 Hillside Avenue, Inverloch.

210024: Two lot subdivision and the construction of a dwelling to the rear of the existing dwelling located at 49 Pymble Avenue, Inverloch.

210339: Development of land for a replacement dwelling 7 metres and higher in the DDO1, exceeding 30 percent of building footprint in DDO9, and removal of vegetation in the VPO3 located at 9 Toorak Road, Inverloch.

210346: Additions and alterations to existing dwelling in DDO1, DDO9 and LSIO located at 36 Lohr Avenue, Inverloch.

210385: Development of land for a dwelling in the ESO1 and BMO located at 13 Piper Place, Inverloch.

210387: Two lot subdivision located at 22 Williams Street, Inverloch.

210409: Construction of a dwelling in a DDO9 located at 1 Beach Avenue, Inverloch.

210411: Use and development of a dwelling in FZ and BMO located at 20 Pearsalls Road, Inverloch.

210432: Use and development of a replacement Dwelling in the FZ located at 11 Pine Grove, Wonthaggi.

210450: Building and works for the construction of a dwelling within the Design and Development Overlay and the removal of vegetation in the VPO located at 23 View Street, Inverloch.

210451: Three lot subdivision and creation of a restriction located at 84 Broome Crescent, Wonthaggi.

210463: Buildings and works associated with a dwelling on a lot less than 300sqm located at 1/13 Kirrak Street, North Wonthaggi.

210473: 2 lot subdivision located at 99 Merrin Crescent, Wonthaggi.

210521: Creation of easement located at Lot 2 PS628069L Bass Highway, Wonthaggi.

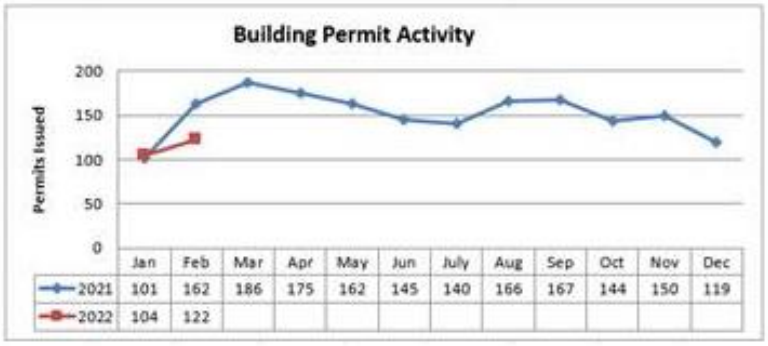
220023: Two lot subdivision located at 41 Lohr Avenue, Inverloch.

220026: Extension to an existing outbuilding associated with agriculture, within 100m of a Transport Zone 2 and neighbouring dwelling in the Farming Zone (FZ) located at Part Lot 2 PS309800 Cape Paterson Road, Wonthaggi.

## PLANNING AND BUILDING ACTIVITY REPORT FOR FEBRUARY 2022

| Statutory Planning | This month (February) | Last month | Year to date (financial year) |
|---|---|---|---|
| % of applications determined within statutory timeframe | 60.7 | 48.1 | 62.7 |
| Average Gross Days (Responsible Authority determination) | 120 | 205 | 171 |
| (new) Average Gross Days to final outcome | 134 | 255 | 183 |
| Average Statutory Days (Responsible Authority) | 45 | 70 | |
| Number of live applications | 224 | 244 | - |
| Number of applications received for the month | 44 | 19 | 398 |
| Number of Responsible Authority outcomes | 60 | 29 | 421 |

| Municipal Building Services & Enforcement | This month (February) | Last month | Year to date (financial year) |
|---|---|---|---|
| Essential Safety Measure inspections | 0 | 0 | 0 |
| Report and Consent applications | 35 | 11 | 196 |
| POPE and Siting consents issued for temporary structures | 3 | 1 | 6 |
| Complaints received requiring investigation | 10 | 19 | 82 |
| New building enforcement cases | 3 | 3 | 31 |
| Number of open building enforcement cases | 30 | 33 | n/a |
| Building permits issued by Council | 0 | 0 | 0 |




| Planning Enforcement | This month (February) | Last month | Year to date (financial year) |
|---|---|---|---|
| New Reports received for assessment | 11 | 13 | 377 |
| Reports assessed and closed – no PE | 5 | 4 | - |
| New complaint/case files opened | 21 | 0 | 75 |
| Complaints/case files closed | 36 | 11 | 389 |
| Current open complaints/case files | 58 | 50 | - |

## STATUTORY PLANNING DEFINITION:

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

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

## Recommendation

**That Council:**

1. **Receives and notes the Planning Permits issued under delegation report for February 2022.**
2. **Receives and notes the Planning and Building Activity Report for February 2022.**

## Attachments

There are no attachments for this report.

## *I.3 Contracts Awarded*

| | |
|---|---|
| **File No:** | **CM22/152** |
| **Division:** | **Business Transformation** |
| **Council Plan Strategic Objective:** | **Leading for our Community** |
| | Demonstrating leadership through good governance, transparency and accountability |

### Declaration

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

### Summary

Contracts Awarded

For the period from 1 February 2022 to 28 February 2022, the following contracts were awarded under the Chief Executive Officer's delegation of procurement authority.

| Contract No. | Description | Contractor | Contract Sum (excl gst) |
|---|---|---|---|
| 21023 | Wonthaggi Activity Centre Streetscape Mater Plan | Hansen Partnership Pty Ltd | $255,280.00 |
| 21046 | Arts Centre Loading Dock | TS Constructions Pty ltd | $172,900.00 |

Contracts Extended

For the period from 1 February 2022 to 28 February 2022, no contracts were extended under the Chief Executive Officer's delegation of procurement authority.

### Recommendation

**That Council notes the above contracts were awarded in accordance with the Delegated Procurement Authority during February 2022.**

### Attachments

There are no attachments for this report

### *I.4 Councillor Allowances*

| | |
|---|---|
| **File No:** | **CM22/145** |
| **Division:** | **Business Transformation** |
| **Council Plan Strategic Objective:** | **Leading for our Community**<br>Demonstrating leadership through good governance, transparency and accountability |

## Declaration

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

## Summary

The purpose of this report is to present to Council *No. 01/2022 Allowance payable to Mayors, Deputy Mayors and Councillors (Victoria) Determination* (the Determination) of the Victorian Independent Remuneration Tribunal and note the changes to allowances which took effect from 18 December 2021. The Determination can be viewed online at https://www.vic.gov.au/allowances-mayors-deputy-mayors-and-councillors

## 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.

## Strategic Basis

### Council Plan Strategic Objective:

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

### Governing Documents

*Local Government Act 2020*

*Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019*

## Discussion

The *Local Government Act 2020* introduces a new process for the determination of allowances and a new allowance for the Deputy Mayor.

Under the old process, Councils were allocated to a category and each category included an allowance range. Council could choose to set the allowance payable anywhere within that range. At the 25 November 2020 Council meeting, Council resolved to set the allowance at the maximum amount.

The allowance was exclusive of the superannuation guarantee and did not include an annual indexation process. Councils were also required to seek community submissions on the amount they proposed to pay to Councillors.

Under the new process, allowances are set via a determination from the Victorian Independent Remuneration Tribunal. Council no longer has a role in setting the allowance amount payable to Councillors and there is no longer a requirement to seek community submissions. The Determination also sets a separate allowance for the Deputy Mayor equivalent to half the Mayoral Allowance. This change better reflects the leadership role and enhanced expectations of the Deputy Mayor.

The allowances set under the Determination also include the superannuation guarantee as well as annual adjustments until December 2025 for the Mayor and Deputy Mayor, and December 2023 for Councillors.

*No. 01/2022 Allowance payable to Mayors, Deputy Mayors and Councillors (Victoria) Determination* took effect from 18 December 2021. Bass Coast remains a Category 2 Council. Councillor Allowances for Bass Coast Shire Council are set out in the table below. The 10% superannuation guarantee has been added to the allowance amount set under the *Local Government Act 1989* in the table below to provide consistency for comparison purposes.

| | **Councillor Allowance** | **Deputy Mayor Allowance** | **Mayoral Allowance** |
|---|---|---|---|
| Allowances set under the Local Government Act 1989 | $28,870 | N/A | $89, 324 |
| Allowances set under the Local Government Act 2020 | $30,024 | $48,235 | $96,470 |

Council has adjusted the allowances payable to Councillors to reflect the new rates, including back payment to 18 December 2021.

## Sustainability Implications

There are no sustainability implications associated with this report.

## Finances

The payment of the Deputy Mayor allowance, and the increases to the Mayoral and Councillor allowances, will require an increase to the 2021/22 budget of just over $35,000. This will be managed through the forecasting process.

## Stakeholders

- Councillors

## Conclusion

Councillors are entitled to receive an allowance from Council. New Councillor allowance rates have been set by the Victorian Independent Remuneration Tribunal which took effect from 18 December 2021. Council has adjusted payments to Councillors to reflect the new rates.

## Recommendation

**That Council:**

1. **Note *No. 01/2022 Allowance payable to Mayors, Deputy Mayors and Councillors (Victoria) Determination* of the Victorian Independent Remuneration Tribunal.**
2. **Note that the Base Mayoral allowance effective from 18 December 2021 is $96,470 inclusive of any Superannuation Guarantee Contribution amount.**
3. **Note the Base Deputy Mayor allowance effective from 18 December 2021 is $48,235 inclusive of any Superannuation Guarantee Contribution amount.**
4. **Note the base Councillor allowance effective from 18 December 2021 is $30,024 inclusive of any Superannuation Guarantee Contribution amount.**

## Attachments

There are no attachments for this report.

**Council Decision**

**Moved: Cr. Ron Bauer / Seconded: Cr. Rochelle Halstead**

**That the recommendations attached to agenda items I.1, 1.2 I.3 and I.4 be adopted.**

**CARRIED**

## J Urgent Business

There was no Urgent Business.

***Mayoral Announcement Of Next Meeting Of Council***

The next **Council Meeting** will be held on 18 May 2022 in the Bass Coast Civic Centre Council Chamber, Baillieu Street East, Wonthaggi commencing at 1.00pm.

**Meeting closed**

The meeting closed at 2.36pm