

Planning and Environment Act 1987

Panel Report

**Surf Coast Planning Scheme Amendment C99
Planning Permit Application 14/0287
305 Great Ocean Road, Jan Juc**

2 May 2016

Planning and Environment Act 1987

Panel Report pursuant to Section 25 of the Act

305 Great Ocean Road, Jan Juc

2 May 2016

A handwritten signature in black ink, appearing to read 'Sue Porter'. The signature is written in a cursive, flowing style with a large initial 'S'.

Sue Porter, Chair

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List of Abbreviations

BAL	Bushfire Attack Level
BMO	Bushfire Management Overlay
CCMA	Corangamite Catchment Management Authority
CFA	Country Fire Authority
DCP	Development Contribution Plan
DELWP	Department of Environment, Land, Water and Planning
DSE	Department of Sustainability and Environment (former)
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
LDRZ	Low Density Residential Zone
LPPF	Local Planning Policy Framework
NH	National Heritage
SANE	Surfers Appreciating the Natural Environment
SLO	Significant Landscape Overlay
SPPF	State Planning Policy Framework
TBC	To be confirmed
VPO	Vegetation Protection Overlay
VPP	Victoria Planning Provisions
WMO	Wildfire Management Overlay

Executive Summary

(i) Summary

The combined Amendment C99 (Amendment) and Permit Application 14/0287 (Application) was prepared by the Surf Coast Shire Council as Planning Authority. As exhibited, the Amendment proposes to:

- Rezone land from Farming Zone to Low Density Residential Zone (LDRZ)
- Amend Clause 21.08 Torquay–Jan Juc Strategy to delete the first point under Clause 21.08-6 - *Implementation – Undertaking further strategic work*; and
- Amend Map 1 to Clause 21.08 - *Torquay-Jan Juc Framework Map* to replace the designation “*Future Low Density Residential*” with “*Low Density Residential*.”

The Application seeks approval for:

- Stage subdivision of the land creating 16 lots ranging from 4,000 square metres to 5,981 square metres in area
- Removal of native vegetation
- Subdivision of land adjacent to a Road Zone Category 1.

Following exhibition of the Amendment, nine submissions were received with four opposing the Amendment/Application, four from agencies which did not oppose the Amendment/Application subject to conditions being placed on the permit; and one in support.

The range of issues identified in submissions related to:

- Strategic justification
- Landscape character and visual impact
- Vegetation removal, loss of nature and impact on wildlife
- Water supply, waterway protection and stormwater management
- Lot size and density
- Traffic and access
- Bushfire risk
- Permit conditions.

The Panel has considered all written submissions, as well as submissions and evidence presented to it during the Hearing. The Panel concludes:

- There is strong strategic support for both the proposed Low Density Residential rezoning and associated changes to the policy; and the subdivision of the land in accordance with the proposed Low Density Residential Zone Provisions.
- The proposed rezoning/subdivision will not have a significant impact on the landscape character of the area, but the establishment and maintenance of effective landscaping along the road frontages will be critical.
- The proposed subdivision/development of this land will not result in any unacceptable removal of vegetation; and any vegetation to be removed will be both offset by the retention of the four scattered trees and any vegetation offsets required by the permit conditions.

- Issues raised by Barwon Water and concerns raised by the CCMA have been adequately addressed through the permit conditions and their implementation, will ensure that stormwater run-off from the proposed subdivision will be managed to satisfaction of the CCMA without an adverse impact on water quality.
- The lot sizes and density proposed are consistent with the both the policy framework and provisions of the LDRZ and are an appropriate response to the features and characteristics of the site.
- Following the finalisation of the intersection treatment with VicRoads the proposed subdivision will not have any adverse traffic and access impacts.
- The proposed subdivision is not located within an area specifically identified as being of high fire risk and incorporates appropriate bushfire management measures to manage any potential bushfire risk.

Based on the reasons set out in this Report, the Panel recommends:

- 1. Surf Coast Planning Scheme Amendment C99 be adopted as exhibited.**
- 2. Planning Permit Application 14/0287 14/0287 be issued as exhibited with the recommended changes as highlighted in the 'Recommended Permit Conditions' shown in Appendix D and discussed throughout this report.**

1 Introduction

1.1 The Amendment/Application and Panel process

The combined Amendment C99 (Amendment) and Permit Application 14/0287 (Application) was prepared by the Surf Coast Shire Council as Planning Authority. As exhibited, the Amendment proposes to:

- Rezone land from Farming Zone to Low Density Residential Zone (LDRZ)
- Amend Clause 21.08 *Torquay-Jan Juc Strategy* to delete the first point under Clause 21.08-6 - *Implementation – Undertaking further strategic work*; and
- Amend Map 1 to Clause 21.08 - *Torquay-Jan Juc Framework Map* to replace the designation “*Future Low Density Residential*” with “*Low Density Residential*.”

The Application seeks approval for:

- Stage subdivision of the land
- Removal of native vegetation
- Subdivision of land adjacent to a Road Zone Category 1.

The joint Amendment/Application was prepared at the request of St Quentin Consulting Pty Ltd on behalf of Great Ocean Roads Projects Pty Ltd (the Proponent) and was authorised by the Department of Environment, Land, Water and Planning (DELWP) under delegation from the Minister for Planning on 29 September 2015.

The joint Amendment/Application was placed on public exhibition between 5 November 2015 and 7 December 2015 with nine submissions received; four opposing the Amendment/Application, four from agencies which did not oppose the Amendment/Application subject to conditions being placed on the permit; and one in support.

At its meeting of 28 January 2016, Council resolved to refer the submissions to a Panel. As a result, a Panel to consider the Amendment/Application was appointed under delegation from the Minister for Planning on 16 February 2016 and comprised Sue Porter (Chair).

A Directions Hearing was held in relation to the Amendment/Application on 29 February 2016.

Before the Hearing, the Panel undertook an inspection of the subject site and surrounds.

The Panel then met in the offices of Surf Coast Shire Council on 21 March 2016 to hear submissions. Those in attendance at the Panel Hearing are listed in Table 1.

Table 1 Parties to the Panel Hearing

Submitter	Represented by
Great Ocean Roads Projects Pty/Ltd	Mr Chris Martin of the St Quentin Consulting Pty Ltd who called the following expert witnesses: <ul style="list-style-type: none"> - Mr Nevan Wadeson, Tract Consulting – Planning. - Mr Stephen Schutt, Hansen Partnership – Visual Impact Assessment.
Surf Coast Shire Council	Mr Jorgen Peeters, Senior Strategic Planner
Mr Stephen Sands	
Surfers Appreciating the Natural Environment (SANE)	Mr Graeme Stockton

1.2 The proposal

The Amendment/Application relates to land at 305 Great Ocean Road, Jan Juc.

The 10.3 hectare site is located on the south-west corner of Great Ocean Road and Bells Boulevard, with existing access to the site via Great Ocean Road. It contains an existing double-storey dwelling and associated outbuildings, tennis court, small dam, grazed paddocks, rural fencing, stands of planted non-native and exotic trees, as well as a patch of remnant native vegetation. The site generally falls from the north-west (83.86m AHD) to the south-east (51.81m AHD) towards a drainage line which forms part of the upper tributary of Jan Juc Creek.

The Amendment/Application seeks to alter the policy framework to recognise that this site will be developed for low density residential purposes; and approve a proposed low density subdivision.

The proposed subdivision will create 16 lots ranging from 4,000 square metres to 5,981 square metres in area. Access to the subdivision will be provided via new internal roads with a single access point from Bells Boulevard. The original access serving the existing dwelling from Great Ocean Road will remain and serve that function alone. Each lot will have designated building and effluent disposal envelopes.

A proposed 15 metre wide landscape buffer will be provided along Great Ocean Road and Bells Boulevard. A 0.5 hectare conservation reserve is proposed in the south-east corner of the site which will contain the existing dam and remnant vegetation.

Land to the south and east is low density residential with allotments varying in size from 3,770 square metres to over 5 hectares. Land to the west is broad acre farming land. Land immediately to the north is farming and land to the north-east forms part of the Spring Creek Urban Growth Area which will provide for the development of around 1800 dwellings, a small neighbourhood centre, a network of public open space and linear trails and a community facility and a school.

The Torquay-Jan Juc settlement boundary runs along the western boundary of the site.

Great Ocean Road is a VicRoads arterial road zoned Road Zone Category 1. Great Ocean Road is listed on the National Heritage Register and is a major tourist attraction, with much of the road following the coastline. In the vicinity of the subject site, Great Ocean Road is an undivided road with a single traffic lane in each direction, sealed shoulders and a 100km/h speed limit.

Bells Boulevard is a secondary state arterial road under VicRoads control that is orientated in a primarily north-south direction between Great Ocean Road and Bones Road. It is an undulating two lane road with gravel shoulders, vegetated verges and a speed limit of 80km/h. It is the main route to the iconic and heritage listed Bells Beach Surfing Recreation Reserve.

2 Identification of issues

2.1 Issues dealt with in this Report

The Panel considered all written submissions, as well as submissions and evidence presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from an inspection.

This report deals with the issues under the following headings:

- Strategic justification
- Landscape character and visual impact
- Vegetation removal, loss of nature and impact on wildlife
- Water supply, waterway protection and stormwater management
- Lot size and density
- Traffic and access
- Bushfire risk
- Permit conditions.

3 Planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

The Panel has reviewed the policy context of the Amendment and made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies as outlined below.

3.1 Policy framework

(i) State Planning Policy Framework (SPPF)

Council submitted that the Amendment is supported by the following clauses in the SPPF:

- **Clause 10.04 - *Integrated decision making*** - requires planning authorities to balance conflicting policy objectives in the interests in favour of net community benefit and sustainable development for present and future generations.
- **Clause 11.02- *Urban growth*** - requires municipalities to undertake planning to accommodate at least 15 years land supply in nominated locations with consideration of consolidation and intensification of existing urban areas; neighbourhood character and landscape values; land capability, natural hazards and environmental quality; and service limitations and the cost of providing infrastructure. It states that low density rural residential development should be restricted where it would compromise future development at higher densities.
- **Clause 11.05-5 - *Coastal settlement*** - supports a network of diverse coastal settlements which provides for a broad range of housing types, economic opportunities and services. It also encourages urban renewal and redevelopment opportunities within existing settlements to reduce the demand for urban sprawl. This policy requires the identification of a clear settlement boundary around coastal settlements to ensure that growth is planned and coastal values protected, and directs residential and other urban development and infrastructure within defined settlement boundaries of existing settlements capable of accommodating growth.
- **Clause 11.07 - *Geelong (G21) regional growth*** - gives effect to the G21 Regional Growth Plan. It supports the growth of Torquay-Jan Juc as a district town.
- **Clause 12 - *Environmental and landscape values*** - states that planning should help to protect the health of ecological systems and the biodiversity they support (including ecosystems, habitats, species and genetic diversity) and conserve areas with identified environmental and landscape values. It directs that strategic planning should avoid and minimise significant impacts of land use and development on Victoria's biodiversity (Clause 12.01-1 Protection of biodiversity) and the permitted clearing of native vegetation should result in no net loss in the contribution made by the vegetation to Victoria's biodiversity (Clause 12.01-2 Native vegetation management).

- **Clause 12.02 - Coastal areas** - seeks to enhance the value of coastal areas to the community and ensure sustainable use of natural coastal resources; ensure development conserves, protects and enhances coastal biodiversity and ecological values; and ensure development is sensitively sited and designed and respects the character of coastal settlements. This clause refers to the '*hierarchy of principles*' of the *Victorian Coastal Strategy 2014*. Of particular relevance is Principle 4: Ensure development on the coast is located within existing modified and resilient environments where the demand for development is evident and any impacts can be managed sustainably.
- **Clause 12.02-6 - The Great Ocean Road region** - seeks to manage the sustainable development of the Great Ocean Road region by requiring that the growth of towns be managed by directing urban growth to strategically identified areas and to ensure development responds to the identified landscape character of the area. It references *The Great Ocean Road Region – A Land Use and Transport Strategy* (DSE, 2004) as a guiding document for this area. This strategy nominates Torquay as a 'gateway' to the region capable of accommodating substantial new development.
- **Clause 13 - Environmental risks** - states that planning should adopt a best practice environmental and risk management approach which aims to avoid or minimise environmental degradation and hazards. Clause 13.05 (Bushfire) requires consideration of bushfire risk when planning for settlements and assessing development with the aim of strengthening community resilience to bushfire and protecting human life.
- **Clause 14 - Natural resource management** - requires planning to assist in the conservation and wise use of natural resources, including energy and water, protection of productive agricultural land, protection and restoration of catchments and waterways and protection of water quality. Relevant strategies under Clause 14.02-1 (Catchment planning and management) include:
 - Retain natural drainage corridors with vegetated buffer zones at least 30 metres wide along each side of a waterway to maintain the natural drainage function, stream habitat and wildlife corridors and landscape values, to minimise erosion of streambanks and verges and to reduce polluted surface runoff from adjacent land uses.
 - Undertake measures to minimise the quantity and retard flow of stormwater runoff from developed areas.
 - Encourage measures to filter sediment and wastes from stormwater prior to its discharge into waterways.
 - Ensure that works at or near waterways provide for the protection and enhancement of the environmental qualities of waterways and their instream uses.
 - Require the use of appropriate measures to restrict sediment discharges from construction sites.
- **Clause 15 - Built environment and heritage** - states that planning should ensure all new land use and development appropriately responds to its landscape, valued built

form and cultural context; and protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value.

- **Clause 15.01-1 - *Urban design*** - identifies that development should respond to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate; and encourages the retention of existing vegetation or revegetation as part of subdivision and development proposals.
- **Clause 16 – *Housing*** - seeks to provide for housing diversity and ensure the efficient provision of supporting infrastructure. Regarding the provision of land for rural residential development, Clause 16.02-1 stipulates that land should only be rezoned for rural residential development where it:
 - does not encroach on high quality productive agricultural land
 - does not impact on waterways or other natural resources
 - is located close to existing towns and urban centres, but not in areas that will be required for fully serviced urban development; and
 - can be supplied with electricity and water and good quality road access.
- **Clause 19.03-2 - *Development infrastructure*** - requires planning for the provision of water supply, sewerage and stormwater drainage services that efficiently and effectively meet State and community needs and protects the environment; and provides responsible authorities with an opportunity to collect development contributions on the basis of an approved Development Contribution Plan (DCP) to facilitate the timely provision of infrastructure to communities.

(ii) Local Planning Policy Framework (LPPF)

Council submitted the Amendment supports the following local planning objectives:

- **Clause 21.01-4 - *Municipal Framework Plan*** - states the natural environment is the single most important attribute and asset of the Shire and recognises Torquay-Jan Juc as one of two towns within the Shire capable of supporting substantial growth.
- **Clause 21.02 - *Settlement, Built Environment, Heritage and Housing*** - acknowledges that relatively strong population growth within the coastal towns is expected to continue for the foreseeable future due to sustained interest in the region's natural environment. It also identifies Torquay as the only coastal town in the Shire with capacity to accommodate substantial growth.
- **Clause 21.02-3 - *Settlement Patterns*** - aims 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. It directs the majority of urban growth in the Shire to Torquay-Jan Juc and Winchelsea and seeks to maintain clear non-urban breaks between settlements.
- **Clause 21.02-4 - *Neighbourhood Character*** - seeks 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. Strategies include:

- Ensure residential development densities are compatible with the protection of indigenous vegetation and the historic neighbourhood character of the Surf Coast settlements; and
- Recognise the key role vegetation plays in defining township character and in softening urban development.
- **Clause 21.02-6 - *Open Space and Infrastructure*** - seeks to ensure that open space is landscaped and developed in a manner consistent with the character of the local area. The use of indigenous planting in the landscaping of open space is encouraged.
- **Clause 21.03-2 - *Environmental Assets*** - seeks to protect and enhance the Shire's diverse natural resources in an ecologically sustainable manner for present and future generations. Relevant strategies are:
 - Retain and enhance adequate and appropriately vegetated riparian and wetland buffer zones to prevent nutrients and sediments entering waterways, lakes, wetlands and estuaries, and to slow the rate of runoff.
 - Ensure that development on and near the coast is compatible with and enhances the environmental values, visual character and amenity of the coastal environment.
 - Encourage the protection, maintenance and re-establishment of indigenous vegetation and the removal of environmental weeds.
- **Clause 21.03-3 - *Environmental Risks*** - states that rezoning and development of land for urban purposes should be avoided where there is a high risk of wildfire.
- **Clause 21.06 - *Rural Landscape*** - seeks to protect the landscape values of the Shire's rural areas. Relevant objectives and strategies include:
 - 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.
 - Strongly discourage development on the coastal side of the Great Ocean Road, and in particular, avoid any development within the viewshed of the Bells Beach Surfing Recreation Reserve.
 - Protect the rural landscape from urban intrusion and to provide clear distinction between townships.
 - Recognise the importance of maintaining the visual landscape qualities of the Great Ocean Road environs both for residents and visitors to the coast.
- **Clause 21.07 - *Rural Residential Living*** - recognises 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. It seeks to restrict lot sizes for rural residential development so that land is used more efficiently. To this end, lot sizes of between 0.4 hectares to 1 hectare are encouraged in the LDRZ, unless larger lots are required for the onsite treatment of wastewater or to protect significant vegetation or landscape values.

It also seeks to ensure that rural residential development is appropriately located and does not result in the loss of productive agricultural land or detract from the landscape, cultural heritage or environmental values of adjoining land. 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.

- **Clause 21.08 – Torquay-Jan Juc Strategy** - recognises the growth pressures affecting Torquay-Jan Juc and the consequential need to balance these pressures with maintaining the town’s valued coastal character; and environmental and landscape values. One of the key issues is the erosion of significant landscape qualities and coastal viewsheds through the prominence of buildings and removal of vegetation.

Relevant strategies under Clause 21.08-2 (*Settlement, Built Environment and Housing*) are to:

- Contain and consolidate urban development within the defined settlement boundary as indicated in the Torquay-Jan Juc Framework Map.
 - Retain the green break between the Torquay-Jan Juc settlement boundary and Bellbrae.
 - Protect existing areas within the LDRZ to continue to provide low density housing types and to provide a transition to surrounding rural land.
- **Clause 21.08-3 - Environment and Landscape** - seeks to protect and enhance significant environmental, landscape and cultural heritage features by:
 - Placing high priority on the protection and enhancement of remnant vegetation throughout Torquay-Jan Juc.
 - Ensuring the siting and design of new development sensitively responds to interfaces with environmentally sensitive areas.
 - Ensuring 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 soften the appearance of development within the streetscape and when viewed from public spaces.
 - **Clause 21.08-6 - Implementation – Undertaking further strategic work** - it is a specific action to investigate, at the appropriate time, the rezoning of 305 Great Ocean Road for low density residential use.

(iii) Other planning strategies or policies used in formulating the Amendment

Torquay and Jan Juc Structure Plan (2007)

The *Torquay and Jan Juc Structure Plan 2007* is a reference document listed under Clause 21.08. It provides a land use framework for the development and growth of Torquay-Jan Juc. The Structure Plan was implemented through Amendment C37, gazetted in June 2010.

Under ‘*Settlement – Planning, Design and Built Form*’ (p. 87), relevant objectives and strategies are:

- *To accommodate the population growth of the Surf Coast Shire within Torquay-Jan Juc as one of two main urban growth centres in the Shire.*

- *To create a planned township that makes efficient use of land in providing opportunities for residential growth and economic development.*
- *To maintain and enhance the distinct and unique surfing identity and coastal character of Torquay-Jan Juc.*
- *To achieve a diversity of housing types responsive to the needs of the community in styles that reflect the coastal image and character of the town and its natural environment.*
- *Limited opportunities for low density residential development will be maintained on the edges of the town and will not be allowed to sprawl beyond the settlement boundaries. These low density residential areas serve to protect areas of remnant vegetation and provide a zone of urban / rural transition to the north and south-west.*
- *Low density residential development sited on the perimeter of the Torquay Jan Juc towns serves to reinforce the urban town boundary to the north, north-west and south-west. The provision of low density residential development is not anticipated to meet all demand, but offers an additional form or choice of residential living / housing in close proximity to urban services and facilities.*

The Structure Plan discusses, and provides qualified support for, the potential rezoning of the subject site for low density residential development. In considering any rezoning, consideration should be given to urban area integration, supply and demand, servicing, land use compatibility, resource protection and hazards, and landscape and heritage values.

The Structure Plan map shows the subject site within the settlement boundary marked as “*Low Density Residential (Lot Size > 4,000sqm)*”.

Sustainable Futures Plan Torquay Jan Juc 2040 (2012)

The *Sustainable Futures Plan Torquay Jan Juc 2040 (2012)* is a reference document listed under Clause 21.08. It provides the strategic basis for Clause 21.08 and was implemented through Amendment C66 in March 2014. A revised version was adopted by Council in June 2014.

The Plan is structured around five core values and principles which reflect the community’s aspirations and together provide a basis for managing growth in a sustainable manner. The five core values are:

1. *Places for people* – The importance of a close knit community
2. *The natural environment* – Protecting and enhancing the natural environment
3. *The built environment* – Fostering the unique coastal look and feel
4. *Services and infrastructure* – Planning for services and infrastructure with development
5. *A local economy* – Providing employment opportunities locally.

3.2 Planning scheme provisions

(i) **Zone**

- **Clause 35.07** - Farming Zone.
- Abuts a Road Zone, Category 1.

(ii) **Overlays**

- **Clause 42.02 - Vegetation Protection Overlay Schedule 1 (VPO1).**

(iii) **Particular provisions**

- **Clause 52.01** – *Public Open Space Contribution and Subdivision*
- **Clause 52.17** – *Native Vegetation*
- **Clause 52.29** - *Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road*
- **Clause 56.07-1** – *Integrated water management – Drinking water supply*
- **Clause 56.07-4** - *Integrated water management – Urban run-off management objectives*

(iv) **General provisions**

- **Clause 65** – *Decision Guidelines*

3.3 Ministerial Directions and Practice Notes

(i) **Ministerial Directions**

The Form and Content of Planning Schemes (s7(5))

The Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act.

Ministerial Direction -11 - Strategic Assessment of Amendments

The Amendment is consistent with the Ministerial Direction 11 (Strategic Assessment of Amendments).

(ii) **Planning Practice Notes**

Planning Practice Note PPN37 - Rural Residential Development

Planning Practice Note 37 ' (DELWP, June 2015) applies to use and development within the Low Density Residential, Rural Living and Green Wedge A Zones. This Practice Note poses some 'tests' against which Rural Residential proposals should be assessed. These include:

- **Strategy:** Does rural residential development align with the overall strategic planning of the municipality?
- **Housing need:** How much rural residential development is required to provide appropriate housing diversity and choice to meet housing needs?
- **Location:** Where should new rural residential development take place?
- **Subdivision and design:** Is the new rural residential development subdivided and designed in an attractive setting offering high amenity and efficient infrastructure?

The above matters have been addressed throughout this submission.

3.4 Other relevant legislation

Environment Protection and Biodiversity Conservation Act 1999

Great Ocean Road is included on the National Heritage List (ID105875 *Great Ocean Road and Scenic Environs*). Approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is required for any action that has, will have or is likely to have a significant impact upon the National Heritage (NH) values of the place. An action is likely to have a significant impact if there is a real chance or possibility that the action will (amongst other matters) *“involve the construction of buildings or other structures within, adjacent to, or within important sight lines of a National Heritage Place which are inconsistent with relevant values”*.

The core values associated with the NH listing of Great Ocean Road include the WWI memorial and archaeological evidence of the repatriation workers' camps; the iconic coastal journey through the inspirational landscape; geomorphological processes and rare fossils; and the recreational tourism and surfing heritage associated with Bells Beach.

3.5 Conclusion

The Panel concludes that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework.

The Panel concludes that the Amendment is well founded and is strategically justified subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

4 Strategic justification

4.1 The issue

Is the proposed rezoning and subdivision strategically justified and how have competing policy objectives relating to growth and environmental protection been balanced?

4.2 Evidence and submissions

Mr Graeme Stockton (Submitter 5) made a submission on behalf of Surfers Appreciating the Natural Environment (SANE) and raised a series of questions about how the earth can continue to accommodate population growth without having irreversible impacts on its ability to regenerate.

Mr Stockton questioned the appropriateness of broader planning for the Torquay-Jan Juc area and whether additional dwellings are required given the growth anticipated in Armstrong Creek and Geelong. He submitted this proposal is just a case of the owner seeking to make a profit; that subdivision should not be seen as a given right and that there needs to be a change in the entitlement notion if we are to halt losses in nature. He submitted that if this Amendment is successful, it will set a precedent for other properties along Bells Boulevard and Great Ocean Road which would lead to significant inevitable community and environmental consequences.

Mr Stockton also submitted the SPPF and the LPPF are full of inconsistencies, particularly when it comes to objectives which seek to support growth, yet at the same time protect environmental values. He submitted these are at odds with any aspirations regarding nature conservation locally, nationally and internationally and that the number of threatened species and extinctions continue to soar locally, nationally internationally.

Mr Foss, on behalf of the Surfrider Foundation (Submitter 6), submitted there is no strategic justification for the proposed rezoning as there is in excess of 25 year supply of vacant land in the Torquay-Jan Juc region that will provide an ample supply of low density residential land for the next 15-25 years, therefore meeting the Shire's statutory requirements. He submitted the proposed rezoning would extend beyond the Torquay boundary established through the Spring Street Structure Plan; and if approved, would encourage subdivision by stealth and set a dangerous precedent for other developers who wish to develop land to the west of Torquay.

Mr Peeters, on behalf of Council, submitted there is very strong policy support, both at the State and local level, to restrain the outward expansion of existing settlements by containing urban development within existing settlement boundaries and promoting urban consolidation. He submitted the proposed low density residential rezoning is consistent with strategic plans for Torquay-Jan Juc as it is both within the existing township boundary and has been specifically earmarked for future low density residential development for many years.

Mr Peeters submitted the Surf Coast Planning Scheme has clear policy direction around the provision of rural residential land, directing it to existing locations and strategically identified potential future development sites, of which this one. He submitted that beyond these,

Council does not intend to identify any new areas within Torquay-Jan Juc to satisfy demand for rural living.

Whilst recognising the subdivision will not make a significant contribution to satisfying the future demand for residential land in Torquay-Jan Juc, Mr Peeters submitted it will make a modest contribution to providing housing choice and diversity of residential lots as an alternative to conventional lots within an urban environment.

For these reason, Mr Peeters submitted the proposed Amendment and Application are both strategically justified.

Mr Martin, on behalf of the Proponent, submitted the subject land has been within the defined township boundary for almost a quarter of century and strategically identified as potential rural living for at least 20 years. He submitted this was recognised in the *Torquay/Jan Juc Structure Plan 1992*, *Comprehensive Strategy Plan for Torquay-Jan Juc 1996*; and later, the *Torquay-Jan Juc Structure Plan 2007* expanded on this and specifically included the site within the township boundary and identified it as 'Low Density Residential lot size >4,000 sqm'. He submitted this policy position has again been reinforced through *Sustainable Futures Plan Torquay-Jan Juc 2040* which sets out the strategic framework for growth and development for Torquay-Jan Juc and continues to identify the site within the township boundary and as low density; which is now reflected in the LPPF¹.

Mr Martin also relied upon the expert planning evidence of Mr Wadeson from Tract. In his evidence, Mr Wadeson emphasised the proposed rezoning has strong strategic support through both State² and local policy³ which aim to:

- provide land for diversity of housing choice
- promote sustainable growth in Regional Victoria
- identify clear settlement boundaries
- acknowledge Torquay's capacity to accommodate substantial growth
- provide land for rural living and restricting lot sizes to use it more efficiently
- encourage lot sizes in the range of 0.4 hectartes to 1 hectare in the LDRZ
- direct new rural living subdivision to identified areas including Torquay-Jan Juc.

It was Mr Wadeson's evidence that the Surf Coast Planning Scheme also specifically anticipates the low density residential rezoning of this site, which is identified in the Municipal Strategic Statement at Clause 21.08 – *Torquay- Jan Juc Strategy* which sets out a number of key policy objectives, including:

- Torquay-Jan Juc is the Shire's main urban growth centre
- the need to provide additional residential land to support growth
- balancing growth and development densities through the values of 'Places for People', 'Natural Environmental', 'Built Environment', 'Services and Infrastructure', and 'Local Economy.'

¹ Clauses 21.07 and 21.08

² Clause 11

³ Clauses 21.02, 21.07 & 21.08

- containing and consolidating urban development within the defined settlement boundary as indicated on Torquay-Jan Juc Framework Map.⁴
- retaining the green break to Bellbrae west of the settlement boundary; and
- providing for a range of housing types, including low density.

For these reason, it was Mr Wadeson's evidence that the Amendment seeks to implement current planning policy in the Shire and the land should be rezoned accordingly.

4.3 Discussion

The Panel accepts the questions raised by Mr Stockton are important and valid to ask in both a local and global context as there is no doubt development can have adverse impacts on significant environment values and wildlife habitat. There is no doubt that we need to plan to accommodate a growing population.

A big challenge for planning is meeting the various needs of a growing population without significantly impacting on the environment. This is achieved through strategic planning, undertaken in consultation with the community, which identifies where growth will occur and what sensitivities and constraints need to be addressed; and is then expressed through policy contained within the State and Local planning policy.

This strategic work has been undertaken in relation to Torquay-Jan Juc and is reflected in local policy within the Surf Coast Shire Planning Scheme. It is that policy that this Panel must have regard to when considering submissions to this Amendment/Application.

Whilst the Panel agrees with Mr Stockton that many of these policy statements may appear to conflict with each other, it does consider this means the planning system is flawed. The SPPF⁵ clearly acknowledges that at times policy can be in conflict and provides guidance about how to deal with this, stating:

Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development.

Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

Therefore, when assessing any conflicting objectives, planning authorities are required to balance competing objectives when preparing and implementing policy in favour of net community benefit and future generations.

It is clear that the future development of Torquay-Jan Juc has been the subject of strategic work for over 25 years. The issues of growth both in terms of the type of growth to occur, its location and how this responds to issues such as environmental protection and landscape protection has been extensively considered over a long period of time.

⁴ Map 1 of Clause 21.08- Torquay-Jan Juc Framework Map

⁵ Clause 10.04 - Integrated decision making

During this time and the various iterations of strategic documents, the subject site has consistently been identified within the township boundary, which is clearly recognised within the current local planning policy.

Not only does this policy identify the site within the township boundary and for future low density, it has also been specifically identified as a site that should be considered for future low density residential purposes. It is not often in planning that policy in relation to a specific property is so clearly articulated within the planning scheme. For this reason, the Panel is satisfied that the proposed Amendment and Application are both strategically justified.

In relation to Mr Stockton and Mr Foss's concerns that the proposed rezoning/subdivision will create a 'dangerous precedent' and enable 'subdivision by stealth', the Panel does not agree. As policy clearly identifies this site within the township boundary and as future low density residential development, it is the policy that creates the expectation that this form of development will occur. If other land is similarly recognised in policy as having this development potential, then its' development as such is not 'subdivision by stealth', but rather implementation of policy. If other land does not have the same policy support, that being outside the township boundary, then policy⁶ is quite clear that this form of development will not be supported.

Whilst Mr Stockton raised concerns about profit motivation and entitlement attitudes, the Panel does not intend to examine these issues in detail as they go beyond the scope of this Amendment.

For this reason, the Panel accepts the submissions of Council, Mr Martin and the evidence of Mr Wadeson that this is a site that has strong strategic support for both a rezoning to Low Density Residential and the consequential changes to policy, and the proposed subdivision of the land.

4.4 Conclusions

The Panel concludes there is strong strategic support for both the proposed Low Density Residential rezoning and associated changes to the policy; and the subdivision of the land in accordance with the proposed Low Density Residential Zone provisions.

⁶ Clauses 21.02-3, 21.06, 21.07 and 21.08

5 Landscape character and visual impact

5.1 The issue

Will the proposed development have a negative visual impact on the landscape character of the area?

5.2 Evidence and submissions

Mr and Mrs Sands (Submitter 4) submitted the subject site is located on the highly exposed corner of Great Ocean Road and Bells Boulevard which is the gateway to Bells Beach, an iconic surfing reserve, and that this subdivision will have a negative impact on the visual values and is '*just not Bells*'.

Mr Graeme Stockton submitted the natural landscape is a defining feature of the amenity of the area and needs to be protected as a matter of highest priority. He submitted Great Ocean Road is clearly identified on the National Heritage Register and that Bells Boulevard is the main route to the iconic and heritage listed Bells Beach Surfing Recreation Reserve. He submitted the environment in Torquay is its biggest economic asset, and therefore enhancing the rural landscape and nature along this stretch of road makes much better economic sense than expanding the urban footprint. He submitted that visitors do not come to see buildings; they come for the natural environment and coastal views.

Mr Foss submitted the Victorian Coastal Strategy is clear on its intent to protect coastal vistas in Victoria, however, this proposal is contrary to the strategy as it will have a negative impact on the coastal vista and the driver experience as people travel along Great Ocean Road. He submitted that visitors to Torquay have a strong desire to experience a rural vista as they travel along Great Ocean Road and visit Bells Beach. He submitted the visitor experience to Torquay and Bells Beach would be degraded by any rezoning and development of this land.

Mr Phil Stockton (Submitter 7) submitted that amenity through the natural landscape is a defining feature of the area which must be protected, but submitted they are losing the battle as the area is now up for sale with developers seeking to cash in on the Surf Coast's natural environment.

Mr Peeters accepted that due to the sites location, its fall and predominantly open nature that there is potential for future dwellings to become visible from roads and the surrounding area which could detract from the scenic value of the environs, however, he submitted that whilst some landscapes are recognised as being significant, such as the Bells Beach Surfing Recreation Reserve which is covered by a Significant Landscape Overlay (SLO), this site is not recognised as having landscape significance and therefore is not afforded the same level of protection.

He submitted the *Torquay-Jan Juc Structure Plan* (2007) commented on the landscape values of this site when assessing its suitability for potential rezoning, stating:

The site captures distant views of the ocean, overlooking the Jan Juc settlement, and whole this view is pleasant it is not particularly significant or demanding of protection as

an entry vista to Jan Juc. Nevertheless, consideration of support for additional development on this site would need to address the landscape outcomes.

He submitted that based on the visual impact assessment work undertaken by Hansen, Council is satisfied the proposed 15 metre wide landscape buffers with planting of indigenous lower, middle and upper storey indigenous vegetation reaching 10 metre high along both Great Ocean Road and Bells Boulevard frontages, combined with the definition of building envelopes and limiting building heights to 7.5 metre will be an acceptable response to the site and its surrounds. For these reasons, he submitted he considered the proposal had satisfactorily responded to the issues of landscape amenity and visual impact.

In response to concerns about creating precedence, Mr Peeters submitted that as the proposal is located within the township boundary no further growth to the west is contemplated. He submitted the boundary was established through strategic work undertaken and is supported by policy; and therefore it will not set a precedent.

Mr Martin reiterated the comments contained in the 2007 *Torquay-Jan Juc Structure Plan*, in relation to the landscape values associated with the site and emphasised the site is not located within a SLO, which is the relevant statutory tool used to identify significant landscapes and to conserve and enhance the character of such landscapes.

Mr Martin relied upon the expert evidence of Mr Stephen Schutt, Landscape Architect, who gave evidence in relation to a visual impact assessment undertaken by Hansen Partnership and landscape treatments proposed. Through his evidence, Mr Schutt presented a comprehensive view shed analysis which identified that of the most sensitive viewsheds, three will have no view to the site, seven have potential views to less than 50 per cent and four have potential views to greater than 50 per cent, noting that this analysis is based on topography alone and does not consider screening effects of built form, vegetation or any other visual obstruction.

It was his evidence that based on the topography combined with the proposed landscaping measures, the proposed building envelopes, maximum 7.5 metres building heights and setbacks from road frontage that the visual exposure of the site will be significantly reduced from the surrounding area; and that once the vegetation is fully established, it will substantially screen views towards future dwellings from public roads and neighbouring properties. In terms of longer range views, Mr Schutt's evidence concluded that whilst some of the future dwellings may be partially visible, the resultant impact will be insignificant due to the combined mitigating factors of distance and vegetation, which he said is consistent with the requirements of the Surf Coast Planning Scheme.

Mr Martin also submitted the layout of the proposed subdivision attempted to provide for the sharing of views from future dwellings and building envelopes were informed by a view analysis which assumed that future dwellings would be limited to 7.5 metres above natural ground level. He submitted it would be the Proponent's preference that this height limitation be included as part of draft Condition 4.

5.3 Discussion

The Panel has had regard to the status of the site given its location along Great Ocean Road, which is included on the National Heritage List (ID105875 *Great Ocean Road and Scenic Environs*) and where approval is required under the Commonwealth EPBC Act if any action is likely to have a significant impact if there is a real chance or possibility that the action will (amongst other matters) *“involve the construction of buildings or other structures within, adjacent to, or within important sight lines of a National Heritage Place which are inconsistent with relevant values”*.

The core values associated with the National Heritage listing of Great Ocean Road include the World War 1 memorial and archaeological evidence of the repatriation workers' camps; the iconic coastal journey through the inspirational landscape; geomorphological processes and rare fossils; and the recreational tourism and surfing heritage associated with Bells Beach. The greatest risk associated with the proposed subdivision on these values would be the impact of the design and siting of future housing on the aesthetic values of the National Heritage place (i.e. the outstanding scenic landscape values and diversity of natural landscapes able to be viewed from the road unencumbered by intrusive built structures).

The Panel was informed by the Proponent that referred the application under the EPBC Act to the Commonwealth Department of Environment and was advised the proposal is not a controlled action requiring approval under that Act. The Panel was provided with correspondence to this effect.

For this reason, the Panel is satisfied that the proposed Amendment and Application will not have a detrimental impact on the national heritage listed Great Ocean Road and scenic environs.

In considering the more localised visual impacts and landscape character, the Panel notes that despite the extensive application of SLO throughout the Torquay-Jan Juc area, including SLO1 (*Great Ocean Road and Coastal Environs Bells Beach, Point Addis, Big Hill and Lorne Hinterland*) and SLO6 (*Central Torquay and Jan Juc Residential Areas*) which has been applied to land immediately to the east of the subject site, this site is not included within a SLO and therefore is not recognised within the planning scheme as having significant landscape values. In particular, the site is not near or within the area of visual sensitivity identified around the Bells Beach Surfing Recreation Reserve.

The Panel notes that a previous assessment of the landscape values associated with this site, undertaken as part of the Torquay-Jan Juc Structure Plan, concluded the values are not *‘particularly significant or demanding of protection.’*

For these reasons, the Panel is satisfied the proposed rezoning and subsequent development will not have a detrimental impact on any significant landscape values, and in particular, along Great Ocean Road or from the Bells Beach Surfing Recreation Reserve.

That does not mean, however, that this is a site where anything goes as there is still significant policy emphasis⁷ to ensure that development responds to the characteristics of

⁷ Clause 21.02-4 – Neighbourhood Character, Clause 21.03-2 – Environmental Assets, Clause 21.06 – Rural Landscapes & Clause 21.08-3 – Environment and Landscape

this site and its coastal/rural location and character values. Yet this needs to be balanced with the recognition that this site is located within the township boundary and has long been identified as a site that can accommodate low density residential development, as has the land to the south and the east of the subject site. For this reason, the Panel does not agree with submissions made by Mr Foss and Mr Sands that in this location the rural vista needs to be retained. Yet the Panel agrees with Mr Sands that as land to south of the subject site is heavily vegetated and presents a bushland character, there is a need to ensure development on this prominent corner site is respectful of this character.

Based on Mr Schutt's visual impact assessment, the Panel is satisfied that given the elevation of the site at the corner of Bells Boulevard and Great Ocean Road, combined with the proposed substantial landscape reserves (15 metres wide) and planting regime, building height limits, building envelopes, internal road location and retention of the existing vegetation in the south-east corner of the site corner of the site, that the proposal will not have an unreasonable impact on the landscape amenity or character of the area.

The Panel considers the provision of the landscaping reserves and the vegetation proposed is critical to this proposal. If such landscaping was not proposed, then the Panel considers the visual impact of the proposed development would not be acceptable, particularly in this location and at the edge of the township boundary. For this reason, the Panel considers it important to ensure the landscaping is provided early within the development of the site and maintained to ensure its survival.

It is noted there is a condition on the permit that requires a landscape plan be approved prior to the certification of the plan of subdivision of the first stage of the proposal. The Panel does not agree with Mr Martin that this is not an appropriate condition. The resolution of the landscaping plan and planting as early as possible within the development is considered essential to ensure the vegetation can get established and provide visual screening as quickly as possible. The Panel also notes there is a condition on the proposed permit which states that the landscaping must be maintained for a minimum of two years to the satisfaction of the responsible authority and that any dead or diseased trees are to be replaced. Whilst the Panel agrees with this condition, given the frequency and severity of drought conditions, two years is not considered sufficient to ensure the survival of this landscaping; and considers this should be extended to five years. It may also be appropriate for a condition to be placed on the permit which requires a bond be paid to Council to ensure these trees are maintained, and replaced if necessary once the land is sold/developed. The amount of the bond should be a matter for Council and the Proponent to determine. The Panel will include a general condition on the permit recognising this may need to be amended to reflect any standard Council approach.

The Panel also considers that limiting the height of future buildings to 7.5 metres is an appropriate and recommends a condition to this effect be included on the permit.

There was also discussion amongst the parties at the Hearing about what buildings and works should be included within the building envelopes and it was agreed that in addition to dwellings and associated outbuildings, tennis courts and swimming pools should also be limited to locating within the building envelopes. The Panel agrees with this and has recommended alteration to Condition 4(b) to reflect this.

5.4 Conclusions

The Panel concludes the proposed Amendment and Application will not have a significant impact on the heritage listed Great Ocean Road and scenic environs and the Bells Beach Surfing Recreation Reserve.

The Panel also concludes the proposed rezoning/subdivision the subdivision will not have a significant impact on the landscape character of the area, but that the establishment and maintenance of effective landscaping along the road frontages will be critical.

5.5 Recommendations

The Panel recommends:

Amend Condition 8 of the proposed draft permit to read.

- ***“All landscaping within the reserves on the subject land must be maintained (including replacement of any dead or diseased planting) for a minimum period of five years to the satisfaction of the responsible authority.”***

Include a condition which requires the proponent to enter into an agreement with the responsible authority to provide a bond to ensure the maintenance, and if necessary, replacement of the landscaping within the reserves fronting Great Ocean Road and Bells Boulevard for a 5 year period.

Amend Condition 4(b) to read *“A requirement that all dwellings and associated outbuildings, including tennis courts and swimming pools, must be located within the building envelopes shown on the endorsed plans.”*

Include a Condition 4(f) which reads *“All dwellings and associated outbuildings must not exceed 7.5 metres above natural ground level.”*

6 Vegetation removal, loss of nature and impact on wildlife

6.1 The issue

Is the proposed removal of vegetation appropriate?

6.2 Evidence and submissions

Mr Stockton submitted that constant rezoning and subdivision is making it harder for Council and the community to defend nature. He said the group does not support the removal of on-site native vegetation, except in exceptional circumstances, and this is not an exceptional circumstance.

Mr Foss submitted his organisation does not support the removal or clearing of native vegetation and the local flora and fauna is under significant levels of stress due to development in the area which is resulting in the removal of significant stands of native vegetation and wildlife habitat. He submitted there is potential for dogs, cats and other indigenous species to be introduced to the area, which will have a devastating impact on native wildlife, including birds and other threatened species.

The Corangamite Catchment Management Authority (CCMA) submitted it did not support the removal of native vegetation in close proximity to a waterway and recommended the realignment of the road to the north, outside of the vegetation protection overlay area. The CCMA recommended the following condition be imposed on any permit issued:

1. *Prior to the commencement of the development, 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 but modified to show:*
 - a. *A 30m buffer (both sides) of the defined waterway held within reserve land.*
 - b. *Alterations to the proposed road network to ensure the waterway buffer is not encroached by the road.*
 - c. *Further efforts are undertaken to minimise the requirement to remove the existing native vegetation within the identified protection area.*
 - d. *An updated stormwater management plan that addresses the aforementioned points in this response.*

Following further discussions between the CCMA and the Proponent, the CCMA has revised its position on this matter stating:

2. *In light of recent discussions with St Quentin, Corangamite CMA requests that the above condition be removed from its recommended draft permit conditions. Given the context of this waterway in this catchment, Corangamite CMA takes on board St. Quentin's points about the size of the buffer at this location and are satisfied that the proposed reserve should be sufficient in conjunction with the appropriate stormwater management.*

Mr Peeters accepted the proposed subdivision will result in the removal of native vegetation which consists mainly of regrowth, however, he submitted that could not be avoided as alternative options for the creation of safe vehicle access are severely restricted given VicRoads does not support any new direct access points from Great Ocean Road, or elsewhere along Bells Boulevard due to the slope and sightlines. He submitted that based on the traffic assessment report submitted with the application, Council considers it acceptable for some of this vegetation to be removed to create safe access.

Mr Peeters did question, however, why four scattered trees (Trees 8-11) along the western and south-eastern boundaries need to be removed, as they are not in the way of infrastructure or building envelopes. He submitted that as the lots will be greater than 0.4 hectares they cannot be deemed lost vegetation and whilst they may have limited conservation value, they contribute to the landscape/aesthetic values and may provide some faunal habitat. He submitted the practical retention of these trees should be encouraged, noting their removal is permitted and will be offset should a permit be issued.

Mr Martin submitted that a Flora and Fauna and Biodiversity Assessment Report undertaken in support for the proposal confirmed that 0.343 hectares of native vegetation would need to be removed to facilitate the proposal. He submitted the extent of removal falls under the Low Risk-based pathway and that sufficient vegetation credits are available to meet the off-set requirements generated by the proposed works.

Mr Martin submitted the impacts on native vegetation have since been reviewed and the Proponent is now proposing to retain the four scattered trees. He accepted this could be dealt with as a condition on the permit which would also require the applicable building envelopes to be modified to preclude the applicable Tree Protection Zones (TPZ's) of these trees. He suggested that Condition 1(a)(ii) could be amended to read:

The dimensions and setbacks of all buildings and effluent disposal envelopes in accordance with the recommendation of the Land Capability Assessment undertaken by P.J Yttrup & Associates Pty Ltd (February 2014, Amended May 2015) Building envelopes for Lots 14 and 15 must exclude the Tree Protection Zones (TPZ's) of Trees 8, 9, 10 & 11, as identified by the Flora and Fauna Assessment and Biodiversity Report, 305 Great Ocean Road, Jan Juc, Victoria prepared by Ecology and Heritage Partners July 2014.

Recognising that Tree 8 is a dead tree, he submitted that an arboricultural assessment of this tree should be undertaken to determine its safety, and recommended this be addressed in the permit conditions.

Mr Martin also submitted that as a result of VicRoads mandatory requirement for the provision for an intersection treatment on Bells Boulevard, an as yet unknown extent of native vegetation within the road reserve will need to be removed to facilitate the intersection. He submitted the full impact on this vegetation cannot be quantified until the detailed design of the intersection has been approved by VicRoads under their works agreement and approvals process, however, he submitted any potential vegetation removal will be offset by the proposed retention of the four scattered trees; and therefore overall there will be a lesser impact on vegetation than previously proposed. He submitted they have sought to minimise the amount of vegetation to be removed, as far as possible, and the proposed removal is not expected to have a significant impact on the habitat of any rare or threatened species.

Mr Martin also submitted that Condition 10 be deleted and that Conditions 5 and 11 be reworded to read:

Condition 5

Prior to the certification of the plan of subdivision for the first stage, three (3) copies of a landscape plan prepared by a suitably qualified or experienced person, to the satisfaction of the responsible authority, must be submitted to and approved by the responsible authority. The landscape plan should generally accord with the recommendations of the Flora and Fauna Assessment and Biodiversity Report, 305 Great Ocean Road, Jan Juc, Victoria prepared by Ecology and Heritage Partners July 2014, and recommendation of the Addendum to the Flora and Fauna Assessment and Biodiversity Report, 305 Great Ocean Road, Jan Juc, Victoria prepared by Ecology and Heritage Partners March 2016. When approved the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale and show:

Condition 11

Before any native vegetation is removed, evidence that an offset has been secured must be provided to the satisfaction of the responsible authority. This offset ~~must meet the offset requirements set out in this permit~~ and be in accordance with the requirements of Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI, 2013) and the Native vegetation gain scoring manual (DEPI, 2013).

In response to Mr Stockton's submission that vegetation should only be removed in exceptional circumstances, Mr Martin submitted this is just such a circumstance as it will assist in achieving the strategic objectives of the planning scheme and will result in provision of safe vehicular access and achieve 7,025 square metres of indigenous landscape buffer and the proposed 5,094 square metre bushland and drainage reserve. He submitted this will achieve a net community benefit.

6.3 Discussion

In relation to tree removal, the Panel considers there are five separate issues:

- the four scattered trees;
- the remnant vegetation in the reserve on site which is to be removed to facilitate access to the site;
- vegetation which may need to be removed within the Bells Boulevard road reserve to facilitate access to the subdivision;
- planting of street trees; and
- the wording of some conditions.

Each of these will be discussed separately.

Four scattered trees

Three of the scattered trees are located along the western boundary of proposed Lot 14, with only one located within the proposed building envelope.

The Panel agrees with the submissions of Council and Mr Martin that there are no practical reasons why they should be removed as they are mature trees and make a contribution both environmentally and aesthetically to the site and area; and is supportive of their now proposed retention.

For this reason, the Panel will recommend the inclusion of a condition on the permit that the amended plans show the retention of these trees, identification of tree protection zones and adjustment of the building envelope to exclude the trees and their tree protection zones.

The last tree is a dead tree located on the eastern boundary of lot 15. Whilst all parties agreed that dead trees can provide habitat, it was also acknowledged they can present a safety threat due to dropping limbs. Mr Martin did not object to the potential retention of the tree subject to confirmation that it is safe. The Panel can see the value in retaining the tree for its habitat value, however, it also agrees with Mr Martin that the tree must be made safe prior to the sale of the land and therefore will recommend a condition on the permit to that effect. It is also recommended that the building envelope should also be adjusted to exclude the tree.

Remnant vegetation in the reserve on site

This issue was primarily raised by the CCMA and related to the width of the waterway buffer and the location of the proposed road which would not only encroach on the buffer, but also result in the removal of native vegetation. The Panel accepts the submissions of the CCMA, Mr Peeters and Mr Martin that following further discussions between the parties, that these issues have been resolved and the CCMA no longer requests this condition be imposed on any permit issued.

Having said that, the Panel is satisfied that the relatively small area of vegetation to be removed is adequately compensated by the retention of the four scattered trees and the additional indigenous landscaping that will be provided within the 7,025 square metre landscaping reserve that is to be provided along Great Ocean Road and Bells Boulevard road frontages.

Vegetation along the Bells Boulevard frontage

In relation to any trees that may need to be removed to facilitate VicRoads mandatory requirement for the intersection treatment on Bells Boulevard, the Panel notes this matter will still need to be resolved and therefore the exact number and specific trees to be removed has not been finalised. Therefore the Panel is not able to make any detailed recommendations about this.

Having said that, however, as submitted by Mr Martin, the Panel notes the trees that may need to be removed are not substantial and appear largely to be regrowth. The Panel also accepts his submission that with the Proponents revised position on the removal of the four scattered trees, on a worst case scenario, removal of trees associated with this access would have a lesser extent on vegetation than previously proposed and can be offset by additional planting within the landscaping reserves on the site.

The Panel accepts that there may need to be some vegetation removal associated with the access arrangements and considers that this can be adequately addressed through Condition 10 of the Draft permit which deals with vegetation offsets.

Street trees

Through discussions at the Hearings, all parties agreed that condition 5(e) which requires the *“Planting of street trees within the new road reserve.”* should be amended to specify that these trees should be indigenous.

The Panel agrees and has recommended this change.

Other conditions

In response Mr Martin’s submission that the preamble to Condition 5 should be altered, the Panel notes no other party objected and can see the benefit; and as such has recommended the change.

In response to Mr Martin’s suggestion that Condition 11 be amended to delete reference to the offset *“must meet the offset requirements set out in this permit and”* in favour of a more general reference to the *Permitted clearing of native vegetation - Biodiversity assessment guidelines* and *Native vegetation gain scoring manual*; the Panel notes that no parties objected and agrees with the proposed change and makes an appropriate recommendation.

Whilst Mr Martin’s suggested that Condition 10 – *Vegetation offsets* - should be deleted on the basis that retention of the four scattered trees will off-set any potential increased removal of vegetation associated with the road reserve, Mr Peeters did not support this change as he submitted this is a mandatory requirement of Clause 52.17-6 – *Native vegetation – Offset requirements*.

The Panel agrees with Mr Peeters that the condition should be retained, however, it also accepts that given the Proponent’s revised position in relation to the retention of the four existing trees, that it may be appropriate for the specific elements of the condition which relate to the specified general biodiversity equivalence units and the strategic biodiversity score may need to be reviewed. The Panel therefore recommends retention of the condition, with a review of specific content contained within it.

6.4 Conclusions

The Panel concludes that the proposed subdivision/development of this land will not result in any unacceptable removal of vegetation; and any vegetation to be removed will be both offset by the retention of the four scattered trees and any vegetation offsets required by the permit conditions.

6.5 Recommendations

The Panel recommends:

Amend Condition 1(a) to include the following:

- (ii) “Retention of the Trees 8, 9, 10 & 11.”**
- (iii) *The dimensions and setbacks of all buildings and effluent disposal envelopes in accordance with the recommendation of the Land Capability Assessment undertaken by P.J Yttrup & Associates Pty Ltd (February 2014, Amended May 2015) and to account for the retention of Trees 8-11.***
- (iv) *Building envelopes for Lots 14 and 15 excluding the Tree Protection Zones (TPZ’s) of Trees 8, 9, 10 & 11 as identified by the Flora and Fauna Assessment***

and Biodiversity Report, 305 Great Ocean Road, Jan Juc, Victoria prepared by Ecology and Heritage Partners July 2014.”

Amend the preamble to Condition 5 to read:

“Prior to the certification of the plan of subdivision for the first stage, three (3) copies of a landscape plan prepared by a suitably qualified or experienced person, to the satisfaction of the responsible authority, must be submitted to and approved by the responsible authority. The landscape plan should generally accord with the recommendations of the Flora and Fauna Assessment and Biodiversity Assessment Report, 305 Great Ocean Road, Jan Juc, Victoria prepared by Ecology and Heritage Partners July 2014, and recommendation of the Addendum to the Flora and Fauna Assessment and Biodiversity Report, 305 Great Ocean Road, Jan Juc, Victoria prepared by Ecology and Heritage Partners March 2016. When approved the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale and show:”

Amend Condition 5(b) to read:

- ***“Tree Protections Zones (TPZs) for Trees 8, 9, 10 & 11 as identified by the Flora and Fauna Assessment and Biodiversity Report, 305 Great Ocean Road, Jan Juc, Victoria prepared by Ecology and Heritage Partners July 2014 and any other trees being retained which require Tree Protection Zones (TPZs).”***

Amend Condition 5(e) to read *“Planting of street trees, using indigenous species, within the new road reserves.”*

Amend Condition 5 to include the following:

- k) ***“Retention of the dead tree in proposed Lot 15 for its habitat value provided it is found to be safe to do so following an assessment by an Arborist.”***

Review Condition 10 to determine whether the offsets specified are still valid given the proposed retention of the four scattered trees.

Amend Condition 11 to read as follows:

“Before any native vegetation is removed, evidence that an offset has been secured must be provided to the satisfaction of the responsible authority. This offset must be in accordance with the requirements of Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI, 2013) and the Native vegetation gain scoring manual (DEPI, 2013).”

7 Water supply, waterway protection and stormwater management

7.1 The issue

Whether the proposed subdivision will have adequate water supply, an adverse impact on water quality and appropriately manage stormwater runoff?

7.2 Evidence and submissions

Barwon Water

Barwon Water submitted it has no objection to the proposed Amendment/Application subject to the following conditions being included on the permit:

General

1. *The plan of subdivision must be referred to Barwon Water in accordance with the Subdivision Act 1988 and any subsequent amendments to the plan provided to Barwon Water.*

Water

2. *The provision and installation of individual water services to all lots in the subdivision in accordance with Barwon Water requirements and Victorian Plumbing Regulations. Note tapings and services are not to be located under existing or proposed driveways.*
3. *Reticulated water mains are required to service the proposed development. This work must be designed by a Barwon Water accredited Consulting Engineer and constructed by a Barwon Water accredited Contractor following the "Developer Works" process.*
4. *Barwon Water's records indicate that an existing water service and meter is located on this property. A dimensioned plan showing the location of existing meters, and the location of the meter relative to the existing boundaries, and its number, is to be submitted. Private water service pipes are not permitted to cross allotment boundaries and must be plugged and abandoned at the boundaries of such allotments.*
5. *The payment of New Customer Contributions for water for each additional connection which includes any new lot on a plan of subdivision and/or any apartment, unit, or premises within the development that is or can be separately metered for water supply.*

Note: The developer is to apply to Barwon Water for details relating to costs and conditions required for the provision of water supply to the subdivision.

The Corangamite Catchment Management Authority (CCMA) submitted that given the significance of this area in terms of its ecological values and its position on the top of a catchment system, appropriate onsite stormwater management is crucial. It submitted this will be important to limit downstream impacts from the proposed subdivisions, which Council may be held liable for.

The CCMA submitted that a surface/stormwater management strategy must address contemporary Best Management Practice through the application of Water Sensitive Urban

Design. It submitted the stormwater management plan provided as part of the permit application is of a preliminary nature only and that additional details should be as follows:

- *The Stormwater Management Plan proposes detention of the 5 year ARI storm event to pre developed levels. It is unclear why only the 5 year ARI storm event has been considered and the impact of other storm events greater than the 5 year ARI have not been accounted for.*
- *Overland flow paths for the 100 year ARI storm event have not been proposed as per Clause 56.07-4 Standard C25 of the Victoria Planning Provisions.*
- *Short and long term maintenance requirements and responsibilities for the dam and grass swales, and a strategy that identifies other elements or issues that may occur to assist long-term management of these systems.*
- *Further detail needs to be provided on the construction procedure and practice to ensure there is no unreasonable off-site impact during the construction phase.*
- *The measures to be undertaken for the management and control of erosion and silt discharged beyond the site during the construction phase of the development. This is particularly significant as the subject property sits at the top of a catchment with potentially significant downstream impacts if measures are not taken to properly manage stormwater runoff.*
- *Further detail is required on construction techniques that incorporate the provisions within the Guidelines for Environmental Management – Doing it right on Subdivisions (EPA Publication 960).*
- *Ongoing maintenance issues associated with the proposal to reconfigure the dam to provide the necessary on site detention will need to be considered further and the implications understood by Council.*

The CCMA also identified the waterway that traverses the property is a tributary of the Jan Juc Creek and a designated under the *Water Act 1989*, therefore prior to any works in, on, or over these waterways, a works in waterways application must be submitted to the CCMA for assessment. It identified that a Works on Waterway Permit from the CCMA is required for any access crossings (temporary or permanent), stormwater outlets or other works carried out on designated waterways. The permit is required independent of the planning permit process.

It also identified that Clause 14.02-1 of the VPPs requires natural drainage corridors with vegetated buffer zones to be retained along each side of a waterway at least 30 metres wide. It recommended Council adopt the 30 metres of undeveloped (including no roads) land along each side of the water way in order to:

- provide for continuous safe vehicle and pedestrian access along the entire length of the waterway
- provide space for recreational and social uses
- allow for the Council's future maintenance access along the river bank and provide suitable area for vegetation establishment and to buffer the waterway from adjacent land uses
- assist in reducing the threat of future channel migration and erosion of the stream banks and verges that Council may be held accountable for, resulting in costly remediation works; and
- reduce polluted surface runoff and minimise nutrient contributions to the waterway from adjacent land uses.

The CCMA noted the proposed road will pass through the buffer area and recommended realigning the road outside of this buffer area to meet Clause 14.02-14 of the VPPs.

In conclusion the CCMA submitted that whilst it supports the proposed rezoning in principle, it does not support the subdivision in its current configuration, but would be prepared to reconsider the proposal if the plan of subdivision is amended and the following conditions are placed on any permit issued:

3. *Prior to the commencement of the development, 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 but modified to show*
 - a. *A 30m buffer (both sides) of the defined waterway held within reserve land.*
 - b. *Alterations to the proposed road network to ensure the waterway buffer is not encroached by the road.*
 - c. *Further efforts are undertaken to minimise the requirement to remove the existing native vegetation within the identified protection area.*
 - d. *An updated stormwater management plan that addresses the aforementioned points in this response.*

In lieu of the above conditions, the Authority suggests moving the proposed road to the top of the ridgeline and outside the vegetation protection area.

As a result of later discussions with Council and the Proponent, the CCMA revised its position and requested the above conditions be deleted from the recommended draft conditions and replaced within the following condition:

1. *An updated stormwater management plan address the points previously raised in the Corangamite CMA's response dated 22 December 2015 (CMA ref – F2015-0850, document 1 under the title "Stormwater Management."*

Mr Martin referred to the subsequent discussions between Council, CCMA and the Proponent which led to a general agreement that the 30 metre buffer is no longer required and that a 20 metre buffer would be suitable. On that basis, Mr Martin submitted the Proponent has no objection to the inclusion of the revised condition as proposed by the CCMA.

Mr Peeters also acknowledged the comments of the CCMA with regard to the waterway buffer distances, but submitted that based on the Melbourne Water approach⁸ a 20 metre buffer would only be required as this is a small stream with no tributaries and therefore is defined as a first order stream. He submitted this is also consistent with the approach being adopted by Council as part of Amendment C85 which proposed to introduce a revised set of Flood Overlay, Land Subject to Inundation Overlay and Environmental Significance Overlays.

⁸ Melbourne Water, Waterway Corridors: Guidelines for greenfield development zones within the Port Phillip and Westernport Region, 2012.

He submitted stormwater runoff will be adequately dealt with through additional on-site detention achieved by increasing the size of the dam, as well as the use of swales within the easement and road reserve.

Mr Peeters acknowledged the Barwon Water conditions were not included in the exhibited planning permit and acknowledged they should be. He provided a copy of an amended planning permit making these changes (Appendix B).

7.3 Discussion

The Panel notes the concerns in relation to water quality and stormwater management were primarily raised by the CCMA and have been resolved to extent that the Authority is prepared to withdraw its recommendation for condition which requires amended plans showing (amongst other things) a 30 metre buffer on both sides of the waterway, and the proposed relocation of the road from within this buffer. For this reason, the Panel considers that Council, the Proponent and the CCMA have been able to resolve this matter and therefore the Panel is satisfied this issue has been satisfactorily resolved.

The CCMA has, however, maintained its position that there is a need for an updated stormwater management plan that addresses a number of issues identified in the CCMA's original correspondence, and that a condition should be placed on the permit to this effect.

In relation to the permit conditions stated, the Panel notes that rather than be specific about what it wants these conditions to say, the CCMA makes general references to previous correspondence and responses. Whilst the Panel does not disagree with the intent, it does not consider it appropriate to include these conditions verbatim as they are not specific and would not be of assistance when implementing the permit, or referring to it at some stage in the future. The Panel has therefore sought to ensure the permit makes the reference to what the CCMA is trying to achieve.

The Panel notes the amended permit prepared by Council (Appendix B) includes Condition 1(b) which requires an amended stormwater management plan be submitted to and approved by the responsible authority which addresses the issues raised by the CCMA.

However Condition 1(b)(iii) needs to be reworded to make its full intent clear and made a recommendation accordingly.

In addition the issues raised by the CCMA, one of the issues that needs to be considered when assessing a subdivision application within the LDRZ, and specifically what the appropriate lot size may be, is whether the lots proposed will be able to accommodate the treatment of all wastes on-site.

The Panel is aware that a Land Capability Assessment was prepared as part of the permit application which assessed each proposed site's suitability for effluent disposal, and noted that whilst Lots 6 to 9, 15 and 16 are at very high risk due to slope, soil chemistry and poor permeability; the proposed lot sizes, effluent disposal envelopes and buffer distances are considered appropriate to sustainably manage wastewater.

Both Council and the Proponent, and supported by Mr Wadeson's evidence, all considered that Condition 3 which requires a section 173 Agreement, which amongst other things, requires *"A land capability assessment and wastewater management plan shall be prepared*

by a suitably qualified person for each lot to the satisfaction of the responsible authority prior to the construction of a dwelling” will ensure that effluent disposal will be adequately dealt with, thus ensuring that development of these lots will not have an adverse impact on water quality. The Panel agrees.

7.4 Conclusions

The Panel concludes that the issues raised by Barwon Water and the concerns raised by the CCMA have been adequately addressed through the permit conditions and therefore, once implemented, will ensure that stormwater run-off from the proposed subdivision will be managed to satisfaction of the CCMA and Council and should not have an adverse impact on water quality.

7.5 Recommendations

The Panel recommends:

Amend Condition 1(b)(iii) to read:

“Short and long term maintenance requirements and responsibilities for the reconfigured on-site dam and the swales required to provide the necessary on-site detention and a strategy that identifies other elements or issues that may occur to assist long-term management of these systems.”

8 Lot size and density

8.1 The issue

Whether the proposed 0.4 hectare minimum lot size is appropriate?

8.2 Evidence and submissions

Mr and Mrs Sands submitted the proposed subdivision with a minimum allotment size of 0.4 hectares is *“far too high a density and totally inappropriate for the site, being completely out of character with the rest of the neighbourhood.”* They submitted they are not against further development of that site, but strongly object to the proposed subdivision in its current form; having bought into the area with a density of 1.5 hectare lots they submitted it is a reasonable expectation that the same should occur on this site.

Mr Sands submitted that whilst the LDRZ allows for 0.4 hectare lots, most lots within the surrounding area are between 1 – 4 hectares; and the LDRZ for Bells Boulevard is 1.5 hectares which is intended to maintain a character and feel to the neighbourhood and the road to Bells Beach. He submitted higher densities are more suited on the northern side of Great Ocean Road and west of Duffields Road, which is where future residential proposals should be focussed.

Mr Sands submitted that expert witnesses and reports can argue for anything, but that does not make it right as people have vested interests. He submitted the proposal is just a way of maximising the return out of the site without having regard for what is actually right or consistent with the neighbourhood, the fabric or integrity of the area. He said this type of development is *“just not Bells”* and should be scaled back.

Mr Peeters submitted the policy and the LDRZ specify a lot range of 0.4 hectares to 1.0 hectare, unless a larger lot is required for the on-site treatment of wastewater, to protect pockets of significant remnant vegetation or the land has high landscape character. He submitted the 0.4 hectare is appropriate for this site as it responds positively to the characteristics, constraints and opportunities of the site.

In response to submissions the site should have a minimum 1.5 hectare consistent with other development in the Bells Boulevard area, he submitted the land has different characteristics as that land has significant native vegetation, is affected by a BMO and is partly within view shed of the Bells Beach Surfing Recreation Reserve. He submitted this land is largely cleared grazing land, has low fire risk and is not within the view shed of the Bells Beach Surfing Recreation Reserve.

He submitted that 0.4 hectares is an accepted allotment size within the LDRZ and such lots will provide a reasonable transition from higher densities to the east and rural land to the west.

For these reasons Mr Peeters concluded the proposed rezoning and subdivision satisfactorily responds to the sites opportunities and constrains and will provide an acceptable outcome in terms of lot size and density.

In response to lot sizes, Mr Martin similarly submitted the LDRZ allows for development to 0.4 hectares; that each site can contain its waste on site; that the site is not located within an area identified as having significant landscape values; that any potential visual impacts are addressed through the proposed landscaping, and that the nature of the surrounding area and development that has both occurred and is planned to occur, means that the proposed 0.4 hectares will not be out of character.

8.3 Discussion

In considering what the appropriate lot size for this site is, the Panel has considered the provisions of the LDRZ, the policy and the nature of the surrounding development.

As the Amendment seeks to rezone the land to LDRZ and does not seek to amend the Schedule to the Zone to specify an alternate minimum lot size area, the standard minimum lot size as specified in the proposed zone provisions will apply. These state that each lot must be at least 0.4 hectares where reticulated sewerage is not connected (as is the case here) or 0.2 hectares where each lot is connected to reticulated sewerage. Therefore the proposed subdivision will be consistent with the provisions of the zone.

The question raised by Mr Sand's relates to whether the minimum lot size should have been increased to reflect the minimum lot size in the Bells Boulevard, which is a minimum lot size of 1.5 hectares. The Panel considers this is a reasonable question to ask, and one which the Panel has given significant consideration to.

In considering this, the Panel has had regard to the Rural Residential Living Policy⁹ which seeks *"To restrict lot sizes for rural residential purposes so that land is use more efficiently"* and in doing so, seeks to encourage lot sizes in the range of 0.4 hectares to 1 hectare. It states that larger lots may be appropriate where they are required for on-site treatment of wastes, where they are needed to protect pockets of significant remnant vegetation, or where the land has high landscape values.

Whilst Mr Sand submitted that 1.5 hectares would be appropriate, it is clear that this exceeds the lot range as recommended in the policy, and whilst the Panel can understand why this has occurred in the Bells Boulevard low density residential area given the extensive vegetation, the subject site does not share the same characteristics.

As concluded in previous Chapters, the site does not have extensive pockets of significant remnant vegetation that requires protection, and where it does, this vegetation has been included within a reserve to ensure both the retention and protection of it. Similarly, the Panel has already concluded the site does not have high landscape values that would necessitate lots in excess of 0.4 hectares to ensure their protection; and that the lots proposed will be able to accommodate the treatment of all wastes on-site. Therefore, the Panel is not convinced that there is a strategic imperative to increase the size of the lots above 0.4 hectares as suggested by Mr Sands.

The Panel has also had regard to the Decision Guidelines of the LDRZ which when deciding on an application, in addition to the State and local policy frameworks, requires consideration of a number of factors including the protection and enhancement of the

⁹ Clause 21.07-2 – Providing Rural Living and Rural Residential Development – Objective 1

natural environment and character of the area; the retention of vegetation and faunal habitat; the need to plant vegetation along waterways, gullies, ridgelines and property boundaries; the availability and provision of services; and in the absence of reticulated sewerage, the capability of each lot to treat and retain all waste water.

The Panel considers the proposed subdivision and lot sizes is consistent with decision guidelines as it will not have a significant impact on the environment or character of the area; will protect vegetation and faunal habitat; will plant along the road reserves and properties boundaries; and with an amended stormwater management plan which address the issues raised by the CCMA and wastewater management plan, will ensure the lots will have sufficient area to be capable of treating and retaining all wastewater on site in accordance with the State Environment Protection Policy (Waters of Victoria) under the *Environment Protection Act 1970*.

The Panel therefore considers the proposed lot sizes are an appropriate response to the decision guidelines of the LDRZ.

The last consideration is whether the proposal is out of character with the area. Whilst this site is located next land identified within the Bells Boulevard, it does not share the same characteristics. This is cleared farming land which has very little vegetation cover, it is not covered with bushland as is the Bells Boulevard area and as discussed above, there is no need to create larger lots to protect vegetation.

The Panel considers that this is a site that will be able to accommodate lots within the specified lot range, and with planting as proposed along the roadsides and the restriction on built form both in terms of height and location, the proposed lot sizes are considered appropriate in this location.

8.4 Conclusions

The Panel concludes the lot sizes and density proposed are consistent with the both the policy framework and provisions of the LDRZ and are an appropriate response to the features and characteristics of the site.

9 Traffic and access

9.1 The issue

Whether the proposal will have a detrimental impact on road function and traffic safety?

9.2 Evidence and submissions

Mr and Mrs Sands raised concern about the potential significant increases in traffic volume with just one entry/exit access point proposed and submitted that from their experience, given the topography, cars often speed along this section of road towards the beach and it can be very difficult to access/exit his site. He said that during the Easter Bells competition, the traffic along this road can lead to major traffic congestion for 2 weeks of the year. He also questioned whether one access point is sufficient given the high bushfire risk in the area.

Mr Stockton questioned whether the road vehicle assessment has taken into account the additional people that will be living in the area in the next 50 years?

Mr Foss submitted the subject site is located on one of the busiest intersections in the area and due to the steep aspect of Bells Boulevard, there is no safe opportunity for vehicles to enter or exit the site. He questioned the safety of the proposal.

VicRoads submitted it has no objection to the proposed Amendment or the proposed permit, subject to the following conditions being included on the permit:

1. *Prior to the issue of a statement of compliance for any stage of this subdivision, the following works on Road must be completed at no cost and to the satisfaction of VicRoads.*
 - *At the Subdivisional Road/Bells Boulevard intersection*
 - *A left turn lane*
 - *The eastern shoulder of Bells Boulevard widened and sealed (To allow through traffic to pass right turning vehicles),*
 - *Intersection lighting*
2. *Prior to commencing any works within the Bells Boulevard road reserve, the applicant must enter into a works agreement with VicRoads, confirming design plans and works approval processes, including the determination of fees and the level of VicRoads service obligations.*

Mr Peeters, on behalf of Council, submitted the options for the creation of dual vehicular access to the site is severely restricted due to VicRoads not supporting new direct access points from Great Ocean Road and issue of sightlines. He submitted that Bells Boulevard and the surrounding road network has sufficient capacity to safely accommodate the anticipated increase in traffic movements which are anticipated to be 150 vehicle movements per day. He submitted that if safety became an issue, Council could reconsider the speed limit along this section of road.

Council acknowledged that the conditions proposed VicRoads were not included in the exhibited planning a permit and accepted they should be. He provided a copy of an amended planning permit making these changes (Appendix B).

Mr Martin submitted that due to the topography along Bells Boulevard, sight distances are restricted and there is only one location along this frontage where safe vehicular access can be provided. He submitted that a Traffic Assessment was undertaken in support of the proposal which concluded that safe and appropriate access can be provided through Bells Boulevard, and that turning treatments into the intersection would be minimal with a sealed shoulder being the only required level of treatment.

He said that VicRoads disagreed with this advice and directed that any permit issued include both sealed shoulder and left turn lane, with the specific design confirmed as part of the VicRoads work agreement and approval process.

Both Council and the Proponent accepts the revised permit conditions as requested by VicRoads.

9.3 Discussion

Access to Great Ocean Road is not proposed as part of this Application and as such, VicRoads has not made any specific comments in relation to whether such access would be appropriate or not, and if so under what conditions. On that basis, the Panel will not examine this issue further.

The major traffic issue relates to access to the proposed subdivision from Bells Boulevard and what intersection treatment will be required.

Whilst Mr Sands and Mr Foss raised concern about the number of vehicles that will access the subdivision and what impact this will have on traffic safety, the Panel agrees with both Council and Mr Martin that the volume of anticipated traffic associated with the subdivision at 150 vehicle movements each day is not excessive, and with an appropriate intersection treatment, should not create an unsafe traffic environment.

In response to concerns about the speed of traffic along this section of the road, particularly given the topography, the Panel agrees with Council that if vehicles speed along this section of the road, this can be addressed by reviewing speed limits and appropriate enforcement measures. Similarly, if there are traffic issues at Great Ocean Road/Bells Boulevard intersection during the Easter Bells Surf Carnival, then this can be addressed through an event traffic management plan.

The Panel notes the VicRoads condition specifies the design treatments for this intersection and requires the applicant to confirm the design plans (amongst other things) for the intersection before a statement of compliance is issued and any works commence. The Panel also notes that both Council and Mr Martin agree to this condition.

For these reasons, the Panel is satisfied this issue will be adequately addressed through the permit conditions.

Based on Mr Martin's submission, it is understood that the ultimate intersection treatment is still subject to discussion with required by VicRoads will have result in more disturbance to the road reserve and vegetation than originally considered. Whilst this may be unavoidable and may be able to be offset through additional planting, the Panel considers that all efforts should be made to ensure as much vegetation can be retained as possible.

9.4 Conclusions

The Panel concludes that following the finalisation of the intersection treatment with VicRoads the proposed subdivision will not have any adverse traffic and access impacts.

10 Bushfire risk

10.1 The issue

Is the subdivision of this land appropriate given the bushfire risk in the area?

10.2 Evidence and submissions

Mr Stockton submitted the Surf Coast Shire is recognised as being amongst the highest bushfire prone areas in the world and questioned why planning is seeking to increase the population in this high risk area.

Mr Foss submitted the land is situated in a high risk bushfire area and that development in this area has the potential to put the lives of many families at risk. He submitted current bushfire management controls require that native vegetation is substantially cleared around dwellings reducing habitat for native animals, which will lead to a reduction in species and diversity in the area.

Mr Peeters submitted the site is not affected by a WMO or a BMO. Despite that, he submitted a Bushfire Development Report was submitted as part of the application which concluded there is not a significant bushfire risk to the site. The report made a number of recommendations in relation to bushfire management, which Council submitted have been incorporated into the proposal. For that reason, he submitted the design response has adequately addressed any bushfire risk.

Mr Martin submitted that whilst the site is not within a WMO or BMO, an assessment of the potential bushfire risk was prepared. He submitted the proposal responds appropriately to the findings and recommendations of the report through the incorporation of bushfire measures including a 20 metre separation distance between proposed landscape buffers, the siting of building envelopes beyond the BAL-29 setbacks, and the road network and water supply requirement to CFA standards. For these reasons, he submitted the proposal appropriately responds to the applicable bushfire risk.

10.3 Discussion

Despite the high fire risk associated with the Shire, this site is not included within a Bushfire Management Overlay and therefore it is not identified as a site which is particularly at risk. Similarly, the subject site is a clear site with minimal vegetation.

Based on the bushfire risk assessment work undertaken by the Proponent, the Panel is satisfied this risk level, associated with the incorporation of some bushfire measures including a 20 metre separation distance between proposed landscape buffers, the siting of building envelopes beyond the BAL-29 setbacks and the road network and water supply requirement to CFA standards, will ensure the potential future bushfire risk is appropriately managed.

10.4 Conclusions

The Panel concludes the proposed subdivision is not located within an area specifically identified as being of high fire risk and incorporates appropriate bushfire management measures to manage any potential bushfire risk.

11 Permit conditions

11.1 Issue

Should the conditions on the exhibited planning permit be amended?

11.2 Submissions

Mr Peeters advised that DELWP had not requested any specific conditions be imposed on the permit and therefore the reference in the exhibited permit to the DELWP conditions were to be confirmed should be deleted.

11.3 Discussion

The Panel agrees that as DELWP has not requested any specific conditions, that this reference should be deleted from the final permit.

The Panel notes that at the Hearing, Mr Peeters provided a draft amended permit which included all of the conditions specified by the referral authorities, as well as a number of other minor issues. A copy of this permit is included in Appendix C. Mr Martin largely accepted these conditions.

Where relevant to the submissions and issues discussed previously, the Panel has addressed these conditions and made a number of recommended changes in previous sections of this report. These changes have been reflected and highlighted in the 'Panel Recommended Permit' contained in Appendix D.

Where minor changes were made to the permit by Council and no submissions were raised by any party to the Hearing, these have been accepted by the Panel and included in the 'Panel Recommended Permit.'

To assist interpretation, the red text relates to the amendments proposed by Council. The blue text relates to the changes recommended by the Panel.

It should also be noted that there will be a need to renumber the conditions to reflect the changes.

In summary, the Panel recommends that the permit should be issued subject to the conditions contained in the 'Panel Recommended Permit' contained in Appendix D.

11.4 Conclusion and recommendation

The Panel recommends:

Delete proposed Condition 38 which relates to *"Department of Environment, Land, Water and Planning Conditions – TBC"*.

Issue Planning Permit 14/0287 subject to the conditions contained in the 'Panel Recommended Permit' contained in Appendix D.

Appendix A Submitters to the Amendment

No.	Submitter
1	Southern Rural Water
2	Barwon Region Water Corporation
3	VicRoads – South Western Region
4	Mr & Mrs Stephen Sands
5	Mr Graeme Stockton on behalf of Surfers Appreciating the Natural Environment (SANE)
6	Mr John Foss on behalf of Surfrider Foundation Surf Coast
7	Mr Philip Stockton
8	Mr Cameron Gray, St Quintins Consulting Group
9	Corangamite Catchment Management Authority

Appendix B Exhibited Planning Permit

PLANNING PERMIT

GRANTED UNDER DIVISION 5 OF PART 4 OF
THE PLANNING AND ENVIRONMENT ACT
1987

Permit No.: 14/0287

Planning Scheme: Surf Coast

Responsible Authority: Surf Coast Shire
Council

ADDRESS OF THE LAND: 305 Great Ocean Road, Jan Juc

THE PERMIT ALLOWS: Staged subdivision of the land, removal of native vegetation and subdivision of land adjacent to a Road Zone Category 1 generally in accordance with plans endorsed under this permit.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Amended plans

- 1 Before the plan of subdivision for the first stage can be certified under the *Subdivision Act 1988*, 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 (3) copies must be provided. The plans must be generally in accordance with the plans prepared by St Quentin Consulting [Project Ref. 12486 Rev. 13] but modified to show:
 - (a) A master plan for the whole of the land to which this permit applies identifying the various stages and the lots in the first stage;
 - (b) The dimensions and setbacks of all building and effluent disposal envelopes in accordance with the recommendations of the Land Capability Assessment undertaken by P.J. Yttrup & Associates Pty Ltd (February 2014, Amended May 2015).
 - (c) Naming of new streets in accordance with Surf Coast Shire Place Naming Policy (SCS-004, 2014) and Place Naming Guidelines (MPP-003, 2011).
- 2 The plan(s) of subdivision submitted for certification under the *Subdivision Act 1988* must be in accordance with the endorsed plans but modified to show the following to the satisfaction of the responsible authority:

- (a) All bearings, distances, levels, street names, lot numbers, lot sizes, reserves and easements;
- (b) All easements required by Surf Coast Shire and servicing authorities to the satisfaction of the responsible authority.

Endorsed plans

- 3 The layout and site dimensions of the proposed subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Section 173 agreement

- 4 Prior to the certification of the plan of subdivision for the first stage, the applicant must enter into an agreement under Section 173 of the *Planning and Environment Act 1987* with the responsible authority. The agreement must be in a form to the satisfaction of the responsible authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the responsible authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:

- (a) The payment of a public open space contribution to the responsible authority being 10% of the site value of the subject land. The payment shall be made prior to the issue of a statement of compliance;
- (b) A requirement that all dwellings and associated outbuildings must be located within the building envelopes shown on the endorsed plans;
- (c) No solid fencing (i.e. less than 75% permeable) shall be erected along a property boundary which abuts or is opposite to Great Ocean Road or Bells Boulevard;
- (d) A land capability assessment and wastewater management plan shall be prepared by a suitably qualified person for each lot to the satisfaction of the responsible authority prior to the construction of a dwelling;
- (e) The payment of development contributions in relation to the subject land to the satisfaction of the responsible authority as follows:
 - (i) A Development Infrastructure contribution of \$1,135.58 per additional lot
 - (ii) A Community Infrastructure contribution of \$900 per dwelling to be constructed

The Development Infrastructure contribution amount is current as at 1 July 2015. It will be adjusted annually to cover inflation by applying the Building Price Index for Melbourne in Rawlinson's Australian Construction Handbook.

The agreement will be registered on Title in accordance with Section 181 of the *Planning and Environment Act 1987*.

Landscaping and tree protection

- 5 Prior to the certification of the plan of subdivision for the first stage, three (3) copies of a landscape plan prepared by a suitably qualified or experienced person, to the satisfaction of the responsible authority, must be submitted to and approved by the responsible authority. The landscape plan should generally accord with the recommendations of the Flora and Fauna Assessment and Biodiversity Assessment Report, 305 Great Ocean Road, Jan Juc, Victoria prepared by Ecology and Heritage Partners dated July 2014. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale and show:
- (a) A survey (including botanical names) of all existing vegetation to be retained and/or removed;
 - (b) Any trees being retained which require Tree Protection Zones (TPZs) during the construction period;
 - (c) Landscaping of the 15 metre wide landscape buffers with a mixture of plant species that will establish an effective visual screen and is congruous to vegetation within the nearby roadsides of Great Ocean Road and Bells Boulevard;
 - (d) Landscaping of the drainage/conservation reserve;
 - (e) Planting of street trees within the new road reserves;
 - (f) Bollards to restrict vehicle access into reserves, other than a maintenance access point using removable bollards;
 - (g) Details of surface finishes of any pathways and vehicle crossovers;
 - (h) The location of street lights, signage and fire hydrants;
 - (i) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, installation size, and quantities of each plant;
 - (j) Methods for control and eradication of environmental weeds;

Species selected must be locally indigenous and to the satisfaction of the responsible authority.

- 6 Prior to the commencement of works, tree protection zones must be established in accordance with the recommendations of the Landscape Plan, where required. These shall be suitably fenced along the alignment of the drip line of the identified trees to the satisfaction of the responsible authority.

Within this zone there must be no vehicular or pedestrian access, trenching or soil excavation, storage of waste all to the satisfaction of the responsible authority. The tree protection zone must be maintained throughout the development phase, to the satisfaction of the responsible authority.

- 7 Before the issue of a statement of compliance for each stage, or at such later date as is approved by the responsible authority in writing, the landscaping as shown on the endorsed Landscape Plan as relevant to the stage must be carried out and completed to the satisfaction of the responsible authority, unless bonding of the works has been agreed to in writing by the responsible authority.

- 8 All landscaping on the subject land must be maintained (including replacement of any dead or diseased planting) for a minimum period of two years to the satisfaction of the responsible authority.
- 9 Declared noxious weeds and pest animals are to be controlled across the development site and during the 2 year maintenance period as per the responsibilities of the land owner under Section 20 of the Catchment and Land Protection Act 1994, namely that the land owner must take all reasonable steps to: prevent the spread of, and as far as possible, eradicate established pest animals; eradicate regionally prohibited weeds, and prevent the growth and spread of regionally controlled weeds.

Vegetation offsets

- 10 In order to offset the removal of native vegetation approved as part of this permit, the applicant must provide a native vegetation offset that meets the following requirements, and is in accordance with the Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI, 2013) and the Native vegetation gain scoring manual (DEPI, 2013).

The offset must:

- (a) Amount to 0.048 general biodiversity equivalence units;
 - (b) Be located within the Corangamite Catchment Management Authority boundary;
 - (c) Have a strategic biodiversity score of at least 0.325.
- 11 Before any native vegetation is removed, evidence that an offset has been secured must be provided to the satisfaction of the responsible authority. This offset must meet the offset requirements set out in this permit and be in accordance with the requirements of Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI, 2013) and the Native vegetation gain scoring manual (DEPI, 2013).

Construction management plan

- 12 Prior to the commencement of the development, a detailed Construction Management Plan (three copies) 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 incorporate, but is not limited to, the following information:
 - (a) A staging plan for all construction phases including indicative dates for commencement and completion;
 - (b) Measures to minimise the impact of construction vehicles arriving at, queuing, and departing from the land;
 - (c) Details of the location of access for construction vehicles;
 - (d) The location of all construction equipment and facilities, including delivery points, storerooms, toilets, temporary offices and workers' facilities, and parking of private vehicles of workers/ tradespersons;
 - (e) Measures to minimise the generation and dispersal of dust;

- (f) Engineering assessment of assets that will be impacted on by construction and recommended techniques to minimise any adverse impact;
- (g) Details of actions to be implemented in the event of damage to abutting assets infrastructure;
- (h) Hours/days of construction (NOTE: these works must be consistent with EPA legislation and guidelines);
- (i) Phone numbers of on-site personnel or other supervisory staff to be contactable in the event of issues arising on site;
- (j) Material storage;
- (k) Plan to accord with the EPA Publication No. 960 "Doing it right on Subdivision – temporary environmental protection measures for subdivision construction sites" and No. 480 "Best Practice Environmental Guidelines for Major Construction Sites";

The plan must detail measures to ensure:

- (l) Only clean rainwater is discharged to the stormwater drainage system;
- (m) No solid waste, sediment, sand, soil, clay or stones from the site enters the stormwater drainage system or accumulates on abutting roads;
- (n) Waterways and Council assets are protected from adverse impact, and details of action to be undertaken should damage occur;
- (o) All machinery and equipment is cleaned on site, not on adjacent roads or footpaths; and
- (p) All litter is contained on site.

All development and works must be carried out in accordance with the Construction Management Plan to the satisfaction of the responsible authority.

Road and drainage works

- 13 Before any road and drainage works associated with the subdivision start, detailed construction 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 include:

- (a) Fully sealed road pavement 6.2 metres wide from shoulder to shoulder;
- (b) Above ground drains including construction of infrastructure required under the endorsed Stormwater Management Plan;
- (c) Modification of the existing dam to increase the capacity to a minimum of 245.7m³;
- (d) Energy efficient street lamps;
- (e) Street signs.

All works constructed or carried out must be in accordance with the endorsed construction plans to the satisfaction of the responsible authority.

- 14 Prior to the issue of a statement of compliance under the *Subdivision Act 1988*, the developer must provide:
- (a) Road works;
 - (b) Drainage;
 - (c) Street lighting and street signs;
 - (d) Vehicle crossings where shown on the endorsed plans to be constructed;
 - (e) Asset information in digital format to include drainage data as per “D-Spec” the Consultant/Developer Specifications for the delivery of drainage data to Local Government;

In accordance with the endorsed plans and to the satisfaction of the responsible authority.

Effluent treatment and disposal

- 15 All sewage and sullage waters shall be treated in accordance with the requirements of the Environment Protection Act 1970, the Public Health and Wellbeing Act 2008, the Code of Practice Onsite Wastewater Management (EPA 2013) and the responsible authority. All effluent shall be disposed of within the curtilage of each lot and shall not drain directly or indirectly onto an adjoining property, street or any watercourse or drain. Sufficient land shall be kept aside and kept available for the purpose of effluent disposal.

Telecommunication services

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

BARWON WATER CONDITIONS

- 18 The plan of subdivision must be referred to Barwon Water in accordance with the Subdivision Act 1988 and any subsequent amendments to the plan provided to Barwon Water.
- 19 The payment of New Customer Contributions for each additional lot created and/or each additional metered connection for water supply within the subdivision.
- 20 Reticulated water mains are required to service the proposed development. New water mains are to connect to nearby existing water mains.
- 21 The provision and Installation of Individual water services to all lots in the subdivision in accordance with Barwon Water requirements and Victorian Plumbing Regulations.

Note that tapings and services are not to be located under existing or proposed driveways.

POWERCOR CONDITIONS

- 22 The plan of subdivision submitted for certification under the *Subdivision Act 1988* shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.
- 23 The applicant shall provide an electricity supply to all lots in the subdivision In accordance with Powercor's requirements and standards, Including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor. (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.
- 24 Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.
- 25 The applicant shall set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision. Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.
- 26 The applicant shall provide easements satisfactory to Powercor Australia Ltd where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of Powercor Australia Ltd for Powerline Purpose & pursuant to Section 88 of the Electricity Industry Act 2000.
- 27 The applicant shall obtain Powercor Australia Ltd's approval for a lot boundary within any area affected by an easement for a powerline and for the construction of any works in such an area.

- 28 The applicant shall provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

COUNTRY FIRE AUTHORITY CONDITIONS

- 29 Operable hydrants, above or below ground, must be provided to the satisfaction of CFA.
- 30 The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of the building envelope, the rear of all lots) must be 120m and hydrants must be no more than 200m apart.
- 31 Hydrants must be identified as specified in 'Identification of Street Hydrants for Firefighting purposes' available under publications on the Country Fire Authority website (www.cfa.vic.gov.au).
- 32 Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
- 33 The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 metres. Dips must have no more than 1 in 8 (12%) (7.1 degree) entry and exit angle.
- 34 Roads must have a minimum trafficable width of:
- (a) 5.5m if parking is prohibited on one or both sides of the road;
 - (b) 7.3m where parking is allowable on both sides of the road.
- 35 Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided). T or Y heads of dimensions specified by the CFA may be used as alternatives.
- 36 Any road with a trafficable width (Kerb to Kerb) less than 7.3 metres, must have 'no Standing' signage and/or appropriate on-road line markings installed to clearly identify that parking is only allowed on one side of the roadway.

VICROADS CONDITIONS

- 37 TBC

DEPARTMENT OF ENVIRONMENT, LAND, WATER AND PLANNING CONDITIONS

- 38 TBC

Permit expiry

- 39 This permit will expire if one of the following circumstances applies:
- (a) The plan of subdivision has not been certified within two (2) years of the date of this permit.
 - (b) The subdivision is not completed within five (5) years of commencement.

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires; or

Within six (6) months after the permit expires where the use or development has not yet started;
or

Within twelve (12) months after the permit expires, where the development allowed by the
permit has lawfully commenced before the permit expiry.

Appendix C Council Proposed Amended Planning Permit

PLANNING PERMIT

GRANTED UNDER DIVISION 5 OF PART 4 OF
THE PLANNING AND ENVIRONMENT ACT
1987

Permit No.: 14/0287

Planning Scheme: Surf Coast

Responsible Authority: Surf Coast Shire Council

ADDRESS OF THE LAND:

305 Great Ocean Road, Jan Juc

THE PERMIT ALLOWS:

Staged subdivision of the land, removal of native vegetation and subdivision of land adjacent to a Road Zone Category 1 generally in accordance with plans endorsed under this permit.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Amended plans

- 1 Before the plan of subdivision for the first stage can be certified under the *Subdivision Act 1988*:
 - (a) 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 (3) copies must be provided. The plans must be generally in accordance with the plans prepared by St Quentin Consulting [Project Ref. 12486 Rev. 13] but modified to show:
 - (i) A master plan for the whole of the land to which this permit applies identifying the various stages and the lots in the first stage;
 - (ii) The dimensions and setbacks of all building and effluent disposal envelopes in accordance with the recommendations of the Land Capability Assessment undertaken by P.J. Yttrup & Associates Pty Ltd (February 2014, Amended May 2015).

- (iii) ~~— Naming of new street in accordance with Surf Coast Shire Place Naming Policy (SCS-004, 2014) and Place naming Guidelines (MPP-003,2011).~~
- (b) An amended stormwater management plan (three copies) 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 generally in accordance with the plan prepared by St Quentin Consulting [Ref. 12486E_v03] but modified to include:
- (i) Consideration of the impact of storm events greater than the 5 year ARI storm event;
 - (ii) Overland flow paths for the 100 year ARI storm event as per Clause 56.07-4 Standard C25 of the Surf Coast Planning Scheme;
 - (iii) Short and long term maintenance requirements and responsibilities for the reconfigured on-site dam required to provide the necessary on-site detention and the grass swales, and a strategy that identifies other elements or issues that may occur to assist long-term management of these systems;
 - (iv) Any staging of the delivery of stormwater management infrastructure, including temporary infrastructure;
 - (v) A construction site plan that incorporates the stormwater management measures, including sediment control, to be implemented during the construction phase of the development. The plan should have regard to the EPA Publication No. 960 “Doing it right on Subdivision – temporary environmental protection measures for subdivision construction sites”;
 - (vi) Maintenance of the stormwater management infrastructure for 2 years after the certificate of Practical Completion is issued for the final stage of the development, excluding hard civil works (e.g. concrete works, pipes and structures) that will otherwise have a maintenance period of 3 months.
- 2 The plan(s) of subdivision submitted for certification under the *Subdivision Act 1988* must be generally in accordance with the endorsed plans, except for the building and effluent envelopes required under condition 1(a)(ii), but modified to show the following to the satisfaction of the responsible authority:
- (a) All bearings, distances, levels, street names, lot numbers, lot sizes, reserves and easements;
 - (b) All easements required by Surf Coast Shire and servicing authorities to the satisfaction of the responsible authority.
 - (c) Naming of new streets in accordance with Surf Coast Shire Place Naming Policy (SCS-004, 2014) and Place Naming Guidelines (MPP-003, 2011).

Endorsed plans

- 3 The layout and site dimensions of the proposed subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Section 173 agreement

4 Prior to the certification of the plan of subdivision for the first stage, the applicant must enter into an agreement under Section 173 of the *Planning and Environment Act 1987* with the responsible authority. The agreement must be in a form to the satisfaction of the responsible authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the responsible authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:

- (a) The payment of a public open space contribution to the responsible authority being 10% of the site value of the subject land. The payment shall be made prior to the issue of a statement of compliance;
- (b) A requirement that all dwellings and associated outbuildings must be located within the building envelopes shown on the endorsed plans;
- (c) No solid fencing (i.e. less than 75% permeable) shall be erected along a property boundary which abuts or is opposite to Great Ocean Road or Bells Boulevard;
- (d) A land capability assessment and wastewater management plan shall be prepared by a suitably qualified person for each lot to the satisfaction of the responsible authority prior to the construction of a dwelling;
- (e) The payment of development contributions in relation to the subject land to the satisfaction of the responsible authority as follows:
 - (i) A Development Infrastructure contribution of \$1,135.58 per additional lot
 - (ii) A Community Infrastructure contribution of \$900 per dwelling to be constructed

The Development Infrastructure contribution amount is current as at 1 July 2015. It will be adjusted annually to cover inflation by applying the Building Price Index for Melbourne in Rawlinsons Australian Construction Handbook.

The agreement will be registered on Title in accordance with Section 181 of the *Planning and Environment Act 1987*.

Landscaping and tree protection

5 Prior to the certification of the plan of subdivision for the first stage, three (3) copies of a landscape plan prepared by a suitably qualified or experienced person, to the satisfaction of the responsible authority, must be submitted to and approved by the responsible authority. The landscape plan should generally accord with the recommendations of the Flora and Fauna Assessment and Biodiversity Assessment Report, 305 Great Ocean Road, Jan Juc, Victoria prepared by Ecology and Heritage Partners dated July 2014. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale and show:

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

- (b) Any trees being retained which require Tree Protection Zones (TPZs) during the construction period;
- (c) Landscaping of the 15 metre wide landscape buffers with a mixture of plant species that will establish an effective visual screen and is congruous to vegetation within the nearby roadsides of Great Ocean Road and Bells Boulevard;
- (d) Landscaping of the drainage/conservation reserve;
- (e) Planting of street trees within the new road reserves;
- (f) Bollards to restrict vehicle access into reserves, other than a maintenance access point using removable bollards;
- (g) Details of surface finishes of any pathways and vehicle crossovers;
- (h) The location of street lights, signage and fire hydrants;
- (i) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, installation size, and quantities of each plant;
- (j) Methods for control and eradication of environmental weeds;

Species selected must be locally indigenous and to the satisfaction of the responsible authority.

- 6 Prior to the commencement of works, tree protection zones must be established in accordance with the recommendations of the Landscape Plan, where required. These shall be suitably fenced along the alignment of the drip line of the identified trees to the satisfaction of the responsible authority.

Within this zone there must be no vehicular or pedestrian access, trenching or soil excavation, storage of waste all to the satisfaction of the responsible authority. The tree protection zone must be maintained throughout the development phase, to the satisfaction of the responsible authority.

- 7 Before the issue of a statement of compliance for each stage, or at such later date as is approved by the responsible authority in writing, the landscaping as shown on the endorsed Landscape Plan as relevant to the stage must be carried out and completed to the satisfaction of the responsible authority, unless bonding of the works has been agreed to in writing by the responsible authority.
- 8 All landscaping on the subject land must be maintained (including replacement of any dead or diseased planting) for a minimum period of two years to the satisfaction of the responsible authority.
- 9 Declared noxious weeds and pest animals are to be controlled across the development site and during the 2 year maintenance period as per the responsibilities of the land owner under Section 20 of the Catchment and Land Protection Act 1994, namely that the land owner must take all reasonable steps to: prevent the spread of, and as far as possible, eradicate established pest animals; eradicate regionally prohibited weeds, and prevent the growth and spread of regionally controlled weeds.

Vegetation offsets

- 10 In order to offset the removal of native vegetation approved as part of this permit, the applicant must provide a native vegetation offset that meets the following requirements, and is in accordance with the Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI, 2013) and the Native vegetation gain scoring manual (DEPI, 2013).

The offset must:

- (a) Amount to 0.048 general biodiversity equivalence units;
 - (b) Be located within the Corangamite Catchment Management Authority boundary;
 - (c) Have a strategic biodiversity score of at least 0.325.
- 11 Before any native vegetation is removed, evidence that an offset has been secured must be provided to the satisfaction of the responsible authority. This offset must meet the offset requirements set out in this permit and be in accordance with the requirements of Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI, 2013) and the Native vegetation gain scoring manual (DEPI, 2013).

Construction management plan

- 12 Prior to the commencement of the development, a detailed Construction Management Plan (three copies) 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 incorporate, but is not limited to, the following information:

- (a) A staging plan for all construction phases including indicative dates for commencement and completion;
- (b) Measures to minimise the impact of construction vehicles arriving at, queuing, and departing from the land;
- (c) Details of the location of access for construction vehicles;
- (d) The location of all construction equipment, materials and facilities, including delivery points, storerooms, toilets, temporary offices and workers' facilities, and parking of private vehicles of workers/ tradespersons;
- (e) Measures to minimise the generation and dispersal of dust, erosion and silt beyond the site during construction;
- (f) Protection of retained native vegetation on the land and adjoining land;
- (g) Location of stockpiles;
- (h) Methods of disposal of excess materials;
- (i) Engineering assessment of assets that will be impacted on by construction and recommended techniques to minimise any adverse impact;
- (j) Details of actions to be implemented in the event of damage to abutting assets infrastructure;

- (k) Hours/days of construction (NOTE: these works must be consistent with EPA legislation and guidelines);
- (l) Phone numbers of on-site personnel or other supervisory staff to be contactable in the event of issues arising on site;

~~(m) — Material storage~~

- (n) Plan to accord with the EPA Publication No. 960 “Doing it right on Subdivision – temporary environmental protection measures for subdivision construction sites” and No. 480 “Best Practice Environmental Guidelines for Major Construction Sites”;

The plan must detail measures to ensure:

- (o) Only clean rainwater is discharged to the stormwater drainage system;
- (p) No solid waste, sediment, sand, soil, clay or stones from the site enters the stormwater drainage system or accumulates on abutting roads;
- (q) Waterways and Council assets are protected from adverse impact, and details of action to be undertaken should damage occur;
- (r) All machinery and equipment is cleaned on site, not on adjacent roads or footpaths; and
- (s) All litter is contained on site.

All development and works must be carried out in accordance with the Construction Management Plan to the satisfaction of the responsible authority.

Road and drainage works

- 13 Before any road and drainage works associated with the subdivision start, detailed construction 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 include:
 - (a) Fully sealed road pavement 6.2 metres wide from shoulder to shoulder;
 - (b) Above ground drains including construction of infrastructure required under the endorsed Stormwater Management Plan;
 - (c) Modification of the existing dam to increase the capacity to a minimum of 245.7m³;
 - (d) Energy efficient street lamps;
 - (e) Street signs.

All works constructed or carried out must be in accordance with the endorsed construction plans to the satisfaction of the responsible authority.

- 14 Prior to the issue of a statement of compliance under the *Subdivision Act 1988*, the developer must provide:
 - (a) Road works;
 - (b) Drainage;

- (c) Street lighting and street signs;
- (d) Vehicle crossings where shown on the endorsed plans to be constructed;
- (e) Asset information in digital format to include drainage data as per “D-Spec” the Consultant/Developer Specifications for the delivery of drainage data to Local Government;

In accordance with the endorsed plans and to the satisfaction of the responsible authority.

Effluent treatment and disposal

- 15 All sewage and sullage waters shall be treated in accordance with the requirements of the Environment Protection Act 1970, the Public Health and Wellbeing Act 2008, the Code of Practice Onsite Wastewater Management (EPA 2013) and the responsible authority. All effluent shall be disposed of within the curtilage of each lot and shall not drain directly or indirectly onto an adjoining property, street or any watercourse or drain. Sufficient land shall be kept aside and kept available for the purpose of effluent disposal.

Telecommunication services

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

BARWON WATER CONDITIONS

- 18 The plan of subdivision must be referred to Barwon Water in accordance with the Subdivision Act 1988 and any subsequent amendments to the plan provided to Barwon Water.

- 19 The provision and installation of individual water services to all lots in the subdivision in accordance with Barwon Water requirements and Victorian Plumbing Regulations. Note that tappings and services are not to be located under existing or proposed driveways.
- 20 Reticulated water mains are required to service the proposed development. This work must be designed by a Barwon Water accredited Consulting Engineer and constructed by a Barwon Water accredited Contractor following the “Developer Works” process.
- 21 Barwon Water records indicate that an existing water service and meter is located on this property. A dimensioned plan showing the location of existing meters, and the location of the meter relative to the existing boundaries, and its number, is to be submitted. Private water service pipes are not permitted to cross allotment boundaries and must be plugged and abandoned at the boundaries of such allotments,
- 22 The payment of New Customer Contributions for water for each additional connection which includes any new lot on a plan of subdivision and/or any apartment, unit, or premises within the development that is or can be separately metered for water supply.

Note: The developer is to apply to Barwon Water for details relating to costs and conditions required for the provision of water supply to the subdivision.

- ~~19 — The Payment of New Customer Contributions for each additional lot created and/or each additional metered connection for water supply within the subdivision.~~
- ~~20 — Reticulated water mains are required to service the proposed development. New water mains are to connect to nearby existing water mains.~~
- ~~21 — The provision and Installation of Individual water services to all lots in the subdivision in accordance with Barwon Water Requirements and Victorian Plumbing Regulations.~~
- ~~Note that tappings and services are not to be located under existing or proposed driveways.~~
- ~~Note: The developer is to apply to Barwon Water for details relating to costs and conditions required for the provision of water supply to the subdivision.~~

POWERCOR CONDITIONS

- 23 The plan of subdivision submitted for certification under the *Subdivision Act 1988* shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.
- 24 The applicant shall provide an electricity supply to all lots in the subdivision In accordance with Powercor’s requirements and standards, Including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor. (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.
- 25 Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.

- 26 The applicant shall set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision. Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.
- 27 The applicant shall provide easements satisfactory to Powercor Australia Ltd where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of Powercor Australia Ltd for Powerline Purpose & pursuant to Section 88 of the Electricity Industry Act 2000.
- 28 The applicant shall obtain Powercor Australia Ltd's approval for a lot boundary within any area affected by an easement for a powerline and for the construction of any works in such an area.
- 29 The applicant shall provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

COUNTRY FIRE AUTHORITY CONDITIONS

- 30 Operable hydrants, above or below ground, must be provided to the satisfaction of CFA.
- 31 The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of the building envelope, the rear of all lots) must be 120m and hydrants must be no more than 200m apart.
- 32 Hydrants must be identified as specified in 'Identification of Street Hydrants for Firefighting purposes' available under publications on the Country Fire Authority website (www.cfa.vic.gov.au).
- 33 Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
- 34 The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 metres. Dips must have no more than 1 in 8 (12%) (7.1 degree) entry and exit angle.
- 35 Roads must have a minimum trafficable width of:
- (a) 5.5m if parking is prohibited on one or both sides of the road;
 - (b) 7.3m where parking is allowable on both sides of the road.
- 36 Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided). T or Y heads of dimensions specified by the CFA may be used as alternatives.

- 37 Any road with a trafficable width (Kerb to Kerb) less than 7.3 metres, must have 'no Standing' signage and/or appropriate on-road line markings installed to clearly identify that parking is only allowed on one side of the roadway.

VICROADS CONDITIONS

- 38 Prior to the issue of a statement of compliance for any stage of this subdivision that creates access to Bells Boulevard, the following works at the Subdivisional Road / Bells Boulevard intersection must be completed at no cost to and to the satisfaction of VicRoads:
- (a) A left turn lane;
 - (b) The eastern shoulder of Bells Boulevard widened and sealed (to allow through traffic to pass right turning vehicles);
 - (c) Intersection lighting.
- 39 Prior to commencing any works within the Bells Boulevard road reserve, the applicant must enter into a works agreement with VicRoads, confirming design plans and works approval processes, including the determination of fees and the level of VicRoads service obligations.

DEPARTMENT OF ENVIRONMENT, LAND, WATER AND PLANNING CONDITIONS

38—TBC

Permit expiry

- 40 This permit will expire if one of the following circumstances applies:
- (a) The plan of subdivision has not been certified within two (2) years of the date of this permit.
 - (b) The subdivision is not completed within five (5) years of commencement.
- The responsible authority may extend the periods referred to if a request is made in writing before the permit expires; or
- Within six (6) months after the permit expires where the use or development has not yet started;
or
- Within twelve (12) months after the permit expires, where the development allowed by the permit has lawfully commenced before the permit expiry.

Appendix D Panel Recommended Permit

PLANNING PERMIT

GRANTED UNDER DIVISION 5 OF PART 4 OF
THE PLANNING AND ENVIRONMENT ACT
1987

Permit No.: 14/0287

Planning Scheme: Surf Coast

Responsible Authority: Surf Coast Shire
Council

ADDRESS OF THE LAND:

305 Great Ocean Road, Jan Juc

THE PERMIT ALLOWS:

Staged subdivision of the land, removal of native vegetation and subdivision of land adjacent to a Road Zone Category 1 generally in accordance with plans endorsed under this permit.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Amended plans

- 1 Before the plan of subdivision for the first stage can be certified under the *Subdivision Act 1988*:
 - (a) 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 (3) copies must be provided. The plans must be generally in accordance with the plans prepared by St Quentin Consulting [Project Ref. 12486 Rev. 13] but modified to show:
 - (i) A master plan for the whole of the land to which this permit applies identifying the various stages and the lots in the first stage;
 - (ii) [Retention of the Trees 8, 9, 10 & 11.](#)
 - (iii) [Building envelopes for Lots 14 and 15 excluding the Tree Protection Zones \(TPZ's\) of Trees 8, 9, 10 & 11 as identified by the Flora and Fauna Assessment and Biodiversity Report, 305 Great Ocean Road, Jan Juc, Victoria prepared by Ecology and Heritage Partners July 2014.](#)

- (iv) The dimensions and setbacks of all building and effluent disposal envelopes in accordance with the recommendations of the Land Capability Assessment undertaken by P.J. Yttrup & Associates Pty Ltd (February 2014, Amended May 2015) and to account for the retention of Trees 8-11.
 - ~~(v) — Naming of new street in accordance with Surf Coast Shire Place Naming Policy (SCS-004, 2014) and Place naming Guidelines (MPP-003, 2011).~~
 - (b) An amended stormwater management plan (three copies) 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 generally in accordance with the plan prepared by St Quentin Consulting [Ref. 12486E_v03] but modified to include:
 - (i) Consideration of the impact of storm events greater than the 5 year ARI storm event;
 - (ii) Overland flow paths for the 100 year ARI storm event as per Clause 56.07-4 Standard C25 of the Surf Coast Planning Scheme;
 - (iii) Short and long term maintenance requirements and responsibilities for the reconfigured on-site dam and the swales required to provide the necessary on-site detention and the grass swales, and a strategy that identifies other elements or issues that may occur to assist long-term management of these systems;
 - (iv) Any staging of the delivery of stormwater management infrastructure, including temporary infrastructure;
 - (v) A construction site plan that incorporates the stormwater management measures, including sediment control, to be implemented during the construction phase of the development. The plan should have regard to the EPA Publication No. 960 “Doing it right on Subdivision – temporary environmental protection measures for subdivision construction sites”;
 - (vi) Maintenance of the stormwater management infrastructure for 2 years after the certificate of Practical Completion is issued for the final stage of the development, excluding hard civil works (e.g. concrete works, pipes and structures) that will otherwise have a maintenance period of 3 months.
- 2 The plan(s) of subdivision submitted for certification under the *Subdivision Act 1988* must be generally in accordance with the endorsed plans, except for the building and effluent envelopes required under condition 1(a)(ii), but modified to show the following to the satisfaction of the responsible authority:
- (a) All bearings, distances, levels, street names, lot numbers, lot sizes, reserves and easements;
 - (b) All easements required by Surf Coast Shire and servicing authorities to the satisfaction of the responsible authority.

- (c) [Naming of new streets in accordance with Surf Coast Shire Place Naming Policy \(SCS-004, 2014\) and Place Naming Guidelines \(MPP-003, 2011\).](#)

Endorsed plans

- 3 The layout and site dimensions of the proposed subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Section 173 agreement

- 4 Prior to the certification of the plan of subdivision for the first stage, the applicant must enter into an agreement under Section 173 of the *Planning and Environment Act 1987* with the responsible authority. The agreement must be in a form to the satisfaction of the responsible authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the responsible authority's reasonable costs and expense (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:

- (a) The payment of a public open space contribution to the responsible authority being 10% of the site value of the subject land. The payment shall be made prior to the issue of a statement of compliance;
- (b) A requirement that all dwellings and associated outbuildings, [including tennis courts and swimming pools](#), must be located within the building envelopes shown on the endorsed plans;
- (c) No solid fencing (i.e. less than 75% permeable) shall be erected along a property boundary which abuts or is opposite to Great Ocean Road or Bells Boulevard;
- (d) A land capability assessment and wastewater management plan shall be prepared by a suitably qualified person for each lot to the satisfaction of the responsible authority prior to the construction of a dwelling;
- (e) The payment of development contributions in relation to the subject land to the satisfaction of the responsible authority as follows:
 - (i) A Development Infrastructure contribution of \$1,135.58 per additional lot
 - (ii) A Community Infrastructure contribution of \$900 per dwelling to be constructed

The Development Infrastructure contribution amount is current as at 1 July 2015. It will be adjusted annually to cover inflation by applying the Building Price Index for Melbourne in Rawlinsons Australian Construction Handbook.

The agreement will be registered on Title in accordance with Section 181 of the *Planning and Environment Act 1987*.

- (f) [All dwellings and associated outbuildings must not exceed 7.5m above natural ground level.](#)

Landscaping and tree protection

- 5 Prior to the certification of the plan of subdivision for the first stage, three (3) copies of a landscape plan prepared by a suitably qualified or experienced person, to the satisfaction of the responsible authority, must be submitted to and approved by the responsible authority. The landscape plan should generally accord with the recommendations of the Flora and Fauna Assessment and Biodiversity Assessment Report, 305 Great Ocean Road, Jan Juc, Victoria prepared by Ecology and Heritage Partners dated July 2014, [and recommendations of the Addendum to the Flora and Fauna Assessment and Biodiversity Assessment Report, 305 Great Ocean Road, Jan Juc, Victoria prepared by Ecology and Heritage Partners dated March 2016](#). When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale and show:
- (a) A survey (including botanical names) of all existing vegetation to be retained and/or removed;
 - (b) Tree Protection Zones (TPZs) [for Trees 8, 9, 10 & 11 as identified by the Flora and Fauna Assessment and Biodiversity Report, 305 Great Ocean Road, Jan Juc, Victoria prepared by Ecology and Heritage Partners July 2014 and any other trees being retained which require Tree Protection Zones \(TPZs\)](#);
 - (c) Landscaping of the 15 metre wide landscape buffers with a mixture of plant species that will establish an effective visual screen and is congruous to vegetation within the nearby roadsides of Great Ocean Road and Bells Boulevard;
 - (d) Landscaping of the drainage/conservation reserve;
 - (e) Planting of street trees, [using indigenous species](#), within the new road reserves;
 - (f) Bollards to restrict vehicle access into reserves, other than a maintenance access point using removable bollards;
 - (g) Details of surface finishes of any pathways and vehicle crossovers;
 - (h) The location of street lights, signage and fire hydrants;
 - (i) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, installation size, and quantities of each plant;
 - (j) Methods for control and eradication of environmental weeds;
 - (k) [Retention of the dead tree in proposed Lot 15 for its habitat value provided it is found to be safe to do so following an assessment by an Arborist](#)

Species selected must be locally indigenous and to the satisfaction of the responsible authority.

- 6 Prior to the commencement of works, tree protection zones must be established in accordance with the recommendations of the Landscape Plan, where required. These shall be suitably fenced along the alignment of the drip line of the identified trees to the satisfaction of the responsible authority.

Within this zone there must be no vehicular or pedestrian access, trenching or soil excavation, storage of waste all to the satisfaction of the responsible authority. The tree protection zone

must be maintained throughout the development phase, to the satisfaction of the responsible authority.

- 7 Before the issue of a statement of compliance for each stage, or at such later date as is approved by the responsible authority in writing, the landscaping as shown on the endorsed Landscape Plan as relevant to the stage must be carried out and completed to the satisfaction of the responsible authority, unless bonding of the works has been agreed to in writing by the responsible authority.
- 8 All landscaping on the subject land must be maintained (including replacement of any dead or diseased planting) for a minimum period of ~~two~~ five years to the satisfaction of the responsible authority.
- 9 Before the issue of a statement of compliance for each stage, or at such later date as is approved by the responsible authority in writing, a bond shall be paid (figure to be determined) to the ensure the maintenance of the landscaping along the Great Ocean Road and Bells Boulevard Road frontages for a period of five years. (Wording may altered to reflect any Council standard condition)
- 10 Declared noxious weeds and pest animals are to be controlled across the development site and during the 2 year maintenance period as per the responsibilities of the land owner under Section 20 of the Catchment and Land Protection Act 1994, namely that the land owner must take all reasonable steps to: prevent the spread of, and as far as possible, eradicate established pest animals; eradicate regionally prohibited weeds, and prevent the growth and spread of regionally controlled weeds.

Vegetation offsets

- 11 Before any native vegetation is removed, evidence that an offset has been secured must be provided to the satisfaction of the responsible authority. This offset must be in accordance with the requirements of Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI, 2013) and the Native vegetation gain scoring manual (DEPI, 2013).
- ~~12 In order to offset the removal of native vegetation approved as part of this permit, the applicant must provide a native vegetation offset that meets the following requirements, and is in accordance with the Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI, 2013) and the Native vegetation gain scoring manual (DEPI, 2013).~~

~~The offset must:~~

 - ~~(a) Amount to 0.048 general biodiversity equivalence units;~~
 - ~~(b) Be located within the Corangamite Catchment Management Authority boundary;~~
 - ~~(c) Have a strategic biodiversity score of at least 0.325.~~
- 13 Before any native vegetation is removed, evidence that an offset has been secured must be provided to the satisfaction of the responsible authority. This offset must ~~meet the offset requirements set out in this permit and~~ be in accordance with the requirements of Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI, 2013) and the Native vegetation gain scoring manual (DEPI, 2013).

Construction management plan

- 14 Prior to the commencement of the development, a detailed Construction Management Plan (three copies) 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 incorporate, but is not limited to, the following information:
- (a) A staging plan for all construction phases including indicative dates for commencement and completion;
 - (b) Measures to minimise the impact of construction vehicles arriving at, queuing, and departing from the land;
 - (c) Details of the location of access for construction vehicles;
 - (d) The location of all construction equipment, materials and facilities, including delivery points, storerooms, toilets, temporary offices and workers' facilities, and parking of private vehicles of workers/ tradespersons;
 - (e) Measures to minimise the generation and dispersal of dust, erosion and silt beyond the site during construction;
 - (f) Protection of retained native vegetation on the land and adjoining land;
 - (g) Location of stockpiles;
 - (h) Methods of disposal of excess materials;
 - (i) Engineering assessment of assets that will be impacted on by construction and recommended techniques to minimise any adverse impact;
 - (j) Details of actions to be implemented in the event of damage to abutting assets infrastructure;
 - (k) Hours/days of construction (NOTE: these works must be consistent with EPA legislation and guidelines);
 - (l) Phone numbers of on-site personnel or other supervisory staff to be contactable in the event of issues arising on site;
 - ~~(m) — Material storage~~
 - (n) Plan to accord with the EPA Publication No. 960 "Doing it right on Subdivision – temporary environmental protection measures for subdivision construction sites" and No. 480 "Best Practice Environmental Guidelines for Major Construction Sites";

The plan must detail measures to ensure:

- (o) Only clean rainwater is discharged to the stormwater drainage system;
- (p) No solid waste, sediment, sand, soil, clay or stones from the site enters the stormwater drainage system or accumulates on abutting roads;
- (q) Waterways and Council assets are protected from adverse impact, and details of action to be undertaken should damage occur;

- (r) All machinery and equipment is cleaned on site, not on adjacent roads or footpaths; and
- (s) All litter is contained on site.

All development and works must be carried out in accordance with the Construction Management Plan to the satisfaction of the responsible authority.

Road and drainage works

- 15 Before any road and drainage works associated with the subdivision start, detailed construction 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 include:

- (a) Fully sealed road pavement 6.2 metres wide from shoulder to shoulder;
- (b) Above ground drains including construction of infrastructure required under the endorsed Stormwater Management Plan;
- (c) Modification of the existing dam to increase the capacity to a minimum of 245.7m³;
- (d) Energy efficient street lamps;
- (e) Street signs.

All works constructed or carried out must be in accordance with the endorsed construction plans to the satisfaction of the responsible authority.

- 16 Prior to the issue of a statement of compliance under the *Subdivision Act 1988*, the developer must provide:

- (a) Road works;
- (b) Drainage;
- (c) Street lighting and street signs;
- (d) Vehicle crossings where shown on the endorsed plans to be constructed;
- (e) Asset information in digital format to include drainage data as per "D-Spec" the Consultant/Developer Specifications for the delivery of drainage data to Local Government;

In accordance with the endorsed plans and to the satisfaction of the responsible authority.

Effluent treatment and disposal

- 17 All sewage and sullage waters shall be treated in accordance with the requirements of the Environment Protection Act 1970, the Public Health and Wellbeing Act 2008, the Code of Practice Onsite Wastewater Management (EPA 2013) and the responsible authority. All effluent shall be disposed of within the curtilage of each lot and shall not drain directly or indirectly onto an adjoining property, street or any watercourse or drain. Sufficient land shall be kept aside and kept available for the purpose of effluent disposal.

Telecommunication services

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

BARWON WATER CONDITIONS

- 20 The plan of subdivision must be referred to Barwon Water in accordance with the Subdivision Act 1988 and any subsequent amendments to the plan provided to Barwon Water.
- 21 The provision and installation of individual water services to all lots in the subdivision in accordance with Barwon Water requirements and Victorian Plumbing Regulations. Note that tapplings and services are not to be located under existing or proposed driveways.
- 22 Reticulated water mains are required to service the proposed development. This work must be designed by a Barwon Water accredited Consulting Engineer and constructed by a Barwon Water accredited Contractor following the "Developer Works" process.
- 23 Barwon Water records indicate that an existing water service and meter is located on this property. A dimensioned plan showing the location of existing meters, and the location of the meter relative to the existing boundaries, and its number, is to be submitted. Private water service pipes are not permitted to cross allotment boundaries and must be plugged and abandoned at the boundaries of such allotments.
- 24 The payment of New Customer Contributions for water for each additional connection which includes any new lot on a plan of subdivision and/or any apartment, unit, or premises within the development that is or can be separately metered for water supply.
- Note: The developer is to apply to Barwon Water for details relating to costs and conditions required for the provision of water supply to the subdivision.

~~25 — The Payment of New Customer Contributions for each additional lot created and/or each additional metered connection for water supply within the subdivision.~~

~~26 — Reticulated water mains are required to service the proposed development. New water mains are to connect to nearby existing water mains.~~

~~27 — The provision and Installation of Individual water services to all lots in the subdivision in accordance with Barwon Water Requirements and Victorian Plumbing Regulations.~~

~~Note that tappings and services are not to be located under existing or proposed driveways.~~

~~Note: The developer is to apply to Barwon Water for details relating to costs and conditions required for the provision of water supply to the subdivision.~~

POWERCOR CONDITIONS

- 28 The plan of subdivision submitted for certification under the *Subdivision Act 1988* shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.
- 29 The applicant shall provide an electricity supply to all lots in the subdivision In accordance with Powercor's requirements and standards, Including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor. (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.
- 30 Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.
- 31 The applicant shall set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision. Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.
- 32 The applicant shall provide easements satisfactory to Powercor Australia Ltd where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of Powercor Australia Ltd for Powerline Purpose & pursuant to Section 88 of the Electricity Industry Act 2000.
- 33 The applicant shall obtain Powercor Australia Ltd's approval for a lot boundary within any area affected by an easement for a powerline and for the construction of any works in such an area.

- 34 The applicant shall provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

COUNTRY FIRE AUTHORITY CONDITIONS

- 35 Operable hydrants, above or below ground, must be provided to the satisfaction of CFA.
- 36 The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of the building envelope, the rear of all lots) must be 120m and hydrants must be no more than 200m apart.
- 37 Hydrants must be identified as specified in 'Identification of Street Hydrants for Firefighting purposes' available under publications on the Country Fire Authority website (www.cfa.vic.gov.au).
- 38 Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
- 39 The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 metres. Dips must have no more than 1 in 8 (12%) (7.1 degree) entry and exit angle.
- 40 Roads must have a minimum trafficable width of:
- (a) 5.5m if parking is prohibited on one or both sides of the road;
 - (b) 7.3m where parking is allowable on both sides of the road.
- 41 Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided). T or Y heads of dimensions specified by the CFA may be used as alternatives.
- 42 Any road with a trafficable width (Kerb to Kerb) less than 7.3 metres, must have 'no Standing' signage and/or appropriate on-road line markings installed to clearly identify that parking is only allowed on one side of the roadway.

VICROADS CONDITIONS

- 43 Prior to the issue of a statement of compliance for any stage of this subdivision that creates access to Bells Boulevard, the following works at the Subdivisional Road / Bells Boulevard intersection must be completed at no cost to and to the satisfaction of VicRoads:
- At the subdivisional road/ Bells Boulevard intersection:
 - (a) A left turn lane;
 - (b) The eastern shoulder of Bells Boulevard widened and sealed (to allow through traffic to pass right turning vehicles);
 - (c) Intersection lighting.
- 44 Prior to commencing any works within the Bells Boulevard road reserve, the applicant must enter into a works agreement with VicRoads, confirming design plans and works approval processes, including the determination of fees and the level of VicRoads service obligations.

~~DEPARTMENT OF ENVIRONMENT, LAND, WATER AND PLANNING CONDITIONS~~

~~45—TBC~~

Permit expiry

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

- (a) The plan of subdivision has not been certified within two (2) years of the date of this permit.
- (b) The subdivision is not completed within five (5) years of commencement.

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires; or

Within six (6) months after the permit expires where the use or development has not yet started;
or

Within twelve (12) months after the permit expires, where the development allowed by the permit has lawfully commenced before the permit expiry.