

OFFICER'S REPORT - 14/0287 - 305 GREAT OCEAN ROAD, JAN JUC**Proposal**

This planning permit application has been lodged under the provisions of Section 96A of the *Planning and Environment Act 1987* (the Act) in combination with Planning Scheme Amendment C99, which seeks to rezone the land from Farming Zone to Low Density Residential Zone (LDRZ).

The application seeks approval for the staged subdivision of the land (16 lots), removal of native vegetation and subdivision of land adjacent to a Road Zone Category 1. The proposed lots range in size from 4,000m² to 7,959m². The lots will have access via new internal roads with a single entry from Bells Boulevard. None of the lots, except for the existing dwelling, will have direct access onto the Great Ocean Road.

Figure 1: Proposed subdivision (as exhibited)



It is also proposed to create a 5,094m² reserve in the southeast corner of the site, which will contain a dam and patch of remnant vegetation, and 15 metre wide (7,048m²) landscape buffers along the Great Ocean Road and Bells Boulevard frontages. All reserves are to be vested in Council.

A small amount of native vegetation within the site and within the adjoining Bells Boulevard road reserve is proposed to be removed to facilitate access to the site. All services, apart from sewer and gas, can be provided to the site.

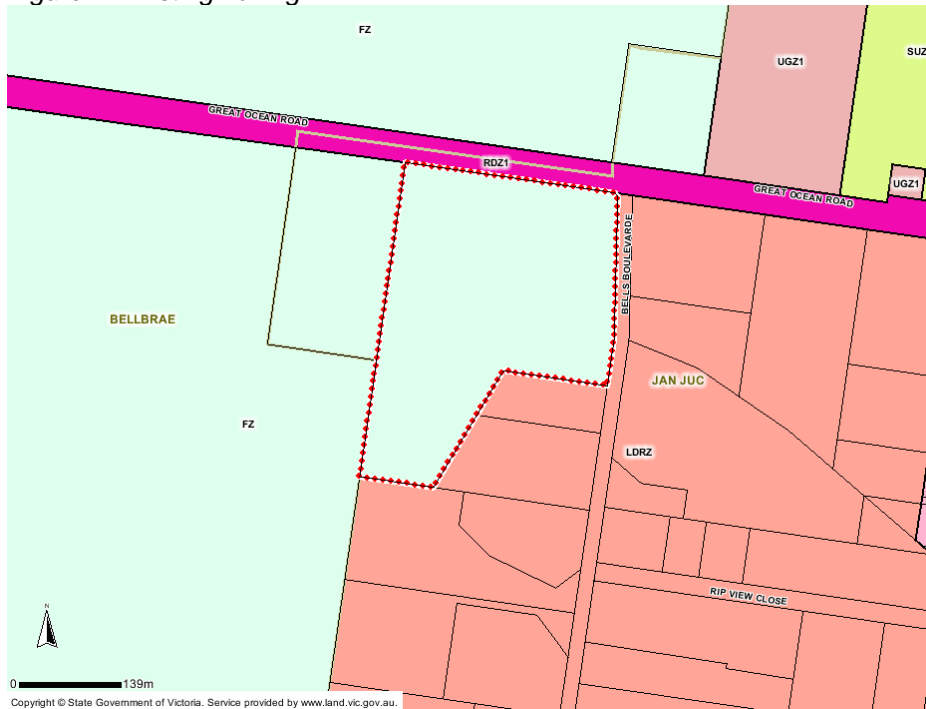
Site and Surrounding Area

The 10.3 hectare site is located on the south-west corner of Great Ocean Road and Bells Boulevard, approximately 3km west of the Torquay CBD. The site contains an existing double-storey dwelling and associated outbuildings, tennis court, small farm dam, grazed paddocks, rural fencing, stands of planted non-native and exotic trees and shrubs, and 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 culvert under Bells Boulevard which discharges into the upper tributary of Jan Juc Creek further east.

The site abuts the Great Ocean Road to the north, Bells Boulevard to the east, Low Density Residential zoned land to the south and Farming zoned land to the west (refer Map 1). The Torquay-Jan Juc settlement boundary runs along the western boundary of the site. The surrounding properties are developed by single dwellings on lots ranging in size from 3,770m² to over 5ha.

Figure 2: Existing zoning



Relevant History and Background

No record exists for any previous planning permit applications for the site.

Registered Restrictions

Under Section 61(4) of the *Planning & Environment Act 1987* the Responsible Authority must not issue a planning permit that would result in a breach of a registered restriction. The subject land is not affected by any registered restriction.

Aboriginal Cultural Heritage

Pursuant to Section 52(1) of the *Aboriginal Heritage Act 2006* if a Cultural Heritage Management Plan (CHMP) is required a planning permit can not be granted until a copy of the approved CHMP is provided and the responsible authority cannot grant a permit for an activity that is inconsistent with the approved CHMP [s. 52(3)].

The proposal is a high impact activity as specified in the *Aboriginal Heritage Regulations 2007*, but the subject site is not within an area of cultural heritage sensitivity. Therefore a CHMP is not required. It is noted that a Due Diligence Cultural Heritage Assessment was prepared in support of the application. The report concluded that the occurrence of Aboriginal cultural heritage is unlikely.

Referral

Notice of the application was given pursuant to the combined amendment/application provisions of Section 96C of the Act to the following statutory authorities:

Authority	Advice/Response
DELWP	No response
CCMA	Consent with conditions
CFA	No response
VicRoads	Consent with conditions
Southern Rural Water	Consent
Barwon Water	Consent with conditions
Powercor	No response
Telstra	No response
TXU Networks (Gas)	No response

The application was also referred internally to the following departments:

Internal Council Referrals	Advice/Response
Infrastructure Department	Consent with conditions
Environmental Health Department	Consent with conditions
Environment Department	Consent
Open Space Planning	Consent

Public Notice

In accordance with the requirements of Section 96C of the Act, the combined planning scheme amendment and planning permit application were placed on public exhibition for a period of one month. Notice was given in the following manner:

1. notice was sent by ordinary mail to nearby property owners
2. a notice was published in the Surf Coast Times and Government Gazette on 5 November 2015

Nine submissions were received, including four from referral authorities offering no objection subject to conditions, one submission in support and four objections. The objections are summarised as follows:

- Density and lot size
- Landscape and visual impacts
- Loss of vegetation and wildlife
- Traffic and access
- Bushfire risk
- Lack of strategic justification

Planning Scheme Considerations

The proposal is assessed against the applied planning provisions of the Surf Coast Planning Scheme as follows:

Permit Requirements

The land is currently zoned Farming Zone, but is proposed to be rezoned to Low Density Residential Zone (LDRZ). Pursuant to Clause 32.03-3 of the LDRZ a permit is required to subdivide land. Each lot must be at least 0.4 hectare where reticulated sewerage is not connected and 0.2 hectare where a lot is connected to reticulated sewerage, unless the Schedule to the zone specifies a different lot size. Each lot must show a building envelope and driveway to the envelope, existing vegetation and in the absence of reticulated sewerage, an effluent disposal area.

The land is partly affected by the Vegetation Protection Overlay Schedule 1 (VPO1). A permit is required to remove, destroy or lop native vegetation, except where the vegetation is:

- on the building side of a vertical line 2 metres from the outer edge of the roof of a building, except where an approved landscape plan or site plan specifies the retention of the vegetation;
- listed as an environmental weed in Environmental Weeds - Invaders of our Surf Coast, 2nd Edition, 2002;
- removed in accordance with an approved Whole Farm Plan;
- within the Alcoa lease area.

Clause 52.01 requires a 10% public open space contribution for subdivision of land within the Torquay-Jan Juc urban settlement boundary that creates 10 or more additional lots. This contribution is to be provided as a percentage of the land area intended to be used for residential purposes, a percentage of the site value of such land, or a combination of both.

A permit is required to remove, destroy or lop native vegetation, including dead trees, pursuant to [Clause 52.17](#). It is proposed to remove 0.144 hectares of native vegetation to enable access to the site. The application falls under the 'Low Risk Pathway' as defined in the *Permitted clearing of native vegetation - Biodiversity assessment guidelines* (DEPI, 2013).

The site abuts a Road Zone, Category 1. Pursuant to [Clause 52.29](#) a permit is required to:

- create or alter access to a road in a Road Zone, Category 1
- subdivide land adjacent to a road in a Road Zone, Category 1

State Planning Policy Framework

The proposal is consistent with and implements the following clauses of the SPPF:

- 11.02 Urban growth
- 11.05-5 Coastal settlement
- 12 Environmental and landscape values, including 12.02 Coastal areas
- 13 Environmental risks, including 13.05 Bushfire
- 14 Natural resource management, including 14.02-1 Catchment planning and management
- 15 Built environment and heritage
- 16 Housing
- 19 Infrastructure, including 19.03-2 Development infrastructure

The application implements the SPPF by facilitating infill development within a defined settlement boundary and within an existing settlement that is capable of accommodating growth (Clause 11.05-5). Similarly the proposal is consistent with Clause 12.02-2 relating to development in coastal areas.

The amendment further supports the SPPF by ensuring that the change to land use achieves no net loss in the extent and quality of native vegetation (Clause 12.01-2), addresses bushfire concerns (Clause 13.05), properly considers the local context (Clause 15.01) and cultural heritage (Clause 15.03), ensuring that future residential development is properly integrated with appropriate infrastructure and services, and providing rural residential development in a location that will not encroach on high quality productive agricultural land or land required for fully serviced urban development (Clause 16.02-1).

Local Planning Policy Framework

The proposal is consistent with and implements the following clauses of the LPPF:

- 21.01-4 Municipal framework plan
- 21.02 Settlement, built environment, heritage and housing
- 21.03 Environmental management
- 21.06 Rural landscape
- 21.07 Rural residential living
- 21.08 Torquay-Jan Juc strategy

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. The strategy seeks to restrict lot sizes for rural residential development so that land is used more efficiently. To this end, lot sizes of between 0.4ha to 1ha 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 detracts from the landscape, cultural heritage or environmental values of adjoining land. The Strategy states that limited opportunities for low density residential development will be provided on the edges of Torquay-Jan Juc and development 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 on Map 1 of Clause 21.08 – 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.*

The site at 305 Great Ocean Road, Jan Juc is shown on the Torquay-Jan Juc Framework Map as "Future Low Density Residential" and sits within the settlement boundary.

Under 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.

General Provisions

Clause 65 requires the responsible authority to determine whether the proposal will produce acceptable outcomes having consideration to the decision guidelines of this clause. Relevant decision guidelines are:

- The suitability of the land for subdivision.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The layout of roads having regard to their function and relationship to existing roads.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.
- The capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.
- Whether native vegetation can be protected through subdivision and siting of open space areas.

Planning Scheme Amendments

Planning Scheme Amendment C99 is being considered concurrently with the planning permit application. The amendment proposes to rezone the land from Farming Zone to Low Density Residential Zone.

Discussion of Key Issues

Subdivision layout and density

The proposal seeks to subdivide the land into sixteen lots. The proposed lots range in size from 4,000m² to 7,959m². This meets the minimum lot size specified by the LDRZ for unsewered land.

The minimum lot size of 4,000m² (0.4ha) is considered appropriate for the site having regard to the physical characteristics of the site (predominantly cleared of significant vegetation, low fire risk) and the findings of the land capability assessment (see below). A minimum lot size of 0.4ha also applies to Low Density Residential zoned land on the east side of Bells Boulevard, which exhibits similar characteristics. Land to the south may have a minimum lot size of 1.5ha, however that pocket of Bells Boulevard contains significant vegetation, is affected by the BMO and part is within viewsheds of the Bells Beach Surfing Recreation Reserve.

Wastewater management

As reticulated sewerage cannot be provided to the site, each lot will be required to treat and retain all wastewater on-site. A Land Capability Assessment was undertaken (P.J. Yttrup and Associates, July 2014) to assess the site's suitability for effluent disposal and to advise on the recommended minimum lot size. The assessment noted that whilst the site has some severe constraints and risks associated with on-site effluent disposal, the proposed minimum lot sizes, effluent envelopes and buffer distances are appropriate to sustainably manage wastewater. The report recommends that individual land capability assessments and wastewater management plans be prepared for each lot at the time of dwelling design and construction.

The proposal satisfies the requirements of the LDRZ.

Public open space

The subdivision proposes to create a 5,094m² drainage/conservation reserve in the south-east corner of the site, which will contain a dam and a patch of remnant vegetation, and a 15 metre wide landscape buffer reserve along the Great Ocean Road and Bells Boulevard frontages.

In accordance with the Schedule to Clause 52.01, a public open space contribution of 10% must be made for subdivisions that create 10 or more additional lots. This can be in the form of a percentage of the land area, a percentage of the land value, or a combination of both.

The proposed reserves are deemed encumbered land due to their nature and purpose and therefore not accepted as part of the public open space contribution. As no unencumbered public open space is proposed to be provided, a 10% cash contribution is required of the value of the land intended to be used for residential purposes as a condition of permit.

Stormwater management

It is proposed to provide stormwater drainage via the use of open swales within easements and the road reserve. Additional diversion drains will be provided on the high side of effluent disposal areas, consistent with the recommendations of the land capability assessment.

The stormwater management plan submitted with the application determined that there will be an increase in the rate of stormwater runoff from the site post development. The provision of additional on-site detention of stormwater is therefore required. This will be achieved by increasing the size of the existing dam to provide increased capacity for detention of stormwater prior to discharge into the waterway.

The CCMA initially raised issues with the preliminary nature of the submitted stormwater plan and has requested that an amended stormwater management plan with more detail be submitted as a condition of permit. This requirement has been included on the draft planning permit.

The CCMA also raised concerns with potential impacts on the designated waterway in the south-east corner of the site and requested that a 30m wide buffer be provided on both sides of the waterway. This would have required an increase in the size of the proposed reserve and relocation of the internal road further north. However, due to limited sight distance along Bells Boulevard and VicRoads not supporting any access onto the Great Ocean Road, the proposed access road cannot be relocated. Upon further negotiation between CCMA, Council and the proponent, the CCMA accepted the proposed road layout and no longer required a 30m buffer along the waterway as the authority was satisfied that sufficient protection will be provided by the proposed reserve, subject to satisfactory stormwater management.

Road access and traffic management

Vehicle access to all lots within the subdivision, except the existing dwelling, will be provided via two new internal roads, which will connect with Bells Boulevard at a single access point. This point has been sited in a location with the best available sight distance. No new access will be provided to the Great Ocean Road, consistent with VicRoads directions.

Around 150 vehicle movements per day will be generated by the proposed 16-lot subdivision (i.e. 10 per additional lot). It is considered that the surrounding road network has sufficient capacity to accommodate this level of traffic.

VicRoads have requested that a turning lane and sealed shoulder be provided at the proposed intersection in Bells Boulevard to allow through traffic to pass turning vehicles. The details of such works will be subject to further detailed design work and acceptance by VicRoads as a condition of permit.

Vegetation removal

A flora and fauna and biodiversity assessment was prepared to accompany the application (Ecology & Heritage Partners, July 2014). An addendum to the report (Ecology & Heritage Partners, March 2016) was prepared to ascertain the implications for vegetation within the Bells Boulevard road reserve as a consequence of the VicRoads requirement for a turning lane and sealed shoulder at the proposed intersection. The main findings of the assessments are:

- The site is mostly highly modified with remnant vegetation limited to the south-eastern portion of the site and the road reserves.
- The habitat is considered to be of low value for fauna.
- The application falls within the low risk-based pathway.

- Removal of vegetation has been minimised and is required to provide access to the site from Bells Boulevard. Appropriate offsets are nominated and are included as conditions on the planning permit pursuant to the requirements of Clause 52.17-6.

The majority of the remnant vegetation present on the site will be retained in the proposed drainage/conservation reserve. Four scattered trees will also be retained, including one dead tree subject to assessment by an arborist for its safety.

The level and nature of vegetation removal is considered to be low and is deemed acceptable given the circumstances around access provision. The proposed access point to the site has been located in the most suitable location from a traffic management and safety perspective. The loss of vegetation will be mitigated by the required offsets, preservation of the majority of the native vegetation within the proposed reserve and planting of additional vegetation in the proposed landscape buffers. As the exact extent of vegetation removal within the road reserve will not be known until detailed design plans have been prepared for the required intersection works, it is considered reasonable to include offset requirements that are based on the worst case footprint of the intersection works.

Landscape and visual amenity

The subject site is located on the western entry into Jan Juc along the Great Ocean Road. Due to the fall and predominantly open nature of the land, there is potential for future dwellings to become visible from the road and surrounding area and to detract from the scenic values of the environs. To determine any visual impact and to formulate mitigation measures, a Visual Impact Assessment was prepared (Hansen Partnership, July 2014). The key findings of the assessment are summarised as follows:

- Many potential views to the site are obscured by dense roadside vegetation, embankments near the site and vegetation on neighbouring properties and on the subject site.
- Panoramic views across the site towards Bass Strait are available from the Great Ocean Road along a section of the northern boundary.
- The site is not clearly visible from Bells Boulevard due to the undulating nature of the terrain along Bells Boulevard and the dense roadside vegetation, except for a section directly along the eastern boundary in the low lying terrain of the gully.

To mitigate any visual impact the Visual Impact Assessment recommends the provision of a 15 metre wide landscape buffer with indigenous vegetation along the Great Ocean Road and Bells Boulevard frontages. It is intended that these buffers be planted with indigenous vegetation to 10 metres high congruous to what exists along the nearby roadsides of Great Ocean Road and Bells Boulevard. The proposed planting is considered an acceptable response to the site and its surrounds. The vegetation buffers, once established, will be visually impermeable to transitory viewers from the Great Ocean Road and Bells Boulevard and will ensure future development does not impact on the valued landscape amenity of the area. With the 15 metre wide landscape buffers and 20 metre wide internal road reserve, any future dwelling will be set back in excess of 35 metres from either road. To further limit the visual impact of future dwellings, the applicant has proposed to limit building height to 7.5m.

It is considered that with the establishment of effective landscape buffers, the siting of dwellings within the proposed building envelopes and a restricted building height the visual impact of future development will be limited and will not detract from the landscape amenity or character of the area.

The application was referred under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) to the commonwealth Department of Environment as the subject site immediately abuts a National Heritage Place (Great Ocean Road and Environs). EPBC Act approval is required for any action that has, will have or is likely to have a significant impact upon the national heritage 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 structure within, adjacent to, or within important site lines of, a National Heritage Place which are inconsistent with relevant values. The Department of Environment determined that the proposal was not a controlled action requiring approval under the EPBC Act.

Bushfire management

Although the site is currently not affected by the Bushfire Management Overlay (BMO), a Bushfire Development Report (Terramatrix, June 2013) was submitted as part of the application to give due consideration to bushfire risk. The report's main findings are as follows:

- There is not a significant bushfire risk to the site.

- Future dwellings on the land will need to be built to a minimum BAL-12.5 construction standard, with higher construction standards likely needed depending upon proximity to classified vegetation and site restrictions.
- Setbacks commensurate to the BAL construction standard should be applied as appropriate. The report recommends not to have buildings within the “non-buildable zone”, which is represented by the BAL-29 setback.

In response to the recommendations of the Bushfire Development Report the proposal incorporates the following specific bushfire management measures:

- A 20m buffer distance from the proposed landscape buffer
- The majority of lots being capable of construction to BAL-12.5
- Building envelopes sited beyond BAL-29 setbacks
- Road network and water supply to CFA standards

It is considered that the design response has satisfactorily addressed any bushfire risk.

Lot supply

The subdivision of the subject site is not required to meet the forecast demand for residential land as there is ample zoned and unzoned broadhectare land in Torquay-Jan Juc to satisfy a minimum 15 years land supply. Residential growth areas are located in Torquay North, Torquay West and the Spring Creek urban growth area.

Council does not specifically plan for the supply of low density residential land to meet demand. The specific demand for low density residential land is unknown and has not been quantified for the purposes of this application. Given the small number of lots it is not considered that the proposed subdivision will make any significant contribution to satisfying future demand for residential land in Torquay-Jan Juc. It will however make a modest contribution to providing housing choice and diversity, by providing rural residential lots in an attractive location and setting as an alternative to conventional sized lots within an urban environment.

Conclusion

It is considered that the proposal satisfactorily addresses the relevant planning policy framework and provides an acceptable outcome in terms of subdivision layout, wastewater management, stormwater management, access and traffic, vegetation management, landscape and visual impacts and bushfire management. It will provide for appropriate low density residential development within a strategically identified location, whilst ensuring valued environmental and landscape features are protected and enhanced.

It is recommended that a permit be granted for staged subdivision of the land, removal of native vegetation and subdivision of land adjacent to a Road Zone Category 1 subject to conditions.