

1. Site and Surrounding Area

The Development Plan (DP) site is approximately 29.1 hectares of land, part of a larger parcel of about 78ha which is Lot 2 on PS614103S, or more commonly known as 460 Grossmans Road. The boundaries of the land are irregular, with the broader site lying between Grossmans Road in the south and Coombes Road to the north. The DP area is roughly triangular with a southern boundary to Grossmans Road, an eastern boundary with Kithbrooke Park (330 Grossmans Road) and abuttal to Dillwynia Lane and a long boundary running roughly northeast to southwest through the site. Historically the land has been used for farming, predominantly grazing. Broad views are available to the north over the Thompsons Creek Valley.

Overall the land falls gently from west to east with a maximum level difference of approximately 7.5m. The northern boundary of the DP area lies generally along a low ridgeline and there is a subtle depression generally through the centre of the DP area. A large dam is located within the centre of the DP area with a smaller dam just to the west. The total parcel of land contains a dwelling and shedding which is located just west of the DP area.

To the east of the DP area is 330 Grossmans Road or Kithbrooke Park which is being developed as a retirement village which is about a third developed. The southeast corner of the land is used for landscape garden supplies, but under the ultimate development this is replaced by the retirement village. To the north of Kithbrooke Park is Dillwynia Lane which is developed as an informal gravel track and beyond this are two utility lots, one owned by Barwon Water which is developed with a large above ground tank to store recycled water for supply to Torquay North and the other vacant lot owned by Powercor. Beyond this is a rural residential lot on the corner of Coombes Road and Ghazepore Road.

Adjoining the subject site on the northwest, but not abutting the DP area, are two small rural lots which appear to be used for hobby farming purposes, one of which is developed by a dwelling. Beyond the surrounding roads to the north, west and south is rural lots of varied size used for farming or hobby farming activities, typically with a dwelling.



1 - Site location and context

2. Proposal

The application seeks approval of a Development Plan (DP) under Schedule 11 of the Design and Development Overlay (DDO11). The DP will provide for residential subdivision and development. The key features of the DP are:

- Residential subdivision of 68 lots ranging from 2500m² to 7942m²
- A single vehicle access point from Grossmans Road
- A modified grid based internal road layout
- A central open space reserve

- Pedestrian links to Dillwynia Lane and Kithbrooke Park
- Stormwater retarding basin and treatment wetland on eastern boundary.

3. Relevant History and Background

In 2007 the south east corner of the land was rezoned under Amendment C33 from Farming to Low Density Residential Zone to facilitate the development of the Kithbrooke Park retirement village.

The land is part of an area that was rezoned in 2014 under Amendment C84 from Farming to Low Density Residential as well as applying Schedule 11 to the Development Plan Overlay (DPO11).

4. Aboriginal Cultural Heritage

Pursuant to Section 52(1) of the *Aboriginal Heritage Act 2006* if a Cultural Heritage Management Plan (CHMP) is required a statutory authorisation cannot be granted until a copy of the approved CHMP is provided and any statutory authorisation must be consistent with the approved CHMP [s. 52(3)].

A statutory authorisation is defined by the act, as relevant to this matter, as a permit issued under the *Planning and Environment Act 1987*. Therefore the AH Act does not create a barrier to approval of a development plan even if the development plan provides for matters which are considered to be high impact activities. Nevertheless, none of the site is within an area of cultural heritage sensitivity as specified in the *Aboriginal Heritage Regulations 2007*.

However, one of the requirements of DPO11 is for a Cultural Heritage Management Plan. A CHMP has been prepared for the applicant to support the DP, but it has not been approved under the AH Act or Regulations. Whilst a mandatory CHMP is not required a proponent can prepare a voluntary CHMP but the applicant has decided not to do so for this matter.

The CHMP is based on a desktop assessment and site inspection. It reports that the nearest recorded Aboriginal Places are approximately 1.2km east of the DP area and are more closely associated with Deep Creek. The report concludes that there is unlikely to be Aboriginal archaeological material within the DP area.

5. Referral

Neither the Surf Coast Planning Scheme or the *Planning and Environment Act 1987* include requirements for the referral of Development Plans. However as a matter of practice Council informally refers development plans to all relevant authorities and invites submissions. The responses received are summarised as follows:

Barwon Water

- Water can be supplied to the area but will require a new water main along Grossmans Road from Ghazeeopore Road.
- Reticulated recycled water is available and is encouraged to be provided but a booster pump station would be required on the developers land.

Corangamite Catchment Management Authority

- No record of flooding
- No objection

Country Fire Authority

- No objection

Department of Environment, Land, Water and Planning

- Future permit application will need to include information about native vegetation within Grossmans Road potentially impacted by road widening for intersection works.

Powercor Submission 1

- Offered standard planning permit conditions relating to power supply.

Powercor Submission 2

- Land adjacent to development plan site purchased for the future provision of an outdoor zone substation.

- Substation will consist of large items of equipment.
- Development plan does not identify the future substation.
- Requests that development plan identifies and responds to the substation site.
- Requests that Section 173 agreement include a requirement to bring to the attention of future purchasers the existence of the future substation site.

Public Transport Victoria

- No objection

VicRoads

- No objections
- Section 173 agreement in place for intersection improvements at Anglesea Road and Grossmans Road intersection with developer contributions.

6. Public Notice

As with referrals the planning scheme and Act do not prescribe public notice requirements but as policy Council places applications for the approval of Development Plans on public exhibition for a period of at least 28 days.

Council placed the development plan on public exhibition between 3 February and 6 March 2015 and invited submissions in accordance with Section 223 of the *Local Government Act*.

One submission was received from a nearby land owner; however the basis of this submission was that the whole of the land should have been rezoned. The submission stated that they have no objection to the development plan nor were there any comments on the details of the plan. The extent of rezoning was a question resolved by Amendment C84 and cannot be reconsidered under this process.

Comments

It is important to highlight that the Act does not provide any rights of review to third parties; in other words the submitter cannot apply to the Tribunal to contest Council's decision on the application.

Appeal rights in relation to a decision on a development plan are provided by Section 149 of the Act:

- (1) *A specified person may apply to the Tribunal for the review of-*
- a) *A decision of a specified body in relation to a matter if a planning scheme specifies or a permit contains a condition that the matter must be done to the satisfaction, or must not be done without the consent or approval, of the specified body; or...*

In the context of this matter, the specified body is Council acting as responsible authority. A specified person is defined by s.148 as the owner, user or developer of the land directly affected by the matter; a specified body or if the matter affects Crown land, the occupier of the Crown land. A specified body is also defined as being a Minister, the responsible authority, a public authority, a municipal council or a referral authority.

The owner/developer, a Minister or a public authority could seek a review of Council's decision.

7. Planning Scheme Considerations

Requirements

The land is zoned Farming (FZ) and Low Density Residential (LDRZ). The land within the LDRZ is covered by Schedule 11 to the Development Plan Overlay (DPO11).

The zones do not trigger any requirements for approval of the DP, though they are a relevant consideration. Under the zones future planning permits will be required to subdivide the land. The schedule to the LDRZ specifies that a lot must have an area of 0.25ha (2500m²) or more.

A planning permit is not required to use or develop a lot in the LDRZ for a single dwelling provided the dwelling has appropriate water and power supplies and connection to reticulated sewerage or satisfactory onsite treatment and disposal of wastewater.

The Development Plan Overlay provides that "A permit must not be granted to use or subdivide land, construct a building or construct or carry out works until a development plan has been prepared to the satisfaction of the responsible authority" (Clause 43.04-1). The DPO therefore acts as a fetter on the discretion otherwise provided by the scheme to grant permits for use and development.

A schedule to the overlay can provide exemptions from this fetter and DPO11 allows a permit to be granted for a single dwelling on an existing lot; agriculture and associated buildings and works; and a fence.

The preparation of a development plan is provided for by Clause 43.04-3:

The development plan may consist of plans or other documents and may, with the agreement of the responsible authority, be prepared and implemented in stages.

A development plan that provides for residential subdivision in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone, Township Zone, Comprehensive Development Zone and Priority Development Zone must meet the requirements of Clause 56 as specified in the zone.

The development plan must describe:

- *The land to which the plan applies.*
- *The proposed use and development of each part of the land.*
- *Any other requirements specified for the plan in a schedule to this overlay.*

The development plan may be amended to the satisfaction of the responsible authority.

State Planning Policy Framework

Broadly the SPPF encourages the establishment of well-planned and serviced residential communities in locations which can accommodate growth.

As an overarching aim, “*planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.*” (Clause 11 – Settlement)

The following clauses of the SPPF are of some relevance to consideration of the Development Plan:

- 11.02 – Urban growth
- 11.03 – Open space
- 11.05 – Regional development
- 11.07 – Geelong (G21) regional growth plan
- 12.02-6 – The Great Ocean Road Region
- 14.02 – Water
- 15.01 – Urban environment
- 15.02 – Sustainable development
- 16.01 – Residential development
- 16.02-1 – Rural residential development
- 18.02 – Movement networks
- 19.03 – Development infrastructure

The detail of these clauses will be discussed further as required in the discussion of key issues.

Local Planning Policy Framework

Municipal Strategic Statement

21.01 Profile and Vision

The Municipal Framework Plan (Clause 21.01-4) establishes that “*The underlying principle that directs all local policy and strategies of the Surf Coast Planning Scheme is that **the natural environment is the single most important attribute and asset of the Surf Coast Shire.***”

Key strategic directions for Settlement Built Environment and Heritage for the Shire are:

- *To manage population and tourist growth and development in an ecologically sustainable manner.*
- *To protect the rural landscape from urban intrusion and to provide clear distinction between townships.*
- *To concentrate urban growth predominantly in the towns of Torquay-Jan Juc and Winchelsea.*
- *To support and strengthen the individual character and role of the coastal and rural towns within the Shire that contributes to the diversity of experiences, and residential, commercial, recreational and employment opportunities.*

21.02 – Settlement, Built Environment, Heritage and Housing

Clause 21.02 provides local policy on the theme of Settlement, Built Environment, Heritage and Housing.

Under the heading of Settlement Patterns (Clause 21.02-3) the objective is:

“To ensure that urban development minimises the impact on the environment, makes efficient use of land, infrastructure and resources, and is concentrated in accessible locations.”

The objective for Neighbourhood Character (Clause 21.02-4) is:

“To protect the individual coastal township character values of low urban density, recessive built form, vegetated coastal landscapes and ecological values of the natural environment from inappropriate urban development.”

Applicable strategies are:

- *Ensure residential development densities are compatible to the protection of the indigenous vegetation and the historic neighbourhood character of the Surf Coast settlements.*
- *Encourage a coastal style of urban form within all coastal towns and coastal localities in all developments.*
- *Recognise the key role vegetation plays in defining township character and in softening urban development.*

There are three objectives for Open Space and Infrastructure (Clause 21.02-6) and supporting strategies:

Objective 1

To ensure that open space is landscaped and developed in a manner that is consistent with the character of the local area.

Strategy

- *Give priority to the use of indigenous planting in the landscaping of open space and complement this with public artwork where appropriate that is reflective of the locality.*

Objective 2

To build on the existing transportation system in a manner that reduces car dependence, encourages walking and cycling for local trips, integrates pathways with public transport and public open space and manages the summer tourist / holiday peaks.

Strategies

- *Encourage the delivery and coordination of public transport to best meet the needs of the community both locally and regionally.*
- *Ensure the provision of open space in all new subdivisions has particular regard to identifying specific community needs.*

Objective 3

To facilitate the timely provision of a range of community and recreation facilities to meet the needs of local residents, and to promote community health and cohesion.

Strategy

- *Make provision for the distribution of social infrastructure within community hubs across townships to meet local needs and ensure accessibility for all.*

The objectives and strategies of Clause 21.02 are to be implemented by:

- *Requiring neighbourhood character of the coastal towns of Torquay-Jan Juc through to Lorne to be considered in all development applications within these settlements.*
- *Using the Streetscape and Landscaping Policy, Clause 22.02 to advance the preferred neighbourhood and streetscape character of urban areas.*
- *Requiring operation and management plans for the ongoing servicing and maintenance of relevant infrastructure, including drainage systems, open space, landscaping and road reserves.*

21.03 – Environmental Management

Under this theme a number of issues and influences are identified which are of some relevance, including:

- *Land and water degradation, including dune and cliff erosion, dryland salinity, soil depletion and waterlogging.*
- *Threats to the health of waterways and wetlands, estuaries and marine ecosystems.*

- *Impact of development on naturally occurring saline areas, such as lakes, estuaries, coastal wetlands and saltmarshes, through changes to hydrological processes.*

The objective for the management of Environmental Assets (Clause 21.03-2) is:

To protect and enhance the Shire's diverse natural resources in an ecologically sustainable manner for present and future generations.

21.06 – Rural Landscape

This clause identifies five rural landscape precincts with the site located within the 'Mixed Farming' precinct which is described:

"Mixed Farming – takes in a band of predominantly undulating, cleared pastoral land bisected by the Barwon River in the west and Thompsons Creek in the east, ending in low, environmentally significant, open swamp behind coastal dunes at Breamlea. The eastern saltmarsh area has a strong sense of isolation and openness. In the west the allotment and tenement sizes are conducive to agriculture, particularly broadacre farming. In the east the potential exists for sustaining an irrigated agricultural industry should recycled water become available.

The settlement pattern is scattered and varies in density. The precinct includes the rural settlement of Freshwater Creek and the rural residential hamlets of Lower Duneed and Connewarre in the east. The township of Moriac is centrally located in the precinct and land to the west is sparsely settled."

Relevant objectives and strategies of this Clause include:

Objective 1

To protect and enhance the landscape values of the rural precincts as described in Clause 21.06-2 above.

Strategies

- *Encourage the siting and design of new buildings to complement existing farm structures, avoid locating on hilltops and ridges and to nestle into the landscape where possible.*
- *Promote indigenous revegetation around buildings and structures, wetlands and along waterways to assist blending new development with the surrounding landscape.*

Objective 2

To protect and maintain open and uncluttered rural landscapes, including vistas from main road corridors.

Objective 3

To protect the rural landscape from urban intrusion and to provide clear distinction between townships.

Strategies

- *Maintain clear, non-urban breaks between Geelong and Torquay and between the coastal settlements.*

21.07 – Rural Residential Living

Under the heading of Key issues and influences, this clause identifies that:

- *Rural residential living is a highly sought after lifestyle in Surf Coast Shire, especially in attractive locations along the coast and within commuting distance of Geelong and Melbourne.*
- *Rural residential development is not generally the most sustainable or efficient use of land as it leads to urban sprawl and requires the provision of services in more remote areas to benefit relatively few households.*
- *Many areas where people seek to develop land for rural residential development is of high landscape or environmental significance or agriculturally valuable and therefore unsuited to such development.*
- *Rural residential and rural living development raises land values in rural areas which has a negative impact on farm viability and can increase expectation about future subdivision.*

- *Three areas have been identified as having potential for future rural residential and rural living development. These are Torquay/Jan Juc, Winchelsea and Moriac. The three areas provide a variety of location choices and are well served with physical and community infrastructure. The identification of these areas will provide land use stability and certainty that will minimise the effects of increased land values on the agricultural economy and facilitate efficient infrastructure planning.*

Of the objectives and strategies of this clause the following are of relevance:

Objective 1

To restrict lot sizes for rural residential purposes so that land is used more efficiently.

Strategies

- *In the Low Density Residential Zone, encourage lot sizes in the range of 0.4ha to 1ha unless:*
 - *a larger lot is required for the on-site treatment of wastes,*
 - *a larger lot is needed to protect pockets of significant remnant vegetation, or*
 - *the land has a high landscape value.*

Objective 3

To ensure that rural residential and rural living development is appropriately located so as to avoid loss of agricultural land, amenity and hazard to residents, or the loss of productivity to adjoining land owners arising from land use conflict.

Strategies

- *Direct new rural residential or rural living subdivision to existing areas and areas identified in Torquay/Jan Juc, Winchelsea and Moriac as having 'potential future development areas'.*

Objective 4

To allow for rural residential development in Torquay/Jan Juc, Winchelsea and Moriac, to satisfy demand for this style of living in areas where it can be efficiently serviced and does not encroach on future urban growth areas.

Strategies

- *Limited opportunities for low density residential development will be provided on the edges of Torquay Jan Juc and will be prevented from sprawling beyond the settlement boundary.*
- *Consider requests for additional rural residential development around Torquay Jan Juc on the basis of the following analysis of existing and potential rural residential development sites:*
Existing Rural Residential Areas
 - *Grossmans Road Rural Residential Precinct (west of Ghazeepore Road). This land comprises approximately 50 ha in area and is bounded by Grossmans Road in the south, Ghazeepore Road in the east and the ridge line to the north and west. Approval has been given to use and develop the eastern 21ha of this area for the purpose of a retirement village and associated community and recreational facilities. The western 29ha is to be used and developed for rural residential living with lots varying in area between 2,500sqm and 4,000sqm. All development within the precinct will be fully serviced including reticulated water and sewerage.*

21.08 – Torquay-Jan Juc Strategy

The key strategic document within the planning scheme to guide the future development of Torquay-Jan Juc urban area is Clause 21.08, the Torquay-Jan Juc Strategy. Key issues and influences identified for the townships include:

Settlement, Built Environment and Housing

- *State and regional policies identifying Torquay-Jan Juc as a growth node in the Great Ocean Road and G21 regions.*
- *Making adequate provision for additional residential land and key services and infrastructure (e.g. schools, retail and employment areas, open space and community facilities, public transport) to support future growth.*
- *Balancing growth and development densities against a community desire to maintain the coastal character of Torquay-Jan Juc whilst also achieving overarching sustainability objectives. The five values identified in Sustainable Futures Plan Torquay Jan Juc 2040 (2012) to help manage this are:*

- Value 1: Places for People – The importance of a close knit community*
Value 2: The Natural Environment – Protecting and enhancing the natural environment
Value 3: The Built Environment – Fostering the unique coastal look and feel
Value 4: Services and Infrastructure – Planning for services and infrastructure with development
Value 5: A Local Economy – Providing employment opportunities locally.
- *Increasing housing diversity and affordability in response to socio-demographic change.*

Environment and Landscape

- *Erosion of significant landscape qualities and coastal viewsheds through the visual prominence of buildings and removal of vegetation.*
- *Pressures to expand the settlement boundary to facilitate residential development (often at lower densities which consume large quantities of land) into areas of high landscape significance.*

Transport and Infrastructure

- *Existing imbalance in the distribution of passive open space, with historical over-reliance on the foreshore.*
- *Provision of neighbourhood responsive streets particularly in new estates that are permeable and well-connected and designed to reflect the coastal character requiring an innovative application of engineering standards.*

The objective for Settlement, Built Environment and Housing in Torquay-Jan Juc (Clause 21.08-2) is:

To accommodate and manage the projected population growth and demographic change of Torquay-Jan Juc in an environmentally sustainable manner that respects and celebrates the distinct surfing identity and coastal character of the town and responds to Value 1 'Places for People' and Value 3 'The Built Environment' from the Sustainable Futures Plan Torquay Jan Juc 2040 (2012).

Applicable strategies to achieve this objective are:

- *Contain and consolidate urban development within the defined settlement boundary as indicated on Map 1 of Clause 21.08 – Torquay-Jan Juc Framework Map.*
- *Preserve the clear delineation between the urban township and the rural landscape of the Thompsons Creek valley, afforded by the northern ridgeline.*
- *Retain the green break between the Torquay-Jan Juc settlement boundary shown on Map 1 to Clause 21.08 and Bellbrae.*
- *Provide a range of housing types, sizes and configurations at suitable densities to cater for the changing housing needs of current and future populations, taking account of the differential capacity of the various areas to accommodate housing growth and change (in accordance with Map 2 to Clause 21.08 – Torquay-Jan Juc Residential Development Framework).*
- *Limit housing growth and change in areas with significant vegetation or landscape values, high bushfire risk or predominant single dwelling character.*
- *Protect existing areas within the Low Density Residential Zone to continue to provide low density housing types and to provide a transition to surrounding rural land.*
- *Ensure new residential development is of a high standard and builds on the coastal character by incorporating contemporary designs, with an articulated built form and a range of visually interesting building materials, colours and façade treatments that respond to the local context and preferred character of the neighbourhood.*

On Map 1 to Clause 21.08 the site is identified as a location for Future Low Density Residential with the northern-western and southern boundaries the limits of the Settlement Boundary.

The objective for Torquay-Jan Juc for the Environment and Landscape is established at Clause 21.08-3 as:

To protect and enhance significant environmental, landscape and cultural heritage features which contribute to the ecological values, coastal character and residential amenity of Torquay-Jan Juc in response to Value 2 'The Natural Environment' from the Sustainable Futures Plan Torquay Jan Juc 2040 (2012).

Relevant strategies are:

- *Maintain non-urban breaks to Geelong and Bellbrae to protect landscape and rural values of the Thompsons Creek and Spring Creek valleys beyond the settlement boundary.*

- *Ensure that landscaping and trees remain a major element in the appearance and character of Torquay-Jan Juc's residential environments by protecting or re-establishing vegetation, in particular locally indigenous canopy trees and shrubs, that softens the appearance of development within the streetscape and when viewed from public spaces.*
- *Ensure development layout responds to the area's natural features, establishes a natural environment character throughout the development area and applies medium density in areas close to activity centres and lower densities for sites containing significant vegetation or that are visually prominent.*

Under Transport and infrastructure:

Objective 1

To plan and deliver a range of services and infrastructure in association with new development in response to Value 4 'Services and Infrastructure' from the Sustainable Futures Plan Torquay Jan Juc 2040 (2012).

Strategies

- *Provide a linked network of walking and cycling paths throughout Torquay-Jan Juc, enabling direct access to all activity centres (neighbourhoods targeted at a 400-800 metre radius) and to and through all areas of public open space.*
- *Encourage the distribution of recycled [sic] water into new subdivision (third pipe).*

Objective 2

To promote street design that makes a positive contribution to the urban landscape and the coastal character of Torquay-Jan Juc, and enhances walking and cycling, use of public transport and social interaction.

Strategies

- *Design urban arterials and collector streets to present as parkways/avenues that link key destinations, and local streets that present as an extension of the open space system primarily through the planting of large shade trees.*

Objective 3

To increase the provision and quality of all forms of open space to meet the broad range of needs of the Torquay-Jan Juc community, and to site new open space to ensure its accessibility to all members of the community.

Strategies

- *Provide a network of high quality open space in growth areas easily accessible by pathways, serving a range of different functions and linked to existing networks and areas.*

The objectives and strategies of Clause 21.08 are to be implemented by, amongst other things:

- *Assessing the timing of new development proposals against the need for land supply, the completion of existing development areas, the availability of infrastructure and the broader regional context.*
- *Using local policy (Clause 22.02) to encourage the use of predominantly indigenous plant species in landscaping and the use of shade trees in street tree planting.*
- *Using local policy (Clause 22.09) to recognise the differential capacity of Torquay-Jan Juc's residential areas to accommodate housing growth and change and to promote appropriate densities and design outcomes that contribute to the preferred neighbourhood character.*

Local Planning Policy

22.02 – Streetscape and Landscaping Policy

The objectives of this policy are:

To protect and enhance the individual landscape character of each town.

To promote the development of co-ordinated and visually pleasing streetscapes in residential, commercial and industrial areas.

To encourage ecologically and economically sustainable streetscapes and landscapes.

To achieve these objectives it is policy to require a landscape plan with proposal that include the creation of new public roads (as well as other specified forms of development). The policy also sets a number of requirements for the content of landscape plans.

22.09 – Torquay-Jan Juc Residential Development and Neighbourhood Character Policy

This policy applies to residential subdivision and sets the following objectives:

To adopt a managed approach to residential development, taking account of the differential capacity of the residential areas in Torquay-Jan Juc to accommodate housing growth and change.

To ensure development achieves architectural and urban design outcomes that positively contribute to the preferred future character of the residential areas of Torquay-Jan Juc, as identified in the Torquay-Jan Juc Neighbourhood Character Study & Vegetation Assessment (2006) and Torquay-Jan Juc Neighbourhood Character Study Review (2012).

To promote a range of housing types, sizes and configurations in appropriate locations to accommodate the future needs of Torquay-Jan Juc's growing and changing population.

To ensure that landscaping and trees remain a major element in the appearance and character of Torquay-Jan Juc's residential environments.

To provide greater certainty for the community and the development industry as to the preferred intensity of residential development and the future character of different areas of Torquay-Jan Juc.

The DP site is located within Housing Area 6 (as shown on Map 1 to Clause 22.09) which is Low Density Residential. This area is described by the policy as:

Low density residential areas are located on the edge of the township and area characterised by single dwellings at low densities. They perform as a transition zone between the urban and rural interface and often contain significant patches of vegetation. While some capacity may exist to increase lot densities beyond the specified minimum lot size in a limited number of further investigation areas as defined by this Planning Scheme, the low density residential areas have limited capacity to accommodate future residential development other than through [sic] subdivision of larger lots in accordance with minimum lot size provisions as specified by the Low Density Residential Zone and Schedule to the zone. The low density, single dwelling character will be retained.

Building on this description, Table 1 to Clause 22.09 sets out the preferred characteristics for this area as follows:

Low Density Residential Areas	Dispersed single housing at low densities (minimum 2,500sqm for sewered lots; 0.4ha for unsewered lots).	Single dwellings (large lots).
LDRZ areas	Up to 2 storey (7.5m). Strong landscape character	

Particular Provisions

Clause 52.17

A permit is required to remove, destroy or lop native vegetation, including dead native vegetation. An exemption would apply after subdivision where the site area of land in contiguous ownership is less than 0.4ha.

In accordance with principles established by the Tribunal, such as in *Villawood Properties v Greater Bendigo CC (Red Dot)* [2005] VCAT 2703 (20 December 2005), it is appropriate to consider the full loss of native vegetation at the time of subdivision from lots which will be less than 0.4ha, irrespective of whether the vegetation will be removed to construct the subdivision.

The application proposes that all vegetation be removed from the site or considered lost.

Planning Scheme Amendments

Amendment C81 proposes to apply a new Schedule 6 to the Environmental Significance Overlay (ESO6) to Grossmans Road reserve. The amendment and the proposed ESO6 seek to identify, protect and enhance biodiversity assets, particularly remnant native vegetation and native vegetation that provides habitat. Under the overlay a permit would be required to remove native vegetation and for the construction of buildings and works.

The amendment has been exhibited with a number of submissions received. The amendment must be considered as seriously entertained, but the submissions, which include objections, have not yet been considered by Council or referred to a Panel. On this basis it is appropriate that the amendment be considered but afforded relatively limited weight in any decision making.

8. Discussion of Key Issues

Development Plan Overlay Schedule 11 Requirements

This DP is assessed against the requirements of DPO11 as follows:

The development plan must be prepared for the whole of the site but may be implemented in stages. The development plan should be generally in accordance with Map 1 to Schedule 11 to Clause 43.04: Grossmans Road West Concept Plan and contain or make provision for:

- ***Any proposed staging of development – Satisfied***

A staging proposal has been included with the DP which provides for five stages proceeding generally east to west. The proposed staging appears logical and importantly:

- Delivers the proposed drainage reserve in stage 1 for stormwater management for the whole site
- Includes the proposed open space reserve in stage 3 when approximately halve of the lots have been developed

As dead-end streets will be created in some stages before full completion, temporary turning facilities or connections will need to be created to enable safe and convenient access for waste collection and other oversized vehicles.

- ***Full reticulation of services – Satisfied***

The DP area will be serviced by reticulated water, sewerage, electricity and gas. Reticulated recycled water is not proposed to be provided which will be discussed in more detail below.

- ***Road access to be from Grossmans Road – Satisfied***

A single road access point is to be provided from Grossmans Road in a location generally in accordance with the Concept Plan. The concept plan included two access points to Grossmans Road with an additional western access. The DP proposes a road in this location but it would dead-end with a tree reserve separating it from Grossmans Road. The applicants have submitted that this approach is preferred (over the concept plan) based on advice from traffic engineers that the single access is acceptable; sight distances for the western access would be substandard and to reduce vegetation loss. Council's engineers have accepted the provision of a single access road to the subdivision. It would be possible to have pedestrian access through the tree reserve and emergency vehicle access if required.

- ***Intersections with Grossmans Road to be sensitively located in terms of safe view lines and retention of native roadside vegetation – Generally Satisfied***

As per the above, traffic engineering advice on behalf of the applicant indicated that a western access would have unsatisfactory sight distance. The proposed intersection can be constructed with minimal native vegetation removal from the northern side of Grossmans Road.

- ***Lots sufficiently large to enable building envelopes which protect areas of native vegetation in private ownership – Generally Satisfied***

The site contains limited native vegetation which is located within the area of the proposed lot with one small patch in the southwest corner and a few scattered trees. The lots are sufficiently large to provide for the protection of the vegetation; however the applicant has proposed removing all vegetation, which is discussed in greater detail below.

- ***An increasing graduation of lot sizes to the periphery of the land generally from east to west – Satisfied***

The DP has shown an increasing graduation of lot sizes from east to west and further the smallest lots (2500m²) are internal to the subdivision.

- *Internal roads to be constructed with a rural seal with grassed verges and swale drains to retard runoff and reinforce a semi-rural landscape character – **Generally Satisfied***

Detail design hasn't been provided with the DP, but it is proposed to construct 5.5m wide roads with no kerb and swale drains. To accommodate the swale drains wide verges are required within 20m wide road reserves. The proposed roads are expected to be similar to those in Ocean Acres Estate.

- *Footpath provision should be in accordance with the requirements of Clause 56 – **Generally Satisfied but modification required***

A concrete footpath is proposed to one side of all streets with gravel paths connecting to Dillwynia Lane and Kithbrooke Park. Council's Open Space Coordinator has recommended that the Dillwynia Lane connection be a concrete path to achieve Disability Discrimination Act (DDA) compliance and appropriate access for all.

The connection through to Kithbrooke Park is to private land; however it is subject to an agreement¹ which amongst other things provides "that an area be designated as public open space and be made available and accessible to the public in order to provide a link from Ghazeepore Road to the land to the west of the Land". Therefore there is a legal arrangement in place to facilitate public access through Kithbrooke Park from the DP area to Ghazeepore Road.

The DP shows the pedestrian access link at a location approximately 138m south of the northern boundary of Kithbrooke Park which aligns with the location shown on the endorsed plans for Kithbrooke Park until they were amended in April 2015 moving the path location about 38m north. As a consequential result of that amendment the DP will need to be amended to align.

- *Planting of all proposed internal roads with native trees complementary to the existing indigenous species present upon the site – **Generally satisfied***

A concept landscape plan has been provided which proposes street tree planting using a mix of Drooping Sheoak (*Allocasuarina verticillata*), Blackwood (*Acacia melanoxylon*), Silver Banksia (*Banksia marginata*) and Narrow-leaf Peppermint (*Eucalyptus radiata*) which are appropriate indigenous species. The concept plan does not match the current revision of the DP and a revised landscape plan will be required.

Further to the above requirements DPO11 requires that the DP must be supported by the following:

A Town Planning Report that includes:

- *An assessment of the provisions of the Surf Coast Planning Scheme, including the State and Local Planning Policy Framework and Clause 56. – **Generally satisfied***

A town planning report has been submitted in support of the DP. It is noted that the DP has been amended since that submission so that some aspects of the town planning report are outdated, however this is not considered a fatal issue.

- *An assessment of the capacity of existing water, sewer and gas infrastructure. Opportunity for connection to a third pipe scheme is also to be explored with Barwon Water. – **Generally satisfied***

It is apparent that reticulated water, sewer and gas can be provided to the site, albeit with some augmentation of infrastructure.

In relation to the provision of reticulated recycled water, a 'third pipe scheme', the applicant is opposed to providing this infrastructure.

Barwon Water in their response to the referral of the DP advised that:

¹ Agreement under Section 173 of the *Planning & Environment Act 1987* registered dealing AF647713M

“Recycled water is available from an existing recycled water tank located adjacent to the development along Ghazeepore Road. Barwon Water encourages connection to this existing system as a means of providing an alternative water supply throughout the development.

The tank has an approximate top water level between 85-90 mAHD and investigations indicate that a booster pump station would be required to service this development, in addition to new reticulation mains from the tank site to the development. There are constraints on the existing tank site which means that the booster pump station will need to be located on the developers land and gifted to Barwon Water.”

Therefore it appears feasible to provide recycled water but it will be at a potentially significant cost. Barwon Water staff have suggested that they would not pursue reticulated recycled water if the proponent was not supportive, but as a determining referral authority for any future subdivision application they could mandate that it be provided.

It is fairly stated that the main objection of the applicant is the additional cost of installing a third pipe scheme, but they have support this position with other arguments, primarily that water reuse can be more cost effectively through onsite reuse. They have submitted that with larger lot sizes it is more feasible for each lot to be provided with a water tank storage for collected water reuse within the dwelling and on gardens and that this also reduces the discharge of water into the reticulated system.

The decision guidelines of the LDRZ require consideration to be given to some elements of Clause 56, including Clause 56.07-2 which has the objective *“To provide for the substitution of drinking water for non-drinking purposes with reused and recycled water.”* There has been added emphasis given to the use of recycled water through the requirement of DPO11, however on balance it is considered appropriate that onsite stormwater harvesting and reuse is a preferable approach to achieving the objective of reducing potable water consumption.

As submitted by the applicant, the larger lot sizes required to be provided mean that substantial water storages can be provided on each lot to collect roof runoff and with larger garden areas there is greater scope to reuse that stored water. The installation of water tanks on each lot can be achieved much more cost effectively than the installation of third pipe, though it does defer the cost to the future purchasers rather than being a cost borne by the developer. It also removes the ongoing costs associated with purchasing recycled water². The applicant has submitted that a 15,000 water litre tank per lot is suitable for a typical sized dwelling with a large garden.

Given this alternative approach is reliant on future lot owners installing rainwater tanks at the time of constructing a dwelling, it is considered appropriate that this be recorded as an ongoing obligation through an agreement under Section 173 of the Act.

A Flora and Fauna Management Plan that includes:

- *A flora and fauna assessment carried out by suitably qualified and experienced person/s that identifies the vegetation communities, the quality of habitat, the actual indigenous flora and fauna species that inhabit the site, threats to the indigenous flora and fauna species including pest plant and animal species and for any threatened flora and fauna species and communities their conservation status under local, regional, state and national legislation policies. – **Satisfied***

A flora and fauna assessment has been provided with the DP. The assessment records a limited extent of native vegetation on the site with a small patch of modified Grassy Woodland in the southwest corner of the site and a number of scattered trees across the site. The verge of Grossmans Road contains modified Grassy Woodland and Heathy Woodland patches.

- *Recommendations where vegetation should be retained and by what mechanism. – **Modification required***

The DP and flora and fauna assessment do not propose the retention of any native vegetation within the DP area and have assumed all vegetation will be removed or lost.

² Reticulated recycled water is a metered supply

The site is not covered by any overlays which protect native vegetation in terms of triggering a permit requirement for removal, destruction or lopping. The protection of existing vegetation therefore is provided by Clause 52.17 which not only triggers a planning permit but also provides the context and decision guidelines for considering the significance of native vegetation to the contribution to Victoria's Biodiversity.

Clause 52.17 includes a number of exemptions from the permit requirement and relevant to the current matter is the site area exemption – *the native vegetation is on land which, together with all contiguous land in one ownership, has an area of less than 0.4 hectare*. Therefore following the subdivision of the land all lots less than 0.4ha (once sold into individual ownership) will be exempted from the permit requirements of Clause 52.17. It is accepted practice that any native vegetation on these lots should be taken as lost for the purposes of Clause 52.17 at the time of subdivision and appropriate offsets provided.

This however does not mean that vegetation should be removed just because it is considered as lost for the purposes of that single provision. DPO11 clearly anticipates that measures will be used to protect significant vegetation within the subdivision.

A decision guideline of the LDRZ is that the responsible authority must consider *“The protection and enhancement of the natural environment of the area including the retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.”*

The site does not include a significant extent of native vegetation; the only healthy vegetation is the small patch along the southern boundary and perhaps a single tree³ near the western boundary. Whilst only a small amount it is considered that there is merit in retaining this vegetation within the development. The patch of vegetation is Grassy Woodland which is classified as Endangered in the Otway Plain bioregion and whilst modified is showing signs of natural recovery with emergent saplings.

The lots adjacent the western boundary are larger (4000-6300m²) and the applicant has indicated building envelopes with a 20m setback from the southern and western boundaries which would mean that future buildings would avoid this vegetation. It is considered that measures to protect this vegetation during and post subdivision would not unreasonably constrain development.

- *A net gain assessment including an Offset Management Plan that addresses the removal of any native vegetation to allow for the residential development of the land. – **Generally satisfied***

State policy no longer requires the achievement of a 'net gain'; instead the policy is now a position of 'no net loss'. Whilst it is feasible that a local provision could still seek to achieve a net gain, it is considered that in this case it is of the local provision not keeping pace with the State changes.

The flora and fauna assessment determines the loss of vegetation in accordance with the current *Permitted clearing of native vegetation – Biodiversity assessment guidelines* and identifies the required offset which will be achieved offsite (most likely by purchasing a third party credit).

A Landscape Concept and Management Plan that includes:

- *An 8 metre wide landscaping strip along the northern boundary of the land that is fenced at the northern boundary and forms part of the private land title. It must be accompanied by a planting schedule that details the type and density of plants to provide a landscape screen to the development when viewed from the north. As such it will need to include a mixture of trees and shrubs, ensuring that any planting constitutes Low Threat Vegetation in accordance with Clause 2.2.3.2 of Australian Standard 3959-2009 Construction of buildings in bushfire prone areas. – **Complies***

³ The flora and fauna assessment identifies two trees in this location, but a combination of aerial photograph and zone layers on Council's GIS indicates that one of the trees is outside of the LDRZ.

A landscape plan has been provided which shows an 8m wide landscape strip along the northern boundary which is nominated to be planted with a mix of four tree species (*Allocasuarina verticillata* – Drooping Sheoak, *Eucalyptus baxteri* – Brown Stringybark, *E. ovata* – Swamp Gum and *E. radiata* – Narrow-leaf Peppermint) with mature heights of 7-9m and with under-planting of shrubs (*Acacia paradoxa* – Hedge Wattle, *Acacia verniciflua* – Varnish Wattle, *Leptospermum continentale* – Prickly Tea Tree, *Hymenanthera dentata* – Tree Violet) with mature heights of 3-4m. The density of proposed planting should be appropriate to achieve a screen.

Low Threat Vegetation is defined by Clause 2.2.3.2 of AS3959 as vegetation which is one or a combination of any of the following:

- a) *Vegetation of any type that is more than 100m from the site.*
- b) *Single areas of vegetation less than 1ha in area and not within 100m of other areas of vegetation being classified.*
- c) *Multiple areas of vegetation less than 0.25ha in area and not within 20m of the site, or each other.*
- d) *Strips of vegetation less than 20m in width (measured perpendicular to the elevation exposed to the strip of vegetation) regardless of length and not within 20m of the site or each other, or other vegetation being classified.*
- e) *Non-vegetated areas, including waterways, roads, footpaths, buildings and rocky outcrops.*
- f) *Low threat vegetation, including grassland managed in a minimum fuel condition, maintained lawns, golf courses, maintained public reserves and parklands, vineyards, orchards, cultivated gardens, commercial nurseries, nature strips and windbreaks.*

NOTE: Minimal fuel condition means there is insufficient fuel available to significantly increase the severity of the bushfire attack (recognizable as short-cropped grass for example to a nominal height of 100mm).

For the purposes of AS3959 the 'site' is the "part of the allotment of land on which a building stands or is to be erected."

The landscape strip will have an area of about 1ha and adjoin the undeveloped farmland to the north of the DP area. It is considered that the strip does not fall under part (f) as it does not fit with any of the described vegetation types. It might align with a windbreak, however in the CFA Publication *Vegetation Classes, Victorian Bushfire Management Overlay* it is stated that "A windbreak is defined as a single row of trees" in comparison to the strip which is to be planted as a combination of shrubs and trees. In the event of a fire, the shrubs could carry the fire into the tree canopy.

It could fall under part (d) as a strip of vegetation and the applicants have proposed 20m setbacks for the building envelopes to achieve site separation, but to meet this definition there would also need to be 20m separation from other vegetation being classified. The adjoining farmland has the characteristics of grassland, which under AS3959 includes sown pasture. To satisfy part (d) the grassland to a width of 20m from the landscape strip would need to be managed in a minimum fuel condition (kept cropped at 100mm or less). The applicant has submitted that the owner is accepting of an on-going restriction on the balance land to maintain a 'firebreak' of 20m. There is a level of risk in relying on an adjoining owner to manage vegetation for the benefit of other land but in the circumstances it is considered acceptably low.

- *A 5 metre wide landscaping strip along the southern boundary adjacent to the Grossmans Road reserve that forms part of the private land title. It must be accompanied by a planting schedule that details the type and density of plants that will assist in enhancing and protecting significant roadside vegetation along Grossmans Road, ensuring that any planting constitutes Low Threat Vegetation in accordance with Clause 2.2.3.2 of Australian Standard 3959-2009 Construction of buildings in bushfire prone areas. – **Satisfied***

The landscape plan also shows a 5m wide landscape strip along Grossmans Road which is proposed to be planted with shrubs where adjacent tall roadside vegetation and a mix of trees and groundcovers where the roadside vegetation is low.

- *The mechanism for the initial planting and ongoing management and maintenance of the above landscaping. – **Satisfied***

The landscaping will need to be implemented prior to the issue of a statement of compliance under the *Subdivision Act 1988* for the subdivision of each stage. The southern landscaping will be located within a tree reserve to be vested in Council which will allow this area to be managed in conjunction with the existing roadside vegetation. The northern landscape strip will be

- *Proposed street planting in accordance with Council's selection criteria for street tree planting.- Satisfied*

Street tree planting is proposed using a mix of Drooping Sheoak, Narrow-leaf Peppermint, Blackwood (*Acacia melanoxylon*) and Silver Banksia (*Banksia Marginata*). These species are considered appropriate and have been accepted by Council's Coordinator Open Space Planning.

- *The extensive use, where appropriate, of local indigenous plant species throughout the development site.- Satisfied*

The proposed planting within the landscape strips and street trees are indigenous species.

A Road Network and Traffic Management Plan that includes:

- *An assessment of the traffic generated by the residential development of the land.- Generally Satisfied*

A traffic assessment has been submitted with the DP which concludes that the subdivision will generate traffic volumes⁴ which can be accommodated by Grossmans Road though it will approximately double the volumes using this section of Grossmans Road.

In accordance with the agreement between the land owner, Council and VicRoads⁵ the land owner will contribute \$80,000 to works at the intersection of Grossmans Road and Anglesea Road to make the intersection left turn only in and out of Grossmans Road. Under the agreement the works are to be completed within seven years of the date of the agreement (28 November 2020) or monies are to be repaid. The agreement was entered into as a requirement of the rezoning of the land and VicRoads have highlighted the agreement in their response to the DP.

The traffic assessment hasn't considered the flow on effects of the increase in traffic volumes from the subdivision and the changes to the Anglesea Road intersection. With right turns at Anglesea Road prohibited, motorists wishing to travel north towards Geelong will be pushed to use Ghazeepore Road to get to Coombes Road. Some motorists travelling from the east may choose to take an alternative route such as Messmate Road, but it is likely that there will be an increase in traffic using Ghazeepore Road between Grossmans and Coombes Roads.

The intersection of Ghazeepore Road and Coombes Road has some safety limitations including a lack of lighting, limited sight lines due to vegetation and crests and narrow road pavement. Council's Infrastructure Department has indicated that there has been community pressure on Council to light the intersection. The additional traffic from the subdivision and the changes to Anglesea Road may be a necessary trigger to upgrade this intersection. It is appropriate that this be investigated further with the Infrastructure Department as part of considering the permit application for subdivision.

- *Classification of streets according to standards contained in Clause 56 of the Surf Coast Planning Scheme.- Satisfied*

The internal streets have been classified as Access Places as per Clause 56. This has been accepted by Council's Infrastructure Department. The Infrastructure Department has identified that for some of the internal intersections a different priority is proposed to what would normally be expected⁶ and these may require a localised widening of the road reserve.

- *Confirmation of the most appropriate location for new intersections with Grossmans Road that meet sight distance requirements and minimises the removal of native vegetation. - Satisfied*

⁴ 700 vehicle movements per day

⁵ Agreement under Section 173 of the *Planning & Environment Act 1987* registered dealing AL005171D

⁶ At the T-intersections the turning manoeuvre is given priority to the straight through traffic, like the treatment used at the intersection of Domain Drive and Delview Drive in Jan Juc.

The location of a single access to Grossmans Road has been identified and minimises the loss of native vegetation and has appropriate sight distance.

A Stormwater and Drainage Management Plan that takes an integrated approach to stormwater system management, designed with reference to the whole of the catchment and includes:

- *A retardation basin at an appropriate location to retard and treat stormwater prior to discharge. – **Satisfied***

A retardation basin is identified adjacent the eastern boundary at the low point of the site.

- *An integrated stormwater management system for the properties discharging directly to the Kithbrooke Park drainage system that ensures the peak discharge rate, and pollutant load of stormwater leaving the subject land within this DPO is no greater than pre-development levels, meets current best practice and is discharged to the existing drainage system. – **Satisfied***

The stormwater management plan identifies the achievement of best practice objectives and reduces the discharge rate from the site to pre-development levels. Swales will be provided within the streets to treat stormwater as it flows to the retarding basin. The discharge of the system is into the Kithbrooke Park system.

- *A design based upon the principles of Water Sensitive Urban Design (WSUD). – **Satisfied***

WSUD is evident in the use of swales and reducing peak discharge rates. Detailed design will be required under the permit.

A Cultural Heritage Management Plan (CHMP) prepared by a suitably qualified and experienced person, detailing the results of an assessment of the potential impact of the proposed activity on Aboriginal cultural heritage, and outlining the measures to be taken before, during and after an activity in order to manage and protect Aboriginal cultural heritage in the activity area. – **Satisfied**

A CHMP has been prepared – refer to previous comments under Section 4 Aboriginal Cultural Heritage.

Impacts and Control of Future Development

The DP area will be the most westerly extent of the Torquay settlement under the current Framework Plan. Historically the Torquay township has not been visible from the Thompsons Creek valley along Anglesea Road. With the development of Kithbrooke Park some small elements of urban development are now visible in this viewshed but are not prominent. The future development of the DP area has the potential to be quite visible and prominent because of its ridgeline location.

The Thompsons Creek valley is sought to be protected as a non-urban break between Torquay and Geelong with a strategy of Clause 21.08 being:

- *Preserve the clear delineation between the urban township and the rural landscape of the Thompsons Creek valley, afforded by the northern ridgeline.*

Visually prominent urban development, particularly along an important transport corridor like Anglesea Road, blurs the interface between urban and rural. The northern landscape strip will provide some screening of future development but it won't afford block development from view; landscaping is inherently dynamic, changing as vegetation does through its lifecycle.

Council's GIS Unit have undertaken some 3D modelling of the potential built form with the development of the DP area. This modelling is only representative and is based on the building envelopes provided by the applicant being extruded vertically to create a volume and as such represents the maximum building size whereas in reality buildings are likely to be much smaller, particularly in footprint. A further limitation of the modelling is that existing vegetation isn't represented in 3D and therefore the screening effect of this and proposed landscaping isn't accounted for.

It is considered that what this modelling shows is that dwellings constructed to the normal building regulation height limit of 9.0m are likely to be prominent in the landscape, including projecting above the ridgeline to silhouette against the sky. With a lower height, whilst likely to be visible, buildings are less likely to be prominent and more likely to be screened by landscaping. It is considered that there needs to be a level of control over the development of the lots which will be created by subdivision in accordance with the DP.

The DP cannot add an additional layer of control which is not provided by the zone. PPN23 makes it clear that a DPO or approved DP cannot change the permit requirements of a zone:

“No change to the scope of discretion

Neither the IPO nor the DPO can change the scope of the discretion provided in the zone applying to the land. They cannot be used to ‘schedule in’ or ‘schedule out’ a permit requirement. If a use is ‘as of right’ in the zone, the overlay cannot introduce a permit requirement. If a use is prohibited in the zone, the overlay cannot remove that prohibition. If a use requires a permit under the zone, the overlay cannot exempt it from the need for a permit.

If ‘as of right’ uses in the zone could frustrate the objectives of the plan or prohibited uses in the zone are needed to implement the plan, a different zone will be necessary.”

A planning permit is not required to use or develop a lot in the LDRZ for a single dwelling, therefore a control that is external to the planning scheme is required, with the only feasible option an agreement under Section 173 of the Act. In the nearby Ocean Acres and Frog Hollows low density estates respective s.173 agreements invoke design guidelines which provide guidance on siting, height, dwelling size (minimum), dwelling style, materials, colours, siting and design of outbuildings and landscaping, including fencing. This guidelines are administered by plans having to be submitted to Council for approval but not as a planning permit application. This process creates an administrative burden and cost for owners and Council.

It is considered preferable to avoid a non-planning permit assessment process, instead utilising a set of requirements which must be complied with on each lot. It isn't necessary to resolve the details of these requirements for the approval of the DP but should cover at least siting, height, fencing, landscaping and external colours. In relation to these elements the following comments are made in brief:

Siting

The DP has been accompanied by a plan of building envelopes which provide for 30m setbacks from the northern DP boundary and Grossmans Road, 12m from street boundaries, 3m from a reserve and 2m from internal side and rear boundaries. Generally these setbacks are considered appropriate, however it is recommended that side and rear setback for internal boundaries for those lots on the perimeter of the subdivision be increased to 5m to provide spacing between buildings which is consistent with a low density character.

Height

Building heights should be lower than normally permitted by the building regulations. Clause 22.09 states that buildings in new low density residential areas should be no more than 2 stories or 7.5m in height and this is considered an appropriate limit to apply. Given the potential for scenic views to the north, west and south over surrounding rural landscape it is foreseeable that without any constraint land owners will seek to maximise these views by maximising building height.

Fencing

An important element of low density character is openness through no or open fencing, particularly in the streetscape. Fencing within the street setback should be restricted to post and wire styles of fencing. In addition with lots having a rear boundary to Grossmans Road (or to the new tree reserve along the road) there may be a desire for solid fencing to increase privacy to rear yards, but this would be detrimental to the rural character of Grossmans Road, therefore fencing should be open in this location also as it should be to the northern boundary of the DP area.

Landscaping

Landscaping is one of the most significant elements in establishing a low density residential character as it visually softens and screens development and enhances the sense of space between buildings. Clause 22.09 identifies one of the preferred characteristics for low density residential areas as being a "Strong landscape character." Whilst landscaping will be established in accordance with the DP at the time of subdivision it is also important that each lot make a landscaping contribution. It is considered appropriate to require landscaping within the front setback using indigenous plant species, including canopy trees.

External colours

The use of an appropriate colour palette is also important in having development which sits within the landscape. Particularly important is avoiding the use of light and reflective materials such as Zincolume in exposed surfaces.

Powercor Submission

Powercor's submission on the DP highlighted their plans to develop a zone substation on adjoining land. The substation will be a significant piece of utilitarian infrastructure which would probably be considered unsightly by most people. Powercor's submission does not identify any particular buffer requirements from the substation or indicate that the low density residential development prejudices their plans. The concern of this authority appears to be more related to a perception of conflict and detriment. In this regard they have requested that the DP be amended to include reference to the future substation and that it respond to issues such as aesthetic impact.

It is considered that the future substation is an important piece of context for the DP and therefore it is appropriate for it to be identified on the DP. Further it is appropriate for a landscaping buffer to be established along this boundary.

Powercor have also requested that any s.173 agreement include identification of the future substation so that it is brought to the attention of prospective purchasers, mortgagees, transferees and lessees. Whilst the intention behind this is understood, it is considered that this goes beyond the matters that a s.173 can provide for.

9. Conclusion

Detailed planning permit applications will be required for the future subdivision and development of the land but the Development Plan provides the framework for this to happen in a coordinated and efficient manner.

Overall the DP satisfies the requirements of DPO11 with relatively minor modifications required to address some of the issues discussed in this assessment.

It is recommended that Council resolve that the Development Plan for 460 Grossmans Road be supported in principle.