
























BASS COAST

Ordinary Council Meeting Agenda

Shaping a better Bass Coast

Wednesday, 21 October 2020

Commencing at 1.00pm

Note: This Ordinary Meeting of Council will be held virtually. Open to the public via livestream.

Vision, Mission and Values



Vision

Bass Coast will be known as a region that supports a sustainable and healthy community, and values and protects its natural assets.

Mission

We will engage with and advocate for our community to ensure equity and balance between liveability and environmental protection and be accountable for our financial management in realising the community's vision.

Values

Customer Focus

We will continue to develop effective relationships with customers

Continuous Improvement

We are committed to improving our processes and service delivery

Pride

We take pride in and promote our achievements, our staff and our organisation

Integrity

We act and make decisions that are fair, honest, open and accountable

Respect

We treat people with dignity and respect

Commitment

We value and recognise contributions towards achieving the Bass Coast Vision. We listen, understand, consult and respond to our community and staff. We provide accurate, timely and relevant information.

Notice of Meeting

Notice is hereby given that the next **Ordinary Meeting** of the Bass Coast Shire Council will be held virtually on 21 October 2020 at **1.00pm**

Date of Notice - 16 October 2020
Ali Wastie
CEO

Agenda

Livestreaming

In accordance with the Bass Coast Shire Council Meeting Livestreaming Policy 2020 adopted 15 April 2020 this Meeting will be livestreamed and the video and audio recording of the Meeting will be made publicly available for viewing on Council's webpage.

Mobile Telephone Reminder

Please turn off all mobile telephones or in the case of an emergency, please advise the Chair and switch to silent mode.

Statement of Acknowledgement

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

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

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

Councillor Statement

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

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

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

Note:

Reports contained within this agenda have been reviewed and are in line with the Election Period Policy

Council Plan Themes

Advocacy
Representing the community

Nil Reports

Economic Development
Expanding, attracting and retaining business and investment

Nil Reports

Environment
Maintain and protect the natural environment

Nil Reports

Governance
We are responsive, open, transparent and financially sustainable

H.6 Instrument of Appointment and Authorisation - Planning and Environment Act 1987, page 113

H.7 Council Meeting Schedule Update, page 115

H.8 Financial Statements and Performance Statement for 2019/20, page 118

Health and Wellbeing
We are a healthy and active community

Nil Reports

Liveability
Enjoying the place we live

Nil Reports

Our Character
Celebrating the uniqueness of our townships

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H.3 Planing permit application 20080 21 Highview Crescet Surf Beach, page 58

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A Present and Apologies

B Declarations of Interest

C Confirmation of Minutes

C.1 Closed Ordinary Meeting held on 15 July 2020

Recommendation

That the minutes of the Closed Ordinary Meeting held on 15 July 2020 be confirmed.

C.2 Ordinary Meeting held on 16 September 2020

Recommendation

That the minutes of the Ordinary Meeting held on 16 September 2020 be confirmed.

D Public Question Time

Election Period (Caretaker) commences from 12noon on 22 September 2020 and ends at 6.00pm on 24 October 2020.
Council will be operating under the Election Period Policy during this time.
Public Question Time will be paused for the 21 October Council Meeting.

E Petitions, Joint Letters, Deputations and Correspondence

Notices of Motion

F Notices of Motion

Mayor and Councillor Reports

G Mayor and Councillor Reports

Reports Requiring Council Decision

H Reports Requiring Council Decision

H.1 Planning Application 190293 - 58 Bruce Road, Silverleaves

File No:	**CM20/568**
Division:	**Place Making**
Council Plan Strategic Objective:	**Our Character** Celebrating the uniqueness of our townships

Application Details

Use/Development Sought:	**Development of the land for a dwelling and removal of vegetation**
The Land:	**58 Bruce Road, Silverleaves VIC 3922** **Lot 241 on LP63263**
Planning Scheme:	**Bass Coast Planning Scheme**
Zoning:	**Clause 32.05 - Township Zone (TZ)**
Overlays:	**Clause 42.02 – Vegetation Protection Overlay – Schedule 2 (VPO2)** **Clause 43.02 – Design and Development Overlay – Schedule 1 (DDO1)** **Clause 44.06 – Bushfire Management Overlay (BMO)** **Clause 44.04 – Land Subject to Inundation Overlay (LSIO)**

Declaration

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

Executive Summary

This application proposes to develop the land for a double storey dwelling and to remove vegetation at 58 Bruce Road, Silverleaves Victoria.

The proposal triggers the need for a planning permit in the Bass Coast Planning Scheme under:

- Clause 44.04-2 (Land Subject to Inundation Overlay) as a permit is required to construct a building or construct or carry out works for a dwelling;
- Clause 42.02-2 (Vegetation Protection Overlay) as a permit is required to remove, destroy or lop vegetation with a girth greater than 30cm (when measured 30 centimetres above ground level) or a height of at least two metres;
- Clause 44.06-2 (Bushfire Management Overlay) as a permit is required to construct a building or construct or carry out works in association with accommodation (dwelling); and

- Clause 43.02-2 (Design and Development Overlay) as a permit is required to construct a building or construct or carry out works for development which exceeds seven metres in height.

The application was advertised and received seven (7) submissions.

The application was presented to Council at its Ordinary Meeting of 19 August 2020. At the meeting Council resolved to defer consideration of the application to the September 2020 Ordinary Council Meeting. At the September meeting, Council resolved to defer the application to the October 2020 Ordinary Council Meeting for decision.

This report addresses the planning merits of the proposal and the issues raised by submitters. It concludes that the proposal accords with the relevant provisions of the Planning Scheme.

It concludes that the proposal is considered to be consistent with the relevant policies, objectives and strategies of the Bass Coast Planning Scheme.

On this basis, it is recommended that Council resolve to issue a notice of decision to grant a planning permit for application 190293.

Reason a Council Decision is required

Council's delegations require applications that attract five or more objections to be determined by Council. This application attracted seven (7) objections.

Application Details

This application proposes to develop the land for a dwelling and remove vegetation in accordance with amended plans received on 27 August 2020 and those prepared by LRW Design dated Aug 2020 (pp. 1-11) (see Attachment One. – AT1).

Bass Coast Council requested amended plans to ensure compliance with Melbourne Water referral conditional requirements and show floor levels to AHD. The amendments have not resulted in changes to the overall height of the dwelling.

Copies of the site plan, floor plans and elevation plans are shown below from Figure 1 to Figure 4.

Further reports which were submitted for the application include:

- Bushfire Management Assessment prepared by Treed Environs dated 20 August 2019 (pp. 1-17)
- Indicative Landscape Plan prepared by Morris Outside dated 11 December 2019 (pp.1)
- Arborist Report prepared by Treed Environs dated February 2020 (pp. 1-23)
- Coastal Hazard Vulnerability Assessment prepared by Water Technology version 01 dated 5 February 2020 (pp. 1-32)

These supporting documents for the application are supplied at Attachment 2. (AT-2).

Following the advertising period, amended plans were received on 25 May 2020 and substituted under Section 57(A) of the *Planning and Environment Act 1987* (the Act).

The amended design was provided to address submitter concerns and the following changes were made:

- Added notation for gravel driveway;
- Removal of the proposed workshop at the frontage of the site; and
- Amendment of the finished floor level for the ground floor.

The amended plans were circulated via email to the objectors of the application, and to date, no objections have been withdrawn.

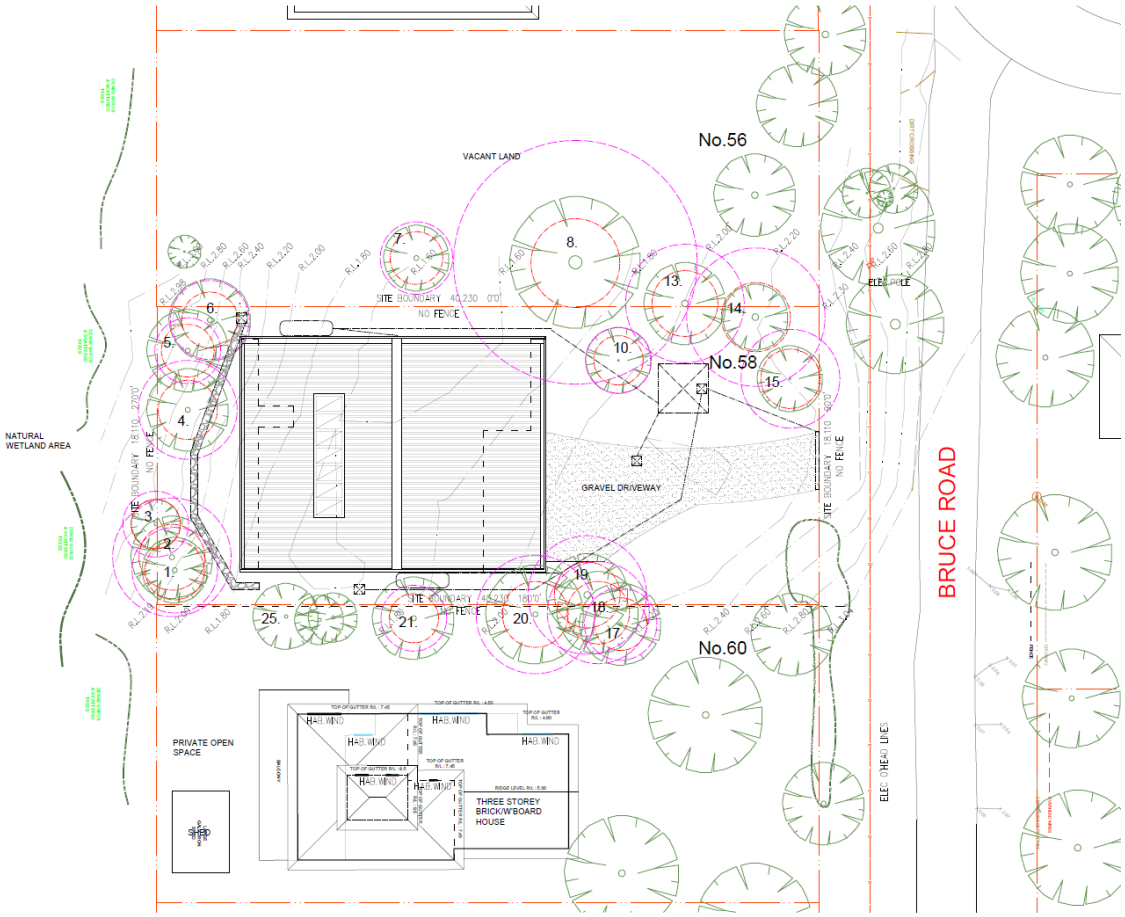


Figure 1. *Site plan of the proposed development and vegetation removal on the land at 58 Bruce Road, Silverleaves*

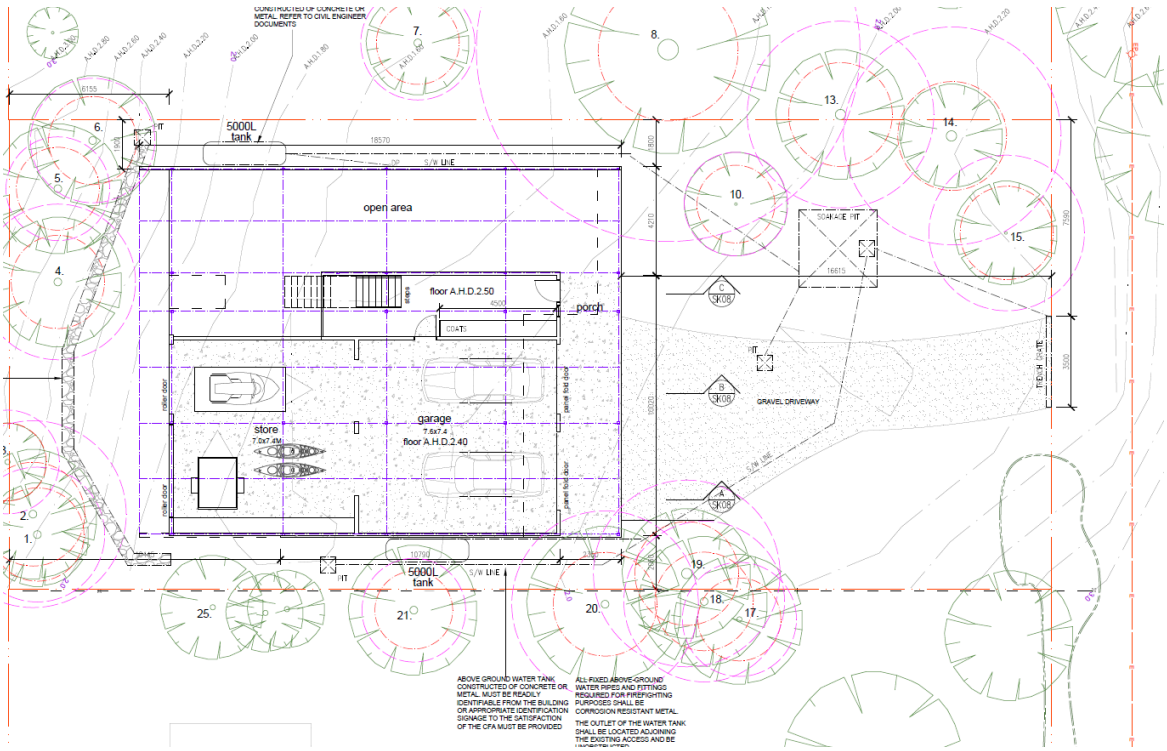


Figure 2. *Ground floor plan of the proposed development on the land at 58 Bruce Road, Silverleaves*

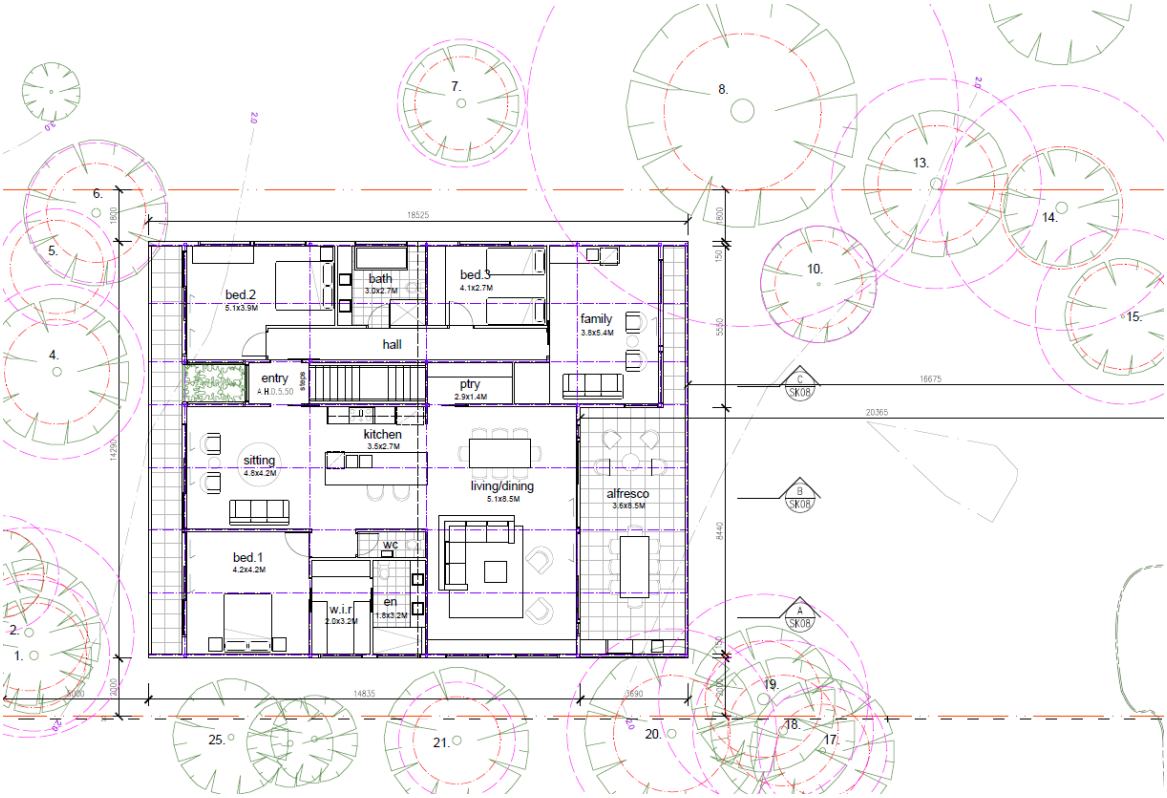


Figure 3*. First floor plan of the proposed development on the land at 58 Bruce Road, Silverleaves*

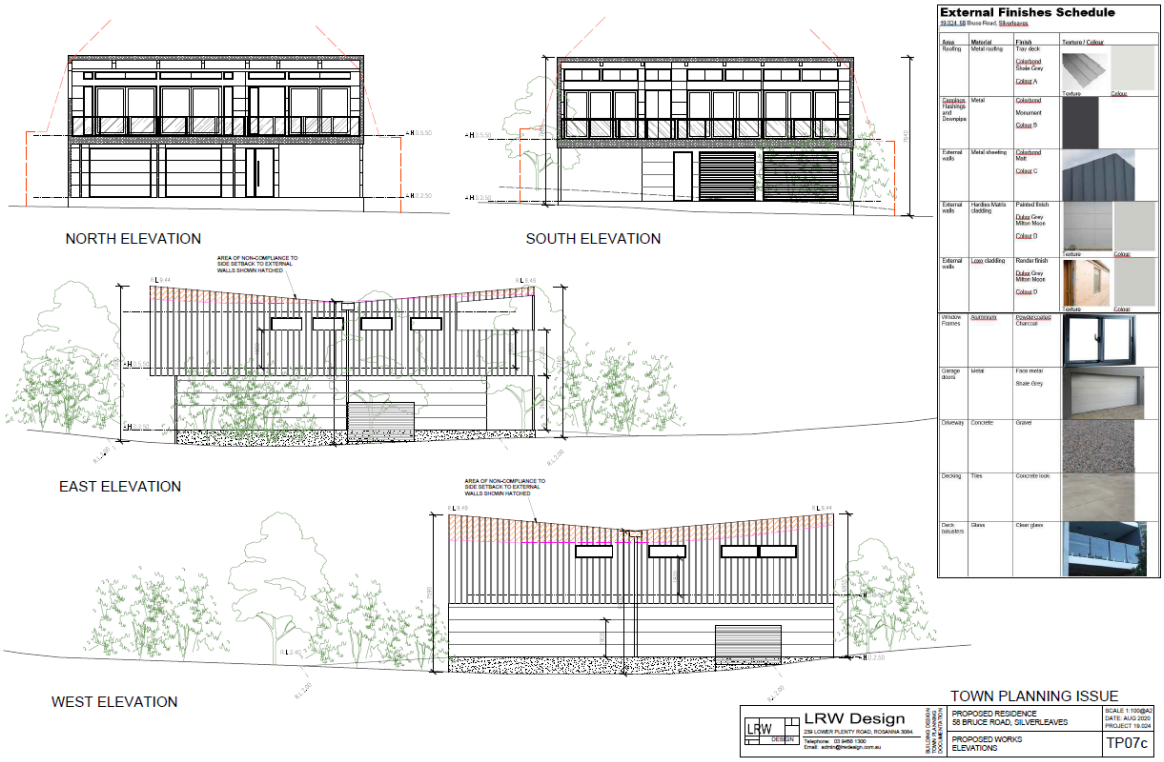


Figure 4. *Elevations of the proposed development and material and colour schedule for the external finishes*

Background

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

Site Dimensions	Rectangular allotment which measures 18.11m x 40.23m with an area of 728.5 square metres.
Site Frontage	18.11 metres to Bruce Road
Topography	Mostly flat and low lying at 2-2.5m AHD
Vegetation Cover	Site covered with vegetation ranging in small scrubs to larger trees.
Current Use	Vacant
Easements	n/a
Restrictive Covenants	n/a
Aboriginal Cultural Heritage Sensitivity	Yes, site is within an area which is considered to have Aboriginal Cultural Heritage significance. However, there is no requirement for a Cultural Heritage Management Plan (CHMP) as the development of the land for one dwelling is exempt under the Aboriginal Heritage Regulations 2018.
Planning Permit History	n/a

The subject site is located in Silverleaves and adjoins the Rhyll Inlet to the south.

Bruce Road is mostly developed with single and double storey dwellings with vegetation surrounding with unmade vehicle access to these lots.

The street is lined with vegetation on both sides which provides habitat for a range of flora and fauna species in the area. As well, the vegetation adds the environmental character of Silverleaves more generally and provides screening from the built form of dwellings throughout.

Surrounding the subject site is:

- North: the street frontage onto Bruce Road.
- South: Rhyll Inlet and wetland area.
- West: vacant allotment at 56 Bruce Road.
- East: single storey detached dwelling with a flat roof and attached car port.

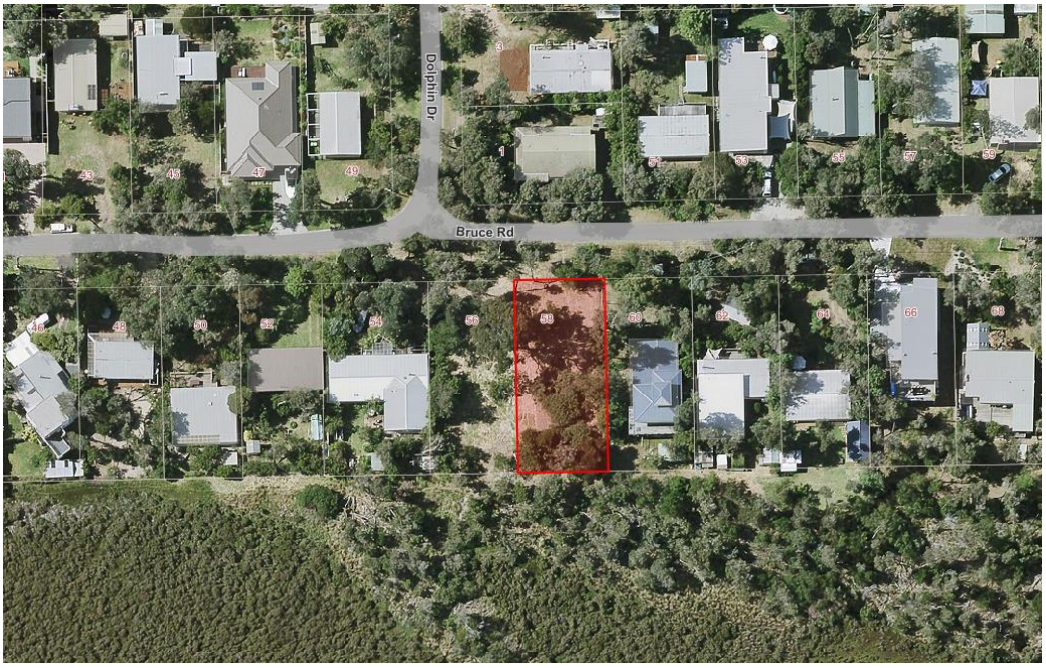


Figure 5. *Aerial photograph of the subject site at 58 Bruce Road, Silverleaves and surrounds.*

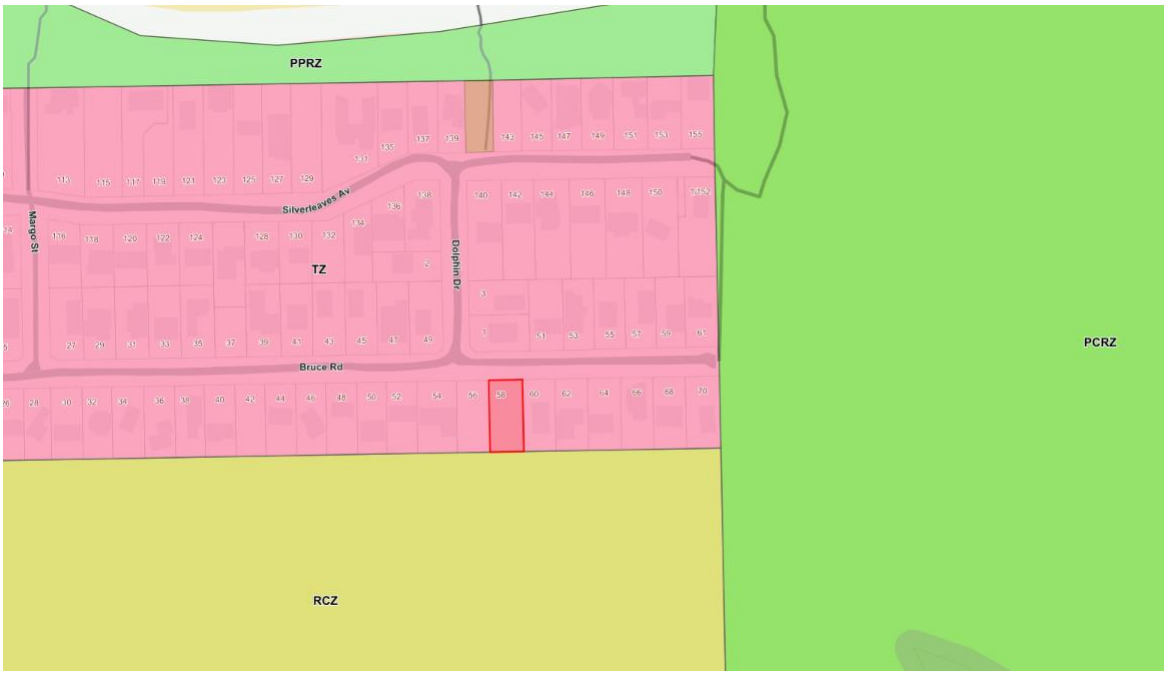


Figure 6. *Zoning map showing the subject site at 58 Bruce Road, Silverleaves and surrounding area.*

Notice

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

The Applicant gave notice in the following manner:

- Sent copies of the Notice by mail to 53 land owners and occupiers.

Following the advertising period, seven objections were received for the application and as a result the plans were amended under Section 57(A) of the Planning and Environment Act 1987 (the Act).

The amended design was provided to address submitter concerns and the following changes were made:

- Added notation for gravel driveway;
- Removal of the proposed workshop at the frontage of the site; and
- Amendment of the finished floor level for the ground floor.

The plans amended under Section 57(A) of the Act were circulated via email to the objectors of the application. To date, none of the objections have been withdrawn.

Submissions

In response to notification the application attracted seven (7) submissions.

A summary of the objections is listed in the following table and a copy of each objection is included in Attachment 3 (AT-3).

Table one: Summary of Concerns raised in each objection

Submission	Summary of Concerns
1	• The proposed workshop which appears as a dwelling at the frontage of the site and impacts on existing vegetation in this area, specifically Tea Trees. • Impacts on the neighbourhood character which is low-scale and site amongst the surrounding environment. • Questioned the 'uses' to be carried out within the proposed dwelling. • Re-consideration of the location of septic treatments to protect existing vegetation on site. • Impacts of vegetation removal on the biodiversity of the area, particularly native bird species and echidnas. • Questioned the arborist report provided as part of the application in which the vegetation is ranked on condition. • The concrete paving proposed on site and impacts on drainage and amenity of the area.
2	• The development of the proposed workshop within close proximity to the front boundary (front setback not consistent with the street). • Visual bulk and height of the proposed dwelling not consistent with the character of the area. • Land coverage of the site. • Upper floor setback of the proposed dwelling.
3	• Removal of native vegetation species from the site and the impacts on the biodiversity of the area. • The impacts of vegetation removal on the character of Silverleaves. • The proposed workshop along the frontage of the site which appears to be a separate dwelling. • Impacts that the proposed dwelling will have on the low-scale character of Silverleaves. • A concrete driveway which can impact upon the drainage of the land and exacerbates climate change and inundation issues from the Rhyll Inlet.
4	• The proposed workshop on the front boundary and impacts on the character and streetscape of Bruce Road. • The excessive amount of concrete paving proposed on site and impacts on drainage and overall aesthetic of the area.
5	• The proposed workshop which appears to be a second dwelling on the site and potential to be occupied separately. • Impacts of the location and construction of the workshop on existing vegetation on the site and the street amenity. • The vegetation removal on site which impacts the biodiversity and habitat values. • The hard-surfacing of the proposal and its impacts on the nature and neighbourhood character of Silverleaves.

6	• The location and size of the proposed workshop at the site frontage and setback consistency with the street. • Impacts on the streetscape given the hard driveway and vegetation removal proposed.
7	• Questioned the use of the land for commercial activity given the extent of workshop spaces proposed. • Questioned the suitability of 'higher density' living and population growth in Silverleaves from a planning point of view. • The proposed workshop which is not consistent with the street setbacks or landscape of Bruce Road. • Any noise created from the proposed workshop/ dwelling. • The impacts on the biodiversity of the area and site coverage. • The extent of vegetation removal on site which does not maintain the streetscape or tree canopy. • Finished floor levels (FFLs) and level of the site given drainage and inundation issues in the area. • No stormwater drainage arrangements described. • Questioned the arborist report provided with the application in terms of assessment of vegetation on adjoining land and extent of vegetation to be removed. • Questioned the bushfire management assessment provided for the application. • The overall height of the proposed dwelling and the removal of vegetation screening from street and adjoining land. • Does not consider the proposal to be consistent in terms of development of the area, neighbourhood character, landscape or amenity. • Questioned the timing of Notice given in relation to the submission of the application and the lack of correspondence from the applicant prior to Notice. • Questioned aspects of Clause 54 – ResCode for the proposed dwelling on site.

Referrals

The following table outlines the referral requirements of this application.

Table two: Referral requirements and their comments

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
Melbourne Water	Referred as per Clause 44.04-7/ Clause 66.03 – determining referral authority. Melbourne Water provided Conditional Consent to the application under the LSIO on 14 May 2020. Amended plans were received on 27 August 2020 that demonstrate compliance with Melbourne Water conditions. Melbourne Water responded to Council on 28 August 2020 with amended planning permit conditions.

Country Fire Authority (CFA)	Referred as per Clause 44.06-6/ Clause 66.03 – recommending referral authority. CFA provided Conditional Consent to the application under the BMO on 4 May 2020.
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Building	Referred to Building for the workshop to be located within the front setback. Building responded with that the proposed workshop along the site frontage would not be supported.
Development Services	Referred to Development Services for comments on the vehicles movements and drainage. Conditional consent given for the application on 20 March 2020.
Environmental Health	Referred to Environmental Health for comment on septic and effluent implications. Environmental Health responded with conditional consent for the application.

Officer's Considerations

State and Local Planning Policy Framework Assessment

- Clause 11 Settlement
  - Clause 11.01-1S Settlement
  - Clause 11.01-1R Settlement – Gippsland
  - Clause 11.03-4S Coastal Settlement
  - Clause 11.03-6S Regional and local places
- Clause 13 Environment Risks and Amenity
  - Clause 13.01-1S Natural Hazards and climate change
  - Clause 13.01-2S Coastal Inundation and erosion
  - Clause 13.02-1S Bushfire Planning
  - Clause 15 Built Environment and Heritage
  - Clause 15.01-2S Building Design
  - Clause 16 Housing
    - Clause 16.01 Residential development
    - Clause 16.01-2S Location of residential development
    - Clause 16.01-3S Housing diversity
- Clause 21.02 Settlement
  - 21.02-2 Housing
- Clause 21.04 Environment
  - Clause 21.04-3 Biodiversity Conservation and Habitat Protection
  - Clause 21.04-5 Environmental Hazards
  - Clause 21.04-6 Climate Change

- Clause 21.05 Landscape and Built Form
  - Clause 21.05-4 Design and Built Form
  - Clause 21.05-6 Landscape Architecture
- Clause 21.08 Moderate Growth Settlements
  - Clause 21.08-5 Cowes and Silverleaves
- Clause 22.01 Stormwater Management Policy

The objective of Clause 11.01-1S Settlement is to allow for sustainable growth and development of Victoria through a range of settlements. In addition, Clause 11.03-4S Coastal settlement aims to consider development within coastal settlements in Victoria and how the location adjacent to the coast could be impacted.

The proposed development contributes to the existing settlement of Silverleaves and aims to construct a contemporary dwelling which is in keeping with the area and more broadly, Phillip Island. The proposed development is to be constructed on a vacant residential allotment within the settlement boundaries of Silverleaves. This location aims to avoid further urban sprawl and takes advantage of existing urban land for an infill development opportunity.

If approved, the proposed development will contribute to the local area in that it will provide a high level of building design but also aim to respond to the context and character of Silverleaves. Clause 15.01-2S Building design promotes development which does not impact the surrounding area or public realm and has been designed in a way to respect existing landmarks, views and vistas. The proposed development finds a good balance in developing the land for residential purposes (for a dwelling) with quality urban design elements all the while considering the context of the subject site, surrounding area.

The location of the proposed development is consistent with Clause 16.01-2S Location of residential development in that the further use of greenfield land is avoided. However, the development does not seek to increase density within Silverleaves as it is not a township which is designed to accommodate for an increase in density.

Further from the points discussed under Settlement, the proposed development provides for a mix in the housing stock and diversity within Bass Coast. In addition, the application has also considered the drainage of the land as per the local Clause 22.01 Stormwater Management Policy. Council's Development Services team have provided conditional consent to ensure that drainage for the development is captured and is suitable for the building and the context of the land.

Clause 21.05-6 Landscape Architecture discusses the need for landscape architecture within the Shire which enhances the urban environments and contributes to the local character. If approved, a condition of permit will require the land owner to revegetate the site and provide a landscaping plan to be submitted and assessed by Council. The site is able to be landscaped in a way which would enhance and protect the existing vegetation, blend in with the surrounding character and screen the built form of the proposed development. It will be a requirement that the landscaping on the site utilise native species of plants only.

Zone Assessment

Clause 32.05 – Township Zone (TZ)

The purpose of the Township Zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for residential development and a range of commercial, industrial and other uses in small towns.
- To encourage development that respects the neighbourhood character of the area.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The application is consistent with the objectives of the Township Zone (TZ) as there is no planning permit trigger under the zone, the aspects of Clause 54 – ResCode, do not need to be assessed through the planning permit application process.

No planning permit is required for the use of the land for a dwelling, as it is a Section 1 Use at Clause 32.05-2 and further, the development of the land for a dwelling is not required to be assessed through planning where the site exceeds 300 square metres at Clause 32.05-6.

Overlays

Clause 44.06 - Bushfire Management Overlay (BMO)

The application triggers the need for a planning permit under the Bushfire Management Overlay (BMO) at Clause 44.06-2 as a permit is required to construct a building or construct or carry out works in association with accommodation (dwelling).

The intent of the BMO is:

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

As a result of the planning permit trigger under the BMO, the application was required to be referred externally to the CFA for review and comment under Clause 44.06-6 and Clause 66.03. As a recommending referral authority, the CFA provided conditional consent for the application.

The application is assessed against the provisions of Clause 53.02 below.

Clause 43.02 - Design and Development Overlay – Schedule 1 (DDO1)

The application triggers the need for a planning permit under Schedule 1 of the Design and Development Overlay at Clause 43.02-2 as a permit is required to construct a building or construct or carry out works for development which exceeds 7m in height from Natural Ground Level (NGL).

The highest point of the dwelling measures 7.640 metres from the natural ground level (along the southern elevation).

The DDO1 relates to residential areas near the coast. The intent of the DDO1 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 relevant design objectives of this overlay are:

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

The application is consistent with the objectives of the Clause 3.0 of the DDO1 as follows.

The proposed development is consistent with the Design and Siting Guidelines for Coastal Areas and Rural Hinterland (1999) in that the development aims to minimise any impacts felt on the streetscape or surrounding area in regards to the overall height of the building. Further, the proposed development does not aim to construct a dwelling with excessive height in comparison to neighbouring dwellings nor will it exceed adjacent buildings by more than a storey in height. The design, colours and materials of the proposed dwelling will not impact upon on adjacent dwelling's views to the coast. The proposed development aims to retain as much vegetation on site as possible.

- The subject site is prone to inundation from both the coastline and potentially the Rhyll Inlet to the rear of the site.
- The subject site does not immediately abut the coastline of Western Port Bay and is set back approximately 163m south from the edge of the coastal foreshore. Therefore, it is not likely that the proposed dwelling will be seen from the coast nor will it benefit from views to the coast.
- The development will not impact views from any adjacent coastal roads to or from the coastline given the location of the subject site, the vegetation surrounding Silverleaves and the low-lying nature of the area.
- The subject site is zoned as Township Zone with the purpose to be developed for residential purposes, in which will impact the landscape and natural environment in some way. It is understood that the area of Silverleaves has changed over the years in terms of vegetation removal, building design and the neighbourhood character. However, the development overall is required to remove some vegetation to make way for a dwelling which exceeds 7m in

height but should not impact on view sharing opportunities to and from the coast.

- The dwelling is proposed to be constructed out of cladding with metal roofing and aluminium window features. The colours include black, charcoal, greys, dark beige and concrete finishes which is used to break up the built form and articulate the design.
- The vegetation proposed to be removed from the site has been planned to ensure the minimal extent to avoid further impacting the natural environment, vegetation assets on the site and biodiversity of the area. The aspects of vegetation removal are explained further in more detail in the next section of this report.
- It is common practice for applications which require vegetation removal under the VPO2 that an indicative landscaping plan be provided. As well, applications under the DDO1 benefit from the demonstration of how the land is to be further landscaped to screen the development as best as possible.
- If approved, the proposed access way (drive way and cross over from Bruce Road) will be constructed of gravel finishes and will aim to ensure that the land can drain effectively. In terms of the overall drainage of the land, the application will be controlled via permit conditions.

Clause 42.02 - Vegetation Protection Overlay – Schedule 2 (VPO2)

The application triggers the need for a planning permit under Schedule 2 of the Vegetation Protection Overlay at Clause 42.02-2 as a permit is required to remove, destroy or lop vegetation with a girth greater than 30 centimetres (when measured 30 centimetres above ground level) or a height of at least two metres.

The application proposes to remove five (5) trees from the site.

The VPO2 applies to Phillip Island, and the vegetation protection objective 'to protect and enhance existing indigenous and larger native species within the urban area of Phillip Island'. The intent of the VPO2 is:

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

The application is consistent with the objectives of the VPO2 as the application strikes an appropriate balance between the as of right use of the land for a dwelling and the retention of onsite vegetation.

The application is consistent with the objectives of the Clause 5.0 of the VPO2 as follows:

- The proposal seeks to remove five trees out of a total of 25 on the land and along boundaries.
- The subject site is not specifically within a recognised wildlife corridor, although, it does provide habitat for various species of fauna within the area.
- The development has aimed to retain as much vegetation as possible on the site whilst only clearing vegetation to make way for the proposed building footprint.
- It is expected that any form of vegetation removal is likely to impact upon the groundwater recharge and discharge areas on the site. However, the drainage design proposed for the development as well as landscaping will help to manage soil quality and salinity and to avoid ongoing issues.
- The land is within the Township Zone in which the purpose of the zone is to be used and developed for residential purposes, particularly when considering that the proposal is for a single dwelling on the site.

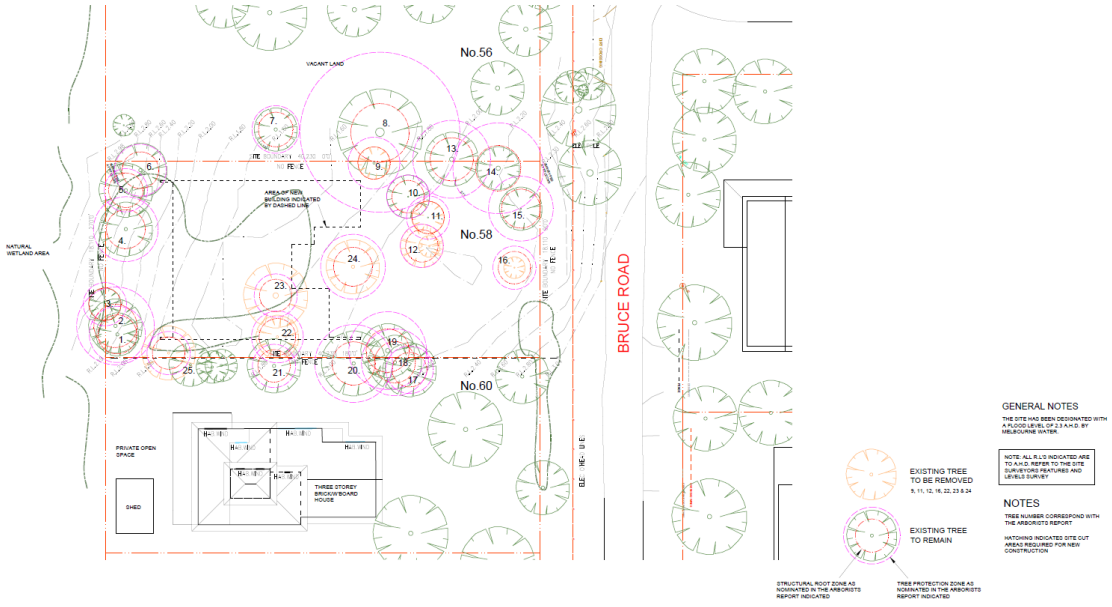


Figure 7. *Proposed extent of vegetation removal under the VPO2 from the subject site at 58 Bruce Road, Silverleaves*

Clause 44.04 - Land Subject to Inundation Overlay (LSIO)

The application triggers the need for a planning permit the Land Subject to Inundation at Clause 44.04-2 as a permit is required to construct a building or construct or carry out works for a dwelling.

The intent of the LSIO is:

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

- To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.
- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.
- To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).
- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

Melbourne Water provided conditional consent to the application on 14 May 2020. The conditions provided by Melbourne Water will be included on any permit issued. The Melbourne Water conditions refer to the previous 'workshop' building that has now been removed from the proposed plans. Although the conditions provided by Melbourne Water do refer to the workshop, this is considered to be inconsequential to the issue of a permit if granted as the development plans only show the single dwelling.

The applicant provided plans to Council on 27 August 2020 which address the Melbourne Water conditions raised as part of their referral response. As part of this set of amended plans (the decision plans) the ground floor arrangement of the proposed dwelling was changed to ensure consistency with the LSIO and predicted future inundation or flood risk.

Particular Provisions

Clause 53.02 – Bushfire Planning

The purpose of Clause 53.02 is:

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

The application triggers a planning permit under Clause 44.06 (BMO) and therefore, the proposal must be assessed under the provisions of Clause 53.02 for Bushfire Planning.

The proposal is considered to have satisfied the requirements of this clause achieving compliance with matters related to siting, bushfire construction and defendable space, vehicle access and water supply.

The application has been reviewed by the CFA who have provided conditional consent. The conditions provided by the CFA will be included in any permit if issued.

Concerns raised by Submitters

Proposed workshop at site frontage

The applicant and their client amended the plans under Section 57(A) of the Act and removed the workshop from the plans (proposal) altogether.

Vegetation removal and biodiversity

Objectors were concerned about the impacts of vegetation removal on the biodiversity of the area, particularly native bird species and echidnas.

It is assessed that the application is consistent with the intent of the Vegetation Protection Overlay. The trees to be removed, if approved, will facilitate the creation of a building envelope for a dwelling. Conditions of any permit issued will require landscaping with locally indigenous species.

Proposed dwelling development and neighbourhood character

Objectors were concerned about the impact of the proposed dwelling on neighbourhood character.

In response to objectors concerns, the access way for the development has been amended on the plans to ensure there is a notation specifying that the driveway will be of crushed rock (gravel) and not a sealed material. The gravel drive way will help alleviate any issues or concerns regarding drainage of the land.

Many of the concerns raised related to compliance with the ResCode provisions at Clause 54 of the Scheme. As the use of the land for a dwelling is as of right an assessment of the application with regard to Clause 54 is not completed at this stage.

<u>Stormwater and effluent treatment</u>

Objectors raised concerns with the treatment of both stormwater and effluent on site. The application was referred to Council's Development Services and Environmental Health teams for an assessment of these matters. Both responded with consent to the issue of a planning permit subject to standard conditions.

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 DDO1, VPO2, BMO and LSIO as well as Clause 53.02 Bushfire Planning.

The application underwent notification and as a result there were seven (7) submissions received. Concerns raised by submitters were considered in the assessment of the application.

It is recommended that Council resolve to issue a notice of decision to grant a planning permit for application 190293, subject to conditions.

Recommendation

That in relation to planning permit application 190293 for the development of the land for a dwelling and removal of vegetation located at 58 Bruce Road, Silverleaves VIC 3922, Council resolves to issue a Notice of Decision to Grant a Permit subject to the following conditions:

Melbourne Water Conditions

1. **Prior to the endorsement of plans, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must be modified to show:**
   a) **The dwelling and workshop must be constructed with finished floor levels set no lower than 3.1 metres to AHD, which is 600mm above the 2040 flood level of 2.5 metres to AHD.**
   b) **The garage and store must be constructed with finished floor levels set no lower than 2.3 metres to AHD, which is at the current applicable flood level.**
   c) **The 'store' area must be maintained connected to the garage and must not be converted into a separate, habitable room.**
   d) **The 'open' area shown on the lower floor plan must be maintained open on a minimum of two sides with no provision for a roller/ tilt door.**
   e) **Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels of the dwelling and garage (as constructed) must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.**

General Conditions

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

Bushfire Management Plan endorsed

4. **The Bushfire Management Plan including the schedule, *prepared by Treed Environs, drawing no. Map 2, 24072018,* must be endorsed to form part of the permit and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.**

Mandatory Bushfire Management Overlay Condition

5. **The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.**

Vegetation Removal Conditions

6. **The layout of the site and the proposed extent of vegetation to be removed as shown on the plan submitted with the application, must not be altered or modified without the written consent of the Responsible Authority.**

Landscaping Plan

7. **Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan be drawn to scale with dimension and must show:**
   a) **Details of surface finishes of pathways and driveways;**
   b) **A planting schedule which includes the scientific name and common names, pot sizes, sizes at maturity, and quantities of each plant of all proposed vegetation to be planted on the site;**
   c) **Landscaping and planting within all open areas of the site;**
   d) **Only the use of plant species indigenous to the locality;**
8. **All species selected must be to the satisfaction of the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit.**
9. **Before the development is occupied or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.**

Landscaping Maintenance

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

Wastewater Conditions *(Environmental Protection Act 1970)*

11. **Sewage, sullage and other liquid wastes to arise from the development shall be treated and retained on site by a septic tank system in accordance with the requirements of the *Environment Protection Act* 1970, the *Guidelines for Environmental Management: Code of Practice – Onsite Wastewater Management 891.4 (2016)* and the Responsible Authority.**

12. **No buildings or works shall occur over any part of the approved waste disposal system including the septic tank in accordance with the requirements of the *Environment Protection Act* 1970, the *Guidelines for Environmental Management: Code of Practice – Onsite Wastewater Management 891.4 (2016)* and the Responsible Authority.**
13. **Stormwater from the proposed dwelling/outbuilding must not be permitted to enter the septic tank system, sand filter and disposal field.**
14. **Prior to the commencement of the development, a Land Capability Assessment for all allotment of land smaller than 4050m2 must be undertaken by a suitably qualified engineer and submitted as part of any permit application to Council to install a septic tank wastewater system.**
15. **Naturally occurring stormwater must be diverted away from effluent disposal fields to the satisfaction of the responsible authority.**
16. **Prior to the commencement of construction of the dwelling or shed, an *Application for a Permit to Install* a septic tank system must be submitted and approved by Council prior to any installation.**

Drainage

17. **Prior to the issue of the Certificate of Occupancy, all stormwater discharging from the site, buildings, vehicle access ways and works must be discharged to a water tank, soak well or otherwise discharged so as not to cause erosion, flooding or nuisance to the subject or surrounding land to the satisfaction of the Responsible Authority.**

Construction

18. **Before the issue of the 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:**
19. **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;**
20. **All drainage works (excluding any above ground detention tanks deferred via a Section 173 agreement) in accordance with the endorsed civil plans; and**
21. **All proposed vehicle crossings and footpaths must be constructed in accordance with the endorsed plans and IDM standards.**

Amenity

22. **The development must be managed during construction so that the amenity of the area is not detrimentally affected through the:**
    a) **Transport of materials, goods or commodities to or from the land;**

b) **Appearance of any building, works or materials;**

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

d) **Presence of vermin or animals.**

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

Permit Expiry - Development

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

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

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

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

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

Permit Expiry – Vegetation Removal

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

a) **The vegetation removal works have not started within two years of the date of this permit.**

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

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards.

PERMIT NOTES:

Asset Protection Permit

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

Road Occupation Permit

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

Stormwater Discharge Point

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

Attachments

AT-1	Amended Plans	11 Pages
AT-2	Bushfire Management Assessment, Coastal Hazard Report, Landscape Plan and Amended	73 Pages
AT-3	***CONFIDENTIAL*** - Submissions	17 Pages

H.2 Planning Application 200042 - 11 Fisher Street, Ventnor

File No:	**CM20/379**
Division:	**Place Making**
Council Plan Strategic Objective:	**Our Character** Celebrating the uniqueness of our townships

Application Details

Use/Development Sought:	**Development of the land for a second dwelling**
The Land:	**11 Fisher Street, Ventnor VIC 3922**
Planning Scheme:	**Bass Coast Planning Scheme**
Zoning:	**Clause 32.08 – General Residential Zone – Schedule 1 (GRZ1)**
Overlays:	**Clause 42.02 – Vegetation Protection Overlay – Schedule 2 (VPO2)** **Clause 43.02 – Design and Development Overlay – Schedule 1 (DDO1)**

Declaration

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

Executive Summary

This application proposes to develop the land for a second dwelling (two dwellings) at 11 Fisher Street, Ventnor VIC 3922.

The proposal triggers the need for a planning permit under Clause 32.08-6 (GRZ1) of the Bass Coast Planning Scheme. The application was advertised and attracted eight (8) submissions.

This report addresses the planning merits of the proposal and the issues raised by submitters. It concludes that the proposal accords with the relevant provisions of the Planning Scheme.

On this basis, it is recommended that Council resolve to issue a notice of decision to grant a planning permit for application 200042.

Reason a Council Decision is required

Council's delegations require applications that attract five or more objections to be determined by Council. This application attracted eight (8) objections.

Application Details

This application proposes to develop the land for a second dwelling in accordance with Development Plans prepared by DB Design building design and drafting PD8 dated 22 August 2020 (pp. 1-5).

In conjunction with the construction of a second dwelling on the site to the rear, the development also proposes some alterations and additions to the existing dwelling on the land. A copy of the proposed site plan, floor plans and elevations plans for the development are shown below from Figure 1 – Figure 5.

A full copy of the plans is provided as Attachment One – AT-1.

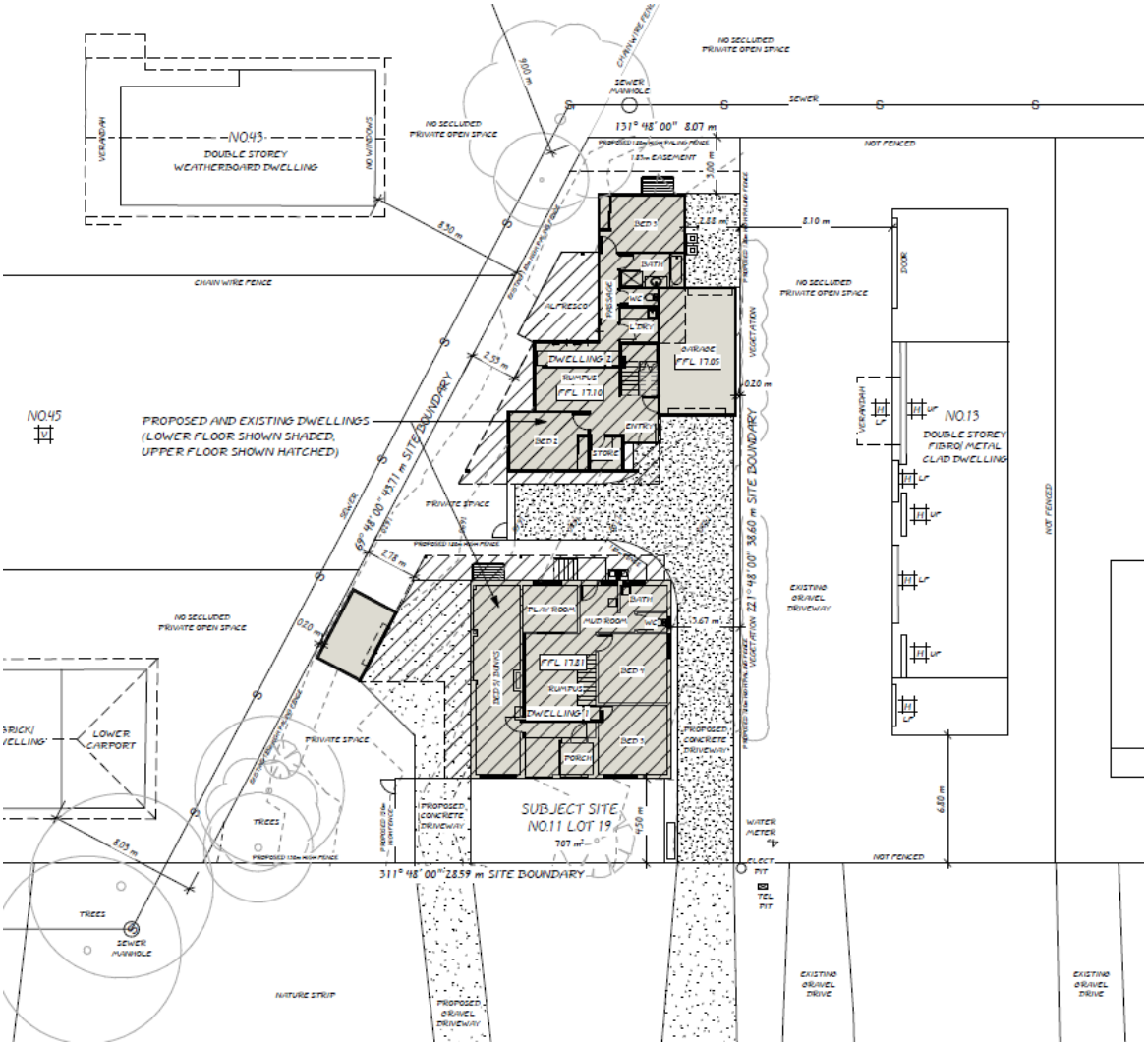


Figure 1. *Site plan of the existing and proposed dwellings at 11 Fisher Street, Ventnor.*

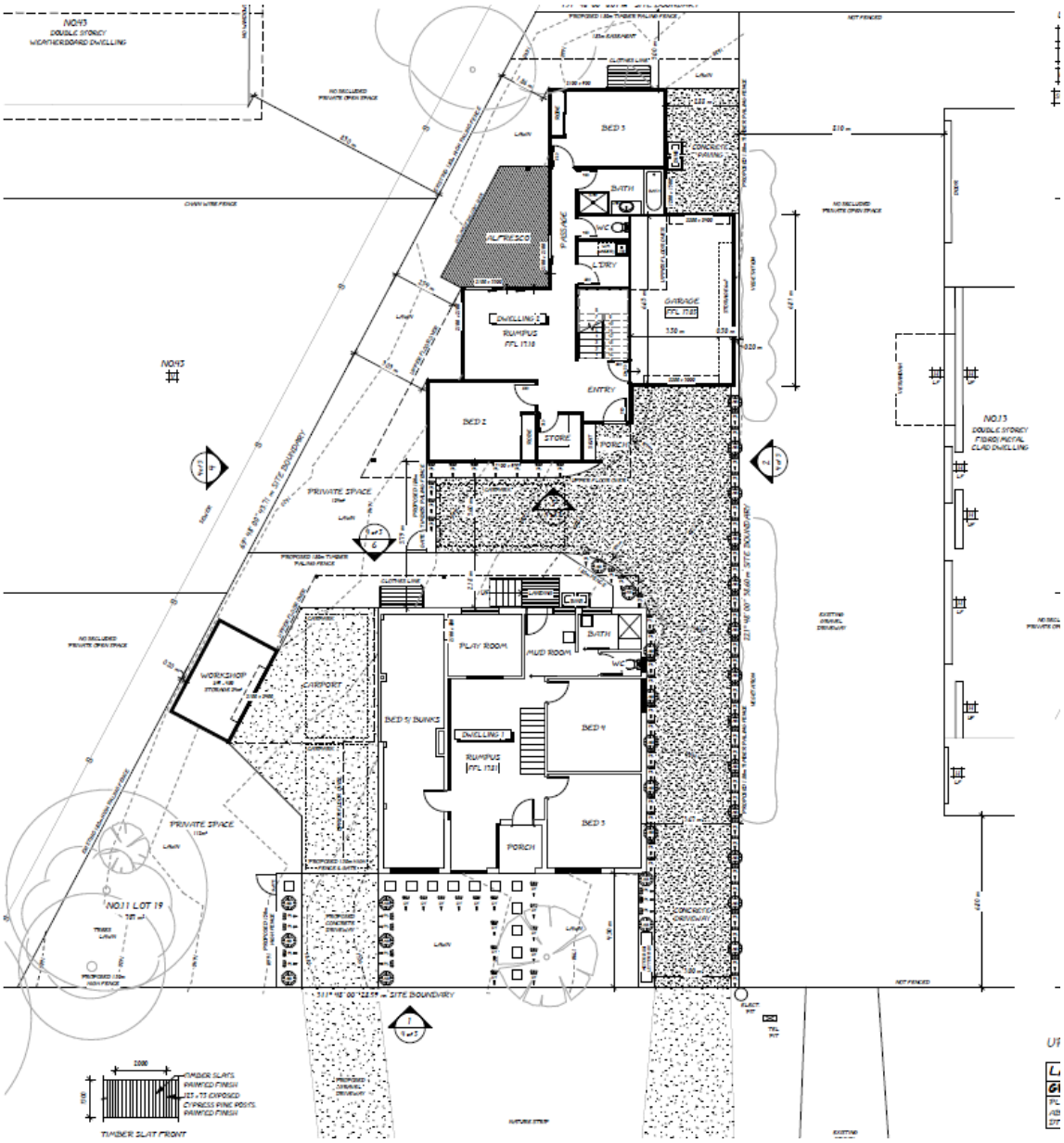


Figure 2. *Ground floor plans for the existing and the proposed dwellings on the land at 11 Fisher Street, Ventnor.*

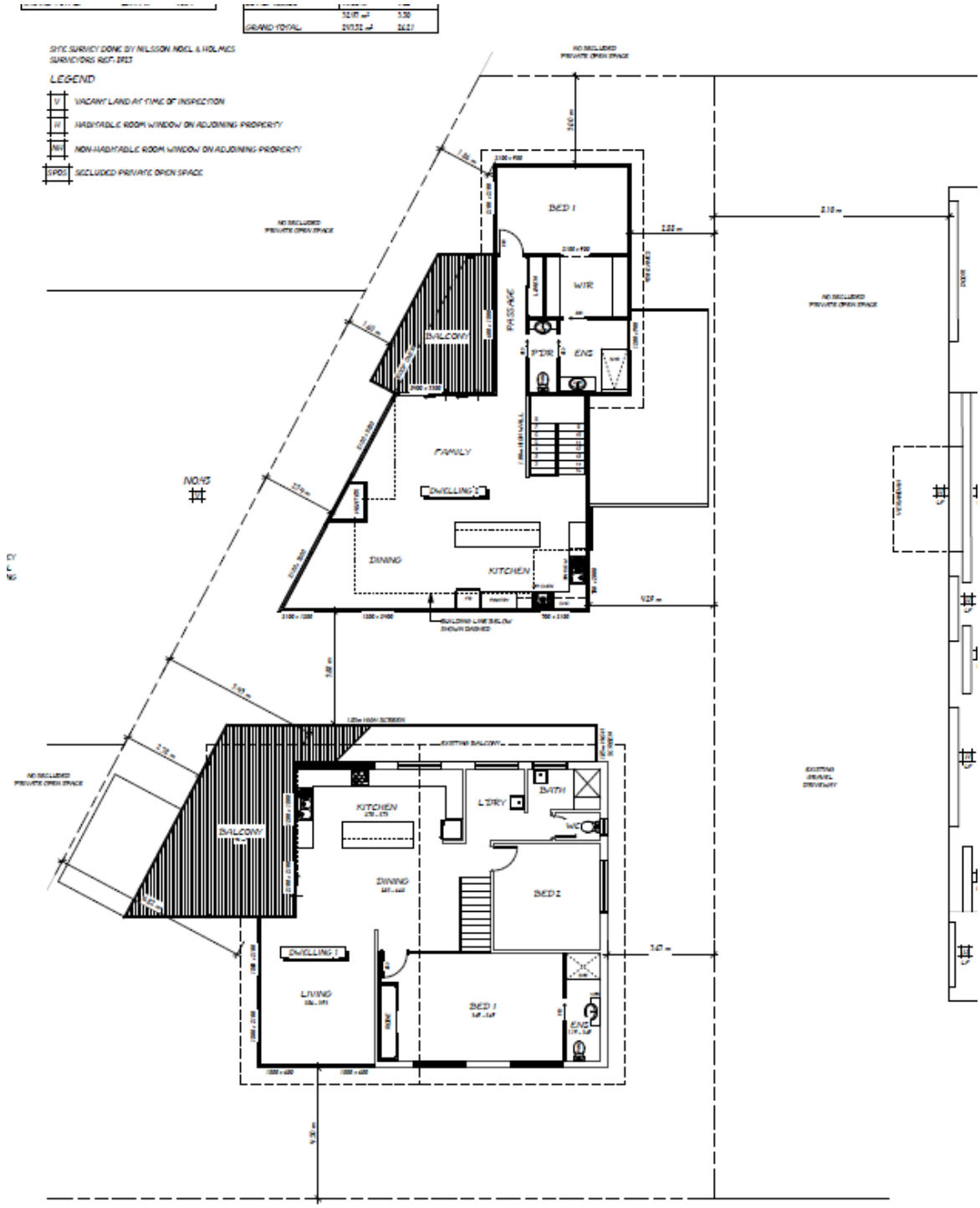


***Figure 3**. First floor plans for the existing and proposed dwellings on the land at 11 Fisher Street, Ventnor.*

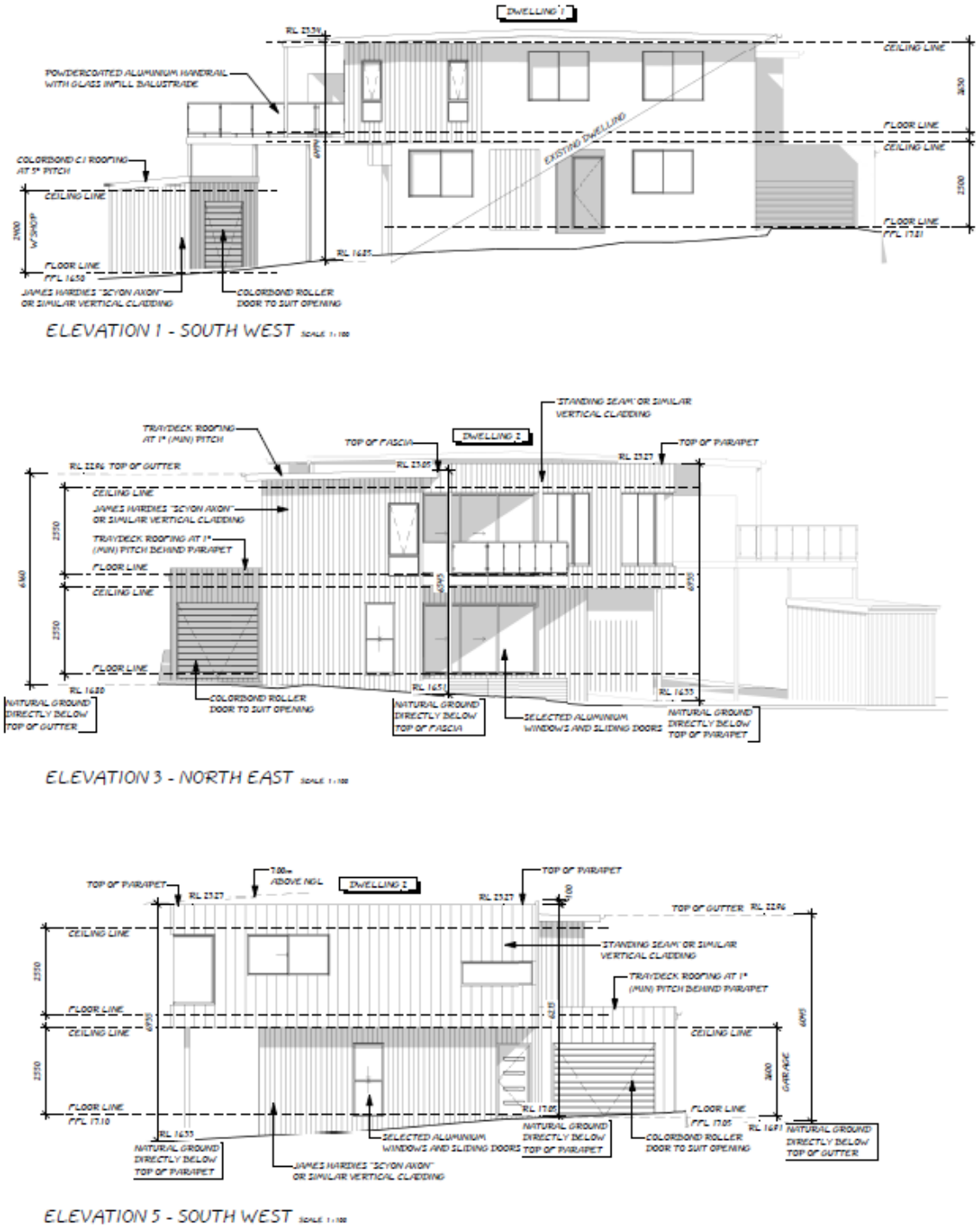


Figure 4. *South-west and North-east of the existing and proposed dwellings on the land at 11 Fisher Street, Ventnor.*

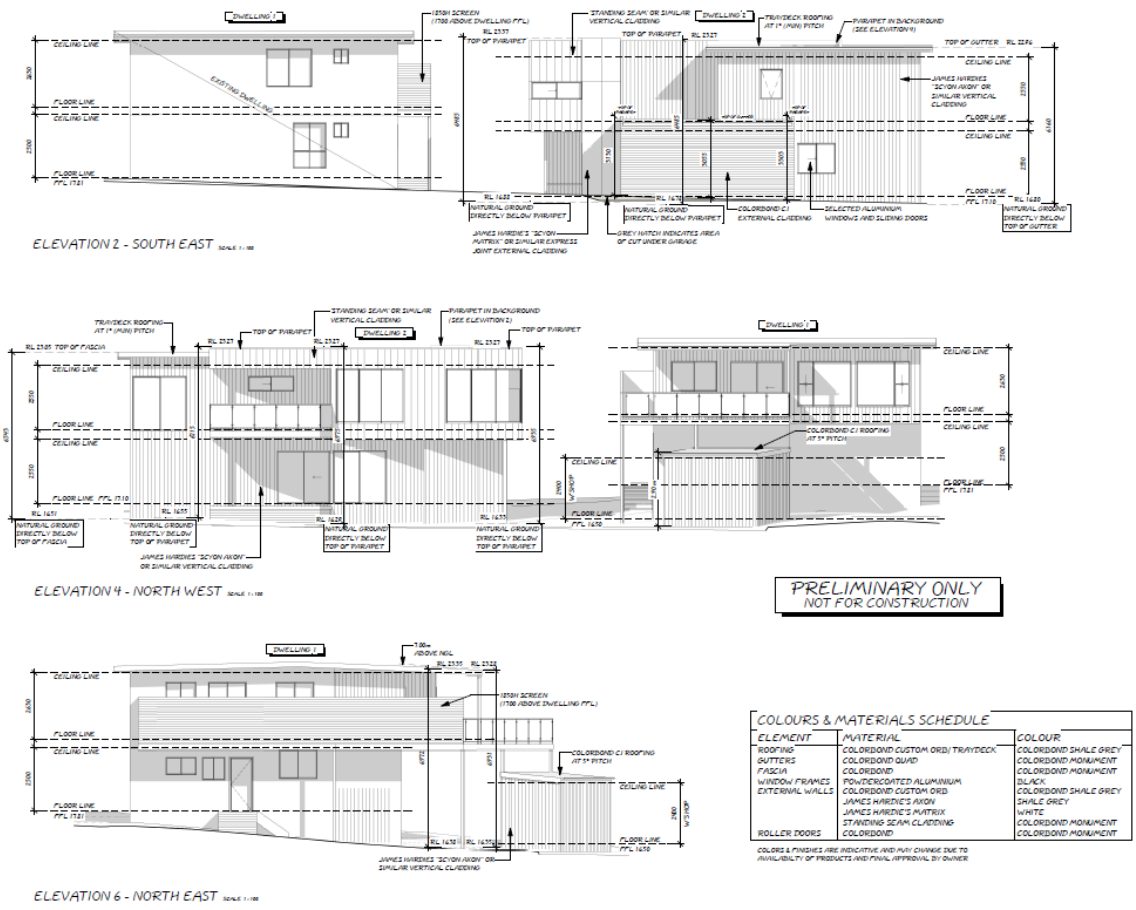


Figure 5. *South-east, North-west and North-east elevations of the existing and proposed dwellings on the land at 11 Fisher Street, Ventnor.*

Background

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

Site Dimensions	Site area is 707 square metres. Irregular shaped allotment which measures: 8.07m north 43.71m west 38.60m east 28.59m south
Site Frontage	28.59m to Fisher Street.
Topography	Land slopes towards the coastline east to west from 17.5m AHD to 16.5m AHD.
Vegetation Cover	Approximately 11 scattered trees and shrubs in the frontage and to the rear of the existing dwelling development on the site.
Current Use	Residential – currently developed with a double storey dwelling with car port constructed to the frontage of the site

Easements	1.83m wide easement to the rear for sewerage and drainage.
Restrictive Covenants	n/a
Aboriginal Cultural Heritage Sensitivity	n/a – the subject site is within an area of Aboriginal Cultural Heritage Significance however, the requirement for a Cultural Heritage Management Plan (CHMP) given that the development proposes an additional dwelling on the land. The development of two dwellings on a site is considered exempt for the need for a CHMP.
Planning Permit History	n/a

The subject site is located in Ventnor which is mostly made up of non-sealed roads, open drains, grassed kerbsides, and single and double storey detached residential development. The character of the area can be considered as relaxed, informal, with environmental aspects such as vegetation and coastal assets.

Surrounding the subject site is the following:

- North: 47 Pall Mall which is developed with a single detached dwelling which faces onto Fisher Street.
- East: a number of dwellings on individual lots to the rear of the site along both Pall Mall and Crafters Corner.
- West: street frontage along Fisher Street which is an unsealed road with gravel crossovers and open drains.
- South: 13 Fisher Street which is developed with a single detached dwelling with scattered vegetation.



Figure 6. *Aerial photograph of the subject site at 11 Fisher Street, Ventnor and surrounds.*



Figure 7. *Zoning map showing the subject site at 11 Fisher Street, Ventnor and the surrounding area.*

Notice

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

The Applicant gave notice in the following manner:

- Sent copies of the Notice by mail to 29 land owners and occupiers; and
- Placed a Notice on the land to face Fisher Street.

Following the notice period, there were eight (8) submissions received for the application. To date, there has been no resolution to concerns raised by objectors and therefore, there have been no objections withdrawn.

Submissions

In response to notification the application attracted eight (8) submissions.

A summary of the remaining objections is listed in the following table and a copy of each objection is included in Attachment Three (AT-3).

Table one: Summary of Concerns raised in each objection

Submission	Summary of Concerns
1	• Non-compliance with Amendment C88 of the Bass Coast Planning Scheme which directs housing in terms of density. • The density in which is proposed in Ventnor does not consider Clause 21.02-2 Housing of the Scheme nor does it respond to the surrounding development, stormwater management, roads and other infrastructure.

	• Overdevelopment of the site and further impacts on the character of the area of Ventnor. Additional noise, dust and traffic. • Impacts of the issue of permit in terms of car parking, landscaping and drainage which are often not enforced well enough. • The width of the proposed access way to the rear proposed dwelling.
2	• The shape of the allotment for the development of a second dwelling at the rear which would restrict the land given for outdoor living. • View sharing for 13 Fisher Street. • Additional traffic which in turn create more dust and therefore amenity impacts on residents.
3	• Loss of character in the area due to the height and density created by the proposed dwelling. • Does not protect or enhance the environment of Ventnor. • Mentions Clause 21.02-2 in that policy discourages housing density in Ventnor. • Concerns regarding suitable drainage of the land due to the site coverage and topography. • In adequate car parking provision for the site and the dwellings, no onsite visitor car parking. • Overlooking concerns from both dwellings into the open space and habitable room windows at 47 Pall Mall. • Noise impacts as a result of traffic to and from the site and potential increase of people on the land. • Loss of view sharing to the coastline. • The location of the workshop for the existing dwelling near the boundary between 11 Fisher Street and 47 Pall Mall, concerns over what the workshop will be used for, noise, dust, etc.
4	• Creation of dust from increased density and therefore traffic in the area. • The area is predominately single storey dwellings where no there is no loss of amenity on adjoining dwellings. • Privacy concerns due to overlooking from the balcony areas into habitable room windows and open space. • Concerns regarding drainage of the land given the topography of the site. • The location of the workshop for the existing dwelling near the boundary between 11 Fisher Street and 47 Pall Mall, concerns over what the workshop will be used for, noise, dust, etc.
5	• Neighbourhood character of the area and impacts on their dwelling which adjoins the subject site. • Impacts on the views gained by their property to the coastline. • Size of the lot and questions regarding the suitability of the proposed second dwelling on the land and considers the proposal as overdevelopment of the site and for the area of Ventnor. • Future subdivision of the land post permit/ development stage.
6	• Overdevelopment of the area and the site and creates higher density where it is not encouraged.

	• Impacts on the neighbourhood character of the area and the lifestyle in which Ventnor is an attractive feature for home owners.
7	• Believes that the site and the area is inappropriate for two dwellings and creates impression of high density living. • Creating precedence for future development of the same kind. • Only preliminary (town planning) plans and not construction plans provided as part of Notice process, which may not be built how it is shown. • Questions the purpose of the proposed second dwelling, and future subdivision of the land. • Visual impact on surrounding properties.
8	• Overdevelopment of the land when considering the existing dwelling. • Reduced privacy as a result of the proposed dwelling's balcony area at the first floor. • Increased traffic in the area creating noise and dust. • Amenity impacts on the area.

Referrals

The following table outlines the referral requirements of this application.

Table two: Referral requirements and their comments

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
N/A	
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Development Services	Conditional consent received from Development Services on 15 July 2020.

Officer's Considerations

State and Local Planning Policy Framework Assessment

- Clause 11 Settlement
  - Clause 11.01-1R Settlement – Gippsland
  - Clause 11.03-4S Coastal Settlement
  - Clause 11.03-6S Regional and local places
- Clause 15 Built Environment and Heritage
  - Clause 15.01-1S Urban Design
  - Clause 15.01-2S Building Design
  - Clause 15.01-5S Neighbourhood Character
- Clause 16 Housing
  - Clause 16.01-1S Integrated housing

- Clause 16.01-2S Location of residential development
- Clause 16.01-3S Housing diversity

- Clause 18 Transport
  - Clause 18.02-4S Car parking
- Clause 21.02 Settlement
  - Clause 21.02-2 Housing
  - Clause 21.05 Landscape and Built Form
  - Clause 21.05-4 Design and Built Form
- Clause 21.08 Moderate Growth Settlements
  - Clause 21.08-6 Ventnor
- Clause 22.01 Stormwater Management Policy

The state and local policy acknowledges the balance between allowing for townships to growth and expand, but also the constraints of existing settlement boundaries to protect natural assets and rural land.

Relevant State policy which relates to this application and the context of the land includes Clause 11.01-1R Settlement – Gippsland, Clause 11.03-4S Coastal Settlement and Clause 11.03-6S Regional and local places. Firstly, Clause 11.01-1R states that development and increased urban growth should occur where environmental and natural hazards are avoided, which is the case for the application. As well, that smaller 'feeder' towns should be able to support larger towns in terms of population growth, residential land demands and generally on relying on existing relationships.

In terms of the coastal settlement aspect (Clause 11.03-4S), considers management and protection of coastal assets and areas should be assessed in the decision making process. More specifically, development should be directed within existing settlement boundaries to reduce urban sprawl and potential impacts on sensitive coastal areas. The proposed development does this in that it takes advantage of an infill development opportunity where there is available infrastructure in which can support ongoing resident population increases.

Ventnor is characterised as a Moderate Growth Settlement under Clause 21.08-6 of the Bass Coast Planning Scheme, given it is primarily a holiday town with an informal coastal character. The proposed development responds to Clause 21.08-6 in the following ways:

- Provides residential development within existing settlement boundaries.
- Respects the established character of Ventnor.
- Provides access for residents to commercial areas outside of the local area.
- Respects the natural environment and does not have impacts on significant vegetation or habitat.

The objective of Clause 15.01-1S Urban Design is to create urban environments which that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity. The proposed development contributes to the existing character and context of this area of Ventnor in which the surrounding landscape,

development and character have been considered. In addition to Clause 15.01-1S, Clause 15.01-2S Building design aims to ensure that new development throughout Victoria considers the site and the surrounding area as a starting point for the design process. The proposed development aligns with the policy strategies where possible in that the public/ private realms interface, design, building height, and amenity of residents have been satisfactorily considered by the applicant.

The proposed development responds well to Clause 16.01-1S Integrated housing in terms of providing increased residential development and therefore housing stock for Ventnor, Phillip Island and the wider region. Further to this, constructing housing in established urban areas is preferred strategic outcome under Clause 16.01-2S Location of residential development, especially where additional greenfield development can be avoided but adequate infrastructure is present.

In regards to local policy, Clause 21.02-2 Housing discusses how housing throughout Bass Coast should aim to cater for the area's varied community. Infill development is encouraged in areas which have the physical infrastructure to support residential development. Ventnor is identified to be able to support density increase where appropriate and where the subject site is within close proximity to commercial centres, community facilities and services. Although the development is removed from the recommended location of density in regards to distance from commercial areas, the proposal can be supported in terms of infill development pressures and reduction in urban sprawl related issues.

Zone Assessment

Clause 32.08 General Residential Zone – Schedule 1 (GRZ1)

The purpose of the General Residential Zone is:

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

The application triggers the need for a planning permit under Clause 32.06-8 as a permit is required to construct a dwelling if there is at least one dwelling existing on the lot.

As per Clause 32.08-4, the subject site is required to provide 35% of garden area. The proposal sets aside 35.08% of the site for garden area and therefore, the application is consistent with the minimum garden area requirement under the zone.

This application is also required to be assessed under Clause 55 for Two Or More Dwellings On A Lot and Residential Buildings. This assessment is provided below.

Overlays

Clause 42.02 Vegetation Protection Overlay – Schedule 2 (VPO2)

The application does not trigger the need for a planning permit under Clause 42.02-2 as the vegetation on the site has been assessed to be fruit species only.

Since the submission of the application, there has been changes to Clause 52.12 *Bushfire Protection: Exemptions* which originally provided exemptions for vegetation on site. Amendment VC 176 dated 5 August 2020 changed the areas of Victoria in which Clause 52.12 applies to only land which is subject to the Bushfire Management Overlay (BMO) or Bushfire Prone Areas.

Although the subject site does not benefit from the previous bushfire exemptions, there are still no permit triggers under the VPO2 for the consideration of vegetation removal as the vegetation is fruit trees only.

Clause 43.02 Design and Development Overlay – Schedule 1 (DDO1)

The proposed maximum heights for each dwelling is:

- Existing dwelling (dwelling 1 on plans): 6.972m from the NGL – refer to Elevation no. 6 – north-east.
- Proposed dwelling (dwelling 2 on plans): 6.975m from NGL – refer to Elevation no. 4 – north-west.

The application does not trigger the need for a planning permit under Clause 43.02-2 as the maximum height for the existing and proposed dwelling does not exceed seven metres.

Particular Provisions

Clause 52.06 Car Parking

In relation to the proposed dwelling on the land, Clause 52.06 is required to be assessed and considered.

The proposal requires the following car parking for each dwelling as per Table 1 of Clause 52.06-5:

Existing dwelling: 2 car spaces required as there are 5 bedrooms.

One car garage and one open car space.

Proposed dwelling: 2 car spaces required as there are 3 bedrooms.

One car carport and one open car space.

Where two or more car parking spaced are provided for a dwelling, at least one space must be under cover.

All car spaces are assessed as meeting the minimum dimensions required at Clause 52.06-9.

Clause 55 Two or more dwellings on a lot and residential buildings

The proposed development is assessed as having met all relevant objectives, standards and decision guidelines of Clause 55. This has been addressed under the GRZ1.

Overall, the proposed development is consistent with the following aspects of Clause 55:

Neighbourhood character:

The proposed development on the land at 11 Fisher Street has merit when considering the relevant policy and strategic direction of Ventnor in relation to the neighbourhood character.

The development is generally consistent with Clause 55.01-1 Neighbourhood Character (Standard B1) of the Bass Coast Planning Scheme.

The site description and context of the area is described as an established area in which the land is mostly either flat or slightly sloping towards the coastline of Western Port Bay. The local area generally consists of single and double storey detached dwellings.

Fisher Street is described as an unsealed road with open swale drainage, and which adds to the informal character.

It is considered that the proposed development will be a suitable design response to the existing character of development but also respond to the preferred character in terms of providing for an infill development opportunity.

Site layout and building massing:

The development is considered to be consistent with Clause 55.03 Site Layout and Building Massing in which encompasses:

- Street setback (Standard B6)
- Building height objective (Standard B7)
- Site coverage objective (Standard B8),
- Permeability and stormwater management objectives (Standard B9)
- Energy efficiency objectives (Standard B10)
- Open space objective (Standard B11)
- Safety objective (Standard B12)
- Landscaping objectives (Standard B13)
- Access objective (Standard B14)
- Parking location objectives (Standard B15)

The application is consistent with all the above listed standards under Clause 55 (ResCode) of the Bass Coast Planning Scheme.

Amenity impacts:

The development has been assessed in terms of amenity related to side and rear setbacks and walls on boundaries and the design response is considered to be satisfactory in limiting the amenity impacts on adjoining properties and the broader neighbourhood context.

On-site amenity and facilities:

The development is consistent with Standard B23 related to managing the internal views within the site (between the dwellings) given the siting of the proposed dwelling and the use of screening.

Detailed design:

The proposal considered the residents of the dwellings in terms of accessibly, universal design, internal layout and entrances.

The development is consistent in providing Storage as per Standard B30, and essential site services as discussed at B34 Site services.

Concerns raised by Submitters

Neighbourhood character, overdevelopment and density

Objections raised concerns in relation to overdevelopment and increased density.

These concerns have been considered and the proposal is assessed as being consistent with the existing but also preferred neighbourhood character of Ventnor. Infill development within the Ventnor town boundary is supported by the Bass Coast Planning Scheme.

Overlooking

Some points as raised in the objections received related to overlooking concerns from adjoining properties. The aspects of the application which respond to overlooking (Clause 55.04-6 – Standard B22) will be addressed via a planning permit condition in which the plans for endorsement under the permit will be required to be amended. The plans (at Condition 1) will be requested to be amended prior to endorsement in which will require permanent screening to all sides of the balcony to at least 1.7m above floor level and must not be more than 25% transparent.

Traffic and dust

Some points as raised in the objections received related to increased traffic and dust created along Fisher Street.

As a result of the proposal, an additional10 vehicle movements per day are anticipated. This is not considered to be a significant increase that will exacerbate issues related to traffic and dust.

View sharing to the coast

Some points as raised in the objections received in relation to view sharing to the coast.

It has been addressed within this report that the views to and from the coast cannot be assessed due to the fact that there is no planning permit trigger under the Design and Development Overlay, Schedule 1.

Although, it is acknowledged that the proposed heights of the proposed and existing dwellings on the subject site 6m and above, this height is consistent with Clause 55 at Standard B7 (Building Height) and the mandatory heights under the GRZ1.

Drainage

The application has been assessed by Council's engineers who have assessed the proposed development can drain appropriately. Should a planning permit issue, conditions of the permit will ensure drainage to the satisfaction of Council.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to be generally in accordance with the relevant state and local planning policies, the decision guidelines and purpose of the General Residential Zone – Schedule 1 and Clause 55 (ResCode).

The application underwent notification and as a result there were eight (8) submissions received. Concerns raised by submitters were considered in the assessment of the application. Amended plans were not submitted in response to objector concerns.

It is recommended that Council resolve to issue a notice of decision to grant a planning permit for application 200042, subject to conditions.

Recommendation

That in relation to planning permit application 200042 for development of the land for a second dwelling (two dwellings) at 11 Fisher Street, Ventnor VIC 3922, Council resolves to issue a Notice of Decision to Grant a Permit subject to the following conditions:

Amended Plans

1. **Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application Development Plans prepared by DB Design building design and drafting PD8 dated 22 August 2020 (pp. 1-5) but modified to show:**
   a) **Minimum width of driveway for existing dwelling; and**
   b) **Minimum dimensions for both car spaces for existing dwelling.**
   c) **The upper level balcony of both dwellings to be provided with screening in order to demonstrate compliance with standard B22 of the Bass Coast Planning Scheme**

General Conditions

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

Drainage

4. **The stormwater drainage system plan prepared by Brosnan Engineering Services (20013/1 Revision A) as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.**

Landscaping

5. **Before the development starts are endorsed for the hereby approved development, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must be drawn to scale with dimensions. The landscaping plan must be generally in accordance with the landscape concept plan dated 20 March 2020 prepared by DB Design, except that the plan must show:**

   a) Details of surface finishes of pathways and driveways;

   b) 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;

   c) Landscaping and planting within all open areas of the site; and

   d) Only the use of plant species indigenous to the locality.

   All species selected must be to the satisfaction of the responsible authority.

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

6. **Before the Certificate of Occupancy is issued, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.**

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

Construction

8. **Prior to the issue of a Certificate of Occupancy, or by such later date as is approved by the Responsible Authority in writing the following works must be completed in accordance with the endorsed plans and to the satisfaction of the Responsible Authority:**

   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 vehicle access 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; and

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

Section 173 Agreement - Drainage Maintenance

9. Prior to the issue of a Certificate of Occupancy, the owner of the land must enter into an Agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* and provide evidence to the Responsible Authority that the Agreement has been registered on the certificate of title for the land. The Section 173 Agreement must provide for the following:

a) Before an occupancy certificate is issued for a the proposed dwelling on the land, a storm water detention tank must be installed in accordance with the endorsed drainage plans;

b) The owner will maintain and not modify the on-site storm water detention system without prior Council written approval, and will allow the system to be inspected by a duly appointed officer of the Council at mutually agreed times;

c) The capacity of the on-site stormwater detention system cannot be reduced and must be maintained to the satisfaction of the Responsible Authority; and

d) The owner will pay for all the costs associated with the operation, maintenance and Council inspection of the on-site storm water detention system.

The cost of the preparation, lodgement and registration and any subsequent removal of the Agreement shall be borne totally by the owner of the land. The Agreement must be registered on the certificate of title for the land.

Amenity

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

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

b) appearance of any building, works or materials;

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

products, grit or oil; and

d) presence of vermin or animals.

11. Mud, dirt, sand, soil, clay, stones, oil, grease, scum, litter, chemicals, sediments, gross pollutants, animal waste or domestic waste shall be washed into, allowed to enter or discharged to the stormwater drainage system, receiving waters or surrounding land and road reserves, during the construction works hereby approved to the satisfaction of the Responsible Authority.

Permit Expiry - Development

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

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

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

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

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

PERMIT NOTES:

Asset Protection Permit

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

Road Occupation Permit

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

Stormwater Discharge Point

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

Attachments

AT-1	Plans	7 Pages
AT-2	Planning Controls	23 Pages
AT-3	***CONFIDENTIAL*** - Submissions	17 Pages

H.3 Planning Application 200080 - 21 Highview Crescent, Surf Beach

File No:	**CM20/586**
Division:	**Place Making**
Council Plan Strategic Objective:	**Our Character**
	Celebrating the uniqueness of our townships

Application Details

Use/Development Sought:	**Development of a second dwelling**
The Land:	**21 Highview Crescent, Surf Beach**
Planning Scheme:	**Bass Coast Planning Scheme**
Zoning:	**Clause 32.08 – General Residential Zone – Schedule 1 (GRZ1)**
Overlays:	**Clause 42.02 – Vegetation Protection Overlay – Schedule 2 (VPO2)** **Clause 43.02 – Design and Development Overlay – Schedule 1 (DDO1)**

Declaration

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

Executive Summary

This application proposes to develop the land for a second dwelling (two dwellings) at 21 Highview Crescent, Surf Beach.

The proposal triggers the need for a planning permit under Clause 32.08-6 (GRZ1) of the Bass Coast Planning Scheme. The application was advertised and attracted five (5) submissions.

This report addresses the planning merits of the proposal and the issues raised by submitters. It concludes that the proposal accords with the relevant provisions of the Planning Scheme.

On this basis, it is recommended that Council resolve to issue a notice of decision to grant a planning permit for application 200080.

Reason a Council Decision is required

Council's delegations require applications that attract five or more objections to be determined by Council. This application attracted five (5) objections.

Application Details

This application proposes to construct a single storey dwelling to the rear of an existing two storey dwelling in accordance with the development plans prepared by arch idea group dated 10 Sept 2020 pp.1-9. A copy of the plan is provided at Attachment 1 (AT-1).

The particulars of the development are as follows:

Existing dwelling

- Double storey with tandem carport suitable to accommodate two cars.
- Secluded private open space is provided to the north and north east of the dwelling.
- Access is via a single crushed gravel cross over.
- The site is fenced to a maximum height of 1.8 metres with timber palings to boundaries and there is a 1.2 metre high post and wire fence to the front.
- It has limited landscaping and no significant vegetation.

Proposed second dwelling

- It is proposed to construct a second three bedroom single storey dwelling using weatherboard cladding in grey colour to match the existing dwelling.
- Access will be via the existing cross over and parking for two cars is proposed.
- Directly accessed from the living area is 38.5 square metres of secluded private open space.
- Boundary setbacks are: 1.3 metres to rear, 1 metre to north and 2.6 metres to the south offering opportunities for landscaping.
- The application proposes removal of a shipping container that is used for storage.

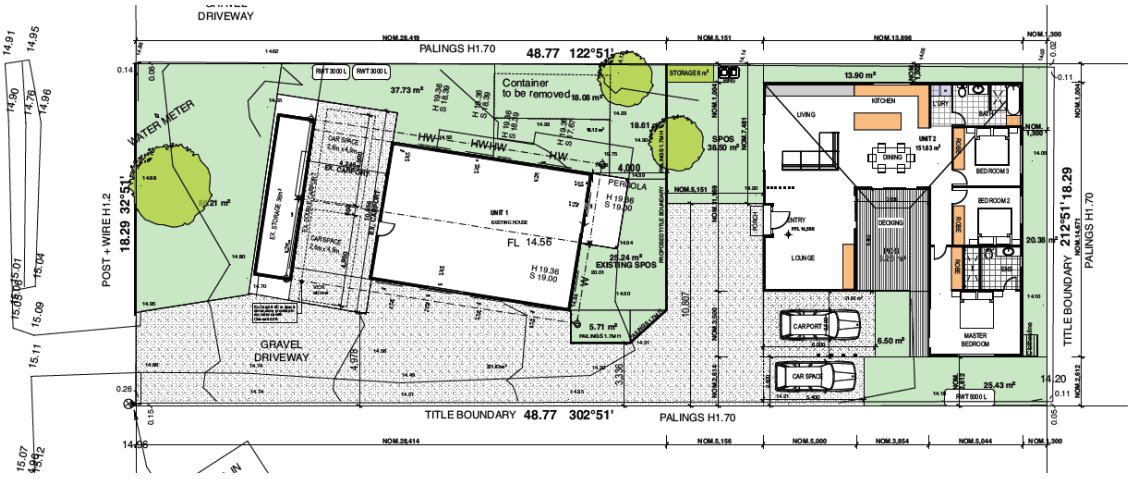


***Figure 1**. Ground floor plan of the existing and proposed dwellings.*

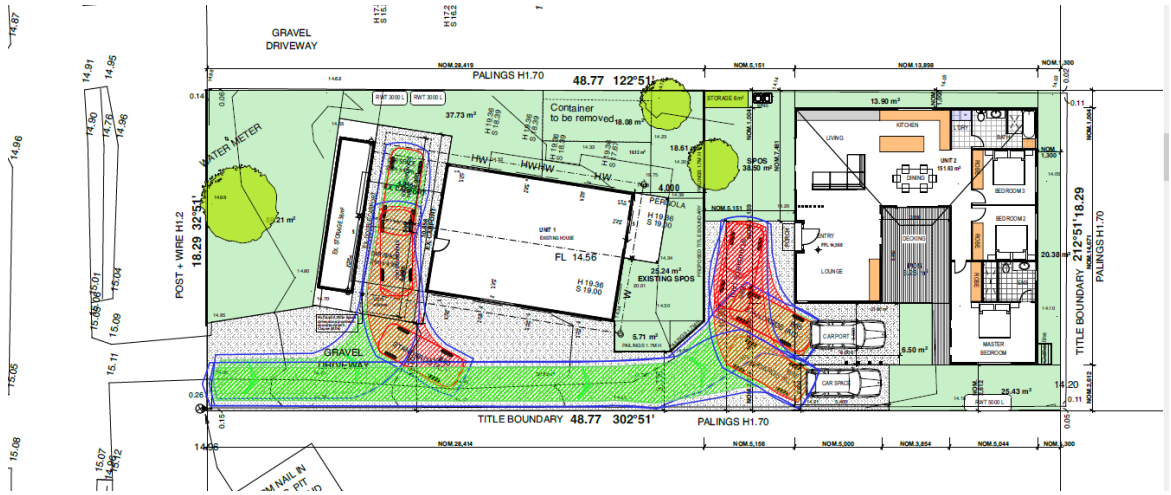


***Figure 2**. Vehicle access plan for existing and proposed dwelling.*

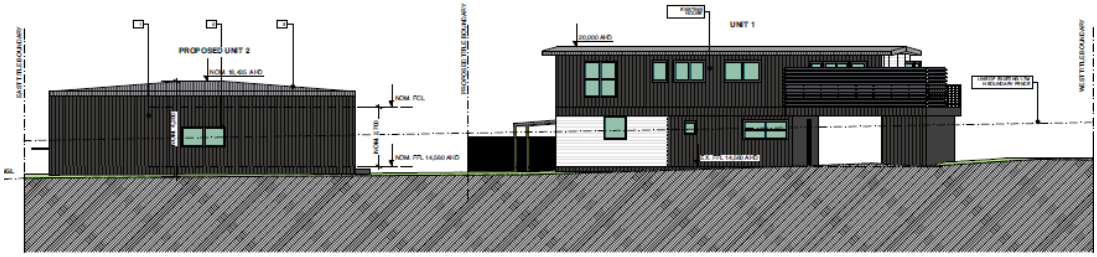


***Figure 3**. North Elevations for existing and proposed dwelling.*

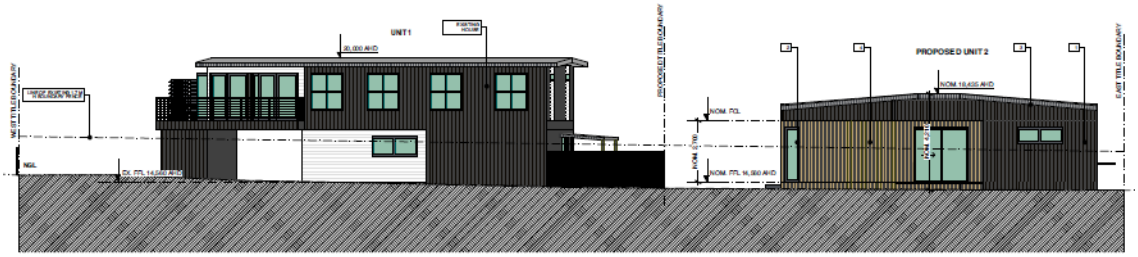


***Figure 4**. South Elevations for existing and proposed dwelling.*

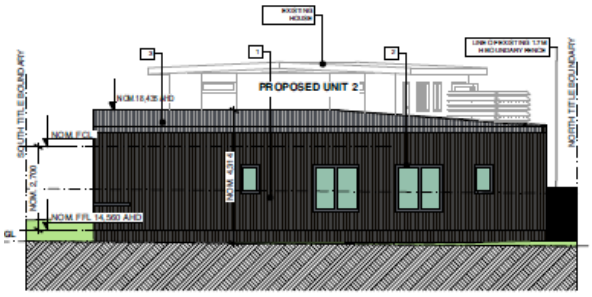


***Figure 5**. East Elevation (unit 2) for proposed dwelling.*

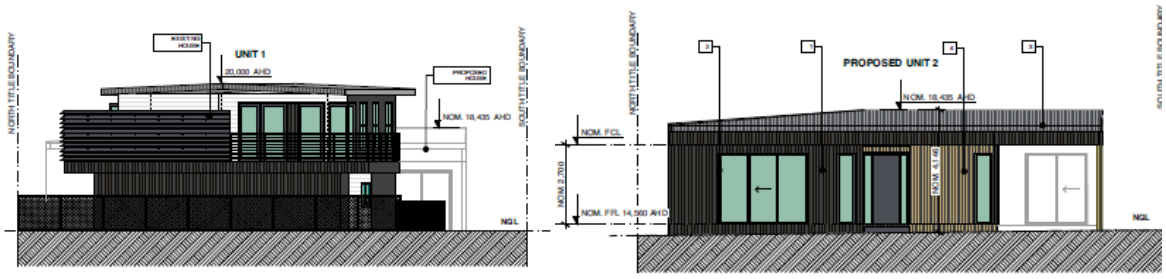


***Figure 6**. West Elevation for existing and proposed dwelling.*

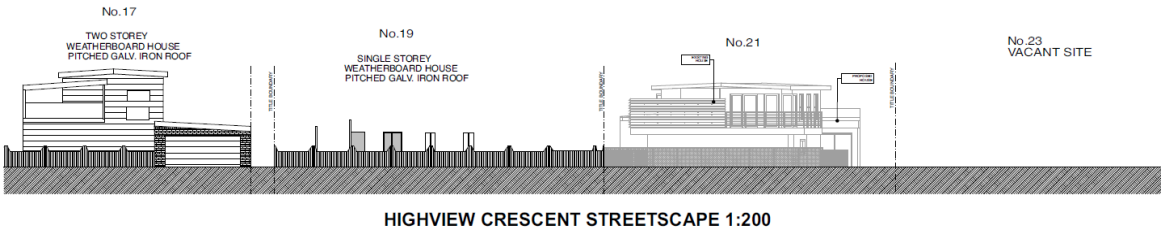


***Figure 7**. Street Elevation for Highview Crescent.*

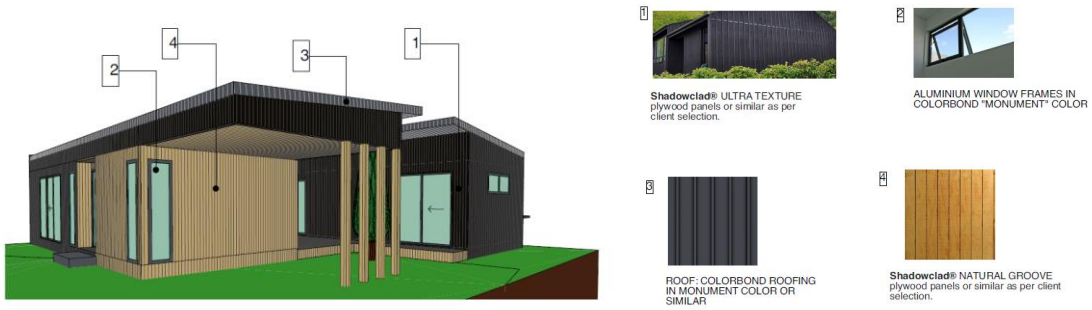


***Figure 8**. Perspective View and Materials for proposed dwelling.*

Background

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

Site Dimensions	The site is rectangular with dimensions of: • 48.77 metres lengthwise • 18.29 metres wide
Site Area	892 square metres
Site Frontage	18.29 metres
Topography	Land slopes downwards north-east to south-west from 15 metres AHD to14 metres AHD
Vegetation Cover	There is no significant vegetation on the subject site or within the road reserve
Current Use	Residential – currently developed with a double storey dwelling and attached tandem car port and separate shipping container storage
Easements	None

Restrictive Covenants	None registered on title
Aboriginal Cultural Heritage Sensitivity	The land is in an area of Cultural Heritage Sensitivity A Cultural Heritage Management Plan (CHMP) is not required as two dwellings on a site are proposed and this is an exempt activity under *Regulation 9 of the Aboriginal Heritage Regulations 2018*

The subject site is located in Surf Beach, a township which consists of a mixture of detached single and double storey dwellings on similar sized residential allotments. The character of the area can be described as informal and relaxed with environmental aspects such as scattered vegetation throughout and coastal assets.

Adjoining properties are identified as follows:

North: 19 Highview Crescent is developed with a single storey detached dwelling.

South: 23 Highview Crescent is vacant land.

East: 24 Surf Crescent is developed with detached double storey dwelling.

26 Surf Crescent is located to the rear and is developed with a single dwelling

22 Surf Crescent is vacant land.

West: 20 Highview Crescent is opposite the site and is developed with a detached double storey dwelling



***Figure 10**. Planning zone map of the subject site at 21 Highview Crescent Surf Beach and surrounds.*



Figure 11. *Aerial photograph of the subject site at 21 Highview Crescent Surf Beach and surrounds.*

Notice

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

The Applicant gave notice in the following manner:

- Sent copies of the Notice by mail to 15 land owners and occupiers; and
- Placed a Notice on the land to face Highview Crescent.

Following the notice period, there were five (5) submissions received for the application. To date, there has been no resolution to concerns raised by objectors and therefore, there have been no objections withdrawn.

Following the notification period, the Applicant under Section 57A of the *Planning and Environment Act 1987* had amended the proposed drawings to show the existing dwelling internal layout. The changes were intended to assist with ensuring compliance of the existing dwelling under Clause 55 of the Planning Scheme.

The plans were not formally re-advertised as it was considered that the proposed changes would not result in an increase in material detriment.

Submissions

In response to notification the application attracted 5 submissions.

A summary of the remaining objections is listed in the following table and a copy of each objection is included in Attachment three (AT-3).

Table one: Summary of Concerns raised in each objection

Submission	Summary of Concerns
1.	• The proposal does not meet the neighbourhood character of the area. • Insufficient drainage infrastructure in Highview Crescent will not support the increased stormwater runoff from the proposed development. • The proposal is not in keeping with the requirements of Design and Development Overlay Decision Guidelines 43.02-6 in regards to the height, bulk and character.
2.	• The proposal will impact fragility of the area, being close to the eroding foreshore and cliffs to the beach. • The road infrastructure is poor and incapable to take load of additional development. • The environmental threat from new development to the local flora and fauna. • The poor drainage infrastructure and flooding on road will be increased with the proposed development. • The area is already overdeveloped. • Lack of infrastructure (drainage and roads).
3.	• Existing drainage system is ineffective and insufficient due to unmade roads, the inadequate drains create constant flooding issues in Highview Crescent. A second dwelling on any block increases the stormwater out on the road. • There is availability of vacant land and properties in surf beach. Therefore, there is no requirement for new development and the proposal for a second dwelling is not required in this area. • Poor road infrastructure in surf beach which is used as a secondary road for diverting traffic from the Phillip Island tourist road and will not be able to cope with the new development. • There is need to protect the wildlife and uniqueness of the Surf Beach area by not allowing further subdivision and development. • Developments in the past have been rejected in the Surf Beach area.
4.	• The proposed second dwelling causes invasion of privacy due to overlooking into the private open space for 24 Surf Crescent as the rear setback is only 1.3 meters to the fence. • The proposed second dwelling will increase the water logging issues to the rear property (24 Surf Crescent) due to the existing slope of the land. • No subdivision should be permitted in the Surf Beach area and should be totally discouraged by Council like not be encouraged within the pristine beach area of Surf Beach.

5.	• The drainage in and around the area is insufficient. The roadside drains frequently overflow and often cause flooding at the bottom of the street. • The unmade roads cannot take any more traffic and will not cope with new development. They are not maintained very well and there are no plans to upgrade those roads. • There is sufficient vacant land available for new buildings and several established properties for sale in the area. • The native flora and fauna of the area needs to be protected from an expanding population on the narrowest stretch of the island. • This area is fortunate to have large blocks providing a measure of privacy and the proposed development would be detrimental to the area to increase the population and encourage a higher density of living.

The applicant provided a written response to address objectors concerns in relation to:

- Drainage of the area.
- Flora and fauna impact of the development.
- Road Infrastructure and road management of the area.

The applicant's response including the updated drainage plan and landscape plan that was sent to all the five objectors.

No objections have been withdrawn.

Referrals

The following table outlines the referral requirements of this application.

Table two: Referral requirements and their comments

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
External referrals were not required	
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Development Services	Conditional consent received from Development Services on 15 July 2020.

Officer's Considerations

State and Local Planning Policy Framework Assessment

- Clause 11 Settlement
  - Clause 11.01-1S Settlement
  - Clause 11.01-1R Settlement – Gippsland
  - Clause 11.03-4S Coastal Settlement

- Clause 11.03-6S Regional and local places
- Clause 15 Built Environment and Heritage
  - Clause 15.01-1S Urban Design
  - Clause 15.01-2S Building Design
  - Clause 15.01-5S Neighbourhood Character
- Clause 16 Housing
  - Clause 16.01-1S Integrated housing
  - Clause 16.01-2S Location of residential development
  - Clause 16.01-3S Housing diversity
- Clause 18 Transport
  - Clause 18.02-4S Car parking
- Clause 21 Municipal Strategic Statement
  - Clause 21.01 Municipal Profile
  - Clause 21.02 Settlement
  - Clause 21.02-2 Housing
  - Clause 21.05 Landscape and Built Form
  - Clause 21.05-4 Design and Built Form
  - Clause 21.09 Low Growth Settlements
  - Clause 21.09-4 Surf Beach
- Clause 22 Local planning policies
  - Clause 22.01 Storm water Management Policy

The following provides a discussion of where the proposal has satisfactorily addressed the relevant Planning Policy Framework (PPF) and Local Planning Policy Framework. It is considered that the proposal is consistent with relevant state and local planning policy.

Clauses 11, 15 and 16 of the Planning Policy Framework place emphasis through stated objectives on diversity of housing, affordable housing, urban consolidation and promotion of in-fill development for more efficient use of existing infrastructure.

Local planning policy furthers state policy and Surf Beach is identified as a low growth settlement at within the defined settlement boundary. There is strong strategic support for the site to be used for an additional dwelling given proximity to commercial and community facilities.

The proposal is consistent with the objectives related to neighbourhood character and building design and it is considered that the development achieves a satisfactory level of compliance with the existing and preferred neighbourhood character. The use of a variety of materials externally provides interest and the articulation and detailing to roof lines reflects the character of the surrounding neighbourhood.

Settlement

State and local planning policies encourage infill development and urban renewal opportunities within settlement boundaries. Clause 11.01-1S Settlement promotes development within settlement boundaries.

Clause 11.01-1R Settlement – Gippsland aims to maintain the relationship of small towns with their districts by providing services commensurate with population densities. There is strong demand for residential land to provide for increased seasonal demand on towns which have high holiday home ownership. Local planning policy Clause 21.02 Settlement, identifies Surf Beach as a small hamlet town (identified as a low growth settlement) with a seasonal population and no spatial growth capacity. Therefore, any further urban growth of Surf Beach must be primarily by means of infill development within defined settlement boundaries.

Other state policies relevant to this application are Clause 11.02-1S Supply of urban land, Clause 11.03-4S Coastal Settlement and Clause 11.03-6S Regional and local places. The objective of Clause 11.02-1S Supply of urban land is to ensure a sufficient supply of land is available for sustainable development and planning to consider opportunities for consolidation, redevelopment and intensification of existing urban areas. The proposal provides for the urban intensification of a site which is already developed and also allows for redevelopment opportunities within the settlement.

In addition, Clause 11.03-4S Coastal settlement aims to consider development within coastal settlements in Victoria and how the location adjacent to the coast could be impacted. More specifically, development should be directed within existing settlement boundaries and that growth is planned to ensure coastal values are protected. The proposed development takes advantage of an infill development opportunity in an existing settlement and is considered respectful of the adjacent coastal assets in the local area.

Built Environment and Landscape

The objective of Clause 15.01-1S Urban Design is to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place. The proposed development is considered to address the strategies outlined in Clause 15.01-1S as it responses to the design form, landscape character and creates safe and attractive spaces with respect to the neighbouring dwellings and public realm of the area.

Clause 15.01-5S Neighbourhood character seek to ensure the development recognise, support and protect neighbourhood character, cultural identity, and sense of place. The proposed development responds to the policy by:

Providing development to respect the preferred character of the area.

Responding to characteristics of the local environment and place by emphasising the:

- Pattern of local urban structure and subdivision.
- Underlying natural landscape character and significant vegetation.
- Heritage values and built form that reflect community identity.

Similar to the PPF, the LPPF Clause 21.05-4 Design and built form sets out the objectives and strategies for new development, to protect the valued aspects of local landscape and built form for an established area. The proposed development is

considered to fulfil the strategic requirement of Clause 21.05-4 by giving consideration to the following strategies in the design:

- The proposed second dwelling is modest single storey structure with weatherboard cladding similar to existing and neighbouring dwellings and is consistent with existing site context.
- Setbacks to boundaries provide opportunity for landscaping that will contribute positively to the public realm and character of the area.
- All visible facades for the proposed building have windows and open courtyards which are considered to interact positively with the neighbourhood.
- The proposed dwelling is built from lightweight cladding, with design features used in entry and car port similar to existing dwellings reflecting coastal character of the Surf Beach area.
- The proposed development is considered to have achieved a site design response that responds to Clause 21.05 Landscape and Built Form that will ensure that the development will limit the impact on the natural, visual and environmental landscape character of the township.

Housing

The PPF and LPPF both encourage diversity of housing outcomes that will not compromise existing environmental and neighbourhood character. The proposed development responds positively to Clause 16.01-1S integrated housing in term of providing increased residential development within an existing settlement, integrated with available infrastructure on the subject site.

Furthermore, the development justifies Clause 16.01-2S Location of residential development, as the new development is located within existing established area and reducing the pressure of green field developments.

The proposed development responds to the above objective as it creates a diversity of housing type in the neighbourhood which respects the neighbourhood character and is located within the existing settlement of Surf Beach.

Infrastructure

Clause 22.01 Stormwater Management Policy relates to the urban areas of Bass Coast Shire. The objective of this policy is to ensure drainage is adequate and manage risks associated with flooding. A drainage plan has been submitted that has been assessed by Council's Development Services team who are satisfied with the drainage response. Standard conditions are proposed should a permit issue.

The proposed development is considered to be consistent with Clause 22.01 Stormwater Management Policy of the Bass Coast Planning Scheme.

Zone Assessment

Clause 32.08 General Residential Zone – Schedule 1 (GRZ1)

The purpose of the General Residential Zone is:

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

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

The application triggers the need for a planning permit under Clause 32.06-8 as a permit is required to construct a dwelling if there is at least one dwelling existing on the lot.

As per Clause 32.08-4, the subject site is required to provide 35% of garden area. The proposal sets aside 36.01% of the site for garden area and therefore, the application is consistent with the minimum garden area requirement under the zone.

Clause 55 for Two Or More Dwellings On A Lot and Residential Buildings must be assessed and considered in the decision making process. Clause 55 (ResCode) is and discussed further in the next section of this report.

Overlays

Clause 42.02 Vegetation Protection Overlay – Schedule 2 (VPO2)

The application does not trigger the need for a planning permit under Clause 42.02-2 as there is no existing vegetation on the site, surrounding allotments or in the road reserve that require removal, destruction or lopping.

Clause 43.02 Design and Development Overlay – Schedule 1 (DDO1)

The application does not trigger the need for a planning permit under Clause 43.02-2 as the maximum height of both of the dwellings does not exceed 7m from natural ground level (NGL).

Particular Provisions

Clause 55 Two or more dwellings on a lot and residential buildings

Neighbourhood character and infrastructure

The development meets the objectives and is consistent with standards that aim to respect existing and preferred neighbourhood character. The proposed second dwelling is single storey and located behind an existing two storey dwelling. It will have very limited impact in terms of scale and bulk that would be detrimental to the character of the area. It will not be highly visible from the street.

Utility services and infrastructure can be provided. The applicant has provided a drainage strategy and vehicle access plans to respond to these requirements.

Site layout and building massing

The development is consistent with the standards and objective in regards to setback from the street, building height and site coverage. The development is to comprise a single storey dwelling located behind the existing double storey dwelling. This arrangement is considered to be a suitable response to the site and surrounds.

Amenity Impacts

The development is consistent with the setback requirements so as not to unreasonably impact on the adjoining properties. The proposed development should have minimal impacts on adjacent and adjoining dwellings in terms of overshadowing or overlooking due to the single storey nature of the new dwelling. However, to further minimise the impact of overlooking, should a permit issue, additional screening will be required to reduce the opportunity of overlooking from the new dwelling into rear adjoining property.

On-Site Amenity

The development complies with requirements to provide private open space for the existing and proposed dwellings.

Detailed design

The proposed second dwelling is considered to have limited impact on the existing or adjoining dwellings and will have minimal impact on streetscape. The proposed second dwelling is modest in scale and design and responds positivity to site and surrounds opportunities and constraints.

Clause 52.06 Car Parking

The required number of car spaces for each of the dwellings is met and are considered to meet the relevant design standards as per Clause 52.06-5.

Swept path diagrams indicate that the vehicles will be able to access and egress the site safely and efficiently.

Clause 53.18 Stormwater Management In Urban Development

The proposal has been assessed against clause 53.18-5 Stormwater management objectives for buildings and works. The site drainage plans provided by the applicant have been assessed by Council's Development Services Engineering Team and are considered to have complied with clause 53.18-7 for the following reasons:

- The site drainage plans demonstrate the provision of stormwater detention within the site and prior to the point of discharge.
- The proposed plans are considered to meet the requirements of the Infrastructure Design Manual (IDM) and therefore meet the current best practice performance objectives for stormwater quality.
- The site drainage plans demonstrate that the capacity of the drainage network can accommodate the additional stormwater from the development
- A condition to enter into a section 173 agreement to contribute to off-site stormwater management has been recommended by Council's Development Services Engineering Team and this will be included on any permit if issued.

Concerns raised by Submitters

Neighbourhood character and Density

- The proposed second dwelling is not consistent with the character of the area in relation to lot size and density
- The proposal does not comply with clause 43.02 Design and Development Overlay.

- Impacts that the proposed dwelling will have on the low-scale character of Surf Beach.
- Questioned the suitability of 'higher density' living and population growth in Surf Beach from a planning point of view.
- Inconsistence in terms of development of the area, neighbourhood character, landscape or amenity.
- Questioned aspects of Clause 55 – ResCode for the proposed in relation to overlooking into the private open space for rear property.
- Developments in the past have been rejected in the Surf Beach area.

The addition of a single storey dwelling to the rear of an existing double storey dwelling is considered to achieve a suitable design response to the neighbourhood character of Surf Beach and will not unreasonably impact streetscape character of Highview Crescent.

The proposed height of the second dwelling has a maximum height of 4.35 metres which does not trigger a planning permit under the Design and Development Overlay, Schedule 1.

This proposal should be supported on the basis it is consistent with the DDO1, Clause 55 and GRZ1 in terms of building height and neighbourhood character.

Furthermore, the design response for the proposal has provided for a sympathetic front, side and rear setbacks that will ensure landscaping opportunities are available to lessen the impact of the built form.

The dwelling is single storey and there will be no overlooking impact into the property at the rear.

Setbacks meet relevant objectives and standards.

Each planning application is assessed on the merits of the proposal and whether relevant provisions are met.

Poor Site drainage and Road Infrastructure

- Existing drainage system is insufficient, due to unmade roads and inadequate drains.
- A second dwelling will increase the storm water runoff on the road.
- Drainage impact on rear property.
- The road infrastructure is poor and incapable to take load of additional development and traffic.

One additional dwelling will not have an unreasonable impact on local traffic conditions or stormwater infrastructure.

Stormwater management plans submitted with the application have been reviewed by Council's Development Services team and are considered to satisfy current best practice performance objectives for stormwater quality as contained in the *Urban* Stormwater - *Best Practice Environmental Management Guidelines* (Victorian Stormwater Committee, 1999).

Reticulated services are available to the site and can accommodate the proposed development.

No additional crossover is proposed.
Permeable area of 36% is identified within the development.

Environmental impacts

- The native flora and fauna of the area needs to be protected from an expanding population
- The pristine character of surf beach area should be protected.
- There is need to protect the wildlife and uniqueness of surf beach area by not allowing further subdivision and development.
- The proposal will impact fragility of the area, being close to the eroding foreshore & cliffs to the beach.

There is no vegetation removal proposed and adequate landscaping opportunities are provided for both dwellings.

The site is not in an area subject to coastal inundation and therefore is considered not to exacerbate coastal erosion issues.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to be consistent with the relevant Planning Policy Framework, Local Planning Policy Framework and the decision guidelines of the General Residential Zone 1 including Clause 55 (ResCode).

The application underwent notification and as a result there were five (5) 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 application 200080 subject to conditions.

Recommendation

That in relation to planning permit application 200080 for Development of Second Dwelling located at 21 Highview Crescent Surf Beach, Council resolves to issue a Notice of Decision to Grant a Permit, subject to the following conditions:

General Conditions:

1. **Before the development commences, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application being those prepared by arch idea group (dated 10 Sept 2020, Pages 1-9) but modified to show.**

a) **The floor plan for the existing dwelling shown on the site development plan.**

b) **Increased landscaping opportunities to the driveway areas and along the southern boundary.**

c) **Appropriate screening measures indicated on the elevation plans for the new single storey dwellings bedroom 2 and 3 windows (eastern) to achieve compliance with standard B22 (Overlooking).**

d) **The new single storey dwellings bathroom and ensuite eastern windows shown and notated to be obscured/frosted windows.**

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

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

Landscape Plan

4. **Prior to the commencement of the development, a landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. The landscaping plan must be generally in accordance with the landscape concept plan dated 12/05/2020 prepared by *unknown territory* (Job No: 2023) except that the plan must:**

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

b) **buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary;**

c) **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) **The provision of canopy trees as follows:**

i. **One canopy tree to the front setback of the existing dwelling**

ii. **One canopy tree to the northern opens space area of the existing dwelling**

iii. **One canopy tree to the SPOS area for the new dwelling**

g) **Increased landscaping areas and opportunities to the driveway areas and southern boundary.**

h) **only the use of plant species indigenous to the locality;**

All species selected must be to the satisfaction of the responsible authority.

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

5. **The landscaping shown on the endorsed plans must be thereafter maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.**
6. **Prior to the issue of a Certificate of Occupancy or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.**

Engineering Drainage

Construction

7. **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 (excluding any above ground detention tanks deferred via a Section 173 agreement) in accordance with the endorsed civil plans.**
   c) **Photographic evidence of the legal point of connection to Council's drainage system must be provided if Council inspection cannot be arranged prior to backfilling.**
   d) **Areas for common property, vehicle access and car parking within the land must be constructed in accordance with the endorsed civil design plans.**
   e) **All proposed vehicle crossings must be constructed in accordance with the endorsed plans and IDM standards,**
   f) **All redundant infrastructure (including vehicle crossings) abutting the site shall be removed and the kerb, channel, naturestrip and footpath shall be reinstated.**

Vehicle access constructed & maintained

8. **Vehicle access to the subject land must be located, constructed and maintained to the satisfaction of the Responsible Authority.**

Maintenance Of Onsite Drainage System

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. **Prior to the issue of a Certificate of Occupancy, or by such later date as is approved by the Responsible Authority in writing, the following works must be completed in accordance with the endorsed plans and**

to the satisfaction of the Responsible Authority:

a) **All drainage works must be constructed in accordance with a site drainage plan for the property as endorsed by the Responsible Authority pursuant to this planning permit,**

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

c) **All proposed vehicle crossings must be constructed in accordance with the endorsed plans.**

11. **Prior to the issue of a Certificate of Occupancy, the owner of the land must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 and provide evidence to the Responsible Authority that the agreement has been registered on the certificate of title for the land. The agreement will stipulate that:**

a) **The Owner will maintain and not modify the on-site storm water detention system as shown on the endorsed Stormwater Plan without prior Council written approval**

b) **The Owner will allow the system to be inspected by a duly appointed officer of the Council at mutually agreed times;**

c) **The capacity of the on-site stormwater detention system, as shown on the endorsed plans, cannot be reduced and must be maintained to the satisfaction of the Responsible Authority; and**

d) **The owner will pay for all the cost associated with the operation, maintenance and Council inspection of the on-site stormwater detention system.**

The cost of preparation, lodgement and registration of the agreement and any subsequent amendment, enforcement, removal or other dealing associated with the agreement shall be borne totally by the owner of the land.

12. **Prior to the issue of a Certificate of Occupancy, all stormwater and surface water discharging from the site, buildings and works must be conveyed to the legal point of discharge by underground pipe drains to the satisfaction of the responsible authority. No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system.**

Car parking areas

13. **Areas for vehicle access and car parking within the land must be surfaced with concrete, reinforced concrete, brick paving or hot mix asphalt.**

14. **The vehicle crossings to each dwelling must be constructed to the relevant Infrastructure Design Manual requirements, to the satisfaction of the Responsible Authority.**

15. **Car spaces, vehicle access lanes and driveways must be kept available for these purposes at all times.**

16. **The areas set aside for car parking and vehicle access lanes must be maintained in a continuously useable condition to the satisfaction of the Responsible Authority.**

Amenity

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

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

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

    b) **appearance of any building, works or materials;**

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

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

Permit Expiry - Development

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

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

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

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

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

PERMIT NOTES:

Asset Protection Permit

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

Road Occupation Permit

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

Stormwater Discharge Point

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

Memorandum of Authorisation

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

Attachments

AT-1	Proposed plans	9 Pages
AT-2	Planning Schemes	23 Pages
AT-3	***CONFIDENTIAL*** - Submissions	11 Pages

H.4 Planning Application 200110 46 McHaffies Lane, Ventnor

File No:	**CM20/505**
Division:	**Place Making**
Council Plan Strategic Objective:	**Liveability**
	Enjoying the place we live

Application Details

Use/Development Sought:	**Use and development of land for function centre (Place of assembly) in a Farming Zone**
The Land:	**46 McHaffies Lane, Ventnor**
Planning Scheme:	**Bass Coast Planning Scheme**
Zoning:	**Farming Zone**
Overlays:	**No Overlays**

Declaration

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

Executive Summary

This application proposes to use and develop land for a function centre (Place of assembly) in a Farming Zone at 46 McHaffies Lane, Ventnor

The proposal triggers the need for a planning permit under the following clauses of the Bass Coast Planning Scheme:

- Pursuant to Clause 35.07-1 of the FZ a permit is required to use the land for a Function Centre;
- Clause 35.07-4 of the FZ states a permit is required to construct or carry out works associated with a use in Section 2 of Clause 35.07-1.

The application was advertised and received thirteen (13) submissions, two (2) of which were letters of support.

Following the advertising period, amended plans prepared by On Site Design and dated 20-5-20 Version PD3 (Ref No: 2009) were received by Council. The amended plans were formally substituted on 17 September 2020 under Section 57(A) of the *Planning and Environment Act 1987* and provided for an amended layout to address submitter concerns. The amended changes are summarised as follows:

- Reduction in the number of patrons to the venue from 60 to 40;
- Distinction between various use of the function centre, with specific hours of operation and a specific number of patrons at any one time;
- Increase in the number of on-site car spaces;
- Provision of an acoustic assessment.

This report addresses the planning merits of the proposal and the issues raised by submitters. It concludes that the proposal is considered to be consistent with the relevant polices, objectives and strategies of the Bass Coast Planning Scheme and in particular the Planning Policy Framework, Local Planning Policy Framework, Clause 35.07 Farming Zone and Clause 52.06 (Car Parking).

On this basis, it is recommended that Council resolve to issue a notice of decision to grant a planning permit for planning application 200110.

Reason a Council Decision is required

Council's delegations require applications that attract five or more objections to be determined by Council. This application attracted eleven (11) objections.

Application Details

This application proposes to use and develop land for a function centre (Place of assembly) in a Farming Zone generally in accordance the decision plans received on September 16, 2020 prepared by On Site Design, Version PD3 (Ref No: 2009).

Function Centre - Building and works

An existing farm shed has been converted with a commercial kitchen to operate an off-site catering business. The registered kitchen located within the existing shed is to be used as the proposed event space. The building is setback 18m from the road frontage and 11m from the east side boundary. The works proposed refers to the development of an onsite car park.

The car parking will be located to the south side of the function centre between the building and to the McHaffies Lane. Six (6) car spaces will be setback 0.5m from the southern property boundary, with three (3) located on the west side of the driveway.

Function Centre – Use

The proposed use of the Function Centre is as follows:

Workshops

Workshops are proposed to operate one day a month for up to a maximum of 20 people. The proposed workshops will operate between 10:00am to 4:00pm. A variety of topics for the workshop have been suggested such as:

- Bee keeping
- Permaculture
- Cooking classes
- Sustainability and Environment
- Regenerative Farming
- Fermenting foods
- Orcharding
- Micro farming
- Sourdough making

Events

Events are proposed to operate a maximum of six (6) events a year for up to a maximum of 40 people. The proposed events will operate between 5:30pm to 10:00pm on either Friday, Saturday or Sunday. Amplified music will occur up until 10:00pm. The events will occur between Friday to Sunday for events such as:

- Product launches
- Small events – dinners

Dinners

Dinners are proposed for the group accommodation guests only. No outside guests or additional cars would be on the site. A maximum of 10 guests would be catered for with no amplified music. Dinners will cease by 10.00pm.

The meals served in the workshops and events proposed for the function room would include some of the produce grown on the site with each year yields are increasing as is the variety of produce. Currently there are 35 fruit, herbs and vegetables grown on the subject site.
A copy of the plans are provided as attachment one.

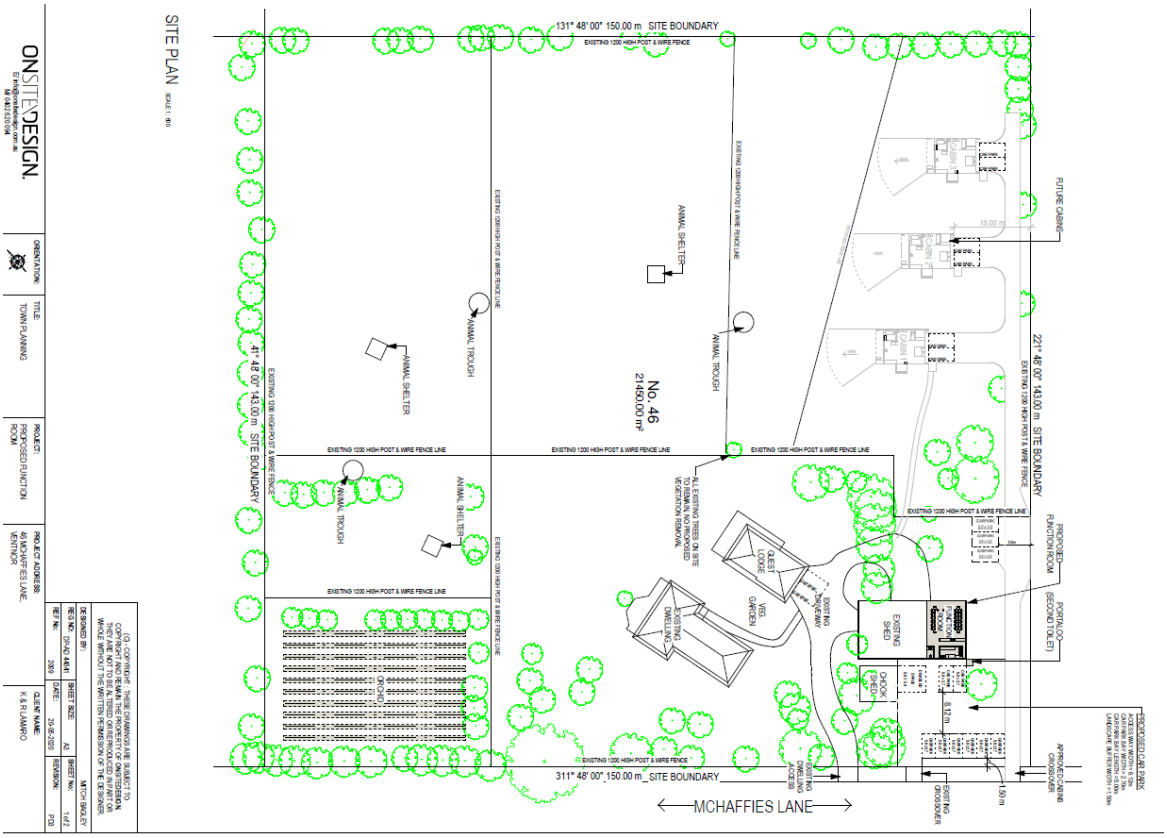
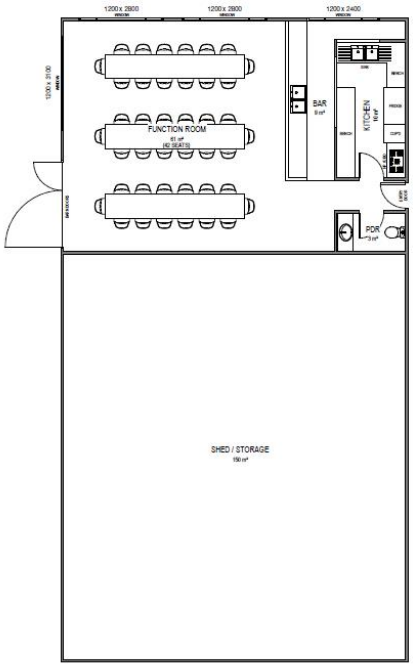


Figure 1 Amended Site layout



EXISTING SHED / FUNCTION ROOM FLOOR PLAN



EXISTING ELEVATION - NORTH EAST



EXISTING ELEVATION - SOUTH EAST



EXISTING ELEVATION - SOUTH WEST

Figure 2 Amended Internal Layout

Background

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

Site Dimensions	Rectangular allotment 2.145ha in area (150m x 143m)
Site Frontage	150m wide frontage along McHaffies Lane.
Topography	7.5m fall of the land from the south east corner to the property to the north west
Vegetation Cover	Land relative clear with scattered trees along the font of the property neat the existing dwelling and outbuildings.
Current Use	Rural Residential Property
Easements	No easements pertain to the subject site
Restrictive Covenants	S173 agreement AR930319 is registered on title per condition 4 of planning permit 180336. It pertains to the operational use of the land for the group accommodation. The proposal is not in breach of the registered agreement.
Aboriginal Cultural Heritage Sensitivity	Not located within an area of Cultural Sensitivity
Planning Permit History	180336 was issued for the use and development of three (3) group accommodation units on 7 December 2018

The subject site is 2.145 hectares and is developed with two dwellings, one used as a bed and breakfast, three group accommodation units and associated outbuildings. The land is relatively flat with some vegetation around the boundaries.

Whilst in the Farming Zone, the property operates as a rural-residential parcel with small scale farming infrastructure and a number of small paddocks. The land has been established with large vegetable gardens and fruit orchid.

The site adjoins two roads. McHaffies Lane adjoins the property frontage along the southwest front property boundary with Davie Lane adjacent to the northeast side property boundary.

The property to the northwest has two dwellings on the site with the closest dwelling approximately 115m from the proposed Function Centre. The property to the south west across the road at 47 McHaffies Lane has a dwelling approximately 137m from the proposed Function Centre.

The adjoining property to the southwest has a dwelling located approximately 276m from the proposed Function Centre.

The subject land is located on Phillip Island between Summerlands and the Ventnor township, surrounding land uses are a mix of rural residential and traditional farming operations.

The following images identify the site in its context:



Figure 3 *Aerial Photo – Dated December 2019*



Figure 4 Aerial Photo *– Dated December 2019*

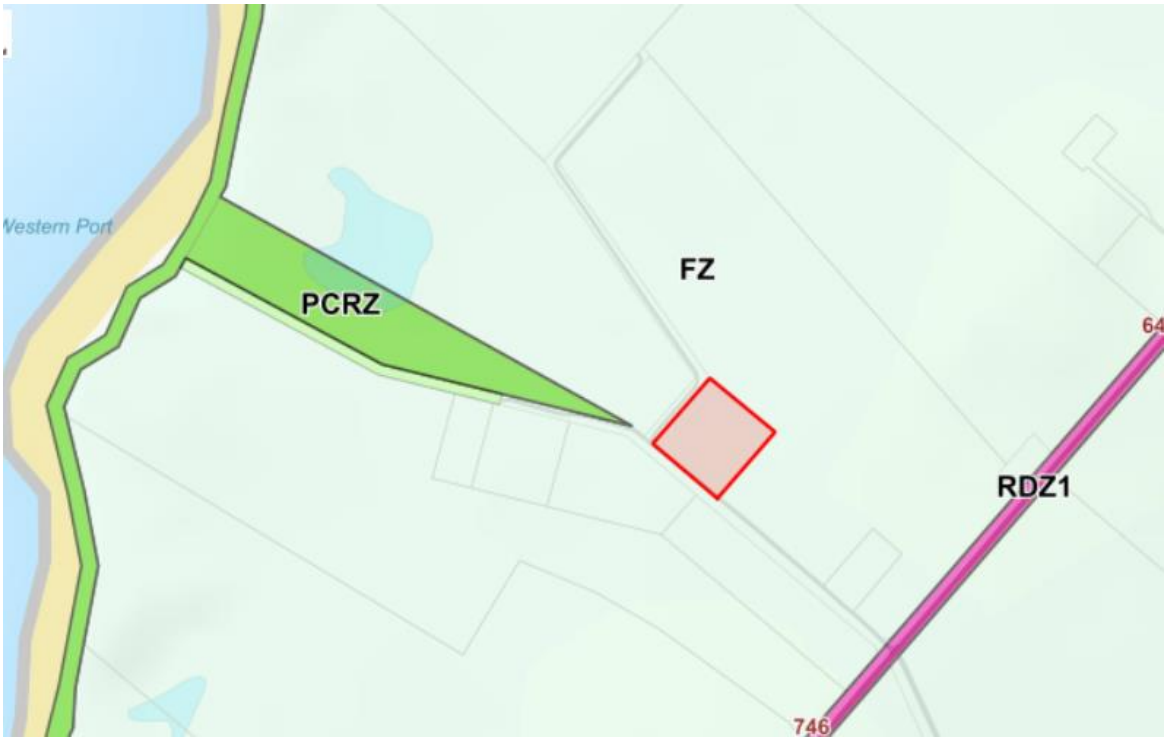


Figure 5 *Zoning Map*

Notice

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

The Applicant gave notice in the following manner:

- Sent copies of the Notice by registered mail to 14 adjoining and nearby owners and occupiers

Submissions

In response to notification the application attracted 13 submissions.

A summary of the remaining objections is listed in the following table and a copy of each objection is included in Attachment two.

Table one: Summary of Concerns raised in each objection

Submission	Summary of Concerns
1	Harm to the environment and will impact the peace and quiet for neighboring properties and this area of Phillip Island.
2	Land is too small in size for function centre and group accommodation with car parking and also for agricultural use; Noise generated from amplified music will travel across open paddocks
3	Inappropriate development in an environmentally sensitive area (proximity to McHaffies Lagoon and the coastal reserve); The provision for onsite car parking is inadequate for guests in accommodation, staff and visitors; The narrow unmade road providing access to the property is not suitable for the increased traffic that would be generated by such a development and there is no opportunity for off-site parking in the laneway; There is the potential for the significant impact of both noise and light on the local fauna and the neighbours; The suggested hours for operation are excessive, particularly those indicated for "live amplified music".
4	The area is low-density rural area and is in a lot of respects a wilderness area; The development would significantly adversely affect this region with inevitable damage to the local environment.; The playing of live and or amplified music up to 9 hours per day 4 days per week would adversely affect the quiet enjoyment of those of us that choose this area for this very reason; Live/ amplified music travels a great distance across flat open land and water such as surround this region; Out of character with the area

5	Submission of support although concern at amplified music.
6	Traffic concerns at the width of the road and noise concerns.
7	Submission of support stating no adverse impact and a need for this type of use on the island.
8	Impact on the extensive animal and bird life in the immediate area; Peace and privacy – access along Mchaffies Lane is constrained by the width of the lane; The connection between use and agriculture – does not contribute to the agricultural use undertaken on the site; Noise level not only from the venue with amplified music but from the traffic when leaving at night; Light pollution, particularly at ended of functions; Road safety - It is unsafe to pull over and let ongoing traffic through; The laneway is also soft gravel with the majority of gravel swept to the outside. It is extremely slippery. Even with limited traffic it has corrugations; Additional traffic and an increase in truck for deliveries for waste disposal and even to empty the porta-loo, etc.
9	Concern at visitors exploring the area outside property; Traffic concerns – road traffic; Music at large functions is loud and difficult to control
10	Car parking - Despite an indoor capacity of 60 for the convention centre/music venue that could expand beyond 100 for outdoor events only10 dedicated car park spaces are provided. Unless addressed crowded parking on the small rural laneway will be inevitable; Toilet(s) - For the expected number of patrons only a single toilet is provided which may be augmented by a single additional port-a-loo for outdoor music events. This would appear most inadequate; Noise abatements – The inevitable traffic noise generated by the large number of patrons expected as well as amplified music that could occur until 11pm on any night of the week would be extremely detrimental to neighbours (even distant ones) as well as the local wildlife and possibly nearby livestock.
11	Concern that the approval of the function center will impact on the location of the Community Reference Group for the Visitor Economy to support and develop a path/trail that circles Phillip Island; Question using location of group accommodation on the site
12	Letter of support for the business proposed: States the proposal is fair and reasonable

13	Letter of support for the business proposed – Support for local business in line with "Bass Coast Towards 2020"; Connection to the land and agriculture

Following the notification period, the Applicant under Section 57A of the *Planning and Environment Act 1987* decided to amend the proposal to address the objectors concerns.

The changes were intended to address the key concerns by the objectors and those initially identified by Council. A summary of the changes to the design have been provided on Pages 1 and 2 of this report.

- Reduction in the number of patrons to the venue from 60 to 40;
- Distinction between various use of the function centre, with specific hours of operation and a specific number of patrons at any one time;
- Increase in the number of on-site car spaces;
- Provision of an acoustic assessment.

The amended plans have been circulated to all objectors to date where five additional comments have been received.

Table two: Summary of Concerns raised via the amended plans

Submission	Summary of Concerns
1	Not in accordance with the Farming Zone; Confusion with the proposed workshop topics and the number of workshops per month; Dinner for residents is essentially a restaurant and concern number of patrons proposed; Acoustic report questions and how to manage the noise from the venue.
2	Land is too small in size for function center; Reiterate the effect on the environment and wildlife; Concern at the potential use of amplified music and how that will be managed.
3	Generally supportive but 2 questions - Confusion with the proposed workshop topics and the number of workshops per month and the requirement that only amplified music will be played indoors.
4	Question the car parking number and issues that require a building permit.
5	Maximum numbers to be no more than 25; Question the acoustic report and methodology and concern at the impact of the function centre on the children living on the property and children in the neighborhood.

No previously lodged objections have been withdrawn.

Referrals

The following table outlines the referral requirements of this application.

Table two: Referral requirements and their comments

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
Not Applicable	
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Development Services	Conditional consent provided

Officer's Considerations

Planning Policy Framework Assessment

The Planning Policies relevant to this application are:

- Clause 11 Settlement
  - 11.01-1R Settlement – Gippsland
- Clause 13 Noise
  - Clause 13.05-1S Noise abatement
- Clause 14.01 Agriculture
  - 14.01-1S Protection of agricultural land
  - 14.01-1R Protection of agricultural land – Gippsland
- Clause 17.04 Tourism
  - 17.04-1S Facilitating tourism
  - 17.04-1R Tourism – Gippsland
- Clause 21.05 Landscape and Built Form
  - 21.05-1 Landscape: Overview
  - 21.05-4 Design and Built Form
- Clause 21.08 Moderate Growth Settlement
  - 21.08-6 Ventnor
- Clause 21.03 Economic Development
  - 21.03-1 Economic Development Overview
  - 21.03-4 Tourism
  - 21.03-5 Agriculture
- Clause 22.00 Local Planning Policy
  - 22.06 Non Agricultural Uses In The Farming Zone Policy

Clause 14 (Agriculture) states that planning should ensure agricultural land is managed sustainably, while acknowledging the economic importance of agricultural production.

The objective to Clause 14.01-1S is to protect the state's agricultural base by preserving productive farmland. Clause 14.01-1R identifies its strategy is to protect productive land and irrigation assets, that help grow the state as an important food bowl for Australia and Asia.

The proposal is not considered to result in any detrimental impacts to existing agricultural land or the ongoing hobby farming of the subject site. The location of the function room is inside an existing building.

The Bass Coast Planning Scheme at Clause 17.04-1S Facilitating tourism identifies an objective to encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination. The proposed function room is of a small scale that will aid in providing agricultural tourism opportunities that complement the existing use of the land.

Clause 22.06 (Non Agricultural Uses In the Farming Zone) encourages uses in the Farming Zone including agriculture, primary produce sales, tourism and rural industries that support agriculture.

An objective of the policy is to discourage non-agricultural uses in the Farming Zone, other than those that support agriculture. The existing farm shed has been converted for the purpose of a home business. The proposal is to be used as a small function centre to accommodate people staying at the farm, and for workshops and small functions.

In this regard, the proposal fills a niche market and is considered to appropriately integrate, and complement the smaller scale agricultural use of the land. The size of the land is small in area that is doesn't impact the broader agriculture land use. Furthermore, the function room will not require any additional buildings and works, and will be of no consequence to the natural environment and landscapes.

Bass Coast Rural Land Use Strategy

The Rural Land Use Strategy identifies the land in an area called "*Precinct 3 –Phillip Island*". The precinct is described as follows:

"Precinct is located off the Bass Highway and includes the main commercial centre of Cowes and a number of smaller villages providing a mix of permanent residences, holiday accommodation, some retail services, cafes and restaurants."

With regard to agriculture it states:

"Agricultural quality of the land varies from Class 3 to Class 3a and lot sizes range from *less than 2ha up to 180ha. Agriculture has a long history on the Island and in the past supported chicory production, dairy and grazing. Currently, there are a number of horticultural businesses producing flowers and herbs and some large scale grazing properties. There is also land being farmed for lifestyle purposes.*

The objectives identified for this precinct that are relevant to this application are:

- To maintain agriculture within the precinct
- To ensure development is compatible with the landscape values and farming land uses in the precinct
- To provide for rural based tourism within appropriate locations

The strategies that are applicable are:

- Avoid housing unrelated to farming
- Discourage uses not directly related to, or that may have an adverse impact on agriculture and the rural farmed landscape
- Protect the environmental assets of the area, particularly the wetlands and coastal areas

The proposed development complements the small scale agricultural production of the land. On this basis, the application is considered to be consistent with policy contained within the Council adopted 'Rural Land Use Strategy.'

The Planning Policy Framework and local policy have the primary objective to promote agricultural land uses and protect agricultural land from non-agricultural land uses. This application is proposing the site include the use "Function Centre". Clause 74 of the Bass Coast Planning Scheme defines this use as:

'Land used, by arrangement, to cater for conferences, private functions, and in which food and drink may be served. It may include entertainment and dancing'.

The use of the site for the Function Centre is considered to be supported by the Planning Policy of the Bass Coast Planning Scheme.

Zone Assessment

Farming Zone

Pursuant to Clause 35.07-1 of the FZ a permit is required to use the land for a Function Centre.

Clause 35.07-4 of the FZ states a permit is required to construct or carry out works associated with a use in Section 2 of Clause 35.07-1.

Clause 35.07-6 of the Farming Zone requires that before the Responsible Authority makes a decision it must establish whether the proposed use and development are compatible with the sustainable management of the farm and adjoining nearby land uses.

Agricultural Issues

The decision guidelines relate to determining the impact of the proposed use and development on the agricultural use of the site and surrounding agricultural land uses.

The proposed function room will complement the agricultural use of the land. The works compliment the activities on the land and promote a tangible connection to the produce grown on the site and practical application.

The proposed use and development has demonstrated that there will be a link to the small scale agricultural use of the land. As previously discussed, the surrounding land uses are a mixture of rural residential lots. The proposed use and development of the subject site does not preclude those sites from being used for agriculture in the future.

Design and siting issues

These controls are trying to minimise the visual impact of buildings; and the impact of buildings on productive agricultural land. The proposed function room is part of a converted outbuilding situated amongst other buildings on the site. Its built form does not alter the existing rural character of the area. Whilst the building is established, the onsite carpark will need to be constructed.

A landscape plan will be required to be submitted via permit conditions to provide an appropriate landscape screen buffer from the southern property boundary adjacent to the McHaffies Lane.

It is considered that the impact of noise related to the function centre will be mitigated through the considered operation and location. An acoustic report has been submitted to demonstrate current agricultural noise and what impact the amplified music in the function centre will produce. It is recommended that conditions are placed on any permit if issued to address noise attenuation or otherwise to the satisfaction of the responsible authority.

Overlays

No overlays pertain to the subject site

Particular Provisions

Clause 52.06 Car parking

The relevant purpose of Clause 52.06 Car Parking is to ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.

Pursuant to Clause 52.06-5 of the Bass Coast Planning Scheme, 0.3 car spaces to each patron permitted for the use of the land for a function centre. Twelve (12) spaces have been provided on site. The table below demonstrates the number of patron and car parking requirement. The number of car parking spaces on site layout meets the requirement of the provision and as such a permit is not required for any car parking reduction.

Function Use	Number of Patrons	Car spaces required
Workshops	20	6
Events	40	12
Dinners	10	3

Should a permit issue, there will be no occasion where a function, workshop or dinner will run simultaneously on the land.

Concerns raised by Submitters

Connection with Agriculture

The issues of connection to the land has been previously addressed in this report.

Noise - Amplified Music

The proposal has been assessed using the submitted **acoustic** report. The report states:

the background noise levels in the vicinity of the Subject Site consists of local and distant traffic noise, maritime noise sources such as waves along the beach and metrological conditions such as wind noise. Further, based on Arup's observations wildlife may be active during evening/sunset periods mostly associated with insects (cicadas and crickets) and bird noise. These noise sources contribute to the background noise levels. Arup predicts that background noise levels in the vicinity of the Subject Site to result in L90 50 dB(A). This results in a music noise limit of Leq 55 dB(A) at the nearest noise sensitive receiver located 110 m from the Function Room

The applicant has amended the application to address objector concerns. By reducing the numbers of patron, reducing the hours of operation for the amplified music and limiting the number of functions held on the premises, the applicant has satisfactorily demonstrated the negligible noise impact amongst adjoining properties.

Car parking / Access

The proposal has been assessed against Clause 52.06 Car Parking of the Bass Coast Planning Scheme and is considered to comply with the statutory requirements for the use of the land for a function room.

The issues related to the provision of disabled car spaces has been addressed with a disabled car space now shown on the plan.

Impact on Native environment / Impact on Adjoining properties

The proposed use of the land for the workshop and small functions is not considered to detrimentally impact the native wildlife. Impacts on surrounding properties have been assessed and it is considered that this application, if approved, will not result in unreasonable amenity impacts on surrounding properties.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to be consistent with the relevant Planning Policy Framework, Local Planning Policy Framework and the decision guidelines of the Farming Zone.

The application underwent notification and as a result there were thirteen (13) 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 application 200110, subject to conditions.

Recommendation

That in relation to planning permit application 200110 for use and development of land for function centre (Place of assembly) in a Farming Zone located at 46 McHaffies Lane, Ventnor, Council resolves to issue a Notice of Decision subject to the following conditions:

1. **Before the use or development start/s, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:**
   a) **Increase the landscape buffer along the McHaffies Lane from 0.5 to 2m.**
   b) **Prepare a landscape plan for the area surrounding the on-site car park, in particular the landscape buffer adjacent to McHaffies Lane. The plans need to be prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions. The plan must show:**
      i. **The vegetation along the landscape buffer must be a suitable native species which grows to an average height of 2m.**
      ii. **A survey (including botanical names) of all existing vegetation to be retained and/or removed.**
      iii. **Details of surface finishes of pathways and driveways.**
      iv. **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 to be planted within the landscape buffers and adjacent to the function centre.**
2. **The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.**
3. **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.**

<u>Event and Patron numbers</u>

4. **The permit allows the following number of events to be undertaken in any one year (from permit date of issue):**
   a) **The workshops hereby approved are to operate one (1) day a month for up to a maximum of twenty (20) patrons. The workshop must only operate between 10:00am to 4:00pm.**
   b) **The events hereby approved are to operate no more than six (6) events a year for up to forty (40) patrons at any one time. The events can only occur from Friday to Sunday. Amplified music inside the venue can only occur up to 10pm. The events must only operate between 5:30pm to 10:00pm.**

c) **The dinners hereby approved must only be for the group accommodation guests (no outside guests or additional cars). No amplified music is to be played during this time. The dinners must have finished by 10pm. unless with the further written consent of the responsible authority.**

5. **The workshops, events/functions and dinners must be run separately with no activity to run simultaneously.**
6. **Before the use starts, a patron management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be consistent with the endorsed plan(s) and include:**

a) **the area covered by the patron management plan;**

i. **a requirement that a manager will be present on the premises at all times during opening hours;**

ii. **measures to ensure the orderly arrival and departure of patrons including car park security and traffic management;**

iii. **a list of all noise sources associated with the use including (but not limited to) music, external smoking areas; and**

iv. **measures to mitigate noise from the identified noise sources.**

v. **Staffing and other measures which are designed to ensure the orderly arrival and departure of patrons during functions;**

vi. **Signage to be used to encourage responsible off-site patron behaviour;**

vii. **All activities on the subject site must accord with the patron management plan at all times.**

<u>Noise Management Plan</u>

7. **The use of amplified music on the site must be in accordance with the endorsed Acoustic Report prepared from ARUP dated September 16, 2020 (Reference 278012-00).**
8. **Live music and amplified entertainment events may only be held once a month inside the function room, unless with the further written consent of the responsible authority.**
9. **At all times the Function Centre must comply with the requirements of State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2.**

Landscape Plans

10. **Before the function centre is used, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.**

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

Waste Management Plan

12. **Prior to the commencement of the use, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of the permit. The plan must address, but not necessarily be limited to the following:**

    a) **the storage and collection of waste for each event including the provision for bulk waste collection bins or approved alternative recycling bins, and the storage of other refuse and solid wastes in bins or receptacles within suitably screened and accessible areas to the satisfaction of the Responsible Authority;**

    b) **designation of methods of waste collection including the need to provide for private services or utilisation of council services;**

    c) **appropriate areas of bin storage on site and areas for waste bin storage;**

    d) **details for best practice waste management of the events once & operating**

    e) **the regular removal of waste and litter from all areas of the site of common, and the hours for waste collection from the site.**

    f) **All waste on site from the event is to be separated into recycling, organic and landfill.**

Engineering Conditions

SITE CIVIL DESIGN PLANS

13. **Before the commencement of use plans must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. All construction plans submitted for approval must be consistent with this permit and must conform with the requirements of all relevant servicing and road authorities. The plans must be drawn to scale with dimensions. An A3 plan and an electronic copy (PDF) must be provided. The plans must show:**

    a) **Car parking to the satisfaction of the Responsible Authority including:**

14. **Car parking areas and access ways on site to be designed, constructed with an all-weather durable surface and line marked or some other adequate means of showing car parking space before any of the following occurs:**
    a) **New use commences**
    b) **The floor area or site area of the existing use is increased.**
15. **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.**

CONSTRUCTION

16. **Before the commencement of use 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) **Vehicle access and car parking within the land must be constructed in accordance with the endorsed civil design plans.**

VEHICLE ACCESS CONSTRUCTED & MAINTAINED

17. **Vehicle access to the subject land must be located, constructed and maintained to the satisfaction of the Responsible Authority. Access to the property must be via an all-weather road with dimensions adequate to accommodate emergency vehicles to the satisfaction of the Responsible Authority**
18. **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 storm water drainage system, receiving waters or surrounding land and road reserves, during the construction works hereby approved to the satisfaction of the Responsible Authority**
19. **Car spaces, access lanes and driveways must be kept available for these purposes at all times.**
20. **The loading and unloading of goods from vehicles must only be carried out on the land subject to this permit and must not disrupt the circulation and parking of vehicles on the land to the satisfaction of the responsible authority.**
21. **This permit will expire if one of the following circumstances applies:**
    a) **The development is not started within two years of the date of this permit;**
    b) **The development is not completed within four years of the date of this permit;**
    c) **The use has not started within two years of completion of the development;**

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

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

Footnote

A Building Permit will be required for this development. To obtain a building permit you will need to contact a registered building surveyor.

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

Asset Protection Permit

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

Road Occupation Permit

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

Attachments

AT-1	Amended Plans	2 Pages
AT-2	***CONFIDENTIAL*** - Submissions	53 Pages

H.5 Planning Application 200136 - 3/8-10 Forrest Avenue, Newhaven

File No:	**CM20/588**
Division:	**Place Making**
Council Plan Strategic Objective:	**Our Character**
	Celebrating the uniqueness of our townships

Application Details

Use/Development Sought:	**Use of land to sell and consume Liquor**
The Land:	**3/8-10 Forrest Avenue, Newhaven**
Planning Scheme:	**Bass Coast Planning Scheme**
Zoning:	**Clause 34.01 - Commercial 1 Zone (C1Z)**
Overlays:	**Clause 44.06 - Bushfire Management Overlay - Schedule 1 (BMO1)**

Declaration

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

Executive Summary

This application proposes to use the land to sell and consume liquor at Shop 3 8-10 Forrest Avenue, Newhaven.

The proposal triggers the need for a planning permit under Clause 52.27 Licensed Premises as a permit is required to use land to sell and consume liquor if a licence is required under the *Liquor Control Reform Act 1998*.

The application was advertised and eight (8) submissions were received.

This report addresses the planning merits of the proposal and the issues raised by submitters. It concludes that the proposal is in accordance with the relevant provisions of the Bass Coast Planning Scheme.

On this basis, it is recommended that Council resolve to issue a Notice of Decision to Grant a Planning Permit to use the land to sell and consume alcohol for application 200136.

Application Details

This application proposes to use the existing café, Seaside Provider, for the sale and consumption of liquor in accordance with the proposed Red Line Plan prepared by Seaside Provider, undated, pages 1 to 2. A copy of the plan is provided at Attachment one (AT-1).

The café has seating for 35 patrons figure 1 comprising capacity for 26 patrons inside and nine patrons outside. The external (footpath) area has dimensions of 1.6 metres by 4.9 metres. The Red Line Plan includes both indoor and outdoor areas figure 2.

It is submitted that alcohol will be sold and consumed within the following span of days/hours:

Monday to Wednesday – 12pm to 5pm inclusive.

Thursday to Saturday – 12pm to 10pm inclusive.

Sunday – 12pm to 5pm inclusive.

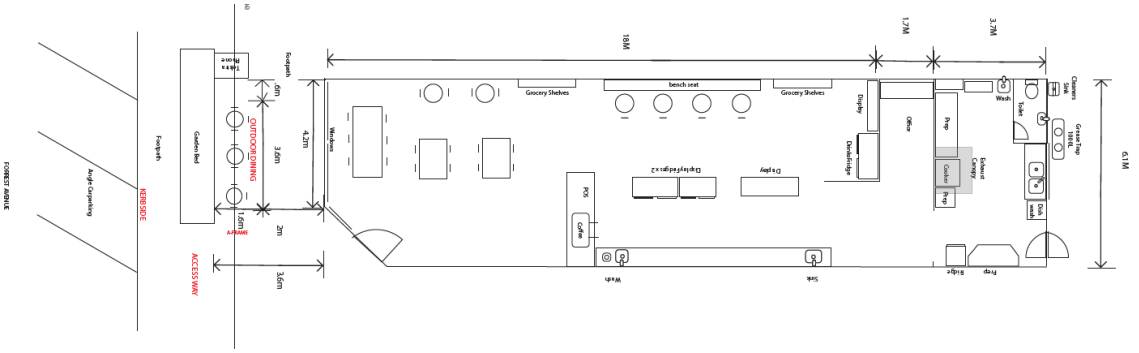


Figure 1 Floor and seating plan .

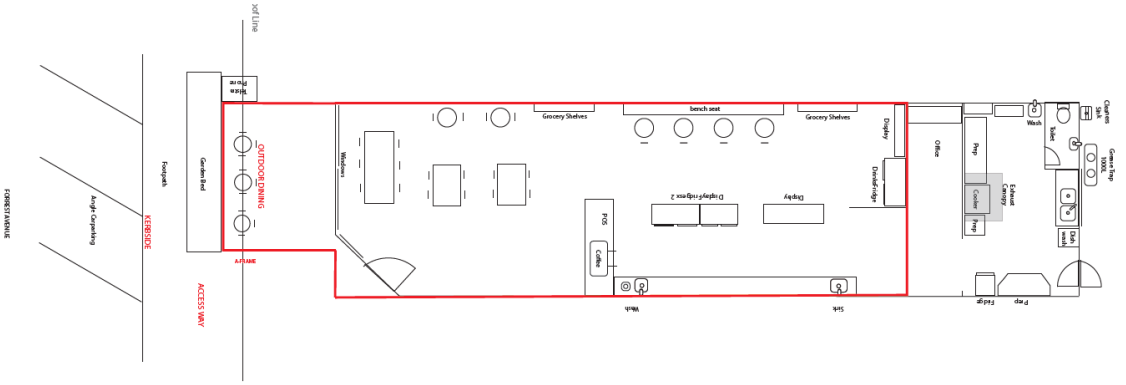


Figure 2 Proposed Red Line Plan for sale and consumption of liquor

Reason a Council Decision is required

Eight submissions objecting to the application were received by Council. Council delegations require applications that attract five or more submissions to be determined by Council.

Background

This table summarises the shop premises and surrounds. An aerial image is shown at Figure 3. Figures 4 and 5 show the subject premises.

Site Dimensions	The shop premises is rectangular with dimensions of 6.5 metres by 23.98 metres.
Site Area	Approximately 155.87 square metres
Site Frontage	6.5 metres to Forrest Avenue
Topography	Flat 9 metres AHD
Vegetation Cover	Not applicable
Current Use	Food and Drink Premises (Café)
Easements	Not applicable
Restrictive Covenants	Not applicable

Aboriginal Cultural Heritage Sensitivity	Not applicable. The land is not within an area of Cultural Heritage Sensitivity.
Planning Permit History	Not applicable

Shop 3 8-10 Forrest Avenue Newhaven is located within an existing two storey commercial and residential building that consists of six shop fronts at ground floor, five residential apartments on the first floor and associated parking at the rear.

The land is located in the Commercial 1 Zone in an established commercial shopping strip in Newhaven. The building and associated parking is adjacent to land zoned General Residential (north and west) that includes dwelling uses. Figure 6 identifies these zones in relation to the land.

The following land use and development are adjacent to the shop premises:

North: Shop 4, which is currently used as a newsagency.

South: Shop 2 which is currently vacant.

West: Rear common parking area used by shop and residential tenants.

East: Road reserve, footpath and on-street car parking.

The land of 8-10 Forrest Avenue adjoins two residential properties to the north at 16A and 16B Cleeland Street which are both developed with detached dwellings. To the south at 6 Forrest Avenue there is a restaurant premises. The western boundary of the land adjoins residential allotments at 16 Cleeland Street and 19 Anderson Street.



Figure 3 Aerial image subject site and surrounds



Figure 4 - *Entrance to shop on left*



Figure 5 - *Shop frontage*

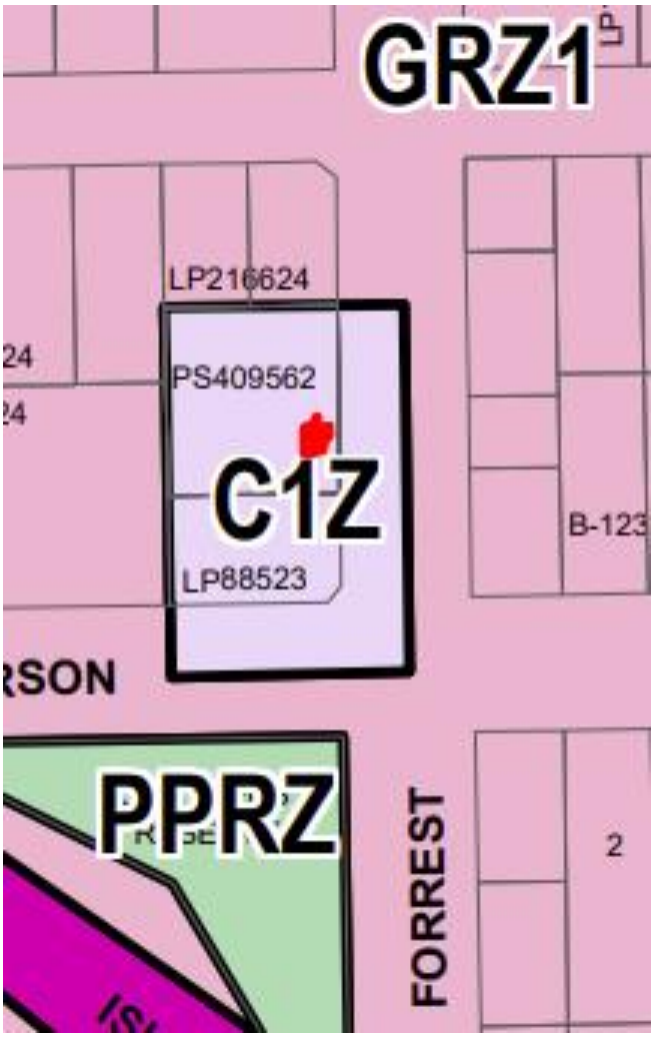


Figure 6 - *Zoning map of the subject site PS409562*

Notice

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

The applicant gave notice in the following manner:

- Sent copies of the Notice by mail to 7 land owners and occupiers; and
- Placed a Notice on the shop front to Forrest Avenue.

Submissions

Eight (8) submissions have been received and reviewed. A further one submission was received that could not be considered as it was anonymous. No objections were withdrawn.

The applicant has reviewed submissions and provided a written response to address issues raised. The applicant has no objection to reducing the hours of operation from Thursday to Saturday, 12pm-10pm to Thursday to Saturday, 10am-8pm.

Seven of the eight original submitters provided additional comments.

The following table summarises issues raised by submitters.

Copies of all submissions are included in Attachment Two (AT-2).

Table one: Summary of issues raised by submitters

Submission	Summary of Concerns
1.	• There is insufficient area to locate tables and chairs in the 1.6m wide footpath without café patrons spilling into the 2m area for pedestrians. • The alcohol consumption outside on the footpath until 10pm is unacceptable given the location of adjacent residential apartments (above). • There are numbers of instances where the footpath is already blocked by patrons on a daily basis, addition of liquor in this situation will not help. • There are two hotels in San Remo with outdoor facilities therefore there is no requirement of similar facility in Newhaven.
2.	• There is no toilet facility for the customers in café. • The noise will be a major concern if outdoor dining is allowed.
3.	• Object to serving of alcohol on footpath. • Objection to the potential noise to the neighbourhood. • There is no toilet facility for men and women. • Vulnerable people will be subjected to drinking patrons in public footpath.
4.	• This application proposing to operate until 10pm with the serving of liquor is inappropriate and detrimental to the quiet nature of our community. • There are already venues offering similar services in Newhaven in a much more appropriate position, therefore this location is not suitable for serving alcohol. • We have no objection to the café offering alcohol during the hours of 12pm to 5pm, and do not object to the outdoor seating area.
5.	• The current access to the toilet is via the food preparation area, which is not right. • There will be insufficient room for a motorised vehicle and barely room for a pram if outside dining is approved on the foot path. • The existing footpath should continue to be a pleasant place for all to shop and to pass through. The public should not have to walk between patrons with alcohol and the café. • The café is located in a residential area outside noise will travel and could impact neighbours in the evening. • Questioned if outside heart will be require where it will be placed? As very limited area is available

	• There are ample venues offering a similar service to that proposed in this application in Cape Woolamai and San Remo. • The Newhaven shopping strip is not suitable for the service of alcohol on the footpath.
6.	• The location for serving alcohol is not appropriate
7.	• The proposal will impact the quite nature of the area allowing trading after 5:00pm. • Serving of alcohol after 5 pm will impact the amenity and desirable future of Newhaven Plaza evenings for locals and community • The impact of alcohol on the community raises concern with alcohol being serviced in open space areas. • The removal of bike rack for outdoor dining exposes families and young children to be closer to patrons consuming liquor. • A café with a bar next to a newsagency which is used by all age groups is not a suitable location for serving of alcohol. • The outdoor seating will take up the area of the footpath used by pedestrian and locals. • The café does not have toilets accessible to public or disabled, serving of alcohol will increase the concerns around urinating in public by intoxicated patrons. • The changing of operating hours to 6:00 Pm and 10:00 PM is more likely converting the use of café into a bar, which is miss leading information form the applicant. • The use of premises for serving alcohol late night will also add to the noise from vehicles and patrons.
8.	• There are various similar uses in San Remo and Newhaven water front area, the proposed use is not appropriate in this area • The area of footpath being required would be to the detriment of the public, especially for those with prams, wheelchairs and disability scooters. The proposal will increase the foot traffic in the area, which will be to the detriment of pedestrians and people visiting other shops. • The proposal will impact the residents of Newhaven, especially retirees who are interested in the ambiance of the town and the environment and the safety of residents and visitors. • The late night dining is of concern. • The outdoor furniture is often bulky and obtrusive and will impact the people walking in this area • Car parking is insufficient

Referrals

The following table identifies and summarises referral requirements and comments.

Table two: Referrals

Referral Authority	Comments
External (Section 55 of the *Planning and Environment Act 1987*)	
Not applicable	
Internal (Section 52 of the *Planning and Environment Act 1987*)	
Local Laws (Community Safety)	The application was referred to Council's Local Laws team (Community Safety) seeking advice in relation to the proposed red line plan and outdoor seating area. Consent was received subject to a footpath trading permit being granted for the use of that area for trading. A footpath trading permit has now been approved by Local Laws to allow outdoor seating.
Asset Management	This application was referred to Council's Asset Management team after concerns were raised in relation to the location of the existing bike rack and proposed outdoor seating. Asset Management has consented to the relocation of the bike rack as per standard Infrastructure Design criteria.

No planning consideration is required in relation to the bicycle parking spaces. However, to ensure the amenity of the area is not impacted through disorder, a condition on any permit that issues will require the relocation of the bike rack to Council's satisfaction prior to the use of the land to sell and consume alcohol.

Officer's Considerations

State and Local Planning Policy Framework Assessment

- Clause 11 Settlement
  - Clause 11.01-1R Settlement – Gippsland
  - Clause 11.03-1S Activity Centres
  - Clause 11.03-6S Regional and local places
- Clause 13.05-1S Noise abatement
- Clause 13.07-1S Land use compatibility
- Clause 17 Economic Development
  - Clause17.01-1S Diversified economy
  - Clause 17.02-1R Commercial centres - Gippsland
  - Clause17.02-1S Business
  - Clause 17.04 Tourism
  - Clause 17.04-1S Facilitating tourism
  - Clause 17.04-1R Tourism - Gippsland

- Clause 21.01 Municipal Profile
- Clause 21.02 Settlement
- Clause 21.03 Economic Development
- Clause 21.08 Moderate Growth Settlements - Newhaven

It is considered that the proposal achieves a satisfactory level of compliance with relevant state and local planning policy.

Clauses 11, 13 and 17 of the Planning Policy Framework place emphasis through stated objectives and strategies on creating vibrant activity centres that respond to population and market conditions. State planning policy supports providing communities access to a wide range of goods and services and providing local employment opportunities that support local economies. Planning is directed to ensure suitable controls are in place to control amenity impacts on sensitive land uses.

Local planning policy in relation to settlement, the local and visitor economy and tourism furthers the intent of state policy and it is considered that this application responds positively as follows:

- The provision of the consumption of alcohol in an already established commercial premises is considered to be consistent with the Newhaven Framework Plan as the proposal will allow for the provision of alcohol at an existing food and drink premises. This will introduce variety to the existing commercial uses in the area.
- The proposal is consistent with development and investment opportunities in accordance with the settlement framework and supports the continuing role of towns such as Newhaven. Local planning policy at clauses 21.02 and 21.08 identifies Newhaven as a town with moderate spatial growth capacity and Clause 21.08-4 provides direction for future commercial land uses in Forrest Avenue, Newhaven. This proposal advances those directions by concentrating business growth in the established precinct.
- This shopping strip currently has multiple shops and businesses operating at various hours including the subject premises. It is considered that the proposal can be satisfactorily managed with conditions should a permit be issued, in order to limit the impact of noise on adjoining and nearby residential areas.
- The proposal will provide an economic development opportunity to the existing café and this in turn provides support to the local economy. The proposed use is considered to contribute positively to the existing uses in Newhaven and will go some way to supporting recovery of the local economy.
- The proposal is considered to meet the community's needs for retail and entertainment, appropriately located in existing commercial areas where further growth is planned and encouraged.
- The proposal will provide support to the tourism industry on Philip Island being in close proximity to the tourism precinct of Newhaven. The proposal contributes positively to visitor expectations and experiences.

Zone Assessment

Clause 34.01 – Commercial 1 Zone (C1Z)

The purpose of the Commercial 1 Zone as relevant to this application 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.

Pursuant to Clause 34.01 the use of the land for Food and Drink Premises is a Section 1 use and *as of right* meaning no planning permit is required to use the land for the purposes stated.

Pursuant to Clause 34.01-4 a permit is required for buildings and works. As the application does not propose development, no permit is required.

The application is entirely consistent with the purpose of the zone and it is considered that the opportunity to diversify the business offering through the sale of alcohol at an established café will make a positive contribution to the small shopping strip.

Overlays

Clause 44.06 - Bushfire Management Overlay - Schedule 1 (BMO1)

The application does not trigger the need for a planning permit under Clause 44.06-2 as there are no building or works proposed.

Particular Provision

Clause 52.06 Car parking

It is the purpose of this clause:

- To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

Pursuant to Clause 52.06-3, a permit is not required to reduce the required number of car parking spaces for a new use of an existing building if the following requirements are met:

- The building is in the Commercial 1 Zone, Commercial 2 Zone, Commercial 3 Zone or Activity Centre Zone.

- The gross floor area of the building is not increased.
- The reduction does not exceed 10 car parking spaces.
- The building is not in a Parking Overlay with a schedule that allows a financial contribution to be paid in lieu of the provision of the required car parking spaces for the use.

It is considered that the proposal meets the relevant tests for permit exemption as follows:

- The building is existing and is location in a Commercial 1 Zone.
- The gross floor area of the building is not proposed to be increased.
- No reduction in car parking is proposed.

Accordingly, no further assessment is required in relation to car parking supply.

Clause 52.27 Licensed Premises

The purpose of Clause 52.27 Licensed Premises is:

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

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

Before deciding on an application, Council must consider the Clause 52.27 decision guidelines:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.
- The impact of the hours of operation on the amenity of the surrounding area.
- The impact of the number of patrons on the amenity of the surrounding area.
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

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

- The proposal is entirely consistent with relevant state and local planning policy as discussed in the section above.
- The site contains an existing café within an established commercial shopping strip, and the proposal responds positively to the purpose of the zone.
- It is acknowledged that the land where the shop is located abuts residential uses. However the modest scale of the operation and suitable conditions on any permit that may issue in relation to managing amenity in the area can satisfactorily mitigate any unreasonable imposition on resident expectations.

- Amenity impacts as a consequence of this proposal are considered to be minimal and suitable mitigation measures can be effectively implemented through planning permit conditions and liquor licensing requirements.
- The owner/operator and staff are required to maintain responsible service of alcohol qualifications.
- The size of the premises limits the number of patrons who can be accommodated to a maximum of 35.
- The impact on the amenity of the surrounding area is considered to have been minimised through the restriction of hours of operation and maximum patron numbers.
- The offsite amenity impacts that may result from outdoor dining are not considered to be out of the ordinary levels expected in a commercial area.
- The café currently operates from 8am until 3pm. It is submitted that the operating hours would be extended until 5pm Sunday to Wednesday and until 8pm Thursday to Saturday. It is proposed that the hours for the sale and consumption of alcohol would be 12pm to 5pm Sunday to Wednesday and 10pm to 8pm Thursday to Saturday. This is considered to be an appropriate response in order to create and accommodate viable business outcomes in the area.

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

Response to Submissions

Footpath trading

- Insufficient space to locate tables and chairs.
- Detrimental to pedestrians especially those with prams, wheelchairs and disability scooters,
- The footpath is already blocked by patrons on a daily basis, addition of liquor in this situation will not help.
- Pedestrians don't have to compromise and walk between patrons with alcohol.

It is assessed that there are no unreasonable amenity impacts associated with this outcome as serving both food and alcohol within an established commercial strip is consistent with the intent of relevant planning policies including the purpose of the Commercial 1 Zone. Council's Local Laws Team has reviewed the proposal and has issued a Footpath Trading Permit.

Inappropriate location to sell and consume alcohol

- There are multiple similar venues in San Remo, Cape Wolamai and Newhaven waterfront area, therefore there is no requirement of similar facility in Newhaven.
- The proposed use is not appropriate in this area with residential apartments on first floor.

- A café with a bar next to a newsagent is not a suitable location for serving alcohol.
- The Newhaven shopping strip is not suitable for the service of alcohol on the footpath.

It has been established that the Bass Coast Planning Scheme seeks to encourage a variety of business and economic opportunities within commercial centres. The location is considered to be appropriate and responds satisfactorily to the purpose of the commercial zone.

Amenity impacts

- The café is located in a residential area where outside noise will travel and could impact neighbours in the evening.
- Operating hours to 5pm and 10pm is like converting the café into a bar.
- The operating hours till 10pm for serving liquor is detrimental to the quiet nature of our community.
- The ambient noise will be a major concern if outdoor dining is allowed.
- Impact on the safety of residents and visitors.

The applicant initially proposed operating until 10pm Thursday to Saturday. Following a review of objector concerns the applicant proposed reducing the hours and has agreed to condition the planning permit to reduce the operating hours. It is considered appropriate for the sale and consumption of liquor to be allowed until 5pm Sunday to Wednesday and until 8pm Thursday to Saturday.

The proposed hours strike a suitable balance that will reduce potential for amenity impacts whilst providing adequate opportunity for the business to be profitable, particularly during the summer months. The opportunity to sell and consume liquor in an existing café diversifies the product offering and will assist the operator to sustain the current economic loss which local business have faced in the region due to covid19 and lack of tourism activity.

This type of use would reasonably be expected within this commercial area of Newhaven.

Concerns relating to noise produced due to the late operating hours will be alleviated with proposed condition of reduced operating hours and via a condition to maintain the noise level and manage amenity impacts.

The maximum patrons permitted at any one time is 35 and the size of the shop limits any increase to this number. It is considered to be a modest use and noise would not be outside acceptable community expectations.

Live music is not proposed. However, it is recommended that a condition be placed on any permit that issues that would forbid this use from occurring.

Liquor license holders are required to abide by requirements in relation to safety and responsible service of alcohol.

Other

- The removal of bike rack with outdoor dining exposes families and young children to be closer to patrons consuming liquor.

- The current access to the toilet is through the food preparation area, which is not right.
- Café does not have toilet accessible to public or disabled, serving of alcohol will increase the concerns around urinating in public by intoxicated patrons.
- Insufficient car parking for the proposed use

Bicycle rack

The relocation of the existing bike rack to accommodate the outdoor seating area will be undertaken as per Asset Management requirements. This is separate to the proposed planning permit application and a note on permit, if issued will require this to be undertaken prior to the commencement of the sale and consumption of alcohol.

Amenities

The existing building amenities in relation to the toilet facility are not a planning matter. However, submitted plans and written confirmation from the applicant identify an existing toilet which is available to patrons.

Conclusion

The application has been assessed against the Bass Coast Planning Scheme and is considered to be entirely consistent with the relevant objectives contained in state and local planning policy, the purpose of the Commercial 1 Zone and the decision guidelines of Clause 65 and Clause 52.27 Licensed Premises.

The application was placed on notice and eight (8) submissions were received. All submissions 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 application 200136, subject to conditions.

Recommendation

That in relation to planning permit application 200136 for the use of the land to sell or consume liquor located at 3/8-10 Forrest Avenue Newhaven, Council resolves to issue a Notice of Decision to Grant a Permit subject to the following conditions:

<u>General Conditions</u>

1. **The "red line" area for the sale and consumption of liquor as shown on the endorsed plan must not be altered without the written consent of the responsible authority.**

<u>Liquor licence</u>

2. **The provision and or consumption of liquor hereby permitted must be subject to the issue of a Liquor Licence, pursuant to the provision of the *Liquor Control Reform Act 1998*, as amended.**

<u>Hours of operation</u>

3. **The sale and consumption of liquor must only occur between the following hours and must not be altered without the written consent**

of the responsible authority:

- **Monday to Wednesday – 12pm to 5pm**
- **Thursday to Saturday – 12pm to 8pm**
- **Sunday – 12pm to 5pm**

Maximum patron capacity

4. **The maximum number of patrons on the premises at any one time must not exceed 35.**

Amenity - Patrons

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

Amenity – Area

6. **The license approved by this permit is to be managed so that the amenity of the area is not detrimentally affected during its hours of operation, to the satisfaction of the responsible authority. In this regard the amenity of the area must not be affected through:**

- **creation of noise or artificial light, or**
- **anti-social behavior of patrons.**

Live music entertainment

7. **The site must not be used for Live Music Entertainment.**

Permit Expiry – Liquor Licence

8. **This permit will expire if the sale of liquor under an amended or new liquor licence is not started within two years of the date of this permit.**

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

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

Notes

Relocation of the bicycle rack

9. **Before the sale and consumption of liquor commences, the bicycle rack that is located within the footpath opposite the premises must be relocated at the owner's expense to the satisfaction of the responsible authority.**

Attachments

AT-1	Proposed plans	2 Pages
AT-2	Planing Schemes	16 Pages
AT-3	***CONFIDENTIAL*** - Submissions	26 Pages

H.6 Instrument of Appointment and Authorisation - Planning and Environment Act 1987

File No:	**CM20/550**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Governance** We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

The purpose of this report is to recommend that Council resolve to appoint the named officers as an Authorised Officer under the *Planning and Environment Act 1987* and approve the execution of the attached Instrument of Appointment and Authorisations. To revoke authorisation to officers that no longer require it.

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

Background

Council currently exercises its powers to appoint Authorised Officers.

Strategic Basis

Council Plan Objective:

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

Discussion

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

Finances

There are no financial implications associated with this report.

Stakeholders

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

Staff – ensuring the ability to undertake their roles.

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

Statutory Requirements/Codes/Standards/Policies

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

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

Other Options

Council could choose not to authorise officers, however if this were to occur Council would be responsible for making all decisions and acting on all powers, duties and functions as outlined in each relevant section of each piece of legislation. This would not allow for timely decision making, nor effective governance.

Conclusion

It is recommended that Council adopt the attached Instrument of Appointment and Authorisations to the named officers as an Authorised Officer under the *Planning and Environment Act 1987* and approve the execution of the Instrument of Appointment and Authorisations. Revoke authorisation to officers that no longer require it.

Recommendation

That Council in the exercise of the powers conferred by s 313 of the *Local Government Act 2020* (the Act) in the attached Instrument of Appointment and Authorisations (the instrument), Council to Staff under the *Planning and Environment Act 1987* resolves that:

1. **The members of Council staff referred to in the attached instruments be appointed and authorised as set out in the instrument.**
2. **The instruments come into force immediately the common seal of Council is affixed to the instrument, and remains in force until Council determines to vary or revoke it.**
3. **The instruments be sealed.**
4. **Revokes the instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* to:**
   - **Isla English**
   - **Jozo Majic**
   - **Allison Jones**

Attachments

AT-1	Stephanie Northover Instrument of Appointment and Authorisation Planning and Environment Act 1987	1 Page

H.7 Council Meeting Schedule Update

File No:	**CM20/572**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Governance**
	We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

The purpose of this report is to amend the adopted Council meeting schedule for November and December 2020 to align with the Victorian Electoral Commission declaration dates.

The report also recommends a meeting of Council for February 2021 to allow time for the new Council to consider and adopt the future meeting schedule for their term.

Background

At the 18 October 2017 Ordinary Meeting, Council adopted the following schedule for November and December 2020:

Date	Venue
11 November 2020	Special Meeting (Statutory) Civic Centre, Wonthaggi
18 November 2020	Civic Centre, Wonthaggi
9 December 2020	Cultural Centre Hall, Cowes

Strategic Basis

Council Plan Objective:

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

Major Initiative / Initiative

This is not a major initiative or imitative of Council.

Strategies / Policies

Governance Rules 2020

Statutory Requirements/Codes/Standards/Policies

Local Government Act 2020

Discussion

The proposal to alter the meeting dates for the remainder of 2020 and to fix the date for the first meeting of 2021 is designed to facilitate a practical transition for the new Council.

The Victorian Electoral Commission (VEC) has advised that the outcome of the general election won't be known until at least 13 November 2020.

This impacts the current fixed meeting dates for November and December.

As results won't be known until at least 13 November, there will be no Council to hold a Council meeting on 11 November. A Special Council (Cemetery Trust) meeting has also been scheduled for 18 November 2020.

It is recommended that a November Council meeting be held on the 25th of the month providing room for a later declaration of results. There is also a possibility that a November 2020 meeting may not take place if the outcome of the election is not known until late in the month.

Moving the December meeting date back by a week provides more time for the new Council to settle in and gain a better understanding of the matters that are likely to be presented at the meeting, particularly if the results are declared in late November.

At the 15 March 2020 Council meeting, Council resolved:

That Council:

1. *Records the audio from tonight's Council Meeting and publishes it on Council's website for public access from Friday, 20 March, consistent with the release of the Meeting minutes.*
2. *Hold Ordinary and Special Meetings of Council for the remainder of 2020 at the Civic Centre Council Chamber, Wonthaggi. This is in light of COVID-19, to remain in a single location for the health and safety of our community, Councillors and staff.*

The virtual meeting provisions afforded through the COVID-19 Omnibus (Emergency Measures) Act 2020 conclude on 1 November 2020. While a revised Bill extending the virtual meeting measures is being considered, Council needs to be prepared for a return to in-person meetings if required.

Given the unknown nature of when the election results will be known, it is recommended that the CEO be authorised to cancel or move the Council meeting dates for November and December if required.

Setting the date for the February 2021 meeting allows time for the new Council to consider and adopt the future meeting schedule for their term.

Finances

There are no financial implications associated with this report.

Stakeholders

- Councillors
- Community members
- Council Officers

Other Options

Council's Governance Rules only allow for fixed Council meeting dates to be changed by a resolution of Council. Therefore, a Council decision is required to cancel the 11 November Council meeting.

Council has the following options in regards to previously scheduled November and December 2020 meetings:

- Fix a date for the November 2020 meeting only,
- Fix a date for the November and December 2020 meetings, or
- Fix a date for the November 2020, December 2020 and February 2021 meetings (recommended).

Conclusion

The recommended change will provide for improved scheduling to coincide with the upcoming Council elections and declaration of Councillors elect by the Victorian Electoral Commission. The adoption of a February 2021 Council meeting date will allow time for the new Council to consider and adopt the future meeting schedule for their term.

It is therefore recommended that Council amend and adopt the meeting schedule as follows:

Amend meeting from 11 November to 25 November 2020

Cancel the 18 November 2020 Cemetery Trust Meeting

Amend meeting from 9 December to 16 December 2020

Adopt meeting for 17 February 2021

Recommendation

That Council:

1. **Adopt the amended dates for November and December 2020 and the proposed date for February 2021 as follows:**

Date	Venue	Time
25 November 2020	Civic Centre, Wonthaggi/Virtual	1.00pm
16 December 2020	Civic Centre, Wonthaggi/Virtual	1.00pm
17 February 2021	Civic Centre, Wonthaggi/Virtual	1.00pm

2. **Authorise the CEO to cancel or change the November 2020 Council meeting date.**
3. **Authorise the CEO to change the December 2020 Council meeting date.**

Attachments

There are no attachments for this report.

H.8 Financial Statements and Performance Statement for 2019/20

File No:	**CM20/561**
Division:	**Finance**
Council Plan Strategic Objective:	**Governance**
	We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

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.
3. Receive the Council's investment portfolio, including investment performance and compliance in accordance with its revised investment policy that was adopted in March 2020.

Background

Pursuant to Section 133 (1) of the Local Government Act, Council's Annual Report must be submitted to the Minister by 30 November 2020 (Extended from 30 September in response to COVID-19). Section 131 (2) also 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. This requires the completion and audit of the statements early to mid-September to allow sufficient time for inclusion into the Annual Report.

Section 132 (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 23 September to review the draft statements with Council's Auditors. In principle support was provided for the financial statements, subject to 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 132 (5) requires Council to appoint two Councillors to certify the statements following any amendments that may arise after finalisation of the audit.

Strategic Basis

Council Plan Objective:

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

Statutory Requirements/Codes/Standards/Policies

The Local Government Act 1989 requires specific actions by Council in relation to the statements, namely:

Financial and performance statements

- Section 132 (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 132 (5) – 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.

The Local Government Act requires that Council send a copy of its Annual Report to the Minister by 30 September, each year. This has been extended to 30 November 2020 due to the impact of the COVID-19 pandemic. The Annual Report must contain the financial statements and the performance statement.

Discussion

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

- $97.10 million revenue against a budgeted $81.59 million. This is largely due to the receipt of $15.3 million in unbudgeted developer infrastructure contributions.
- Rates and charges comprised $61.80 million (63%) of the total operating revenue.
- Operating surplus of $20.81 million (budget $2.6 million surplus). This is largely due to the receipt of $15.3 million in unbudgeted developer infrastructure contributions.
- Underlying result of $2.5 million surplus (budget $0.7 million surplus).
- Cash and investments increased by $2.88 million from $51.30 million in 2018/19 to $54.18 million in 2019/20.

- Unrestricted cash metric reduced from 47.64% in 2018/19 to 4.86% in 2019/20 due to $29 million of term deposits held for over 90 days not being included in cash balances calculation.
- Net borrowings decreased by $2.33 million from $17.85 million in 2018/19 to $15.52 million in 2019/20.
- $18.04 million capital works program delivered in 2019/20 (budget $21.16 million) with new assets increasing from $1.06 million in 2018/19 to $4.23 million in 2019/20.
- Renewal ratio of 82% compared to budget of 88%

The Financial Report and Performance Statement were reviewed at a Special Audit Committee Meeting held on 23 September. Noting that the statements are still subject to final review by the Victorian Auditor General (VAGO), the Audit Committee has recommended that subject to there being 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 Closing Report from VAGO
- Receipt of the final management letter from VAGO or their audit agents
- 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.'

Finances

The costs associated with the development of the 2019/20 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. The Annual Report once finalised, becomes a public document.

Other Options

Approval of the statements is a statutory reporting requirement.

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 2019-2020 will be presented to Council for the November 2020 meeting.

Council needs to adopt the recommendation below in order to finalise the 2019-2020 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 2020, 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 Councillor Brett Tessari and Councillor Geoff Ellis to certify the statements in their final form on behalf of the Council.**
4. **Notes the Council's investment portfolio report including the performance and compliance with the Council Investment Policy (March 2020).**

Attachments

AT-1	Financial Statements 2019-20	54 Pages
AT-2	Performance Statement 2019-20	17 Pages
AT-3	Treasury Report as at 30 June 2020	1 Page

Statutory Reports

1 Statutory Reports

1.1 Informal Meeting of Councillors Records (formerly Assembly of Councillor records)

File No:	**CM20/581**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Governance**
	We are responsive, open, transparent and financially sustainable

Declaration

The reporting officer has no direct or indirect interest in this matter

Summary

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

Introduction

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

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

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

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

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

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

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

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

Council Plan Objective:

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

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

Recommendation

That the attached Informal Meeting of Councillors Records be received.

Attachments

AT-1	Assembly of Councilors Form Arts and Culture Subgroup Meeting 27 April 2020	1 Page
AT-2	Assembly of Councilors Form Arts and Culture Subgroup Meeting 4 May 2020	1 Page
AT-3	Assembly of Councilors Form Arts and Culture Subgroup Meeting 11 May 2020	1 Page
AT-4	Assembly of Councilors Form Arts and Culture Subgroup Meeting 18 May 2020	1 Page
AT-5	Assembly of Councilors Form Arts and Culture Subgroup Meeting 25 May 2020	1 Page
AT-6	Assembly of Councilors Form Arts and Culture Subgroup Meeting 9 June 2020	1 Page
AT-7	Assembly of Councilors Form Local Economy Subgroup Meeting 18 May 2020	1 Page
AT-8	Assembly of Councilors Form Local Economy Subgroup Meeting 25 May 2020	1 Page
AT-9	Assembly of Councilors Form Local Economy Subgroup Meeting 27 April 2020	1 Page
AT-10	Assembly of Councilors Form Local Economy Subgroup Meeting 4 May 2020	1 Page
AT-11	Assembly of Councilors Form Local Economy Subgroup Meeting 9 June 2020	1 Page
AT-12	Assembly of Councilors Form Local Economy Subgroup Meeting 11 May 2020	1 Page

I.2 Planning and Building Statistics - August 2020

File No: **CM20/552**
Division: **Place Making**
Council Plan Strategic Objective: **Our Character**

Celebrating the uniqueness of our townships

PERMITS REFUSED:

Nil.

PERMITS ISSUED:

Island Ward

190286: Re-subdivision of land and removal of a carriageway easement located at 15-21 Steele Street, Cowes.

190348: Use and development of land for two dwellings and removal of vegetation in VPO2 located at 30 Settlement Road, Silverleaves.

200059: Signage and Alterations and additions to an existing building in a MUZ and DDO1 located at 158 Thompson Avenue, Cowes.

200074: Realignment of property boundaries in LDRZ and RCZ located at 7 Settlement Road and Cowes-Rhyll Road, Rhyll.

200120: Additions and alteration to existing dwelling in BMO1 located at 1 Hill Court, Cowes.

200145: Development of dependent person dwelling in BMO1 located at 28 Hobsons Parade, Cowes.

200220: Removal of vegetation in the VPO2 located at 79 Silverleaves Avenue, Silverleaves.

200256: Subdivision of land into two lots located at 46 Norman Drive, Cowes.

Western Port Ward

200002: Development of land for dirt track ancillary to the dwelling located at 90 Boundary Road, Loch.

200055: Development of land for a dwelling and associated shed in FZ, SLO1 and EMO1 located at 1960 Loch-Wonthaggi Road, Ryanston.

200086: Subdivision of land in to two lots in FZ located at 160 Stewart Road, The Gurdies.

200095: Subdivision of the land into two lots located at 7 Walker Street, Dalyston.

200140: Alterations and additions to existing dwelling in HO located at 1 French Island Close, Corinella.

200157: Development of the land for dwelling BMO1 located at 30 Bunya Drive, Cape Woolamai.

200170: Development of land for a dwelling in BMO1 located at 151 Woolamai Beach Road, Cape Woolamai.

200173: Development of land for farm shed in SLO1 and EMO1 located at 58 Pomfret Road, Woolamai.

200194: Development of land for dwelling in DDO1 located at 5 Mary Grove, San Remo.

200204: Development of land for a dwelling in the FZ located at 40 Motton Road, Jam Jerrup.

200221: Development of land for Dwelling in HO located at 32 Gaudi Boulevard, Corinella.

200230: Development of the land for agricultural shed located at 48 Lolands Road, Lance Creek.

200231: Development of the land for a dwelling, garage and swimming pool and install solar panels in the heritage overlay located at 26 Gaudi Boulevard, Corinella.

200250: Remove native vegetation for construction of water diversion located at 1 Short Street, Pioneer Bay.

200259: Subdivision of land into 2 lots located at 12-14 Peppermint Road, Kilcunda.

200260: Building and works for verandah located at 15 Wetherall Drive, Corinella.

Bunurong Ward

190394: Development of land for three dwellings located at 31 A`Beckett Street, Inverloch.

200034: Development of land for a second dwelling, two lot subdivision and creation of an access in Road Zone Category 1 located at 175 White Road, Wonthaggi.

200064: Development of land for a dwelling in BMO and ESO4 located at 47 Silvereye Circuit, Wonthaggi.

200090: Subdivision of land into two lots in GRZ1 located at 5 Dowling Street, Wonthaggi.

200099: Development of the land for second dwelling, subdivision of land into two lots and alteration of an access to a Road Zone Category 1 located at 19 Graham Street, Wonthaggi.

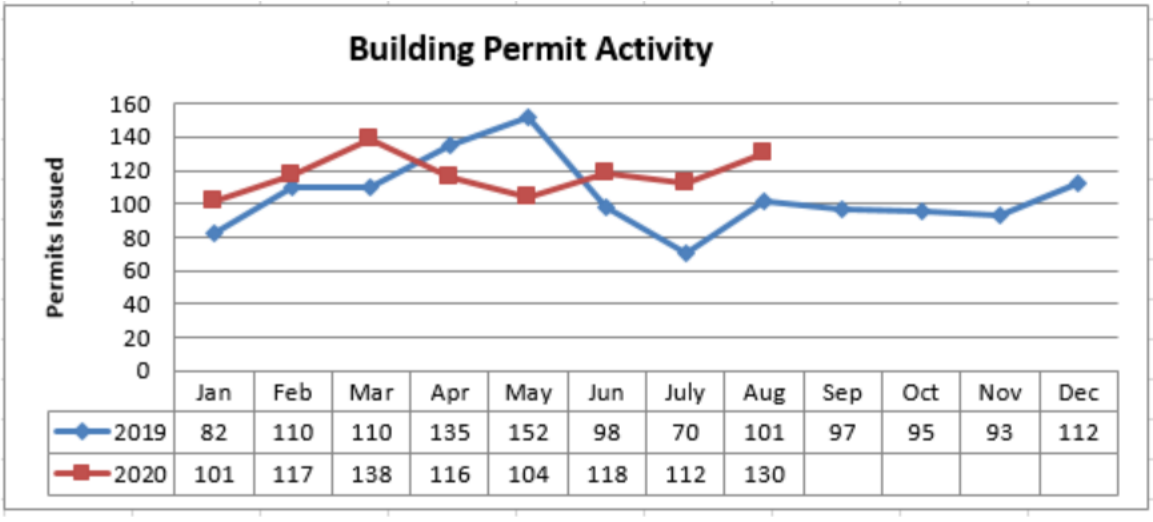
200107: Use and development of the land for Moto Repairs and Panel Beating in IN3Z located at 81 Wonthaggi Road, Inverloch.

200179: Development of land for dwelling in BMO located at 9 Cliffy Place, Inverloch.

200182: Extension to an existing dwelling over 7 metres in DDO1 located at 160 Surf Parade, Inverloch.

PLANNING AND BUILDING ACTIVITY REPORT FOR AUGUST 2020

Statutory Planning	This month (August)	Last month	Year to date (financial year)
% of applications determined within statutory timeframe	58	56	57
Average Gross Days (Responsible Authority determination)	153	136	145
(new) Average Gross Days to final outcome	166	143	155
Number of live applications	218	227	-
Number of applications received for the month	46	58	104
Number of Responsible Authority outcomes	39	34	74
Municipal Building Services & Enforcement	**This month (August)**	**Last month**	**Year to date (financial year)**
Essential Safety Measure inspections	0	0	0
Swimming Pool & Spa safety barrier inspections	0	2	2
Report and Consent applications	22	24	44
Siting consents issued for temporary structures	0	0	0
Complaints received requiring investigation	2	2	4
New building enforcement cases	0	1	1
Number of open building enforcement cases	38	44	n/a
Building permits issued by Council	0	0	0



Planning Enforcement	This month (August)	Last month	Year to date (financial year)
Complaints received requiring investigation	25	5	30
New planning enforcement cases	2	2	4
Open enforcement cases	102	115	-
Pre commencement meetings	0	0	0
Official warnings issued	0	0	0
Number of planning infringement notices issued	0	0	0
Total infringements received ($)	$0	$0	$0

Recommendation

That Council:

1. **Receives and notes the Planning Permits issued under delegation report for August 2020; and**
2. **Receives and notes the Planning and Building Activity Report for August 2020.**

Attachments

There are no attachments for this report.

I.3 Contracts Awarded Report

File No: **CM20/575**
Division: **Finance**
Council Plan Strategic Objective: **Governance**

We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

Contracts Awarded

For the period from 1 August 2020 to 31 August 2020, the following contracts have been awarded under the Chief Executive Officer's Instrument of Delegation.

Contract No.	Description	Contractor	Contract Sum
20010	Annual Supply of Asphalt	A1 Asphalt Supplies Pty Ltd South East Asphalt Pty Ltd	Schedule of Rates Contract (Estimate $70,000-$120,000 annually)

Contracts Extended

For the period from 1 August 2020 to 31 August 2020, no contracts were extended under the Procurement Delegation Framework.

Recommendation

That Council receive this report

Attachments

There are no attachments for this report.

I.4 Receipt of Bass Coast Shire Council Audit Committee Minutes - 27 May 2020

File No:	**CM20/583**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Governance** We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

Attached are the minutes of the Bass Coast Shire Council Audit Committee Meeting held on Wednesday 27 May 2020. Items discussed at this Meeting were:

Confirmation of Minutes

- Confirmation of Audit Committee Meeting Minutes from 4 March 2020

Matters Arising from Previous Minutes

- Actions arising from previous meeting

General Business

- People Plan and Turnover Trend Line Data Presentation

Internal Audits

- Status report on action items identified through the audit program
- Update on the Internal Audit Plan

External Audits

- Draft Audit Strategy Memorandum 2019/2020

Financial Reports

- COVID-19 Financial Hardship Policy
- 2019/2020 Major Initiatives, Finance and Capital Works Third Quarter Report

Risk Management

- Review any reports concerning evidence of material violation or breaches of fiduciary duty
- Review any instances of fraud or possible illegal acts
- Risk Management Report
- Evidence Based Controls Effectiveness Testing

Compliance

- Legislative Compliance Registers
- Non-compliance and legal counsel engagement report for the period 1 January 2020 to 31 March 2020
- Research reports from other agencies

Governance Matters

- Agenda Planner 2020
- Project Phoenix - IT Core System Quarterly Report
- Review and Assess the adequacy of the Audit Committee Charter

Recommendation

That the minutes of the Bass Coast Shire Council Audit Committee meeting held on 27 May 2020 be received and the recommendations therein adopted.

Attachments

AT-1 ***CONFIDENTIAL*** - Audit Committee Minutes 27 May 2020 31 Pages

I.5 Receipt of Bass Coast Shire Council Audit Committee Minutes - 23 September 2020

File No:	**CM20/584**
Division:	**Business Transformation**
Council Plan Strategic Objective:	**Governance**
	We are responsive, open, transparent and financially sustainable

Declaration

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

Summary

Attached are the minutes of the Bass Coast Shire Council Audit Committee Meeting held on Wednesday 23 September 2020. Items discussed at this Meeting were:

Confirmation of Minutes

- Confirmation of Audit Committee Meeting Minutes from 27 May 2020

Matters Arising from Previous Minutes

- Actions arising from previous meeting

Internal Audits

- Status report on action items identified through the audit program
- Waste Management Internal Audit

Risk Management

- Risk Management Report
- Review effectiveness of business continuity planning
- Evidence Based Controls Effectiveness Testing

Compliance

- Legislative Compliance Registers
- Non-compliance and legal counsel engagement report for the period 1 April 2020 to 30 June 2020
- Research reports from other agencies

Reporting Responsibilities

- Audit Committee Chair Annual Report 2019/2020

Assessment of Financial Information

- Review of the 2019/2020 Annual Financial Report and Performance Statement

Governance Matters

- Agenda Planner 2020
- Implementation of Core System - Project Phoenix Update

Recommendation

That the minutes of the Bass Coast Shire Council Audit Committee meeting held on 23 September 2020 be received and the recommendations therein adopted.

Attachments

AT-1 ***CONFIDENTIAL*** - Audit Committee Minutes 23 September 2020 29 Pages

J Urgent Business

Mayoral Announcement Of Next Meeting Of Council

Council is monitoring and implementing the COVID-19 pandemic response and restrictions set out by the State and Federal Governments.

Council will be pausing Community Connection Sessions.

The next **Ordinary Council Meeting** will be determined as part of this agenda.

Meeting closed

That the meeting be closed