

Bass Coast Shire Council
Council Meeting Minutes

Wednesday 21 September 2022

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

1. These minutes are due to be confirmed on 19 October 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 1.06pm

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. Anyone who is invited to read out a question or a presentation will be recorded and their voice, image and comments will form part of the livestream and recording.

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 not be adjourned as the meeting is open to the public.

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 Clare Le Serve 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 Brett Tessari Bunurong Ward

Cr Les Larke, Bunurong Ward

Cr Ron Bauer, Island Ward

Cr David Rooks, Island Ward

Cr Rochelle Halstead, Western Port Ward

Cr Bruce Kent, Western Port Ward

Cr Clare Le Serve, Western Port Ward

Officers in Attendance:

Ms Ali Wastie, Chief Executive Officer

Mr Wayne Mack, General Manager Business Transformation

Mr Greg Box, General Manager Partnerships, Economy and Culture

Mr James Stirton, General Manager Place Making

Ms Jodi Kennedy, General Manager Resilient Communities

Ms Sharyn Tilley, Coordinator Governance

Apologies: Nil

B Declarations of Interest

Cr Leticia Laing declared a conflict of Interest in agenda item H.11 under section 127 of the *Local Government Act 2020*.

C Confirmation of Minutes

C.1 Council Meeting held on 17 August 2022

Council Decision

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

That the minutes of the Council Meeting held on 17 August 2022 be confirmed.

CARRIED

D Public Question Time

D.1 Kevin Griffin, Bass Coast Ratepayers and Residents Association, CEO Contract

Council recently advised that the CEO's contract has been extended for a further five years. The initial 5-year term commenced in February 2019 and was due to expire in February 2024. What compelled Councillors to extend the initial contract when it was just 3 ½ years into a 5-year term?

Response:

This is incorrect. The CEO was initially appointed on a four-year contract commencing in February 2019.

D.2 Kevin Griffin, Bass Coast Ratepayers and Residents Association, Councillor Training

Councillor Tessari claimed $8,159.10 for his training participation in the Australian Institute of Company Director Course in Melbourne. Cr Laing claimed $7,088.13 for training expenses towards a completion of a University Degree. What are the rules for Councillors to claim training expenses for private study?

Response:

This is factually incorrect. No private study has been claimed by Councillors. The Council Support and Resources Policy states Council's approach to the professional development of Councillors which is available on our website.

D.3 Graham Jolly, Capacity to pay

What is the Bass Coast Shire's definition as understood by Council and Councillors for the capacity to pay rates.

Is it Capital Improved Value valuations equals wealth and wealth equals capacity to pay or some other definition only known to Council?

Response:

Bass Coast Shire follows a common model where rates are apportioned based on the Capital Improved Value of properties.

Council understands that rates have a significant impact on household budgets and encourages anyone experiencing financial hardship to contact Council to discuss options and support available.

D.4 Graham Jolly, Councillor Induction

The Local Government Act 2020 requires Council, the Chief Executive Officer to conduct Induction training to all 9 Councillors after an election. Please provide a listing of all training topics the 9 Councillors were educated in understanding?

Response:

The Councillor Induction Training addressed the prescribed topics as set out in the *Local Government (Governance and Integrity) Regulations 2020*. The topics can be found on the Local Government Victoria website.

D.5 Melissa Dagg, Rhyll Boat Ramp

Council is the manager of works for the upgrade of the Rhyll boat ramp, due to be open and play space area. Would Council please report progress of both sites with estimated completion dates?

Response:

Stage 1 and 2 of Rhyll boat ramp have been completed and opened to the public on 17 September 2022.

Rhyll Play Space Stage 1 is programmed to be completed mid-October 2022.

Stage 2 of this project is scheduled to start construction March-April 2023.

D.6 John Trigt, Meet the Candidates Breakfast

John Trigt, Meet the Candidates Breakfast

1. In the Sentinel Times headlines on Tuesday September 6th "Invitation declined" was this a captains call by the mayor, Cr Whelan to hold a breakfast meeting to meet invited candidates for the state election, or was it tabled and approved by all councillors?
2. Is ratepayers money being used to host this political function, if so why? I thought Local Laws frown upon such ideas.

Response:

A core role of Councils is to advocate to the Government in the lead up to elections and this is a priority in our Council Plan.

All advocacy work undertaken by Council is conducted within the operating budget of Council.

D.7 Kym Lightfoot, Draft Neighbourhood Character Study and Housing Strategy

The draft Neighbourhood Character Study and Housing Strategy report is seeking public comment. Will the councillor approved final report be recommended to the minister to be permanently included into the Bass Coast Shire Planning Scheme no later than 3 months after the final report is approved?

Response:

Once the Neighbourhood Character and Housing Strategy are approved by Council there is a statutory process required to include the revised planning controls into the Bass Coast Planning Scheme. This process includes community exhibition of the revised controls and the approval of Council and the Minister for Planning. It is anticipated that this process will take 12-18 months.

D.8 Malcom Pinkerton, Walking Tracks – Phillip Island to Inverloch

The State Government produced a report Yallock-Bulluk Coastal Access Park that included coastal walking tracks from Phillip Island to Inverloch with funding. What progress actions includes the Bass Coast Shire in moving towards a conclusion to the project scope?

Response:

This is a State Government project and enquiries should be directed to the Department of Environment, Land, Water and Planning and Parks Victoria.

D.9 Kym Lightfoot, Capital Works Program

$61,206,892 allocated money for Capital Works at the start of the year. $29,809,000 not expensed at the end of the year 30/6/2022. Investments $72,019,000, CEO reappointed for 5 years, failure to release the Community Satisfaction Survey results 2022. Please explain why the Capital Works program is not achieved each year?

Response:

The 2021/22 capital works program was the largest capital expenditure on record for Bass Coast Shire, with over $36 million delivered for the community. Further information on Council's capital works delivery is in the quarterly report.

D.10 Malcom Pinkerton, Capital Works Program

As a request will the Mayor revise the 2022/23 Budget comprising of a Capital Works Program to account for the what has not been achieved each year? Carryovers of allocated money into 2022/23 is $29,809.00. Underlying financial loss $700,000.00

Response:

The 2021/22 capital works program was the largest capital expenditure on record for Bass Coast Shire, with over $36 million delivered for the community. Further information on Council's capital works delivery is in the quarterly report.

D.11 Peter McMahon, Councils Budget 2022/23

What is councils' budget 2022/23 primary plan to be achieved by years end. Is the plan to complete the Annual Action Plan 2022/23 or is it to complete the Capital Works Plan comprising approximately 180 projects or is it to protect councils Underlying financial result?

Response:

To deliver the annual action plan, capital works program and services in line with the adopted budget.

D.12 Terry Parkin, Climate Change Emissions

A local newspaper included the Mayor's weekly report, 30 August 2022 announcing Climate Change details as Chair of South East Council's Climate Change Alliance (SECCCA) which includes 9 Victorian Council's.

When did the reported wording by the Mayor of 67% emission reduction become a target of this council?

Response:

This comment was made in my role as chair of SECCA. The 67% reduction by 2030 is referring to a SECCA target and not Council's. It is considered the minimum reduction required in emissions to keep warming within 1.5 degrees.

E Petitions, Joint Letters, Deputations and Correspondence

E.1 Petition - Pump Track for Cape Woolamai

File No:	**CM22/533**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Leading for our Community** Demonstrating leadership through good governance, transparency and accountability

A Petition containing 74 written signatures and 735 electronic has been received. The petition reads:

Please sign to let the Bass Coast Shire know that a pump track would be a great addition to our community!
What is a pump track? A pump track is an asphalt circuit of rollers, banked turns and features designed for bicycles, scooters, skateboards and even wheelchairs. Riders can generate momentum by up and down body movements or 'pumping'. Pump Tracks are fun and beneficial for people of all ages and abilities!

Section 55.2 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, Pump Track for Cape Woolamai be received and lie on the table with a report to be presented no later than the December 2022 Council Meeting.**
2. **That the head petitioner be advised of Council's decision.**

Attachments

AT-1	***CONFIDENTIAL*** - Petition - Pump Track for Cape Woolamai part 1 signatures	21 Pages
AT-2	***CONFIDENTIAL*** - Petition - Pump Track for Cape Woolamai part 2 reasons	9 Pages

Council Decision

Moved: Cr. Rochelle Halstead / Seconded: Cr. Bruce Kent

That the recommendation be adopted.

CARRIED

Notices of Motion

F Notices of Motion

There were no Notices of Motion

Mayor and Councillors Reports

G Mayor and Councillors Reports

G.1 Mayor Report - Cr Michael Whelan

Acknowledgements

I would like to acknowledge the lives and achievements of two powerhouses of Australian Culture Uncle Jack Charles and Uncle Archie Roach. I did not have the pleasure of meeting Uncle Archie Roach but I read his book and often listen to Charcoal Lane. I did have the pleasure of seeing him in a live performance. I am in awe of his song writing prowess, his ability to give voice to a tragic past and to assist the healing.

I did have the pleasure of meeting with Uncle Jack Charles at the Phillip Island Literary Festival. I was playing music in the park with the Bass Coast Pickers and it was Uncle Jack who approached us for a yarn and regaled us with his stories. He was a great contributor to Australian culture and a great healer as well as advocate for first nations people.

Both of these Uncles will be sorely missed in the first nations communities and in the wider Australian community. Vale Uncle Jack Charles and Uncle Archie Roach.

Activities

- Bass Coast Kids as Catalysts Pitch Event 2022
- 2022 Annual Orchid Show
- Site Meeting: Installation of modules at PICAL

Meetings

Attended Council Workshops and Briefings

Chaired Councillor Only Meetings

Weekly meetings with CEO, Council Support and Communications

Additional Meetings:

- One Gippsland August Board Meeting
- One Gippsland August Local Government Meeting
- Ecoliv - Parliamentary Secretary for Regional Vic Danielle Green
- Project control group Cowes Cultural and Community Centre
- SECCCA Policy Platform Launch Breakfast
- Briefing - Proposed MAV Rules 2022
- Partner Forum Commonwealth Games 2026
- SECCCA Meeting with Mr Julian Hill MP
- Project control group follow up meeting - Cowes Cultural and Community Centre
- Election Advocacy Meeting
- Presentation to Island Voice re Social Housing, Cowes RSL

- Regular catch up with Economic Development
- Australian First People Advisory (AFPAC) Meeting 2022-2023
- Audit & Risk Committee Meeting
- Advancing Women's Leadership Summit
- Seats EO Officer Meeting
- Cape Paterson Surf Life Saving Club AGM
- Bass Coast Council Lifestyle Communities Berwick Waters visit
- Meeting with SJD Homes - ESD & Social Housing
- SECCCA Councillor Advisory Group Meeting
- MAV Special Meeting of State Council Notification

Other

Media Enquiries/Interviews

- MMM Housing Strategy Interview
- The Age - Coastal Erosion
- Win News - Bass Coast Dinosaurs Trail

Phone calls, emails and letters

G.2 Councillor Report - Cr David Rooks

Meetings

- Luke Bryant re: Sunderland Bay Surf Beach questionnaire summary
- Cowes Public Art commission PRG
- With Jess, marketing officer from PIBN
- Community Tourism Reference Group preparation meeting
- Event Advisory committee - chaired

Briefings

- Weekly Wednesday Council Briefings
- Wintersun Estate briefing

IW planning briefings

Ongoing

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

G.3 Councillor Report - Cr Bruce Kent

- 18/08 Grantville Traders Meeting at Grantville
- 18/08 Kernot Farmers meeting at Kernot
- 24/08 Councillor on-line meeting
- 24/08 Meeting with Minister For Early Childhood at San Remo Pre School
- 31/08 Bass Coast Kids for Catalysts at Newhaven Primary
- 07/09 Councillor meeting
- 13/09 Kernot Hall AGM
- 14/09 Council Briefings
- 20/09 REG meeting at Wonthaggi
- 20/09 Westernport Ward meeting at Wonthaggi
- 21/09 Council Open Community meeting.

G.4 Councillor Report - Cr Rochelle Halstead

Council Briefings

- Asset Management Policy and Strategy Review
- Capital Works Program Stats
- Cowes Streetscape Masterplan
- Commonwealth Games
- Developer Briefing Warley Avenue
- Wonthaggi North East PSP
- Climate Change Action Plan Implementation
- CCCC Update
- Lifestyle Development Berwick Waters
- Mayor catchup

Community Meetings

- San Remo Pre-School visit with Minister for Early Childhood Education
- Bass Coast Kids for Catalysts Panel –Newhaven Primary School
- Bass Valley Community Centre
- Rural Engagement Group
- Jeni Jobe –State Candidate for Bass
- Queen Elizabeth II Memorial Service Grace Chapel Archies Creek

Reports Requiring Council Decision

H Reports Requiring Council Decision

H.1 2021/2022 Quarterly Performance Report - April - June 2022

File No:	**CM22/512**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Leading for our Community**
	Demonstrating leadership through good governance, transparency and accountability

Declaration

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

Summary

The Quarterly Performance Report provided in Attachment 1 presents a summary of Council's performance for the period of 1 April 2022 to 30 June 2022.

Delivery of the Annual Action Plan 2021/22 in the fourth quarter, with 22 of 25 projects completed and meaningful progress made in the remaining three projects, being Guy Road Shared Pathway, Social and Affordable Housing Strategy and Communication and Engagement Strategy.

These three actions will be tracked as part of the 2022/23 Annual Action Plan reporting.

The 2021/22 Capital Works Program has seen our largest ever program delivery expenditure of $36.5 million, with 62% of projects completed and the remaining 34% in progress or staged to be delivered as multiyear projects. 4% of the program has been deferred and one project has been removed from the program.

Council's adjusted underlying result reflects a $0.7 million deficit.

The annual report will be presented to the October Council meeting which will provide further details on Council's achievements, as well as all financial and performance reporting requirements.

Background

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

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

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

Strategic Basis

Council Plan Strategic Objective:

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

Governing Documents

Local Government Act 2020

Discussion

The purpose of this report is to provide advice on Council's performance for the quarter of April – June 2022 including its performance against the Annual Action Plan 2021/22, financial performance and capital works project delivery.

Annual Action Plan Performance

The Annual Action Plan 2021/22 contains 25 activities and initiatives to be delivered by 30 June 2022. This report closes this action plan as Council now begins working towards its Annual Action Plan for 2022/23.

Council achieved 22 of its 25 actions with those remaining actions significantly progressed and expected to be completed by end of 2022.

During this quarter a draft revised Local Law to protect and enhance the liveability and amenity of our community was adopted and a strategic plan for Council assets completed through the development of the 10-year Asset Management Plan.

Financial Performance

Council's Funding Statement reflects a surplus of $456,000. This result is net of year end transfers to its strategic works reserves of $4.072 million and the Wonthaggi Northeast land acquisition reserve of $500,000. These transfers will support the delivery of Council's projects and fund planned future debt redemption.

Council's operating surplus of $23.96 million is favourable to budget by $8.46 million. The main contributor to this result is the receipt of $14 million in unbudgeted developer infrastructure contributions as well as additional revenue for capital grants including the upgrade of Rhyll Boat Ramp and the Commonwealth's financial assistance grants program. Once the impact of capital grants and contributions are removed, Council's adjusted underlying result reflects a $0.7 million deficit.

This deficit is unfavorable to budget by $1 million which is attributable to several factors including a higher than budget workers compensation insurance payment following the dissolution of the MAV WorkCare scheme, increased waste related and development planning expenditure, and the gifting of library assets to a new not-for-profit organization MYLI. Council's working capital ratio, which measures the ability to pay existing debts as they fall due, remains within the Victorian Auditor General's low risk category, confirming Council's ongoing sustainable financial position.

Full details are provided in the attached quarterly report.

Sustainability Implications

- Economic
- Social
- Environmental
- Climate change

Stakeholders

- Bass Coast Shire community
- Councillors
- Council officers

Conclusion

The Quarterly Performance Report (Attachment 1) provides the performance information for the fourth and final quarter of the year, April - June 2022.

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

The April – June 2022 Quarterly Performance Report will be available on Council's website.

Recommendation

That Council receive the April – June 2022 Quarterly Performance Report.

Attachments

AT-1 Quarterly Report to the Community - April - June 2022 33 Pages

Council Decision

Moved: Cr. Leticia Laing / Seconded: Cr. Clare Le Serve

That the recommendation be adopted.

CARRIED

Statement from the Chair Cr Michael Whelan

As a member of Council's Audit and Risk Committee, I note that the Committee Chair has provided feedback that the final draft closing report and management letter are excellent reports and a great result for Council, and offered his congratulations to the Council's Finance Team

H.2 Financial Statements and Performance Statement 2021/22

File No:	**CM22/513**
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

To meet legislative and internal reporting requirements, this report is presented to Council to:

1. Seek an 'in principle' approval of the draft financial and performance statements to be submitted to the auditor; and
2. Seek a resolution of Council authorising two Councillors to certify the statements in their final form following completion of the audit.

Background

Council's Annual Report must be presented to the community no later than 31 October 2022. Section 98 (2) of the *Local Government Act 2020* states that the audited Financial Statements and Performance Statement, including the Auditor's report on the Performance Statement, are to form part of the Annual Report.

Section 99 (2) states that Council must approve 'in principle' the draft Financial Statements and Performance Statement prior to formally submitting the accounts for audit. Because of the timing restrictions noted above and a requirement that an audit review is required by the Auditor General, it is normal for the Council to provide 'in principle' approval of the draft financial statements. The bulk of the audit work will have been completed prior to Council approving the draft statements.

Any issues raised by the Auditor are required to be appropriately dealt with in the draft statements presented to Council, providing a greater degree of comfort that the statements are true and fair. A meeting of the Audit Committee was held on 7 September to review the draft statements with Council's Auditors. In principle support was provided for the financial statements, subject to the issue of the Closing Report and there being no material changes following the Victorian Auditor General's Office (VAGO) review. Council's representatives on the Audit Committee can, if

required, raise any further issues arising out of the Audit Committee meeting, directly with Council.

As Council's approval is only 'in principle', based on the draft Financial Statements and Performance Statements, opportunities for changes to the statements may arise, particularly after review by the Auditor General's office. To cover such changes, section 99 (3) requires Council to appoint two Councillors to certify the statements following any amendments that may arise after finalisation of the audit. It is recommended that the Mayor, Councillor Michael Whelan, and Deputy Mayor, Councillor Leticia Laing, certify the statements on behalf of Council.

Strategic Basis

Council Plan Strategic Objective:

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

Governing Documents

The *Local Government Act 2020* requires specific actions by Council in relation to the statements, namely:

Financial and performance statements

- Section 99 (2) – The Council, after passing a resolution giving its approval 'in principle' to the performance statement and financial statements, must submit the statements to the auditor for reporting on the audit; and
- Section 99 (3) – The Council must ensure that the performance statement and financial statements, in their final form after any changes recommended or agreed by the auditor have been made, are certified in accordance with the regulations by —
    a. Two Councillors authorised by the Council for the purposes of this subsection; and
    b. any other prescribed persons.

Council is required to present its Annual Report to the community at a Council meeting no later than 31 October. The Annual Report must contain the financial statements and the performance statement.

Discussion

The salient features of Council's financial performance are summarised below:

- $116.54 million revenue against a budgeted $91.57 million. This is largely due to:
    - the receipt of $14 million in unbudgeted developer infrastructure contributions;
    - additional operating grants of $4.7 million including $2.8 million in financial assistance grants from the Commonwealth, $0.9 million for State Government funding for environmental restoration works and , $0.5 million for the outdoor dining initiative;
    - unbudgeted capital grants of $3.06 million including funding for the Rhyll Boat Ramp and Jetty and;

  - additional rates and charges of $3.05 million due to the recognition of special charges related to the Pioneer Bay roads and drainage works.
- Rates and charges comprised $70.15 million (60.2%) of the total operating revenue.
- Operating surplus of $23.96 million (budget $8.46 million surplus). This is largely due to the receipt of $14 million in unbudgeted developer infrastructure contributions as well as additional revenue from capital grants and the Commonwealth's financial assistance grants program.
- Underlying result reflects a $0.7 million deficit, which is $1 million unfavourable to the budgeted surplus of $0.3 million. Several factors have impacted this result including:
  - the gifting of the Library assets to a new not- for- profit organization, MYLI;
  - the transition from an external service delivery model to an in sourced Council operated service at the Grantville landfill;
  - dissolution of the MAV Workcare scheme which has resulted in additional Workers Compensation insurance payments and;
  - additional costs associated with development planning.
- Asset revaluations were carried out on bridges, land and buildings as well as a fair value assessment of the land under roads valuation. This revaluation has resulted in Council booking a net asset valuation increment of $47.3 million which has been transferred to the asset revaluation reserve.
- Cash and investments decreased by $3.4 million from $75.4 million in 2020/21 to $72 million in 2021/22. This decrease is largely due to the acceleration in the delivery of the capital program and the drawdown of funding that was set aside in prior years for the progression of carry over projects.
- Net borrowings increased by $1.6 million from $15.7 million in 2020/21 to $17.4 million in 2021/22.
- $36 million has been expended against the capital works program of which $34.9 million has been recognised as capital expenditure. The remaining $1.1 million has been expensed as operational expenditure.

Two key factors have significantly influenced Council's Performance Statement results; the gifting of library assets to MYLI and a sector wide downturn in the Community Satisfaction Survey results. Despite this, Council's overall performance is solid with strong results in waste diversion, animal management and food safety. The Performance Statement also reflects the work done to enhance operational efficiency with increased demand for service largely absorbed.

The Financial Report and Performance Statement were reviewed at an Audit Committee Meeting held on 7 September. Noting that the statements are still subject to final review by the Victorian Auditor General (VAGO), the Audit Committee has recommended that provided there are no material changes following the Victorian Auditor General's Office (VAGO) review, the relevant Councillors sign off on the final statements subject to the following:

- Receipt of the final Closing Report from VAGO
- Sign off by the Chief Executive Officer and Principal Accounting Officer of the management representation letter which includes a representation that 'no events have occurred subsequent to the balance sheet date that would require adjustment to, or disclosure in, the financial report.'

Sustainability Implications

There are no sustainability implications associated with this report.

Finances

The costs associated with the development of the 2021/22 Financial Statements have been factored into the operating budget of the Finance Department. The main costs are internal resources in preparing the statement and VAGO auditing fees.

Stakeholders

Council is responsible for the preparation of the statements. The Auditor General is responsible for auditing the statements and providing audit reports which are included in Council's Annual Report. Once finalised, the Annual Report becomes a public document.

Conclusion

Before Council considers and approves the financial and performance statements 'in principle', the Audit Committee reviews and discusses the statements, with the Auditor present. The Committee then makes a recommendation to the Council as to whether the Council should approve the statements 'in principle'.

Once Council approves the statements 'in principle' and authorises two Councillors to sign the statements, the statements are presented to the Auditor General for the issuing of audit certificates. These certificates will be published along with the statements in the Annual Report.

A copy of the Annual Report for 2021-2022 will be presented to Council for the October 2022 meeting.

Council needs to adopt the recommendation below in order to finalise the 2021-2022 financial and performance statements.

Recommendation

That Council:

1. **Approves 'in principle' the draft Annual Financial Statements and the draft Performance Statement for the year ended 30 June 2022, to be submitted to the Auditor for reporting on the audit;**
2. **Authorises the Principal Accounting Officer to make any subsequent changes to the statements as necessary to meet the Auditor-General's requirements; and**
3. **Nominates and authorises the Mayor, Councillor Michael Whelan and Deputy Mayor Councillor Leticia Laing to certify the statements in their final form on behalf of the Council.**

Attachments

AT-1	Bass Coast Financial Report 2021-2022	46 Pages
AT-2	Bass Coast Performance Statement 2021-2022	21 Pages

Council Decision

Moved: Cr. David Rooks / Seconded: Cr. Brett Tessari

That the recommendation be adopted.

CARRIED

H.3 Planning Application - 190227 - 85 Thompson Av Cowes - Development of the land for a four storey hotel and apartment complex and a reduction in car parking

File No: **CM22/505**
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:	190227 / VCAT P144/2022
Applicant:	RE King Homes Pty Ltd
Land:	85 Thompson Avenue, Cowes
Proposal	Development of the land for a mixed use four storey building and the reduction in car parking spaces associated with a residential hotel, retail and food and drink premises, and dwellings
Planning controls:	Clause 34.01 Commercial 1 Zone Schedule (C1Z) Clause 43.02 Design and Development Overlay Schedule 11 (DDO11)
Planning permit triggers:	Clause 34.01-4 (C1Z) – A permit is required to construct a building or construct or carry out works Clause 43.02-2 (DDO11) – A permit is required to construct a building or carry out works Clause 52.06-5 Car Parking – A permit is required to reduce the statutory car parking rate (29 space reduction) No planning permission is required for the use of the land for food and drink premises, retail premises, residential hotel or dwelling.
Notification and submissions:	Notified at direction of VCAT – 6 submissions to amended plans received.
Key planning considerations:	Neighbourhood character Built form and height Apartment standards Interface with the Cowes Cultural Centre Car parking supply

Recommendation:	That Council advise VCAT and all parties that it supports the amended application, subject to conditions.

Reason a Council Decision is required

This application was refused by Council at the 15 December 2021 Council Meeting. The application at that time was proposing a five storey mixed use development and a reduction in car parking. The building proposed to comprise a residential hotel, retail and food and drink premises and dwellings. The plans presented to Council in December 2021 are provided as attachment one (AT-1), The minutes of the meeting are provided as attachment two (AT-2).

The application was refused on the following summarised grounds:

- The proposal did not provide an appropriate number of car parking spaces requesting a reduction of 40 car spaces.
- The proposed design and height was excessive in the Design and Development Overlay Schedule 11 (DDO11). The DDO11 has a preferred height of three storeys (11 metres) and five storeys (17.1 metres) had been proposed.
- Neighbourhood character concerns.
- Limited landscaping opportunities.
- Minimal waste management considerations.

Since the decision of Council, the refusal issued by Council has been appealed to VCAT. Of the 23 original objectors to the application, eight Statement of Grounds were received to VCAT (see AT-4).

Two Compulsory Conference sessions (mediation) have been held through VCAT without a resolution being achieved.

Following the second mediation session, the permit applicant applied to VCAT to amend the development to substitute revised plans for consideration.

This report seeks Council's position on the amended development prior to the scheduled VCAT hearing, commencing on 3 October 2022 for 3 days.

It is recommended that Council inform VCAT and other parties that it supports the application on the basis of the amended plans, subject to the conditions outlined in this report.

Original proposal

This application originally proposed to develop the land for a five storey mixed use development, comprising of a basement level and five floors and rooftop deck (B, G, 1, 2, 3, 4), with a maximum height of 17.1m from natural ground level (excluding rooftop services and lift overrun), broadly comprising (see Attachment 1):

- Basement level containing 46 car parking spaces and building services,
- A ground floor commercial area containing two (2) food and drink premises fronting Thompson Avenue and four (4) retail tenancies with a pedestrian interface to the Cowes Cultural Hub precinct to the south, ranging in size from 95sqm and 132sqm;

- Eleven (11) apartments across the first to third floor (six 2 bedroom (three with separate studies) and five 3 bedroom (one with a separate study); and
- A forty-six (46) room hotel.

Summary of changes proposed

The amended plans have proposed the following:

- Removal of the fifth storey and now the recession of the fourth storey with a proposed height of approx. 13.7 metres to the top of the fourth storey. It is noted that the overall height to the roof top services is still at 17.1m. This is to allow for the lift overrun and other services.
- A change in materiality to external colours, finishes and materials
- 43 Hotel Rooms proposed (previously 46 Hotel rooms)
- 5 residential apartments proposed (previously 11 residential apartments)
- The following mix of uses and arrangement:
  - Ground floor: food and drink and retail spaces (712sqm). Hotel lobby, gym and pool at ground floor to the rear of the site.
  - Second floor: 14 Hotel rooms and 2 residential apartments (3 bedrooms)
  - Third floor: 15 Hotel rooms and 2 residential apartments (3 bedrooms)
  - Fourth floor: 13 Hotel rooms and 1 residential apartment (3 bedrooms)
- Basement car park proposed with 44 car spaces (previously 46)
- A car parking reduction of approximately 29 car spaces required (previously 40 car space reduction)
- Integration landscape and access works proposed to the Cowes Cultural Centre

Plans are found at Attachment three (AT-3) and are detailed as follows:

- Development Plans Prepared by 2BScene Design, dated 30/06/2022, project no. 85THO, pages TP01 to TP22)
- Concept Landscape Plans Prepared by Urbis (Darren Atkinson), dated 30.06.2022, Job No. P0030711, Rev A, pages 1 to 4
- Statement of Changes for VCAT Amended Plans dated 30 June 2022



Figure 1 - Proposed development artist impression of revised proposal from Thompson Avenue

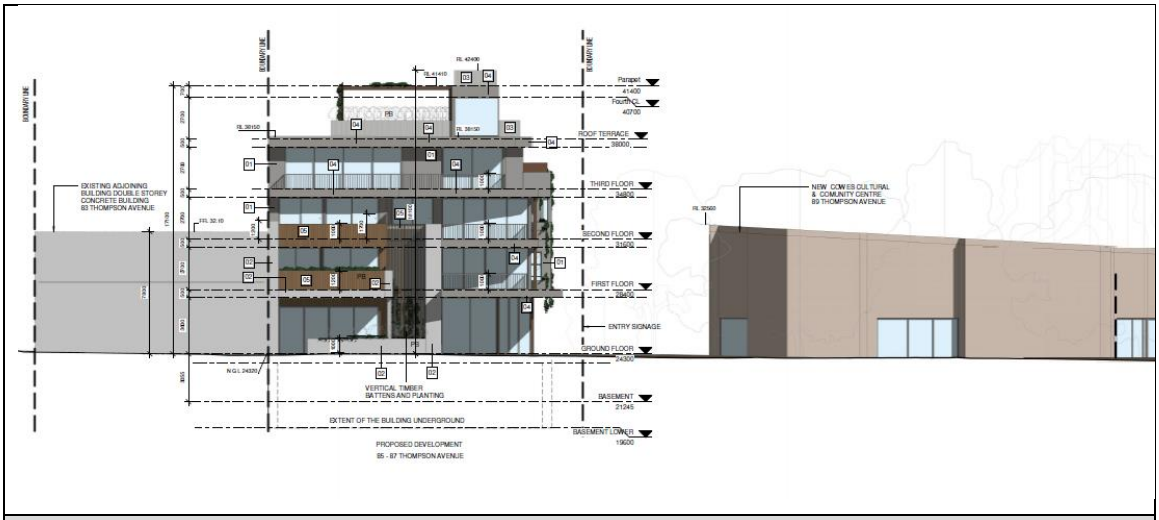


Figure 2 – Streetscape elevation, including Cowes Cultural Centre



Figure 3 – Modelling of development from the rear

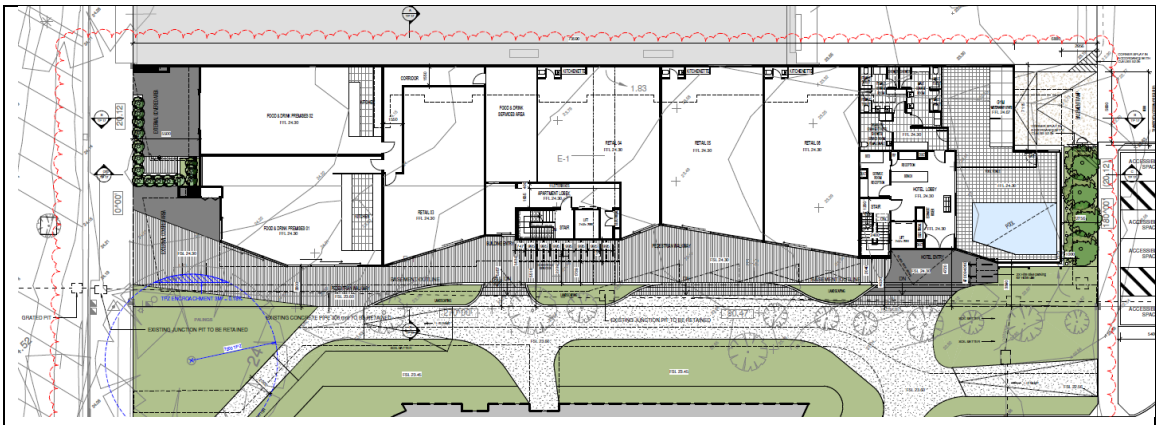


Figure 4 – Ground floor plan (see Attachment for details and additional floors)

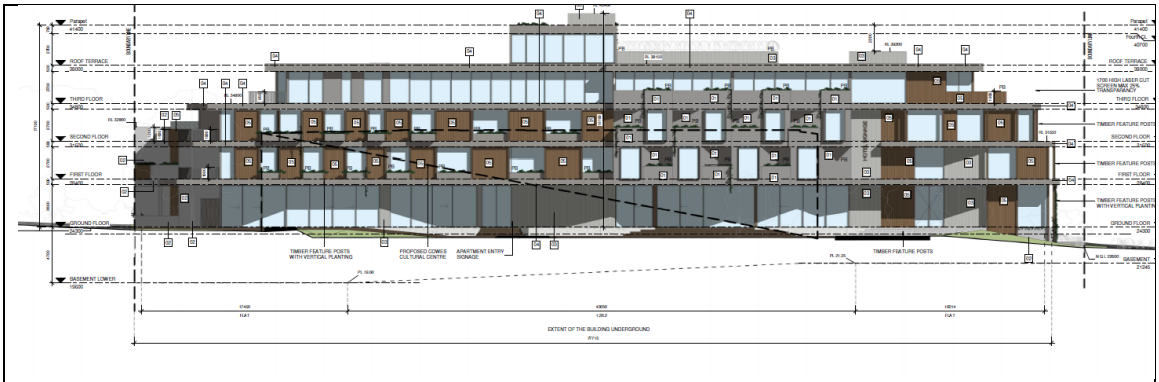


Figure 5 – South elevation (looking north from Cowes Cultural Centre)

Consultation

Pursuant to the VCAT Practice Note PNPE9 (Amendment of plans and applications), the amended proposal was required to be re-advertised to:

- Council.
- Referral authorities.
- Other parties to the Tribunal proceeding.
- Persons who had filed a Statement of Grounds with the Tribunal.
- Original objectors to the application.
- Persons who were notified of the original permit application.

In response to notification, eight Statement of Grounds have been lodged with the Tribunal.

A copy of each Statement of Grounds is included in Attachment 4 (AT-4).

Concerns raised in Statement of Grounds

The Statements of Grounds raised concerns of planning merit, which are summarised into the following themes:

- The proposal detracts from the Cowes coastal and village character/overdevelopment of land
- The development does not achieve the objective of creating an urban environment that contributes to a sense of place and cultural identity, the design does not include features that consider the character and context of Cowes.
- The height of 4 storeys exceeds the height specified in the DDO11 of 3 storeys (11m).
- Loss of car parking and inadequate car parking provided on site and use of car stackers.
- The development is not appropriate with regards to ESD matters.
- Poor amenity of hotel rooms/lack of sunlight and energy usage.
- Reliance upon artificial light and ventilation.
- External plant and equipment.
- Insufficient landscaping proposed.

These concerns were largely addressed in the original assessment and/or further in this report, however those that are not otherwise addressed in the table further in this report.

It is noted that aspects of the development do not require planning consideration or are exempt from notice requirements and review rights. These are summarised in the following table:

Table 1 *– Permit and notice matrix*		
Proposal	**Permit required?**	**Notice required?**
Development – Zone	Required	Exempt from notice and review (appeal) rights
Development – DDO11	Required	Required
Reduction in car parking	Required	Required
Use - food and drink premises	No permit required – Section 1 (as of right) use in C1Z	
Use – retail premises		
Use – residential hotel (accommodation)	No permit required - meets the Section 1 (as of right) with no frontage to Thompson Avenue	
Use – dwelling (accommodation)		

Referrals

The following table outlines the referral requirements of this application.

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
Regional Roads Authority	No comment received within the statutory timeframe
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Revenue Services	No objection to the application
Development Services	No objection with conditions
Major Projects	Discussions were held with Council's Major Projects Team in relation to the integration of the proposed development with the Cowes Cultural Centre (CCC) site that adjoins to the south of the subject site. The architect and landscape architect for the CCC project have been involved in the discussion related to the amended design and are generally supportive. Of particular note is the integrated landscape response between the two sites being 85 Thompson Av, and the CCC site. This is further discussed in the body of the Council Officer assessment section of this report.

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

- Clause 11 - Settlement
  - Clause 11.01-1R Settlement – Gippsland
  - Clause 11.01-1S Settlement
  - Clause 11-01-1L-01 Settlement

- Clause 11-01-1L-03 Cowes and Silverleaves
- Clause 11.03-1L Cowes activity centre
- Clause 11.03-1S Activity centres

- Clause 15 – Built Environment and Heritage
  - Clause 15.01-1S Urban design
  - Clause 15.01-2L Building design
  - Clause 15.01-2S Building design
  - Clause 15.01-1L-01 Urban design in Bass Coast
  - Clause 15.01-1L-02 Landscape design
  - Clause 15.01-5S Neighbourhood Character
  - Clause 15.01-5L Neighbourhood Character
  - Clause 15.02-1S Energy and resource efficiency
- Clause 16 – Housing
  - Clause 16.01-1S Housing Supply
  - Clause 16.01-2S Housing Affordability
- Clause 19 - Infrastructure
  - Clause 19.03-2S Infrastructure Design and Provision
  - Clause 19.03-3L Integrated Water Management
- Clause 17 – Tourism
  - Clause 17.04-1S Facilitating tourism
  - Clause 17.04-1L Facilitating tourism
  - Clause 17.04-1R Tourism – Gippsland
  - Clause 17.01-1S Diversified economy
  - Clause 17.01-2S Innovation and research
- Clause 18 - Transport
  - Clause 18.02-4S Car parking
  - Clause 18.02-1S Sustainable personal transport
- Clause 19 – Infrastructure
  - Clause 19.03-5S Waste and resource recovery

The amended application is considered to adequately strike a balance between the policy objectives and strategies of the Planning Policy Framework. While the proposal is larger than that envisaged by the DDO11, it is considered the amended development provides an appropriate interface to Thompson Avenue and the Cowes Cultural Centre, an appropriate mix of land uses for the Cowes Activity Centre and an improved design responses that reduces the visual bulk of the development while improving landscape integration with the Cultural Centre. The sought car parking

reduction has been reduced, with the balance of the reduction considered acceptable in light of the central location of the site within Cowes.

Zone Assessment

Clause 34.01 Commercial 1 Zone Schedule (C1Z)

The application triggers the need for a planning permit under the zone as a permit is required to construct a building or carry out building or works.

The purpose of the Commercial 1 Zone is:

- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

The use of the land for dwelling and residential hotel (accommodation) does not require a planning permit. A dwelling is included in Section 1 of the table of uses (clause 34.01-1) and a permit is not required to use land for the purpose of a dwelling, subject the following condition:

- Any frontage at ground floor level must not exceed 2 metres. Planning Case Law (*The Richmond Henty Hotel v Glenelg SC [2006] VCAT 866 (16 May 2006))* interprets frontage as frontage to the street, which in this context is Thompson Avenue. As neither use has frontage exceeding 2m to the street, no permit is required for either of these uses.

The use of the land for retail premises, including food and drink premises, does not require a planning permit or planning consideration as they are included within Section 1 as of right uses.

Clause 58 Apartment Development Standards must be assessed and considered in the decision making process. This is discussed below in this report.

The application is generally consistent with the objectives of the zone, as it would contribute to the creation of a vibrant mixed use centre, containing retail uses and provides for residential uses at a higher density, and creates active frontages.

The decision guidelines of the zone require a variety of matters to be considered, including loading and unloading of supplies, waste removal, and storage and the provision of car parking supply.

A Waste Management Plan, Drainage Design Plan, and Traffic Engineering Assessment were provided with the original application. Due to the proposed modifications to the development, consequential modifications will be required to these documents to ensure consistency and enforceability into the future.

Clause 58 Apartment Developments

The proposal is able to achieve an on balance satisfactory level of compliance with the objectives and standards and decision guidelines of Clause 58, in particular:

- Clause 58.02 (Standards D1 – D5)
    - The amended proposal, while 4 storeys (plus rooftop) is considered responsive to the context of the site and surrounding area, and on balance will provide a positive enhancement to the surrounding streetscape.

- The site can be readily provided with utility services and infrastructure.
- Dwellings are orientated to Thompson Avenue and will provide a sense of passive surveillance and integration to the street.

- Clause 58.03 (Standards D6 – D13)
  - Building orientation is appropriate for solar energy, with dwellings having access to north and west facing light.
  - Cooling and sustainability are discussed further in this report.
  - Further landscaping is provided with the amended development, including integration with the Cowes Cultural Centre.
  - Accessway locations are appropriate and maximise pedestrian safety around the site.
  - Parking areas are appropriate and meet the requirements of Clause 52.06.
  - Stormwater will be managed in accordance with WSUD principles, with this ensured through permit conditions.
- Clause 58.04 (Standards D14 – D17)
  - Building setbacks meet the Standard of D14 and provide appropriate daylight access, protection of private open space and respond to the character of the area as discussed in this report.
  - No internal overlooking can occur from the development as proposed due to extensions of roofing over balcony areas.
  - Noise to the dwellings will be typical of apartment style living in the Cowes Activity Centre, and will not be unreasonably affected by industry, roads or railways.
- Clause 58.05 (Standards D18 – D21)
  - Entrances to apartments and the building are visible, easily identifiable, provide a sense of address and delineate access points to residential and non-residential areas.
  - Each dwelling is provided with a balcony that meets the minimum area and dimension requirements of D20.
  - Storage areas are provided in excess of that required by Standard B21.
- Clause 58.06 (Standards D22 – D25)
  - Public, communal and private areas are readily discernible, functional and capable of efficient management.
  - Site services can be accommodated at ground floor, with permit conditions to require particular details for mailboxes and utilities as required.
  - Waste is managed communally within the basement, which is considered appropriate given the small number of residences and servicing of hotel rooms.
  - Exterior walls are considered to be durable and compatible with the surrounding environs.

- Clause 58.07 (Standards D26 – D29)
  - All bedrooms and living areas achieve the minimum dimensions for a 3 bedroom apartment.
  - Room depths are compliant with the Standard with permitted variation for the living/dining/kitchen areas.
  - Appropriate sized windows are provided to all habitable rooms.
  - Appropriate cross-ventilation can be achieved.

The issues of environmental sustainability and waste management are outlined further in this report.

Overlay Assessments

Clause 43.02 - Design and Development Overlay Schedule 11 (DDO11)

The purpose of the overlay is to identify areas which are affected by specific requirements relating to the design and built form of new development.

Schedule 11 to the Design and Development Overlay Cowes Activity Centre

The purpose of this schedule is to:

- To create a coherent coastal village character through consistent built form within each precinct of the Activity Centre and to promote design excellence.
- To facilitate development in commercial and mixed use areas which fosters street activation.
- To ensure development fronting The Esplanade and in residential areas does not detract from the landscape significance of Cowes, as viewed from the water, foreshore, and beach.
- To facilitate a greater diversity and density of housing and accommodation.
- To encourage a transition in built form at the northern and southern edges of the Activity Centre.

A planning permit is required under this overlay to construct a building or carry out works.

This schedule sets out particular requirements that apply to an application to construct a building in order to achieve the above objectives, as follows:

- Development should be in accordance with the built form requirements specified in Table 1. The site falls within Precinct 2 (Thompson Avenue and Activity Centre) area, which specifies a preferred height of 11 metres (3 storeys), street wall height of 8 metres (2 storeys), 0 metre street setback and 5 metre preferred upper level setbacks above the preferred street wall height.
- Development must provide continuous awnings:
  - At its frontage to The Esplanade, between Warley Avenue and Bass Avenue.
  - At its frontage to Thompson Avenue, between The Esplanade and Settlement Road, with the exclusion of the church and community centre sites at the intersection of Thompson Avenue and Church Street.

- Development should feature quality architecture, be highly articulated and provide distinctive facades to create a visually interesting interface with the streetscape.



Figure 6 – Areas subject to DDO11

The amended application is considered on balance to achieve the objectives and requirements of this overlay. The reduction in bulk and improved form at the upper levels provides greater transition in built form for the surrounding area, with the lower levels and dwellings broadly achieving the objectives of fostering street activation, providing diversity and density of housing and accommodation. The amended materials palette is more consistent with the coastal character of Cowes and consistent with the design of the Cultural Centre.

In relation to height, the reduction of one storey is considered acceptable in the circumstance where the height in DDO11 is expressed as a preferred height and not a mandatory height.

Particular Provisions

Clause 52.06 Car Parking

The intent of this provision is to ensure that an appropriate number of car parking spaces have been provided, having regard to the demand likely to be generated by the proposed development.

The proposed car park complies with the design standards of Clause 52.06, including accessways, space dimensions, gradients and mechanical car parking (car stackers), subject to alterations. Modifications have been proposed to the Transit Centre Car Park to accommodate the 6.1m crossover and all spaces have been widened to a minimum 2.6m as required by this provision and as identified as an issue in the previous application plans.

This provision sets out a statutory car parking requirement in relation to each use, which for the proposal was calculated as follows:

Use	Size/no	Statutory Parking Rate as per Scheme	Car Parking required	Car Parking proposed to be provided	Shortfall
Residential					
3 bedroom apartment	5	2 spaces per dwelling	10	11	+1
Visitors	5 apartments	1 space to every 5 dwellings	1	0	-1
Subtotal			11	11	0
Residential Hotel					
Rooms	43 rooms (assuming maximum occupancy of 86 patrons)	0.4 per patron	34	26	-8
Commercial					
Retail	712m2 (across 6 tenancies)	4 to each 100sqm of leasable floor area	28	7	-21
Food and drink					
TOTAL			**73**	**44**	**-29**

A permit is required to reduce the number of car parking spaces required. The proposal provides for 44 car parking spaces in the basement, and the statutory car parking rate is for 73 car parking spaces, and a reduction in 29 car parking spaces is therefore sought.

The Traffic Engineering Assessment included with the application submitted that the projected demand can be accommodated by the nearby supply of car parking, including nearby supermarkets, on street car parking, and the Transit Centre Car Park.

While the Traffic Engineering Assessment has not been updated in light of the revised plans (and therefore criticisms of it in the previous assessment remain valid), the amended proposal provides for a reduced demand of 11 car parking spaces than was considered in the original proposal.

The assessment of the original application fairly criticised the earlier proposal for the cumulative impacts of the reductions sought, in particular the reliance on public parking for uses that will have longer stays (Dwellings and Hotel). The proposal provides a greater number of spaces for the Hotel, with a shortfall of 8 spaces now proposed as compared to the previous 14, and now meets the statutory car parking rate for the dwellings. This is considered a marked improvement in the proposal, as there is a much lower potential for overflow parking into the public street network or car parking areas for visitors to the site for long periods of time.

The reduction for the retail and food and drink premises remains at 21 spaces, however as was acknowledged in the original assessment of the application, it is anticipated a portion of patrons to these uses are likely to arrive by means other than vehicle, such as on foot from nearby dwellings or accommodation, and partake in multi-trip visits. Visits to such uses are shorter in duration than the hotel and dwellings, and for most like premises in Cowes are absorbed through public/street parking.

While the numeric reduction for the proposal is still notable, the apportionment of car parking spaces as a result of the amendments is considered appropriate, and on balance the proposed reduction of car parking now proposed can be justified.

Clause 52.34 Bicycle Spaces

The purpose of this provision is to:

- Encourage cycling as a mode of transport
- Provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

Pursuant to Clause 52.34 the proposal has a statutory bicycle parking requirement for 13 spaces. A total of 16 are accommodated on the ground floor level outside of the entry on the southern elevation, with an additional 3 in the basement for apartments and 2 for retail. The proposal complies with the rate, however provision is not made for lockable facilities for employee spaces, nor showers and change rooms required by Clause 52.34-6. This can be addressed by way of permit condition.

Use	Size/no	Employee/ Resident Bicycle Rate as per Scheme	Visitor/ Shopper/ Student Bicycle Rate as per Scheme	Bicycle facilities required	Bicycle facilites proposed to be provided	Shortfall
	Residential					
3 bedroom apartment	5	1 space to every 5 dwellings	1 space to every 10 dwellings	2	3	+1
	Residential Hotel					
Rooms	43 rooms	1 space to every 10 rooms	1 space to every 10 rooms	8	16	+8
	Commercial					
Retail Food and drink	712m² (across 6 tenancies)	1 space to each 300m² of leasable floor area	1 space to each 500m² of leasable floor area	3	2	-1
TOTAL				**13**	**21**	**+8**

Clause 52.29 Land adjacent to the Principal Road Network

The land abuts a Road in a Transport Zone 2, Thompson Avenue. There is currently an existing crossover on Thompson Avenue. The application does not propose any vehicle access from Thompson Avenue. It is considered that the proposal, which no longer proposed access, does not alter (intensify) access arrangements, and thus no permit is required under this provision.

Key issues and considerations

Apartment guidelines

The amended proposal is considered to achieve a satisfactory level of compliance with all objectives and decision guidelines of Clause 58.

Waste management

The Waste Management Plan (WMP) was provided with the application and provides estimates of waste generated, bin sizes, and collection points. A private contractor is proposed to undertake the waste collection.

As noted in the original assessment, there are shortfalls with this WMP, however as a consequence of the amended development, lesser waste generation will result from the site and additional area is available for waste storage, which will be required to cater for the transition to a 'four stream waste and recycling system' as required by the Victorian State Government and consistent with Bass Coast's Climate Change Action Plan 2020-2030 which seeks to reduce waste and emissions.

A revised WMP will be required to be submitted, that addresses ResCode Standard B23 and ensures appropriate collection from the site in light of this.

Environmental sustainability

The original proposal achieved a BESS Score of 51%, a nominal pass of 1%. The amended proposal provides opportunity for greater environmental sustainability outcomes than that originally proposed; including a rooftop solar system and greater bicycle facility provision and undercover spaces for residents. Other shortfalls of the original proposal (including EV charging infrastructure, rainwater re-use and waste) can be addressed as a condition of approval. These modifications are considered to be consistent with the Planning Policy Framework Clause 15.02-1S Energy and resource efficiency and *Bass Coast's Climate Change Action Plan 2020-2030* which strives for environmental considerations. The previous concerns in this space are therefore considered to have been (or can be through conditions) satisfactorily addressed.

Car parking and traffic movements

The assessment of the proposed reduction of 29 car parking spaces, while still large, is a significant improvement on the earlier proposal, in large part due to the additional provision of parking spaces for longer term uses such as the dwellings and hotel; with these uses seeking an 8 space reduction from the statutory car parking rate. It is likely that visitors to the retail and food and drink premises will utilise public car parking in any event, and visit a number of premises within Cowes as a multi-purpose trip. This is common place for visitors to Cowes and can be accommodated in the surrounding public car parking and street network. While in peak times there will be an increase in demand, it is not considered reasonable to require additional car parking on site in circumstances where the peak demand is not representative of demand across the year, and where the reduction is primarily short for uses that have a high turnover of patrons rather than the uses that will occupy car parking spaces for an extended period of time.

Built form and design response

The amended development is considered to respond to its context in relation to the character and cultural identity of the area. Cowes has a strong sense of place and cultural identity as a village with coastal character. This is reflected in the design outcomes of Clause 15.01-1L-01 Urban design in Bass Coast, which requires that *development is designed to reflect the coastal setting and coastal architecture through built form and materiality*, and more specifically, Schedule 11 to the Design and Development Overlay that has the purpose to *create a coherent coastal village character through consistent built form within each precinct of the Activity Centre and to promote design excellence*.

In response to the above, the amended built form and design is considered to be consistent with the design and materiality of coastal architecture sought to acknowledge the coastal and village character of Cowes. While the development is larger than what is preferred under the DDO11, the development would support and integrate with the Cowes Cultural Centre in a context that is not shared by many of the properties within the same precinct of DDO11.

DDO11 provides for multiple precincts across the Cowes Activity Centre, each with a specific preferred height, which its purpose is to achieve a coherent character through consistent built form and a transition in built form at the northern and southern edges of the activity centre. The proposed height of 4 storeys (and recessed roof terrace) will be more prominent than those structures in the immediate context of the streetscape of 2 storeys on either side, however it is likely that these will be re-developed over time to 3 storeys as envisaged by the DDO11. The scale of the built form in context with the Cultural Centre will provide a transition of built form when compared to the preferred built form of 3 storeys in the area. The development achieves many of the design objectives of the DDO11, including an active frontage with passive surveillance from the upper floor residential areas, a greater diversity of short and long term accommodation options for the Cowes Activity Centre and variation of materials and setbacks at the street interfaces to provide a sense of articulation. While there is still massing of the building, particularly on the long elevations, the amended development has made a concerted effort to provide visual interest, avoid sheer walls and integrate the built form into the surrounding context. A robust landscaping response and integration with the Cultural Centre will further engrain the development into the surrounding context and allow it to be an appropriate example of built form diversity and interface between public and private land in this area.

The architect and landscape architect engaged for the Cowes Cultural and Community Centre (CCCC) have been involved and consulted with in the mediation process that has resulted in the amended design. They have both considered the amended design and are generally supportive of the proposal that now has limited the built form impacts to the CCCC.

Landscape integration works between the Cowes Cultural and Community Centre

As part of the mediation process through VCAT, the applicant and Council Officers have discussed opportunities to better integrate the subject site with Cowes Cultural and Community Centre (CCCC).

The Council's architect and landscape architect for the CCCC have been involved in the discussions and overseen the concept landscape plan that is now provided. See figure 7 below.

The response is considered to be satisfactory outcome to the integration of the two sites. The access way pathways will provide for pedestrian connectivity opportunities. The applicant/developer has agreed that all landscape works indicated on the concept plan as those related to the CCCC, will be paid for by the developer. This will be achieved via permit conditions and an agreement on title. Council will still be required to deliver the works.

Detailed landscaping conditions have been sought based on advice from Council's Major Projects Team who have been managing the CCCC project.



Figure 7 – Concept landscape plan for integrated landscape works

Concerns Raised by Submitters to the VCAT amended proposal:

Submitter Theme	Council Officer Response
Poor amenity of hotel rooms/lack of sunlight and energy usage	The Bass Coast Planning Scheme does not have specific standards for Hotel rooms, however the amended development is considered to provide rooms with appropriate space and usability for their purpose as a short-term accommodation option.
Reliance upon artificial light and ventilation	Habitable rooms for both the dwellings and hotel rooms are provided. While some areas will require artificial light or additional ventilation, this is not uncommon in a multi-storey building.

The development is not appropriate with regards to ESD matters	The amended proposal is considered to achieve an improved ESD outcome compared to that originally assessed by Council. Recommended permit conditions address a number of ESD matters and are considered to achieve an appropriate outcome.
Dependence on car stackers	The use of car stackers can be considered and will be required to be managed by the relevant building manager. The stackers are only proposed for residential spaces - whether they are used as permanent residences or as a holiday rental is not a planning consideration for their use.
Insufficient landscaping proposed	Permit conditions are recommended for a revised landscape plan, with integration to the Cultural Centre.

Conclusion

The amended proposal is consistent with the Bass Coast Planning Scheme.

The amended design response, while being above the preferred height of the DDO11 is considered responsive to its immediate surrounds, with the modifications proposed addressing the grounds of refusal issued in relation to the design response, car parking, sustainability and waste and Clause 58. The amended design provides for integration and an appropriate transition of built form to the Cowes Cultural Centre.

For the reasons outlined in this report, it is considered that the amended proposal will on balance achieve a net community benefit, and it is recommended that Council resolve to advise VCAT that it supports the amended proposal, subject to the following conditions:

Recommendation

That in relation to planning permit application 190227 Development of the land for a mixed use four storey building and the reduction in car parking spaces associated with a residential hotel, retail and food and drink premises, and dwellings located at 85 Thompson Avenue Cowes, Council resolves to advise the Victorian Civil and Administrative Tribunal that it supports the amended application, 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 prepared by 2BScene Design, Revision 8 dated June 2022, but modified to show:**

a. **Demonstrated compliance with ResCode Standard D18 for all bathroom areas and entrance doors of apartments 1-5.**

b. **Demonstrate a pedestrian access width along the southern title boundary of the subject line that meets DDA and Australian Standards and that is wholly contained within the subject title.**

c. **Cross section of the basement carpark entry ramp demonstrating sufficient clearance (headroom) for the proposed waste collection vehicle with a wheel base of 3.4m. Clearance to be shown at change of grade. Consideration for any necessary overhead services and lighting to be included in the proposed 2.2m clear zone.**

d. **Amended WMP.**

e. **Landscaping as shown on the approved landscaping plan required by Condition 3 including conditions 3 g) i. to xiv.**

f. **The location and type of all outdoor lighting.**

g. **Drawing to AHD levels indicated on all elevation and floor plans.**

h. **The recommended changes from the Environmental Sustainable Design report in accordance with Condition 11**

i. **The location of an Electric Vehicle Charging station in the parking area if practically suitable for the development**

j. **The Tree Protection Measures demonstrated in accordance with Condition 5**

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

Layout not to be altered – Development

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

Amended landscaping plan

3. **Concurrent with the submission of plans required by Condition 1 and before the commencement of buildings and works, a detailed Landscape Plan to the satisfaction of the responsible authority must be submitted to, and approved by the responsible authority. When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan must be generally in accordance with the concept Landscape Plan prepared by Urbis (Darren Atkinson), dated 30.06.2022, Job No. P0030711, Rev A, pages 1 to 4 incorporate:**

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

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

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

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

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

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

g. For the integrated landscaping works between the Cowes Cultural Community Centre and 85 Thompson Av, specifically the following must be provided for shown in detail on the landscape plan:

h. Balustrade locations and details (along the edge of the ground floor podium structure).

i. Proposed architectural treatment to any exposed face/side of the basement/ground floor podium structure

ii. Handrail types and locations on steps (to ensure compliance with AS1428).

iii. Proposed handrail detail.

iv. Tactile ground surface indicators locations and types.

v. Reduced levels at top and bottom of all steps.

vi. Confirmation of step riser / tread.

vii. Confirmation of correct number of steps to meet proposed and existing levels.

viii. Confirmation of step material and detail.

ix. Indication of steps where they are feathered into existing levels.

x. Reduce levels at top and bottom of all ramps.

xi. Crossfalls along all pavements (to ensure compliance with AS1428).

xii. Proposed DDA access route from nominated disabled parking bays.

xiii. Detail of proposed garden bed edging.

Cash contribution for integrated landscape works

4. Prior to the commencement of any buildings and works, a detailed cost estimate for all the integrated landscaping works identified between the Cowes Cultural Community Centre and 85 Thompson Av must be paid to Bass Coast Shire Council.

Tree Protection Measures

5. **Before the development starts, including any related demolition or removal of vegetation, a Tree Management Report (TMR), prepared by a suitably qualified arborist, to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. This report must be made available to all relevant parties involved with the site.**

   The Tree Management Report must include a Tree Protection Plan (TPP) in accordance with AS4970-2009 Protection of Tees on Development Sites. Both the TMR & TPP must be part of one document that must be named as the Tree Management Report (TMR):

   The TMR must include:

   a. **details of Tree Protection Zones, as per AS4970-2009, for all trees to be retained on the site and for all trees on neighbouring properties;**
   b. **protection measures to be utilised and at what stage of the development they will be implemented;**
   c. **appointment of a project arborist detailing their role and responsibilities;**
   d. **stages of development at which the project arborist will inspect tree protection measures and;**
   e. **monitoring and certification by the project arborist of implemented protection measures.**

Modifications to the Tree Management Report

6. **Any modification to the report must be approved by the project arborist. Such approval must be noted and provided to the responsible authority within seven days.**

Adherence to Tree Management Report

7. **All actions and measures identified in the Tree Management Report must be implemented.**

Completion and maintenance of landscaping

8. **Prior to the issue of an occupancy permit for the development, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority. The landscaping must thereafter be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced. This does not include the landscape works identified for the Cowes Cultural Community Centre.**

Section 173 Agreement

9. **Before the commencement of works owner/applicant must enter into an agreement with the responsible authority under section 173 of the *Planning and Environment Act 1987*. The agreement must be in a form to the satisfaction of the responsible authority and the**

owner/applicant must be responsible for the expense of the preparation and registration of the agreement, including the responsible authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:

10. **Public Open Space contribution and landscaping cash contribution that supports the delivery of condition 1 (g) and condition 4 of planning permit 190227.**

Environmentally Sustainability Design Report

11. **Prior to the endorsement of plans pursuant to Condition 1, a Sustainability Management Plan (SMP) must be submitted to and approved by the responsible authority. The plan must include:**
    a. **Water Sensitive Urban Design (WSUD) initiatives to comply with the best practice performance objective set out in the Urban Stormwater Best Practice Environmental Management Guidelines, Victoria Stormwater Committee 1999;**
    b. **A STORM or MUSIC model report demonstrating Best Practice stormwater management to the satisfaction of the responsible authority;**
    c. **Green Star Report;**
    d. **Amended Bess Report;**
    e. **Address commercial areas through the provision of a Sustainable Design Scorecard report or equivalent;**
    f. **Preliminary building energy ratings to align with plans;**
    g. **Demonstration that stormwater detention volume requirements are in addition to stormwater retention; and**
    h. **Clearly state that in addition to producing a Building User's Guide that it will be provided to occupants.**

    All to the satisfaction of the responsible authority.

12. **Prior to the occupation of any dwelling approved under this permit, an Environmentally Sustainable Development (ESD) Management Plan report, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the responsible authority. The report must be to the satisfaction of the responsible authority and must confirm that all measures specified in the Sustainability Management (SMP) have been implemented in accordance with the approved Plan.**
13. **When endorsed the ESD report will form part of the permit and must be maintained to the satisfaction of the Responsible Authority**

Amenity

14. **No buildings or works are to be constructed over any easement or other restriction on the land or any sewers, drains, pipes, wires or cable under the control of the public authority without the prior written consent of the relevant authority and the responsible authority.**
15. **The areas must be constructed and drained to prevent diversion of flood or drainage waters, and maintained in a continuously useable condition to the satisfaction of the responsible authority.**
16. **Car spaces, access lanes and driveways must be kept available for these purposes at all times.**
17. **The dimensions and layout of the proposed access and parking areas must be in accordance with the requirements of Clause 52.06 of the Bass Coast Planning Scheme.**
18. **All air conditioning plant and equipment and services shall be located so as to be incorporated within the building and should not project beyond the roofline or from an external wall and appropriately located and baffled to minimise noise levels to the satisfaction of the Responsible Authority.**
19. **All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service.**
20. **The development must be managed to the satisfaction of the responsible authority, so that the amenity of the area is not detrimentally affected through the:**
    a. **Transport of materials, goods or commodities to or from the land;**
    b. **Appearance of any buildings, works or materials;**
    c. **Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;**
    d. **Presence of vermin.**
21. **All buildings and works must be maintained in good order and appearance to the satisfaction of the responsible authority.**
22. **All waste material not required for further on-site processing must be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the responsible authority.**
23. **Any poles, service pits or other structures/features on the footpath required to be relocated to facilitate the development must be done so at the cost of the applicant and subject to the relevant authority's consent.**

24. **All utility services to the subject land and buildings approved as part of this permit must be provided underground to the satisfaction of the Responsible Authority by completion of the development.**
25. **The existing footpath levels must not be raised or altered in any way at the property line (to facilitate access to the driveways and garages) unless without the written consent of the Responsible Authority**

Occupation of the development

26. **The development must not be occupied until the following works have been completed to the satisfaction of the Responsible Authority:**
    a. **The premises are connected to a reticulated water supply, sewerage, drainage and underground electricity to the requirements of the relevant servicing authority.**
    b. **Power and telephone lines to all new dwellings must be placed underground from the main point of service supplied by the relevant authority outside the boundaries of the subject land.**
    c. **The communal bin storage area must be provided for each dwelling and must be located so as not to be detrimental to the visual amenity of the neighbourhood.**
    d. **A mail box must be provided to the satisfaction of the Responsible Authority and Australia Post.**
    e. **Lighting must be provided near each front entrance of the development.**

Waste Management Plan (WMP)

27. **Prior to the commencement of any buildings and works, an amended Waste Management Plan must be submitted to and approved by the responsible authority. The WMP must be generally in accordance with the WMP submitted with the application but modified to show:**
28. **Any changes required to address the amendment to the proposal.**

Regular waste removal

29. **All waste material not required for further on-site processing must be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the responsible authority.**

Stormwater Management

30. **The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.**

Boundary walls

31. **The external faces of walls on or facing boundaries must be cleaned and finished to an acceptable standard to the satisfaction of the Responsible Authority.**

Civil Construction Plans

32. **Before the issue of a Building Permit, detailed civil construction plans must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. All construction plans submitted for approval must be consistent with this permit and must conform with the requirements of all relevant servicing authorities. The plans must be drawn to scale with dimensions and an electronic copy (PDF) must be provided. The plans must show:**

    a) **Drainage of the subject land, including levels or contours of the land (including relevant external catchments) and all hydraulic computations. The drainage should be designed generally in accordance with Flux Civil Consulting plans 20050 (revision P2 7/07/2022) The drainage plan must also be prepared generally in accordance with the requirements of the Infrastructure Design Manual (IDM) as amended and must provide for the following:**

        i. **How the land including all buildings, open space and paved areas within each lot will be drained for a 10% AEP storm event to the legal point of discharge.**

        ii. **An underground pipe drainage system conveying stormwater to the legal point of discharge and connecting into Bass Coast Shire Council's stormwater drainage system. All redundant existing property connection pipes must be noted to be removed and Council assets reinstated accordingly.**

        iii. **The provision of stormwater detention within the site and prior to the point of discharge into Bass Coast Shire Council's drainage system. The stormwater detention system must be designed to ensure that stormwater discharges arising from the proposed development of the land are restricted to pre-development flow rates.**

        iv. **Provision of over-land surcharge routes for all storm events up to the 1% AEP. This must include associated infrastructure for the safe and effective passage of stormwater flows arising from areas upstream of the subject land discharging into Bass Coast Shire Council's drainage system. Natural surface levels of adjoining land to be provided on the plans to show no obstruction of overland flows.**

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

vi. **No part of any above ground stormwater detention system is to be located within a stormwater drainage easement or a sewerage easement unless with the Responsible Authority's written approval.**

b) **Vehicle and pedestrian access and car parking to the satisfaction of the Responsible Authority including:**

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

ii. **Car parking areas and access ways on-site to be designed, constructed and sealed with an all-weather seal pavement (asphalt or concrete) to the satisfaction of the Responsible Authority.**

iii. **Car parking spaces and access aisles designed in accordance with the Australian Standard for off-street car parking AS 2890.1 - 2004 and the Bass Coast Planning Scheme.**

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

c) **Footing details of the proposed building to show:**

i. **Footings (i.e. piles) to be a minimum offset of 1 metre from Council's existing drainage pipe in the easement on the southern boundary.**

ii. **Footings transferring all loading below the angle of repose of the Council drainage pipe.**

Construction Management Plan

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

r) locations of cut and fill stockpiles;

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

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

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

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

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

ii. Best Practice Environmental Management Guidelines for Urban Stormwater;

iii. Environmental Guidelines for Urban Stormwater (EPA Publication)

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

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

Construction

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

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

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

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

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

e) **All proposed vehicle crossings and footpaths must be constructed in accordance with the endorsed plans and IDM standards,**

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

Mud On Roads

35. **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.**

36. **All commercial waste is to be collected by a private waste contractor within the property title boundary. No skip bins are permitted to be placed on the road reserve for collection.**

Time for Starting and Completion

37. **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 use and 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	Attachment 1 Decision Development Plans presented to December 2021 Council Meeting 85 Thompson Avenue Cowes 190227	20 Pages
AT-2	Minutes of the December 2021 Council Meeting for Number 190227	21 Pages

AT-3	Attachment 3 Amended VCAT Development and Landscape Plans for 85 Thompson Av Cowes	32 Pages
AT-4	***CONFIDENTIAL*** - Attachment 4 VCAT Statement of Grounds for 85 Thompson Av Cowes	50 Pages

Council Decision

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

That in relation to planning permit application 190227 Development of the land for a mixed use four storey building and the reduction in car parking spaces associated with a residential hotel, retail and food and drink premises, and dwellings, located at 85 Thompson Avenue Cowes, Council resolves to advise the Tribunal that if it had the power to determine the application it would issue a Notice of Refusal on the following grounds:

1. **The proposal does not provide an appropriate number of car parking spaces and the reduction of the car parking requirement would have an adverse effect the amenity of the area (Clause 52.06 Car Parking).**
2. **The design response fails to achieve the design objectives of the Schedule 11 to the Clause 43.02 Design and Development Overlay.**
3. **The design response does not appropriately respond to its context or reinforce the coastal and village character and a sense of place of Cowes through built form and materiality, which is not consistent with design objectives of Schedule 11 to the Clause 43.02 Design and Development Overlay, or Planning Policy Clause 15.01-5L Neighbourhood Character, Clause 15.01-5S Neighbourhood Character, Clause 15.01-1S Urban design, Clause 15.01-1L-01 Urban design in Bass Coast, Clause 15.01-2S Building design, and Clause 15.01-2L Building design.**
4. **The application has failed to achieve compliance with the following objectives, standards and decision guidelines of Clause 58:**
   a. **Clause 58.02-1 Urban context and Standard D1.**

LOST

Cr Ron Bauer called for a division

For	Against
Cr Larke	Cr Le Serve
Cr Kent	Cr Tessari
Cr Rooks	Cr Whelan
Cr Bauer	Cr Laing
	Cr Halstead

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

That the recommendation be adopted.

CARRIED

Cr Ron Bauer called for a division

For	Against
Cr Le Serve	Cr Larke
Cr Tessari	Cr Kent
Cr Whelan	Cr Rooks
Cr Laing	Cr Bauer
Cr Halstead	

H.4 Planning Application - 210375 - 4 Grantville Drive Grantville - Use and development of the land for a service station, warehouse, erection of signage in the INZ1 and alteration to TZ2

File No: **CM22/484**
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:	210375
Applicant:	Amazon Creek Pty Ltd C/- Peninsula Planning Consultants Pty Ltd Richard Umbers
Land/Address:	4 Grantville Drive Grantville VIC 3984
Ward:	Western Port Ward
Proposal:	Use and development of land for a service station, warehouse, and erection of signage in the Industrial 1 Zone (IN1Z) and alteration to an access to a Transport Zone 2 (TRZ2)
Zone:	Industrial 1 Zone (IN1Z)
Overlay:	None apply
Aboriginal cultural heritage sensitivity	The site is located within an area of aboriginal cultural heritage sensitivity. While the proposed activity is high impact, the proposal is exempt from requiring a Cultural Heritage Management Plan due to significance ground disturbance. Confirmation evidence has been provided and approved by the Registered Aboriginal Party.
Title:	Lot 1 on Plan of Subdivision 217230P Volume 09906 Folio 399. No covenants or easements affect the land.
Number of submissions:	No objections or submissions were received.
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. The cost of development is $4.5 million.

Officer recommendation:	Planning Permit

Main Considerations

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

- Urban design building scale.
- Land use compatibility
- Amenity impacts to adjoining properties.
- Car parking and traffic.

The Proposal

This application proposes to the use and development of land for a service station, warehouse, and signage in the Industrial 1 Zone (IN1Z), and alteration to an access to a Transport Zone 2 (TRZ2) in accordance with plans prepared by Brown Falconer. The decision plans are provided as Attachment one (AT-1) and are detailed below:

- Site Plan, Site plan Fuel, Site Plan Warehouse, Site Elevations, Shop Floor Plan and Elevations, Canopy Plan and Elevations, Warehouse Plan and Elevation, Roof Plans, Signage plans, Finishes Schedule and 3D images.
- Landscape Plan Prepared by Rosewood Horticultural Services Dated Feb 2022
- Traffic Management Plan prepared by Traffix Group Dated May, 2022
- Waste Management Plan prepared by Traffix Group Dated May, 2022
- Storm Water Management Plan prepared by Structure Civil Design Group Ref:21540 March 2022

Key features of the proposal include:

- Construction of a service station on the northern portion of the site. The service station will comprise of 8 bowsers located under a canopy roof, the retail component will include seating area. a secured external outdoor area and amenities. The service station will be accessed from a new access to Bass Highway.
- Construction of a 698sqm warehouse on the southern portion of the site comprising of a total area of 1,851 sqm. The warehouse will be 25.4 metres by 29.5 metres and have an overall height of 6 metres. The warehouse will be accessed via Grantville Drive.
- Signage associated with the service station will comprise a total 11 signs.
- Alteration with Transport Zone 2 (Bass Highway) will comprise of an entrance and exit to the service station.

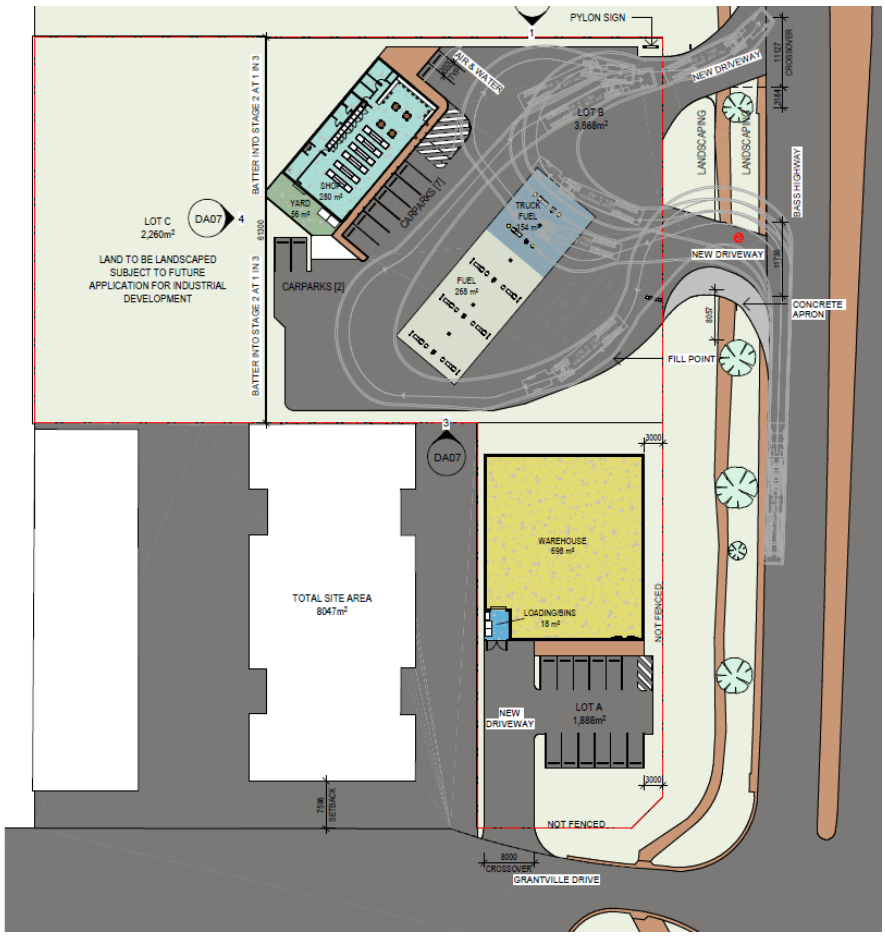
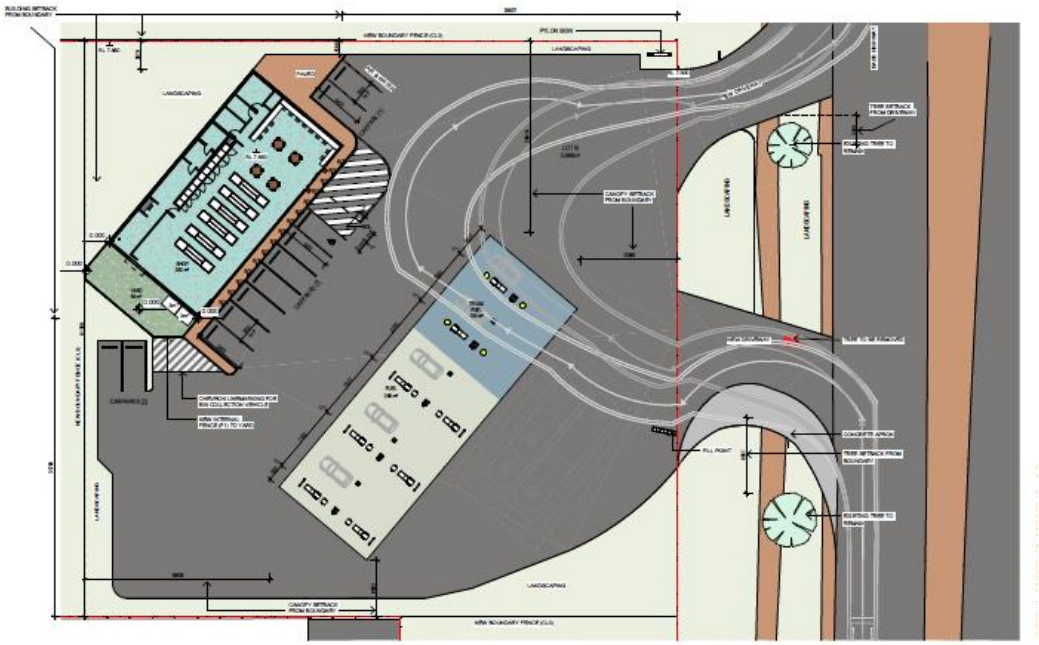


Figure 1 - Proposed Plans – Site Layout



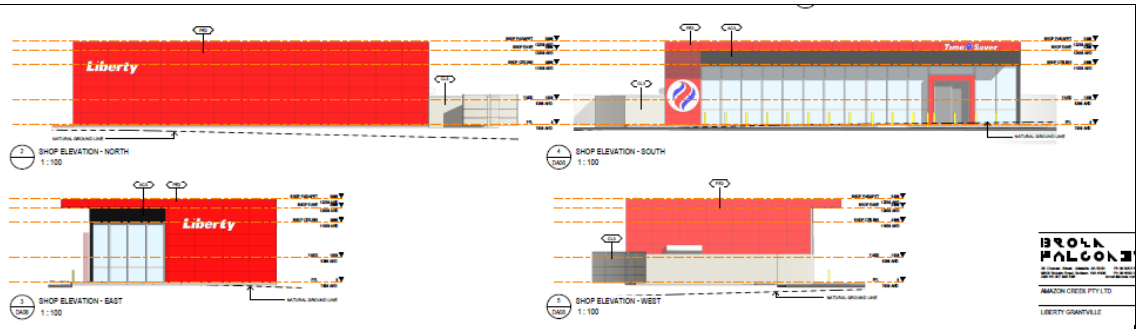
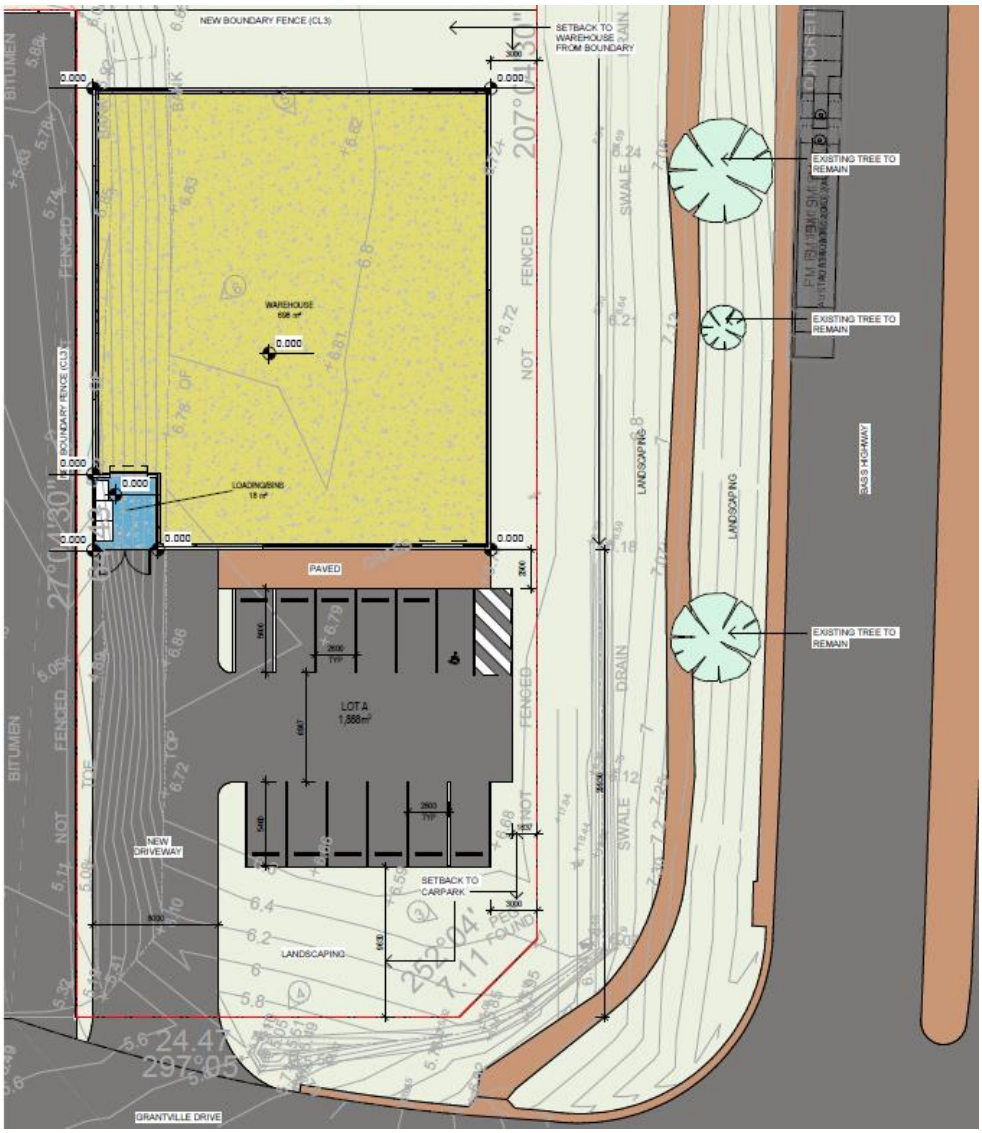


Figure 2 - Proposed Plans – Service Station



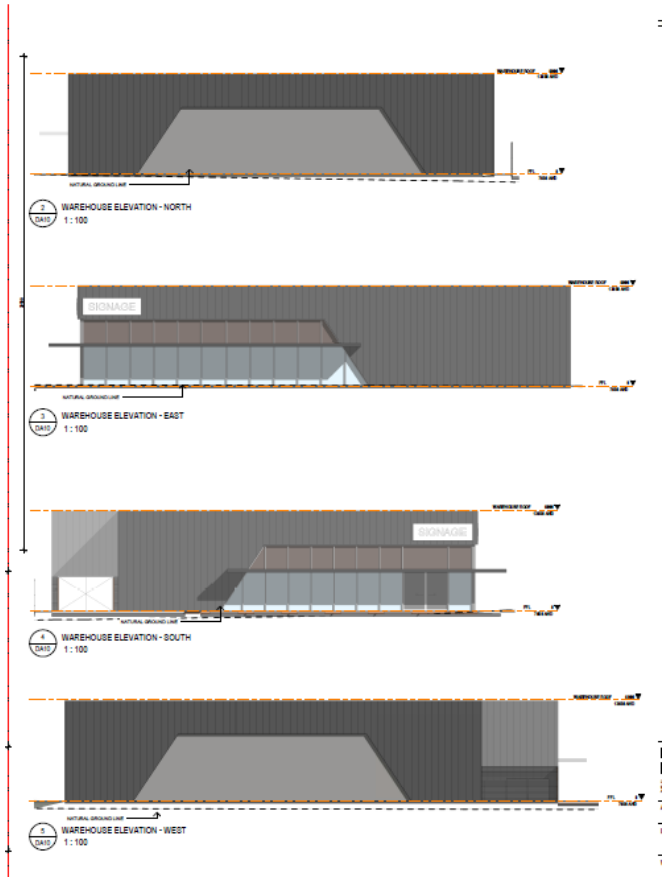


Figure 3 - Proposed Plans - Warehouse

Subject Site and Surrounds

The site is located on the western side of Bass Highway, between Pier Road north Grantville Drive. The site is an irregular 'L' shaped lot with a 120.70 metre frontage to Bass Highway, a maximum depth of 100 metres and a site area of 8018 square metres. Vehicle access to the site is currently provided via Grantville Drive, which abuts the site's southern boundary.



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

The subject site is currently vacant. Historical aerial imaging indicates that the land was previously used in association with the industrial activity occurring on the adjacent industrial site to the south.



View of subject site from the corner of Grantville Drive and Bass Highway (Google Maps, 2016)

The site is located within a pocket of industrial land that lies to the south of Grantville's commercial precinct. The surrounding area is highly varied in its land zoning, with mixed-use, commercial, residential, and farming areas all nearby.

The main characteristics of the surrounding area are:

North	Adjoining the land to the north is 1554 Bass Highway. This lot is approximately 4.04 hectares in area and contains an existing dwelling and associated outbuildings. Vehicle access to the site is provided via a crossover onto Bass Highway. The land is in dual zoning, with the eastern half of the site zoned as Industrial 1 Zone, while the western half is zoned Low Density Residential.
South	Adjoining the land to the south is 6-10 Grantville Drive. This site is approximately 2958 square metres in area and contains an existing factory building that has since been subdivided into eight individual facilities now used for a range of business and industrial purposes. The entirety of the site is zoned as Industrial 1 Zone, with vehicle access provided from Grantville Drive.
East	Adjoining the land to the north is Bass Highway, which is zoned as a Transport Zone 2. Transport Zone 2 roads form part of the principal road network and are managed by the Department of Transport. The road reserve adjacent to this area of site contains a series of street trees and a footpath that leads towards the Grantville commercial precinct.
West	Adjoining the land to the west is 32 Grantville Drive. This lot is approximately 2.7 hectares in area and contains a series of outbuildings located towards the south-west corner, abutting the foreshore reserve. The site is vegetated with native vegetation cover along the south and western boundaries. The land is in dual zoning, with the eastern half of the

	site zoned as Industrial 1 Zone, while the western half is zoned Low Density Residential.



Figure 3 – Site and surrounds

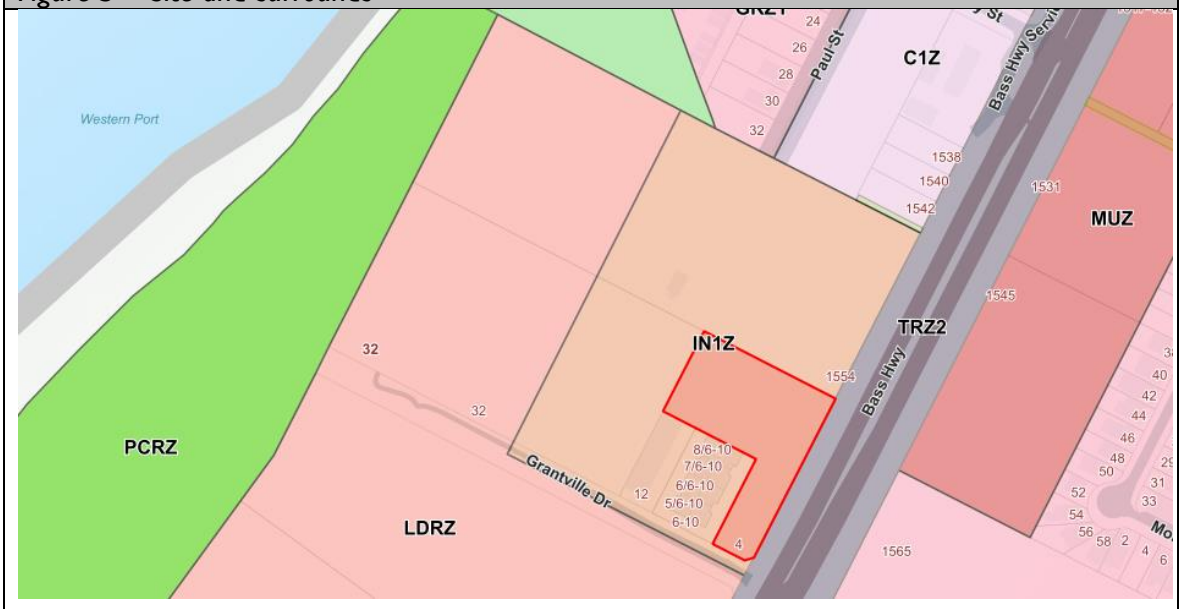


Figure 4 - Zoning Map

Planning Controls

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

Zone

Clause 33.01 – Industrial 1 Zone

In accordance with Clause 33.01-1 a planning permit is required for the use of land for a service station within 30m of a residential zone. Pursuant to Clause 33.01-4, a planning permit is required to contrast a building or carry out works.

Particular Provisions

Clause 52.05 – Signs

In accordance with Clause 52.05-12, a planning permit is required for the display of internally illuminated promotional signage and business identification signage exceeding 8 square metres.

Clause 52.29 – Land Adjacent to the Principal Road Network

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

Clause 53.05 – Freeway Service Centre

A freeway service station must meet the requirements at Clause 53.05-1

Clause 52.06 – Car parking

In accordance with Clause 52.06-3, parking requirements for a service station are to be provided to the satisfaction of the Responsible Authority. The parking rates for a 'convenience shop' and 'warehouse' are 10 spaces and 1.5 spaces to each 100 square metres of leasable floor area respectively. The application complies with these specified rates for carparking, with assessment of the service station parking response provided later in the report.

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

In response to notification the application attracted no submissions.

Referrals

The following table outlines the referral requirements of this application.

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
Department of Transport	No objection to the application subject to conditions.
External (Section 52 of the *Planning and Environment Act 1987*)	
Melbourne Water	Comments no conditions
CFA	No objection subject to conditions
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Development Services	No objection subject to conditions
Waste	No objection
Open Space and Building	No objection

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

- Clause 11.03-1S Activity centres
- Clause 11.03-2S Growth areas
- Clause 11.03-6S Regional and local places
- Clause 12.01-2S Native vegetation management
- Clause 12.02-1S Protection of coastal areas
- Clause 12.02-1L Protection coastal areas
- Clause 12.05-1S Environmentally sensitive areas
- Clause 13.04-1S Contaminated and potentially contaminated land
- Clause 13.05-1S Noise abatement
- Clause 13.07-1S Land use compatibility
- Clause 13.07-1L Industry protection
- Clause 15.01-1S Urban design
- Clause 15.01-1L-01 Urban Design in Bass Coast
- Clause 15.01-1L-02 Landscape design
- Clause 15.01-1L-03 Signs

- Clause 15.01-2S Building design
- Clause 15.01-2L Building design
- Clause 15.03-2S Aboriginal cultural heritage
- Clause 17.01-1L Diversified economy
- Clause 17.02-1S Business
- Clause 17.02-1R Commercial centres - Gippsland
- Clause 17.03-1S Industrial land supply
- Clause 17.03-1R Industrial land supply - Gippsland
- Clause 18.02-3S Road system
- Clause 18.02-4S Car parking
- Clause 18.02-4L Car parking
- Clause 18.05-1S Freight links
- Clause 18.05-1R Freight links - Gippsland

The following provides an assessment of the proposal against the relevant Planning Policy Framework (PPF) under the themes of Coastal Areas, Built Environment and Economic Diversity.

The PPF recognises the importance of accommodating commercial and industrial development within established settlement boundaries in order to limit the impact on the character of the area and coastal areas. The PPF further seeks to ensure that industrial land is utilised for industry. The proposal for a service station and warehouse are considered to have merit when consideration is given to the broader state and local policies related to economic diversity.

Clause 02.03 and Clause 11.01-1L-07 aim to encourage Grantville to be established as a district centre with potential for consolidation and future growth. The town is sufficiently established to support light industrial and essential services.

State and Local Policies support and encourage the provision of industrial uses to cater for the needs of residents and visitors, and support the enhancement of local economies. It is considered that the granting of a planning permit for the development of the land in Grantville is supported by the policies. It will allow diversity of choice, potentially local employment, as well as supporting the local economy.

As well, strategies under Clause 11.01-1S, encourage new industrial development along major transport links and where development is within existing township boundaries to avoid further unnecessary urban sprawl, often into rural or sensitive environmental areas.

The built form of the proposal is in line with clauses such as Clause 02.03-5 and Clause 15.01-1L-01 (Urban Design in Bass Coast) as it provides a contemporary modest built form across the site.

The site is well placed to access existing infrastructure and adjoins the Bass Highway making the proposal suitable for an industrial development. The site is located on existing industrial land, the proposed built form is modest in scale making it a positive contribution to the Grantville streetscape.

The PPF recognises the importance of accommodating development within established settlement boundaries in order to limit the impact on the character of the area and coastal areas. The proposal is consistent with the Bass Coast Planning Scheme's strategic goals for Grantville.

Zone Assessment

Clause 33.01 – Industrial 1 Zone

The purpose of the Industrial 1 Zone is:

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



Figure 1 – Zoning Map

Pursuant to Clause 33.01-1 a planning permit is required for the use of land for a service station within 30m of a residential zone. Pursuant to Clause 33.01-4, a planning permit is required to contrast a building or carry out works.

The application is consistent with the objectives and decision guidelines of the Industrial Zone are the following reasons:

- The proposal is consistent with the Municipal Planning Strategy and the Planning Policy Framework.
- The proposal is well setback from residential uses and is not considered to effect nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects.
- The development complements the mixed-use function of the locality.

- The proposal responds positively to existing and preferred built form character of the area.
- The use of land for the service station is well located adjacent to the Bass Highway and therefore is not considered to result in adverse impacts on nearby residential uses that are located sufficient distance from the subject site.
- The proposal is considered appropriately located in the Industrial Zone and will not effect that nearby industries.
- The drainage of the land has been considered and appropriate conditions will be placed on the permit should one issue.
- The site is appropriately connected to services.
- The proposed effect of traffic to be generated on roads has been considered by Council's Development Services Department and the Department of Transport and are considered appropriate in the site location.
- The building form is modest in scale and sufficient landscaping is proposed.
- The rear westerly portion of the site which is not proposed to be developed in the application and will have future development opportunity and vehicle accessibility. This has been assured by allowing for a 6 metre clear area south of the service station canopy.

Overlay Assessment

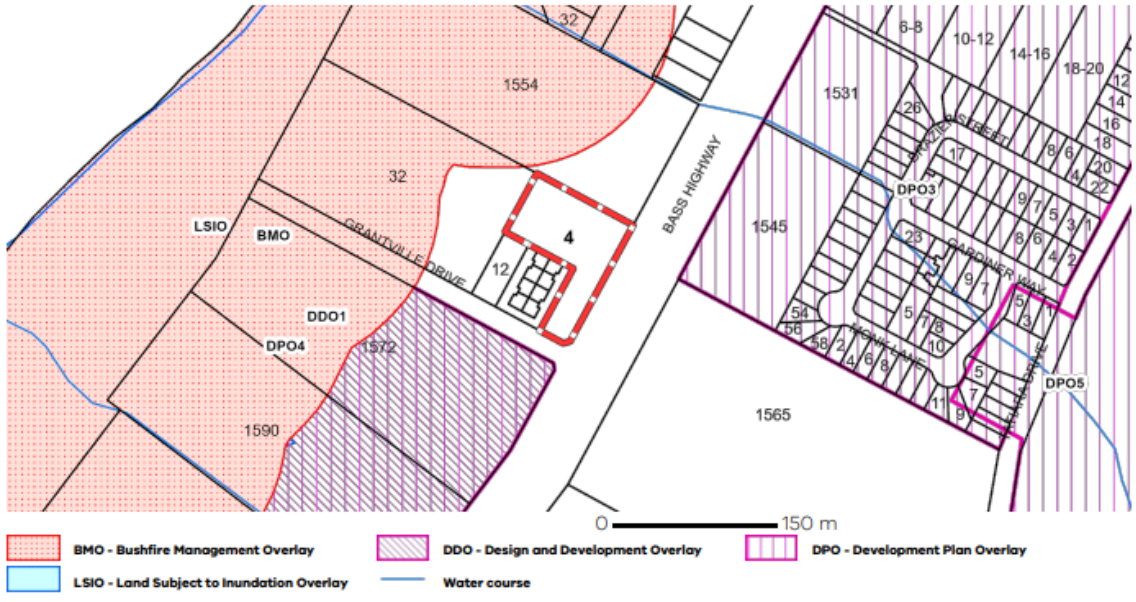


Figure 2 – Overlay Map

As the overlay map in Figure 2 demonstrates, the site is not subject to any overlays. While the Bushfire Management Overlay, Land Subject to Inundation Overlay, and Design and Development Overlay are in place across much of the surrounding land, these controls do not apply to the subject site.

Particular Provisions Assessment

Clause 52.05 – Signs

Pursuant to Clause 33.01-5 (Industrial 1 Zone), the proposal is subject to Category 2 of the advertising controls as set out in Clause 52.05. Pursuant to Clause 52.05 some of the key considerations for signage applications are:

- *The character of the area.*
- *Impacts on views and vistas.*
- *The relationship to the streetscape, setting or landscape.*
- *The relationship to the site and building.*
- *The impact of structures associated with the sign.*
- *The impact of any illumination.*

The following signage has been proposed:

Sign	*Type*	*Size*	*Location*	*Illuminated*
Sign 1	*Double sided pylon promotional Sign*	*7.8m (h) by 2.409m (w) = 18.7902sqm*	*North-west corner parallel to front boundary*	*Internally Illuminated*
Sign 2	*Business Identification Canopy Sign*	*2.5m (w) by 0.7m(h) =1.75sqm*	*Canopy*	*Internally Illuminated*
Sign 3	*Above awning promotional Sign*	*3.62m(w) x 0.59m (h) =2.135sqm*	*Above awning on fuel shop*	*Internally Illuminated*
Sign 4	*Business Identification Above awning*	*2.21 (w) x 7.2(h) =15.912sqm*	*Above awning on fuel shop*	*No illumination*
Sign 5	*Business Identification Above awning*	*3.55m(w) x 0.85(h) = 3.0175sqm*	*Above awning on fuel shop*	*No illumination*
Sign 6	*Two - Business Identification Canopy*	*1.09 (w) x 1.2(h) = 1.308sqm*	*Fuel Canopy*	*Internally Illuminated*
Sign 7	*Business Identification Canopy*	*3.1m(w) x 1.005(h) = 3.1155sqm*	*Fuel Canopy*	*Internally Illuminated*
Sign 8	*Promotional Sign*	*8.7m(w) x 0.74m(h) = 6.438sqm*	*Fuel Canopy*	*Internally Illuminated*
Sign 9	*Directional Sign*	*0.7m(w) x 0.8(m) =0.56sqm*	*Road reserve in bound access way*	*No illumination*
Sign 10	*Directional*	*0.7m(w) x 0.8(m) =0.56sqm*	*Road reserve out bound access way*	*No illumination*
Sign 11	*Two - Above awning Business identification signage*	*3.5m(w) x 1.0m(h) = 3.5sqm*	*Above awning on Warehouse south and east facing facades*	*Internally Illuminated*

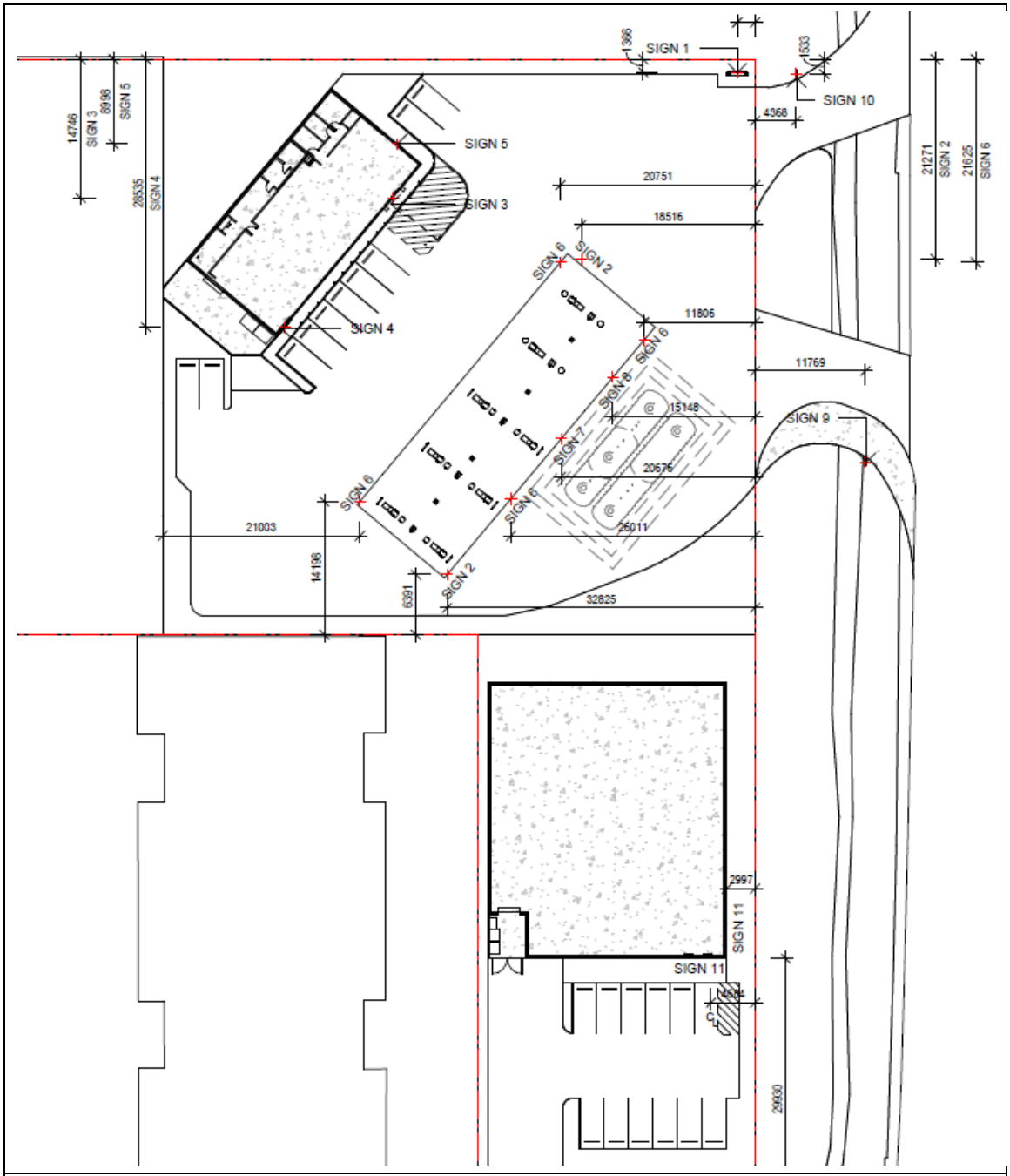


Figure: Signage layout

The proposed signage is assessed against the above guidelines below:

Having regard to the decision guidelines of Clause 52.05-8 the proposed signs are considered compatible with the existing and future character of the area by virtue of being located along a major road subject to the removal of signs 9 and 10 as these are located in the road reserve. Should a permit issue, conditions will require removal of these signs from the plans.

The signs associated with the service station are well setback from Bass Highway and are not considered disproportionate in terms of scale and form relative to the streetscape. Whilst 11 signs are proposed this is commensurate with the size of the development and will not create an unacceptable cumulative impact.

The signs that face east to residential land are designed to flash and are setback from bass Highway to avoid light spill. The illuminated signs are located to face the roads and are modest in scale. Additionally, some of the signage are graphics and not business identification as not to clutter the built form.

The signage associated with the warehouse is modest in scale and confined to only two signs one on two separate facades.

To ensure the signage is in keeping with the area the panel signs on Bass Highway will be conditioned to have a maximum height of 7 metres to be consistent with other panel signage in Grantville.

Furthermore, the signs will not obstruct a driver's line of sight at an intersection, nor dazzle or distract. The signage location and design had been referred to the Department of Transport for comment and they provided consent to the signs.

It is considered that the proposed signage can be supported subject to conditions.

Clause 52.06 – Car Parking

Clause 52.06-1 applies to:

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

A warehouse requires 2 car parking spaces plus 1.5 to for every 100sqm of net floor area. The proposal generates a requirement of 10 car parking spaces due to the single warehouse of 698sqm The proposal will provide 12 number of spaces, meeting this requirement.

A service station does not have a specified car parking rate in Clause 52.06, the proposal allows for 11 car parking spaces which is considered appropriate in this instance.

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

Clause 52.29 – Land Adjacent to the Principal Road Network

Pursuant to Clause 52.29-2, a planning permit is required to create access to a road in a Transport Zone 2. As Bass Highway is considered a road Transport Zone 2, the two proposed crossovers onto Bass Highways require assessment against this particular provision.

The application includes provision of access to Bass Highway. The application was referred to the Department of Transport who consented to the proposal subject to conditions.

It is considered that the proposal meets the requirements of Clause 52.29.

Decision Guidelines

Clause 65.01 Approval of an application or plan

The application has been considered worthy of support for the following reasons:

- The application is consistent with the Municipal Planning Strategy and the Planning Policy Framework.
- The application is consistent with the purpose of the Zone.
- The development is consistent with the Grantville industrial area
- The application represents orderly planning in Bass Coast.
- The application has the capacity to manage stormwater within the site.
- The application has incorporated replanting and landscaping across the site.
- The application has incorporated quality and safe traffic management.

Concerns Raised By Submitters

This section is not applicable as the application did not attract any submissions following public notice.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to be generally in accordance with the Planning Policy Framework, Local Planning Policy Framework and decision guidelines of the Industrial Zone.

It is recommended that Council resolve to issue a Planning Permit for use and development of land for a service station and warehouse, erection of signage, and altering access to a TZ2 in relation to planning application 210375 subject to conditions.

Recommendation

That in relation to planning permit application 210375 for Use and development of land for a service station, warehouse, and erection of signage in the Industrial 1 Zone (IN1Z) and alteration to an access to a Transport Zone 2 (TRZ2) located at 4 Grantville Drive, Grantville Council resolves to issue a Planning Permit subject to the following conditions:

Amended plans required

1. **Before the use and 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 advertised but modified to show:**
    a. **Canopy of the service station to be setback no less than 6 metres from the southern boundary.**
    b. **Signage plans revised as follows:**
        i. **Sign 01 signs to be a maximum height of no more than 7 metres from ground level**

ii. Deletion of sign 9 & 10 in road reserve

c. Landscape Plan amended to included any changes required by condition 1.a

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

Layout not to be altered – Use/Development

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

3. The location and details of the signs, including those of the supporting structure, must be in accordance with the endorsed plans, unless otherwise agreed in writing by the Responsible Authority.

Hours of Operation

4. Except with the written consent of the Responsible Authority, the use of the land for the service station and convenience restaurant may operate 24 hours a day, seven days a week.

Landscape Plan

Completion and maintenance of landscaping

5. Before the use commences or by such later date as is approved in writing by the Responsible Authority, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

6. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose, including that any dead, diseased or damaged plants are to be replaced.

Car Parking, Bicycle Facilities and Loading:

7. Prior to the use commencing, areas set aside for parked vehicles, bicycles and associated facilities and access lanes as shown on the endorsed plans must be:

a. Constructed;

b. Properly formed to such levels that they can be used in accordance with the plans;

c. Surfaced with an all-weather sealcoat;

d. Drained and maintained;

e. Line marked to indicated each car space and all access lanes; and

f. Properly lit.

8. The loading and unloading of vehicles must be carried out entirely within the site at all times and must not interfere with other traffic, to the satisfaction of the Reponsible Authority.

9. The areas shown on the approved plan for car parking, access and landscaping must not be used for any other purpose and maintained to the satisfaction of the Responsible Authority.

10. The dimensions and layout of the proposed access and parking areas for cars must be in accordance with the requirements of Clause52.06 of the Bass Coast Planning Scheme.

General Conditions:

11. All works must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of the Responsible Authority.

12. Once buildings and works have commenced, they must be completed to the satisfaction of the Responsible Authority.

13. Upon completion of the buildings and works, the site must be cleared of all excess and unused building materials and debris to the satisfaction of the Responsible Authority.

Amenity

14. The operator (including all occupiers of businesses operating at the premises) must ensure that litter is not deposited beyond the boundary of the premises.

15. The amenity of the area must not be detrimentally affected by the use or development through the:

- **a. Transport of materials, goods or commodities to or from the land;**
- **b. Appearance of any building, works or materials;**
- **c. Emission of noise, artificial light, vibration, smell, fumes, smoke,vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil; or**
- **d. Presence of vermin.**

16. External lighting of the areas set aside for car parking, access lanes and driveways must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

17. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes.

18. Without further written consent of the Responsible Authority, any use established within the building must not be used for the purpose shown with a Note 1 or Note 2 in table to Clause 53.10 of the Bass Coast Planning Scheme.

19. Noise emitted from the premises must not exceed limits prescribed by the State Environmental Protection Policy (Control of Noise from commerce, Industry and Trade) No. N-1.

20. **All external lighting must be appropriately baffled so as not to have a detrimental impact on adjoining or nearby properties.**
21. **No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building(s) without the prior written consent of the Responsible Authority.**
22. **All plant and equipment (including air-conditioning units) shall be located or screened so as to minimise visibility from any of the surrounding footpaths and from overhead views and shall be baffled so as to minimise the emission of unreasonable noise to the environment in accordance with Section 48A of the Environment Protection Act 1970 to the satisfaction of the Responsible Authority.**
23. **Nuisance dust and/or airborne particles must not be discharged beyond the boundaries of the premises.**
24. **The permit holder must ensure that litter originating from the premises is not present beyond the boundaries of the premises.**
25. **The permit holder must not contaminate land or groundwater.**
26. **Offensive odours must not be discharged beyond the boundaries of the premises.**
27. **Prior to the occupation of the building/ commencement of use, the walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.**

Waste Management

28. **When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.**
29. **All wastewater must be discharged into the reticulated sewerage system to the satisfaction of the Responsible Authority.**
30. **All waste bins containing food waste must be collected by a waste collection contractor at a minimum of once per week, so as to not cause overflow to the satisfaction of the Responsible Authority.**
31. **An adequate number of bins for the storage of waste created by the food businesses must be provided to the satisfaction of the Responsible Authority.**
32. **An area must be provided for the storage of garbage bins and recycling services. This area must be:**
    a. **paved;**
    b. **screened and constructed; and**
    c. **maintained in a clean and tidy state free from offensive odours; to the satisfaction of the Responsible Authority.**

33. All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes shall be kept in a storage area screened from view to the satisfaction of the Responsible Authority.

Signage

34. The location and details of the signs, including those on the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.

35. The advertising signs must not:

a. Dazzle or distract drivers due to any colouring;

b. be able to be mistaken for a traffic signal because it has for example, red circles, octagons, crosses or triangles; and

c. be able to be mistaken as an instruction to drivers.

36. The signs must not be animated, electronic or contain any flashing light.

37. The signage lighting must be designed, baffled and located to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.

38. The signs must be constructed and maintained to the satisfaction of the Responsible Authority.

CFA

Hydrants

39. Prior to the issue of an Occupancy Permit for the use and development the following requirements must be met to the satisfaction of the CFA:

1.1 Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 90 metres and the hydrants must be no more than 120 metres apart. These distances must be measured around lot boundaries.

1.2 The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

Note –CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' available under publications on the CFA web site (www.cfa.vic.gov.au)

Roads

40. 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.

2.1 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.

2.2 Curves must have a minimum inner radius of 10 metres.

2.3 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

Department of Transport

41. **The proposed access driveways to the service station must be designed to the satisfaction of the Head Transport for Victoria.**
42. **The proposed left turn lane must start directly after Grantville Drive for the required length suitable for the current signed speed zone, to the satisfaction of the Head Transport for Victoria.**
43. **The existing wire rope barrier must be modified to the satisfaction of the Head Transport for Victoria.**
44. **At the service station access, roadway lighting to the satisfaction of the Head Transport for Victoria must be provided. A review of existing lighting (provide lighting contours plans) must be submitted with any lighting design.**
45. **Prior to the use of the developments herby approved, the required roadworks on the Bass Highway must be completed at no cost and to the satisfaction of the Head Transport for Victoria.**
46. **Prior to design plans beginning, the applicant's consultants must attend a pre-design meeting with the Department of Transport (Gippsland Region).**
47. **All signs must be located within the property boundary.**
48. **All externally illuminated signs must have a utilisation factor of greater or equal to 0.3, where the utilisation factor is the luminous flux falling on the design area divided by the total luminous flux of the luminaire. Retro-reflective material or high glossy material must not be used.**
49. **During the operation of the sign, the following maximum average luminance and Threshold Increment values must not be exceeded:**
    i. **Night time Medium district level , 250 cd/m2**
    ii. **Threshold limit 20% max, adaption luminance value 1**
    iii. **Daytime level 6000 cd/m2**
50. **Prior to commencement of the earthworks on the site, a truck wheel-wash must be installed at the property boundary to enable all mud and other tyre borne debris from vehicles to be removed prior to exiting the land.**

51. The truck wheel-wash must be maintained in good order during the construction phase of the development and may be removed at the end of the construction phase of the development.

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

a. Left turn Lane

b. Roadway Lighting

c. Safety barrier modifications

Engineering conditions

53. Before the issue of a building permit by a relevant building surveyor, detailed civil construction plans must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. All construction plans submitted for approval must be consistent with this permit and must conform with the requirements of all relevant servicing authorities. The plans must be drawn to scale with dimensions and an electronic copy (PDF) must be provided. The plans must show:

a. Drainage of the subject land, including levels or contours of the land on AHD (including relevant external catchments) and all hydraulic computations. The drainage plan must be prepared in accordance with the requirements of the Infrastructure Design Manual (IDM) as amended and must provide for the following:

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

ii. An underground pipe drainage system conveying stormwater to the legal point of discharge and connecting into Bass Coast Shire Council's stormwater drainage system by the existing underground drainage property connection.

iii. The provision of stormwater detention within the site and prior to the point of discharge into Bass Coast Shire Council's drainage system. The stormwater detention system must be designed to ensure that stormwater discharges arising from the proposed development of the land are restricted to pre-development flow rates.

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

v. No part of any above ground stormwater detention system is to be located within a stormwater drainage easement or a sewerage easement unless with the Responsible Authority's

written approval.

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

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

i. A vehicle access along Grantville Drive to be designed in accordance with IDM standards (SD 250). Clearance from obstructions including existing street trees, service authority assets, footpaths, kerb and channel, poles, rain gardens, pits, cables, pipes, bus shelters / stops, street furniture, signs, etc. must be shown on the plans.

ii. Car parking areas and access ways on-site to be designed, constructed and sealed with an all-weather seal pavement (asphalt or concrete) to the satisfaction of the Responsible Authority.

iii. Car parking spaces and access aisles designed in accordance with the Australian Standard for off-street car parking AS 2890.1 - 2004 and the Bass Coast Planning Scheme.

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

Construction Management plan

54. Before a Certificate of Final Inspection, 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 A1 plan and an electronic copy (PDF) must be provided. The plan must address, but not be limited to following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

r. locations of cut and fill stockpiles;

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

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

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

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

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

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

Traffic and parking during construction

56. **Provision for the parking of all contractors, subcontractors and staff vehicles must be provided within the subject land to the satisfaction of the Responsible Authority**

57. **Before the Certificate of Final Inspection the following works must be completed to the satisfaction of the Responsible Authority including all necessary permits being obtained and inspections undertaken:**

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

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

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

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

e. **All proposed vehicle crossings and footpaths must be constructed in accordance with the endorsed plans and IDM standards,**

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

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

Mud On Roads

58. **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.**

Maintenance of Onsite Drainage System

59. **The onsite stormwater drainage system including stormwater detention, installed in accordance with the endorsed plans, must not be removed or modified without the further approval (in writing) of the Responsible Authority.**

60. **Expiry:**

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

Development

a. **The development does not start within two (2) years after the issue of the permit; or;**

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

Use

c. **The use does not start within 2 years from the date of this Permit; or**

d. **The use is discontinued for a period of 2 years or more.**

Signage

e. **A permit for a sign other than a major promotion sign expires on the date specified in the permit. If no date is specified, the expiry date is 15 years from the date of issue of the permit; or**

f. **Upon expiry of the permit, the signage and any structures built specifically to support and illuminate it must be removed.**

The responsible authority may extend the time referred to if a request is made in writing before this Permit expires or within six months after the expiry date if the use and 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.

Permit Notes

A. This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

B. As the development is to be used for a commercial enterprise involving handling of food or drink, then the applicant must contact Council's Environmental Health Department for further advice concerning legislative requirements.

C. Permission given under planning legislation cannot be construed as permission relating to any other legislation under Council jurisdiction, such as Public Health & Wellbeing, Food or Tobacco

D. Planning permission

Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.

E. Side and rear boundary fencing not part of approval

This Planning Permit represents the Planning approval for the development of the land. Side and rear boundary fences do not form part of this Planning approval. All matters relating to the boundary fences shall be in accordance with the provisions of the *Fences Act 1968*, i.e. Council will not deliberate on which option prevails but rather the permit holder and adjoining owners will need to cooperatively resolve which of the above outcomes is mutually acceptable.

F. Build Over Easement

Separate consent is required to build over the easement. It will be necessary to obtain consent from all relevant authorities prior to construction. Please note that consent may or may not be given, depending on specific site circumstances and conditions.

G. Retention of Existing Street Trees

Nothing in the permit hereby issued may be construed to allow the removal of, damage to or pruning of any street tree without the further written consent of the Bass Coast Shire Council. Contact Council Arborists on BCOAST (226 278) or (03) 5671 2211 for further information.

H. Permit to Building Surveyor

The permit holder/applicant/owner must provide a copy of the Planning Permit to any appointed Building Surveyor. It is the responsibility of the permit holder/applicant/owner and the Building Surveyor to ensure that the development approved by this Permit is consistent with any Building Permit approved and that all works are

consistent with the endorsed plans approved under this Planning Permit."

I. Bushfire Prone Area

This site is located within a designated Bush Fire Prone Area. Compliance with AS3959 is required.

J. Stormwater Discharge Point

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

K. Road Occupation Permit

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

L. Asset Protection Permit

Unless exempted by the Bass Coast Shire, an Asset Protection Permit must be obtained prior to the commencement of any proposed building works, as defined by Local Law No. 1 Neighbourhood Amenity 2012. Bass Coast Shire Council's Asset Protection Officer must be notified in writing at least 7 days prior to the building works commencing or prior to the delivery of materials/equipment to the site.

M. Road Occupation Permit

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

N. Stormwater Discharge Point

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

Attachments

AT-1 210375 - 4 Grantville Drive Grantville 20 Pages

Council Decision

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

That the recommendation be adopted.

CARRIED

H.5 Planning Application - 220040 - 125 Marine Parade San Remo - Development of land for four (4) storey mixed-use apartment building in a Commercial Zone (CZ1) and Design and Development Overlay (DDO4)

File No: **CM22/498**
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:	220040
Applicant:	Jonathon Chapman, SMEC Australia
Land/Address:	125 Marine Parade, San Remo VIC 3925
Ward:	Westernport Ward
Proposal:	Development of land for a four (4) storey mixed-use apartment building in a Commercial Zone (C1Z) and Design and Development Overlay (DDO4)
Zone:	Commercial 1 Zone (C1Z)
Overlay:	Design and Development Overlay (Schedule 4)
Aboriginal cultural heritage sensitivity	The subject site is located in an area of Aboriginal Cultural Heritage Sensitivity. Under Section 47 of the *Aboriginal Heritage Act 2006,* the application triggers a mandatory Cultural Heritage Management Plan pursuant to Regulation 46 and Regulation 48 of the *Aboriginal Heritage Regulations 2018.* The application has been accompanied by an approved CHMP endorsed by the Registered Aboriginal Party, the Bunurong Land Council Aboriginal Corporation.
Title:	Lot 5 on Plan of Subdivision 007042 in Volume 07805 Folio 157. No covenants or easements affect the land.
Number of submissions:	A total of three (3) objections were received.

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. The cost of development is $4.2 million
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 subject to conditions outlined in the Officer Recommendation section of this report.

The proposal is recommended for support for the following reasons:

- The proposed development is consistent with the objectives of Local and State Planning Policy.
- The proposed development is consistent with the purpose of the underlying Zone on the subject site.
- The proposed development is consistent with the design intent of Schedule Four to the Design and Development 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.
- Car parking and traffic.

The Proposal

This application proposes to develop the land with a four-storey mixed-use building in accordance with architectural plans prepared by iwolff architects. The decision plans are provided as Attachment one and are detailed below:

- Development Plans prepared by iwolff architects, dated 25 May 2022, pages 1 to 25.
- Feature Survey Plan prepared by Charlton Degg Land Development Consultants, dated 05 November 2021.
- Landscape Plans prepared by Site Image Landscape Architects, dated 23 May 2022.
- Transport Impact Assessment prepared by onemilegrid, dated 26 May 2022.
- Waste Management Plan prepared by onemilegrid, dated 26 May 2022.
- Construction Impact Assessment (Arboricultural Report) prepared by Urban Forestry Victoria P/L, dated 03 May 2022.
- Water Sensitive Urban Design Report prepared by Crackerjack Consulting Engineers, dated 14 July 2022.

- Environmentally Sustainable Design Statement, prepared by Frater Consulting Services, dated 17 December 2021.
- (Approved) Cultural Heritage Management Plan prepared by Jem Archaeology, dated 12 February 2022.

Key features of the proposal include:

- Construction of a four storey mixed use building comprising of:
  - Ground Floor: two retail spaces totaling 175 Square Metres, and 25 Car Parking Spaces.
  - First Floor: five apartments consisting of four x two-bedroom apartments and one x three-bedroom apartment.
  - Second Floor: five apartments consisting of four x two-bedroom apartments and one x three-bedroom apartment.
  - Third Floor: four apartments all consisting of two bedrooms.
- Formalisation of rear-access from Dickie Lane, including the upgrading and surfacing of the road.
- A maximum building height of 13.2 metres.



Figure 1 – North Elevation (Streetscape)



Figure 2 – South Elevation (Rear)



Figure 3 – Side Elevations



Figure 4 – 3D Street Render (northern aspect)

Subject Site and Surrounds

The site is located on the south side of Marine Parade and Philip Island Road, between Bergin Grove to the west and Edgar Road to the east. The site is a semi-rectangular shaped lot with a 20.88 metre frontage to Marine Parade, a maximum depth of 71.32 metres and a site area of 1,333 square metres.



Figure 5 – Aerial photography of subject site (Source: Council's GIS System, dated 22 August 2022)

The site is currently vacant and contains no substantial vegetation.

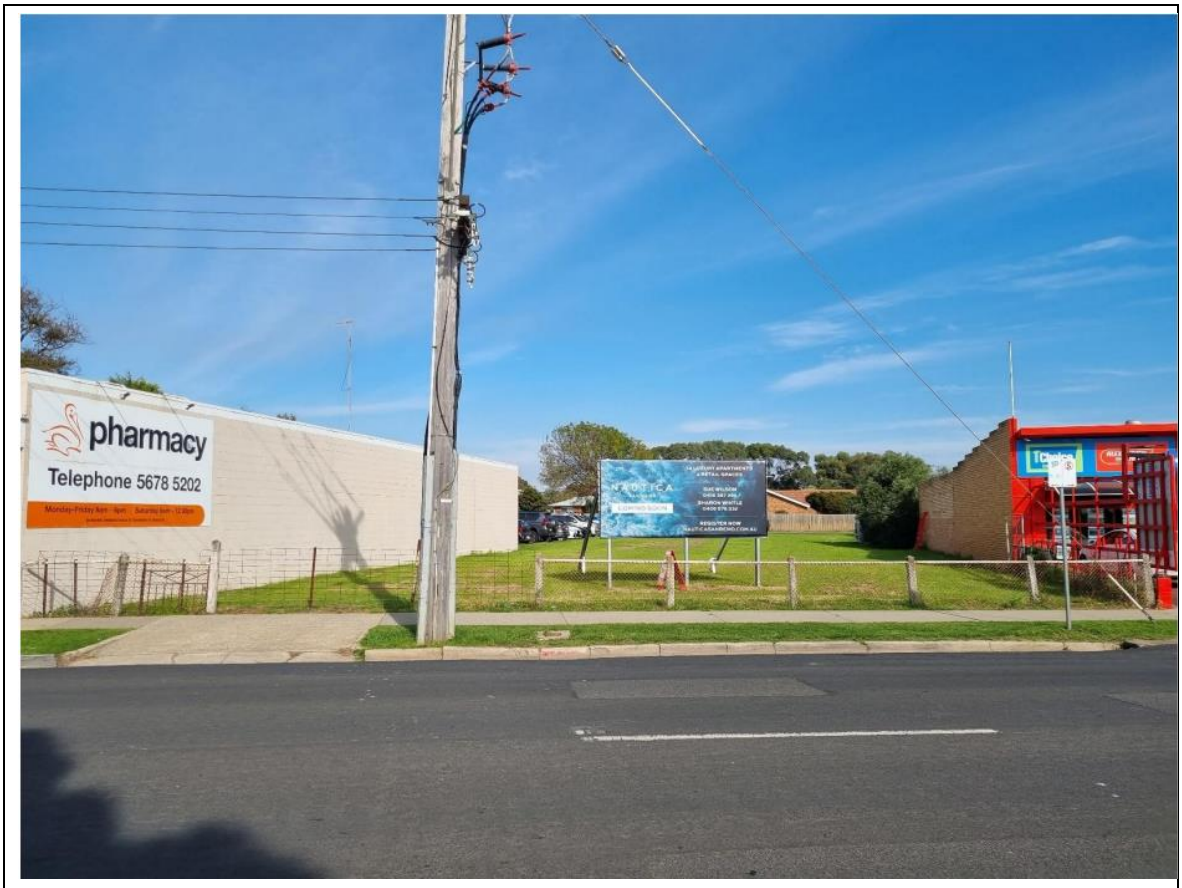


Figure 6 - View of subject site from Marine Parade (Source: Page one of Construction Impact Assessment prepared by Urban Forestry Victoria P/L, dated 03 May 2022).

The site is located within the main commercial precinct of San Remo, approximately 70 metres south of the foreshore to the north.

The main characteristics of the surrounding area are:

North	Adjoining the land to the north is Marine Parade and Philip Island Road. The subject site is in the northernmost row of developable land in San Remo, and therefore land to the north is used for public purposes.
South	Adjoining the land to the south is Dickie Lane, and further south is an existing four-unit development (subdivided) on an original lot of approximately 750 square metres. The development is single storey in nature and constructed abutting Dickie Lane and is provided access along the laneway.
East	Adjoining the land to the east is 123 Marine Parade. This lot is approximately 299 square metres in area and contains an existing single storey building presently used as a pharmacy and associated with the San Remo Medical Clinic at 123A Marine Parade. Both allotments provide pedestrian access from Marine Parade and have rear access car parking which is connected to Dickie Lane.

West	Adjoining the land to the west is 127 Marine Parade. This lot is approximately 1205 square metres in area and contains an existing single storey building used as a real-estate agency and an additional single storey building used as a café. The lot is accessed via Bergin Grove and Marine Parade and contains some vegetation along the abutting boundary with 125 Marine Parade.



Figure 7 – Site and surrounds

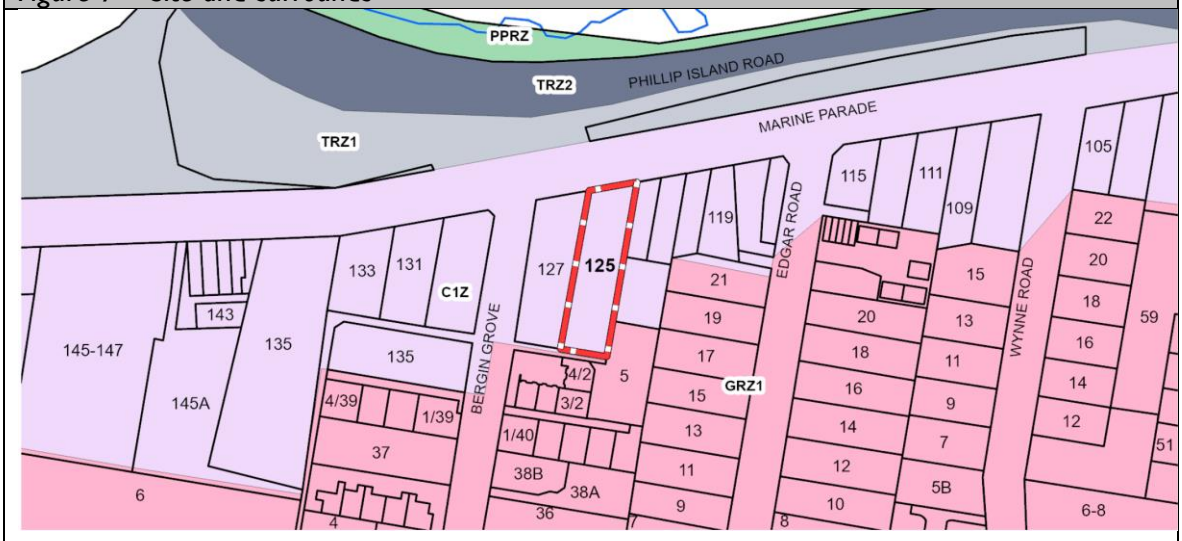


Figure 8 - Zoning Map

Planning Controls

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

Zone

Clause 34.01 – Commercial 1 Zone

In accordance with Clause 34.01-4, a Planning Permit is required to construct a building or carry out works.

Overlays

Clause 43.02 – Design and Development Overlay – Schedule 4

In accordance with Clause 43.02-2, a Planning Permit is required to construct a building or carry out works. Height trigger of 10.5 metres. The development is proposing a height of 13.2 metres.

Clause 45.01 – Public Acquisition Overlay – Schedule 3 (Right of Way)

In accordance with Clause 45.01-1, a Planning Permit is required to construct a building or carry out works.

Particular Provisions

Clause 52.06 – Car parking

The proposal will provide a total of 25 car parking spaces, which meets the required number of car parking spaces. Therefore, in accordance with Clause 52.06-3 a permit is not required to reduce the number of car parking spaces required under Clause 52.06-5.

Clause 52.34 – Bicycle Facilities

The proposal will provide a total of six bicycle parking spaces, which meets the required number of spaces. Therefore, in accordance with Clause 52.34-2 a Planning Permit is not required to reduce the number of bicycle parking spaces required under Clause 52.34-5.

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 60 land owners and occupiers; and
- Placed a Notice on the land.
- Placed a Notice in The Advertiser.

In response to notification the application attracted three (3) submissions comprising three objections.

A copy of each submission is included in Attachment two.

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

Referrals

The following table outlines the referral requirements of this application.

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
N/A	N/A
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Revenue Services	For information only, no objection/comment.
Development Services	No objection to the application subject to conditions.
Environmental Health	No objection to the application subject to conditions.
Waste Services	No objection to the application subject to conditions.

Planning Scheme Provisions

Planning Policy Framework Assessment

The relevant Planning Policy Framework clauses are as follows:

VPP00 Purpose and Vision

Clause 02 – Municipal Planning Strategy

- Clause 02-01 Context
- Clause 02-02 Vision
- Clause 02-03 Strategic direction
- Clause 02.04 Strategic framework plan

VPP11 Settlement

Clause 11.01 - Victoria

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

Clause 11.03 - Planning for Places

- Clause 11.03-1S Activity centres
- Clause 11.03-4S Coastal settlement
- Clause 11.03-5S Distinctive areas and landscapes

VPP 12 Environmental and Landscape Values

Clause 12.05 Significant Environments and Landscapes

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

VPP 13 Environmental Risks and Amenity

Clause 13.01 Climate Change Impacts

- Clause 13.01-1S Natural hazards and climate change

Clause 13.02 Bushfire

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

Clause 13.05 Noise

- Clause 13.05-1S Noise abatement

Clause 13.07 Amenity and Safety

- Clause 13.07-1S Land use compatibility

VPP 15 Built Environment and Heritage

Clause 15.01 Built Environment

- Clause 15.01-1S Urban design
- Clause 15.01-1L-01 Urban Design in Bass Coast
- Clause 15.01-1L-02 Landscape design
- Clause 15.01-1L-03 Signs
- Clause 15.01-2S Building design
- Clause 15.01-2L Building design
- Clause 15.01-4S Healthy neighbourhoods
- Clause 15.01-5S Neighbourhood character
- Clause 15.01-5L Neighbourhood character

Clause 15.02 Sustainable Development

- Clause 15.02-1S Energy and resource efficiency

VPP 16 Housing

Clause 16.01 Residential Development

- Clause 16.01-1S Housing supply
- Clause 16.01-1L Housing supply
- Clause 16.01-2S Housing affordability

VPP 17 Economic Development

Clause 17.01 Employment

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

Clause 17.02 Commercial

- Clause 17.02-1S Business
- Clause 17.02-1R Commercial centres - Gippsland

VPP18 Transport

Clause 18.02 Movement networks

- Clause 18.02-4S Car parking
- Clause 18.02-4L Car parking

VPP 19 Infrastructure

Clause 19.03 Development Infrastructure

- Clause 19.03-2S Infrastructure design and provision
- Clause 19.03-2L Infrastructure design and provision
- Clause 19.03-3S Integrated water management
- Clause 19.03-3L Integrated water management
- Clause 19.03-5S Waste and resource recovery

The following provides an assessment of the proposal against the relevant Planning Policy Framework (PPF) under the themes of Settlement, Coastal Areas, Environmental Risks and Amenity, Built Environment and Heritage, Housing and Infrastructure.

The PPF recognises the importance of accommodating development within established settlement boundaries in order to limit the impact on the character of the area and coastal areas. The PPF further seeks to ensure that a sufficient supply of land is available for residential use and encourages the consolidation of urban areas within settlement boundaries if that development respects existing neighbourhood character.

The proposed mixed-use building is considered to have merit when consideration is given to the broader state and local policies related to residential development within established settlement boundaries and commercial precincts of the Shire.

The subject site is located within the main commercial centre of San Remo and is sufficiently placed to provide access to necessary community services and facilities. The mixed-use nature of the proposal provides for a new ground floor retail tenancy within the commercial area, whilst providing for a variety of dwelling sizes in the apartments located on the first and second floor.

It is further considered that the redevelopment of an existing commercial site within San Remo is encouraged by the policies, in particular directing apartment style development within the main commercial precinct.

Zone Assessment

Clause 34.01 – Commercial 1 Zone

The purpose of the Commercial 1 Zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To create vibrant mixed use commercial centres for retail, office, business, entertainment, and community uses.*
- *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*

The proposed development triggers the requirement for a Planning Permit in the Commercial 1 Zone to construct a building or construct or carry out works.

The proposed development of the land for a mixed-use development is considered to be entirely consistent with the purpose of the Zone. The site is considered to be in a location that is well suited to a residential and commercial use as it is in close proximity to more intensified residential development and commercial precincts.

The proposal has been considered against the decision guidelines under the C1Z in relation to buildings and works, and can be supported for the following reasons:

- The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport has been assessed as being satisfactory. This is further discussed under Clause 52.06 – Car Parking in a latter section of this report.
- A satisfactory number of car parks has been provided for the development and is further discussed under Clause 52.06 – Car Parking in a latter section of this report.
- The proposed development is considered to provide for a design response that will be a positive presentation to the streetscape allowing for the activation of the street frontage with the provision of a pedestrian link to the rear of the site.
- Whilst there are a limited number of landscaping opportunities at the frontage of the site on the ground floor, the proposal provides for meaningful landscaping as much as practicable for an apartment development to the rear of the site and in planter boxes where available.
- The storage of rubbish and materials for recycling has been considered through the submitted Waste Management Plan. A condition on any permit to issue will require compliance with this plan.
- The subject site does not adjoin any residentially zoned land to the east or west, and as a result there is considered to be a limited opportunity for overlooking or overshadowing to sensitive interfaces.
- Although the subject site adjoins residentially zoned land to the south, the proposal presents generous setbacks which prevent any overlooking to these existing dwellings, with primary outlook from south facing apartments over common property.
- The proposal will not result in overshadowing of the public realm due to the north/south orientation of the subject site.

- The subject site is considered to have an adequate ability to provide connection to essential services.
- The design of the building is considered to be of an orientation to provide solar access as much as practicable.

For an apartment development, the objectives, standards, and decision guidelines of Clause 58 are required to be considered. Compliance with the relevant provisions of Clause 58 is discussed in a latter section of this report.

Overlay Assessment

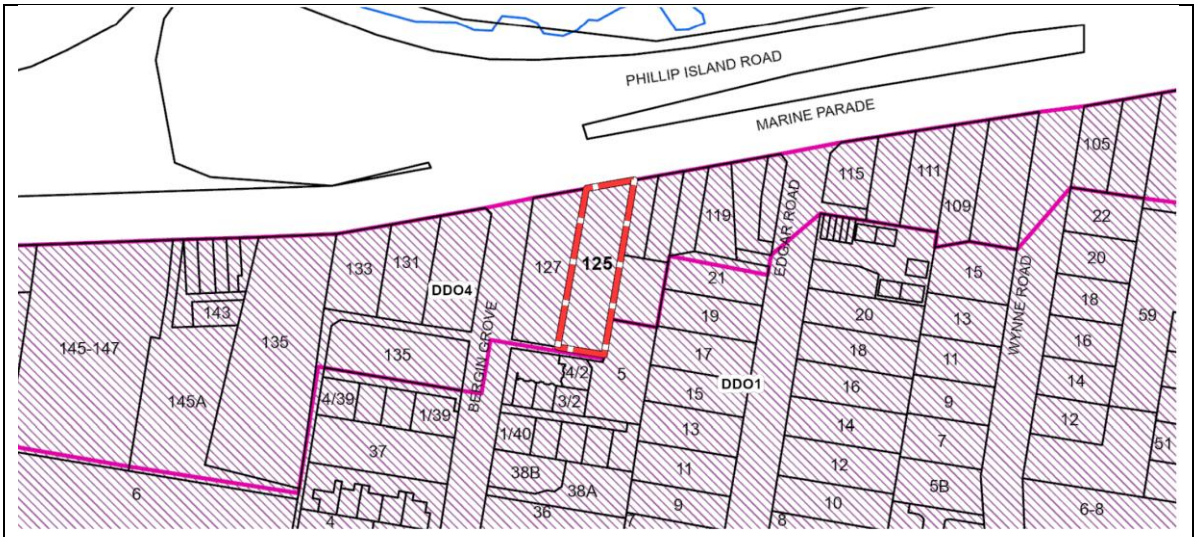


Figure 9 – Design and Development Overlay Map

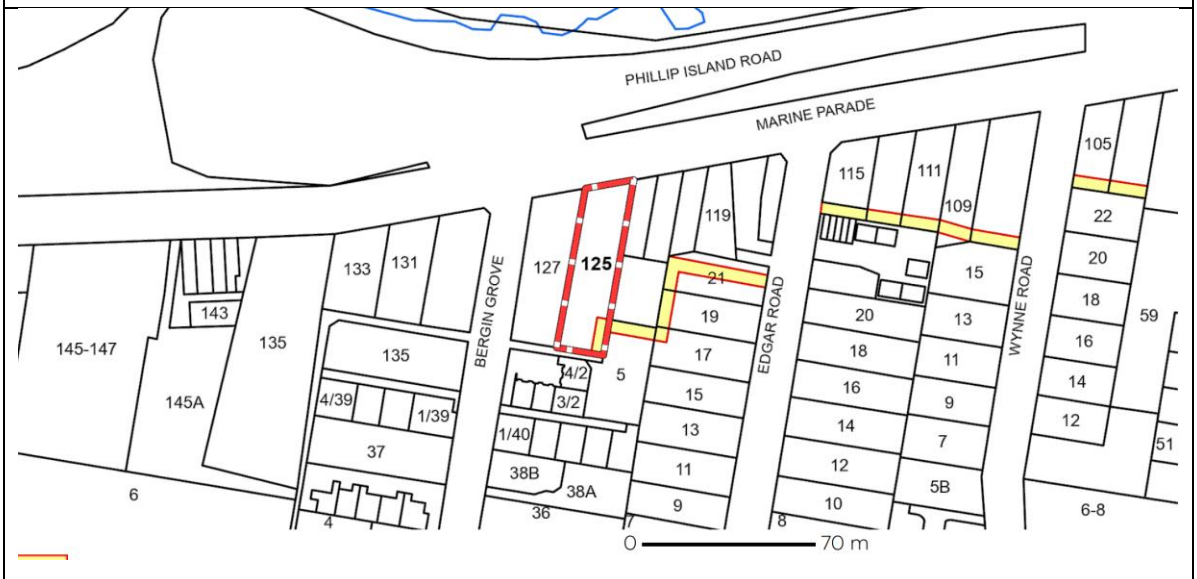


Figure 10 – Public Acquisition Overlay Map

Clause 43.02 – Design and Development Overlay

The purpose of the Design and Development Overlay is:

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

- *To identify areas which are affected by specific requirements relating to the design and built form of new development.*

The proposed development triggers the requirement for a Planning Permit under the Schedule to construct a building or carry out works.

Schedule 4 of Clause 43.02 also contains the following design objectives which have formed part of this assessment:

- *To encourage high quality development design.*
- *To ensure that development design enhances the coastal context, the fine grain appearance and the variety of styles that characterises San Remo.*
- *To protect views of the urban areas from the waters of Western Port.*
- *To encourage developments to be outwardly focussed so as to support safe and active streets and public spaces.*

Schedule 4 further provides that building height on Marine Parade, west of Bergin Grove and between Bergin Grove and Back Beach Road should not exceed three storeys (or 10.5 metres to top of wall) measured from natural ground level, with the third storey set back from the street.

Schedule 4 of Clause 43.02 also contains the following decision guidelines which have formed part of this assessment:

- *How the development responds to the design guidelines of the Phillip Island and San Remo Design Framework.*

The proposal has been considered against the decision guidelines under the DDO and more particularly the relevant decision guideline of Schedule 4, and can be supported for the following reasons:

- The proposal has been assessed as providing a satisfactory response to the design requirements of the schedule, through providing a high-quality architectural design response to for the site that appropriately represents the emerging character of San Remo.
- Whilst the development presents a maximum height of 13.2m containing four storeys, therein exceeding the preferred height of 10.5m on the land by 2.7m and one storey, it is considered that the proposal presents generous recession on the upper floor level to reduce built form impacts to the streetscape and adjoining properties.
- The development includes a substantial level of articulation on the front and rear setbacks consistent with high quality architectural outcomes, and it is considered that the proposal presents a built form congruent with the intended design outcomes under the Overlay.
- The development includes the provision of a continuous awning along the frontage with Marine Parade, to assist with street level activation from the retail premises on the ground floor.
- The provision of two commercial spaces at the frontage of the development on the ground floor with floor to ceiling glazed windows contributes to street activation of Marine Parade, and the northern balconies furthermore contribute to the provision of passive street surveillance.

- The development includes the provision of two- and three-bedroom apartments within the commercial precinct of San Remo and is therefore considered to provide for increased housing diversity and improved housing affordability within San Remo.
- It is considered that the proposal is consistent with local and state housing policies which direct preference for greater residential densities in commercial and mixed-use areas of Victoria and San Remo more specifically.
- It is further considered that the proposal provides for adequate landscaping where appropriate within the site.

Clause 45.01 – Public Acquisition Overlay – Schedule 3

The purpose of the Public Acquisition Overlay is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify land which is proposed to be acquired by a Minister, public authority, or municipal council.*
- *To reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.*
- *To designate a Minister, public authority, or municipal council as an acquiring authority for land reserve for a public purpose.*

The proposed development triggers the requirement for a Planning Permit to construct a building or construct or carry out works.

In accordance with Schedule 3, Bass Coast Shire Council is the acquiring authority for the purposes of Right of Way.

The application has been considered against the decision guidelines under the Overlay and can be supported for the following reasons.

- Council's Development Services and Strategic Planning teams have discussed the Public Acquisition Overlay and note that it is unlikely that the land will be acquired by the Council.
- The proposal does not seek to construct any buildings or works in the area of the land encumbered by the Overlay and will not utilise any part of the land encumbered by the overlay for any purpose related to the development.
- A condition will be included on the permit requiring that the section of land affected by the Overlay be landscaped.
- A further condition will be included on the permit should one issue which outlines that no compensation will be payable for the demolition or removal of any works within the overlay should Council acquire the land in the future.

Particular Provisions Assessment

Clause 52.06 – Car Parking

Clause 52.06-1 applies to:

- *a new use; or*

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

The proposal will provide 25 number of spaces, which is in accordance with the Planning Scheme. This will satisfy all residential and commercial car parking requirements. No Planning Permit required is required for any waiver or reduction.

The statutory parking requirements from Table 1 to Clause 52.06-5 are as follows:

Use	**Description**	**Statutory Parking Rate**	**Statutory Requirement**
Residential	12 x two-bedroom dwellings	One space per dwelling	12 spaces
	2 x three-bedroom dwellings	Two space per dwelling	4 spaces
	14 dwellings – visitors	One space per 5 dwellings	2 spaces
Retail	175 square metre tenancy	4 spaces per 100 square metres	7 spaces
Total			**25 spaces**

The assessment for the proposal requires the provision of 25 car spaces.

The development has proposed the provision of 25 spaces within the site, and therein meets the statutory requirement.

Clause 52.34 – Bicycle Facilities

Clause 52.34 seeks to encourage cycling as a mode of transport and provide secure, accessible, and convenient bicycle parking spaces and associated shower and change facilities.
In accordance with Clause 52.34-5 the proposed use must provide a minimum of four spaces for residents and visitors, as well as a further one space for retail employees. The proposal seeks to provide a total of six spaces within the secure car parking area to the rear of the development, as well as a further two spaces along the site frontage with Marine Parade, thereby making provision for residents and visitors to the building in excess of the statutory requirements.

Clause 58 – Apartment Developments

The proposed development has been assessed as meeting all the relevant objectives and decision guidelines, and most of the relevant standards of Clause 58. A summary of this assessment is as follows:

<u>Urban Context</u>

The subject site is considered to be in an area that has strategic policy support for a mixed use development under the Planning Policy Framework and has been accompanied by a satisfactory urban context report and design response which demonstrates the consistency of the development with the surrounding area.

The proposal provides for increased housing diversity to suit a range of requirements for future residents of the development, and the proposal is situated in an area with access to a range of services, facilities, and existing infrastructure, whilst presenting a satisfactory streetscape outcome congruent with the preferred character of the surrounding precinct.

Site Layout

The proposal provides for a development that is oriented and designed to maximise the potential access to solar energy. Due to the north/south orientation of the subject site, only four of the 14 units will have south facing Secluded Private Open Space (SPOS) and/or living areas that are single aspect.

It is considered that on balance the proposal provides for an appropriate design response which achieves the objectives set out under the Standard.

The proposal has sought to waive the requirement for the provision of communal open space, and on balance given the proximity of the development to the main commercial precinct and public open space in San Remo, alongside generous balcony spaces for each apartment it is considered that the proposal provides a satisfactory outcome.

The development has been assessed as providing an appropriate response to the requirements of Clause 52.06 (car parking) and is further considered to be able to manage the treatment and dispersal of stormwater.

Amenity Impacts

The proposal has provided a suitable design response which provides sufficient setbacks congruent with the preferred design character of the area, which allow for sufficient solar access to habitable areas whilst preventing views between apartments and allowing reasonable outlook from new dwellings.

The proposal is considered to have limited on-site and off-site potential impacts from noise through considered design, location and siting of buildings, car parking areas, reception and services including lift wells.

On-Site Amenity and Facilities

The proposal has been assessed as being able to achieve a design that meets the needs of people with limited mobility, whereby all apartments have demonstrated complete compliance with the accessibility requirements of the Standard.

Entries to the building and dwellings provide for the safe, function and efficient movement of residents, and each dwelling is provided with satisfactory private open space congruent with the objectives of Standard D20.

Each apartment is provided with the minimum depths, dimensions, and areas for the required SPOS area, and all apartments achieve satisfactory amounts of internal and/or external storage in excess of the requirements of the Standard.

Detailed Design

Common property within the development is clearly delineated from private property, and the commercial area of the development is further separated from the residential component through being located on the ground floor.

The application is considered to be able to meet the relevant requirements for the location of site services through appropriate conditions on the permit. The proposal

includes the placement of low-profile services on the rooftop, and conditions will be included should a permit issue to ensure that mail boxes and meters are placed in an appropriate location of the development.

The proposal has been accompanied by a Waste Management Plan which demonstrates that the development complies with Council's waste management strategies including the separation of landfill, comingled recyclables and food and garden waste.

The proposal is further considered to be constructed out of high-quality architectural materials appropriate within the coastal design context and congruent with the preferred and emerging neighbourhood character.

Internal Amenity

All apartments are provided with the minimum dimensions and areas consistent with the Standard for the provision of functional habitable living areas and bedrooms.

The room depth for each dwelling is considered to be able to allow adequate daylight into single aspect habitable rooms due to the generous internal ceiling heights.

All apartments are able to provide adequate natural ventilation breeze paths throughout a majority of each dwelling type, and in instances where a breeze path does not directly traverse habitable rooms it is considered that the provision of large windows and sliding doors allows for a sufficient compromise and maximum opportunity for natural ventilation to allow for passive cooling and air circulation within the dwellings.

Concerns Raised by Submitters

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

Submitter Theme	Council Officer Response
Overdevelopment	State policy envisages increased housing density in San Remo. The increase in population at this site is considered appropriate having regard to the proximity of the development to the main commercial centre in San Remo and its location proximate to community services and facilities.
Overshadowing	The proposal has been assessed against Clause 58 of the Bass Coast Planning Scheme as outlined in the body of the report. The development is found to be compliant. The objection highlights that the development will 'completely overshadow' existing buildings to the south, however shadow diagrams submitted with the application demonstrate that the substantial setbacks of the building to the southern boundary of the site allow the development to contain all southern overshadowing to the north side of Dickie Lane.

Property Devaluation	The devaluation of property is not a relevant planning consideration.
Access, Dust from Dickie Lane, and Cumulative Traffic Impacts	The applicant for the proposal has accepted that as a condition on any permit to issue will require the upgrading of Dickie Lane to an impervious surface, therein entirely mitigating dust impacts from existing and future use. Council's development services team have reviewed the proposal from a traffic management perspective and have granted conditional consent to the proposal subject to the upgrading of Dickie Lane. Council's development services team have furthermore considered the cumulative traffic impacts of the proposal on the immediately surrounding road network and consider that the existing network is able to accommodate the development.
Heavy Vehicle Turning Circles	The development plans and waste management plan submitted with the proposal indicate that an 8.8m service vehicle (the standard size for a waste collection vehicle) will be able to enter the site in a forward direction, collect waste from within the open car park, and reverse out of the site in order to exit Dickie Lane in a forward direction.
Poor Detailed Design	The proposal is considered to present a high quality architectural design which utilises a variety of high-end finishes congruent with the intended character outcomes of the Design and Development Overlay.
Protection of existing footings on the adjoining land.	A condition on any permit to issue will require the submission of a Construction Management Plan which will outline the management of the entire development phase of the proposal, including the protection of existing buildings on adjoining allotments.
Setting a Precedent	Concern has been raised that the development sets a precedent for access to be gained from Dickies Lane and for vehicles to momentarily wait on Bergin Grove, however as previously discussed the proposal has been assessed as presenting a satisfactory response with respect to traffic management impacts. Each development is assessed on its own merits at the time of lodgment, and any additional impacts from further development will be assessed at that time.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to be consistent with the relevant Planning Policy Framework, decision guidelines of the Commercial1 Zone, Schedule 4 to the Design and Development Overlay, and the relevant standards and objectives of Clause 58 as they relate to Apartment Developments.

The application underwent notification and as a result there were two 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 220040, subject to conditions.

Recommendation

That in relation to Planning Permit application 220040 for the development of a four-storey mixed use building in a Commercial Zone (C1Z) and Design and Development Overlay (DDO4) located at 125 Marine Parade, San Remo VIC 3925, Council resolves to issue a Notice of Decision to Grant a Planning 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. **The provision of and details pertaining to bollard lighting within the external carpark at the rear of the development**
    b. **An amended Landscape Plan in accordance with Condition 3;**
    c. **Civil Design Plans in accordance with Condition 5;**
    d. **A Construction Management Plan in accordance with Condition 6.**

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

Layout not to be altered – Use and Development

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

Landscape Plan to be modified

3. **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 prepared by Site Image Landscape Architects, dated 23 May 2022, except that the plan must show:**

a. **The incorporation of native creepers in elevated planter boxes, particularly on the northern aspect of the development;**

b. **The abbreviations for each surface finish and plant to be shown on the materials page;**

c. **Landscaping within the area designated as Public Acquisition Overlay with a maximum height of 900mm**

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

Completion and maintenance of landscaping

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

Civil Design Plans

5. **Concurrent with the submission of plans required by Condition 1 and before the issue of a building permit by a relevant building surveyor, detailed civil construction plans must be submitted to and approved by the Responsible authority. When approved, the plans will be endorsed and will then form part of the permit. All construction plans submitted for approval must be consistent with this permit and must conform with the requirements of all relevant servicing authorities. The plans must be drawn to scale with dimensions and an electronic copy (PDF) must be provided. The plans must show:**

   a. **Drainage of the subject land, including levels or contours of the land on AHD (including relevant external catchments) and all hydraulic computations. The drainage plan must be prepared in accordance with the requirements of the Infrastructure Design Manual (IDM) as amended and must provide for the following:**

      i. **How the land including all buildings, open space and paved areas within each lot will be drained for a 10% AEP storm event to the legal point of discharge.**

      ii. **An underground pipe drainage system conveying stormwater to the legal point of discharge and connecting into Bass Coast Shire Council's stormwater drainage system by the existing underground drainage property connection.**

      iii. **The provision of stormwater detention within the site and prior to the point of discharge into Bass Coast Shire Council's drainage system. The stormwater detention system must be designed to ensure that stormwater discharges arising from the proposed development of the land are restricted to pre-development flow rates. The rate of pre-development stormwater discharge shall be calculated using an allowable discharge rate for the site 37 l/sec/ha.**

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

v. No part of any above ground stormwater detention system is to be located within a stormwater drainage easement or a sewerage easement unless with the Responsible authority's written approval.

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

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

i. A vehicle access to the development, to be designed in accordance with IDM standards (SD 250). Clearance from obstructions including existing street trees, service authority assets, footpaths, kerb and channel, poles, rain gardens, pits, cables, pipes, bus shelters / stops, street furniture, signs, etc. must be shown on the plans.

ii. Car parking areas and access ways on-site to be designed, constructed, and sealed with an all-weather seal pavement (asphalt or concrete) to the satisfaction of the Responsible authority.

iii. Construction/upgrade of Dickie Lane to IDM standard from the Bergin Grove intersection to the end of the road.

iv. Dickie Lane to be constructed with a sealed surface asphalt or concrete wearing course pavement with kerb and Chanel.

v. Car parking spaces and access aisles designed in accordance with the Australian Standard for off-street car parking AS 2890.1 - 2004 and the Bass Coast Planning Scheme.

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

vii. Swept paths to be submitted proving that a mini loader or any other vehicle used for waste collection can exit in a forward direction to the satisfaction of the responsible authority.

Construction Management Plan

6. Concurrent with the submission of plans required by Condition 1 and before the issue of a building permit is issued by a relevant building surveyor, 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 A1 plan and 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 washes down, lay down and personnel rest areas must be clearly fenced and located in disturbed areas.**

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

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

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

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

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

authority.

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

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

r. Locations of cut and fill stockpiles.

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

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

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

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

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

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

8. 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.

9. **The onsite stormwater drainage system including stormwater detention, installed in accordance with the endorsed plans, must not be removed or modified without the further approval (in writing) of the Responsible authority.**
10. **Before the issue of a certificate of occupancy, the following works must be completed to the satisfaction of the Responsible authority including all necessary permits being obtained and inspections undertaken:**
    a. **All civil construction works, must be constructed in accordance with the civil design plans for the property as endorsed by the Responsible authority pursuant to this Planning Permit**
    b. **All drainage works (excluding any above ground detention tanks deferred via a Section 173 agreement) in accordance with the endorsed civil plans.**
    c. **Photographic evidence of the legal point of connection to Council's drainage system must be provided if Council inspection cannot be arranged prior to backfilling.**
    d. **Areas for common property, vehicle access and car parking within the land must be constructed in accordance with the endorsed civil design plans.**
    e. **All proposed vehicle crossings must be constructed in accordance with the endorsed plans and IDM standards,**
    f. **All redundant infrastructure (including vehicle crossings) abutting the site shall be removed and the kerb, channel, nature strip and footpath shall be reinstated.**
    g. **Dickie Lane to be upgraded to the satisfaction of the responsible authority.**

Construction of car parking

11. **Before the occupation and use of the development the car parking spaces, access lanes, driveways and associated works and landscaping shown on the plan must be:**
    a. **constructed and available for use in accordance with the plan approved by the responsible authority; and**
    b. **formed to such levels and drained so that they can be used in accordance with the plan; and**
    c. **treated with an all-weather seal or some other durable surface; and**
    d. **line-marked or provided with some other adequate means of showing the car parking spaces,**

Environmentally Sustainable Design

12. **Prior to the occupation of the building, all measures specified in the endorsed ESD Statement must be implemented in accordance with the approved plan.**

Waste Management

13. **Collection of waste must be in accordance with the Waste Management Plan as approved by the responsible authority. Collection of waste must be undertaken by a private contractor and must not cause unreasonable disturbance to nearby residential properties to the satisfaction of the responsible authority in accordance with the endorsed Waste Management Plan.**
14. **All waste material not required for further on-site processing must be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled, or dust or odour is created to the satisfaction of the responsible authority.**
15. **Collection of waste must be constructed so as not to cause any unreasonable disturbance to nearby residential properties and may only take place during the following times:**
    a. **Monday to Friday: 7:00am to 7:00pm**
    b. **Saturday & Public Holidays: 9:00am to 5:00pm**
    c. **Sunday: No collection allowed**
    d. **All to the satisfaction of the responsible authority**
16. **Adequate provision must be made for the storage and collection of garbage, bottles and solid waste in bins or receptacles to the satisfaction of the responsible authority.**
17. **Storage bins shall be screened from view of the street and adequately covered to the satisfaction of the responsible authority to minimise dispersal of material by wind or water and vermin and pest insect access. Appropriate controls shall be implemented to restrict the movement of windblown litter and prevent the site appearing unsightly. No litter shall be discharged beyond the boundaries of the site. All storage areas shall be surfaced and capable of being washed down with waste water being directed to sewer via an appropriate litter trap. No odour shall be emitted from any waste storage areas so as to cause offence to adjoining property occupiers to the satisfaction of the responsible authority.**

Amenity

18. **No buildings or works are to be constructed over any easement or other restriction on the land or any sewers, drains, pipes, wires, or cable under the control of the public authority without the prior written consent of the relevant authority and the responsible authority.**
19. **The areas must be constructed and drained to prevent diversion of flood or drainage waters and maintained in a continuously usable condition to the satisfaction of the responsible authority.**
20. **Car spaces, access lanes and driveways must be kept available for these purposes at all times.**

21. **All air conditioning plant and equipment and services shall be located so as to be incorporated within the building and should not project beyond the roofline or from an external wall and appropriately located and baffled to minimise noise levels to the satisfaction of the Responsible authority.**
22. **The amenity of the area must not be detrimentally affected by the use or development, through the emission of noise to the satisfaction of the responsible authority.**
23. **All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service.**
24. **The development must be managed to the satisfaction of the responsible authority, so that the amenity of the area is not detrimentally affected through the:**
    a. **Transport of materials, goods, or commodities to or from the land.**
    b. **Appearance of any buildings works or materials.**
    c. **Emission of noise, artificial light, vibration, smell, fumes, smoke, vapor, steam, soot, ash, dust, waste water, waste products, grit, or oil.**
    d. **Presence of vermin.**
25. **All buildings and works must be maintained in good order and appearance to the satisfaction of the responsible authority.**
26. **Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock, or other debris being carried onto public roads or footpaths from the subject land to the satisfaction of the Responsible authority.**
27. **Any poles, service pits or other structures/features on the footpath required to be relocated to facilitate the development must be done so at the cost of the applicant and subject to the relevant authority's consent.**
28. **All utility services to the subject land and buildings approved as part of this permit must be provided underground to the satisfaction of the responsible authority by completion of the development.**
29. **The external faces of walls on or facing boundaries must be cleaned and finished to an acceptable standard to the satisfaction of the Responsible authority.**
30. **External lighting must be designed, baffled, and located so as to prevent any adverse effect on the adjoining land, to the satisfaction of the responsible authority.**

Public Acquisition Overlay

31. **In the event that Council as the acquiring authority determines to acquire the land encumbered by Schedule 3 to the Public Acquisition Overlay, the works within the area to be acquired will be required to be removed from the land.**
32. **No compensation is payable for the demolition or removal of any works within this area constructed under this permit.**

Occupation of the development

33. **The development must not be occupied until the following works have been completed to the satisfaction of the Responsible authority:**

    a. **The premises are connected to a reticulated water supply, sewerage, drainage, and underground electricity to the requirements of the relevant servicing authority.**
    b. **Power and telephone lines to all new dwellings must be placed underground from the main point of service supplied by the relevant authority outside the boundaries of the subject land.**
    c. **The communal bin storage area must be provided for each dwelling and must be located so as not to be detrimental to the visual amenity of the neighbourhood.**
    d. **A mailbox must be provided to the satisfaction of the responsible authority and Australia Post for each unit.**

Time for Starting and Completion

34. **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 use/development has not commenced.

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

Permit Notes

A. Building permit may be required

This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

B. Planning permission

Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents, or approvals.

C. Failure to Comply

Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.

D. Retention of Existing Street Trees

Nothing in the permit hereby issued may be construed to allow the removal of damage to or pruning of any street tree without the further written consent of the Bass Coast Shire Council. Contact Council Arborists on BCOAST (226 278) or (03) 5671 2211 for further information.

E. Permit to Building Surveyor

The permit holder/applicant/owner must provide a copy of the Planning Permit to any appointed Building Surveyor. It is the responsibility of the permit holder/applicant/owner and the Building Surveyor to ensure that the development approved by this Permit is consistent with any Building Permit approved and that all works are consistent with the endorsed plans approved under this Planning Permit."

F. Bushfire Prone Area

This site is located within a designated Bush Fire Prone Area. Compliance with AS3959 is required.

G. Asset Protection Permit

Unless exempted by the Bass Coast Shire, an Asset Protection Permit must be obtained prior to the commencement of any proposed building works, as defined by Local Law No. 1 Neighbourhood Amenity 2012. Bass Coast Shire Council's Asset Protection Officer must be notified in writing at least 7 days prior to the building works commencing or prior to the delivery of materials/equipment to the site.

H. Road Occupation Permit

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

I. Aboriginal Cultural Heritage

The development of the land must be carried out in accordance with the approved Cultural Heritage Management Plan prepared by Jem Archaeology, dated 12 February 2022, to the satisfaction of the responsible authority.

Attachments

AT-1	Development Plans	25 Pages
AT-2	***CONFIDENTIAL*** - Submissions	6 Pages

Council Decision

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

That the recommendation be adopted.

CARRIED

H.6 Grant applications

File No:	**CM22/504**
Division:	**Partnerships, Economy and Culture**
Council Plan Strategic Objective:	**Our Places** Strengthening the connection between people and the public places they share

Declaration

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

Summary

The purpose of this report is to seek endorsement from Council to proceed with the applications for grant funding of three projects. Applications have closed for these grants with officers already submitting applications. Applications will be withdrawn should Council not endorse the recommendations in this report.

Applications submitted and seeking endorsement are;

1. **The Living Local Regional Fund (LLRF)** - application for the Inverloch Community Hub Improvement project. Applications for this fund closed on 14 August 2022.
2. **The Regional Jobs and Infrastructure Fund - Investment Fast-Track Fund (IFF)** - application for the Gippsland Odyssey Extension (Woolamai to Nyora) Planning Development project, in partnership with South Gippsland Shire Council. Applications for this fund closed 17 August 2022.
3. **The Universal Design Grant (UDG)** - application for the Rhyll Mechanics Hall Improvement project. Applications for this fund closed 2 September 2022.

Subject to a successful application under IFF for Gippsland Odyssey Extension, this report also seeks authorisation for the Chief Executive Officer to enter into a Memorandum of Understanding with South Gippsland Shire Council outlining the roles and responsibilities of the partnership.

Background

Council relies upon receipt of grant funding to deliver its priority and community projects. As grant programs are announced, projects that meet Council's strategic objectives, are ready to be delivered within the timelines outlined and that align to the grant criteria and eligibility are considered by Council officers.

Projects that are not already endorsed by Council are not considered for grant funding applications.

There is an impact that successful grant applications have on Council's budget and long term financial plan, so grant application proposals are presented to Council for endorsement.

The Inverloch Community Hub and Rhyll Mechanics Hall projects identified in this report are funded and programmed to be delivered in 2022/23 year. As such, any successful applications will result in a better outcome for the community with complementary works to be undertaken concurrently.

The Gippsland Odyssey project is identified as an Advocacy Priority 2022 and is in the draft Tracks and Trail Strategy 2022-2032. The Tracks and Trails budget allows for the planning for this project to be undertaken in 2022/23 based on a successful application.

The Living Local Regional Fund and Universal Design grants are open to other organisations and associations to apply direct for funding. Where projects have an impact on Council assets, or require financial co-contribution, Council is required to endorse the project as part of the grant funding application.

In the absence of this endorsement, Council will not contribute funding to a project. There are no community projects for these grant funding programs seeking Council endorsement.

Strategic Basis

Council Plan Strategic Objective:

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

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

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

Discussion

Living Local Regional Fund (LLRF)

The LLRF is a competitive grants program open to eligible rural and regional local governments and incorporated (not-for-profit) organisations/associations.

The fund is to support development or improvement of regional communities, shopping strips and activity centres.

Applicants may seek a maximum of $200,000 (exclusive of GST).

Councils will be required to make a minimum matching (1:1) contribution (cash and in-kind) of the grant being sought.

An application has been submitted for:

<u>Inverloch Community Hub Improvement Project</u>

The Inverloch Hub Improvement Project includes;

- New ventilation and heating and cooling system for the Hall and Stadium
- Upgraded commercial grade kitchen
- Universal lift access to the stage

These works will complement the Inverloch Hub Renewal Project that includes;

- Interior painting
- Sound proofing between the Library and the Hall
- Replacement of emergency doors
- New ceiling, wall linings and insulation in the Hall
- Redesigned internal accessible ramp to comply with current standards and DDA requirements.
- Energy efficient lighting installed
- New storage options for the stadium
- Commercial compliant fire system

The works will provide a more user-friendly inclusive community space addressing building elements that prohibit the functional usage of these spaces.

The total cost of the overall project is $1.114 million. Council has budgeted $5.8 million in the Building Asset Renewal program for 2022/23 and the co-contribution of $914,637 will come from this budget, with a grant request of $200,000.

Investment Fast-Track Fund (IFF)

The IFF is a competitive grants program open to eligible rural and regional local governments, private sector businesses, businesses and industry groups, incorporated (not-for-profit) organisations/associations and utility and service providers and water corporations.

The IFF is part of the Regional Jobs and Infrastructure Fund (RJIF), the Victorian Government's flagship regional development fund central to driving growth and recovery in rural and regional Victoria. It supports the planning and preparation of regional and rural development project proposals to strengthen the project's investment evidence base and accelerate investment readiness.

Applicants may seek a maximum of $500,000 (exclusive of GST) with the funding capped at a ratio of $4 to $1 of program funding against the cash contribution from the applicant.

An application has been submitted for:

Gippsland Odyssey Extension (Woolamai to Nyora) Planning Development project

The Gippsland Odyssey (GO) is a multi-faceted cycling (and walking) experience based on a network of cycling routes spread across Gippsland that best highlight the region's myriad of environmental, cultural and heritage attractions while creating important connections between rural communities.

At 1,100 kilometres the GO will be one of the longest trails in Australia, extending all the way through Gippsland providing new active recreation and commuter links for the community and transforming key tourism infrastructure. There are six regional Councils across Gippsland involved in this effort.

This 25 km Woolamai to Nyora section provides the missing link to connect the Great Southern Rail Trail and Bass Coast Rail Trail enabling access from Phillip Island to Port Welshpool.

The Woolamai to Nyora extension is one of Council's 2022 Advocacy Priorities and due to its regional significance, is supported by advocacy efforts from both One Gippsland and Destination Gippsland.

The project will include relevant planning and investigation for a 25km trail traversing both Bass Coast (21km) and South Gippsland (4km) municipalities.

The total cost of the project is $500,000 with a grant request of $375,000.

The Gippsland Odyssey Extension (Woolamai to Nyora) Planning Development project is estimated at $500,000. Council will contribute $105,000 towards the project to cover the elements within Bass Coast with South Gippsland to contribute $20,000 based on the distance and funding ratio.

Universal Design Grants Fund (UDG)

The Universal Design Grant Fund (UDG) is a competitive grants program open to eligible rural and regional local governments and incorporated (not-for-profit) organisations/associations.

The grant has been designed to help fund small renovations to existing community facilities can make a very real difference. Grants will be used to improve access, enabling more people, including people with disability and dementia, to participate in community and social activities.

Applicants may seek a maximum of $100,000 (exclusive of GST) for small projects and up to $500,000 for larger grants.

Councils will be required to make a minimum matching (1:1) contribution (cash and in-kind) of the grant being sought.

An application has been submitted for:

Rhyll Mechanics Hall Improvement Project

The Rhyll Mechanics Hall is to provide universal designed toilets/storage/access and pathways to increase accessibility for all users and will cater for the aged, disabled and baby change facilities who currently not catered for. The increased storage allows for the safe storage of tables and chairs currently stored in the main hall.

Rhyll Mechanics Hall is the only community hall in Rhyll. It attracts a variety of community user groups as a meeting and activity facility enhancing connectivity within the community. Regularly hired for private wedding, birthday and funeral functions. The community hall is also host to many community engaging activities including summer markets, Labour Day Art Exhibition - show casing local artists and Offshore Theatre productions.

The community asset committee delegated by Council manage the day-to-day operations and work with the community providing successful events and activities for our local community and visitors to our region.

The works will provide a more user-friendly inclusive community space addressing building elements that prohibit the functional usage of these spaces.

The estimated total cost of the overall project is $390,000. Council has budgeted $290,000 to this project in the 2022/23 budget and is programmed for 2022/23 in capital works. In this application, Council has committed a co-contribution of $290,000 to this project and with a grant request of $100,000.

Sustainability Implications

The Inverloch Community Hub Improvement Project involves several energy upgrades that will contribute towards achieving Action 43 in the Climate Change Action Plan 2020-2030: improve energy efficiency. Upgraded heating, ventilation, and cooling (HVAC), LED lighting installation, and insulation will improve energy efficiency, reducing emissions and electricity bills. Community wellbeing and health will also be enhanced through the creation of a more comfortable indoor environment.

The Gippsland Odyssey Extension (Woolamai to Nyora) Planning Development Project is aligned with the Climate Change Action Plan 2020-2030, which identifies supporting a shift to climate resilient transport as foundation action for Council to drive community-wide emissions reduction. Transitioning to active transport (e.g., walking and cycling) is a highly effective strategy for community emissions reduction and delivers a range of health and wellbeing benefits. With more widespread uptake, increased foot and cycling traffic can also increase local social and economic activity.

Finances

Two of the proposed projects (Inverloch Community Hall and Rhyll Mechanics Hall) are budgeted and programmed to be delivered in 2022/23.

Successful grant funding application will reduce Council's overall contribution to these projects. If unsuccessful, these projects will be fully funded by Council and delivered in 2022/23.

The Tracks and Trails Strategy has an allocated budget of $250,000 for 2022/23.

Successful grant funding application will enable Council to allocate $105,000 of this as co-contribution for the Gippsland Odyssey Extension (Woolamai to Nyora) Planning project. If the funding application is unsuccessful, Council will continue to seek funding from other streams.

Stakeholders

- Bass Coast Shire Councillors
- Bass Coast Community
- Users groups – Inverloch Community Hub and Rhyll Mechanics Hub
- Member for Bass Jordan Crugnale MP
- Visitors to Bass Coast
- One Gippsland
- Destination Gippsland
- South Gippsland Shire

Conclusion

Council relies upon external grant funding to offset costs and deliver projects for the community. This report recommends Council endorse applications for the three identified projects.

The Living Local Regional Fund and the Universal Design Grant provides Council with an opportunity to seek grant funding to offset costs of asset renewal projects currently funded by Council and programmed to be delivered in 2022/23.

The Investment Fast-Track Fund Program aligns with our Advocacy efforts in the delivery of the Gippsland Odyssey Extension (Woolamai to Nyora) Development Program project and fast track the delivery of this project.

Recommendation

That Council:

1. **Endorses the application for $200,000 under the Victorian Governments Living Local Regional Fund for the Inverloch Community Hub Improvement Project;**
2. **Endorses the application for $375,000 under the Victorian Governments Victorian Government's Regional Jobs and Infrastructure Fund (RJIF) - Investment Fast-Track Fund for the Gippsland Odyssey Extension (Woolamai to Nyora) Planning Development project;**
3. **Authorises the Chief Executive Officer to enter into a Memorandum of Understanding with South Gippsland Shire Council for the duration of the Gippsland Odyssey Extension (Woolamai to Nyora) Planning Development Project if successful in the application, and;**
4. **Endorses the application for $100,000 under the Victorian Governments Universal Design Grant Fund for the Rhyll Mechanics Hall Improvement Project.**

Attachments

There are no attachments for this report.

Council Decision

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

That the recommendation be adopted.

CARRIED

H.7 Bass Coast Leisure Facilities Contract - 22/23

File No:	**CM22/514**
Division:	**Resilient Communities**
Council Plan Strategic Objective:	**Healthy Community**
	An inclusive community that embraces its lifestyle and supports health and wellbeing

Declaration

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

Summary

The purpose of this report is to seek Council approval to enter into a guaranteed contract with YMCA for the operation of the leisure facilities in 2022/23.

The intent of the guaranteed contract for the 2022/23 financial year is to continue to support the YMCA as they rebuild from the effects of Covid which has impacted their service deliverability significantly with reduced classes, including swimming lessons, as a result of staff availability and patron confidence returning to the gym post lockdowns.

In line with Council's adopted Procurement Policy, this amendment to the contract requires a Council decision as the amount of the proposed guaranteed contract exceeds the original budget by more than $100,000.

Background

YMCA Victoria has managed Council's two indoor leisure facilities (Wonthaggi and Cowes) under the existing contractual agreement since February 2010.

Under the current agreement, YMCA will continue to manage the leisure facilities until 30 June 2024, the maximum tenure of the contract.

On 20 March 2020, Covid forced the closure of the leisure facilities which severely impacted the ability of the YMCA to meet their financial obligations outlined within contract.

During this period, YMCA had no choice but to stand-down staff and take other measures in order to reduce their expenditure. Subsequently, YMCA sought discussion with Council to determine a variation to the contract that would enable the facilities to be maintained during limited operation.

On 1 April 2020, Council entered into a non-guaranteed contract with YMCA, which took precedent over the current contract, and would continue until both parties agreed that the facilities could be re-opened and become fully operational once again.

Under the non-guaranteed agreement, Council is required to pay the gap in expenses regarding the facilities, based on an estimated budget, provided by YMCA.

Between April 2020 and June 2021, the facilities were closed on multiple occasions and when they were re-opened during this period, it was often at reduced hours and at a heavily reduced capacity.

YMCA were able to access funds through the State Government's job keeper program for 2020/21 which provided Council with a saving of $167,000 on the annual contract.

As the facilities had not returned to fully operational by 30 June 2021, it was determined that the non-guaranteed contract agreement would remain in place until such a time that the facility returned to business as usual and would be off-set by the savings made from the 20/21 year.

The 2021/22 contract payments to YMCA exceeded the original contract amount by $75,000 through a non-guaranteed process. Overall, Council made a saving on the management of the leisure facilities over a two year period of $92,000.

Strategic Basis

Council Plan Strategic Objective:

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

Governing Documents

N/A

Discussion

In April 2022, YMCA officers approached Council to discuss the extension of the non-guaranteed contract for 2022/23 as the leisure facilities had still not returned to business as usual.

The basis of this request was due to facilities still operating on reduced operating hours as a result of limited staff availability, and vital income streams generated from memberships and swimming lessons decreasing since the original contract was in place.

Membership has decreased by approximately 30% in comparison to pre-covid numbers as people react to an increased cost of living. A lack of swim teachers generated a substantial waiting list in the learn to swim program, which reached upwards of 200 kids and was still close to that mark until the recent appointment of two new teachers.

In addition to a lack of swim teachers, the recruitment of life-guards and duty managers has proven increasingly challenging. Low unemployment and greater opportunities to gain employment in the hospitality industry, where new staff aren't required to hold a qualification, has impacted on recruitment significantly.

In April 2022, as restrictions on operating hours and facility capacity, which had previously been enforced by the State Government were no longer in place, Council officers requested that YMCA provide a non-guaranteed contract figure and a guaranteed contract figure for the 22/23 year for Council to consider.

It was also requested that YMCA provide evidence of their profit and loss figures in a detailed report over the past 5 years for Council officers to compare with the proposed non-guaranteed and guaranteed amounts.

The following table outlines the original contracted amount for 2022/23 as well as the proposed non-guaranteed and guaranteed figures put forward by YMCA based on their projected 2022/23 income and expenditure.

Contract Figure	Non-Guaranteed Figure	Guaranteed Figure
$913,893	$1,029,000	$1,020,000

The non-guaranteed figure may fluctuate, depending on the performance of the facilities in any given month. Should Covid re-emerge and force a reduction in capacity or operating hours at the leisure centres, or close the facilities down, the monthly repayments could increase significantly, and the annual non-guaranteed amount could increase beyond the projected $1,029,000.

Conversely, should the facilities return to business as usual sooner than expected, and there be an unexpected increase in membership and other income streams, monthly repayments could decrease, reducing the annual non-guaranteed figure slightly.

In comparison, the guaranteed figure is locked in for the 2022/23 year and is divided into 12 equal monthly payments. Any disruption to the operation of the facilities will not impact the cost to Council, which provides certainty and a guaranteed outcome.

Should it be determined that the additional funding not be provided by Council to cover the gap and the contracted figure remains, YMCA will not have capacity to recruit new resources that enable the facilities to open the same hours it operated at pre-covid.

This then impacts the ability of YMCA to generate income from new memberships and will increase waiting lists in relation to learn to swim lessons. Apart from being a major revenue of the facilities, the learn to swim program is vital in ensuring the children of Bass Coast are capable swimmers, particularly given the natural environment in which they live.

Sustainability Implications

There are no sustainability implications associated with this report.

Finances

The following table outlines the difference between the original contracted amount for the management of the Leisure Facilities Contract, in comparison to the non-guaranteed and guaranteed figures put forward by the YMCA for 2022/23.

Contracted	Non-Guaranteed	Guaranteed
$913,893	$1,029,000	$1,020,000

The non-guaranteed and guaranteed figures are to be paid on a monthly basis upon receipt of an invoice from YMCA.

The non-guaranteed figure is $115,017 greater that than the original contracted amount, whilst the guaranteed figure sits slightly lower at $106,017.

Stakeholders

- YMCA Victoria
- Bass Coast Shire Council

Conclusion

The impact of Covid on the income generated from operation of the Leisure facilities has been compromised over the past two years and as we return closer to business as usual, a determination is required whether to enter into a guaranteed or non-guaranteed contract for the management of the leisure facilities in 2022/23.

Recommendation

That Council enter into a guaranteed contract with YMCA for 2022/23 in the amount of $1,020,000 with the intent of returning to the original contracted figure for 2023/24.

Attachments

There are no attachments for this report

Council Decision

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

That the recommendation be adopted.

CARRIED

H.8 Proposed Road Discontinuance - Wintersun Estate

File No:	**CM22/499**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Leading for our Community** Demonstrating leadership through good governance, transparency and accountability

Declaration

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

Summary

The purpose of this report is to recommend Council commence the statutory procedures to discontinue a series of road reserves in Wintersun Estate in Ventnor and dispose of the land from the road to the surrounding property owner to form part of their subdivision. Such action would assist to resolve a long standing concern for surrounding property owners, giving effect to an earlier resolution of Council dated 18 December 2002.

Background

Wintersun Estate on Berry's Beach Road in Ventnor is a property of approximately 594 acres on the southern coast of Phillip Island. The property had been the subject of an old subdivision which created around 480 house blocks and associated roads and reserves.

The old subdivision was deemed to be an inappropriate development by the Shire Council and the State Government, and during the 1980s an agreement was reached whereby the house blocks would be consolidated into 25 larger lots. Further, the owners agreed to gift approximately 28 hectares immediately abutting the foreshore between Berry's Beach Road and Pyramid Rock Road to the Crown as a reserve for public use.

This agreement was given effect by the Phillip Island Planning Scheme – Revocation No. 6 approved by the Governor in Council on 8 December 1981. This revocation included closure of road reserves which are unnecessary for the provision of access to the consolidated dwelling sites.

At the ordinary meeting of Council held on 18 December 2002 a resolution was passed to discontinue unused roads and charge the full valuation price plus all Council out of pocket and administration costs for the roads. Some roads were discontinued at this time, however the roads identified in the image below were not and are the subject of this report. While Council has been willing to sell all unused roads within the Estate for market value since this time, Wintersun's owners have not been willing to purchase them on Council's terms.

WINTERSUN ROADS TO BE DISCONTINUED

(Shown coloured Orange)



Strategic Basis

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

Governing Documents

Road Discontinuance and Sale Policy 2020

Road Discontinuance and Sale – Guidelines

Council Property Strategy 2016

Local Government Act 1989 (Road Discontinuance currently still sits within this Act)

Discussion

To this day there remains road reserves in Wintersun that have not been discontinued. Over the years, Wintersun's owners have sold larger lots, with some purchasers believing they had acquired title to adjoining road reserves. Council have had to advise that at the time of their purchase it was certainly Council's intention to discontinue the unused roads within the Wintersun Estate and sell them to Wintersun's owners so they could be passed on, however negotiations between the two parties had effectively been stalemated since 2002.

In an attempt to resolve this long standing dispute, Council officers met parties involved in late November 2021. At this meeting it was agreed a valuation would be conducted at the land owner's expense.

It is clear from Council's resolution of 18 December 2002 that the unused road reserves within Wintersun Estate are not required to service the community's traffic and access needs. Indeed, those required for future use were identified and constructed to an appropriate standard some time ago.

Discontinuing the roads that are not required in order to enable the land to be amalgamated with the now more appropriately subdivided land abutting them provides an opportunity for Council to continue its longstanding commitment to protecting the fragile environment of Phillip Island's southern coast. Requiring any prospective purchaser of the land to reimburse Council's legal and other expenses associated with this very long running process, and selling the land from the discontinued roads at a market price, ensures that other ratepayers within the Shire do not effectively subsidise those who stand to benefit when the matter is finally resolved.

Under the *Local Government Act 1989* Council must decide to commence the statutory procedures for road discontinuance and sale, by:

- Publishing a notice in a local newspaper and on its website inviting submissions from interested persons;
- Holding a hearing for any submitters who wish to be heard in support of their submission; and
- Considering the submissions received.

If progress continues, a second report will be presented to Council to resolve to approve road discontinuance and sale.

An alternative would be for Council to do nothing. However, this current arrangement is impacting community members through unclear land ownership. Support for the road discontinuance would likely result in a better planning outcome through consolidation and subdivision as supported in the Planning Scheme.

Sustainability Implications

Road discontinuance and sale of the land from the road allows Council to dispose of land that is surplus to Council and public needs. This can improve the amenity of the area through better use of the land and reduce the risk and maintenance burden to Council. Funds received by Council for the sale of the land can be allocated to current projects.

Finances

Council will require fair value for the land. There are also costs associated with road discontinuance and sale that any purchaser would be required to pay.

Fair value for the land would be determined by Council's valuer based on the value of land in the area and under the same planning zone. Council would not negotiate the price unless there is an exceptional circumstance.

Costs associated with road discontinuance and sale would be estimated by Council's lawyer and included in a cost plan. Any purchaser would be required to pay a non-refundable deposit on the cost plan, and would be responsible for all costs.

Stakeholders

Stakeholders include Wintersun's owners, Council, current and potential owners of properties in the Wintersun estate, the wider Phillip Island community, and Shire ratepayers in general (in the context of the financial consequences of this process).

Conclusion

It is recommended that Council commence the statutory procedures to discontinue the roads identified in this report within Wintersun Estate. In order to progress this matter, statutory procedures need to be undertaken and Council's approval is requested to commence this process.

Officers' assessment is that the road reserves are not required for general public access, or for future strategic need. Discontinuance and disposal has benefits to both the adjoining land owners and Council.

Recommendation

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

1. **Resolves that the statutory procedures be commenced to discontinue the roads in Wintersun Estate as shown on the plans attached to this report and to sell to abutting land owner/s for not less than a valuation received within six months prior to the sale.**
2. **Directs that public notice of the proposed discontinuance be given under Sections 207A and 223 of the Act.**
3. **Authorises the Chief Executive Officer or delegate to undertake the administrative procedures necessary to enable Council to carry out its functions under Section 223 of the Act.**
4. **Resolves to hear and consider any submissions received pursuant to Section 223 of the Act at a future Council meeting.**

Attachments

AT-1 Wintersun Estate - Road Status 1 Page

Council Decision

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

That the recommendation be adopted.

CARRIED

H.9 Proposed Road Discontinuance - Back Lanes Fuller Road and Morey Street, Wonthaggi

File No:	**CM22/507**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Leading for our Community** Demonstrating leadership through good governance, transparency and accountability

Declaration

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

Summary

The purpose of this report is to determine if the roads Back Lane Fuller Road and Back Lane Morey Street, Wonthaggi (south from Ormsby Grove) are no longer reasonably required for public access and can be discontinued. If discontinued, the land from these roads will be sold to a surrounding property owner to form part of their subdivision.

At Council's Ordinary Meeting 15 June 2022, Council resolved to commence the statutory procedures for road discontinuance.

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

Council can now conclude the statutory process and make a decision regarding road discontinuance. It is recommended that Council approve the discontinuance of the Back Lanes Fuller Road and Morey Street, Wonthaggi.

Background

At Councils Ordinary meeting 15 June 2022, the following recommendation was adopted by Council:

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

1. **Resolves that the statutory procedures be commenced to discontinue the roads Back Lanes Fuller Road and Morey Street, Wonthaggi as shown on the plans included in this report and sell to abutting land owner/s for not less than a valuation received within six months prior to the sale.**
2. **Directs that public notice of the proposed discontinuance be given under Sections 207A and 223 of the Act.**
3. **Authorises the Chief Executive Officer or delegate to undertake the administrative procedures necessary to enable Council to carry out its functions under Section 223 of the Act.**
4. **Resolves to hear and consider any submissions received pursuant to Section 223 of the Act at a future Council meeting.**

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

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

Strategic Basis

Council Plan Strategic Objective:

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

Governing Documents

Road Discontinuance and Sale Policy 2020

Road Discontinuance and Sale – Guidelines

Council Property Strategy 2016

Local Government Act 1989 (Road Discontinuance currently still sits within this Act)

Discussion

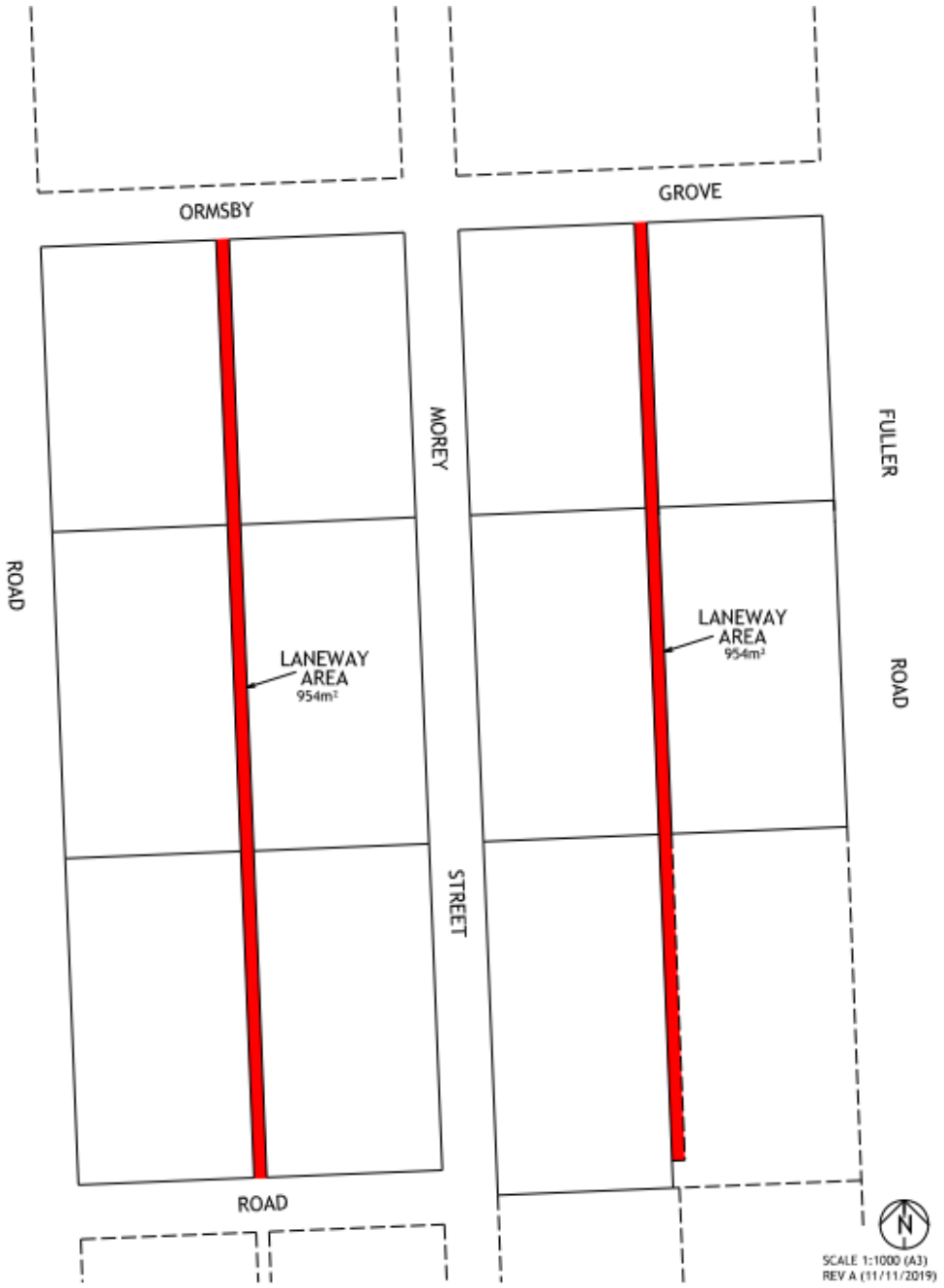
Back Lanes Fuller Road and Morey Street, Wonthaggi are shown in the plans below.

Back Lane Fuller Road is 954sqm and approximately 263 metres south from Ormsby Grove through to the rear of 41 Fuller Road.

Back Lane Morey Street is 954sqm and approximately 263 metres south from Ormsby Grove through to the adjoining road (Utting Avenue).

Both are Council owned road reserves. Neither appear on Council's register of public roads. There are twelve (12) properties adjoining the road reserves, with eleven (11) being owned by the proponent. There is one (1) adjoining land parcel at 41 Fuller Road owned by a separate landowner, as shown below.





The owner of the eleven (11) surrounding parcels is currently undertaking a subdivision of their land. They wish to purchase and include the road reserves within their subdivision. They were provided the *Road Discontinuance and Sale Policy 2020* and *Road Discontinuance and Sale – Guidelines* (via their consultant) and have advised their understanding of the process and intent to proceed.

Relevant departments within Council were consulted to determine whether the road reserves are required currently or in future for general public access. Responses determined that the road reserves are not required, with drainage and sewerage provided for within the future subdivision.

Contact with the remaining adjoining property owner at 41 Fuller Road, Wonthaggi was initiated to advise of the proposed discontinuance and sale, and to determine their interest or concerns.

Formal consultation was undertaken as per Section 223 of the *Local Government Act 1989* by:

- Publishing a notice in a local newspaper and on Councils website inviting submissions from interested persons;
- Providing an opportunity to hold a hearing for any submitters who wished to be heard in support of their submission; and
- Considering the submissions received.

Notice was placed in the South Gippsland Sentinel Times and on Council's website. The prescribed time frame (28 days or more) was allowed for submissions. There were no requests to be heard, and no submissions received.

Sustainability Implications

Road discontinuance and sale of the land from the road allows Council to dispose of land that is surplus to Council and public needs. This can improve the amenity of the area through better use of the land and reduce the risk and maintenance burden to Council. Funds received by Council for the sale of the land can be allocated to current projects.

Finances

Council will require fair value for the land. There are also costs associated with road discontinuance and sale that any purchaser would be required to pay.

Fair value for the land would be determined by Council's valuer based on the value of land in the area and under the same planning zone. Council would not negotiate the price unless there is an exceptional circumstance.

Costs associated with road discontinuance and sale would be estimated by Council's lawyer and included in a cost plan. The purchaser would be responsible for all costs.

Stakeholders

- Bass Coast Shire Council – as landowners
- Adjoining land owners – potential affected/interested parties
- Wider community – consultation as per Section 223 process

Other Options

Council could choose not to proceed with the discontinuance of the roads. Council may be required to maintain the roads and manage any potential encroachments into the future.

Conclusion

It is recommended that Council discontinue the roads Back Lane Fuller Road and Back Lane Morey Street, Wonthaggi.

Recommendation

That Council:

1. **Resolves that having followed all the required statutory procedures pursuant to sections 207A and 223 of the *Local Government Act 1989 (Act)* pursuant to its powers under clause 3 of schedule 10 of the Act and noting that no submissions were received in response to the public notice, it discontinues the roads Back Lane Fuller Road and Back Lane Morey Street Wonthaggi as shown on the plans included in this report.**
2. **Is of the opinion that the roads are not reasonably required for public access.**
3. **Directs that notice pursuant to the provisions of Clause 3 of Schedule 10 of the Act is published in the Government Gazette.**
4. **Directs that once discontinued, the land in the road as shown on the plans included in this report is sold to an adjoining land owner for not less than a valuation received within six months prior to the sale.**
5. **Authorises the Chief Executive Officer or delegate to undertake the administrative procedures necessary to complete the discontinuance and sale of land from the roads.**

Attachments

There are no attachments for this report

Council Decision

Moved: Cr. Brett Tessari / Seconded: Cr. Leticia Laing

That the recommendation be adopted.

CARRIED

H.10 Instruments of Appointment and Authorisation

File No:	**CM22/439**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Leading for our Community** Demonstrating leadership through good governance, transparency and accountability

Declaration

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

Summary

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

- *Planning and Environment Act 1987*

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 must be 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*

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:**
      - **Anthony Price**
      - **Stephen Fowkes**
      - **Kerry Ladell**
      - **Austin Cram**
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. **Revokes the instrument of Appointment and Authorisation under the *Environment Protection Act 2017* to:**

- **Jamey Mullen**
- **Leah Bellairs**
- **Nicola Millward**

Attachments

AT-1	Nicholas McCallum S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-2	Thomas Ruddell S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page
AT-3	Mathew Whitby S11A Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page

Council Decision

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

That the recommendation be adopted.

CARRIED

H.11 Award of Tender No. 22009 - Construction of Wonthaggi Soccer Club Change Pavilion

File No:	**CM22/515**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Governance**
	We are responsive, open, transparent and financially sustainable

Conflict of Interest

Cr Leticia Laing declared a conflict of Interest in agenda item H.11 under section 127 of the *Local Government Act 2020*. They left the meeting at 2.23pm and took no part in the debate or decision.

Declaration

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

Summary

This report to Council presents the outcome of the tender evaluation for Tender No 22009 – Construction of Wonthaggi Soccer Club Change Pavilion.

A panel, consisting of four (4) Council officers was formed for the purpose of the tender evaluation.

The objective of the panel was to assess the submissions against the selection criteria and provide a recommendation to Council on a preferred tenderer for awarding of the capital works project.

The panel concludes that the tender submitted by TS Constructions will satisfy the requirements of the works and provide Council with value for money.

As the tender submission price is higher than allocated budget for this project, the panel is recommending Council approve additional funds of $206,225 (GST exclusive) to allow the project to continue and award Contract No 22009 to TS Constructions.

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

Background and Context

The Bass Coast Shire Council is committed to providing effective roads, drains, reserves buildings and other public infrastructure within the Bass Coast Shire.

The construction of Wonthaggi Soccer Pavilion shall incorporate building and drainage construction and all ancillary works outlined in the construction plans, specification and associated contract documents.

The Pavilion is currently used by Wonthaggi United Soccer Club.

Strategic Basis

Council Plan Strategic Objective:

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

Statutory Requirements/Codes/Standards/Policies

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

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

Tender Process

This tender was advertised in accordance with Council's Procurement Policy and closed at 2pm on Wednesday 27 July 2022 with Council receiving one (1) conforming tender submission.

Evaluation Process

The conforming tender was assessed on the following evaluation criteria and weightings:

Table 1 – Evaluation Selection Criteria	
Criterion	**Weighting**
Mandatory	
Integrated Management System	Pass/Fail
Insurance and Registration	Pass/Fail
Weighted	
Price	30%
Previous Related Experience & Referees	20%
Methodology & Construction Period	20%
Capacity – Staff Resources, Sub-contractors, Suppliers	15%
Benefit to Local Economy	5%
Environmental Management	5%
Social Procurement Outcomes	5%

The evaluation panel included four (4) Council officers and was chaired by an officer from the Procurement Team who oversaw the process and did not score the tender.

The tenderer passed the mandatory selection criteria.

For the tender submission received, each panel member scored the criteria out of a maximum possible five points. Following the initial independent evaluation, the panel met to discuss their independent scores and arrived at a consensus on final scores for each criterion. The scores were then multiplied by the relevant weighting to obtain final scores.

The panel assessed the technical worth of the tender against the specification requirements and the selection criteria, identifying issues for review and clarification with the tenderer, obtaining additional information to assist with the decision making.

The final weighted score is set out in Table 2 below.

Table 2 – Final Weighting Scores

No.	Name	* Price Score %	# Non-Price Score %	Total Score %
1	TS Constructions	30%	59%	89%

* The higher the price score – lower the tendered price.

The higher the non-price score – represents better capability and capacity to undertake the service.

Whilst only one (1) tender submission was received, the panel considers the submission and pricing still represents value for money. This is based on the works required and current complexities of the construction industry, where Council has received feedback from local contractors that there has been significant price increases and shortages in some building materials.

Given the quantum of the budget shortfall, the panel have engaged in a value management exercise with the tenderer as part of a Best and Final Offer (BAFO). The tenderer has proposed a lower cost option, ($30,000 net saving), that includes the use of different cladding materials. As this will increase the life cycle maintenance costs of this facility, require new plans and potentially delay in the project delivery, the panel is not supportive of the changes to the project specification and design.

Re-tendering this work would be unlikely to attract additional tenderers, risks further price rises and further delays in the project completion. There is also risk that Council may lose the $500,000 in grant funding approved by SRV, which is conditional on the funds being spent.

TS Constructions are a local contractor with majority of staff, subcontractors and suppliers being local to Bass Coast Shire Council, allowing Council to meet our QBL criteria. They have the capacity and capability to perform the work within the required timeframes and have proven extensive experience in these types of projects.

Contract Management

Project Manager – Infrastructure Delivery will act as Contract Superintendent for the contract. Any authorisation of variations will be in accordance with the Procurement Policy adopted by Council on 16 March 2022.

Contract Commencement: September 2022

Anticipated Contract Completion: 28 March 2023

Finances

This project is in the 2022/23 capital program.

Funding of $500,000 (GST exclusive) was received from SRV and a further $50,000 was received from WUSC.

The lump sum tender price is $711,600 (GST exclusive).

See below table for a summary of costs:

	GST Exclusive
Construction including permits and approvals (lump sum components)	$711,600
Total Contract Sum	**$711,600**
Internal Project Management costs	$21,348
Contingency (10%) *	$71,160
TOTAL	**$804,108**
Additional funds required for the project to proceed	**$206,225**

* Normal practice for a capital project is to allow for a contingency sum of 10% of the contract value. This contingency refers to unforeseeable costs, likely to be incurred during the contract, if required.

The budget available for the contract is $597,883 (GST exclusive), which does not include contingency and project management fees.

Additional funding of $206,225 is available through capital works program advancement funds in the 2022/23 budget and will be used to support delivery of this project.

Stakeholders

The stakeholders for this tender include:

- Bass Coast Shire Council
- Wonthaggi United Soccer Club
- Residents
- Ratepayers
- Visitors
- Tourists

Other Options

Not award a contract at this time and re-tender for the Construction of Wonthaggi Soccer Club Change Pavilion. As outlined in the evaluation process, there is a risk that costs may increase, and it is unclear that Council may receive any additional submissions by doing this. It will delay the start of the project for at least twelve weeks. This option may also impact the SRV funding which Council has already received.

Conclusion

The Tender Evaluation Panel Report is attached.

The panel concludes that the tender submitted by TS Constructions will provide Council with:

- Demonstrated and relevant experience to undertake the works in accordance with the specification
- Commitment to local economy outcomes; the contractor has majority of staff, subcontractors and suppliers residing within the Bass Coast Shire Council
- The capacity and capability to complete the works within the required timeframes

Recommendation

That Council:

1. **That Council approve the additional spend of $206,225 (GST Exclusive) in excess of budget for the construction of the Wonthaggi Soccer Pavilion project.**
2. **Accept the tender from TS Constructions and award Contract No 22009 – Construction of Wonthaggi Soccer Club Change Pavilion for the contract sum of $711,600 plus GST of $71,160 which is a lump sum.**
3. **Authorise the Chief Executive Officer to execute Contract 22009 between Council and TS Constructions Pty Ltd.**

Attachments

AT-1 ***CONFIDENTIAL*** - Tender Evaluation Panel Report 22009 11 Pages

Council Decision

Moved: Cr. Brett Tessari / Seconded: Cr. Les Larke

That the recommendation be adopted.

CARRIED

Cr Leticia Laing returned to the meeting at 2.29pm.

Statutory Reports

Council Decision

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

That agenda items I.1, I.2 I.3, I.4 and I.5 be considered as a block.

CARRIED

I Statutory Reports

I.1 Informal Meeting of Councillors Records

File No:	**CM22/303**
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	Councillor Briefings 27 July 2022 Informal Meeting of Councillors	2 Pages
AT-2	East Gippsland Shire Council and Bass Coast Shire Council Collaboration and Learning Informal Meeting of Councillors 3 August 2022	2 Pages
AT-3	Councillor Briefings10 August 2022 Informal Meeting of Councillors	2 Pages
AT-4	Councillor Briefings 17 August 2022 Informal Meeting of Councillors	1 Page

I.2 Planning & Building statistics - July 2022

File No:	**CM22/473**
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

210367: Construction of a replacement dwelling in the Design and Development Overlay (DDO1) and Land Subject to Inundation Overlay (LSIO) and removal of vegetation in a Vegetation Protection Overlay (VPO2) located at 3 Shearwater Drive, Silverleaves.

210467: Two lot subdivision located at 36 Justice Road, Cowes.

220066: Removal of 8 trees in a Vegetation Protection Overlay (VPO2) located at 16 Bayliss Court, Cowes.

220081: Use of land for Accommodation in a General Resident Zone (GRZ1) and a Low-Density Residential Zone (LDRZ1) located at 2A Hereward Close, Cowes.

220122: Removal of thirteen trees in an Environmental Significance Overlay (ESO1) and Significant Landscape Overlay (SLO3) located at 201 McFees Road, Rhyll.

220141: Construction of an out-building (shed) in a Farming Zone (FZ1), Environmental Significance Overlay (ESO1) and Significant Landscape Overlay (SLO3) located at 201 McFees Road, Rhyll.

220155: Buildings and works associated with a dwelling above 7 metres in height in a Design and Development Overlay (DDO1) located at 222 Smiths Beach Road, Smiths Beach.

220273: Removal of one tree in a Vegetation Protection Overlay (VPO2) located at 111 Church Street, Cowes.

Western Port Ward

210399: Two lot subdivision (consolidation and boundary realignment) locate at 130 & 220 Koetsveldt Road, Ryanston.

210485: Development of land for a dwelling in the DDO1 located at 160 The Esplanade, Surf Beach.

210520: 46 lot subdivision of any existing building located at 3-6 Sapphire View, San Remo.

220075: Building and works to construct a veranda, swimming pool and the retrospective works to remove an outbuilding, construct a garage and a driveway in a Heritage Overlay (HO126) located at 38 Forrest Avenue, Newhaven.

220121: Buildings and works associated with a dwelling above 7 metres in height in a Design and Development Overlay, Schedule 1 (DDO1) located at 4 Deena Place, San Remo.

220160: Buildings and works associated with a food and drink premises and the display of business identification signage in a General Residential Zone (GRZ) located at 1 Forrest Avenue, Newhaven.

220181: Buildings and works associated with an outbuilding in a Significant Landscape Overlay (SLO1) located at 375 Densley Road, Woolamai.

220186: Development of land for a dwelling in the Design and Development Overlay (DDO1) located at 14 Pike Street, San Remo.

220200: Construct a building in a Heritage Overlay (HO28) located at 5 Hamelin Close, Corinella.

220216: Development of land for an outbuilding in a Significant Landscape Overlay (SLO1) located at 379 Turnbull-Woolamai Road, Woolamai.

220236: Construction of an out-building (shed) in a Rural Activity Zone (RAZ) located at 526 Corinella Road, Corinella.

220265: Development of land for an agricultural shed in the Rural Activity Zone (RAZ) located at 10 Pender Road, Bass.

Bunurong Ward

210464: Buildings and works to construct a third dwelling, retrospective approval of and buildings and works to extend a second dwelling, and an extension to the existing dwelling located at 46 Dunn Street, Wonthaggi.

220024: Extension to an existing dwelling with a height of more than 7 metres in the Design and Development Overlay (DDO1 and DDO9) located at 150 Surf Parade, Inverloch.

220102: Buildings and works (garage) associated with a dwelling in the Farming Zone (FZ) and Bushfire Management Overlay (BMO) located at 209 West Area Road, Wonthaggi.

220138: Two lot subdivision located at 15 Fahey Street, Wonthaggi.

220149: Development of land for a single dwelling in the Bushfire Management Overlay (BMO) located at 118 Viminaria Road, Harmers Haven.

220168: Development of land for a replacement dwelling in a Farming Zone (FZ) located at 6280 Bass Highway, Inverloch.

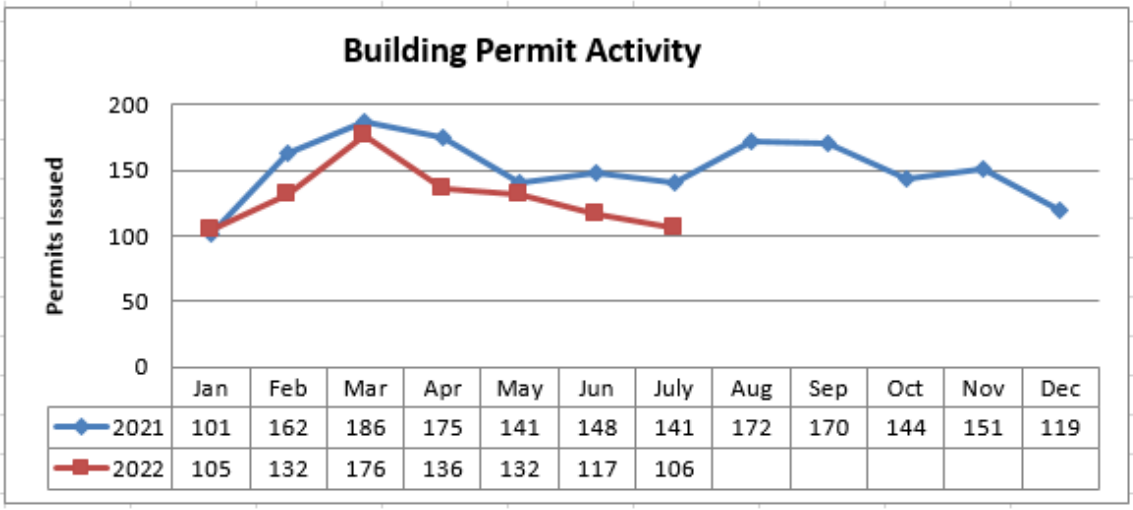
220245: Removal of one tree in a Vegetation Protection Overlay (VPO3) located at 89 Lohr Avenue, Inverloch.

220264: Development of land for an outbuilding in a Farming Zone (FZ) located at 290 Boundary Road, Wonthaggi.

220276: Extension to an existing dwelling in the Farming Zone (FZ) located at 6 Pearsalls Road, Inverloch.

PLANNING AND BUILDING ACTIVITY REPORT FOR JULY 2022

Statutory Planning	**This month (July)**	**Last month**	**Year to date (financial year)**
% of applications determined within statutory timeframe	84.6	68.6	84.6
Average Gross Days (Responsible Authority determination)	107	118	107
(new) Average Gross Days to final outcome	122	127	122
Average Statutory Days (Responsible Authority)	32.5	36.23	
Number of live applications	227	197	-
Number of applications received for the month	44	45	44
Number of Responsible Authority outcomes	41	62	41
Municipal Building Services & Enforcement	**This month (July)**	**Last month**	**Year to date (financial year)**
Essential Safety Measure inspections	0	0	0
Report and Consent applications	28	29	28
POPE and Siting consents issued for temporary structures	0	1	0
Complaints received requiring investigation	4	13	4
New building enforcement cases	4	2	4
Number of open building enforcement cases	34	31	n/a
Building permits issued by Council	0	0	0



Planning Enforcement	This month (July)	Last month	Year to date (financial year)
New Reports received for assessment	7	8	7
Reports assessed and closed – no PE	1	1	1
New complaint/case files opened	7	4	7
Complaints/case files closed	17	7	17
Current open complaints/case files	37	46	-

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 July 2022; and**
2. **Receives and notes the Planning and Building Activity Report for July 2022.**

Attachments

There are no attachments for this report.

I.3 Contracts Awarded Report

File No: **CM22/502**
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 July 2022 to 31 July 2022, the following contracts have been awarded under the Chief Executive Officer's Financial Delegation.

Contract No.	Description	Contractor	Contract Sum (incl gst)
22002A	One Council CiA Panel of Suppliers	allaboutXpert Australia Pty Ltd	Schedule of Rates
22002B	One Council CiA Panel of Suppliers	Atturra Business Applications	Schedule of Rates
22002C	One Council CiA Panel of Suppliers	Esstev Consulting	Schedule of Rates
22002D	One Council CiA Panel of Suppliers	Lanluas Consulting Pty Ltd	Schedule of Rates
22004	Anderson Road Boat Ramp Eastern Car Park	SR Excavations Pty Ltd	$594,811.58

Contracts Extended

For the period from 1 July 2022 to 31 July 2022, there were no contracts that were extended under the Procurement Financial Delegations.

Recommendation

That Council notes the above contracts were awarded under financial delegations in accordance with the Procurement Policy during July 2022.

Attachments

There are no attachments for this report.

I.4 Receipt of Audit and Risk Committee Minutes - 25 May 2022

File No:	**CM22/478**
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

Attached are the minutes of the Audit and Risk Committee Meeting held on Wednesday 25 May 2022. Items discussed at this Meeting were:

Confirmation of Minutes

- Confirmation of Audit and Risk Committee Meeting Minutes from 2 March 2022

Matters Arising from Previous Minutes

- Actions Arising from Previous Minutes

Internal Audits

- Status report on action items identified through the audit program
- Internal Audit Plan - Year 2 and 3
- Internal Audit Update - Penetration Test and Essential 8 Audit

Financial Reports

- 2021/22 Quarterly Performance Report – January - March 2022
- Councillor Expenses for the Council Term - 9 November 2021 to 31 March 2022
- Capital Works Monthly Status Report – Month Ending March 2022

Risk Management

- Risk Management Report
- Evidence Based Controls Effectiveness Testing

Compliance

- Non-compliance and legal counsel engagement report for the period 1 January 2022 to 31 March 2022
- Legislative Compliance
- Research report from other agencies
- Governance Framework

General Business

- VAGO

Recommendation

That the minutes of the Audit and Risk Committee meeting held on 25 May 2022 be received and the recommendations therein adopted.

Attachments

AT-1 ***CONFIDENTIAL*** - Audit and Risk Committee Minutes 25 May 2022 32 Pages

I.5 PIITS Community Reference Group Quarterly Meeting

File No:	**CM22/526**
Division:	**Place Making**
Council Plan Strategic Objective:	**Our Places**
	Strengthening the connection between people and the public places they share

Declaration

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

Summary

The purpose of this report is to provide an overview of the Phillip Island Integrated Transport Study (PIITS) Community Reference Group meeting held on 25 July 2022.

Strategic Basis

Council Plan Strategic Objective:

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

Discussion

The Community Reference Group (CRG) meeting was held in person at the Newhaven Visitor Information Centre and virtually via TEAMS. Three Council Officers and nine CRG representatives attended with Cr David Rooks chairing the meeting.

Several important updates on strategic transport initiatives were provided including The Phillip Island Safer Speeds Project, Tracks and Trails Strategy, Surf Beach / Sunderland Bay Road and Drainage upgrade project, Planning for Phillip Island Road Corridor, and relevant projects in the current Capital Works program.

The CRG discussed their advocacy and recent actions to encourage and support cycling on Phillip Island.

Minutes of the meeting are attached to this report.

Recommendation

That the report be received.

Attachments

AT-1 ***CONFIDENTIAL*** - PIITS CRG Meeting Minutes July 2022 7 Pages

Council Decision

Moved: Cr. Brett Tessari / Seconded: Cr. Ron Bauer

That the recommendations attached to agenda items 1.1, 1.2 1.3, 1.4 and 1.5 be adopted.

CARRIED

J Urgent Business

There was no Urgent Business

Mayoral Announcement Of Next Meeting Of Council

The next **Council Meeting** will be held on 19 October 2022 in the Bass Coast Civic Centre Council Chamber, Baillieu Street East, Wonthaggi commencing at 1.00pm

Council Decision

Moved: Cr. Brett Tessari / Seconded: Cr. Ron Bauer

That the meeting be closed to members of the public pursuant to Section 66 of the Local Government Act 2020, to consider an item/s as they deal with:

(a) of the Local Government Act 2020, to consider this item as it deals with Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

CARRIED

Meeting adjourned

The meeting was adjourned at 2.33pm

Meeting resumed

The meeting resumed at 2.35pm

Items Closed to the Public

Excerpt of Section 66 of the Local Government Act 2020.

(5) If a Council or delegated committee determines that a meeting is to be closed to the public to consider confidential information, the Council or delegated committee must record in the minutes of the meeting that are available for public inspection—

(a) the ground or grounds for determining to close the meeting to the public by reference to the grounds specified in the definition of ***confidential information*** in section 3(1); and

(b) an explanation of why the specified ground or grounds applied.

confidential information means the following information—

(a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;

(b) security information, being information that if released is likely to endanger the security of Council property or the safety of any person;

(c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values;

(d) law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;

(e) legal privileged information, being information to which legal professional privilege or client legal privilege applies;

(f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;

(g) private commercial information, being information provided by a business, commercial or financial undertaking that—

(i) relates to trade secrets; or

(ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;

(h) confidential meeting information, being the records of meetings closed to the public under section 66(2)(a);

(i) internal arbitration information, being information specified in section 145;

(j) Councillor Conduct Panel confidential information, being information specified in section 169;

(k) information prescribed by the regulations to be confidential information for the purposes of this definition;

(l) information that was confidential information for the purposes of section 77 of the **Local Government Act 1989**;

K Confirmation of Closed Minutes

K.1 Minutes of Closed Council Meeting held on 17 August 2022

L Reports Requiring Council Decision Closed to the Public

L.1 Cowes Cultural and Community Centre

It is recommended that the meeting be closed to members of the public pursuant to Section 66 (a) of the Local Government Act 2020, to consider this item as it deals with Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

Meeting closed

The meeting closed at 2.50pm