

**Bass Coast Statement of Planning Policy
Distinctive Areas and Landscapes Standing Advisory Committee**

Standing Advisory Committee Report: Part 1

Planning and Environment Act 1987

22 June 2023

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

The Committee acknowledges the Bunurong People as the traditional custodians of the land upon which the Bass Coast Statement of Planning Policy applies. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Standing Advisory Committee Report: Part 1 pursuant to section 25 of the PE Act

Bass Coast Statement of Planning Policy

Distinctive Areas and Landscapes Standing Advisory Committee

22 June 2023

Members:



Kathy Mitchell AM, Chair



Alison McFarlane, Deputy Chair



Jessica Tulloch, Member

Specialists:



Mandy Elliott, environment specialist



Rebecca Finn, landscape specialist



Natasha Reifschneider, environment specialist

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Glossary and abbreviations

Committee	Distinctive Areas and Landscapes Standing Advisory Committee
D	Document number
DAL	Distinctive Areas and Landscapes
DELWP	Department of Environment, Land, Water and Planning
DELWP report	<i>Bass Coast Residential Supply-Demand Assessment, 2021</i>
LPC	<i>Draft Bass Coast Statement of Planning Policy: Proposed Landscape Planning Controls, March 2022</i>
draft SPP	<i>Draft Bass Coast Statement of Planning Policy, March 2022</i>
DTP	Department of Transport and Planning
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act, 1999</i>
ESO	Environment Significance Overlay
FFG Act	<i>Flora and Fauna Guarantee Act, 1988</i>
GRZ	General Residential Zone
LAR	<i>Bass Coast Landscape Assessment Review, Volumes 1 and 2, 2021</i>

LAS	<i>Coastal Spaces Landscape Assessment Study, 2006</i>
LDRZ	Low Density Residential Zone
LPC	Landscape Planning Controls
LSIO	Land Subject to Inundation Overlay
Minister	Minister for Planning
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Bass Coast Planning Scheme
PPN	Planning Practice Note
PSB	Protected Settlement Boundary
RPE	Responsible Public Entity/Entities
Rural Tourism Strategy	Bass Coast Unlocking Rural Tourism Strategy, Urban Enterprise for Bass Coast Shire Council, as adopted in 2023
S	Submitter number
Shire	Bass Coast Shire area
SLO	Significant Landscape Overlay
SPP	Statement of Planning Policy
UE 2022 report	<i>Bass Coast Residential Market, Demand and Supply Assessment, Urban Enterprise for Bass Coast Shire Council, August 2022 Revision 2</i>
VFF	Victorian Farmers Federation
VPP	Victoria Planning Provisions
WPW	Western Port Woodlands

Glossary of key parties:

Abrahams/Franlaw	Adrian Abrahams and Franlaw
Best Hooper Group	Glen Waverley Real Estate, Coastal Estates, Justin Taylor, Jim Goumas
CCG	Combined Conservation Group: Save Western Port Woodlands, South Gippsland Conservation Society, Victorian National Parks Association
CPRRA	Cape Paterson Residents Group and Ratepayers Association
Council	Bass Coast Shire Council
Moed/White	Geoff Moed/Howard Verway/Kandanapanny Letchumanan and Rohan White
Proponent	Minister for Planning
Springway San Remo	Springway Corporate Group (San Remo)
Springway Ventnor	Springway Corporate Group (Ventnor)
Wallis Watson	Wallis Watson Cape Paterson

Overview

Project summary

The Project	Bass Coast Draft Statement of Planning Policy and Proposed Landscape Planning Controls
Common name	Bass Coast Distinctive Areas and Landscapes (Bass Coast DAL)
Brief description	<p>The draft Statement of Planning Policy for the Bass Coast declared area sets out:</p> <ul style="list-style-type: none"> - a 50-year vision, which identifies the values and attributes the community wants to protect and enhance - policy objectives and strategies to guide the future uses, development and management of land in the declared area, to achieve the vision - a declared area framework plan, which specifies areas for conservation and identifies long-term Protected Settlement Boundaries.
Declared area	Bass Coast Shire
The Proponent	Minister for Planning
Exhibition	3 March – 29 April 2022 (Phase 3 Engagement)
Submissions	747 submissions (see Appendix B)

Committee process

The Committee	<p>Kathy Mitchell AM, Chair</p> <p>Alison McFarlane, Deputy Chair</p> <p>Jessica Tulloch, member</p> <p>Mandy Elliott, specialist</p> <p>Rebecca Finn, specialist</p> <p>Natasha Reifschneider, specialist</p>
Directions Hearing	13 December 2022 by videoconference, convened on MS Teams
Committee Hearings	Variously at Wonthaggi, Melbourne, Cape Paterson, San Remo - hybrid
Site inspections	<p>Accompanied: 15 and 16 February 2023</p> <p>Unaccompanied: Weeks 1, 6 and 7 of the Hearing while at Wonthaggi, Cape Paterson and San Remo/Phillip Island, and 15 May 2023</p>
Parties to the Hearing	See Part 2 report, Appendix C
Citation	DALSAC Bass Coast [2023] PPV
Date of this report	22 June 2023

Executive summary

The Bass Coast draft Statement of Planning Policy

Phillip Island is renowned for its extraordinary coastline, its surf beaches, penguins, shore birds and other wildlife. The Bunurong coastline between Cape Paterson and Inverloch and beyond, the Bass Hills and Valley and the Western Port Woodlands provide for a different offer on the mainland, but one no less distinctive. Significant tourism opportunities have seen areas within the Bass Coast Shire becoming even more popular. The tourism offer of Bass Coast is enhanced by its accessibility and the two-hour window from metropolitan Melbourne.

At the same time, Victoria is facing a housing crisis where affordable land and housing opportunities are in stress, coupled with a noticeable lack of supply of rental and short-term accommodation. Housing is at a premium and price points for entering the housing market are ever increasing. The advent of COVID-19 in 2020 saw many people move from metropolitan Melbourne to the regions of Victoria, particularly to those areas that can be accessed within a two-hour drive time, including Bass Coast Shire. Residential areas in Bass Coast saw an increased population since 2020 and this has continued to be sustained.

The draft Bass Coast Statement of Planning Policy seeks to build on the significant landscape assets and ensure the long-term protection of what makes Bass Coast so special, particularly its distinctive areas and landscapes, including its coastlines and its hills. These assets rightly should be protected from inappropriate development, including unfettered housing development. The draft Bass Coast Statement of Planning Policy provides for the application of a Protected Settlement Boundary to protect established and emerging settlement areas, predominantly based on landscape distinctiveness.

The Proponent for this matter is the Minister for Planning. The Victorian Government has sought to protect areas in regional Victoria that have identified distinctive natural and cultural landscapes to safeguard the social, environmental, economic and cultural values in various identified and declared key areas. To date, this has included areas within the Macedon Ranges Shire Council, Surf Coast Shire and on the Bellarine Peninsula in the City of Greater Geelong.

The process for undertaking the work to identify distinctive areas and to apply such protection has been difficult and controversial and continues to be so for Bass Coast. Most of this work is derived from determining the distinctiveness or otherwise of landscapes and determining areas for residential growth through the application of Protected Settlement Boundaries. The application of such a boundary means that urban development, including (but not limited to) residential, commercial, business and industrial uses can only occur within the declared boundary.

Key issues

A Standing Advisory Committee was appointed to consider distinctive areas and landscapes in Surf Coast, Bellarine and Bass Coast. Dealing specifically with areas in the Bass Coast Shire, there has been strong support coupled with significant opposition by numerous stakeholders. Most support is from people already living in an area - whether they are permanents or not (that is from those who have a second 'holiday' home). Most opposition is from those who seek to develop and provide for additional land for residential development in a town or area.

Like the other distinctive areas and landscapes matters, there are difficult decisions to be made. For this matter there were 747 submissions, all of which have been considered by the Committee. Strong themes emerged and the key issues raised in submissions included:

- rationale of the Distinctive Area and Landscape process and the impacts on Council and the local communities
- efficacy of the landscape work underpinning the draft Statement of Planning Policy
- support and opposition for residential development and expansion of various urban areas
- impacts of constraining residential growth on housing opportunities, diversity and affordability
- impacts on the environment, particularly the coastline and Western Port Ramsar wetland through encroachment of development
- uncertainty regarding the ecological status and spatial extent of the Western Port Woodlands including the extent of biolinks
- the ongoing conflict between the environment and extractive industries (particularly sand mining) and the need for better protection of the Western Port Woodlands through the Bass Coast Planning Scheme.

Landscape

The draft Bass Coast Statement of Planning Policy is informed by a regional scale landscape assessment that builds on the *Coastal Spaces Landscape Assessment Study* from 2006. The distinctive areas and landscapes were characterised and rated to inform the proposed landscape planning controls and settlement policies, including proposed Protected Settlement Boundaries. Almost all of Phillip Island, all coastal areas and the Bass Hills were recognised as either of regional or state significance through the landscape assessment.

In the main, the Committee found there was a high level of acceptance that most of the proposed Significant Landscape Overlays were appropriate. The Committee generally supports these as exhibited, subject to modifications relating to discrete location matters and drafting changes.

While no one sought to open up the Bunurong Coast or the Phillip Island shoreline for development, there was considerable debate about whether regionally significant, often open and flat agricultural landscapes, should be excluded from settlement boundaries. In the first instance, the Committee finds the landscape assessment was not detailed or specific enough in its own right to define settlement boundaries. Secondly, the Committee considers it is appropriate for some settlements to extend into significant landscapes with tolerance for change without comprising the importance of that overall landscape.

Land supply and population

Providing for affordable and accessible housing is a social and economic challenge. Further development in Bass Coast away from areas of landscape distinction will result in sustainable towns, connectivity through physical and social services and enhanced infrastructure opportunities, as well as an increased housing offer that provides for diversity and affordability.

The Committee supports some Protected Settlement Boundaries in key residential areas and expansion of others, including highlighting indicative investigation areas within Protected Settlement Boundaries to support expected growth. It is anticipated the Bass Coast Shire will continue to support reasonably high levels of growth due to its proximity to metropolitan

Melbourne - both for permanent residents and for those seeking holiday homes. The Committee supports the Bass Coast Shire aiming for a 25-year land supply target due to the impacts of being a declared area and the time taken to bring land onto the market.

Tourism and agriculture

The draft Statement of Planning Policy provides broad strategies to guide new tourism and recreation related land uses. Scarcity of land for urban development can impact on meeting demands for tourism accommodation. While tourism development may be an option for rural areas on the periphery of settlements, it can come with a range of environmental and landscape impacts. This tension is not fully resolved in the draft Bass Coast Statement of Planning Policy, and the Committee considers greater direction is required to direct tourism development, both inside and outside settlements, to areas best able to absorb it.

Agriculture is a mainstay of the Bass Coast economy and is widely appreciated as a working agricultural landscape. The draft Statement of Planning Policy and proposed landscape planning controls need further work to strike the right balance between protecting agricultural land and supporting the practical operation of agricultural enterprises. As a first step, the Committee considers the draft Bass Coast Statement of Planning Policy should be amended to spatially define high quality agricultural land so that it is properly recognised and can be protected.

Biodiversity and Environment

The Committee accepts the evidence of the ecology conclave, Council, and the Combined Conservation Groups that the Western Port Woodlands contains biodiversity values of national and state significance and should be protected in some form, although the exact extent of these values is not yet known until an investigation of the entire area is undertaken. The Committee notes there was no dispute between parties about these ecological values, nor that protection is warranted. The difference in opinion was the spatial extent of the Western Port Woodlands and the timing and form of such protection in the Bass Coast Planning Scheme.

In identifying the spatial extent and ecological values of the Western Port Woodlands, the Committee acknowledges there has been a long history of land use conflict between extractive industry (particularly sand mining) and the need to protect the environment in the Western Port Woodlands area of Bass Coast. The Committee acknowledges extractive industry is an important attribute within Bass Coast and the State more broadly, and that existing operations have existing approvals.

The Committee finds the draft Bass Coast Statement of Planning Policy should acknowledge the Western Port Woodlands to give it more recognition and that further strategic work needs to be undertaken jointly by State and local government to determine the extent of the Western Port Woodlands beyond Bass Coast Shire and the appropriate planning controls that will assist to better protect this area.

Settlements

Most proposals for additional residential development were for land in or immediately adjacent to existing residential areas. The Committee has reviewed and considered all aspects of every settlement, taking into account landscape, biodiversity, economics and land supply, and planning considerations. It supports varying (and mostly modest) extensions to San Remo, Newhaven, Cape Woolamai, Coronet Bay, Dalyston and Kilcunda. The Committee supports the application of the Protected Settlement Boundary as proposed for the remaining settlements except for Wonthaggi,

Inverloch and to a lesser extent, Cowes/Silverleaves, due to the need to undertake further strategic planning for these areas.

Further, the Committee supports the position of the Proponent that the area defined for residential growth in Cape Paterson be upheld. The Committee notes the significant number of submissions seeking to overturn the existing strategic identification of the northern part of Cape Paterson for residential development. In this regard, the Committee notes the long held strategically identified area is significantly further away from the coast than the existing developed areas from where these submissions were derived.

The Proponent, with the support of Council, determined to undertake further strategic work for Wonthaggi and Inverloch as both considered more work needed to be undertaken to define the final form and location of the boundary. For these reasons, the Committee has provided little commentary about these two locations.

For the reasons contained within this report, the summary of recommendations for each settlement is provided as Table 1:

Table 1 Summary of recommendations for each settlement

Settlement	Committee summary of recommendations
Regional Centre	
Wonthaggi	Remove Wonthaggi as a Protected Settlement Boundary, noting further strategic work is required
District town	
Cowes/Silverleaves, Inverloch	Replace Protected Settlement Boundary with Settlement Boundary, noting further strategic work is required
San Remo	Support Protected Settlement Boundary as exhibited but amended to include all land west of Punch Bowl Road and north of the ridgeline/boundary between Significant Landscape Overlay 1 and Significant Landscape Overlay 6 (part of the Submitter 4 and Submitter 665 land); and the northern part of the Submitter 126 land
Newhaven	Support Protected Settlement Boundary as exhibited but amended to land the east of Samuel Amess Drive and south of the ridgeline (part of Submitter 353 land)
Towns	
Grantville	Support Protected Settlement Boundary as exhibited
Villages	
Cape Paterson, Corinella, Rhyll	Support Protected Settlement Boundary as exhibited
Cape Woolamai	Support Protected Settlement Boundary as exhibited, but amended to include the northern portion of the Submitter 258 land
Coronet Bay	Support Protected Settlement Boundary as exhibited, but amended to include part of the Submitter 84 land as an Indicative Investigation Area
Dalyston	Support Protected Settlement Boundary as exhibited, but amended to include the Submitter 706 land, and two Indicative Investigation Areas (east part of Submitter 83 and Submitter 383 land)
Kilcunda	Support Protected Settlement Boundary as exhibited, but amended to include the Submitter 647 land as an Indicative Investigation Area

Settlement	Committee summary of recommendations
Hamlets	
Bass, Harmers Haven, Jam Jerrup, Pioneer Bay and The Gurdies, Smiths Beach and Sunset Strip, Sunderland Bay and Surf Beach, Tenby Point, Ventnor, Wimbledon Heights	Support Protected Settlement Boundary as exhibited
Localities	
Archies Creek, Wattle Bank, Woolamai	Protected Settlement Boundary not proposed in draft Statement of Planning Policy, retain in existing zones with no Protected Settlement Boundary

Balancing key issues with net community benefit

The Committee found that the work to expand the existing Significant Landscape Overlays to underpin the additional level of protection to support the declaration of areas as significant and distinctive to be reasonable. At the same time, the Committee acknowledges the extensive strategic work undertaken by Council over many years to appropriately determine which areas in its municipality should be identified for residential growth. Council has undertaken a considered and progressive program of strategic review that must be upheld.

Ultimately this work must be balanced to ensure the appropriate outcome for both the environment and communities. Clause 71.02-3 of the Victoria Planning Provisions ‘Integrated decision making’ provides that:

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

The Planning Policy Framework operates together with the remainder of the scheme to deliver integrated decision making.

Planning and responsible authorities should endeavour to integrate the range of planning 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. (Committee underlining)

In considering net community benefit, the ‘community’ which might be positively or negatively impacted by the Distinctive Area and Landscape process must be acknowledged. It is well recognised that planning is not about maintaining the status quo but, in accordance with section 4(1)g of the *Planning and Environment Act 1987*, planning is to balance the present and future interests of all Victorians. All Victorians include not just those who currently live in or have a property in Bass Coast Shire, but those who may seek the opportunity to live in Bass Coast in the future.

Due to its special natural assets, its accessibility and relative affordability and its lifestyle opportunities, Bass Coast is a preferred destination for those seeking permanent residency, for those who have and will continue to seek holiday accommodation and for those who wish to visit for the short or longer term.

Recommendations

Based on the reasons set out in this Report, the Committee recommends that Bass Coast Statement of Planning Policy be supported as exhibited, subject to the following changes:

1. Amend mapping of all Significant Landscape Overlays to apply to public land within the significance boundary.
2. Amend Map 7 to recognise the Phillip Island North Coast and Hinterland and Eastern Western Port Coastal Flatlands as 'Potential regional significant landscapes'.
3. Amend mapping of Significant Landscape Overlay Schedule 1 to:
 - a) align with the break of slope boundary between Archies Creek and Dalyston.
 - b) align with ridgeline south of the San Remo settlement.
4. Amend mapping of Significant Landscape Overlay Schedule 2 to:
 - a) respond to detailed analysis of northern boundary along Grossard Point Road.
 - b) respond to viewshed mapping of the northern boundary between Ventnor and the Grand Prix track.
5. Amend mapping of Significant Landscape Overlay Schedule 3 to:
 - a) respond to detailed analysis of the west boundary (west of Rhyll-Newhaven Road).
 - b) remove the overlay south of ridgeline east of Samuel Amess Drive, Newhaven.
6. Amend mapping of Significant Landscape Overlay Schedule 6 to:
 - a) align with the ridgeline south of the San Remo settlement.
7. Amend the Significant Landscape Overlay Schedules 1 to 6 in accordance with Table 3.
8. Provide for up to 25 years of zoned and unzoned land supply across the Declared area.
9. Insert a new Strategy under Objective 6a to direct tourism development to preferred areas within and outside settlements.
10. Replace Strategy 6b.3 'strategic agricultural land' with 'high-quality agricultural land'.
11. Amend Map 10 to:
 - a) identify high-quality agricultural land
 - b) identify preferred locations for tourism development to complement the role of Phillip Island and the Bunurong Coast as major nature-based tourism destinations.
12. Include a definition for the term 'high-quality agricultural land' in the glossary of the Statement of Planning Policy.
13. Identify the extent of the Western Port Woodlands as an investigation area on relevant maps and through accompanying text.
14. Revise the definition of biolinks.
15. Identify an indicative biolink within the Western Port Woodlands investigation area.
16. Amend the settlement hierarchy by:
 - a) deleting population ranges
 - b) recognising settlements that function as part of a network
 - c) listing San Remo as a district town
 - d) listing Newhaven as a village.
17. Remove reference to Wonthaggi being included in a Protected Settlement Boundary and amend the draft Statement of Planning Policy accordingly.
18. Replace the Cowes Protected Settlement Boundary with a settlement boundary.
19. Replace the Inverloch Protected Settlement Boundary with a settlement boundary.
20. Extend the San Remo Protected Settlement Boundary to include the following land:
 - a) land between Phillip Island Road (north) Punch Bowl Road (east) and Significant Landscape Overlay 6 (south)

b) northern end of Submitter 126 land (Figure 24).

- 21. Extend the Newhaven Protected Settlement Boundary west to Samuel Amess Drive and north to the ridgeline, generally in accordance with Figure 27.**
- 22. Extend the Cape Woolamai Protected Settlement Boundary to include the northern end of the Phillip Island Airport (Figure 35) and designate this land as an Indicative Investigation Area.**
- 23. Extend the Coronet Bay Protected Settlement Boundary to include that part of the S84 land south of Cutty Sark Road, between Gellibrand Street and Agar Road as an Indicative Investigation Area (Figure 38).**
- 24. Extend the Dalyston Protected Settlement Boundary to include the eastern part of the Submitter 83 land, the Submitter 706 land and the Submitter 383 land, and nominate this land as an Indicative Investigation Area (Figure 40).**
- 25. Extend the Kilcunda Protected Settlement Boundary to include the Submitter 647 land and identify this land as an Indicative Investigation Area.**
- 26. Amend general text, objectives and strategies of the draft Statement of Planning Policy consistent with the agreed findings of the Committee set out in Tables F1 and F2, and Appendix G (Part 2 report).**

PART A: BACKGROUND

1 Introduction

1.1 Standing Advisory Committee and Terms of Reference

The Distinctive Area and Landscape (the DAL) Standing Advisory Committee (the Committee) was appointed by the former Minister for Planning (Minister), Richard Wynne, on 28 June 2020 under section 151 of the *Planning and Environment Act 1987* (the PE Act) to consider draft Statements of Planning Policy (SPP) for Surf Coast, Bellarine and Bass Coast. The former Minister issued three versions of the Terms of Reference for the DAL process. This Committee had regard to the version dated 25 April 2022 (Appendix A1).

The Committee received the letter of referral for the draft Bass Coast SPP and the proposed Landscape Planning Controls (LPC) from the former Minister (Lizzie Blandthorn) on 26 October 2022 (Appendix A2) to provide advice and recommendations in relation to:

- a. Whether the draft SPP:
 - i. appropriately supports the objects of Part 3AAB – Distinctive Areas and Landscapes of the P&E Act as set out in section 46AN of the Act;
 - ii. creates an appropriate framework for the future use and development of land in the Bass Coast declared area to ensure the protection and conservation of the distinctive attributes of the declared area, for the purposes of section 46AU of the P&E Act;
 - iii. complies with the required contents of an SPP as specified in section 46AV of the P&E Act; and
 - iv. is otherwise robust and appropriate.
- b. Where the proposed landscape controls support the objects of Part 3AAB of the P&E Act and would, if translated into a planning scheme amendment, assist giving effect to the draft SPP; and
- c. Any amendments that should be made to the structure or content of the draft SPP or the proposed landscape planning controls in light of your advice on points (a)-(b) above.

The Minister (the Proponent) was assisted by the Department of Transport and Planning (DTP) formerly the Department of Environment, Land Water and Planning (DELWP).

The Committee members that primarily presided over the Bass Coast DAL referral comprised:

- Kathy Mitchell AM (Chair)
- Alison McFarlane (Deputy Chair)
- Jessica Tulloch (Member).

The Committee was assisted by specialist members as required:

- Mandy Elliott
- Rebecca Finn
- Natasha Reifschneider.

Ian Hamm was initially proposed to be included as a specialist member, but he was not ultimately required to make any contribution to this process.

The Committee was assisted by Hayley Becker (Manager Major Projects) and Gabrielle Trowse (Project Support Officer) from the office of Planning Panels Victoria.

The Terms of Reference require the Committee to undertake its work in three stages as follows:

- Notice and submissions

- Public Hearing
- Outcomes.

The Committee provides a summary response to its Terms of Reference in Chapter 14.2.

1.2 Public notice and submissions

The then DELWP sought feedback from the community through three phases of engagement:

- **Phase 1:** define future aspirations for the Bass Coast (10 July - 12 August 2019)
- **Phase 2:** draft 50-year vision statement and strategic directions (6 March - 14 April 2020)
- **Phase 3:** written submissions on the draft SPP and proposed LPC (3 March - 29 April 2022).

The Phase 3 engagement included formal exhibition of the draft SPP. A total of 747 submissions were received (Appendix B) and all submissions were referred to the Committee for its review and consideration.

The Committee did not seek nor undertake any further consultation, except in relation to its role and responsibilities as part of the public Hearing process.

1.3 Hearings and inspections

A Directions Hearing was held on 13 December 2022 over videoconference.

The public Hearing was held for 27 days over eight weeks between 6 March to 27 April 2023 in various locations, three weeks of which were held in the Bass Coast Shire, to hear and consider submissions and evidence. Approximately 73 parties were heard at the Hearing, which included filing of 31 expert witness reports, as identified in Appendix C.

At the Directions Hearing, all parties were invited to nominate site inspection locations, several took up this opportunity. At the request of the Committee, the Proponent prepared an inspection itinerary (Documents 28a and 28b) based on sites and areas parties sought the Committee to visit.

An accompanied site inspection was held on 15 and 16 February 2023. Four members of the Committee (Ms Mitchell, Ms McFarlane, Ms Reifschneider and Ms Tulloch) attended both days. Ms Elliott attended the first day of the accompanied site inspection, and Ms Finn undertook an unaccompanied inspection on 23 February 2023.

The Committee organised a bus to carry those in attendance on the two days. Representatives from Council and the Proponent accompanied the Committee on the bus. Strict protocols around discussion and comments were always maintained, and the Committee sat at the front of the bus away from other parties.

All submitters were invited to attend all or part of the inspection. Throughout the two days, numerous submitters attended many sites relevant to their submissions and the Committee thanks them for their interest and attendance.

The Committee entered some sites at the request of the landowner or representative. In all cases the landowner or representative was present to provide access to the land. There was no inappropriate discussion with those who provided access to land and the Committee found those inspections to be useful in understanding and assessing the submissions and evidence tabled.

During the Hearing in Weeks 1, 6 and 7, while in Wonthaggi, Cape Paterson and San Remo, the Committee undertake unaccompanied inspections of numerous places. It then undertook a further one day inspection of selected sites and areas on 15 May 2023.

1.4 Approach to report

The Committee reviewed the draft SPP in the context of the submissions and evidence made as part of the consultation and Hearing process. Key themes emerged through submissions and at the Hearing and the Committee has mainly focussed on these. It is not possible to respond to or address every issue put to the Committee, rather the Committee has focused on the key issues relevant to the draft SPP. It has purposely taken a 'big picture' perspective, recognising the Proponent indicated there is significant more work to be done in finalising the draft SPP.

The Committee has produced two reports. The Part 1 report focusses on the draft SPP, and the Part 2 report contains the Appendices in support.

This Part 1 report comprises 14 chapters in four parts:

- Part A: Background (Chapters 1 and 2)
- Part B: Key threshold issues (Chapters 3, 4, 5, 6, and 7)
- Part C: Specific settlements (Chapters 8, 9, 10, 11, 12 and 13)
- Part D: Implementation (Chapter 14).

Part A provides:

- Introduction (Chapter 1)
- Legislative and planning context (Chapter 2).

Part B highlights the key threshold issues, these include:

- Landscape (Chapter 3)
- Land supply and population (Chapter 4)
- Tourism and agriculture (Chapter 5)
- Biodiversity and environment (Chapter 6)
- Settlement hierarchy and boundaries (Chapter 7).

Part C provides the Committee's review and responses in relation to the settlements of Bass Coast:

- Regional centre (Chapter 8)
- District towns (Chapter 9)
- Towns (Chapter 10)
- Villages (Chapter 11)
- Hamlets (Chapter 12)
- Localities (Chapter 13).

Part D (Chapter 14) relates to Implementation and the response of the Committee to its Terms of Reference.

The Part 2 report contains the Appendices as follows:

- Appendix A: Terms of Reference (A1) and letter of referral from the Minister for Planning (A2)
- Appendix B: Submissions to the draft SPP
- Appendix C: Parties to the Hearing
- Appendix D: Document list

- Appendix E: Planning context including Planning policy framework (E1), Other relevant planning strategies and policies (E2), relevant Amendments (E3) and Ministerial Directions, Planning Practice Notes and guides (E4)
- Appendix F: Committee response to Council recommendations
- Appendix G: Committee response to DTP officer consolidated changes to draft SPP.

The Committee thanks all submitters, advocates and witnesses for their input into this process and for the way in which all have contributed to what was a constructive and informative Hearing.

1.5 Procedural issues

(i) Potential conflict of interest of Ms Scott

From Day 3 of the Hearing, the Committee heard evidence from Ms Scott who was responsible for preparing various landscape reports and planning controls for the Proponent, culminating in her providing evidence to support her work that informed and supported the DAL process.

In giving her evidence, including through a PowerPoint presentation (D121), it emerged that a family member of Ms Scott owned a property in Ventnor. In response to the Committee seeking to understand the extent of this interest, the Committee asked Ms Scott directly whether she considered she had a conflict of interest. Ms Scott responded by saying she did not have a conflict. The Committee asked the Proponent whether it was aware of this. The Proponent responded by noting it was not aware of this until the accompanied site inspections in February 2023.

Best Hooper Group raised this as a procedural issue on the basis that Ms Scott had lived on Phillip Island at various times, particularly since 2020 when COVID-19 occurred. Best Hooper Group sought an explanation from the Proponent and expressed concern it had not taken a stand about the potential conflict. It contended the evidence would go to the matter of weight and inadmissibility. It submitted there were issues about independence and impartiality.

The Proponent responded there was no conflict of interest and that while Ms Scott had lived in the municipality at various times, this did not result in a conflict. The Proponent noted many witnesses give evidence about areas in which they reside, and that Ms Scott had advised DELWP of her living arrangements.

Various parties raised issues with this and sought to question whether Ms Scott had a conflict of interest. The Committee allowed several questions to be asked so long as the questions did not result in personal information being provided.

In the main, the Best Hooper Group asked Ms Scott further questions and sought to pursue issues about:

- the independence of Ms Scott
- the perceived conflict of interest
- if it was a conflict of interest, why it was not disclosed until this stage of the proceedings.

In noting that Panels and Advisory Committees are not strictly bound by rules of evidence (like a court), Best Hooper Group contended there was a common law duty of experts. All need to have close regard to principles of evidence and that it was well established that lack of independence leads to the question of weight. Best Hooper Group argued Ms Scott had access to a property at Ventnor for 15 years and lived there full-time during COVID-19 periods, with plans to retire there. It contended she clearly called it home and had a very close association with Ventnor.

Best Hooper Group contended the non-disclosure of the conflict of interest was unsatisfactory and inexcusable, especially given Ms Scott opposed extension to the settlement boundary in Ventnor, contrary to the evidence of Mr Wyatt and Mr Moir. Best Hooper Group noted that even if the issue was disclosed to DELWP, it was unsure whether it was discussed with the Proponent's Counsel.

Best Hooper Group raised the issue of potential impact on property prices if Ventnor was not allowed to expand and contended it may result in the property in question increasing in value, thus realising a financial benefit for the owner.

The Proponent responded it did not consider Ms Scott had a conflict of interest, but it was a matter of the weight that could be afforded to Ms Scott's evidence by the Committee.

In its cross examination of Ms Scott, the Best Hooper Group asked her several questions that confirmed:

- the property in question is owned by Ms Scott's husband
- it was purchased in 2008
- Ms Scott was involved in the purchase of the property
- it was purchased two years after the Coastal Spaces report of 2006 was finalised
- friends and wider family have used the property
- Ms Scott has plans to retire at that property
- she disclosed the interest to DELWP and the instructing legal team but not to Counsel.

Ms Scott considered she did not have a conflict of interest. She responded to Best Hooper Group that she was aware of her obligations as an expert witness, she confirmed her independence and impartiality and supported the DAL as a professional and in her personal capacity. In addition, she supported the Protected Settlement Boundary (PSB) for Ventnor, noting that if the location of her property was revealed, application of a PSB would have no bearing on her or the property.

Best Hooper Group remained critical of the work of Ms Scott and addressed the perceived conflicts of interest further in its primary submission, noting her work should be given less weight than the other expert witnesses:

Further, there are significant reasons to question her independence, as well as her candour, as an expert witness. It was revealed for the first time during her oral evidence that Ms Scott's husband owns a holiday house at Ventnor. Ventnor is one of the towns proposed to have a PSB. There is conflicting expert evidence on that boundary (including from the Minister's other landscape witness). It is concerning that this matter was not disclosed to the Committee and other parties. It is submitted that this is a clear conflict of interest, particularly in the circumstances where Ms Scott has provided explicit expert opinion about Ventnor. The expert evidence is that Ms Scott's husband (as with other landowners in Ventnor) will benefit financially from the imposition of a PSB¹.

Best Hooper Group did not address this further in its closing submission, however, the Proponent made further detailed submissions on this issue. It noted Ms Scott did not seek to hide the holiday house and noted on the accompanied inspection that she was leaving to go to that house. That in no way constitutes a declaration, nor was it stated equivocally in the way the issue emerged at the Hearing. Notwithstanding, the Proponent noted *"The failure to identify the matter in her Witness Statement was an oversight by both Ms Scott, and the Proponent's legal representative²".*

¹ D167, para 85

² D329, para 80

The submission further noted the Proponent disclosed the address of the property privately to Mr Lake representing the Best Hooper Group (but not to the Committee) and the evidence of Ms Scott did not treat Ventnor any different to any other settlement. The Proponent rejected many of the assertions made by Best Hooper Group about Ms Scott's experience in preparing landscape evidence and in giving evidence.

The Committee considers this issue placed Ms Scott in a compromised position. She made no written declarations in her evidence, nor did she make a verbal declaration at the beginning of the giving of her evidence that she:

- has spent most of her time in Ventnor since 2020 due to COVID-19
- a close family member owned a property in Ventnor.

The Committee considers this to be a most unfortunate situation and given her role in this process, she should have made the appropriate declaration. This has resulted in the veracity of her evidence being open to question and doubt. The Committee expressed its frustration that this issue emerged almost by accident.

The Committee has taken on board the questions asked by various parties about the potential conflict and it concludes Ms Scott can reasonably be assumed to have a conflict of interest, particularly in relation to Phillip Island. However, it does not mean her evidence should be disregarded. While the Committee accepts the evidence of Ms Scott, it does not place the same weight that it gives to the evidence of Mr Moir or most other landscape witnesses.

(ii) Potential conflict of interest for Mr Atkinson

Mr Atkinson of Human Habitats gave landscape evidence for Moed/White on Day 10. He was instructed by his own company, Human Habitats.

The Proponent questioned whether Mr Atkinson had a conflict of interest in giving this evidence due to him being retained by his own company and asked whether he had spoken with his client about the issue. The questions of the Proponent revealed that Mr Atkinson:

- is one of five Directors of Human Habitats
- was aware Moed/White were clients
- did not know how long they had been clients
- was not aware concept plans had been developed for the site
- had not looked at the concept plans
- did not read the complete brief
- understood his firm would have a legitimate expectation to be invoiced for work undertaken, and as a director, he would expect to benefit from this
- this relationship should have been raised in evidence
- maintained his complete independence.

The Proponent put to Mr Atkinson these matters should have been included in his evidence, to which he agreed. Further, when asked if his independence was compromised, he responded "*if the Committee agrees so, yes*".

Like Ms Scott, the Committee considers this issue has placed Mr Atkinson in a compromised position. Again, like the evidence of Ms Scott, the Committee gives this evidence less weight than other landscape evidence. The arrangement should have been declared and included in the evidence statement.

1.6 Limitations

(i) Previous DAL reports

The Surf Coast DAL report was provided to the former Minister for Planning on 25 June 2021 and released on 3 April 2022. Its release was accompanied by a Determination by the former Minister on the same date. The Surf Coast report focused on broad policy issues as well as site/area specific matters. A total of 28 recommendations were made, many of which were not accepted.

The Bellarine DAL report was provided on 8 July 2022 and released on 7 October 2022. Due to amended Terms of Reference, the Bellarine report focussed on one specific issue, that being whether the proposed Protected Settlement Boundaries (PSB) were appropriate. One recommendation was made and was not upheld by the Minister. At the time of its release, there was no assessment report provided, however, at the request of the Committee, it was provided as Document (D) 111.

While this Committee briefly addresses similar background issues in this report to those from the two previous DALsAC reports, for brevity, it has not reargued these issues in this report.

The Committee notes the key recommendations of the two previous DALsAC reports were not upheld by the then Ministers. In the case of Surf Coast, one primary reason for this was what former Minister Wynne described as too much emphasis on former statutory (zoning) and strategic planning decisions.

Council has undertaken significant strategic work over the past 10 to 15 years which has resulted in clear direction for planning in its Planning Scheme. This Committee places due weight on this and the provisions of the existing Planning Scheme accordingly.

(ii) Wonthaggi and Inverloch

The Committee was advised by the Proponent that initially Wonthaggi and then Inverloch, were 'off the table' for detailed consideration in this process due to the need for further strategic planning work to resolve various issues. Little detail or information was provided in this regard. The Committee notes Wonthaggi is designated as a regional town and Inverloch as a district town in the draft SPP.

Submissions 154 and 270 were received in relation to Wonthaggi and submissions 151, 164 and 593 in relation to Inverloch. These are briefly discussed in Chapters 8 and 9.2 respectively.

(iii) 'DTP officer' recommendations

The Committee was provided with multiple recommendations from a 'DTP officer' (not named) during the Hearing. Document 303 provided 62-line item (but not numbered) recommendations accepted by DTP (at officer level). As part of its closing submissions, the Proponent provided D333 which included the consolidated Significant Landscape Overlay (SLO) schedule changes accepted by DTP (at officer level).

The Committee questioned how these DTP officer recommendations could or should be considered, and the Proponent advised they could be considered in making findings and recommendations. The un-named DTP officer or officers were not present to discuss any of these and it seemed the Proponent submission did not openly endorse these recommendations, rather, the recommendations were tabled for the Committee's consideration.

This has the potential to put the Committee in a difficult situation. For example, the Committee has received these recommendations in good faith, however, the Proponent is the Minister and as these have not been provided to, or endorsed by the Minister, the Committee has no idea whether any of these are amendable by the final decision maker. It confuses the role of the Minister and DTP as there is little clarity on how these recommendations might be considered.

Officer recommendations provided in this way did not occur at either the Surf Coast or Bellarine DAL processes. For the Surf Coast DAL, the position of the Minister was put at being neutral and to consider the Committee recommendations based on the evidence and submissions. For Bellarine, the Terms of Reference sought a similar approach.

Notwithstanding, the Committee has reviewed these recommendations in good faith, in conjunction with the recommendations made by various submitters in making its overall findings and recommendations on the Bass Coast DAL (see Appendices F1, F2 and G in the Part 2 report).

2 Legislative and planning context

2.1 Planning and Environment Act 1987

(i) Part 3AAB Distinctive areas and landscapes

On 30 May 2018, the *Planning and Environment Amendment (Distinctive Areas and Landscapes) Act 2018* amended the PE Act by inserting Part 3AAB – Distinctive areas and landscapes.

Part 3AAB establishes a process for the protection of areas around metropolitan Melbourne and Victoria's regional cities which have distinctive natural and cultural landscapes. It provides a mechanism for safeguarding the social, environmental, economic and cultural values in those identified and declared key areas. The areas considered to be most in need of protection are within Victoria's peri-urban areas.

Section 46AN identifies the objects of Part 3AAB, as follows:

- a. To recognise the importance of distinctive areas and landscapes to the people of Victoria and to protect and conserve the unique features and special characteristics of those areas and landscapes; and
- b. To enhance the conservation of the environment in declared areas including the unique habitats, ecosystems and biodiversity of declared areas; and
- c. To enable the integration of policy development, implementation and decision-making for declared areas under Statements of Planning Policy; and
- d. To recognise the connection and stewardship of traditional owners in relation to land in declared areas.

(ii) Declaration of distinctive area and landscape

The identification of a distinctive area and landscape is achieved by way of section 46AO(1) which provides that the Governor in Council, on the recommendation of the Minister, may declare an area to be a 'distinctive area and landscape'.

Before making a recommendation, the Minister must be satisfied the area has a majority of the following attributes identified in section 46AP(1), which are:

- a. outstanding environmental significance
- b. significant geographical features, including natural landforms
- c. heritage and cultural significance
- d. natural resources or productive land of significance
- e. strategic infrastructure or built form of significance
- f. an attribute prescribed for the purposes of this section.

To recommend that an area be declared as a distinctive area and landscape, the Minister must be satisfied an area is under threat of significant or irreversible land use change that would affect the environmental, social or economic values of the area, whether the threat arises from land use conflicts, or multiple land use changes over time, or any other prescribed land use threat.

The Committee is not required to consider or provide any comment as to the making of the relevant declaration. It proceeds upon the basis the relevant area is a declared area for the purposes of Part 3AAB of the PE Act.

2.2 Draft SPP

(i) Statement of Planning Policy

The Minister must prepare a SPP for a declared area. The purpose of a SPP is to create a framework for the future use and development of land and to ensure the protection and conservation of the distinctive attributes of the declared area. The SPP must:

- a. set a vision for a period of at least 50 years that identifies the values, priorities and preferences of the Victorian community in relation to the distinctive attributes of the declared area, including preferences for future land use, protection and development; and
- b. set out the long term needs for the integration of decision-making and planning for the declared area; and
- c. state the parts of the SPP that are binding on responsible public entities and the parts that are in the nature of recommendations to which responsible public entities are only required to have regard; and
- d. include a declared area framework plan in accordance with subsection (2); and
- e. set out Aboriginal tangible and intangible cultural values, and other cultural and heritage values, in relation to the declared area ³.

The framework plan must provide a framework for decision making in relation to the future use and development of land in the declared area that integrates environmental, social, cultural and economic factors for the benefit of the community and encourages sustainable development and identifies areas for protection and conservation of the distinctive attributes of the declared area.

The framework plan may specify settlement boundaries or designate specific settlement boundaries in the declared area as PSBs.

(ii) Effect of a draft SPP

A SPP takes effect on the day the notice of approval is published in the Government Gazette, or a later day set out in that notice. Once in effect, the SPP is taken to form part of the State standard provisions of the Victoria Planning Provisions (VPP). The Minister must prepare a planning scheme amendment to give effect to the SPP and for that purpose Part 3 'Adoption and approval of amendments' (except Divisions 1 and 2 and sections 39(1) to 39(5)) of the PE Act applies to the amendment.

Once approved, the Minister must not approve a planning scheme amendment to a declared area planning scheme if the amendment is inconsistent with a SPP for that declared area. A responsible public entity (RPE) which is a planning authority must not prepare a planning scheme amendment to a declared area planning scheme that is inconsistent with a SPP for the declared area that is expressed to be binding on the RPE.

(iii) Consultation

When preparing a SPP for a declared area, the Minister must consult with each RPE for the area, the local community and any other person or entity that the Minister considers may be affected by the SPP.

³ PE Act, s 46AU

(iv) Endorsement and approval of a draft SPP

The Minister must provide a copy of the SPP to each RPE specified in the SPP for endorsement by that entity and the Minister responsible for that entity. The Minister responsible for a RPE may give a written direction to that entity in relation to the endorsement of the draft SPP. The Governor in Council may approve a SPP that has been endorsed in accordance with section 46AX.

The declaration of the declared area lapses if the SPP is not endorsed in accordance with section 46AX and approved in accordance with section 46AY within one year after the declaration of the area under section 46AO takes effect, or such other period (not exceeding two years) approved by the Governor in Council. The Minister must complete a review of the SPP no later than 10 years after the commencement of the statement.

(v) Planning Scheme implementation of an approved SPP

Once endorsed and approved pursuant to sections 46AX and 46AY, the Minister must prepare an amendment to the Planning Scheme to give effect to the SPP pursuant to section 46AZ. Part 3 (except Divisions 1 and 2 and sections 39(1), 39(2), 39(3), 39(4) and 39(5)) of the PE Act applies to the preparation and approval of an amendment to a declared area planning scheme.

(vi) Obligations of Responsible Public Entities

Section 46AZK provides that RPEs must not act inconsistently with any provision of the SPP that is expressed to be binding on the RPE when performing a function or duty or exercising a power in relation to the declared area. Where a RPE develops or implements policies or programs or makes decisions in relation to a declared area, the RPE should:

- a. Consult with all levels of government and government agencies that are relevant to the decision; and
- b. Use best practice measures to protect and conserve the unique features and special characteristics of the declared area; and
- c. Undertake continuous improvement to enhance the conservation of the environment in declared areas; and
- d. Have regard to the principles prescribed to apply⁴.
 - i. To all declared areas; and
 - ii. In relation to a particular declared area

(vii) Bass Coast DAL declaration

On the recommendation of the then Minister, Bass Coast Shire was declared a distinctive area and landscape by the Governor in Council on 29 October 2019. The declaration lapsed because a SPP was not approved within the required two-year timeframe. An identical declaration (referred to hereafter as the declaration) was remade on 16 September 2021. The declared area applies to the whole of the Bass Coast Shire, including a 600-metre buffer seaward (Figure 1).

The preamble in the Victoria Government Gazette stated:

In accordance with section 46AO(2)(d) of the Act, the following statement sets out the significance of the area to the people of Victoria:

⁴ PE Act, s 46AZL

- a. The Bass Coast has landscapes of outstanding natural beauty and environmental, economic and cultural heritage values of state and national significance.
- b. The coastline has been shaped by the high seas and winds of Bass Strait and known for its rugged beauty, cliffs and rocky formations, rich marine life, renowned surfing locations, and significant fossil sites.
- c. The Bass Coast's parks and wetlands are recognised nationally and internationally for their environmental significance including Phillip Island Nature Park, Bunurong Marine National Park, Churchill Island Marine Park, Westernport Ramsar Wetland, Churchill Island, Powlett River Mouth and Andersons Inlet and tributaries.
- d. Across the landscape, a wealth of archaeological sites including shell middens, combine with intangible expressions of culture to indicate the importance of the area across generations of Aboriginal use and occupation. The region also provides significant insight into the history of European settlement including sites of agricultural, mining and industrial heritage.
- e. The region contains infrastructure and resources of state significance including the Victorian Desalination Plant, mineral sands resources, and productive agricultural land.

The following statement sets out the significance of Bunurong Country to the Traditional Owners, the Bunurong in accordance with section 46AO(2)(d)(ii) of the Act:

We the Bunurong People are the Traditional Custodians to this Country, it's alive with our stories. These Sands of the Bass Coast contain the foot prints left behind by our ancestors in every cultural way.

The responsibility for the Caring of our Country belongs to us as its Custodians. She is our Mother and Bunjil our Father.

Our Country has always given us our physical means to flourish and survive, food, water and air. We are salt water people, and the rivers that run into the sea are Our Country, and where these rivers meet the sea have always been important places to our people.

Our Country will continue to preserve us and our values into the future, as we will continue to preserve Our Country and protect our past and persist within these modern spaces. We have been here since the beginning and will be here until the end.

These Places hold our Stories, Culture and our Ancestor's physically as well as Spiritually and it is by the Lore of Bunjil we protect, love and look after her.

Appendix E:1 highlights key imperatives of the Bass Coast Planning Scheme relevant to the draft SPP, including key planning strategies, planning scheme amendments, ministerial directions and Planning Practice Notes (PPN) relevant to the draft SPP.

PART B: KEY THRESHOLD ISSUES

3 Landscape

The objective of State policy at Clause 12.05-2S is to protect and enhance significant landscapes and open spaces that contribute to character, identify and sustainable environments. The draft SPP included a framework plan that:

... integrates environmental, social, cultural and economic factors for the benefit of the community and encourages sustainable development and identifies areas for protection and conservation of the distinctive attributes of the declared area ⁵.

The distinctive features of the of 'Significant Geographical Features, including Natural Landforms' cited in the Bass Coast declaration are:

The Bass Hills and Strzelecki Foothills provide a backdrop to landscapes throughout the Shire and are highly visible from main road corridors.

San Remo to Kilcunda coastline contains open pastoral landscapes edged by rocky cliffs and slopes to the Bass Strait.

Kilcunda to Inverloch coastline (Bunurong Coast) is recognized for its rock formations, sand dune systems, dramatic cliffs and rock stacks. Eagles Nest is a dominant feature in the landscape and a site of national and geomorphological significance.

Phillip Island has distinctive landscapes including rocky cliffs and outcrops of volcanic origin such as the Nobbies and Pyramid Rock, as well as surf beaches and dune systems ⁶.

The Committee had regard to the following documents:

- Draft Bass Coast Statement of Planning Policy: Proposed Landscape Planning Controls, March 2022 (D3b)
- Landscape Assessment Review Volume 1, Claire Scott Planning, February 2022 (D3c)
- Landscape Assessment Review Volume 2, Claire Scott Planning, February 2022 (D3d)
- Settlement Background Paper, DELWP, September 2021 (D3k)
- Bass Coast Unlocking Regional Tourism Strategy, Bass Coast Shire Council, January 2023 (Rural Tourism Strategy) (D160b).

The Committee had regard to the landscape and visual evidence noted in Table 2, the conclave held by the expert witnesses and relevant submissions.

Table 2 Landscape and visual evidence

Party	Expert	Firm	Area of expertise
Proponent	Claire Scott	Claire Scott Landscape	Landscape
	David Moir	Moir Landscape Architecture	Landscape and visual impact
Council	Pater Haack	Peter Haack Consulting	Landscape
Moed/White	Darren Atkinson	Human Habitats	Landscape
Best Hooper Group	Steve Schutt	Hansen Partners	Landscape

⁵ PE Act, s 46AV

⁶ D3a, p2

Party	Expert	Firm	Area of expertise
Springway San Remo	Allan Wyatt	XUrban	Landscape and visual amenity
Springway Ventnor	Allan Wyatt	XUrban	Landscape and visual amenity
Wallis Watson	Allan Wyatt	XUrban	Landscape and visual amenity
Abrahams/Franlaw	Allan Wyatt	XUrban	Landscape

The key issues to be resolved are:

- whether the landscape assessment has properly identified significant landscapes at a regional scale
- how significant landscapes should inform settlement planning
- the role of green breaks in settlement planning
- whether the SLOs should apply over residential land, agricultural land and public land
- whether the draft SPP should recognise the Phillip Island North Coast and Hinterland and Eastern Western Port Coastal Flatlands as significant landscapes
- whether the boundaries of proposed SLOs are appropriate
- whether drafting of the SLOs is appropriate.

3.1 Landscapes of significance

The DAL proposed to include seven landscapes of State or regional significance, shown in Figure 2 as follows:

- Phillip Island Western and Southern Coast (State significance)
- San Remo to Inverloch Coast and Coastal Hinterland (State significance)
- San Remo to Inverloch Coast and Coastal Hinterland (regional significance)
- Phillip Island, Swan Bay Coast and Churchill Island (regional significance)
- Eastern Western Port Bay Flatlands (regional significance)
- Strzelecki Foothills (regional significance)
- Phillip Island North Coast and Hinterland (regional significance).

Figure 2 Bass Coast Landscape Significance⁷

Source: D175

The draft LPC proposed to apply the SLO to all identified significant landscapes other than the Phillip Island North Coast and Hinterland and Eastern Western Port Bay Coastal Flatlands. The Landscape Assessment Report (LAR) Volume 2 noted that due to budget and resourcing constraints, work to define the final boundaries for landscapes of significance to determine if the SLO could be justified in those two locations was not undertaken. This was recommended as future strategic work.

The LAR stated:

The decision to apply the SLO to a significant landscape, and the extent of the SLO boundaries depends on a number of factors. These include:

- The physical extent of the significant landscape;
- existing zoning provisions and planning permit triggers (and gaps in those provisions and policy);
- the location and content of existing SLOs and schedules;
- current or potential development pressure; and,
- the character of the landscape, including its sensitivity to threats and ability to accommodate built form.

Consideration of these factors means that proposed SLO boundaries can differ from the location and extent of significant landscapes which have been determined by a landscape assessment study ⁸.

3.2 Landscape assessment approach and application

(i) Background

Landscape types and areas

The landscape types and areas were first mapped as part of the *Coastal Spaces Landscape Assessment Study* (Coastal Spaces LAS) in 2006. The LAR reviewed this mapping using more sophisticated GIS data and additional fieldwork.

The process to identify landscape types was based on broad areas of common physical environment and cultural characteristics and then dividing the landscape types into landscape areas, which included separate geographical units within the same landscape type. As a result, landscapes identified in the original LAS were altered to reflect the more accurate delineation of geology and topography. In addition, new landscape types and additional landscape areas were identified.

The Coastal Spaces LAS described the landscape areas by key features and elements including topography, vegetation coverage, water form, external and internal views, viewing locations, patterns of viewing, land use and built form, townships and settlements. It summarised planning scheme controls and policies relevant to each area and considered relevant threats and sensitivity to change.

The LAR resulted in landscape character recommendations that included policy statements, principles requiring State level support and detailed implementation at a local level.

Significant landscapes

The LAR defined significance as:

The designation of a particular landscape as special or important arising from its visual values, including its landscape features, edges or contrasts, and composition, with consideration of its other landscape values (i.e. cultural heritage, environmental, scientific, social etc.); and for its predominantly natural or undeveloped character, in which development is absent or clearly subordinate to its natural landscape qualities ⁹.

The LAR stated the methodology for determining significance had improved since the Coastal Spaces LAS and accounted for commentary and findings from previous Panel processes. The process to identify significant landscapes in the LAR included:

- detailed field surveys focusing on the visual values of landscapes combined with a detailed understanding of the physical characteristics of landscape
- review of community engagement findings
- documentation of other cultural landscape values from research around cultural heritage, environmental, scientific, with the understanding these could be intrinsically linked to visual values.

The LAR described five landscape values to determine significance within the study area:

⁸ D3d, p16

⁹ D3c, p87

- Visual values related to the aesthetic values and scenic beauty of a landscape, having regard to landscape features, edges or contrasts and composition. The criteria used to determine the level of visual significance were:
 - landscape feature or features that attract the viewer and may provoke an emotional response
 - edges or contrasts that provide visual variety and interest for the viewer
 - compositional qualities and the combination of which achieve a unified whole and provide the setting or subject of notable views.
- Cultural heritage values included the pre and post contact history of the landscape. The LAR did not involve primary research into cultural heritage values. Instead, cultural heritage values were drawn from other sources such as the Victorian Aboriginal Heritage Register and the National Heritage List.
- Environmental and scientific values which included biological conditions and natural attributes. Secondary sources such as Ramsar Convention and Environment Significance Overlays (ESO) in the Planning Scheme were used to support significance determinations in lieu of primary environmental and scientific analysis.
- Social values included the association of a landscape with a cultural group such as an important local landmark or a tourist destination.
- Other values included anything else that might be relevant to landscape significance, such as economic value.

Visual values were weighted most highly and formed the basis for determining the significance of landscapes. The emphasis on visual values over the other identified values was because *“the purpose of a landscape assessment study is to manage the visual impact of development on a visually significant landscape”¹⁰*. The other identified values were used and *“documented as evidence in support of a landscape’s overall significance”¹¹*. In this study, which prioritised visual and aesthetic qualities, the landscape was not determined to be significant for cultural heritage, environmental, scientific, social or other values alone.

The five landscape values were rated against the following criterion:

- Exemplary: is it the best of its type and exemplary within the local, regional or state context?
- Iconic: is the landscape instantly recognisable and iconic within the local, regional or state context?
- Scarce: how uncommon, rare or endangered is the landscape within the local, regional or state context?

This informed an overall significance level as follows:

- moderate, being local significance
- high, being regional significance
- exceptional, being State significance or higher.

The final determination of the visual significance level did not rely on the number of ratings.

“Rather for example, if a landscape is rated ‘high’ in one or more of the landscape components,

¹⁰ D3c, p 88

¹¹ D3c, p 88

that level is the overall significance rating attributed to the visual values of that landscape ¹²". The LAR stated this was a similar approach to listing a place on a heritage register.

Significant views

The LAR sought to define and identify significant views and viewing locations throughout the DAL area. Viewing locations were chosen because they featured a view of a State or regionally significant landscape and met a minimum of three key considerations, including being a dedicated lookout point, accessible, well-known, promoted through tourism, or located on public land.

To determine significance, views were assessed against the following criterion:

- Composition structure: the view had outstanding compositional qualities, whether a classic vista, or a sweeping panorama. The view was balanced, both horizontally and vertically. The focal point of the view may be centred, with elements in the foreground, middle ground and background, equally weighted. The view may be framed by landscape elements to the viewer's left and right.
- Composition qualities: the view was compelling or inspiring for its aesthetic qualities, including a landscape feature (that may be the focal point of the view), or a collection of landscape features, edges or contrasts, and other compositional elements such as colour and texture.
- Social values: the view was widely promoted, well known and popular with tourists. It comprised a view of note available from a publicly accessible location.
- Other values: the view or viewing location was important for other values, including cultural heritage, environmental, scientific or other values.

The methodology attributed a level of significance for each view as follows:

- Exemplary: How representative is this view? Is it the best of its type?
- Iconic: Is the view instantly recognisable? Is it iconic within the local, regional or state context?
- Scarce: How uncommon or rare is the view? Is it scarce within the local, regional or state context?

The significance levels were:

- moderate, being local significance
- high, being regional significance
- exceptional, being State significance or higher.

Again, the final determination of the visual significance level did not rely on the number of ratings, but rather whether a view was rated 'high' in one or more of the view components. From that, the level was determined as the overall significance rating attributed to the values of that landscape.

The landscapes of significance differed in their boundaries from the landscape areas which were based only on common attributes. The LAR stated *"The significance areas are necessarily nebulous at this stage of the process. Additional detailed fieldwork (outside the scope of this study) is required to define a finite and fully justifiable boundary of the type required to implement the Significant Landscape Overlay ¹³".*

¹² D3c, p 89

¹³ D3c, p94

(ii) Evidence and submissions

The Proponent noted that the LAR built upon the significant body of work completed by Ms Scott when she was employed by Planisphere and completed the Coastal Spaces LAS in 2006. The Proponent submitted Ms Scott had extensive experience in landscape assessment and the LAR methodology was appropriate for identifying significant landscapes and the location of SLOs.

Ms Scott identified the objective of a landscape assessment study was to define broad areas with a similar overall character or significance, rather than to distinguish between individual sites based on fine differences. Furthermore, she noted a landscape assessment study was quite different from a visual impact assessment in terms of scale, objectives, outcomes and the qualifications required to prepare them.

Ms Scott acknowledged her opinion was not sought or provided on defining the PSBs, however she observed *“settlement boundary policy advice was provided where an opinion was reached on whether townships should expand further into the natural landscape, based on the established and confirmed significance of the relevant surrounding landscape”¹⁴*. Ms Scott advised the LAR provided settlement boundary advice in circumstances where:

- a township was located adjacent to an established significant landscape as determined by the Coastal Spaces work and that significance was confirmed by the Landscape Assessment Review; and/or
- a township was located adjacent to a significant landscape as determined by the Landscape Assessment Review; and/or
- a township was located adjacent to land covered by the SLO; and/or
- a township exhibited a strong landscape character and connection to its surrounding landscape context; and/or
- a township was located adjacent to a green break between settlement areas that should be protected¹⁵.

Mr Moir was satisfied the LAR provided an appropriate assessment of landscape typologies, character and key values that contributed to defining the significance of the Bass Coast landscapes. He was satisfied the level of assessment was of sufficient detail to inform the development of landscape policy and controls in the draft SPP. In relation to the boundaries of the significant landscapes, Mr Moir’s evidence was:

- defining boundaries of the SLOs by the coastal edge, roadway viewing corridors, and in most cases existing settlement boundaries (excluding areas identified in San Remo, Ventnor and Cape Paterson) was acceptable and aligned with the objectives of the LAR
- the level of assessment was insufficient to define boundaries based topographic information
- the 10 metre contour intervals used in the LAR were not an appropriate level of detail to determine potential impacts of development on significant visual landscapes.

In light of this analysis, Mr Moir said:

It is my opinion that this lack of detail and absence of detailed visual analysis when determining and justifying the SLO boundaries and the settlement boundaries (where the SLO is referred to as a justification for the PSB alignment) weakens the policy.

¹⁴ D32, para 25

¹⁵ D32, para 41

It is my recommendation that further detailed assessment be undertaken to accurately determine and justify the SLO and settlement boundaries based on detailed topographic analysis (using minimum 1m interval contour, significant view locations and corridors and digital modelling of visual catchments ¹⁶.

Mr Moir cited examples where additional assessment was needed to refine the boundaries of SLOs, these are discussed in Chapters 3.6 to 3.11.

Ms Scott's statement in reply generally supported the more detailed topographical analysis recommended by Mr Moir. In Ms Scott's opinion, this work could be easily undertaken, and it was not a reason to not support the proposed SLO extensions. The Proponent confirmed DTP officers supported undertaking further work to confirm SLO boundaries.

The Proponent placed significant weight on the commissioning of Ms Martin by the former DELWP to undertake a peer review of aspects of the LAR methodology developed by Claire Scott Planning for the Bellarine DAL. This included reviewing refinements to the methodology proposed by Ms Scott for use in the Great Ocean Road Scenic Landscape Assessment project. Ms Martin's review found that methodology to be generally appropriate, comparing favourably *"with international best practice and guidance from other Australian jurisdictions"* ¹⁷.

The Committee was advised Ms Martin considered the emphasis on visual characteristics as the primary determinant of significance to be appropriate and she deemed Ms Scott's methodology for determining significance to be thorough and objective. Ultimately, Ms Martin considered that any study utilising Ms Scott's methodology *"would provide clarity in the intent, provisions and desired outcomes of a subsequent amendment or for management plans or other instruments for public land"* ¹⁸. Ms Martin did not present to this Committee nor did this Committee undertake a review of Ms Martins work.

Mr Haack deemed the LAR methodology to be appropriate for the assessment of regional landscapes, however he opined it was *"... not appropriate to be applied as a tool to inform zoning at the detailed level, or to define growth boundaries"* preferring instead a detailed, ground-based assessment relying on landscape and visual assessment of finer grained landscape units ¹⁹. Mr Haack suggested that much of the rural pastoral land adjacent to settlements to be common throughout Victoria, and not distinctive. In his opinion, *"a very wide net has been cast to define landscapes of regional significance and that the relative commonality of a landscape, or its level of scenic quality have not been appropriately considered in this assessment"* ²⁰.

Mr Haack added that while he was supportive of the regional level approach as the first step of identification of landscape significance, the assessment should have considered the *"rarity or commonness of a landscape type as the basis for identification of significance"* ²¹. He implied the LAR had not considered the effect of topography or vegetation screening views. He further opined that pastoral landscapes adjacent to settlements have a *"high ability to absorb change due to the relatively flat topography"* ²² which created the opportunity to use vegetation to screen views.

¹⁶ D83, paras 3-7

¹⁷ D32, p 125

¹⁸ D32, p130

¹⁹ D86, p11

²⁰ D86, p29

²¹ D86, p29

²² D86, p11

The Proponent considered Mr Haack’s evidence lacked the thoroughness of the LAR and lacked consideration of community views. Mr Haack’s opinion on farming landscapes was not fully supported by Mr Moir, who considered the DAL was broadly a unique setting and landscape.

Mr Schutt did not agree the overall LAR methodology could be described as current best practice. He supported the methodology to determine landscape character, describing it as *“an approach which is widely taught in landscape architectural schools and is typically attributed to Scottish landscape architect Ian McHarg²³”*. In contrast, he considered the methodology used by Ms Scott to determine landscape significance was *“not consistent with industry practice”* and was instead a methodology developed by (the former) Planisphere who used the methodology in other strategic landscape assessments for the Victorian Government. Mr Schutt said the LAR should have been informed by recognised landscape and visual assessment reference texts.

Additionally, Mr Schutt contended the LAR overly relied on the visual experience of one person, being Ms Scott. He emphasised that when determining visual values, the assessor must *“benchmark the landscape in question against all other examples of landscapes with similar characteristics locally, regionally and state-wide”* using visual landscape character preference indicators²⁴. Mr Schutt suggested the Scott methodology was not robust enough provide a basis for changes to planning policy, including application of the PSBs. Mr Schutt characterised Ms Martin’s peer review of the LAR for the Bellarine DAL as a *“literature review, given that it does not test the technical robustness of the methodology²⁵”*.

The Proponent dismissed Mr Schutt’s general statement about an over-reliance on visual experience of one person and the lack of benchmarking against established visual preference indicators or community opinions. The Proponent indicated Ms Scott was *“extremely well placed to make a comparative assessment of the coastline and coastal hinterland across Victoria given all the work she has done over many years²⁶”*. The Proponent refuted Mr Schutt’s claims that Ms Martin was not qualified to undertake a peer review of Ms Scott’s work, submitting her professional experience over many years meant she was well placed to review Ms Scott’s approach and methodology.

The evidence of Mr Wyatt and Mr Atkinson focused more specifically on individual sites. Mr Wyatt supported the overall methodology with the additional component of visual and seen area analysis. As stated in the Landscape Conclave, he was concerned the level of analysis was too broad to derive evidence-based boundaries and SLO areas and he sought more granularity of analysis. Similarly, Mr Atkinson sought further investigation and detailed analysis to determine landscape and visual impact at a site-specific level.

(iii) Discussion

The Committee considers the Landscape Character Assessment methodology and outcomes are generally appropriate for the Bass Coast DAL. As a regional level assessment, the Committee agrees the identification of areas of significance is appropriate. Similar studies to the LAR prepared by Ms Scott have been used to justify SLOs for many years, evidenced by use of the *Coastal Spaces Landscape Assessment Study, 2006* as a State policy document at Clause 12.02-1S.

²³ D90, para 40

²⁴ D90, para 46

²⁵ D90, para 51

²⁶ D329, para 11

The Committee broadly agrees the LAR is fit to inform SLOs because they are a development consideration, rather than a development brake. This was acknowledged by Ms Scott's evidence which advised the SLO was *"not intended to preclude or prohibit development, but instead provides guidance to applicants and Council planners in the form of objectives and decision guidelines regarding the siting and design of development in significant landscapes"*.

While the Committee accepts the LAR appropriately identifies character and significance at a regional scale, it considers it is not detailed nor specific enough to define settlement boundaries. This is not due to any failing on the part of Ms Scott because this was not what she was briefed to do. Settlement boundaries are applied at a site-specific level and therefore warrant detailed site level assessments. This is the analysis missing from the process.

The LAR was relied upon to make decisions that cannot be justified from the level of detail and analysis contained within it. While the other five landscape expert witnesses differed on the deficiencies of the LAR, the common thread was that there wasn't enough detail within it to inform PSBs. The Committee considers the concept of 'granularity' contended by Mr Wyatt to have merit and agrees that there is not enough granularity of analysis to inform the extent of development. While Ms Scott said this was not the intent of her work, it is clearly required as part of an integrated assessment informing settlement boundaries in an SPP.

The weight that ought to be given to the LAR in relation to settlement planning, particularly settlement boundaries, is an entirely different proposition to the decision to apply a SLO. The Proponent, guided by LAR, has largely taken the approach where land on the periphery of a township classified to be of State or regional significance, has been discounted for urban expansion because it would not conserve or protect the landscape as a distinctive attribute. The Committee disagrees that this is the right course.

As discussed in Chapter 7, protection and conservation of the distinctive attributes, in this case, landscapes, is not only achieved by setting hard limits to development. Further, the significant landscapes identified in the LAR do not have equal value and sensitivity to change. Consequently, the Committee places little weight on the recommendations of the LAR as it relates to settlement boundaries. At most, the recommendations are an input into an integrated assessment, they are not an end in themselves.

3.3 Green breaks

(i) Background

The draft SPP defined green breaks as *"the predominantly rural land located between settlement boundaries"*. The vision for settlements seeks to maintain and enhance visible green breaks between settlements.

(ii) Evidence and submissions

The Proponent emphasised the importance of SLOs providing green breaks between settlements and the importance of roads as important viewing corridors.

Best Hooper Group noted green breaks were not referred to in the declaration as a distinctive attribute or a distinctive feature (or in any other way). Further, it contended that while the landscape conclave agreed green breaks were important, the extent of land required for green breaks was not clear and it warranted further work. Best Hooper Group noted it would be

premature and inappropriate to impose a PSB to preserve an existing green break until this work was completed.

Moed/White referred the Committee to the commentary of the Bellarine DALSA, that said:

A green break (land between settlements) is not an identified distinctive feature or attribute set out in section 46AP(1) of the PE Act. However, it is relevant to the Greater Geelong Planning Scheme through local planning policy and identified existing local settlement boundaries. A green break can be referenced in the Bellarine Peninsula Statement of Planning Policy that cannot be used to justify the alignment of a Protected Settlement Boundary²⁷.

In reply, the Proponent submitted the commentary of the Bellarine DALSA contrasted with the general support for protecting green breaks expressed by the Surf Coast DALSA, including its finding that *“green breaks are important and should be provided for between settlements”*²⁸. The Proponent said the findings of the Surf Coast DALSA should be preferred given the strong policy and conclave support for the retention of green breaks between settlements.

Mr Schutt referred to green breaks in relation to Smiths Beach and Sunderland Bay where he believed expansion of residential development of the Smiths Beach settlement to the east could erode the green break between Smiths Beach and Sunderland Bay. He countered this by noting he was willing to consider development of an appropriate nature, form and scale akin to the Silverwater Resort in San Remo within a green break.

Likewise, Mr Atkinson considered the green break between Coronet Bay and Corinella. He believed *“land within the township boundary will include built form controls to ensure development will not impact on the distinctive characteristics to be protected and retained”*²⁹. The Proponent responded by noting that none of the five other landscape experts contemplated urban development within green breaks, and that Mr Atkinson’s opinion about the appropriateness of urban development in the green break should be rejected.

(iii) Discussion

While Ms Scott provided commentary around green breaks, it did not constitute a formal part of the LAR assessment criteria. Similarly, green breaks were not referred to in the declaration as a distinctive attribute or feature. However, the Committee is inclined to agree with Ms Scott that green breaks are an important part of the landscape and are worthy of protection, particularly in areas where settlements are located close together.

The Committee considers two important green breaks are between Coronet Bay and Corinella, and between Sunderland Bay, Surf Beach and Smiths Beach. While there is no definitive size required for a green break, they are critical in retaining the character of these small hamlets set within a broader coastal landscape. The importance placed on green breaks by the Committee is evident in the discussion of specific settlements in Part C.

Separately, the Committee views the green breaks between Cape Woolamai and Surf Beach and between Wonthaggi and Cape Paterson as less critical given that they are larger. Minor incursions into larger green breaks would not necessarily impact the sense of landscape, rural character, isolation or remoteness.

²⁷ D163aa, para 4.6

²⁸ D160c, p80

²⁹ D92, p 18

The Committee agrees with Mr Schutt and Mr Atkinson that there is a role for appropriately scaled, contextual responsive design to achieve appropriate built form outcomes in some areas that might constitute a green break. However, suggestions of design mitigation measures and sensitive design between Coronet Bay and Corinella and between Sunderland Bay, Surf Beach and Smiths Beach failed to convince the Committee the landscape and visual attributes of these places wouldn't be significantly compromised should significant urban development occur. The limited width of these green breaks means that they have less tolerance for development, even if an excellent design outcome could be achieved (see Chapters 11.3, 11.4 and 12.2).

3.4 Mapping of private and public land

(i) Evidence and submissions

Urban land

Ms Scott gave evidence that SLOs should not apply over urban zoned land and explained:

Consistent with the definition of 'landscape significance' because townships comprise built up areas that visually predominate over natural landscape qualities, they cannot be considered as 'significant landscapes' or as forming part of significant landscapes. For this reason, it is not recommended that the SLO be applied to townships or land within settlement boundaries that is zoned for urban or residential purposes. In some circumstances however, it may be appropriate to apply the SLO to low density residential areas e.g., areas zoned LDRZ (if the landscape is significant), where built form does not predominate over natural landscape characteristics. This is also considered a good approach as the LDRZ parent clause and schedule is silent on landscape character and does not have the ability of the other residential zones/schedules to vary building site coverage, permeability and landscaping ³⁰.

The Proponent broadly adopted Ms Scott's approach. It recognised the utility of applying the SLO on rural zoned land inside the San Remo settlement boundary "*as a holding overlay pending re-zoning or the imposition of an appropriate set of controls to guide future development within the township boundary* ³¹". It supported the same approach in Cape Paterson.

In response to a question from the Committee, the Proponent emphasised the important role of the SLO in managing building height on Low Density Residential Zone (LDRZ) land in the absence of height controls in that zone.

Public land

Ms Scott's opinion was the SLO should be applied to public land in the interests of consistency and good management. Of note, she explained:

- the exemption of public land is contrary to the intention of the application of planning schemes as established by the PE Act
- the inclusion of public land within overlays gives greater encouragement to public land managers to adhere to the spirit of the overlays
- the exclusion of public land results in overlay maps that are inconsistent and unconvincing so far as comprehensive recognition of landscape value is concerned
- there are numerous examples in planning schemes of other overlays extending over public land, and it is no different to apply the SLO, where it can be justified

³⁰ D32, para 128

³¹ D329, para 356

- the objective of allowing public land managers to undertake routine maintenance and construct minor buildings and works can easily be achieved by including an appropriate exemption in the relevant overlay schedule (as proposed)
- the draft SLO schedules proposed include reference to the significant coastal landscape features that characterise the declared area, noting the most significant parts of the Bass Coast landscape, in the 'statement(s) of nature' renders it irrelevant if the SLO does not apply to them.

Except for Mr Schutt, all experts participating in the Landscape Conclave agreed the SLO should apply to public land.

Agricultural land

Victorian Farmers Federation (VFF) Corporate recommended the draft SPP be amended to support State agricultural policy, including by tailoring the proposed landscaping controls to support agriculture. If this change was not supported, it sought a recommendation from the Committee to not implement the SLOs on agricultural land.

(ii) Discussion

The Committee agrees it is appropriate to apply the SLO to rural land within settlement boundaries earmarked for development as a holding position, pending the preparation of site-specific controls as part of a rezoning package. This will flag the importance of landscape considerations in the resolution of a development scheme.

The Committee accepts the existing SLOs have had some utility in managing built form outcomes on LDRZ land where there is no default height trigger in the zone. However, this function appears more accidental than by design, given both existing and proposed SLOs were not drafted to apply to urban settings. It is preferable that specific controls are developed for urban land within a significant landscape to manage the interface between the two.

The Committee supports application of SLOs to public land on the basis that permit exemptions have been included to enable public authorities to conduct day to day activities without a planning permit. This approach offers the benefit of recognising significant landscapes in a control (above the policy recognition in the draft SPP) but does not unnecessarily burden Council with administration of the Planning Scheme controls that duplicate responsibilities of public land managers through other legislation.

The Committee agrees with submissions made by the local and Corporate VFF that the draft LPC need to strike the right balance between managing development that might impact on a significant landscape and the practical operation of agricultural enterprises, given the important role they play in the Bass Coast economy. It is surprising to the Committee that neither the LAR, the Proponent or Council articulated why the existing SLOs were not achieving their intended outcomes, and the rationale for amending the permit triggers, application requirements and decision guidelines. Assessing the performance of existing controls is a fundamental part of any review to ensure that a proposal for change is fit for purpose and does not lead to creation of unnecessary permit triggers that burden those using and administering the planning scheme. This is discussed further in Chapter 3.12.

3.5 Significant landscapes not included in the Significant Landscape Overlay

(i) Evidence and submissions

There were some submissions on significant landscapes recognised in the draft SPP but not included in the LPCs. This impacts on the waterline towns (Grantville, Corinella and Coronet Bay) as well as Cowes and Ventnor on Phillip Island.

In relation to the Eastern Western Port Coastal Flatlands landscapes, the Proponent acknowledged that while a SLO was not proposed, that did not mean it was not significant. To the contrary, it noted the visual significance of the land had informed the Coronet Bay settlement boundary, amongst others.

Submitter 460 was not satisfied with this approach and sought a specific SLO be applied to the Western Port Coast in the vicinity of Coronet Bay and Corinella.

In response to a question from the Committee, the Proponent clarified that once the draft SPP was approved and gazetted, RPEs will be bound by its objectives and must have regard to its strategies and explained:

The SPP will be effectively considered as part of the VPP as a policy. So, in the same way for example where you may have a wind farm that triggered a use and development permit and, while there might not be an SLO that applies to the land, it is still a requirement to consider landscape significance and State and Local Policy in relation to landscape. The SPP would fall into that category, although it can be given extra weight as it is the SPP ³².

(ii) Discussion

The Committee notes the work defining the Phillip Island North Coast and Hinterland and Eastern Western Port Coastal Flatlands is acknowledged to be incomplete but has been relied upon in settlement assessments and formulation of PSBs. The Committee does not support this approach.

The draft SPP will have a lasting impact on settlement planning across the Bass Coast. It is appropriate that it is based on complete assessments, particularly in relation to landscape significance. Consequently, the Committee gives less weight to the LAR in its analysis of settlements in the Phillip Island North Coast and Hinterland and Eastern Western Port Coastal Flatlands.

Further, given the incomplete nature of the assessments of these landscapes, the final SPP should differentiate these from those in SLOs 1 to 6, which have been fully assessed and boundaries have been resolved. The Committee's preference is to recognise the Phillip Island North Coast and Hinterland and Eastern Western Port Coastal Flatlands as 'Potential regional significant landscapes' on Map 7 and in commentary in the final SPP. The Committee's recommendations reflect this position.

³² D335, section 2

3.6 SLO1 Bass Hills, Bass River Valley and Coastal Plains

(i) Background

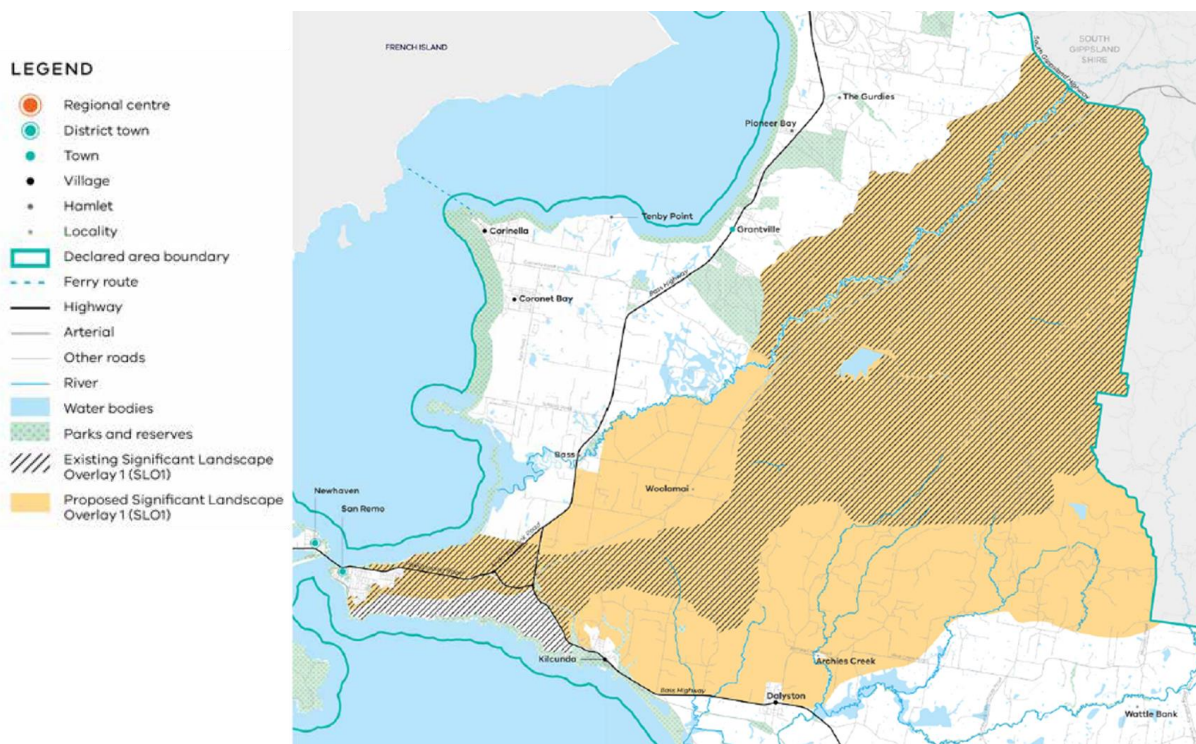
The existing SLO1 (Strzelecki Foothills and Bass Valley) covers the area from the Strzelecki Foothills through the Bass River and valley environs to coastal areas fronting the Western Port Ramsar area.

It is proposed to retain SLO1 and to:

- apply the overlay to a larger area from San Remo and Kilcunda (Figure 3) to include the full extent of the Bass Hills at their southern edge, and the foreground or setting of the hills to the south and east of the township of Bass
- remove the overlay from the south-facing coastline and coastal hinterland between San Remo and Kilcunda (refer to proposed SLO6)
- rename the overlay schedule to 'Bass Hills, Bass River Valley and Coastal Plains'
- revise the overlay schedule.

SLO1 does not align with the full extent of the Strzelecki Foothill significant regional landscape (Figure 3). It excluded the majority of the Gurdies Hills which the LAR described as *"less significant than the more prominent and visually arresting Bass Hills (partly due to the existence of a number of quarries and other uses which have altered character and erased significance in parts)"*³³.

Figure 3 SLO1 Bass Hills, Bass River Valley and Coastal Plains



(ii) Evidence and submissions

Ms Scott considered the landscapes of SLO1 to be some of the most defining features of the area, much of which has been long established as part of the existing SLO1. The LAR proposed

dramatically expanding the SLO further to better protect more of the Bass Hills, Bass River Valley and Coastal Plains areas. In addition, the LAR identified a separate landscape unit for the coastal landscape between San Remo and Kilcunda to be replaced with SLO6.

Mr Moir recommended further analysis and supporting evidence relating to topographic and key view assessment be provided to justify the proposed SLO1 boundary alignment, specifically:

- more analysis of the alignment between Dalyston and Archies Creek, and between the townships of Bass and Woolamai
- potential expansion of the SLO1 boundary north of Bass River
- consideration of development controls along the Bass Highway as a key viewing corridor of higher sensitivity
- further topographical mapping to justify the boundary between SLO1 and SLO6.

Ms Scott responded by recommending further work be carried out to confirm the boundaries of SLO1 between Dalyston and Archies Creek. She disagreed with Mr Moir's suggestion to expand SLO1 north of the Bass River, given that most of the land was not assessed as significant, nor were the views unimpeded.

Mr Haack supported the overall intent of the landscape character objectives, although he recommended that in San Remo, SLO1 move further east towards Punch Bowl Road to *"better reflect the increasing elevation of the central hill of the peninsula"*³⁴.

The Proponent disagreed with Mr Haack's suggestion because he had not overlayed the SLOs against topographic mapping.

Mr Wyatt (for Springway San Remo) asserted the boundary between SLO1 and SLO6 was not based on *"the inherent quality of the land, but rather ... on a simplified analysis using limited data"*³⁵. He said this was not reflective of the landscape units and he supported additional 'granular' analysis.

Abrahams/Franlaw submitted there was a lack of rigour and granular landscape assessment in the LAR to inform the alignment of the boundary between SLO1 and SLO6.

Submitter 83 did not oppose the imposition of SLO1.

In closing, the Proponent submitted the Committee could *"confidently determine that the use of the ridgeline is an appropriate delineation of the boundary between the SLO1 and the SLO6"*³⁶.

The Proponent advised DTP officers agreed to further topographical mapping to define this feature.

(iii) Discussion

The Committee is generally supportive of the expanded SLO1 to better reflect the significance of the Bass Hills, Bass River Valley and Coastal Plains. The final boundary of SLO1 should be informed by further work that:

- confirms the break of slope boundary between Archies Creek and Dalyston
- confirms the ridgeline to inform the boundary between SLO1 and SLO6.

³⁴ DO86 p58

³⁵ DO87 p11

³⁶ D329 para 356

The Committee is content with Ms Scott's rationale to not extend SLO1 north of the Bass River.

3.7 SLO2 Phillip Island Western and Southern Coast

(i) Background

The existing SLO2 (Phillip Island Western and Southern Coast) covers the western and southern coastal hinterland between Ventnor and Cape Woolamai, excluding settlement areas.

It is proposed to retain SLO2 and:

- apply the overlay to a larger inland area (Figure 4) to better correlate with the topography and to better reflect the pattern of viewing of the state-significant landscape, including how it is view from nearby roads and reserves.
- revise the overlay schedule.

Figure 4 SLO2 Phillip Island Western and Southern Coastline



(ii) Evidence and submissions

Ms Scott referred to Phillip Island's southern and western coastline as varied and dramatic, a landscape of stunning sea cliffs, granitic headlands, rocky off-shore reefs, basalt stacks and high dunes, with a picturesque and elevated rolling hinterland. Ms Scott emphasised the importance of patterns of viewing. As such, a key focus was to extend the SLO to the key tourist road across the island which transports visitors to the major tourist attraction, the Penguin Parade.

Land in proximity to Ventnor

Mr Moir gave evidence that further justification of the boundary delineations was needed for areas along the southern and western hinterland, and specifically south-west of Ventnor. He identified a need for further visual analysis to demonstrate key views and questioned the use of a 1.6 kilometre offset used to define visual significance. He identified the S666 land, currently contained within SLO2, was largely invisible from Ventnor Road and suggested that "future

*development within this area is unlikely to cause significant additional impact on the existing landscape character and significant view corridors*³⁷. Conversely, Mr Moir suggested that with more analysis, SLO2 could potentially be extended further east to Ventnor Road and north closer to Grossard Point Road.

In response to Mr Moir's recommendations to investigate the potential removal of the S666 land from SLO2, Ms Scott noted the landforms are part of a long-established state significant coastal/coastal hinterland landscape that is already predominantly covered by SLO2. Further, she noted there had not been any modelling of two storey urban development on the subject land.

The Proponent responded by confirming DTP officers accepted Mr Moir's recommendation to undertake further analysis to confirm whether SLO2 should be extended to Grossard Point Road.

Mr Moir sought verification and viewshed mapping of the northern SLO2 boundary between Ventnor and the Grand Prix track. This recommendation was accepted by DTP officers.

Mr Wyatt (for Springway Ventnor) questioned the location of the expanded SLO2, suggesting that proposed boundaries were not based on the distinct landscape units, visibility, or topography, nor did it have an appropriate level of granularity. He suggested SLO2 was not based on the *"inherent quality of the land"* but instead *"a simplified analysis using limited data"*.

The Proponent rejected Mr Wyatt's evidence regarding whether views across the site from Ventnor Road would be partially blocked by potential development. The Proponent relied on Ms Scott's justification for the SLO2 boundary which included the desire to capture *"the scenic, undulating rural hinterland, which in some areas comprise the fore or middle ground to coastal water views"* as the justification for expanding SLO2³⁸.

Land in proximity to Smiths Beach

Relying on the recommendations in the LAR, the Proponent advocated the existing SLO2 surrounding the hamlets of Smith Beach, Sunset Strip, Sunderland Bay and Surf Beach be expanded to:

... protect the wild, undeveloped character of the coastal edge of the state-significant Phillip Island Western and Southern Coast landscape and limit development detrimental to the areas distinctive attributes, especially within the coastal viewshed and green breaks between settlements³⁹.

Best Hooper Group adopted the advice of Mr Schutt who questioned why SLO2 was to extend to Back Beach Road between Smiths Beach and Sunderland Beach, without an obvious landscape feature influencing the location of the northern boundary. He did not identify an *"evidence-based rationale for the proposed extension of SLO2 across the northern part of the subject land"* at Smiths Beach⁴⁰.

In response, the Proponent relied on Ms Scott who considered extension of SLO2 to Back Beach Road was warranted considering the extent of significant landscape unit, the patterns of viewing and visibility of the land, and the development pressure for ongoing expansion of coastal settlements.

³⁷ D083 p 9
³⁸ D032, p45
³⁹ D029, para 247
⁴⁰ D090 para 137

Land in proximity to Cape Woolamai

In Cape Woolamai, Mr Schutt found no evidence-based rationale for expanding SLO2 across the S258 land, given it *“does not exhibit any feature which would reasonably support a finding that is ‘exemplary’ within a State or even a regional context, nor are any of these features identified or described in the Landscape Assessment Review⁴¹”*. He did not support the extension of SLO2 to Phillip Island Road given the land was not visible from beaches or a high point.

In response, the Proponent contended Mr Schutt failed to properly consider the role the site plays in the green break and suggested no further work *“is required to ascertain the significance of this green break and the role of the Submitter 258 Land as part of that green break⁴²”*.

(iii) Discussion

The Committee supports the expansion of SLO2 generally as proposed in the draft LPCs. The identification of Phillip Island Road, Back Beach Road and Ventnor Road as major viewing corridors resonates with the Committee and provides a clear rationale for the expansion of SLO2 across Phillip Island.

The Committee supports the DTP officer recommendation to undertake further analysis to determine the SLO2 boundary south of Ventnor along Grossard Point Road. Additionally, the Committee acknowledges DTP intends to undertake additional viewshed mapping of the northern SLO2 boundary between Ventnor and the Grand Prix track in response to Mr Moir’s recommendation.

3.8 SLO3 Phillip Island Swan Bay Coast and Churchill Island

(i) Background

The existing SLO3 (Phillip Island Eastern Coast) covers the eastern coastline of Phillip Island.

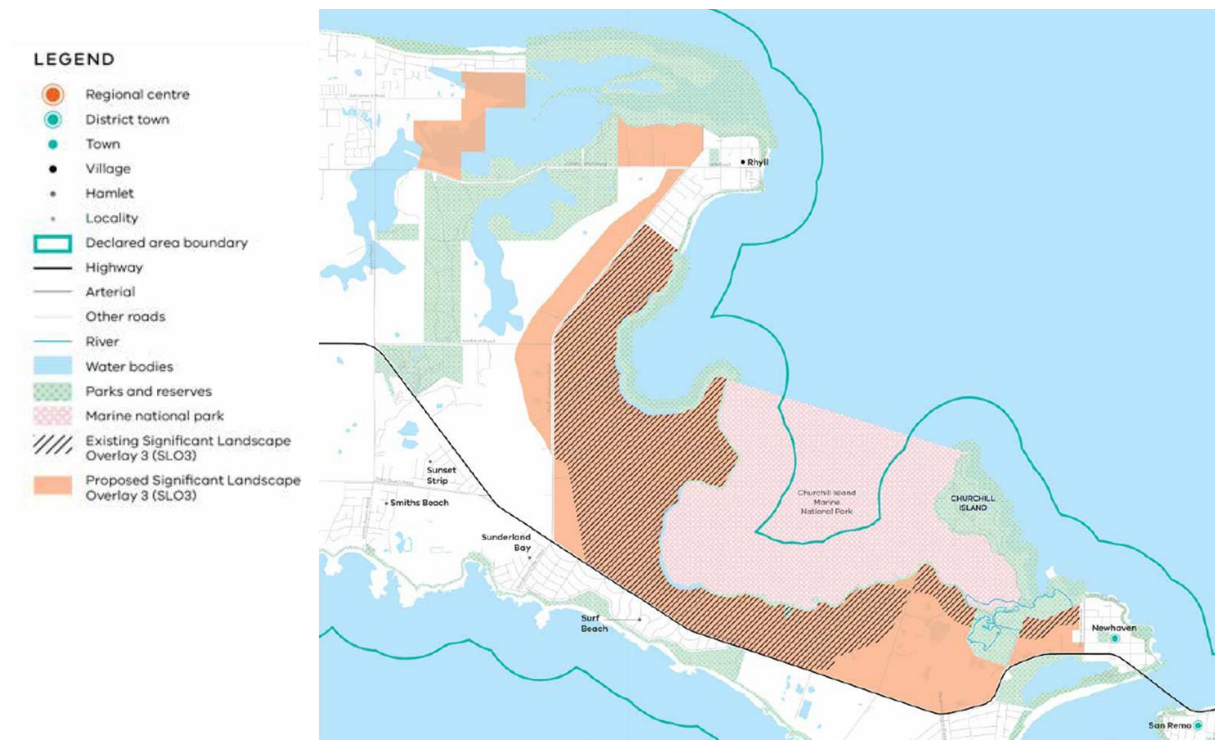
It is proposed to retain SLO3 and:

- apply the overlay boundary to a larger area including the surrounds of Silverleaves, farming land on both sides of Rhyll-Newhaven Road, farming land north of Phillip Island Road and an area south of Rhyll Inlet (Figure 5)
- rename the overlay schedule to ‘Phillip Island Swan Bay Coast and Churchill Island’
- revise the overlay schedule.

The expanded SLO3 area seeks to ensure the larger area of state-significant landscape is protected from development detrimental to its distinct attributes and the ensure inland boundary of the overlay better correlates with topography, patterns of viewing and significance.

⁴¹ D090 para 157

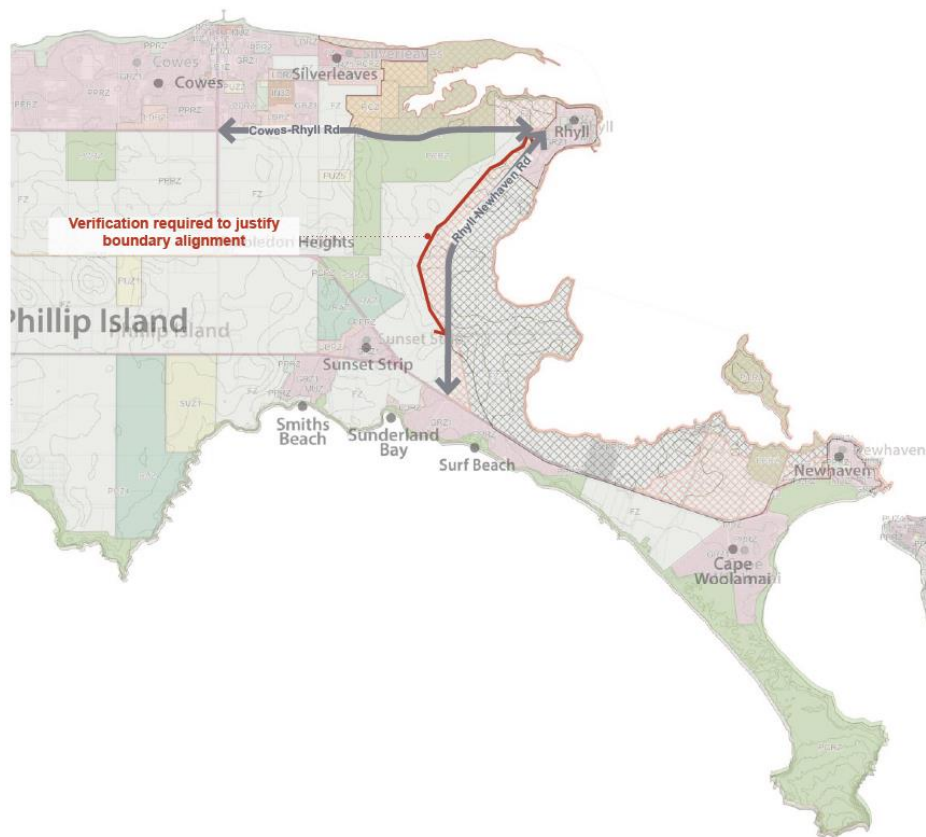
⁴² D329 para 245

Figure 5 SLO3 Phillip Island Swan Bay Coast and Churchill Island**(ii) Evidence and submissions**

Ms Scott referenced the tranquil and low-lying landscape and the scenic rolling hinterland of SLO3. She noted the importance of major viewing corridors such as key tourist roads and the potential impacts that development would have on those landscapes as part of the justification for expanding the SLO3.

Mr Moir agreed with the objective of the proposed SLO3 boundary but said the analysis was inadequate to be able to “*clearly substantiate the proposed landscape outcomes*”⁴³. He recommended further verification and analysis to justify the proposed western boundary of the expanded SLO3 along Rhyll-Newhaven Road as shown in Figure 6. The Proponent confirmed DTP officers supported this recommendation.

⁴³ D083, p9

Figure 6 Moir recommended boundary verification SLO3 ⁴⁴

Mr Haack was satisfied the existing SLO3 accurately reflected the landscape values of the Swan Bay Coast. He did not support the proposed SLO3 extension which includes land that is *“highly modified and is surrounded by significant built form with the settlement of Newhaven to the east, the Phillip Island Chocolate Factory to the west and the visit information centre to the south of Phillip Island Road* ⁴⁵”.

In reply, the Proponent submitted Mr Haack’s assessment was not informed by detailed work and should be rejected. Further, the Proponent stated Mr Haack ultimately agreed that *“if land was not included in a settlement boundary, then the SLO should apply along Phillip Island Road to guide built form along that important tourist road* ⁴⁶”.

Moed/White relied on the evidence of Mr Atkinson. Moed/White did not oppose extension of SLO3 to ensure those parts of west Newhaven visible from Churchill Island was included but it opposed applying SLO3 to the modified rural land with no visual connection to the coastal edge.

S528 objected to the expansion of SLO3 to include the property at 423 Rhyll-Newhaven Road given its contention the current controls have proven adequate in preserving landscape and views.

S624 raised concerns regarding the potential impact of agricultural practices in the vicinity of Rhyll on the nearby sensitive environmental areas and sought extension of SLO3 to protect additional areas of the Western Port Ramsar Wetlands.

⁴⁴ Source: D83, p7

⁴⁵ D086, p58

⁴⁶ D160, para 108

(iii) Discussion

The Committee supports the expanded SLO3 along its western boundary (west of Rhyll-Newhaven Road), pending more detailed analysis of the boundary alignment as recommended by Mr Moir and supported by DTP officers. Additionally, the Committee supports the southern boundary expansion to Phillip Island Road between Surf Beach and Samuel Amess Drive to align with tourist roads.

Closer to Newhaven, the Committee agrees the SLO should cover all the north facing slope above the wetlands and opposite Churchill Island. The Committee agrees with Mr Haack's assessment that the character of the area around the chocolate factory and visitor information centre on Phillip Island Road relate more closely with the character of the Newhaven settlement and not with the landscape of Swan Bay and Churchill Island beyond. The Committee does not support the extension of SLO3 to Phillip Island Road, east of Samuel Amess Drive. This area would benefit from a development control that manages built form outcomes along Phillip Island Road and improves the quality of a key entry point to Phillip Island. However, the SLO is not the appropriate tool given the extent of existing development and because this area is not a significant landscape.

3.9 SLO4 Wonthaggi and Bunurong Coast

(i) Background

The existing SLO4 (Kilcunda to Inverloch Coast) covers the area from San Remo to Inverloch.

It is proposed to retain SLO4 and:

- apply the overlay boundary to a larger inland area, and to include the Harmers Haven settlement (Figure 7)
- rename the overlay schedule to 'Wonthaggi and Bunurong Coast'
- revise the overlay schedule.

Figure 7 SLO4 Wonthaggi and Bunurong Coast



(ii) Evidence and submissions

The Proponent explained the proposed SLO4 makes minor adjustments to the existing SLO4 inland boundary within the coastal hinterland to better correlate with the topography, extent of vegetation cover and pattern of viewing.

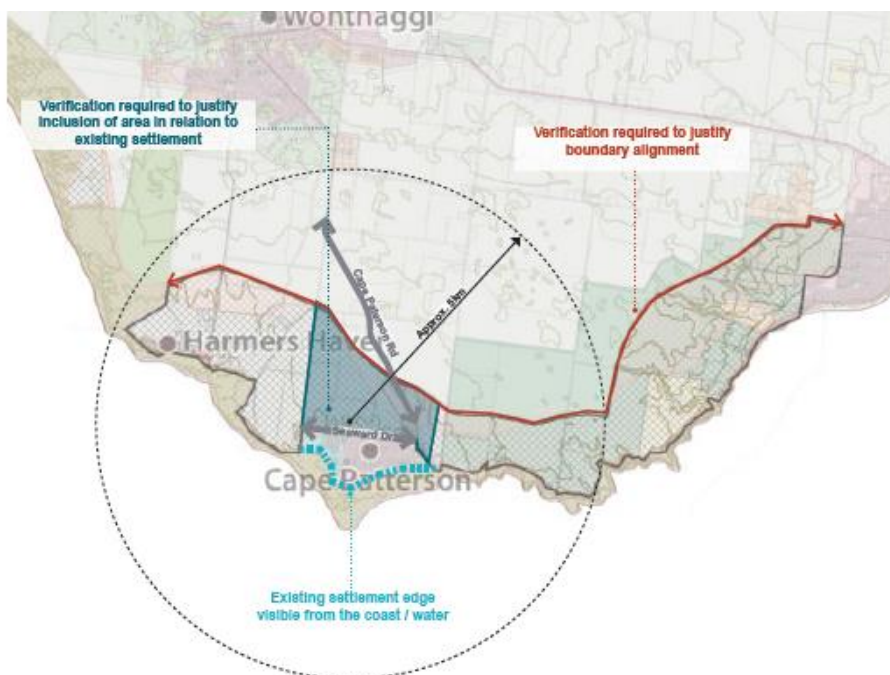
Mr Moir said further justification through detailed mapping and analysis was required for the precise features or factors that have informed the proposed boundary delineation along the north of SLO4, where there appears to be no discernible difference in the landscape either side of the proposed boundary line, as shown in Figure 8.

Ms Scott advised:

- most of proposed SLO4 is already in place because of the Coastal Spaces LAS
- the expanded area captures remnant dunes, forming a minor ridgeline to the west of Cape Paterson Road, but if the settlement was extended northwards, SLO4 should be retracted from urban land
- she had no objection to the boundary verification west of Inverloch and north of Harmers Haven.

The Proponent confirmed DTP officers supported application of SLO4 to rural land within the proposed Cape Paterson PSB as an interim measure, pending the further extension of the settlement.

Figure 8 Moir recommended boundary verification SLO4 ⁴⁷



Mr Haack considered SLO4 inaccurately captured landscape values associated with the more remnant dunes in the existing and proposed settlement boundary for Cape Paterson. While low dunes extend well to the north of the proposed SLO4, he considered these were not significant

⁴⁷ Source: D83, p8

features. The more pronounced dunes that may warrant protection are shown indicatively in Figure 9.

Figure 9 Haack indicative location of dunes north of Cape Paterson settlement ⁴⁸



Ms Scott agreed with Mr Haack that land to the west of Cape Paterson within existing SLO4 is less significant than the land to the east proposed to be covered by the SLO4 extension, including the land shown in Figure 9.

(iii) Discussion

The Committee broadly supports the expansion of SLO4 to better correlate with topography, vegetation and patterns of viewing. It does, however, acknowledge Mr Moir's opinion that there is no discernible difference in the landscape either side of the proposed northern alignment. It therefore supports DTP's commitment to additional analysis to ensure a robust defence of the expanded SLO.

3.10 SLO5 Anderson Inlet Northern Coast

(i) Background

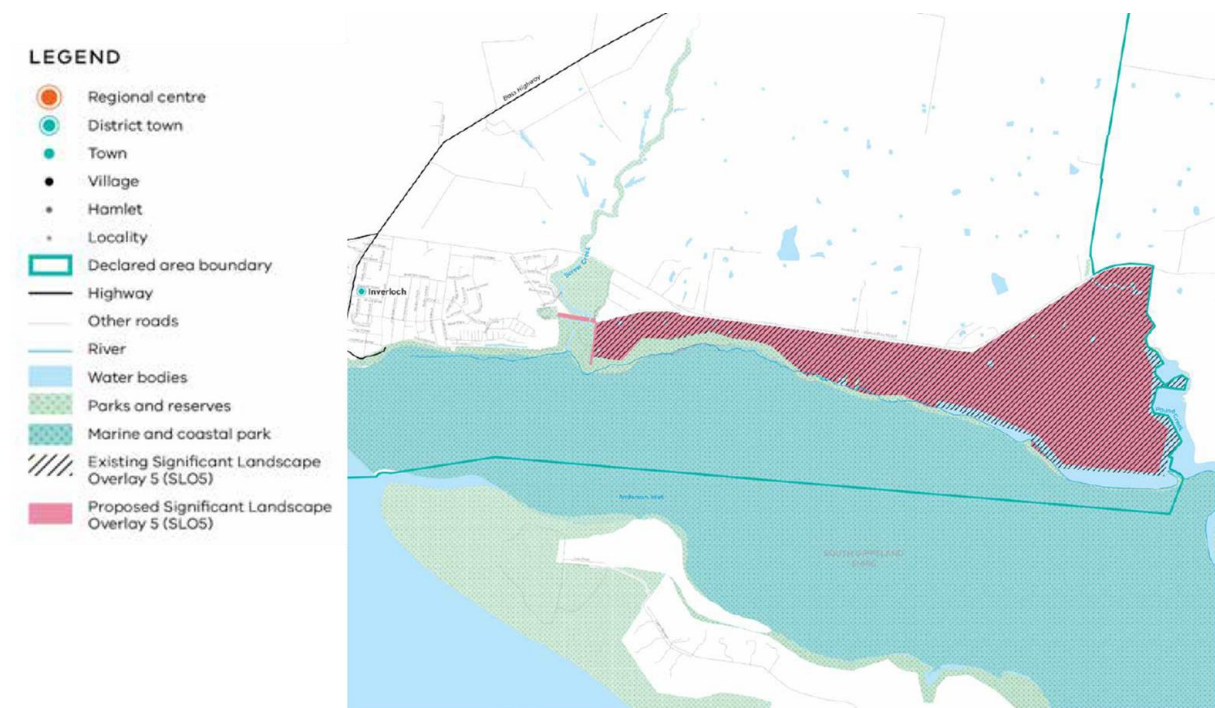
The existing SLO5 (Anderson Inlet) covers the area around Andersons Inlet.

It is proposed to retain SLO5 and:

- rename the overlay to 'Anderson Inlet Northern Coast'
- revise the overlay schedule.

The overlay boundaries of SLO5 are proposed to remain the same (Figure 10).

⁴⁸ Source: D86, p53

Figure 10 SLO5 Anderson Inlet Northern Coast**(ii) Evidence and submissions**

The Proponent advised the area to which existing SLO5 applies is not proposed to change in any material respect. Ms Scott clarified it was proposed to extend the existing SLO5 boundaries to cover the coastal edge and public reserve centred on Screw Creek, which are the most significant areas of the landscape. These are currently referenced in the ‘statement of nature’ in Schedule 5 but are not covered by the overlay.

Mr Moir and Mr Haack did not provide an opinion on the proposed SLO5.

(iii) Discussion

The Committee notes the revised SLO5 largely replicates the extent of existing SLO5. Concerns about its extent were not raised by individual submitters or landscape experts. The Committee is satisfied the proposed SLO5 boundaries are appropriate.

The general application of the SLO to public land is discussed in Chapter 3.4.

3.11 SLO6 San Remo to Kilcunda Coast**(i) Background**

SLO6 is a new schedule to the overlay and is proposed to apply to the south-facing coastal landscape between San Remo and Kilcunda (Figure 11). Further, the proposed SLO6 will apply to part of existing SLO1 (Strzelecki Foothills and Bass Valley).

Figure 11 SLO6 San Remo to Kilcunda Coast**(ii) Evidence and submissions**

SLO1 and SLO6 share a boundary located to the south of the San Remo township. Submissions on SLO6 equally apply to SLO1 and are summarised in Chapter 3.11.

(iii) Discussion

The Committee supports the introduction of SLO6 as a new SLO to better address the uniqueness of the coastal landscape. The Committee supports additional topographical analysis and better identification of the ridgeline to determine a more accurate boundary between SLO1 and SLO6.

3.12 Planning Scheme drafting**(i) Background**

The LPCs contain draft SLO schedules prepared in accordance with *Ministerial Direction – the Form and Content of Planning Schemes*. The LPCs are intended to provide increased protection for significant landscapes in the declared area and are supported by the technical work in the LAR.

Submissions on the drafting approach taken by the LPCs were received from the Proponent, Council and the VFF. In addition, various individual submitters, largely with agricultural interests, commented on the permit requirements proposed in the LPCs.

(ii) Evidence and submissions

The Proponent relied on the evidence of Ms Scott and Mr Glossop in relation to SLO drafting issues. Following exhibition, Ms Scott undertook additional redrafting of the SLO schedules in consultation with Council, which was provided in Appendix F of her expert witness statement. In Ms Scott's opinion, the proposed LPCs offered more flexibility overall, including an increase to the floor area of an 'as or right' agricultural structure, and vegetation and rural fencing exemptions.

Mr Glossop was broadly satisfied the exhibited and refined SLOs had been drafted in line with relevant practice guidance. He recommended the following additional changes:

- redraft the 'Statements of nature and key elements of landscape' to improve clarity, reduce jargon and focus text on decision making
- redraft the objectives to remove value-laden language
- remove permit exemptions where a broad exemption already exists in Clause 62.02 or are beyond the scope of the SLO permit trigger
- redraft the decision guidelines in a neutral manner.

Mr Granger's planning evidence for the Best Hooper Group suggested general drafting changes to improve the proposed controls, including:

- redraft the 'Statement of nature of key elements of the landscape' to be more concise to improve clause efficiency
- ensure five or less landscape character objectives
- redraft application requirements to make it clearer when certain requirements would not be relevant to an application and to remove requirements already addressed within other controls.

VFF Corporate and VFF Bass Coast suggested the SLOs could be improved by:

- making fencing controls outcome based rather than specifying materials and construction methods (for example, transparency instead of post and wire)
- setting as of right building heights and areas that would accommodate standard farming requirements for storage of machinery and fodder
- recognising siting of agricultural buildings is determined by location of stock and access to roads.

VFF Bass Coast submitted farm sheds are considered part of the rural landscape and that requiring planning permits for essential farm business operations would be overkill.

Submitter 74 objected to several of the proposed permit controls. To support the practical operation of farming enterprises, that submitter recommended the SLO should be amended to:

- exempt all farm fences, cattle yards and grain silos from a planning permit
- recognise the preference for clustering of agricultural buildings.

Submitter 528 highlighted the existing Farming Zone is adequate in preserving the landscape and views, therefore there was no reason to introduce additional control through SLO3. While recognising permit requirements for buildings sited above a specified height datum may be appropriate for the Bass Hills area, S258 submitted the landscape on Phillip Island was vastly different and the ridgelines were less significant, therefore the height datum requirements were not appropriate for the SLO3 area.

S126 highlighted that using the land for tourism purposes may be complementary to preserving the visual significance of the land and requested changes to the landscape character objectives in the SLO schedule to better recognise the potential for complementary tourism uses and related purposes.

On the final day of the Hearing, the Proponent filed a consolidated table of changes accepted by DTP officers for each SLO schedule (D333). The Proponent responded to submitter concerns over drafting of the SLOs in its closing submission (D329). The Proponent stated the proposed

exemptions to facilitate buildings and works for agriculture activities provided an appropriate balance to ensure more impactful developments are triggered for assessment under the SLOs.

In its closing, Council generally accepted the amended SLO schedules, however provided suggested changes to all proposed schedules (D330a-330g).

(iii) Discussion

The Committee generally agrees with the DTP officer accepted changes to the proposed LPCs (D333) which respond to the recommendations of Ms Scott, Mr Glossop and Mr Granger. However further refinement is required to all SLO schedules to improve useability and consistency.

The Committee observes neither the Proponent nor Council clarified why the existing SLOs were not achieving the intended outcome and why significant changes were required to the permit triggers, application requirements and decisions guidelines. With any re-write of existing controls there should be a review and analysis undertaken to ensure unnecessary triggers and requirements are not introduced. The final form of all SLO schedules should be informed by a review and analysis against the existing controls, led by the Proponent in consultation with Council.

Statement of nature and key elements

The Committee agrees with Mr Glossop and Mr Granger the 'Statements of nature and key elements of landscape' in all SLOs require redrafting to be more concise and to remove information and language that is not useful to the decision maker. Significant refinement is needed to ensure the statements focus on the key attributes and significant elements of the landscape and remove any unnecessarily verbose wording.

Objectives

The Committee agrees with Mr Glossop the objectives require further refinement to remove unnecessary language and wording and to ensure the objectives are clear, link back to the significant elements and attributes and add value to the decision makers.

Permit triggers

In relation to fencing, the Committee agrees with VFF Corporate that the main issue to manage in a significant landscape is visual transparency. This is best managed through a measurable outcome rather than attaching the permit trigger to a type of fencing (for example post and wire or post and rail). The Committee considers a fence should not require a permit if it is at least 70 per cent transparent. This will ensure fencing does not act as a barrier to views and remains a low impact intrusion into the existing landscape.

Regarding the removal of native vegetation and exotic tree rows or shelterbelts, the Committee notes that each exhibited schedule contained slightly different wording. The rationale for the different approaches is not clear to the Committee, and in the absence of an explanation, the Committee prefers a consistent approach across all schedules.

From an ecological perspective, removal of native vegetation is already managed by Clause 52.17 of the Planning Scheme or by public land managers (in the case of coastal vegetation). The Committee does not see any value in adding an additional permit trigger through the SLOs unless native vegetation is a key element of the landscape.

‘Shelterbelt’ or ‘exotic tree row’ need to be defined in the final schedules to aid their practical operation. From a visual landscape perspective, the Committee considers a shelterbelt (native or exotic) would need to be at least 100 metres long to be an important feature from a visual landscape perspective. Removal of smaller shelterbelts is not likely to have a significant impact on the landscape qualities of an area and is likely to be onerous on the responsible authority. The Committee considers a permit should be required to remove, destroy or lop shelterbelts that have a continuous length of 100 metres and are at least 5 metres in height.

All proposed SLOs included a permit exemption for new buildings and extensions associated with an agriculture use which are less than 150 square metres in area, less than five metres high and use low visibility construction materials. Amendment VC231, gazetted in April 2023, increased the permit exemption threshold for alterations and extensions to agricultural buildings used for permit required (section 2) uses from 200 to 250 square metres in the Farming Zone, Rural Living Zone and Rural Activity Zone.

Contrary to the submissions of the Proponent, the Committee agrees with Council and other submitters that the as of right building area in the SLOs should be matched to the VC231 provision. The Committee is satisfied that agricultural buildings at this scale are less impactful developments that ought not require a permit. In addition, the Committee agrees the as of right building height should be set at six metres as suggested by the VFF to accommodate common farming machinery. Finally, the Committee supports a requirement for use of low visibility materials and finishes, such as muted tones, to blend buildings into their landscape settings.

The Committee agrees with Mr Glossop that any permit exemptions should be removed that already exist in Clause 62.02, particularly the exemptions associated with works by a public authority.

Application requirements

It is noted that existing SLOs do not include application requirements, and no justification or rationale has been provided as to why extensive application requirements are now required for all proposed SLO schedules. The Committee agrees with Mr Granger that refinements are required to outline when an application requirement does not need to be met to remove the onus on the responsible authority to exercise discretion. The Committee does not support any requirements that are outside of the scope of the SLO, such as reference to bushfire.

Decision guidelines

The Committee agrees with Mr Glossop and Mr Granger the decision guidelines should be further refined to include more targeted neutral language and to remove any ambiguity and interpretation issues. Reference to bushfire risk should be removed as this is addressed through other provisions in the scheme.

The Committee observes the decision guidelines on vegetation removal differ across each schedule. SLO2, SLO3 and SLO6 are silent on vegetation removal, whereas SLO1, SLO4 and SLO5 include *“The effect of removing vegetation on the landscape character and significance of the area”* as a decision guideline. This decision guideline should apply to all schedules that include a permit requirement for removal of vegetation. This will ensure decision guidelines are properly matched to permit requirements.

The Committee was not asked to provide track changes on each of the SLO's. In light of the above, however, the Committee provides an overarching recommendation that the issues raised in this chapter and summarised in Table 3 are implemented.

Table 3 Summary of recommended SLO drafting changes

SLO Heading	Committee recommended changes
Statement of nature and key elements	<ul style="list-style-type: none"> - Redraft in a more concise manner, with a focus on the key attributes and significant elements of the landscape. - Remove any unnecessarily verbose wording.
Objectives	<ul style="list-style-type: none"> - Redraft to remove unnecessary language and wording. - Ensure the objectives are clear and link back to the significant elements and attributes.
Permit triggers	<ul style="list-style-type: none"> - Specify that a permit is required for fencing that is less than 70 per cent transparent. - Introduce a clear definition for a 'shelterbelt'. - Specify that a permit is required to remove, destroy or lop a shelterbelt that has a continuous length of 100 metres and is at least 5 metres in height. - Increase the total as-of-right floor area for agricultural buildings to 250 square metres in area and less than six metres in height. - Remove any permit exemptions that applying under Clause 62.02.
Application requirements	<ul style="list-style-type: none"> - Link application requirements to relevant types of applications. - Remove requirements outside the SLO scope, for example, bushfire.
Decision guidelines	<ul style="list-style-type: none"> - Redraft in neutral language.

3.13 Findings

The Committee finds:

- The Bass Coast Landscape Assessment Review Volumes 1 and 2, 2021 appropriately identifies character and significance at a regional scale.
- The Bass Coast Landscape Assessment Review, Volumes 1 and 2, 2021 it is not detailed or specific enough to define settlement boundaries.
- Green breaks are an important part of the landscape and should be retained, particularly in areas where townships are located closer together.
- Separate schedules to the Significant Landscape Overlay are required for urban areas so that permit triggers and other requirements are appropriate for an urban setting.
- It is appropriate to apply the Significant Landscape Overlay to rural land inside settlement boundaries as a holding position, pending the development of site-specific controls as part of a detailed site assessment and rezoning package.
- Significant Landscape Overlays should be applied to public land provided they contain exemptions enabling public authorities to conduct day to day activities without a planning permit.
- The Phillip Island North Coast and Hinterland and Eastern Western Port Coastal Flatlands landscapes require further assessment before being recognised in the Statement of Planning Policy as regionally significant landscapes.

- The boundaries of the Significant Landscape Overlays are generally appropriate, subject to modest refinements to ensure they are matched to topographical features.
- The Significant Landscape Overlays require redrafting to ensure objectives, permit requirements, application requirements and decision guidelines are consistent with the Ministerial Direction – the Form and Content of Planning Scheme.
- The Significant Landscape Overlays should exempt less impactful development from requiring a permit, including fencing and some agricultural buildings.

3.14 Recommendations

The Committee recommends:

- 1. Amend mapping of all Significant Landscape Overlays to apply to public land within the significance boundary.**
- 2. Amend Map 7 to recognise the Phillip Island North Coast and Hinterland and Eastern Western Port Coastal Flatlands as ‘Potential regional significant landscapes’.**
- 3. Amend mapping of Significant Landscape Overlay Schedule 1 to:**
 - a) align with the break of slope boundary between Archies Creek and Dalyston.**
 - b) align with ridgeline south of the San Remo settlement.**
- 4. Amend mapping of Significant Landscape Overlay Schedule 2 to:**
 - a) respond to detailed analysis of northern boundary along Grossard Point Road.**
 - b) respond to viewshed mapping of the northern boundary between Ventnor and the Grand Prix track.**
- 5. Amend mapping of Significant Landscape Overlay Schedule 3 to:**
 - a) respond to detailed analysis of the west boundary (west of Rhyll-Newhaven Road).**
 - b) remove the overlay south of ridgeline east of Samuel Amess Drive, Newhaven.**
- 6. Amend mapping of Significant Landscape Overlay Schedule 6 to:**
 - a) align with the ridgeline south of the San Remo settlement.**
- 7. Amend the Significant Landscape Overlay Schedules 1 to 6 in accordance with Table 3.**

4 Land supply

State policy at Clause 11.02-1S provides that all municipalities have a responsibility to ensure an adequate supply of zoned and unzoned land to accommodate projected population growth over at least a 15-year period to deliver choice and opportunity for all Victorians through a network of settlements. The Committee notes the draft SPP is to provide for a 50-year vision, specifically:

set a vision for a period of at least 50 years that identifies the values, priorities and preferences of the Victorian community in relation to the distinctive attributes of the declared area, including preferences for future land use, protection and development; and

set out the long term needs for the integration of decision-making and planning for the declared area ... ⁴⁹.

The Committee had regard to the following background reviews:

- Bass Coast Residential Supply-Demand Assessment, Ethos Urban, January 2021 (D3f)
- Settlement Background Paper, DELWP, September 2021 (D3k)
- Bass Coast Unlocking Regional Tourism Draft Strategy, Bass Coast Shire Council, February 2022 (D12)
- Bass Coast Industrial Land Strategy Background Reports, Bass Coast Shire Council, January 2022 (D13).

The Committee had regard to the economic and land supply evidence noted in Table 4, the conclave held by the expert witnesses, as well as relevant submissions.

Table 4 Economic and land supply evidence

Party	Expert	Firm	Area of expertise
Proponent	Paul Shipp	Urban Enterprise	Economics
Best Hooper Group	Chris McNeill	Ethos Urban	Land supply and economics
Springway San Remo	John Henshall	Henshall Economics	Economics and land supply
Springway Ventnor	John Henshall	Henshall Economics	Economics and land supply
Wallis Watson	Chris McNeill	Ethos Urban	Land supply and economics
Abrahams/Franlaw	Chris McNeill	Ethos Urban	Land supply and economics

The key issues to be resolved are:

- whether land supply in and around the various settlements in the Shire will be adequate to meet the population and growth needs of the Bass Coast community (existing and future) over the next 15 to 25 years

⁴⁹ PE Act, s 46AU

- whether ‘substitutability’ is an appropriate consideration in addressing land supply in the context of settlement areas and boundaries.

4.1 Evidence and submissions

DELWP engaged Urban Enterprise to prepare the ‘Bass Coast Residential Supply-Demand Assessment 2021’, in partnership with Council to provide an update of supply and demand for residential land in the municipality (the DELWP report). The DELWP report focussed on land supply in the larger settlements in the Shire, these being Wonthaggi, Cape Paterson, Inverloch, Cowes, San Remo and Grantville. The report noted the study towns had all been through a comprehensive structure planning process, most of which were approximately 10 years old.

The DELWP report noted in 2017/18, there was between 15 and 17 years of zoned residential land supply in the municipality. It noted dwelling approvals increased significantly from 2015 to 2019, mainly in the form of detached dwellings. It noted Victoria in Future projected the need for over 11,000 new dwellings in the municipality from 2016 to 2036, at an average of 561 dwellings per year.

The DELWP report concluded the Shire had capacity to accommodate 14 to 15 years supply through zoned land, and 10 years supply in unzoned land. It said:

Given that planning policy requires at least 15 years land supply to be provided at the municipal level and the process to complete the current study, rezone and develop land is likely to take several years, there is a need for additional residential zoned land in Bass Coast to meet policy requirements (ie converting currently ‘unzoned’ land within settlement boundaries to zoned land) ⁵⁰.

Urban Enterprise prepared the Bass Coast Residential Market, Demand and Supply Assessment report for Council in August 2022 (UE 2022 report), which Council advised was undertaken to inform Council’s Housing Strategy and Neighbourhood Character Study. The Overview of that report observed:

Bass Coast Shire is one of the fastest growing municipalities in Regional Victoria, driven primarily by internal migration owing to a combination of the area’s lifestyle, location, access and natural environmental attributes. Bass Coast Shire Council acknowledges the municipality’s sustained period of growth and has recognised a need for a clear set of strategies to effectively manage future housing provision across the Shire.

In terms of existing housing stock, the UE 2022 report noted:

- housing stock in Bass Coast is relatively homogenous and primarily comprises separate dwellings
- medium density housing makes up less than 10 per cent of the housing stock
- the rental market comprises approximately 24 per cent of the occupied dwelling stock
- at the 2016 census, occupancy levels were:
 - Phillip Island: 37-45 per cent
 - Inverloch: 55 per cent
 - San Remo: 60 per cent
- more than one-third of the existing housing stock is used to primarily accommodate non-permanent residents, including holiday homes and rentals.

⁵⁰ D3f, p2

The three economists called by the Proponent and other parties convened an economic conclave. This resulted in general agreement between the economists about overall land supply issues, with minor differences being in the estimates of local supply, which all agreed, were inconsequential at the municipal level, but could be relevant at township levels. Significantly, there was broad agreement on key issues, with the key findings being:

- the methodology to assess the adequacy of land supply was suitable
- aggregate housing demand for the Shire will be 570 to 660 dwellings per annum to 2036
- forecast ID population and dwellings projections (2023) were materially lower than the range of dwelling demand adopted by all witnesses and would be unlikely to represent an accurate measure of future housing demand
- aggregate land supply could accommodate 10,500 to 11,300 separate dwellings
- a more conservative approach to land supply is warranted for a DAL area
- provision of at least 20 to 25 years of zoned and unzoned land should be planned, with regular reviews ⁵¹.

The Proponent's Part A submission noted the initial DELWP report was superseded by the UE 2022 report (D29). Its opening submission noted the evidence of Mr Shipp concluded that under a high growth scenario, there was an estimated supply of 17 years of zoned and unzoned land. Further, the submission observed Mr Shipp identified varying levels of supply between settlements and that he recommended there was a clear need for further supply (D116).

The Proponent noted in its Part B submission:

Inevitable, the supply of land for urban growth involves the consumption of land which might otherwise be available for other purposes including the preservation of the distinctive attributes that exist in the Declared Area. The corollary of this is that, if those distinctive attributes are to be preserved as the Declaration necessarily contemplates, there must be limits – sometimes hard limits – to outwards growth ⁵²

Mr Shipp was one of the authors of the Urban Enterprise reports and he advised the DELWP report was substantively prepared pre-COVID-19 but finalised post COVID-19 in 2021.

Acknowledging he was a key author of the two reports, Mr Shipp advised he was not involved in preparing the draft SPP nor in identifying the proposed locations of any of the PSBs. He gave evidence that while policy sets a 15-year timeframe for land supply:

- housing markets are not homogenous
- housing choice, diversity and affordability are important
- market variations result in preferences for different spatial locations, development settings, housing types, tenure and price points
- opportunity to accommodate additional housing in established areas through infill is relevant but there will be a range of market preferences within the Shire.

In noting the higher levels of migration that occurred to regional Victoria from Melbourne due to COVID-19, Mr Shipp observed there had been a slowdown in the order of 50 to 60 dwellings approvals in Bass Coast since 2022 due to higher interest rates and increased construction cost, amongst other reasons.

⁵¹ D119

⁵² D160, para 40

Notwithstanding, his estimate of land supply was between 17 and 22 years for unzoned land and eight to 11 years for zoned land. He observed residential land supply was likely to become limited in the next 10 years, but there was substantial variation in this. He noted Phillip Island has an estimated less than seven years supply while Wonthaggi and San Remo have approximately 11 years. Mr Shipp observed that if supply was to increase in San Remo, it may likely assist in meeting demand in Phillip Island. Further, increase in supply in Cape Paterson would assist in meeting demand on coastal areas.

Council did not call economic or land supply evidence and relied on the work of Urban Enterprise. Its opening submission noted current residential land supply in the Shire is lower than previously indicated in the DELWP report, being between eight and 11 years for zoned land and 17 and 22 years for zoned and unzoned land. Council contended in this regard “... *this is a critical shortcoming given the fact that, if approved, the PSBs will compromise Council’s capacity to effectively manage supply and growth through the scheme* ⁵³”.

Council further observed that:

- housing in the Shire serves a range of markets and planning should have regard to this, noting the high demand for detached housing
- infill development is important, however demand for infill in Bass Coast is minor
- while planning for housing should be undertaken at the municipal level, the role of major sub-markets should be taken into account.

Mr McNeill gave evidence for three entities (Best Hooper Group, Wallis Watson and Abrahams/Franlaw) and his reports provided an overview of land supply, residential market overviews, supply assessment and demand assessment for the municipality. Each report then provided a specific response to the various areas relevant to his clients’ interests. The specifics of Mr McNeill’s evidence will be dealt with in Part C. His broader evidence provided a municipal wide assessment that focused, inter alia, on vacant lots and broad hectare supply.

Mr McNeill confirmed the 15-year threshold is a long-held policy to ensure that at least 15 years of supply is maintained at any one time. His evidence observed there is currently 17 years supply available, of which eight years is already zoned. He noted the imbalance of land supply as a cause for concern.

Acknowledging State policy imperatives, Mr McNeill contended supply in Bass Coast should be considered for the longer term, that is up to 25 not 15 years, and in and for different sub-market areas. He noted the difference between conventional and lifestyle markets, about which he indicated there was limited substitutability. He noted that apart from Wonthaggi, there was little supply across the municipality. This he said, would result in higher land and house prices, lower population growth and reduced construction activity. Mr McNeill affirmed there was strong demand for lifestyle housing. He indicated planning should recognise the needs of the various markets in this regard, particularly for smaller towns where demand levels have been dependant on availability of supply.

He disagreed with the submissions of the Cape Paterson Residents and Ratepayers Association (CPRRA) that Wonthaggi could be deemed a coastal settlement, nor that it is a lifestyle location.

⁵³ D143, para3.28

Mr McNeill concurred with the other economists approximately 600 dwellings were approved over the past three years in the Shire, indicating consistent and steady demand. Further, he concurred that most unzoned land is within the Wonthaggi Precinct Structure Plan area, which he noted, is not the place for all that seek to live in Bass Coast.

Mr McNeil observed the DELWP report was prepared pre-COVID-19, while the UE-2022 report did consider COVID-19 impacts.

The Proponent did not dispute the evidence of Mr Shipp nor Mr McNeill that there was supply in the order of 17 to 20 years, noting that it was more than the 15 years required by State policy. The Proponent referred to the approach adopted by the Bellarine DAL SAC, and noted:

It may be argued, however, that this Committee should give more weight to the issues of choice and affordability than the Bellarine DAL SAC did. ...

Current approaches to settlement planning in Victoria expressly adopts a 'network' approach where planned growth is spread across a network of settlements according to the ability of each settlement to accommodate additional growth ⁵⁴.

Noting State policy at Clause 11.01-1S, the Proponent contended this was more about choice and opportunity rather than development in individual towns.

The Proponent challenged Mr McNeill on several matters, including substitutability of supply across settlements. It noted that apart from Wonthaggi, people move to the Shire for conventional residential or lifestyle residential, which includes coastal towns. The Proponent contended:

... contrary to some submissions, an inability to buy in a particular town will not prevent people moving to Bass Coast, they will just move to a different settlement than they might otherwise have chosen. This is not a new phenomenon. Housing choice is constrained by many factors, most significantly price, and people will often make decisions about where to move on the basis of whether they can afford it ⁵⁵.

Taking this into account, some experts agreed that some might substitute living in Phillip Island for San Remo, but not all agreed that some would substitute living in Wonthaggi for Cape Paterson for example.

Mr Henshall gave evidence for the two Springway entities. He considered the draft SPP to be inadequate with regards to forecasting population and dwelling growth and that it did not adequately consider (amongst other matters):

- adverse effects of reduced residential land on affordability
- effect of limited availability of residential land on rental costs, an important consideration for lower income households and local workforces
- demand for land to accommodate employment opportunities.

Using ABS Census and ID Consulting data, Mr Henshall predicted population growth to increase from 40,640 persons in 2021 to 51,930 persons in 2036, an increase in the order of 1.7 per cent per annum. This he observed, would require a further 12,660 residential lots from 2021 to 2046 to meet demand.

CPRRA contested the economic evidence through cross examination and their submissions, particularly as it related to the potential for expansion of Cape Paterson. While CPRRA was active

⁵⁴ D160, para 60, 61

⁵⁵ D329, para134

in the Hearing, it did not call any evidence to support its case. Notwithstanding, the questions asked of the witnesses were probing and its submissions fulsome. The broad issues raised in its submissions included:

- there is more than enough supply already in Cape Paterson to meet 15 years supply through infill
- there is no evidence further supply is need in Cape Paterson
- additional supply will not deliver affordable housing, social housing, long term rental stock, diverse housing stock, more efficient use of transport or active transport.

Much of the submission contested the economic and land supply data provided by Mr McNeill, preferring selected data from ID Consulting. CPRRA urged the Committee to undertake its own research to further explore that data.

Wallis Watson was critical of the submissions made by CPRRA and that it had disregarded the expertise of both Mr Shipp and Mr McNeill. Wallis Watson submitted Mr McNeill's evidence should be preferred as his evidence confirmed:

- the 15-year supply benchmark represents a supply floor, not a ceiling
- Cape Paterson is a lifestyle town that has potential to grow
- there are 136 vacant lots in Cape Paterson, most of which is in the Cape development
- Cape Paterson is a constrained market that has only five to six years of zoned land.

Further, Wallis Watson rejected the criticism made by CPRRA about Mr McNeill's evidence that he had little regard for the ID Consulting forecasts. The Wallis Watson closing submission noted Mr McNeill:

... interrogated the figures to some length and based on recent building activity he did not consider the figures to be plausible. In particular, it was not clear to Mr McNeill what policy position had been used to arrive at the ID Consulting forecast. This was a view shared amongst the witnesses at the conclave.

...

Submissions that Mr McNeill overlooked the ID forecasting are unhelpful and inaccurate ⁵⁶.

The CPRRA's closing submissions attempted to address what it considered to be shortcomings of demand and supply, where it noted "*housing economists forgot the DAL*". While CPRRA verbally said this was not intentional, the submission stated there was a history of over-optimistic forecasts, sub-region forecasts were unreliable, landscape and ecology should have triumphed and that priority was given to choice – coupled with downplayed sources of supply.

Various other submitters made mention of land supply, with many suggesting there was no need for any more land to be developed in the municipality, particularly in smaller settlement areas and places like Cape Paterson, Smiths/Sunderland Beach, Cape Woolamai and Coronet Bay/Corinella. Some others suggested there was potential for further development in Dalyston, while many others suggested significant growth opportunities should be realised in Wonthaggi.

4.2 Discussion

The Committee notes the key imperative of State policy to ensure that opportunities are made for all Victorians (present and future) to have access to diverse and affordable accommodation in

⁵⁶ D316, paras 23, 25

accessible locations. A key imperative of the draft SPP is to plan for a 50-year vision. These two policy imperatives need to work together to ensure that supply is available, cognisant of diversity, choice, affordability and access.

It is long held that strategic policy is to plan for land supply of at least some 15 years ahead, noting that rezoning can take up many years. Providing appropriate housing is not just about supply. It's about choice of location and choice of accommodation, including the opportunity to live near family and friends to enable quality of life, both in metropolitan Melbourne and regional Victoria.

The Committee considers land supply should not be so constrained that it should be directed to only a few places in Bass Coast. Forward planning should factor in longer term supply, not just at the municipal level, but for distinct sub-markets, both on the mainland and on Phillip Island. While State policy is directed at least 15 years supply, for a long-term strategic plan such as the DAL, its scope should be broader to look even further into the future. Anecdotal evidence is that rezonings are taking longer to be realised and coupled with a dynamic housing market, increasingly less supply and significantly higher costs and the constraints of the DAL, planning should allow for up to a 25-year timeframe.

Further, it is clear from the previous DAL processes in Macedon Ranges, Surf Coast and the Bellarine that implementation of the DAL is a convoluted process that has and will take significant time. These factors support a longer timeframe in planning for land supply, that being up to 25 years. In this regard, the Committee adopts the clear consensus of the land supply and economic consultants that:

The circumstances of areas declared as Distinctive Areas and Landscapes warrant a more conservative approach to land supply planning than for other areas where more certainty exist around a review process and the potential to identify and rezone additional land. Provision of at least 20-25 years of land supply (separate dwellings, zoned and unzoned) should be planned ... ⁵⁷

The Committee recognises the DAL process is important to ensure that areas of distinctive areas and landscapes are protected from inappropriate development. Not all development, including housing is inappropriate. Housing can work in some distinctive areas, so long as it is well sited and well planned. The Committee accepts that some areas in Bass Coast are so distinctive, that development now may not occur. This includes areas with a noticeable abuttal to the foreshore and coastline and areas inland along the foothills and the like.

Further this DAL process does not recommend, nor does it result in rezoning of any land. It simply identifies areas where growth should be encouraged and where limited growth should occur.

It is evident there are various sub-markets in the Bass Coast Shire, including (but not limited to) new young homeowners, retirees, holiday homes, transient rentals, short term stayers, all of which will require somewhere to live over time. The Committee accepts there will in time, be significant growth in Wonthaggi, but it will not substitute housing choice and opportunities for the array of housing opportunities for the whole of the Shire. Nor does the Committee agree Wonthaggi is the only place for growth to be directed, particularly on the mainland.

The Committee notes finalisation of the Wonthaggi Precinct Structure Plan has not occurred and issues about Wonthaggi were 'taken off the table' as part of this process, presumably to be dealt

⁵⁷ D119, para 14

with at another time (noting little information was provided about this, including whether this DALSAC would have any further role in this regard).

The Proponent noted in its Part B submission:

Inevitably, the supply of land for urban growth involves consumption of land which might otherwise be available for other purposes including the preservation of the distinctive attributes that exist in the Declared Area. The corollary of this is that, if those distinctive attributes are to be preserved as the Declaration necessarily contemplates, there must be limits – sometimes hard limits – to outwards growth⁵⁸.

This is exactly why the Committee considers those areas identified as distinctive and those areas proposed to be within a PSB must get it right. Once declared and found to be distinctive and included in a PSB, there will be no going back.

The Proponent noted there were clear tensions in this regard, particularly in relation to Phillip Island:

It is obvious that if new land were to be constantly and continuously made available for residential development on Phillip Island simply because people wished to live on the Island, that over time, the distinctive attributes of the Island would be irretrievably lost and the character of the Island as a whole changed forever. That is precisely the kind of outcome which the DAL process seeks to avoid⁵⁹.

The Committee does not fully agree with that statement. At no stage has or will Phillip Island be a 'free for all' in terms of development. Most of it is zoned non-urban. It has distinct settlements and while there are some proposals before this Committee to include land in settlement boundaries, these seek to extend some areas, not introduce new areas. Like the mainland, in addition to infill, the Committee considers Phillip Island has some potential for limited growth.

In acknowledging State policy at Clause 11.01-1S, the Committee considers this process in part, will define the network of towns where reasonable growth can and should occur. This must be cognisant of areas of distinctive landscapes, existing zones, areas included in the existing Planning Scheme that has already identified where growth could occur through strategic planning, areas of biodiversity and environmental constraints, access and services and the like. The declaration is for the whole municipality, but it must be balanced to ensure reasonable growth can occur in a network of areas throughout Bass Coast.

The network of settlements is further explored in Chapter 7 and in Part C of this report, taking into account these considerations.

The Committee agrees with the Proponent submissions that it should take a different approach to consideration of the land supply issues than the Bellarine DALSAC, in that more weight should be given to housing choice and housing affordability. The Committee supports the concept of a networked approach to planned growth and considers the network of settlements in Bass Coast lends itself well to this in an equitable manner. As will be discussed, the Committee is cognisant of the network approach based on landscape, environmental and land supply issues. Some settlements are suitable for boundary expansion, while others will only realise opportunities for infill.

⁵⁸ D160, para 40

⁵⁹ D160, para 43

With regard to the submissions of CPRRA, the Committee considers its position in relation to economic and land supply issues could have been enhanced had it called evidence from ID Consulting to consolidate the points it endeavoured to make about that date through questioning of witnesses.

It is fair to test and cross examine witnesses but given the investment the CPRRA made to the Hearing and on the strength and focus of their submissions, it may have benefited by calling economic or land supply evidence to better support its case. Notwithstanding, the Committee notes the original submission of CPRRA did not directly address population and land supply economics as key points, it emerged as an issue for them during the Hearing process.

As the Committee did not have the benefit of hearing from ID Consulting, it places little weight on many of those issues raised by CPRRA.

Further, noting CPRRA urged the Committee to interrogate the ID Consulting data, it is not the role of the Committee to undertake its own research, rather it needs to assess and test the evidence before it and to make its findings. If the Committee finds the evidence reasonable and fair, it will make a call accordingly. If it finds the evidence is lacking or of no assistance, it will reject it. For this matter, the Committee found the evidence of the three economists to be compelling.

4.3 Findings

The Committee finds:

- Bass Coast will continue to be a sought after and strong residential market where diversity of housing, location and opportunity will continue to prevail.
- Demand for land and housing has increased over the past five years and will continue to increase.
- While existing State Government policy at Clause 11.02.1S is to plan for at least 15 years supply of land, it is appropriate to plan for up to 25 years of land supply across the Bass Coast Shire given the extent and impact of the Distinctive Areas and Landscape Declaration.
- From a land supply perspective, not all settles will be suitable for growth, some settlements will likely support infill only, with other settlements will provide opportunities for extended boundaries.
- In time, Wonthaggi will provide for significant, but not all growth.
- Substitutability across settlements will occur if land supply is constrained or at too high a price point, but it is not the only option or solution, choice of location will remain important.

4.4 Recommendation

- 8. Provide for up to 25 years of zoned and unzoned land supply across the Declared area.**

5 Tourism and agriculture

The Committee had regard to the following documents, listed as references to the draft SPP:

- Bass Coast Rural Land Use Strategy, Bass Coast Shire Council, RMCG, 2014 (Rural Land Use Strategy) (D163bs)
- Bass Coast Unlocking Rural Tourism Strategy, Urban Enterprise for Bass Coast Shire Council, 2023 (D160b)
- Melbourne's foodbowl: Now and at seven million, Victorian Eco-Innovation Lab, The University of Melbourne, Sheridan J, Larsen K and Carey R, 2015.

There was no specific expert evidence presented to the Committee on agriculture or tourism. The planning evidence of Mr Glossop and Mr Buxton provided opinion on identification of agricultural land. Several submissions were made about tourism and agriculture, with some submitters attending the Hearing to speak to their written submission.

The key issues to be resolved relate to whether the draft SPP provides an appropriate framework to ensure the protection and conservation of:

- natural resources, including nature-based tourism destinations
- productive land of significance.

Map 10 (Figure 12) of the draft SPP spatially represents some of the economic and resource attributes and features nominated in the declaration.

Figure 12 Bass Coast Economic Development Map



5.1 Tourism

(i) Background

The tourism features of the ‘natural resources or productive land of significance’ attribute are:

Major nature-based tourism destination of national significance, with tourism assets including Phillip Island, the Bunurong Coast and major events facilities.

These features are further described in the declaration assessment, which stated:

The Bass Coast is a major nature-based tourism destination, with Philip Island and the Bunurong Coast.

Philip Island and the Bunurong Coast are identified as Strategic Tourism Investment area in the Gippsland Regional Growth Plan.

The objective for tourism under the sustainable economic development policy domain is:

To build a sustainable, responsible, year-round visitor economy that aligns with the declared area’s significant landscape, environmental and Aboriginal cultural and historic heritage values.

Strategies included:

- 6a.1 In partnership with the Bunurong people, facilitate culturally responsive tourism and related economic development that encourages the community to recognise, understand and celebrate Bunurong cultural heritage, rights and authority.
- 6a.2 Facilitate sustainable tourism and recreation related land uses and development sensitive to the area’s landscape, environmental and Aboriginal cultural and historic heritage values.
- 6a.3 Encourage infrastructure design and development that is adaptable to climate change impacts and that reduces visitors’ impacts on the declared area’s landscape, environmental and Aboriginal cultural and historic heritage values.
- 6a.4 Encourage tourism and commercial development to include net-zero carbon infrastructure (such as electric vehicle charging stations).
- 6a.5 Improve gateways to settlements and points of interest by avoiding the introduction of intrusive signage and promoting features that enhance significant views and improve the visitor experience.

(ii) Submissions

The Proponent submitted the draft SPP emphasised the importance of tourism as an economic driver of the region, noting:

... the recognition of Phillip Island and the Bunurong Coast as ‘major nature-based tourism’ destinations in the Declaration would require greater weight to be given to the protection of those elements of the Phillip Island environment that enable it to serve that role, whether or not those elements are individually significant under any other heading of the Declaration ⁶⁰.

The Proponent submitted as a major nature-based tourism destination, it was clearly important to protect and enhance the character of Phillip Island “*with its characteristic small settlements and green breaks*”. Further it was important to protect and enhance the entry to the Island along Phillip Island Road, which is a key part of the visitor experience.

⁶⁰ D160, para 79

The Proponent emphasised application of PSBs would not affect the ability to apply for a permit to use land for a range of tourism purposes, including Group accommodation, Residential hotel, and different kinds of Place of assembly. This was relevant to land outside proposed PSBs at Coronet Bay, Cape Woolamai, Newhaven, San Remo, Smiths Beach and Ventnor.

Council's initial submission included commentary on Action 4 in the Settlement Background Paper to develop a masterplan for the tourism precinct located south of the Cowes settlement boundary identified in Clause 11.01-1L-03. It submitted this proposal misinterpreted existing planning policy which proposed relocation of large scale, non-residential land uses to outside the settlement boundary to provide additional opportunities for urban consolidation. This work commenced through the Rural Tourism Strategy and Housing Strategy. Council recommended the PSB for Cowes be delayed until that strategic work is completed.

The Combined Conservation Group (CCG) submitted the Western Port Woodlands (WPW) should play a key role in enhancing the quality of a diverse tourism offer across the DAL area. Grantville and The Gurdies could become a gateway to the Bass Valley hinterland touring routes. Further, it submitted *"the area should be celebrated as natural capital that plays a critical role in defining the area's sense of place and in supporting the tourism economy, as are comparable areas of bushland in the Surf Coast and Mornington Peninsula Shires"*⁶¹.

Submitter 316 considered the Rural Tourism Strategy should not be referenced in the draft SPP, having regard to disturbance to the natural environment associated with increased visitation to the declared area. In reply, the Proponent advised the submission was not supported by DTP, having regard to the significant role that tourism plays in the local economy.

(iii) Discussion

The declaration listed discrete tourism features under the 'natural resources or productive land of significance' attribute, these being:

- Phillip Island
- Bunurong Coast
- major event facilities.

These features have a dependency with the features listed under the 'outstanding environmental significance' attribute which necessitates an integrated approach to protection and conservation.

The Committee agrees with the Proponent that the draft SPP should provide a framework for the protection and conservation of the whole of Phillip Island as a major nature-based tourism destination. This includes careful management of the pattern of settlements and the spaces between them. It further involves the positive designation of land to support Phillip Island's tourism role.

The Committee considers further urban development of most areas of Phillip Island should be contained to support it as a nature-based tourism destination, as further explored in Part C of this report. This will ensure its natural features predominate over urban development. The Committee has carefully considered the spatial distribution of settlements across the Island and considers new development should be prioritised in locations best able to absorb new development with acceptable impacts on the environment and landscape. These settlements are

⁶¹ D233, para21

located at the entrance to the island (Newhaven and Cape Woolamai), and Cowes, given its role as a district town.

The draft SPP only provides broad strategies to guide new tourism and recreation related land uses. Tourism development in rural areas on the periphery of settlements comes with a range of environmental and landscape impacts and have the potential to negatively affect the character of settlements set within natural and agricultural landscapes on the coastal edge. Greater direction is required to direct tourism development, both inside and outside settlements, to areas best able to absorb it.

Throughout the Hearing, the Proponent repeatedly suggested tourism development was an option for rural land adjacent to settlements. Given the importance of tourism to the Bass Coast, the desire to manage settlement character and to protect high-quality agricultural land, a strategic approach to tourism development is needed in the SPP. The Committee has not fully considered whether the Rural Tourism Strategy adopted by Council is fit for this purpose. This should be considered by the Proponent and Council in resolving the final content of the SPP.

5.2 Agriculture

(i) Background

The agricultural features of the 'natural resources or productive land of significance' attribute are:

High-quality agricultural land, in particular the Powlett River Valley and the important Gippsland dairy industry.

These features are further described in the *Assessment of Bass Coast against the declaration requirements of the Planning and Environment Act 1987, 2020* (the declaration assessment) (D3m), which stated:

- land of “*strategic significance*” due to its contribution to the nationally significant Gippsland dairy industry, with this area’s focus experiencing significant investment in milk processing and manufacturing
- agriculture is an important asset of the region, particularly the agri-food businesses which benefit from the visitor economy
- the Powlett Valley is significant agricultural land within the dairy industry.

Strategy 6b.3 under the sustainable economic development policy domain is:

6b.3 Protect and manage strategic agricultural land and agricultural operations from encroachment by incompatible land uses.

(ii) Evidence and submissions

Mr Glossop recommended Strategy 6b.3 would benefit from mapping or identifying the land to which the strategy applies. The Proponent supported this recommendation.

Similarly, Mr Buxton recommended the draft SPP include a broad scale map that, amongst other matters, identified strategic agricultural land. Under cross examination, Mr Buxton agreed with the proposition that ‘strategic’ should be replaced with either ‘productive’ or ‘high quality’ to bring it in-line with wording in the declaration. He agreed the draft SPP should recognise there is nationally significant agricultural land and other high-quality agricultural land in the declared area, as set out in the Rural Land Use Strategy.

The Proponent clarified:

- the declaration made it clear the identification of high-quality land was not limited to the areas identified as contributing to the nationally significant Gippsland dairy industry
- the Rural Land Use Strategy concluded most of the rural land in the Shire could be considered highly productive agricultural land, based on the assessment of agricultural quality, climate, and subdivision pattern
- it was important the words ‘strategic agricultural land’ is clear in Strategy 6b.3
- the use of the phrase ‘strategic agricultural land’ has the potential to confuse given that it is used in the Rural Land Use Strategy to refer to the nationally significant land only, and not the remaining areas of high-quality land
- one way of resolving any confusion created by the term ‘strategic’ would be to replace it with ‘productive’ in Strategy 6b.3.

In response to a question from the Committee, Council said further work is needed to map strategic agricultural land.

VFF Corporate submitted agriculture was central to the legislative basis for the DALs but was overlooked in the draft SPP. The draft SPP does not acknowledge Victoria’s strategy for agriculture, *Strong, Innovative, Sustainable: a new strategy for agriculture in Victoria, 2000*, or the Planning for Melbourne’s Green Wedges and Agricultural Land Project initiated by the former DELWP which mapped strategic agricultural land in peri urban areas, including land in Bass Coast. It contended the draft SPP should actively facilitate implementation of sustainable production systems and “*should not be an impediment to continued lawful use of the land*”⁶².

Submissions for S83 focussed on land outside the Dalyston settlement boundary and noted that to its knowledge, “*there has been no assessments undertaken in respect of ‘agricultural values’ in order to understand which values are being protected and whether a PSB is necessary in order to do so*”⁶³.

(iii) Discussion

The Committee shares the concerns expressed by VFF Corporate about the attention given to agriculture in the draft SPP, despite its prominence in the declaration. As discussed in Chapter 3.12, the Committee agrees with VFF Corporate and VFF Bass Coast that the SLOs require redrafting to support agricultural development that would not detract from significant landscapes.

Consistent with Mr Glossop’s recommendation, the Committee agrees strategies for agriculture would be assisted by mapping this attribute in the SPP. While the Proponent originally agreed to this recommendation, its closing position inferred it would be futile to map agricultural land because most of it is considered highly productive. This closing position was not tested with Mr Glossop.

The Rural Land Use Strategy is nearing ten years old and was clearly not prepared in the context of the declaration. Material tabled through the Hearing indicated there are more contemporary assessments of agricultural in the Shire, including as part of the Melbourne’s Green Wedges and Agricultural Land Project. Further, the Rural Tourism Strategy included a recommendation to:

⁶² D202a, p3

⁶³ D206, para 36

Undertake a comprehensive review of the Bass Coast Rural Land Use Study 2014, with the purpose of establishing an up-to-date and clearly articulated Strategy. The strategic work will begin with a detailed Agricultural Land Assessment for Bass Coast Shire.

The Strategy shall include:

...

- Identifying high quality, productive agricultural land that require protection.
- Identifying areas of lower agricultural land values and opportunities for facilitating additional land uses in these areas, including tourism ⁶⁴.

The Committee recognises strategic plans are prepared in a dynamic environment, and it is often the case that related plans are prepared in parallel. The draft SPP, Planning for Melbourne's Green Wedges and Agricultural Land Project (both led by DTP) and the Rural Tourism Strategy have similar objectives to protect agricultural land. These outputs should be complementary.

The Committee does not agree the intent of the declaration was to identify all agricultural land as a distinctive feature of the declared area. If that was intended, the declaration would have simply done so. As discussed in Chapter 7.3, features of any given attribute are not uniformly sensitive to change and their conservation and protection can be achieved through careful management, rather than just prohibition.

The Committee rejects the Proponent's proposition that the draft SPP should prevent urban development on existing agricultural land because all agricultural land is a distinctive feature. Clearly agricultural land across the declared area has varying productive value. A residual area of agricultural land between two settlements (as is the case between Smiths Beach and Sunderland Beach) is not of equal productive value to land in the heart of dairying country. The draft SPP must account for this difference.

5.3 Findings

The Committee finds:

- The draft Bass Coast Statement of Planning Policy should identify preferred locations for tourism within and outside settlements.
- Urban development of Phillip Island should be carefully managed and largely contained in specific localities to support it as a nature-based tourism destination. This will ensure Phillip Island's settlements remain subservient to Phillip Island's environmental and landscape values.
- The draft Bass Coast Statement of Planning Policy should spatially define high-quality agricultural land in a manner that complements other contemporary strategic plans relevant to Bass Coast.

5.4 Recommendations

The Committee recommends:

9. Insert a new Strategy under Objective 6a to direct tourism development to preferred areas within and outside settlements.

10. Replace Strategy 6b.3 'strategic agricultural land' with 'high-quality agricultural land'.

⁶⁴ D160b, p100

11. Amend Map 10 to:

- a) identify high-quality agricultural land**
- b) identify preferred locations for tourism development to complement the role of Phillip Island and the Bunurong Coast as major nature-based tourism destinations.**

12. Include a definition for the term 'high-quality agricultural land' in the glossary of the Statement of Planning Policy.

6 Biodiversity and environment

The Committee had regard to the following documents, listed as references to the draft SPP:

- Environmental Opportunities and Constraints Assessment, Eco Logical, March 2022 (D3i)
- Settlement Background Paper, DELWP, September 2021 (D3k).

The Committee had regard to the ecological evidence noted in Table 5, as well as the ecology conclave report (D117) and relevant submissions.

Table 5 Ecology and biodiversity evidence

Party	Expert	Firm	Area of expertise
Proponent	James Garden	Eco Logical Australia	Ecology
Council	Aaron Organ	Ecology and Heritage Partners	Ecology
Best Hooper Group	Brett Lane	Nature Advisory	Ecology
Combined Conservation Group	Jeff Yugovic		Ecology
	Sapphire McMullan-Fisher	FunFungi Ecology	Fungal ecology
	David Nicholls		Zoology
	Nicki Munro		Ecology
	Andrew Bennett	LaTrobe University	Corridors

The key issues to be resolved relate to whether the draft SPP provides an appropriate framework to ensure the appropriate identification and protection of:

- the Western Port Woodlands
- biolinks.

6.1 Western Port Woodlands

(i) Evidence and submissions

Ecological Values of the Western Port Woodlands

The Proponent acknowledged the WPW contribute to the outstanding environmental significance of the Bass Coast Declared Area, describing the WPW as located in the Bass Coast Shire between The Gurdies and Glen Forbes, east of the Bass Highway and bisecting Grantville. The Proponent submitted:

There are at least five conservation and bushland reserves in the WPW area, totalling over 690 hectares, excluding other crown or public land containing native vegetation. The public land reserved for conservation and bushland purposes includes:

- Hurdy Gurdy Creek Nature Conservation Reserve (41 hectares (ha) approx.)
- The Gurdies Nature Conservation Reserve (255 ha)
- Grantville Bushland Reserve (2.4 ha)
- Corinella Bushland Reserve (4 ha)

e) Grantville Nature Conservation Reserve (391ha)⁶⁵.

The Environmental Opportunities and Constraints Assessment (D3i) stated:

The purpose of this assessment is to provide an overview of the current ecological values to be protected and potential constraints to future development within the three study areas. Consideration of the broader landscape context including any potential adverse effects to nearby Ramsar listed wetlands Western Port and Rhyll Inlet; and adjacent conservation reserves (Grantville Nature Conservation Reserve) will also form part of this assessment. This report and the recommendations provided will inform the preparation of a draft Statement of Planning Policy (SPP) for the Bass Coast Distinctive Area and Landscape (DAL) project⁶⁶.

The report did not assess the areas known as the WPW. In his evidence, Mr Garden acknowledged further preliminary investigations, involving either desktop review and/or site surveys, were completed by him for several additional sites associated with the PSB and WPW in response to submissions. Regarding the WPW, Mr Garden stated:

The area referred to as the 'Western Port Woodlands', encompassing extensive native woodlands and habitats on both private and public land between Lang Lang and Bass, is of high value and represents in its entirety one of the most important terrestrial biodiversity values remaining in the Bass Coast landscape. I believe that its representation as a 'biolink' in the SPP is fundamentally flawed as it fails to recognise the intrinsic value of existing habitats (particularly outside public reserves) in supporting a diversity of wildlife, including threatened species. Whilst beyond my expertise to advise on the extent to which this value is threatened by sand mining operations, due to policy and approval complexities, it is clear that mining operations have had a direct, and significant impact, on this value, and continue to be the primary threat to its ongoing protection and conservation. It is my opinion that the value of the Western Port Woodlands in its entirety needs to be recognised in the SPP, irrespective of current or future land tenure or use, and the direct conflict between ongoing mining operations in the area, and the conservation of the woodlands in its entirety, be address and a position clearly stated on the matter to remove any ambiguity in the SPP⁶⁷.

Council submitted the WPW is of critical importance and is of national significance. It contended the Proponent should introduce an interim ESO to protect the environmental values of the area. Council noted further work would be required to refine the extent of any ESO to determine biolinks and restoration requirements⁶⁸.

Mr Organ stated the WPW supported many national and state significant species and ecological communities, and "*collectively this area is nationally significant*". He noted the key ecological values included:

Several EVCs that are endangered or vulnerable in the Gippsland Plain bioregion, and is the largest area of remnant native vegetation in Bass Coast Shire municipality;

Known occurrence of a large number of significant flora species ...

Nationally significant:

- Green-striped Greenhood *Pterostylis chlorogramma* (nationally significant – endangered under the EPBC Act).
- Strzelecki Gum *Eucalyptus strzeleckii* (nationally significant – vulnerable under the EPBC Act).

State significant:

⁶⁵ D160, para 319

⁶⁶ D3i, p1

⁶⁷ D037, p2

⁶⁸ D330, para 2.9

- Cobra Greenhood *Pterostylis grandiflora* (endangered under the FFG Act).
- Green Scentbark *Eucalyptus fulgens* (endangered under the FFG Act).
- Spurred Helmet-orchid *Corybas aconitiflorus* (endangered under the FFG Act) ⁶⁹.

Mr Organ noted the Southern Brown Bandicoot (critically endangered under the EPBC Act), Swamp Antechinus, Swift Parrot, Giant Gippsland Earthworm, Lace Monitor and the Powerful Owl, *Flora and Fauna Guarantee Act, 1988* (FFG Act) fungi species listed Tea-tree Fingers are known to occur within the WPW.

The CCG provided evidence from several ecologists about the values of the WPW. Mr Yugovic gave evidence the WPW formed the largest area of native vegetation in Bass Coast Shire and was “the centre of terrestrial biodiversity in Bass Coast Shire”. He stated:

Hundreds of species of native vascular plants and vertebrate animals occur in a wide range of habitats, many not found elsewhere in the Shire. Twelve ecological vegetation classes form a complex vegetation pattern across a range of geological formations, landforms and hydrology in a unique configuration. As such, and due to their visibility as remnant native vegetation from all directions, the Western Port Woodlands create an informal ‘distinctive area and landscape’ in West Gippsland and the Western Port area ⁷⁰.

Mr Yugovic stated there are twelve recorded ecological vegetation classes that comprise the WPW (Bass Coast section) and these include Lowland Forest EVC 16, Heathy Woodland EVC 48, Herb-rich Foothill Forest EVC 23, Swampy Riparian Woodland EVC 83, and Damp Heathy Woodland EVC 793 ⁷¹.

Mr Nicholls provided evidence on the endangered Southern Brown Bandicoot:

The Southern Brown Bandicoot is a national endangered species listed under the EPBC Act and FFG Act. The range of this species has contracted sharply both nationally and within the Panel’s area of interest. It is now confined to the Adams Creek NCR and immediate surrounds. Over the last decade, SBB has been repeatedly detected at Adams Creek. Although uncommon there, it is the only reserve in the Bass Coast Declared Area areas where the species is known to persist. I note it has not been observed in the Wonthaggi - Harmer Haven Heathlands in the recent extensive survey when in the previous decade it was regularly observed. The habitat is suitable across much of the Western Port Woodlands and there is the opportunity to enable this population to regain its recent past distribution in Bass Coast Shire ⁷².

In response to a question from the Committee, Mr Nicolls advised the biggest threat to the Southern Brown Bandicoot was “loss of habitat, fragmentation and introduced predators”.

Dr McMullan-Fisher gave evidence that Tea-tree Fingers (*Hypocrepis amplexans*) are found in areas of the WPW and are listed as critically endangered under the FFG Act. Dr McMullan-Fisher stated the “Western Port Woodlands (Public and Private lands with woodlands on them from Nyora to Grantville, including Gurdies Hill/Western Port woodlands area)” is critical habitat for the Tea-tree Fingers, noting:

- TTF’s survival depends on remnant habitats which still contain hosts and microclimates able to support its populations. The known populations of this protected species appear to have survived over time in the small pockets of remnant habitat left following wide scale land clearing of Gippsland.

⁶⁹ D082, p25-26

⁷⁰ D066, p3

⁷¹ D066, p6

⁷² D068, p3

- The many threats to TTF habitats and the decreased fitness of its populations in these Woodlands means that this species is facing an extremely high risk of extinction in the wild. Without successful active conservation management that supports the survival of Tea-tree Fingers may become extinct ⁷³.

The ecology conclave agreed the WPW represented a unique environmental and landscape feature important to the region which provides critical habitat for a range of common and threatened species in its entirety, including the Southern Brown Bandicoot, Teatree Fingers, Powerful Owls and other species (D117). The ecology conclave agreed the WPW contained several endangered and threatened ecological vegetation classes and *“collectively, the WPW are of national significance and are irreplaceable”* and *“should be recognised in the SPP”*. The ecology conclave agreed consideration should be given to an environmental overlay to protect the WPW.

Several submitters considered the WPW needed protection. Save Western Port Woodlands (S117) submitted the WPW should become a National Park and described the woodlands as *“the local name for the forest corridor of conservation reserves and remnant vegetation on private land running roughly parallel to the bay between Lang Lang and Bass”*. S117 provided the following map in its submission identifying the extent of the WPW (Figure 13).

Figure 13 Reserves within the extend of the Western Port Woodlands ⁷⁴



Conflict between extractive industry and the environmental values of the Western Port Woodlands

The Proponent submitted extractive industry is an important economic element of the Bass Coast declared area and was recognised as such in the draft SPP, stating:

Bass Coast is a critical supply area for the raw materials needed for construction and infrastructure development. The area has active quarries (particularly sand quarries) and extractive industry interest areas, which indicate the land is likely to include extractive

⁷³ D067, p2

⁷⁴ D98

resources (such as sand, hard rock and gravel) that may be considered for extraction in the future.

Extractive industries are temporary land uses that require appropriate buffers during and rehabilitation at the end of their operating life in a way suitable to the surrounding landscape character, thereby providing a net community benefit. Remnant native vegetation is scarce in the declared area, so proponents of new industries (including extraction) should be encouraged to locate in areas of lesser environmental significance ⁷⁵.

The Proponent submitted that given both the biodiversity of the WPW and the extractive resources are matters to be protected by a draft SPP, there is no policy imperative to elevate one above the other.

Mr Glossop considered the draft SPP lacked detail on how to address the conflict between protecting the landscape and the environment and facilitating extractive industry. He stated:

There is an inherent strategic tension between protecting the ability to extract the resource and protecting the environment and landscape. That tension already exists in State policy within the planning scheme. However, the absence of further direction leads to a lack of integration of the relevant factors and the way in which the environment and landscape should be protected or prioritised.

It would be desirable for the draft SPP to provide more detail about where extractive industry can be undertaken and how the conflict between prioritising protection of the landscape and the environment and facilitating extractive industry is undertaken ⁷⁶.

Council submitted many of the Shire's extractive industries are within areas which exhibit high strategic biodiversity values. It said the draft SPP did not include any guidance on how to manage this conflict.

The CCG submitted a land use, rather than policy conflict, exists between mining and the environment in the Grantville/WPW area:

It is important not to confuse a land use conflict with a policy conflict. While there is a clearly a land use conflict to be resolved within the draft SPP, it is not the case that protection of the WPW from development would represent a policy conflict. The Combined Environment Groups submit that planning policy already seeks to discourage natural resource extraction that would have a disproportionate impact on important areas of biodiversity and landscape significance. Seen from this perspective, the SPP merely reinforces this ...

The fact that the criteria for identification of SERAs within Helping Victoria Grow has regard to whether environmental constraints are 'manageable' is not a new policy proposition. It reflects existing policy within clause 14.03 as well as the objectives of the relevant legislation governing extractive industries and nature conservation ...

Seen in this light, strategy 6b.2 can be seen as the application of existing planning policy to the physical context of the declared area. Clearly the physical and environmental context has been given inadequate recognition in the Scheme to this point.

Although the need for secure construction materials is an important need, it is not elevated to the status of bushfire planning considerations within the VPP. It does not push biodiversity conservation policy to one side ⁷⁷.

The CCG submitted it was *"not unreasonable, or outside of the Committee's Terms of Reference to consider a moratorium on sand mining or provide language that tries to resolve the conflict between extractive and WPWs – just like an interim heritage overlay, there could be an interim*

⁷⁵ D029, para 96

⁷⁶ D35, para's 115-116

⁷⁷ D233, para's 106-108

protection of the WPWs". The CCG found issue with the reference in the draft SPP to Bass Coast as a critical supply location of hard rock, gravel and sand and asked the Committee to recommend this reference be removed.

Holcim (Australia) Pty Ltd (S682) opposed application of landscape planning controls over established Extractive Industry Interest Areas and submitted:

... we strongly support the proposal for the expansion of the Significant Landscape Overlays (SLOs) to avoid established Extractive Industry Interest Areas (EIAs). We also submit that as part of amending the boundaries of the SLOs within the Bass Coast Shire, these overlays should be removed where they currently sit over EIAs and approved quarry operations. Applying the SLO to established EIAs and existing quarries is in conflict with the Victorian Government's Strategic Extractive Resource Areas (SERA) project...

...

The natural resources (including sand quarries) within the Bass Coast Shire are supported under a number of the declared areas attributes which are stipulated within the Draft SPP including *sustainable economic development*. It is noted in the Draft SPP that Bass Coast is a critical supply area for the raw materials needed for construction and infrastructure development (DELWP, 2022). Objective 6b and its subsequent strategies also support protection and management of extractive resource areas from encroachment by incompatible development. However, the strategies should include the prioritisation of protection and quarry development within EIAs not simply ensure proposals to establish extractive industries adhere to best practice measures to avoid and minimise impacts on the declared area's attributes, and ensure locations of lesser environmental and landscape significance are prioritised (DELWP, 2022)⁷⁸.

Mr Yugovic's evidence was that sand/gravel mining appeared to pose the greatest threat to the WPW. He stated *"the unreserved areas that provide ecological viability to the Woodlands are at risk as they are within the Extractive Industry Interest Area, and much of their area is subject to mining work authorities and applications"*.

Introduction of planning controls to protect the ecological values of the WPW

The Proponent submitted the concept of using planning provisions to strengthen the protection of the WPW was supported. However, it stated:

... it is too early to recommend the application of the Environmental Significance Overlay or any other planning tool at this stage, without further work. The most appropriate planning provisions needed to implement the SPP will be considered following its approval and in discussion with relevant government agencies and Bass Coast Shire Council

...

... at officer level, supports the concept of using planning provisions to strengthen the protection of the WPW in the future if required, but cannot commit to the timing or details of such a process. It is not funded. It will be a matter for local and/or State government to decide whether further work should be funded, and to identify any relevant planning process to be undertaken.

...

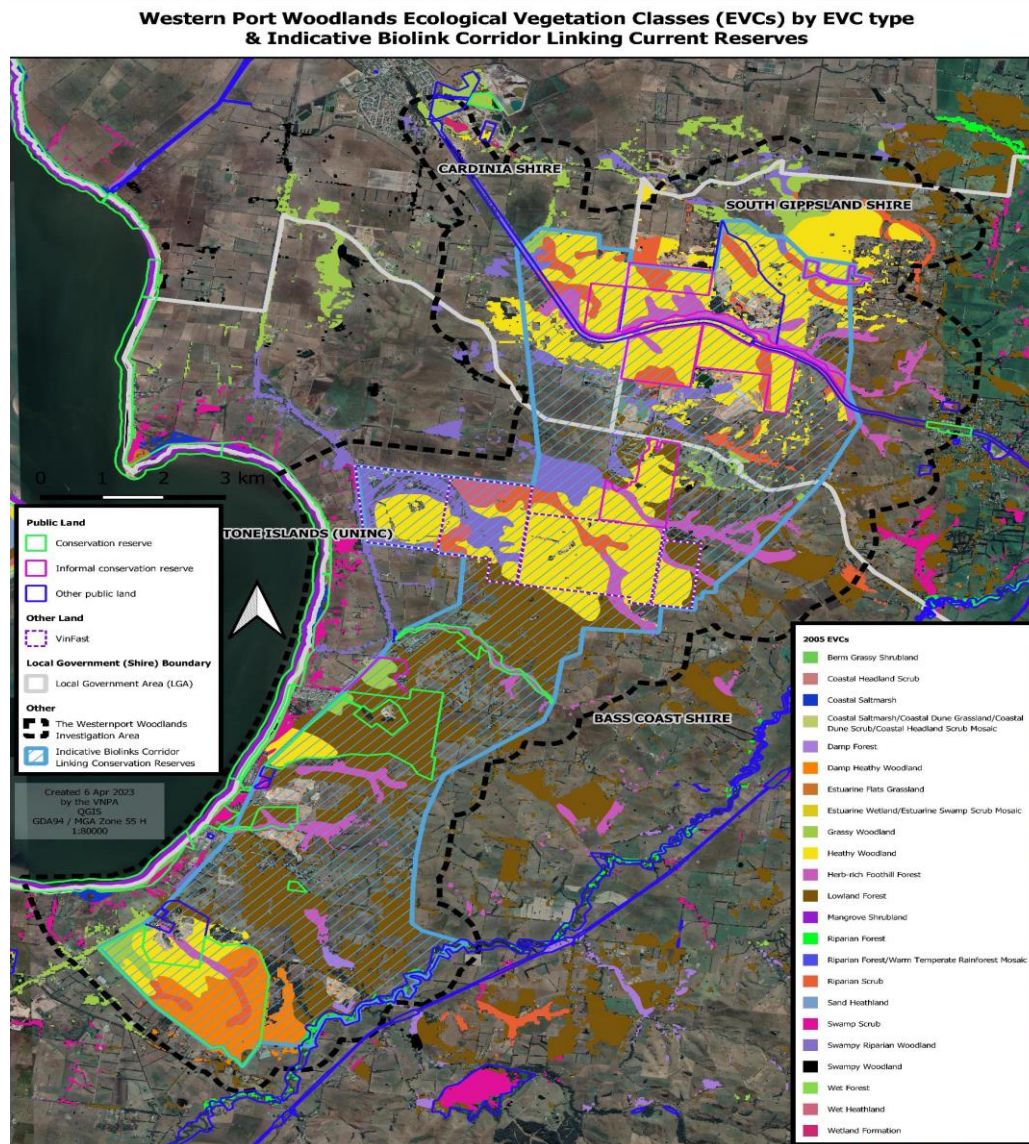
DTP, at officer level, recommends that the SPP should include a high-level plan that identifies the WPW as an investigation area to further identify the extent and significance of the WPW for biodiversity and for determining approaches for improving habitat connectivity that may include potential biolinks⁷⁹.

⁷⁸ S682, p2, 4

⁷⁹ D329, para's 563(f), 568 and 571

The Proponent submitted any such plan should not show definitive boundaries, noting the plan in Annexure 5 of the CCG submission (Figure 14) could be used as a starting point for an ‘investigation area’. Refinement of this plan should be informed by further investigation in consultation with DEECA, Council, Traditional Owners, and the CCG ⁸⁰.

Figure 14 CCG Annexure 5: suggested investigation area for Western Port Woodlands



While the Proponent said DTP was not able to identify the precise scope of the further work that may be undertaken to refine the plan after the draft SPP is finalised, a reasonable starting point may be:

- A map of the Western Port Woodlands at an appropriate scale and resolution identifying, at least, land tenures, land uses and constraints; and
- A report prepared by a suitably qualified person which identifies the extent and significance of the Western Port Woodlands for biodiversity, and opportunities for enhancement ⁸¹.

⁸⁰ D233s

⁸¹ D329, para 574

Council submitted the draft SPP “*must provide for greater certainty about how to balance the protection of significant biodiversity, including threatened species, from unnecessary destruction and encroachment from extractive industries*”⁸². Mr Black agreed and said:

There is also not sufficient clarity offered by the draft SPP on how Strategy 6b.2 - Ensure proposals to establish extractive industries adhere to best practice measures to avoid and minimise impacts on the declared area's attributes, and ensure locations of lesser environmental and landscape significance are prioritised – can be achieved and exactly which areas should be prioritised for extractive industry.

...

The draft SPP must provide greater certainty on how to balance relevant State and local policy on protecting both extractive industries and environmental, biodiversity and landscape values, particularly where future biolinks are proposed⁸³.

Council advised it was in the process of preparing an ESO control for the WPW (and the biolink within the woodlands). This was put on hold following discussions with the Minister and the Minister for Resources in light of preparation of the draft SPP. Council submitted it received advice from the State government to the effect that the declaration and development of the draft SPP would provide a level of certainty about the conflict. However, Council stated the draft SPP had “*failed to deliver this*”. As a result, Council recommended the draft SPP include a strategy identifying the WPW and the biolink within it as high value ecological areas where extractive industry must not occur, specifically through:

- (a) Clearly identifying the locations (including with maps) where the extractive industry will not operate within the Westernport Woodlands and Biolink; and
- (b) removing high value ecological areas including the Western Port Woodlands and Biolink from the EIAs⁸⁴.

Mr Organ agreed with several recommendations made by the Victorian National Parks Association that related to the protection and expansion of native vegetation in an area between Lang Lang and Grantville, and the establishment of a wildlife corridor in this area to protect biodiversity.

Mr Organ said the draft SPP needed to highlight the importance of the WPW for the protection and management of a range of National, State and regionally significant flora and fauna species and ecological communities. He recommended measures to protect, enhance and connect these areas across the landscape. Further, Mr Organ noted:

With respect to the Draft SPP (DELWP 2022a) the document does not recognise the importance of the Westernport Woodlands area for the long-term protection and management of biodiversity across the municipality, and the contribution this area plays in the protection ecological values at the National and State level. There could be changes to the local planning policy framework and the introduction of a relevant planning scheme controls, such as the provision of an Environmental Significance Overlay(s) (ESOs) or the expansion the current SLO1 or inclusion of another specific SLO that covers the Westernport Woodland area between Lang Lang and Grantville. I encourage the Standing Advisory Committee to recognise the values in this area and provide recommendations to increase the level of protection of the Westernport Woodlands to ensure it is adequately protected from inappropriate development in the future⁸⁵.

⁸² D143, para 2.10

⁸³ D62, para 344 & 346

⁸⁴ D143, para 2.26

⁸⁵ D82, p27

The CCG submitted *“the WPW comprise the largest area of contiguous canopy cover in the declared area and yet it has to this point been excluded from protection by the SLO or the ESO”*. In resolving a way forward, the CCG considered the following statement could be a starting point for development of a Vision for the WPW distinctive attribute:

Vision for the Western Port Woodlands

Critical habitat links between areas of contiguous vegetation canopy within the Western Port Woodlands are secured and brought into public ownership within 10 years. The Western Port Woodlands is protected as part of an expanded reserve system or National Park, jointly managed by the Bunurong Land Council and Parks Victoria for the benefit of all Victorians.

The natural landmark of Western Port Woodlands signals the arrival to Bass Coast and becomes a place to take a break at the junction of all tourism offerings of the Bass Coast, diffusing visitors towards the rural hinterland, Waterline Coast, Phillip Island and the Bunurong Coast.

For the WPW the vision should reflect a point in time where the pendulum began its inevitable swing away from the existing legacy of excessive land clearing in favour of nature conservation and development of a more diverse tourism economy ⁸⁶.

The CCG submitted any such future assessment of ESOs or SLOs could not be regarded as a substitute for the draft SPP itself. It stated those controls should be seen as options to complement the draft SPP. The CCG recommended the draft SPP be amended to include:

- a. recognition of the high biodiversity values in the area known as Western Port Woodlands (and elsewhere) which are of at least regional significance;
- b. detailed mapping of areas where there are important biodiversity values requiring protection;
- c. detailed mapping of areas which are considered to be of lesser environmental and landscape significance which should be prioritised for sand extraction ⁸⁷.

The CCG recommended an interim ESO be put in place as part of the Bass Coast DAL process.

(ii) Discussion

The Committee agrees with Mr Yugovic, Council and the CCG that while considerable work has been put into landscape values (LAR and draft LPCs), there is no comprehensive assessment of biodiversity values in the draft SPP or supporting documents. This would have been of assistance to the Committee in understanding the biodiversity and environmental features and attributes of this area of the DAL and ultimately whether the SPP provides for the protection and conservation of the distinctive attributes.

There was no mention of the WPW in the draft SPP, other than an indirect reference at page 54:

There is significant remnant vegetation on properties in the north-west of the declared area (such as on properties between the Grantville Nature Conservation Reserve, The Gurdies Nature Conservation Reserve and the Lang Lang Education Area).

The Committee agrees with the ecology conclave, Council, CCG and several submitters that the WPW contains biodiversity values of national and state significance and should be protected in some form, although the spatial extent of these values is not yet known until an investigation of the entire area is undertaken. Protection from further extractive industries, urban encroachment, as well as a need to better manage the biodiversity resource of the WPW to ensure these values

⁸⁶ D233, para 16-17

⁸⁷ D233, para 74

are formally protected is required. There was no dispute between parties about these ecological values, nor that protection is warranted. The difference in opinion was the extent of the WPW and the timing and form of such protection.

The Committee acknowledges there has been a long history of land use conflict between extractive industry and the need to protect the environment in the WPW area of Bass Coast. The draft SPP needs to acknowledge the WPW and give it more recognition. The Committee acknowledges extractive industry is an important attribute within Bass Coast and that existing operations have approvals in place.

The Committee notes Map 2 of the draft SPP shows a SLO was not exhibited as part of the proposed LPCs within much of the WPW area. The Committee is mindful the extractive industries and other landowners potentially impacted by an interim overlay, as suggested by Council and the CCG, have not had an opportunity to consider the implications of an overlay on their operations, or on the surrounding areas. Introduction of an SLO or ESO needs to be carefully contemplated to assess impacts on other State Government strategies such as the *'Helping Victoria Grow- Extractive Resources Strategy'*. There is a Strategic Extractive Resource Area (SERA) in place in South Gippsland which appears to cover some of the WPW Area. The Committee heard submissions from various parties regarding the SERA and the historical mapping of the extractive industry in this area. The Committee is unsure how introducing an overlay coincides with these strategies and existing extractive approvals in place in the WPW. It considers this is a matter that needs further consideration outside of the DAL process.

Notwithstanding, protection of the WPW is warranted and required. As CCG submitted in closing, *"the fact that they [CCG] are here at the SPP hearings is because the existing laws and regulations are not doing their job we have been trying to get the Woodlands recognised for 40 years"*.

The Committee agrees with the Proponent that some of the recommendations of the CCGs are aspirational and bold. The draft SPP should rise to this challenge. The first step is to recognise the WPW investigation area in the draft SPP based on the CCG mapping (Figure 14).

While submitters encouraged the Committee to resolve the tension between extractive industry and biodiversity values in the WPW, the Committee agrees with the Proponent that resolution of that tension is beyond the scope of the draft SPP. The Committee is not able to recommend an interim ESO or other planning tool be put in place now as further assessments and consultation are required to inform such a recommendation.

The work required should be undertaken in collaboration with Council and other key stakeholders and agencies with an interest in the WPW investigation area. It should involve ecological assessments, mapping and consideration of existing extractive approvals and Work Authority areas, including consultation processes on any draft planning control such as an ESO.

(iii) Findings

The Committee finds:

- The Western Port Woodlands within the Bass Coast Shire have national and state significant biodiversity values and needs better (formal) protection to ensure these can be protected and conserved.

The Committee further finds, subsequent to the Distinctive Areas and Landscapes process:

- Further strategic work (including ecological assessments) should be undertaken jointly by State and local governments in collaboration with the Bunurong Land Council Aboriginal

Corporation, community representatives and extractive industry to determine the spatial extent of Western Port Woodlands, with the aim of introducing and/or strengthening controls in the draft Bass Coast Statement of Planning Policy and relevant planning scheme(s).

(iv) Recommendation

The Committee recommends:

13. Identify the extent of the Western Port Woodlands as an investigation area on relevant maps and through accompanying text.

6.2 Biolinks

Biolinks are included in draft SPP objective 4a.3 and 4a.5. The definition of biolink in the draft SPP is:

A connection across the landscape that links areas of habitat and supports natural processes that occur in a healthy environment including the movement of species to find food and water.

(i) Evidence and submissions

The Proponent submitted the draft SPP appropriately recognises that:

Biolinks can also be facilitated by protecting vegetation on private land. There is significant remnant vegetation on properties in the north-west of the declared area (such as on properties between the Grantville Nature Conservation Reserve, The Gurdies Nature Conservation Reserve and the Lang Lang Education Area)⁸⁸.

The CCG submitted the recognition of biolinks in the draft SPP was inadequate. The CCG relied on the evidence of Dr Munro who agreed the biolinks shown in the draft SPP were inadequate. Dr Munro explained:

The SPP appears to adopt a definition of 'biolink' which is smaller in scale than that commonly accepted. The usual definition of a 'biolink' is a landscape scale set of linkages joining habitat nodes (McDonnell and Williams 1999, Mansergh et al. 2008), and also see the definition in Cardinia Shire Council's Biolink Plan 2023 – 33. Examples include Bunya Link in Queensland, the Great Western Woodlands Gondwana Link, and the Gippsland Biolink. In general, a 'biolink' is a network of smaller linkages that connect nodes. The many smaller proposed 'biolinks' along creeks and rivers should better be defined as linkages or corridors rather than biolinks. In many of these cases, 'nodes' are absent⁸⁹.

Dr Munro said the draft definition should be replaced with the definition in the Cardinia Shire Council, *Biolink Plan 2023 – 33*, as follows:

Biolink corridor A set of linkages through the landscape joining two core habitat nodes; considered to be critical to the maintenance of landscape connectivity for a range of animal types⁹⁰.

In response, the Proponent agreed a review of the definition within the draft SPP was warranted. Further, it agreed a review of the corridors (noted as biolinks in the draft SPP) was needed to

⁸⁸ D160, para 326

⁸⁹ D69, p3

⁹⁰ D69, p3

determine the extent to which any or all those corridors should be retained in the draft SPP and whether they ought to be renamed in light of any revised definitions in the draft SPP.

Mr Bennett described the WPW as *“a connected system of habitats”* which required *“better connection to function as an ecosystem”*. In his oral evidence, he highlighted the importance of connectivity between habitats. He noted biolinks should be examined at a larger scale. Mr Bennett’s evidence indicated the draft SPP needed to be more specific on how these issues might meet the draft SPP Vision. He said this could include different scales of connectivity, better recognition of rivers and stream systems; and addressing how to connect large reserves.

The ecology conclave agreed *“many of the proposed biolinks presented in the SPP are aspirational, do not link many important areas supporting critical habitat, and do not represent significant biodiversity values within the landscape”*.

The Phillip Island Conservation Society (S316) submitted the Bass Coastal Environment and Biodiversity policy Objective 4a should be strengthened to include biolinks as follows:

Objective 4a: To conserve and enhance the declared area’s biodiversity and associated ecosystem services by **retaining and protecting remnant vegetation and connecting biolinks, and** increasing the quality and quantity of habitat, particularly for endangered and vulnerable indigenous plant and animal species ⁹¹.

S316 submitted the draft SPP should be amended to include reference to protection of biolinks and recommended an ESO be applied to protect biolinks within the WPW corridor to maintain ecological connectivity.

Phillip island Nature Park (S109) submitted the establishment of biolinks would assist in achieving an ‘island haven’ for native flora and fauna and form part of the Australian Government’s Island Arks program:

The strategy to establish biolinks, utilise revegetation and minimise the impacts of weeds and pest animals, will help ensure this vision is achieved and Phillip Island is recognised as a worldwide, exemplary model in habitat protection and renewal. This will also help ensure that iconic and threatened species such as Little Penguins, Short-tailed Shearwaters and Eastern-barred Bandicoots thrive in the wild ⁹².

Save Western Port Woodlands (S117) submitted biolinks should be protected from encroachment by extractive industries. It recommended the *Bass Coast Biodiversity Biolinks Plan, 2018* be updated and incorporated into the Planning Scheme.

South Gippsland Conservation Society (S255) submitted conservation of Bass Coast biodiversity was poorly assessed by the draft SPP and *“biolinks should align with complimentary programs and include broad areas of the landscape”*. S255 referenced the Biosphere Biodiversity Plan which identified the WPW as an anchor for priority biolinks around the eastern shores of Western Port from Phillip Island to Tooradin.

Save Western Port (S377) submitted work was urgently needed on biolinks that exist in Bass Coast *“to ensure a broader understanding of the Ecological systems that much of the endangered wildlife in areas like the Bass Coast relies on to maintain the genetic diversity needed to sustain viable breeding populations”* ⁹³.

⁹¹ S316 PDF p18

⁹² S109 PDF p21

⁹³ S377 PDF p23

Submitter 246 submitted the future biolinks in the draft SPP are mostly along fence lines and were inadequate in their provision of habitat, or to provide free movement and safe transit routes. Submitter 252 submitted the WPW should be preserved, not as isolated reserves, but as a functional biolink and to support a diversity of species.

(ii) Discussion

The purpose of biolinks needs to be better articulated in the draft SPP. Further investigation and biodiversity assessments are needed to determine the spatial extent of such biolinks on the mainland and on Phillip Island (including along the coast, riparian zone and the WPW). A review of the *Cardinia Shire Council's Biolink Plan 2023-33* is recommended as a first step in developing a succinct definition of biolinks for the Bass Coast draft SPP.

(iii) Findings

The Committee finds:

- The draft definition of biolinks is inadequate.
- Existing biolinks shown in the draft Bass Coast Statement of Planning Policy should be revised once the further investigation and biodiversity assessments have been undertaken to determine the spatial extent of such biolinks.
- An indicative biolink should be mapped as part of the Western Port Woodlands investigation area.

(iv) Recommendations

The Committee recommends:

- 14. Revise the definition of biolinks.**
- 15. Identify an indicative biolink within the Western Port Woodlands investigation area.**

7 Settlement hierarchy and boundaries

This chapter considers the evidence and submissions as they relate to preferred areas for settlement, including the implementation of PSBs.

The Committee had regard to the following background reviews:

- Bass Coast Character Assessment Draft Township Character Report, Kinetica with DELWP, August 2021 (D3e)
- Bass Coast Residential Supply-Demand Assessment, Ethos Urban, January 2021 (D3f)
- Settlement Background Paper, DELWP, September 2021 (D3k)
- Bass Coast Unlocking Regional Tourism Draft Strategy, Bass Coast Shire Council, February 2022 (D12)
- Bass Coast Industrial Land Strategy Background Reports, Bass Coast Shire Council, January 2022 (D13).

The following strategies of the settlement policy domain relate to settlement boundaries:

- 8.1 Direct urban development to a hierarchy of settlements identified for growth through designating change areas and clearly defining long-term settlement boundaries.
- 8.2 Implement protected settlement boundaries for each settlement identified in the proposed Bass Coast settlement hierarchy ⁹⁴.

The Committee had regard to the planning evidence, the conclave held by expert witnesses, as well as relevant submissions.

Table 6 lists the planning evidence presented.

Table 6 Planning evidence

Party	Expert	Firm	Area of expertise
Proponent	John Glossop	Glossop Town Planning	Planning
Council	Jason Black	Insight Planning Consultants	Planning
Best Hooper Group	Evan Granger	Urbis	Strategic planning
Springway San Remo	Colleen Peterson	Ratio	Planning
Wallis Watson	Andrew Robertson	Tract	Planning
Abrahams/Franlaw	David Crowder	Ratio	Planning
CCG	Paul Buxton	Plan2Place Consulting	Planning

The key issues to be resolved are:

- identifying areas for PSBs and settlement boundaries
- whether the settlement hierarchy is appropriate
- when a PSB is appropriate.

⁹⁴ D3a, p124

7.1 Background

The draft SPP proposes a hierarchy of settlements — regional centre, district town, town, village, hamlet and locality — and identifies the role and function of settlements as replicated in Table 7.

Table 7 Proposed settlement hierarchy

Settlement	Designation	Description
Wonthaggi	Regional centre	A settlement of 10,000 or more people with a large, diverse population, employment, and housing base. In a regional centre, there is provision of all essential services and higher-order goods, and education at all levels and access to large hospital and diverse medical facilities is available. A regional centre has strong relationships with surrounding settlements of all types.
Cowes and Silverleaves, Inverloch, San Remo and Newhaven	District town	A settlement with a substantial and diverse population of 2,000 – 10,000. A district town usually has a dominant town centre and most essential services are available including a post office, schools, emergency services, medical/hospital facilities, retail services and accommodation options. There is some reliance on the regional centre for employment and higher-order services. A district town has strong relationships with smaller, nearby settlements and provides them with some higher-order services. District towns on the coast are popular visitor destinations. All are connected to reticulated water, electricity and a sewage system.
Grantville	Town	A settlement with population levels of 1,000 – 2,000, the number varying with general service provision and the diversity of the housing stock. Various services are available including a post office, supermarket, schools, a police station and some basic medical facilities. There is some reliance on larger, nearby settlements for employment and higher-order services. Towns on the coast are popular visitor, retirement and lifestyle destinations. All are connected to reticulated water and electricity, and most have sewer connections.
Cape Paterson, Cape Woolamai, Corinella, Coronet Bay, Dalyston, Kilcunda, Rhyll	Village	A settlement with population levels of 500 – 1,000, the number fluctuating seasonally. Basic services are available including a general store and basic retail facilities, and most have postal services. A village has strong employment relationships with larger, nearby settlements and relies on them for services. Villages on the coast have moderate-to-high levels of holiday home ownership. Most are connected to reticulated water, and some have sewer connections.
Bass, Harmers Haven, Jam Jerrup, Pioneer Bay and The Gurdies, Smiths Beach, Sunderland Bay, Sunset Strip, Surf Beach, Tenby Point, Ventnor,	Hamlet	A settlement with low and seasonal population levels of 200 – 500, the number fluctuating seasonally. There are limited services and connections to a sewage system. Hamlets on the coast have high levels of holiday home ownership and some small-scale visitor accommodation.

Settlement	Designation	Description
Wimbledon Heights		
Archies Creek, Wattle Bank, Woolamai	Locality	A small cluster of houses with various lot sizes within the rural hinterland. A locality relies on larger settlements for services. Reticulated water and sewer connections are generally not available.

The terms 'Settlement Boundary' and 'Protected Settlement Boundary' are variously defined and described in the PE Act, the draft SPP and the draft LPCs as replicated in Table 8.

Table 8 Settlement boundary definitions

Source	Settlement boundary	Protected settlement boundary
PE Act	In relation to a plan of an area, means the boundary marking the limit of urban development in that area.	Means a settlement boundary in a declared area that is protected under a SPP.
Draft SPP	The boundary that marks the limit of urban development in an area including a PSB.	A settlement boundary in a declared area protected under a SPP. It is a long-term boundary intended to contain the settlement's growth. Such boundaries apply to settlements identified for growth.
Draft SPP Landscape Controls	A long-term boundary that marks the limit of urban development in an area and protects the valued attributes of the surrounding rural hinterland by containing the settlement's growth. Unlike a PSB, amendments to a settlement boundary do not need to be ratified by both Houses of Parliament.	A settlement boundary in a declared area that is protected under an SPP. A PSB is a long-term settlement boundary intended to protect the valued attributes of the rural hinterland surrounding the settlement by containing its growth. Any change needs to be ratified by both Houses of Parliament.

The Settlement Background Paper stated:

A declared area framework plan, which forms part of a SPP, may specify long-term settlement boundaries in the declared area. Doing so ensures urban development does not encroach on the area's distinctive attributes, as defined in line with the objects of Part 3AAB - Distinctive Areas and Landscapes of the PE Act (Committee underline).

This paper seeks to determine if the existing boundaries of each settlement are suitable in meeting the objects of the Act, or if they require modification.

A SPP must be reviewed at least every 10 years. It can be reviewed earlier than this, but an earlier review will only be considered if the relevant strategic planning work has been completed. A review may reassess the location of a settlement boundary if there are compelling reasons to do so. Any proposed change to a settlement boundary in a SPP must be strongly supported by evidence and requires a rigorous planning scheme amendment process involving community consultation.

Section 46AV of the Act allows for a protected settlement boundary to be designated for settlements within declared areas. This boundary cannot be changed without parliamentary ratification of an approved planning scheme amendment, which is a similar process to

changing Melbourne's urban growth boundary. Therefore, a protected settlement boundary provides the highest level of protection ⁹⁵.

The draft SPP proposed PSBs for all identified settlements, except for Wonthaggi which was identified to be defined through a future strategic planning process. At the Hearing, the Proponent confirmed its support for delaying the introduction of a PSB for Inverloch, pending the completion of further strategic planning.

The Settlement Background Paper set out the methodology used to apply the PSBs as part of the draft SPP and stated:

All existing settlement boundaries were assessed to determine if they could continue to be supported in the context of the distinctive areas and landscapes legislation, vision and objectives of the draft Bass Coast SPP.

The methodology for establishing settlement boundaries in the declared area was founded on a robust evidence base and the results of public engagement.

The starting point was to consider the distinctive areas and landscapes legislation (Part 3AAB of the PE Act) and the extent of strategic planning work that had been undertaken by Bass Coast Shire Council, including local planning policies and strategies.

The majority of settlements in the declared area have planning policies that support an existing settlement boundary, with no contemplation of future greenfield development sites on the periphery of settlements. For these settlements, the existing planning policy was reviewed in light of the PE Act's requirements for a declared area, to determine if the settlement boundary can continue to be supported through the SPP.

The municipal land supply was also considered. In Part A, it was shown there is sufficient land supply within the declared area's existing settlement boundaries across the municipality to meet residential demand in the coming decades. Accordingly, the assessment did not set out to identify new urban growth areas ⁹⁶.

The criterion used to assess the currency of existing settlement boundaries included:

- the objects of the distinctive areas and landscapes legislation as specified in section 46AN of the PE Act
- the vision, objectives and strategies of the draft SPP
- public engagement feedback.

The explanation of the assessment methodology noted:

... the Bass Coast declared area has significant environment, cultural and economic attributes that provide the basis for the assessment of greenfield land. The precautionary principle was therefore adopted for settlement boundary assessment. That is, decision to prevent significant impacts caused by urban development are not avoided because of a lack of scientific certainty ⁹⁷.

7.2 Settlement hierarchy

(i) Evidence and submissions

The Proponent submitted the draft SPP largely adopted the existing settlement hierarchy in Clause 02.03-1 of the Planning Scheme with some exceptions, specifically Clause 02.02 and the Gippsland

⁹⁵ D3k, p16

⁹⁶ D3k, p32

⁹⁷ D3k, p32

Regional Growth Plan, as summarised in Table 9. The change noted is from what exists in the Planning Scheme to the draft SPP.

Table 9 Proposed changes to settlement hierarchy

Settlement	Hierarchy			
	Draft SPP	Clause 02.03	Gippsland RGP	Change
Archies Creek	Locality	-	-	Introduced
Bass	Hamlet	Hamlet	-	No change
Cape Paterson	Village	Village	Small town and support growth	No change
Cape Woolamai	Village	Hamlet	-	Higher
Corinella	Village	Town*	-	Lower
Coronet Bay	Village	Town*	-	Lower
Cowes and Silverleaves	District town	District town	Town and support growth	No change
Dalyston	Village	Hamlet	-	Higher
Grantville	Town	Town	-	No change
Harmers Haven	Hamlet	Hamlet	-	No change
Inverloch	District town	Town	Town and support growth	Higher
Jam Jerrup	Hamlet	Hamlet	-	No change
Kilcunda	Village	Hamlet	-	Higher
Newhaven	District town	District town	-	No change
Pioneer Bay and The Gurdies	Hamlet	Hamlet	-	No change
Rhyll	Village	Town*		Lower
San Remo	District town	District town	Small town and support growth	No change
Smiths Beach	Hamlet	Hamlet	-	No change
Sunderland Bay	Hamlet	Hamlet	-	No change
Sunset Strip	Hamlet	Hamlet	-	No change
Surf Beach	Hamlet	Hamlet	-	No change
Tenby Point	Hamlet	Hamlet	-	No change
Ventnor	Hamlet	District town	-	Lower
Wattlebank	Locality	-	-	Introduced
Wonthaggi	Regional centre	Regional centre	Regional centre and promote growth	No change

Settlement	Hierarchy			
	Draft SPP	Clause 02.03	Gippsland RGP	Change
Woolamai	Locality	-	-	Introduced

* noted as low spatial growth capacity

Source: Adapted from D29, Appendix B

Mr Glossop considered the settlement hierarchy in the draft SPP to be reasonably sound. He observed the draft SPP would facilitate growth in some settlements beyond the population size expressed in the settlement hierarchy. His opinion was:

While these population thresholds are helpful in defining a hierarchy, in other respects, the 'cut off' points for delineating settlements can be unhelpful, particularly when settlements like Cape Paterson have a regional connection with larger towns like Inverloch and Wonthaggi

98.

Council submitted the strategic work underpinning strategy 8.1 of the draft SPP had not been undertaken and a settlement strategy was required to inform the hierarchy in the draft SPP. Mr Black identified discrepancies between the settlement hierarchy in the draft SPP and the Gippsland Regional Growth Plan, which identified:

- Cowes/Silverleaves as a town
- Inverloch as a secondary centre/town
- San Remo/Newhaven as a small town
- Cape Paterson as a secondary centre/town.

While recognising that most growth will properly flow to higher order settlements with capacity for population growth, Best Hooper Group submitted it was the wrong approach to assume that smaller towns should not grow at all. Some growth could be accommodated in these settlements while maintaining their current place in the settlement hierarchy.

Springway Ventnor submitted the downgrading of settlements in the hierarchy would increase the role of other areas to accommodate growth. This, it said, would work against equitable distribution of growth across the municipality and overlook sites well placed to contribute to supply.

Wallis Watson observed many of the settlements in the hierarchy already exceeded the population range specified in the draft SPP. It agreed with Mr Glossop that for some settlements, the range was unlikely to be helpful. While it did not challenge the characterisation of Cape Paterson as a village, to ensure an orderly planning outcome, Wallis Watson submitted the Committee could consider either removing or increasing the population range in the draft SPP.

CPRRA submitted the settlement hierarchy was an important component of the draft SPP because it prioritised the delivery of infrastructure and services to higher order towns. It noted designation of Cape Paterson as a village was consistent with the community's long held expectations. If the village was expanded, the population would increase towards the classification characteristics of a district town, which, it contended, would be totally inappropriate.

(ii) Discussion

The Committee considers several aspects of the settlement hierarchy are not fit for purpose, including:

- population ranges
- failure to recognise networked settlements
- inconsistent approach to coupling of settlements.

Population range was not used in the descriptors of the settlement hierarchy in the draft SPP for the Bellarine, Surf Coast and Macedon Ranges declared areas. The Committee does not consider it is helpful in the draft SPP as it creates a range of different expectations. The Committee observes of the seven 'villages' in the draft SPP, almost half already exceed the proposed population range of 500 to 1,000 people (Cape Paterson, Cape Woolamai, Corinella and Coronet Bay ⁹⁹).

Furthermore, population thresholds are not useful in coastal areas that experience seasonal fluctuation in population. It is more informative for the hierarchy to describe the expected role of each town, consistent with the Planning Scheme.

Consistent with policy at Clause 11.01-15, the hierarchy should recognise select clusters of settlements as networks. The functional arrangements between these settlements underpin their role in the hierarchy. The recommended networks are:

- Wonthaggi, Inverloch, Cape Paterson and Dalyston
- San Remo, Newhaven and Cape Woolamai
- Cowes, Silverleaves and Ventnor
- Grantville, Corinella and Coronet Bay.

The Committee observes the logic behind listing San Remo/Newhaven as a single 'district town' in the hierarchy is inconsistent with the approach taken to Cowes and Ventnor, which are proposed to be uncoupled and be separately classified as a district town and hamlet respectively. In the Committee's view, San Remo should be separately listed in the hierarchy as a district town and Newhaven listed as a village. At the same time, Ventnor clearly is coupled with Cowes.

The settlement hierarchy rightly directs growth higher order settlements. However, the Committee agrees that it is the wrong approach to assume that smaller towns should not grow at all because of their place in the hierarchy. There are opportunities for some growth in lower order settlements, while maintaining their current place in the settlement hierarchy. This is discussed further in Chapter 7.3 and Part C.

7.3 Settlement boundaries

(i) Evidence and submissions

When can a Protected Settlement Boundary be used?

There were two broad approaches put to the Committee about when a PSB could be used. The approach put by the Proponent was:

⁹⁹ abs.gov.au/census/find-census-date/quickstats/2021

- even where a particular distinctive attribute is not at immediate risk, the imposition of a PSB may ensure the protection of that attribute relative to a scenario where a PSB was not imposed, consistent with section 46AU and 46AV
- a SPP must be prepared through an integrated assessment process which balances the broad range of planning considerations, consistent with section 46AV(2)
- a PSB can be justified even if it only provides relatively small benefits in terms of additional protection to distinctive attributes, in settlements expected to grow only within their existing settlement boundary.

An alternative approach, put by Best Hooper Group, Moed/White and others, was:

- the purpose of a SPP is to ensure the protection and conservation of distinctive attributes
- because a power can only be exercised for the purposes for which it is intended, the power to designate PSBs can only be exercised for that purpose
- a PSB can only be imposed to protect a particular instance of a distinctive attribute that is at direct risk of harm.

The parties elaborated on these broad approaches in submissions. The Proponent submitted:

It is important to emphasise that settlement boundaries should not be set solely by reference to the distinctive attributes of the declared area, but also by reference to broader planning principles, including orderly planning principles, to ensure consistency and integration in decision making. While general provisions (such as the overarching planning objectives in section 4 of the PE Act) are subject to specific provisions such as those in Part 3AAB, that does not mean they have no role to play. It follows that settlement boundaries do not need to be set solely by reference to protection of distinctive attributes, and where they are set, they must be set in a manner that conserves and protects those attributes ¹⁰⁰.

The Proponent submitted the more confined approach suggested by other parties was “*an unnecessarily narrow construction of the Act*” ¹⁰¹.

Moed/White disagreed with the Proponent’s approach and contended:

... a PSB, which can only be changed through a political process, should only be included in the SPP if there is unequivocal evidence that such inclusion is required to ensure the protection and conservation of the distinctive attributes of the declared area as they are described in the Minister’s declaration ¹⁰².

Springway San Remo submitted a more balanced and sophisticated approach would be preferable, akin to the approach taken by the Surf Coast DALSAC where the PSBs were informed though a balancing exercise of competing factors in favour of net community benefit.

Best Hooper Group submitted that when determining whether a PSB was necessary to protect a specific distinctive attribute, consideration should be given to the following:

- (a) is the possible future use or development of a site or sub-area that is proposed to be affected by a PSB likely to impact on a specific declared distinctive attribute?
- (b) if so, which distinctive attribute(s) is threatened?
- (c) is protection and conservation of the distinctive attribute(s) warranted having regard to a balancing exercise that integrates environmental, social, cultural and economic factors for the benefit of the community (as required by s 46AV(2)(a)); and

¹⁰⁰ D29, para 59

¹⁰¹ D160, para 24

¹⁰² D163aa para 4.9

(d) is a less restrictive option than a PSB available that will appropriately protect or conserve the distinctive attribute(s)?

Ultimately if any of the questions posed in (a), (b) of (c) is 'no', or the answer to question (d) is 'yes', the conclusion that the Committee should reach is that the proposed PSB is not appropriate having regard to the purpose of an SPP in section 46AU.

In this regard, a PSB is the 'nuclear' option, or option of last resort, for responding to that threat, but there are several other tools in the planner's toolkit that should be considered before arriving at a PSB ¹⁰³.

In a similar vein, S83 submitted it was clear that:

- a) the application of a PSB is discretionary;
- b) as PSBs are intended to impose long term boundaries for townships, it follows that they should clear a high bar before they are imposed;
- c) PSBs are, by design, difficult to alter;
- d) the proponent should demonstrate why a PSB is needed beyond the existing suite of controls available ¹⁰⁴.

Methodology

In Mr Glossop's opinion, a PSB should be informed by a robust understanding of:

- The landscape and environmental significance of areas immediately adjacent to townships.
- The expected supply and demand for dwellings at a township, municipal and regional level.
- The strategic settings and hierarchical designation for each township ¹⁰⁵.

Springway San Remo endorsed the methodology adopted by Mr Glossop, which was largely consistent with Ms Peterson's approach. It considered this would influence a *"fair, objective and legally correct analysis of whether the proposed PSBs are, in fact, robust and appropriate"* ¹⁰⁶.

While Mr Black did not provide an opinion on the methodology for setting a PSB, he considered a 'protected' boundary in a 50-year strategic plan should include any areas that may be suitable for or required to accommodate growth in the future.

Best Hooper Group submitted the methodology for assessing settlements, as set out in the Settlement Background Paper, was fundamentally flawed because it did not employ a method that assessed the distinctive attributes and features. It noted:

Surprisingly, the SBP does not set out the declared distinctive attributes anywhere in the document. Nor does it refer to or analyse the declared distinctive features. In accordance with the legislative framework (and as discussed above) this should have been the focus of the settlement assessment underpinning the Draft SPP. The fact that this basic methodology was flawed, and then compounded with the inadequate land supply analysis and the lack of an updated strategic planning review of each settlement boundary, means that the SBP has not appropriately or robustly considered the settlement domain contained in the Draft SPP ¹⁰⁷.

¹⁰³ D167, paras 61-62

¹⁰⁴ D206, para 27

¹⁰⁵ D35, para 23

¹⁰⁶ D173, para 83

¹⁰⁷ D167, para 132

Is a Protected Settlement Boundary justified?

While Mr Glossop supported the principle of introducing PSBs, he considered there was insufficient evidence to support some of the boundaries proposed. His evidence noted it would be premature to apply PSBs in all settlements, and said in summary:

- there needs to be an appropriate understanding of the ability of land within the boundary to accommodate growth, having regard to the forecast supply and demand, alongside the role of each town in the settlement hierarchy
- strategic work done at a local level to support the existing settlement structure plans is generally out-of-date and does not provide a robust or contemporary strategic justification for the adoption of Protected Settlement Boundaries, particularly for higher order settlements.

Mr Glossop supported application of PSBs in Corinella, Kilcunda, Rhyll, Bass, Harmers Haven, Jam Jerrup, Tenby Point and Wimbledon Heights on the basis “... *they are at the lowest end of the settlement hierarchy and, ... there is no compelling strategic planning narrative to warrant any change to those boundaries* ¹⁰⁸”.

Mr Black favoured use of a settlement boundary over a PSB to simplify the process for adjusting the boundary if future reviews of the draft SPP deemed it necessary. He considered settlement boundaries to be a useful tool, if utilised properly, to curb the outward expansion of those townships where only minimal levels of growth could be accommodated. Mr Black acknowledged the declaration of the DAL heightened the importance of protecting environmental and landscape values and accepted a PSB would offer greater security of these attributes from urban expansion.

Mr Black supported a PSB in smaller townships. Mr Black, however, did not support the location of the proposed PSB in Cape Paterson, Cape Woolamai, Cowes Silverleaves, Grantville, Inverloch, Newhaven and San Remo. He considered further work was required to resolve boundaries in these locations. This varied from confirming growth locations to progressing site specific investigations flagged in existing settlement and framework plans. While Mr Black said he would be more comfortable with applying a PSB once this work was completed, he maintained his preference for a settlement boundary in higher order centres.

Several parties opposed use of PSB because the necessary strategic planning had not been undertaken with sufficient granularity to determine if a PSB was required to protect and safeguard the declared distinctive attributes. A common starting point was the findings of the Bellarine DALSAC which found a local settlement boundary cannot be directly translated into PSBs because they were intended for different purposes. Further, that report noted a PSB should be aligned with findings from technical assessments which respond directly to protecting and considering distinctive attributes and features of the declared area. As the technical assessments had not been completed, that DALSAC concluded the proposed PSBs in Bellarine were premature ¹⁰⁹.

(ii) Discussion

The Committee broadly agrees the methodology set out by Mr Glossop provides for an integrated assessment in balancing the broad range of planning considerations called for by section 46AV(2) of the PE Act. This accounts for:

¹⁰⁸ D35, paragraph 421

¹⁰⁹ The Committee notes the former Minister did not accept that recommendation

- the landscape and environmental significance of areas immediately adjacent to townships
- the expected supply and demand for dwellings at a township, municipal and regional level
- the strategic settings and hierarchical designation for each township.

Mr Glossop's methodology did not specifically account for other attributes listed in the declaration, including features of heritage and cultural significance, natural resources or productive land of significance and strategic infrastructure. These are necessary considerations.

The Committee has concerns with the Proponent's position that a PSB is appropriate even when a particular distinctive attribute is not at immediate risk and offers only small benefits for those settlements with no or little growth potential based on the settlement hierarchy. While it is true a PSB will ensure the protection of that attribute relative to a scenario where a PSB was not in place, the Committee considers the threat to the attribute must be more than a remote threat. This was implied in Mr Glossop's methodology which called for consideration of attributes 'immediately adjacent' to townships.

Protection and conservation of the distinctive attributes is not just achieved by setting hard limits to development. Further, all parts of an attribute do not have the same value and sensitivity to change. The 'no-go', 'slow-go', 'go-go' concept is relevant here. By way of example, there will be areas within the landscape attribute that are best protected and conserved by retaining the landscape in its current state, for example a landscape of state significance. Elsewhere, the protection and conservation of the landscape can be achieved by mitigating and managing potential impacts by sensitively siting development within the curtilage to a significant feature in a landscape.

The Committee agrees that local settlement boundaries cannot automatically be translated into PSBs, because they were not prepared having regard to the declaration. Further, in the case of Bass Coast, as recognised by Mr Glossop and Mr Black, the strategic work undertaken at the local level to support some existing settlement structure plans is generally out-of-date. It does not provide a robust or contemporary strategic justification for the blanket adoption of PSBs.

Assessments in the Settlement Background Paper were prepared on the premise there was sufficient land supply within the declared area to meet housing and population demands for 15 years. Therefore, it did not set out to identify new residential and/or urban growth areas. The more recent analysis presented to this Committee confirms there is between eight and 11 years of zoned supply and 17 to 22 years of zoned and unzoned supply. As a long-term strategic plan with a 50-year vision, the Committee considers it is appropriate plan for up to 25 years of land supply across the Shire, as discussed in Chapter 4.

The Proponent's failure to consider longer term land supply requirements, coupled with the low bar set for protecting and conserving distinctive attributes, has resulted in PSBs that are unnecessarily conservative and close off development options that could have multiple benefits for future communities.

Having regard to this, the Committee finds a PSB is appropriate where needed to protect and conserve distinctive attributes and features of the declared area, in the context of an integrated assessment.

The Committee was presented with a range of assessments the Proponent relied upon to spatially define the distinctive attributes and features. These have not all been prepared for the purpose of the DAL, and in most cases do not contain findings that respond directly to protecting and considering distinctive attributes and features of the declared area. For example, the Rural Land Strategy is a generalised assessment of rural land and not specific to the features listed in the declaration.

Subsequent chapters of this report deal with each settlement further (Chapters 8 to 13).

The Committee is conscious the former Minister did not accept the recommendations of the Surf Coast DAL SAC and Bellarine DAL SAC regarding the application of PSBs.

If the Minister again decides to apply a PSB to all settlements, the Committee ultimately recommends three indicative investigation areas are included within the PSB. This will allow the necessary strategic planning (including environment and ecology) assessments to be undertaken to determine how the land can be developed. The recommended indicative investigation areas are:

- **Coronet Bay** – include part of the land relating to S84 (see Chapter 11.4)
- **Dalyston** - include land relating to S383, S706 and the adjacent parcel of land relating to S83 (see Chapter 11.5)
- **Kilcunda** - include land relating to S647 (see Chapter 11.6).

7.4 Findings

The Committee finds:

- The settlement hierarchy is generally satisfactory, however should be amended to remove population ranges and recognise settlement networks.
- San Remo and Newhaven are separate settlements and should be individually listed in the settlement hierarchy as a district town and village respectively, to reflect their role and function.
- There are opportunities for some growth in lower order settlements while maintaining their current place in the settlement hierarchy.
- A Protected Settlement Boundary is appropriate where needed to protect and conserve distinctive attributes and features of the declared area, in the context of an integrated assessment.

7.5 Recommendation

The Committee recommends:

The Bass Coast Statement of Planning Policy be supported as exhibited, subject to the following changes:

16. Amend the settlement hierarchy by:

- a) deleting population ranges
- b) recognising settlements that function as part of a network
- c) listing San Remo as a district town
- d) listing Newhaven as a village.

PART C: SPECIFIC SETTLEMENTS

8 Regional centre

The draft SPP defines a Regional Centre as:

A settlement of 10,000 or more people with a large, diverse population, employment, and housing base. In a regional centre, there is provision of all essential services and higher-order goods, and education at all levels and access to large hospital and diverse medical facilities is available. A regional centre has strong relationships with surrounding settlements of all types.

Wonthaggi is the only Regional Centre identified in the draft SPP for Bass Coast.

(i) Key issues

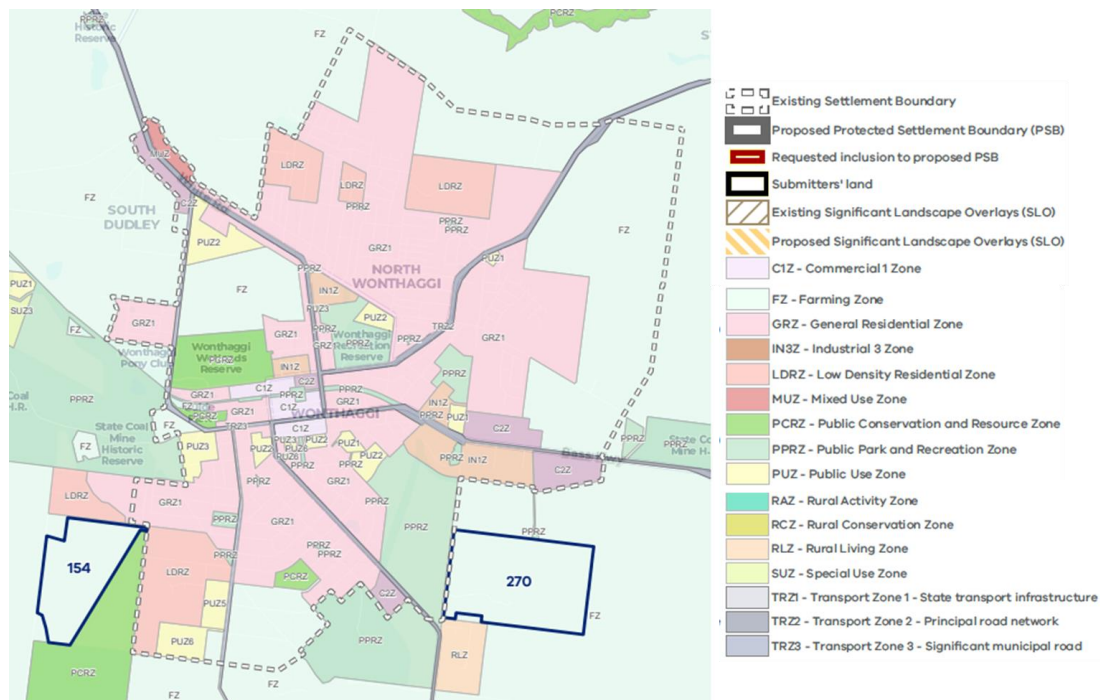
The key issue is whether the approach in the draft SPP for Wonthaggi is appropriate.

(ii) Background

Table 10 Wonthaggi settlement summary

Matter	Summary
Existing settlement boundary	<i>Wonthaggi Strategic Framework Plan</i> (Clause 11.01-1L-02) <i>Wonthaggi Dalyston Structure Plan, 2008</i> implemented by Amendment C113 (2010) ¹¹⁰
Alignment of PSB with settlement boundary	PSB is proposed to be introduced after completion of the Wonthaggi Precinct Structure Plan
SLO	None
Proponent position	Introduce PSB after completion of structure plan
Council position	Introduce PSB after completion of structure plan
S154	Include the S154 land in the PSB
S270	Include the S270 land in the PSB

¹¹⁰ The Wonthaggi Dalyston Structure Plan 2008 was subsequently separated into the *Wonthaggi Structure Plan, 2018* and the *Dalyston Structure Plan, 2018*

Figure 15 Wonthaggi Settlement Boundary**(iii) Evidence and submissions**

In its Part A submission, the Proponent advised:

... it is proposed that a protected settlement boundary will be included in the SPP for Wonthaggi, including the North-East Growth Area, in the future. The identification of this boundary will be informed by strategic planning work led by the Bass Coast Shire Council in collaboration with [multiple parties]. The SPP would be updated once this strategic planning work has been completed¹¹¹.

In its Part B submission, the Proponent confirmed that while the draft SPP proposed a PSB for Wonthaggi, it did not include a proposed alignment for the PSB, which is to occur following the completion of further strategic work across Wonthaggi.

Amendment C152 was the subject of a Standing Advisory Committee process which introduced a Precinct Structure Plan to the east of Wonthaggi. That matter is before the Victoria Planning Authority for resolution and is awaiting ministerial approval and gazettal. Council supported that position.

Submission 154 related to a parcel of approximately 50 hectares on the west side of the Rifle Range, which had previously been used for grazing. The submission advised of various ongoing issues, including flooding and use of part of the land as wetlands, issues with kangaroos, fire breaks, fire and water management. The submission sought the land be included in the PSB.

Submitter 270 presented at the Hearing in relation to an 87-hectare parcel of land which sits south of the proposed Wonthaggi North-East Growth Area and the industrial area to the east of Wonthaggi, west of Benetti Road. The land is to be known as the Wonthaggi Lifestyle Precinct. The submitter proposes to develop a sustainable residential development of approximately 400 homes on lots between 1,000 and 2,000 square metres, connected by a series of walkable and

green streets and parks. The submitter urged the Committee to see this proposal as being complementary to the North-East Growth Area and submitted it should be likened to a logical inclusion.

(iv) Discussion

The draft SPP indicates a PSB will be applied to Wonthaggi, but the extent of its location is subject to further strategic work. The Committee accepts the application of a PSB at this stage is premature given the strategic planning work is yet to be completed. It notes the area surrounding Wonthaggi has limited landscape and environment values, with much of the surrounding land located in the Farming Zone.

The Committee considers this strategic work should further review the potential for the land currently located in the Farming Zone and subject to Submissions 154 and 270 to be further reviewed as part of the strategic planning process.

Given the Proponent and Council accept the application of a PSB to Wonthaggi is premature, the Committee considers that change to the draft SPP is appropriate.

(v) Findings

The Committee finds:

- Wonthaggi and its surrounds have low landscape values.
- The decision to apply (or not apply) a Protected Settlement Boundary for Wonthaggi should be informed by future strategic planning work.
- The land relating to Submissions 154 and 270 should be considered as part of the strategic work to be undertaken prior to applying a Protected Settlement Boundary.

(vi) Recommendation

The Committee recommends:

- 17. Remove reference to Wonthaggi being included in a Protected Settlement Boundary and amend the draft Statement of Planning Policy accordingly.**

9 District towns

The draft SPP defines a District Town as:

A settlement with a substantial and diverse population of 2,000–10,000. A district town usually has a dominant town centre and most essential services are available including a post office, schools, emergency services, medical/hospital facilities, retail services and accommodation options. There is some reliance on the regional centre for employment and higher-order services. A district town has strong relationships with smaller, nearby settlements and provides them with some higher-order services. District towns on the coast are popular visitor destinations. All are connected to reticulated water, electricity and a sewage system ¹¹².

Cowes/Silverleaves, Inverloch, San Remo and Newhaven are identified as District Towns in the draft SPP for Bass Coast.

9.1 Cowes and Silverleaves

(i) Key issues

The key issues are whether:

- the settlement boundary should be retracted to exclude the Cowes Golf Club and the S113 land
- a PSB is strategically justified.

(ii) Background

Table 11 Cowes and Silverleaves settlement summary

Matter	Summary
Existing settlement boundary	<i>Cowes Strategic Framework Plan</i> (Clause 11.01-1L-03) <i>Cowes, Silverleaves, Ventnor and Wimbeldon Heights Structure Plan 2010</i> , introduced by Amendment C88 (2012)
Alignment of PSB with settlement boundary	Retract settlement boundary to exclude the Cowes Golf Club and S113 land
SLO	Apply SLO3 to land east of township
Proponent position	Support exhibited PSB
Council position	Defer introduction of PSB pending completion of a structure plan
S113	Maintain existing settlement boundary

¹¹² D3a, p77

Figure 16 Cowes and Silverleaves Protected Settlement Boundary

Settlement Background Paper

The Settlement Background Paper assessed the existing settlement boundary and found it:

- protects sensitive environments to the south, east and west of the settlement from urban encroachment, including Ramsar wetlands
- prevents the values of the regionally significant landscape and protects the green breaks to the west and south of the settlement
- prevents urban encroachment into agricultural land
- prevents urban encroachment into areas close the coast or to Rhyll Inlet, where there are environmental risks including flooding, erosion and bushfire.

The Settlement Background Paper concluded:

Overall, it was found that the existing settlement boundary is generally robust in the context of the distinctive areas and landscapes legislation, excluding land to the east. A protected settlement boundary should be applied to Cowes and Silverleaves to provide the community with long term certainty and to protect the southern green break and the surrounding landscape and rural areas. A protected settlement boundary also prevents further linear development along the Western Port coastline, avoiding risks associated with coastal hazards and acid sulfate soils. Cowes and Silverleaves should remain a district town to reflect its role and function. The infill capacity of the settlement should be explored and its level of spatial growth updated accordingly in the Bass Coast Planning Scheme ¹¹³.

(iii) Evidence and submissions

Landscape

Ms Scott's evidence summarised the key elements of the LAR assessment of the Cowes Silverleaves landscape setting. Of note, the LAR concluded the southern edge of Cowes was unambiguous and important for maintaining a clear break between the built up settlement and the farming interior. Silverleaves is nestled into the landscape and is well known for its significant, indigenous tree canopy cover.

Mr Haack described land south of Cowes as an area of low level scenic quality and a commonly occurring landscape type. In his opinion, the settlement boundary could extend south of the proposed boundary (Figure 17).

Figure 17 Haack evidence potential settlement boundary extension Cowes Silverleaves ¹¹⁴



Biodiversity and environmental risks

The Proponent noted inclusion of the S113 land in the existing settlement boundary was discussed extensively by the Amendment C88 Panel. That Panel:

- a) identified the primary issue associated with the development of land as being flooding and climate change impacts;
- b) said that the 120 dwelling proposal before it would not have a 'substantial impact' on supply and emphasized that it was 'concerned' with the extent of development proposed and should not be taken as endorsing it;
- c) noted that although Melbourne Water Corporation did not oppose the inclusion of what was described as the 'western' title in the settlement boundary, it did say that only part of that title would be developable; and
- d) observed that concerns expressed by environmental groups over the effect of development on the Rhyll Inlet 'seem well-founded' ¹¹⁵.

The Proponent relied on the tabled evidence of Mr Colleter on coastal flooding (no party sought call and cross examine him). His evidence concluded that approximately two thirds of the S113 land is subject to coastal inundation risk related to sea level rise and storm action. Mr Colleter confirmed Land Subject to Inundation Overlay (LSIO) mapping provided an up to date quantification of the extent of flood risk across the land.

¹¹⁴ Source: D86, p48

¹¹⁵ D160, para 210

Mr Organ's ecological assessment noted there was no clear ecological constraints that warranted retraction of the settlement boundary.

Phillip Island Nature Parks (S109) submitted in support of the proposed PSB:

The Nature Parks strongly supports the proposed Cowes and Silverleaves protected settlement boundary to protect landscapes, biodiversity, Aboriginal cultural heritage and to respond to climate change ¹¹⁶.

Silverleaves Conservation Association Incorporated (S328) supported the proposed PSB to assist in protecting impacts of development on the Rhyll Inlet and Western Port Ramsar but submitted it could be further strengthened to protect the significant environmental values at Silverleaves.

Phillip Island Conservation Society (S258) supported the proposed PSB to avoid impacts on wetland habitat and waterbirds. Similarly, Submission 526 supported the proposed PSB to restrict further development and avoid impact on the Western Port Ramsar wetland and flooding.

Land supply

Mr Shipp noted the draft SPP proposed Cowes be contained within the existing settlement boundaries with growth accommodated as infill on existing residential zoned land. Mr Shipp estimated there was seven years supply of land for dwellings in the Cowes PSB. He expected land supply limitations to be particularly acute in Cowes in future years.

Planning

Mr Glossop gave evidence there was a reasonable town planning argument for the PSB given the:

- geographical and environmental constraints on expanding to the north, east and west
- desirability of containing the township within Ventnor Road and Cowes-Rhyll Road
- non-urban break between Cowes and Wimbledon Heights
- opportunity to protect farming land.

Mr Glossop identified the planning benefits of continuing to provide for residential and population growth in Cowes as a District Town. Given the town's constraints, housing demand would need to be met through infill development, which is recognised as an action in the Settlement Background Paper. Mr Glossop considered this work should be initiated before the introduction of a PSB given the age of the *Cowes, Silverleaves, Ventnor and Wimbledon Heights Structure Plan 2010* and to ensure infill development does not have an unacceptable character outcome. Further work should examine whether environmental constraints on the S113 land are capable of being resolved.

In response to Mr Glossop's evidence, the Proponent advised:

- the *Bass Coast Residential Market, Demand and Supply Assessment 2022* estimated Cowes has capacity to deliver 3,535 dwellings across the settlement ¹¹⁷
- strategic planning for Cowes already contemplates a material change in the form of development
- there is no reason why a suite of built form controls facilitating infill development cannot be done following the imposition of a settlement boundary

¹¹⁶ S109 p8

¹¹⁷ D160, para 204

- tourism development on the S113 land could be achieved, even if the land is located outside the PSB.

Council did not support the proposed PSB for Cowes Silverleaves, adopting the evidence of Mr Black. In Mr Black's opinion, removing the S113 land from the PSB would be premature because it would reduce the urban land supply by up to 45 hectares, thus impacting the role of Cowes Silverleaves as a District Town earmarked for moderate growth. Further, the infill capacity of Cowes Silverleaves was yet to be established. Once resolved, this would help determine the township's ability to accommodate growth and the potential need for expansion of the settlement boundary. Consequently, Mr Black recommended against implementation of a PSB until further supply/demand and infill capacity assessments were completed.

S113 noted its land had been within the town boundary for decades, it had no farming value or capacity. The submitter strongly objected to its removal from the PSB. In reply, the Proponent confirmed extension of the town boundary was not supported having regard to the potential environmental impacts on the Ramsar wetlands and flooding risks.

(iv) Discussion

The Committee notes much of the S113 land is constrained by flooding risk associated with coastal processes. There is nothing before the Committee that demonstrates these constraints can be overcome to achieve a practical development parcel. Further, while Mr Garden considered there was no clear ecological constraints warranting retraction of the settlement boundary, he did not specifically consider where development could be appropriately managed to avoid downstream impacts on the Rhyll Inlet and Western Port Ramsar sites. The international significance of these wetlands necessitates a cautious approach.

The Committee shares Mr Black's concern that the draft SPP relies on Cowes fulfilling its role as a district town through infill development alone. While investigations have commenced, the actual infill capacity of Cowes Silverleaves is yet to be established. This includes whether infill opportunities can be realised by relocating tourism uses to a dedicated precinct south of the Cowes-Rhyll Road (refer Chapter 6.1). The Council recommendation to delay the PSB until the strategic work is completed is a sensible course. In the meantime, the Committee is satisfied the existing settlement boundary is working effectively.

If future strategic planning reveals a need for infill to be supplemented by greenfield development, from a landscape perspective, the Committee agrees with Mr Haack that the settlement boundary could be extended south of Cowes Rhyll Road (Figure 17) given the land is largely cleared farming land, with a low-level landscape quality.

(v) Findings

The Committee finds:

- As the main service centre on Phillip Island, Cowes requires a clear and achievable plan for growth. A Protected Settlement Boundary should not apply until further strategic planning work is undertaken.
- The land surrounding Cowes, adjacent to Western Port Bay, exhibits a high-quality landscape with ecological and environmental assets to be protected. The Submitter 113 land should be excluded from a future settlement boundary, due to coastal inundation risk and impacts on the Rhyll Inlet and Western Port Ramsar site.

- The area inland south of Cowes Rhyll Road is predominantly cleared farming land, and from a landscape perspective maybe suitable as a future growth area, subject to a detailed strategic planning review, if required.

(vi) Recommendation

The Committee recommends:

18. Replace the Cowes Protected Settlement Boundary with a settlement boundary.

9.2 Inverloch

(i) Key issues

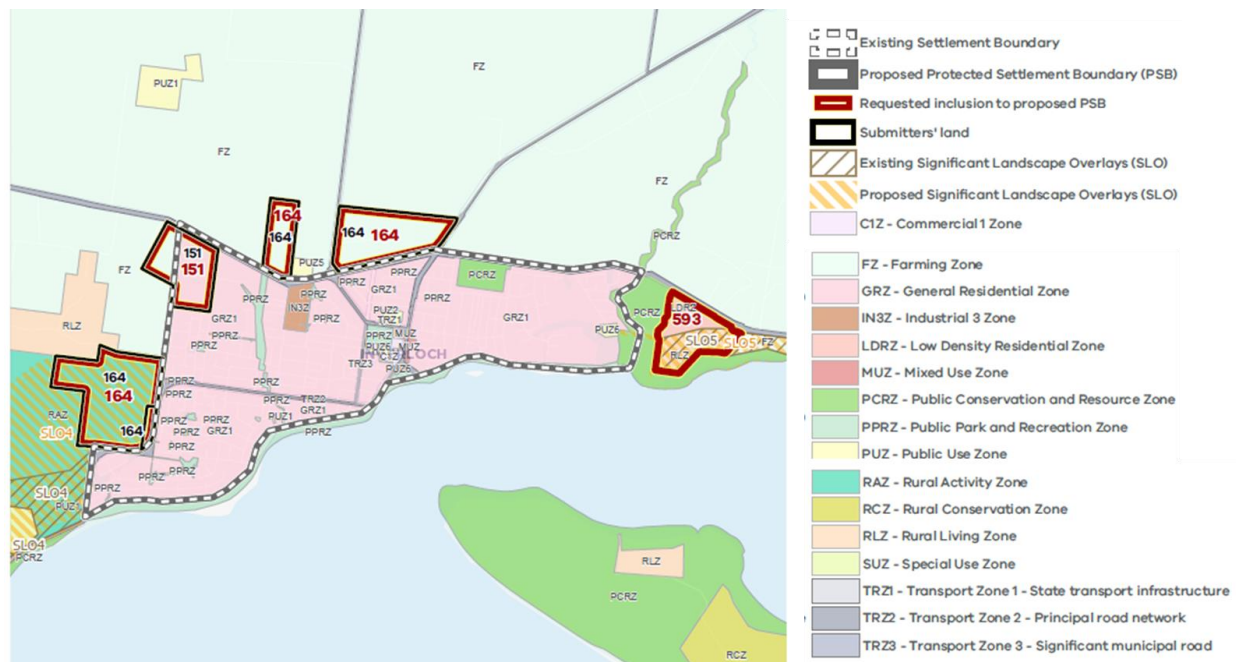
The key issues are whether:

- the settlement boundary should be extended to include the S593 land and S164 land
- a PSB is strategically justified.

(ii) Background

Table 12 Inverloch settlement summary

Matter	Summary
Existing settlement boundary	<i>Inverloch Strategic Framework Plan</i> (Clause 11.01-1L-08) <i>Inverloch Design Framework, 2011</i> , introduced by Amendment C124 (2016)
Alignment of exhibited PSB with settlement boundary	PSB aligns with the existing settlement boundary
SLO	Extend SLO4 northwards to the west of the settlement
Proponent position	Defer introduction of PSB pending completion of structure plan
Council position	Defer introduction of PSB pending completion of structure plan
S151 position	Defer introduction of PSB pending completion of structure plan
S164 position	Do not introduce a PSB, or alternatively include S164 land in PSB
S593 position	Include S593 land in PSB

Figure 18 Inverloch Protected Settlement Boundary

Settlement Background Paper

The Settlement Background Paper assessed the existing settlement boundary and found it:

- limits encroachment into areas of environmental significance to the west and east, particularly Yallock-Bulluk Marine and Coastal Park, Anderson Inlet and tributaries
- prevents expansion to the east and west and protects the State significant landscape
- prevents urban encroachment into an extractive industry interest area and the agricultural land between settlements
- limits urban expansion into areas of environmental risk to the east and west and impacts from coastal hazards affecting land at the southern and eastern boundary of the town.

The Settlement Background Paper concluded:

Overall, the location of the existing settlement boundary is robust, as it protects the declared areas' significant attributes. Maintaining the boundary will ensure that urban development does not encroach on the area's distinctive landscape, cultural heritage and biodiversity values. It will also ensure the settlement in not put a greater environmental risk by minimising coastal erosion, inundation and bushfire risks. It is therefore proposed that a protected settlement boundary be applied to Inverloch to provide long-term certainty about the extent of the settlement and to prevent further linear development along the Bunurong Coast. Inverloch is proposed to be designated as a district town, to reflect its level of commercial and community services and population size ¹¹⁸.

(iii) Evidence and submissions

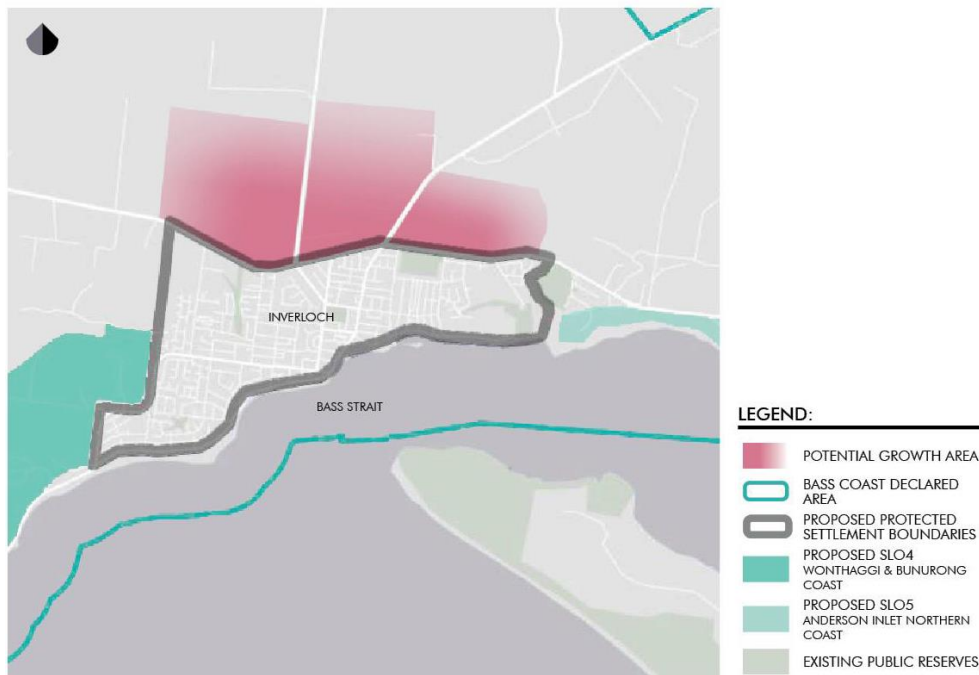
Landscape

Ms Scott's evidence noted the LAR recommended the existing significant coast and coastal hinterland landscapes be extended to reflect their full extent and pattern of viewing. Farmland further north into the hinterland was not assessed as significant. The LAR stated:

If required, additional growth further west of the north-western development front of Inverloch (immediately south of the Bass Highway) is preferable to any encroachment into significant coastal landscapes further south ¹¹⁹.

Recognising that no overlays apply to the north of the settlement, Mr Haack's opinion was that development to the north of the settlement could be accommodated (Figure 19).

Figure 19 Haack evidence potential settlement boundary extension Inverloch ¹²⁰



S369 submitted SLO4 should be placed over properties in the vicinity of the Inverloch foreshore to prevent inappropriate development. The submitter suggested wording of controls within SLO4 should be strengthened, particularly in relation to protection of native vegetation. In response, the Proponent relied on the evidence of Ms Scott who recommended against applying SLOs to urban areas.

Biodiversity and environmental risks

No biodiversity evidence was prepared for Inverloch and the *Bass Coast Opportunities and Constraints Paper* did not assess this area for its environmental values.

DELWP (S106) submitted:

Coastal resilience is becoming increasingly important in strategic planning around the Victorian coast, and the escalation of erosion around Inverloch over the last 10 years pushes this issue to the forefront for Bass Coast. This may be impacted by retention of the existing settlement boundary for Inverloch township. The *Inverloch Region Coastal Hazard Assessment* has identified the areas of the coast between Cape Paterson and Cape Liptrap that are likely to be impacted by coastal hazards now and in the future The retention of the settlement boundary does not allow consideration of land which can be set aside specifically to respond to coastal retreat – such as land to allow relocation of private assets within hazard zones, or land swap/buy back should coastal retreat be pursued.

¹¹⁹ D32, para 154

¹²⁰ Source: D86, p57

We request that the boundary of Inverloch township be reconsidered with specific controls relating to coastal retreat – should the settlement boundary be expanded some land should be preserved specifically to respond to retreat from coastal hazards, and not open to development for general population growth of the town, which would put further pressure on coastal areas. We understand that the SPP will be reviewed at least every 10 years, so an area specifically for coastal retreat may not need to be identified now, but the issue acknowledged for addressing in future strategic planning processes, noting that it should be guided by the findings of the Inverloch Region CHA and the recommendations in the Cape to Cape Coastal Resilience Plan to identify appropriate locations ¹²¹.

Economics and land supply

Mr Shipp's evidence noted Inverloch is likely to experience limited land supply in the short to medium term which would impact housing affordability and diversity, based on an estimated land supply of 8.4 to 11.7 years.

Planning

The Proponent agreed with Mr Glossop's recommendation for future structure planning work to be undertaken before determining the location of a PSB.

Council submitted introduction of a PSB for Inverloch was premature, consistent with Mr Black's evidence. Mr Black considered a further supply/demand assessment should be completed to determine the level of future growth to be accommodated within the settlement in accordance with its role as a district town.

Consistent with the submissions of S493, Mr Glossop and Mr Black supported the inclusion of existing LDRZ land east of Screw Creek within the settlement boundary, for consistency with the approach taken for land at Sunset Strip.

S151 submitted exclusion of its land from the PSB was a missed opportunity to provide for future housing growth in Inverloch in an area unconstrained by any of the attributes which the draft SPP seeks to protect.

S164 considered the draft SPP should not specify a settlement boundary for Inverloch. It submitted the PSB 'locks up' any further growth of Inverloch and limits the opportunity for periodic strategically justified amendment of the settlement boundary for Inverloch to meet the needs of the local community and Victorians. S164 noted if a PSB must be implemented, it should include the S164 land to provide the potential for medium to long term growth.

(iv) Discussion

Delaying a decision on the settlement boundary is appropriate given Inverloch's role in the settlement hierarchy as a district town.

Based on the material before it, the Committee is not able to determine the relative merits of extending the settlement boundary to include the S151 or S164 land. The different views of Ms Scott and Mr Haack should be further explored through a future structure planning process.

Similarly, the Committee has insufficient material before it to determine whether the boundary should be 'protected'. Again, this should be examined through the structure planning process.

¹²¹ Coastal Hazard Assessment

As identified by DELWP, the Committee supports the general premise that development should not extend along the coastline due to potential for inundation and negative impacts on the sensitive coastal environment.

The Committee agrees with Mr Glossop, Mr Black and S493 that a future settlement boundary should include all land in a residential zone, possibly including LDRZ land west of Screw Creek.

(v) Findings

The Committee finds:

- A Protected Settlement Boundary for Inverloch should not be applied at this time.
- The decision to apply a Protected Settlement Boundary for Inverloch should be informed by future strategic planning work.

(vi) Recommendation

The Committee recommends:

19. Replace the Inverloch Protected Settlement Boundary with a settlement boundary.

9.3 San Remo

(i) Key issues

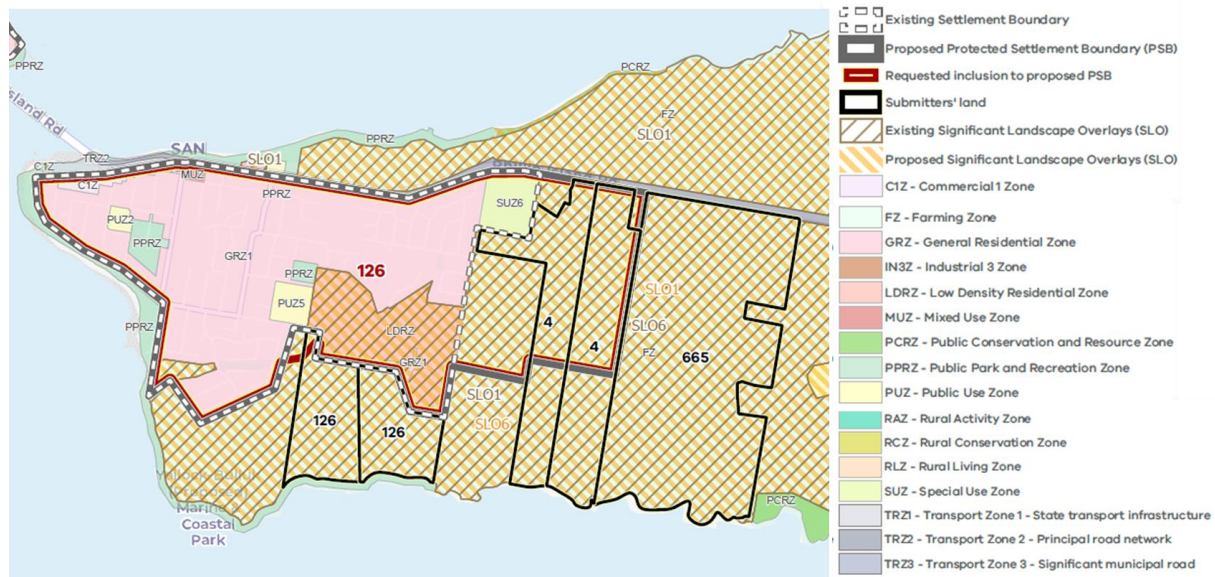
The key issues are whether:

- the settlement boundary should be extended to include the S4, S126, S665 land
- a PSB is strategically justified.

(ii) Background

Table 13 San Remo settlement summary

Matter	Summary
Existing settlement boundary	<i>San Remo Strategic Framework Plan</i> (Clause 11.01-1L-05) <i>San Remo, Newhaven and Cape Woolamai Structure Plan, 2010</i> implemented by Amendment C90 (2010)
Alignment of PSB with settlement boundary	Extends settlement boundary approximately 800 metres to the east along the eastern boundary of 435 Phillip Island Road
SLO	Replace part of SLO1 with SLO6
Proponent position	Further assessment to inform PSB in proximity to Punch Bowl Road
Council position	Defer introduction of PSB
S4 position	Include whole of S4 land in settlement boundary
S126 position	Include part of S126 land in settlement boundary
S665 position	Include northern part of S665 land in settlement boundary

Figure 20 San Remo Protected Settlement Boundary

Settlement Background Paper

The Settlement Background Paper assessed the existing settlement boundary and found it:

- protects nationally and internationally significant environmental values along the coastline from Western Port around the foreshore to Bass Strait
- protects landscapes of State and regional significance
- development west of 425 Phillip Island Road would be detrimental to the State significant landscape values
- ensures long-term protection of agricultural land
- protects strategic infrastructure including Phillip Island Road and the George Bass Coastal Walk.

The Settlement Background Paper concluded:

It is proposed that a PSB be applied consistent with the existing settlement boundary but including the western part of the San Remo Growth Area up to the eastern extent of 425 Phillip Island Road. The PSB will protect the state-significant landscapes and provide long-term certainty for the community ¹²².

(iii) Evidence and submissions

Landscape

The Proponent submitted:

The site's current and future visual exposure to Phillip Island Road and Punch Bowl Road and the future George Bass walk extension, combined with its topographic variation, dramatic cliffs, and the scenic views across the [S665] land to water all combined to provide a very sound reason to exclude a large part (if not all) of the land from the PSB in order to protect the Bass Coast's distinctive landscapes.

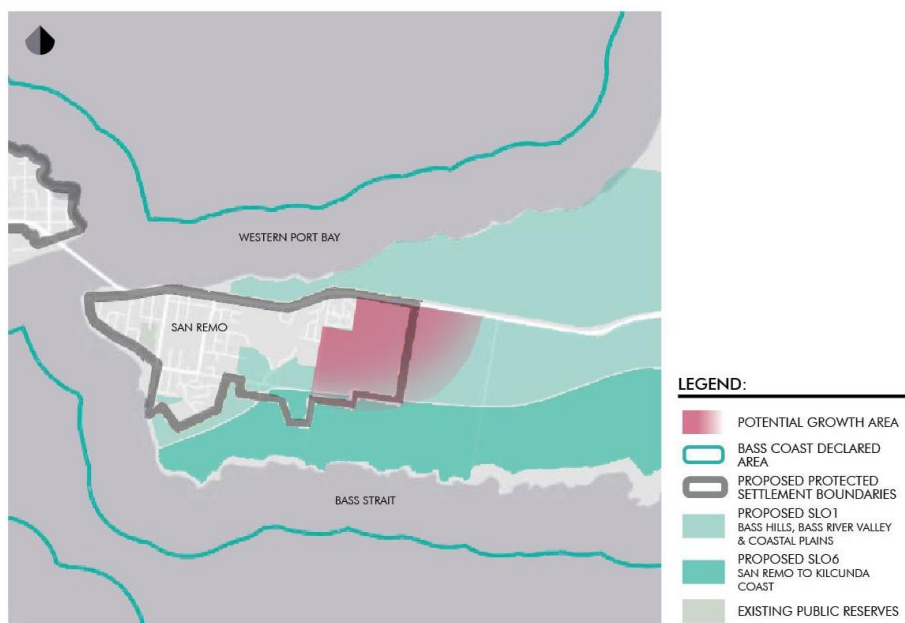
Further, all of the experts support exclusion of the southern part of the land from urban development and the weight of the visual evidence supports exclusion of at least part of the land to the north of the ridgeline from urban development ¹²³.

The Proponent adopted the evidence of Ms Scott who confirmed the draft SPP was consistent with the findings of the LAR. The LAR included policy advice that if San Remo was expanded further eastwards, it should not extend beyond 435 Phillip Island Road (approximately) and no further south than the northern apex of the ridgeline. Further, the LAR stated:

If the eastern development front of San Remo were to extend the full distance to Punch Bowl Road, it would affect the experience of accessing the George Bass Coastal Walk (which currently has a sense of wild, remoteness) and the significance of the landscape at the commencement of the walk, as well as the journey along Phillip Island Road ¹²⁴.

Mr Haack described the scenic quality of land surrounding San Remo as moderate where water is not prominent in views due to the influences of generally rising and undulating topography. Where water is prominent, the scenic quality is high. Mr Haack considered the settlement boundary could extend east of the proposed PSB into a 'bowl' within the landscape as shown in Figure 21.

Figure 21 Haack evidence potential settlement boundary extension San Remo ¹²⁵



As summarised in Chapter 3.6, Mr Wyatt's considered the proposed SLOs were not based on the inherent qualities of the land, but rather on a simplified analysis based on limited data. He considered both the S4 and S665 could be broken into 'landscape units' shown in Figure 22, and suggested:

Rather than simply prohibiting development, which seems to be the outcome envisaged by the DAL, it would have been appropriate if the analysis had been of sufficient granularity, to recommend design guidelines for the various landscape units.

For example, development may have been considered appropriate within the 'Visible Farmland Landscape Unit' if it was screened from view from Phillip Island Road. Less

¹²³ D329, paras 368-369

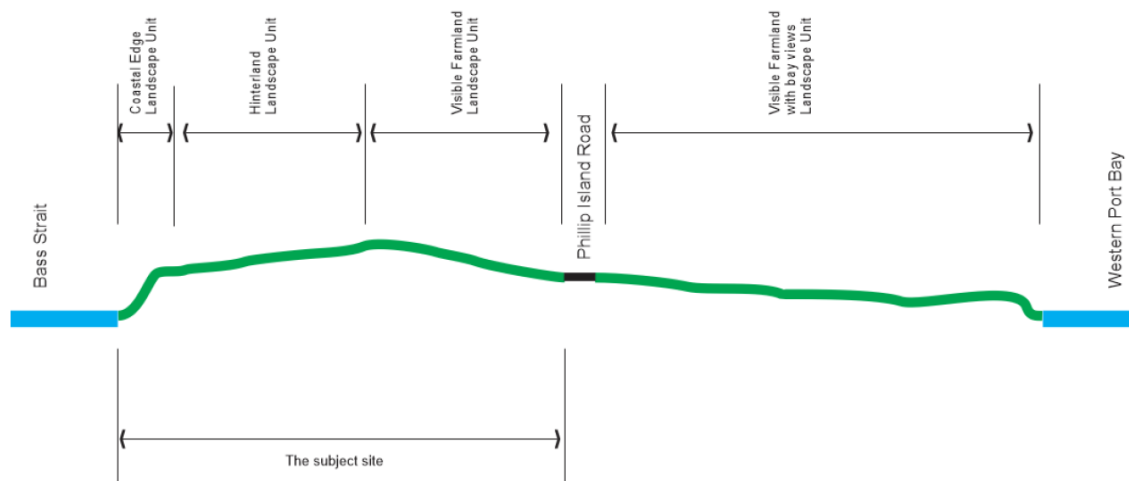
¹²⁴ D3c, p172

¹²⁵ D86, p40

controls or fewer guidelines may have applied to the land which is not visible and lies within the 'Hinterland Landscape Unit', although the abuttal to the highly sensitive 'Coastal Edge Landscape Unit' may require special guidelines.

My opinion aligns with the SAC report on the Surf Coast DAL which stated that "*Further work is required to undertake more detailed assessments of specific sites where the assessments of broad landscape significance did not specifically review, or align with, local conditions*"¹²⁶.

Figure 22 Wyatt Landscape Units S665 land¹²⁷



Ms Scott's evidence in reply noted Mr Wyatt was the only expert that considered development within the state significant landscape (SLO6) would be appropriate. She considered Mr Wyatt's suggested screen planting was impractical in areas where future residents would seek to maximise their coastal views.

S248 proposed all SLOs should be removed from the Anderson Peninsula, or alternatively the SLO1 should remain as is. In reply, the Proponent submitted the LPCs strike an appropriate balance between development and protection of the distinctive landscape attributes.

S608 opposed application of SLO1 to land at 72 Shetland Heights Road on the basis it is separate from the Bass Hills and is not a prominent landscape feature visible from the Bass Highway.

Biodiversity and environmental risks

Mr Garden gave evidence there is potential for FFG Act listed species (Short-tailed Shearwater and Swamp Skink) to occur on the S4 and S665 land and said:

Of significance within the site context is a large patch of mature, native Swamp Scrub in a low-lying area in the north. This is complemented by several smaller patches of Swamp Scrub regrowth along the northern boundary adjoining the road reserve.

Native vegetation along the coastal fringe was largely restricted to the steep slopes of the escarpment, complimented with several small patches of native plantings (west and east end of the escarpment).

He noted both sites:

... may be suitable for urban development without adversely impacting local or regional biodiversity values, provided it is done so with appropriate consideration given to the

¹²⁶ D87, p8 and D89, p9

¹²⁷ D87, figure 6

protection and enhancement of existing values (the costal escarpment and large patch of mature swamp scrub at the northern end) ¹²⁸.

Mr Organ stated:

Although not included in the Draft SPP, the expansion of the settlement boundary to the east (i.e. properties 4 and 665) and south (i.e. property 126) is highly unlikely to negatively impact ecological values in these areas ¹²⁹.

Economics and land supply

The Proponent submitted supply was not an issue in San Remo, given there is sufficient land supply based on the evidence of Mr Shipp. The Proponent noted this was strategically significant because land and supply in San Remo is substitutable for supply on Phillip Island itself.

Mr Shipp estimated the proposed PSB provides between 26 and 36 years of zoned and unzoned land supply, based on a demand rate for 31 to 43 dwellings per year. Mr Shipp agreed with Mr Henshall that further land should be considered for inclusion in the PSB given the long timeframes and uncertainty associated with the draft SPP review process and the lack of alternative land supply on Phillip Island.

Planning

Mr Glossop observed the easterly expansion of San Remo was contemplated in the Planning Scheme as being acceptable, subject to demand. Specifically, the Planning Scheme identified the 'ultimate' settlement boundary would be Punch Bowl Road, which provides a definitive statement on the acceptable limit of urban growth.

Mr Glossop considered there was merit in extending the proposed PSB to Punch Bowl Road because the land is relatively unconstrained in environmental terms due to its distance from the coast and coastal risks, and absence of vegetation or habitat. He emphasised other settlements in the Phillip Island sub-market and broader declared area have hard limits to their expansion because of geography, environmental constraints or landscape significance. In this context, Mr Glossop observed *"San Remo will play an important role in meeting expected demand and the easterly expansion of the township seems to provide an opportunity to do this without significantly impacting the environment or landscape"* ¹³⁰.

While acknowledging he was not qualified to assess the landscape significance of the site, Mr Glossop observed the SLO1 could provide a framework for ensuring development provided an appropriate transition to the landscape. In this regard, Mr Glossop said a decision to include land within the settlement boundary was not the same as rezoning the land and *"a future planning scheme amendment will be required to consider the most appropriate planning controls to guide the future development of the land if it is included within the boundary"* ¹³¹.

Council submitted the introduction of a PSB for San Remo would be premature. Council adopted the evidence of Mr Black who did not support the location of the proposed PSB. Mr Black referred to the commentary in the *San Remo, Newhaven and Cape Woolamai Structure Plan, 2010*:

Land further east, between Potters Hill Road and Punchbowl Road, may in the very long term (beyond the timeframe of this Structure Plan) be suitable for urban development,

¹²⁸ D37, p7

¹²⁹ D82, p22

¹³⁰ D35, para 343

¹³¹ D356, para 346

subject to demand. If such development were to proceed, then it is pertinent to observe that urban expansion to the east of Punchbowl Road would not be suitable by virtue of the important view shed the elevated land beyond Punchbowl Road provides when approaching the town from the Bass Highway. Accordingly, it is considered that this landscape view shed would be compromised unreasonably by any extension of residential development to the elevated land beyond Punchbowl Road.

It is considered appropriate from a very long term planning perspective that parcels of land between Potters Hill Road and Punchbowl Road be set aside to accommodate a future neighbourhood convenience commercial centre and a potential school to cater for future residents and students within the local and broader area. Such facilities would provide necessary community convenience services within easy access of this growth area, particularly given substantial distance to the existing San Remo commercial area ¹³².

Mr Black considered the S665 land should be included in the PSB given the clear intent for Punch Bowl Road to be the ultimate township boundary. While acknowledging San Remo has good land supply, this must be considered holistically given the constraints to growth faced by other settlements, particularly on Phillip Island.

Ms Peterson was satisfied there was a clear strategic justification for including the S665 land within the PSB, noting it had been long identified for urban growth. She considered the methodology for determining the PSB was flawed because it did not adopt the existing strategic position of the Planning Scheme, nor did it consider land supply requirements for the life of the SPP. In cross examination, Ms Peterson conceded there was significantly more land available in San Remo that she had understood at the time of preparing her evidence.

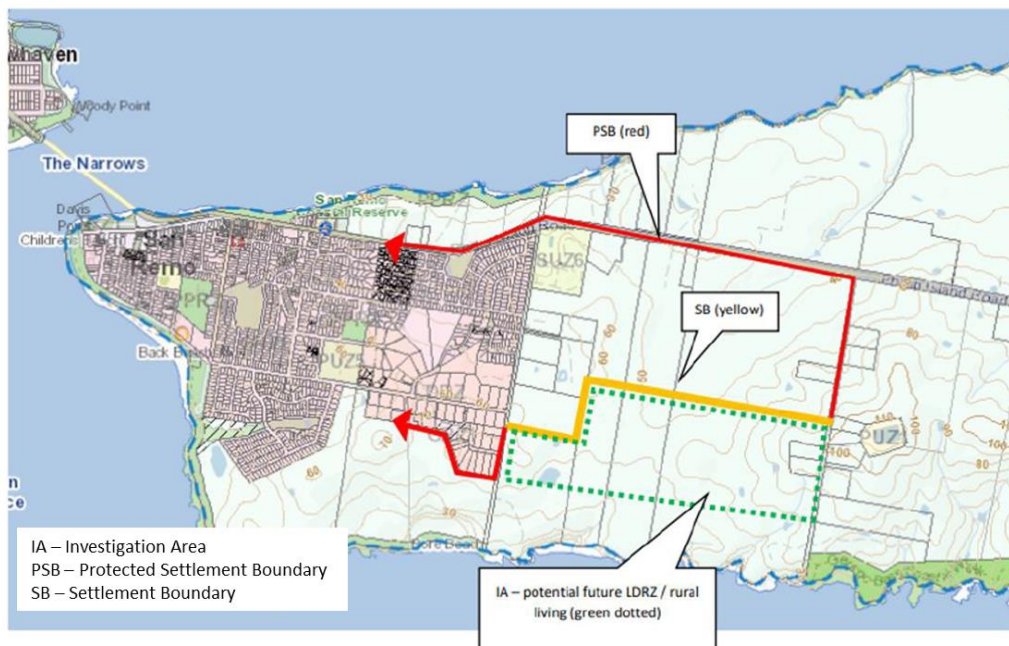
Springway San Remo submitted there was no material supporting the location of the PSB on agricultural grounds. In response, the Proponent said the Rural Land Use Strategy concluded most of the rural land in the Shire could be considered highly productive agricultural land, based on the assessment of agricultural quality, climate, and subdivision pattern (see Chapter 5.2).

Springway San Remo concluded the PSB should either be abandoned or set at Punch Bowl Road as part of the current process. This was rejected by the Proponent because it would not represent orderly planning and *“would not best meet the objectives of Part 3AAB of the PE Act”* ¹³³.

Mr Crowder supported the inclusion of the S4 land in the proposed PSB. He proposed a composite arrangement where part of the settlement boundary as designated as a PSB and other areas were maintained as conventional settlement boundaries (Figure 23). In the absence of a composite arrangement, Mr Crowder preferred a conventional settlement boundary.

¹³² D22, p21

¹³³ D329, para 365

Figure 23 Crowder preferred San Remo settlement boundary¹³⁴

In cross examination, Mr Crowder confirmed:

- tourism could be accommodated south of the ridgeline under the existing Farming Zone
- development in the LDRZ is inefficient in terms of residential land consumption and delivery of services
- development in the LDRZ should be directed to areas with no landscape significance, however he had not assessed the relative merits of the S4 land against other potential sites.

In response, the Proponent submitted there was nothing in the text of section 46AV(2)(b) of the PE Act suggesting Mr Crowder's 'composite boundary' was a permissible exercise of power. Further, the Proponent did not support designating land south of the ridgeline for LDRZ or tourism. It submitted *"in circumstances where there is, or likely to be, scope for LDRZ development delivered elsewhere in the Bass Coast which is not of State or regional landscape significant, it would be premature to identify the land south of the ridgeline as in some way particularly suitable for LDRZ development"*¹³⁵.

Submitter 126 requested land at the northern end of the S126 land (Figure 24) be included in the PSB in recognition of the urban services delivered through the land and to cooperatively resolve any other requirements such as public access (currently provided through 16 and 18 Penniwells Drive).

S248 submitted land at 53 Phillip Island Road, San Remo is well located for future tourism and recreation uses.

¹³⁴ D222

¹³⁵ D329, para 466

(iv) Discussion

The Committee agrees with Ms Scott, Mr Haack and Mr Moir the S4 and S665 land to the south of the ridgeline is distinct, special and worthy of protection from urban growth. A PSB for San Remo is justified to protect and conserve this landscape.

The Committee disagrees with Mr Wyatt that sensitive urban development with planting and screening would be appropriate south of the ridgeline. Consistent with Mr Haack's observation, where views are available from elevated residential areas, it is unlikely that residents will plant sufficient screening vegetation to hide development.

The Committee's view on development on the north facing slopes of the S4 and S665 land is more nuanced. It accepts the visible farmland land on the northern slopes is less significant than coastal land to the south. From a visual landscape perspective, the Committee supports Mr Haack's proposal to extend urban development into the 'bowl' of the landscape. However, the Committee considers that views across the site, specifically from Potters Hill Road, to the upper most ridgeline should be preserved, and as such rooflines should sit below the horizon. This would need to be resolved through a future structure planning process and planning scheme amendment with bespoke planning controls to ensure appropriate design outcomes within this this sensitive landscape are achieved (for example, a Design and Development Overlay).

Urban development needs to be better integrated into the landscape in San Remo. Some recent examples of coastal urban development have set an unfortunate precedent. In some highly visible coastal areas, there are examples of homes that are not well integrated into their context, with very large footprints, roof lines that rise above the horizon, that are surrounded by very little vegetation. Mitigation measures and bespoke controls must be implemented to ensure a better built form outcome in future development. Given the low prospect of private planting succeeding, one mitigation measure could be to ensure there is adequate vegetative screening in public land, rather than relying on residents to deliver substantial planting on private land.

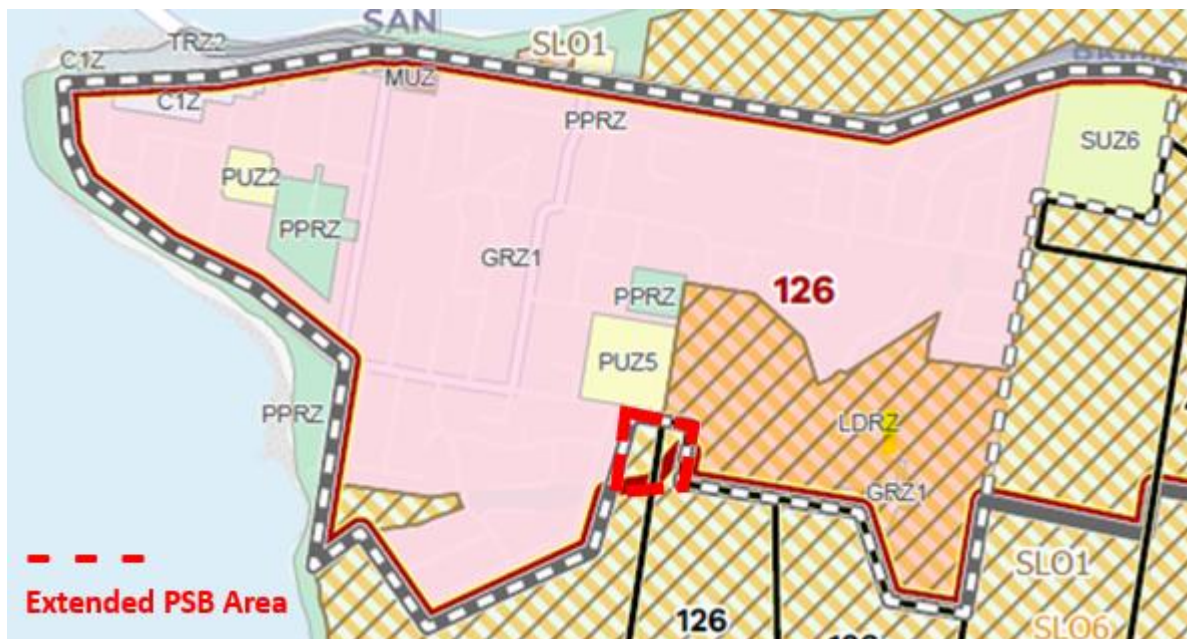
Punch Bowl Road is an unmade road adjoined by cleared agricultural land. The Committee disagrees with Ms Scott that it is experienced as a landscape of 'wild remoteness', although accepts magnificent out views to Bass Strait are available south of the ridgeline. The Committee considers vehicular access along Punch Bowl Road is a minor component of the overall George Bass Coastal Walk experience. Well placed and well-designed development west of Punch Bowl Road and north of the ridgeline will not unduly impact the experience of accessing the George Bass Coastal Walk. The Committee suggests that any future structure plan for the area should provide for a significant landscape buffer along Punch Bowl Road.

The Committee understands from Mr Garden's evidence there may be some ecological values within the S4 and S665 land. It notes the ecological significance of the coastal escarpment and the need to protect it from urban development and encroachment. The Committee has not been provided with any detailed ecological evidence regarding the potential direct or indirect ecological impacts from potential development on the coastal environment due to increased urban development. As part of development to the east, detailed environmental assessments are required as part of a future planning process.

In light of its position on landscape and environmental values, the Committee agrees with Mr Glossop, Mr Black and Ms Peterson that the PSB should extend to Punch Bowl Road, consistent with the ultimate boundary recognised at Clause 11.01-1L-05 of the Planning Scheme. To the south, the PSB should align with the boundary between SLO1 and SLO6 and should not extend

beyond the ridgeline. It should take in the northern part of the S126 land (Figure 24) as it is a logical infill site that will regularise the settlement pattern.

Figure 24 Northern part of S126 to be included in the PSB



In itself, land supply is not an issue for San Remo given it has in the order of 26 to 36 years of zoned and unzoned supply. In the context of the DAL, San Remo is strategically significant because it does the heavy lifting for the Phillip Island and lifestyle market. As supply is exhausted in other places, take up in San Remo is likely to accelerate. Extending the PSB to Punch Bowl Road is justified in this context.

As discussed in Chapter 5.1, tourism development in rural areas on the periphery of settlements comes with a range of environmental and landscape impacts. More work is needed so that tourism development can be directed to areas best able to absorb it, both inside and outside settlements. Without this strategic assessment, the Committee cannot conclude the land south of the ridgeline within SLO6 is a preferred location for any substantial tourism development.

(v) Findings

The Committee finds:

- The Protected Settlement Boundary should be extended east to Punch Bowl Road and south to align with the Significant Landscape Overlay 1/Significant Landscape Overlay 6 interface.
- To avoid incremental development, a detailed Precinct Structure Plan should be undertaken to more appropriately refine the extent of the proposed development area that includes all land to Punch Bowl Road. This should consider bespoke planning controls to manage the interface between residential development with Punch Bowl Road, Phillip Island Road and the Significant Landscape Overlay 6 landscape and within development itself.
- Further work is required to confirm if land south of the ridgeline behind San Remo is a suitable location for tourism development.

(vi) Recommendation

The Committee recommends:

- 20. Extend the San Remo Protected Settlement Boundary to include the following land:**
- a) land between Phillip Island Road (north) Punch Bowl Road (east) and Significant Landscape Overlay 6 (south)**
 - b) northern end of Submitter 126 land (Figure 24).**

9.4 Newhaven**(i) Key issues**

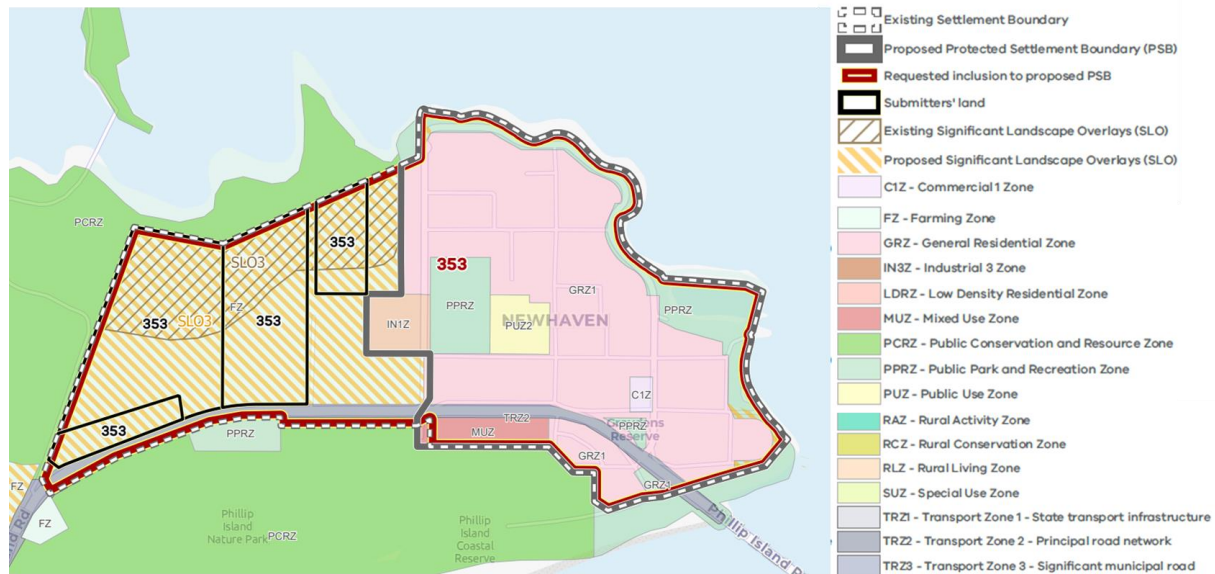
The key issues are whether:

- the settlement boundary should be extended to include the S353 land
- a PSB is strategically justified.

(ii) Background

Table 14 **Newhaven settlement summary**

Matter	Summary
Existing settlement boundary	<i>Newhaven Strategic Framework Plan</i> (Clause 11.01-1L-06) <i>San Remo, Newhaven and Cape Woolamai Structure Plan, 2010</i> introduced by Amendment C90 (2010)
Alignment of exhibited PSB with settlement boundary	Retract settlement boundary from Samuel Amess Drive to the western edge of the GRZ1 zone
SLO	Extend SLO3 south to Phillip Island Road
Proponent position	Extend PSB to Beverley Road
Council position	Defer introduction of PSB pending completion of structure plan
S353 position	Not apply a settlement boundary to Newhaven, or alternatively, apply settlement boundary to the S353 land excluding land identified as containing indigenous vegetation

Figure 25 Newhaven Protected Settlement Boundary

Settlement Background Paper

The Settlement Background Paper assessed the existing settlement boundary and found it:

- should exclude Farming Zone land west of the township because future development would:
 - threaten high-value coastal saltmarsh wetlands, other important environmental values and landscape values
 - be subject to environmental risks associated with sea level rise, acid sulphate soil and bushfire
- protects surrounding agricultural land for urban encroachment and associated land use conflicts.

The Settlement Background Paper concluded:

A protected settlement boundary should be applied to Newhaven to provide the community with long-term certainty and to protect the environmental and landscape values to the west of the existing settlement. Newhaven is proposed to remain a district town together with San Remo in the settlement hierarchy, to reflect its role and function ¹³⁶.

(iii) Evidence and submissions

Landscape

The Proponent submitted there were sound landscape reasons to exclude the S353 land west of Beverley Road from the PSB.

Ms Scott's evidence confirmed that removing the Newhaven land from the settlement boundary was consistent with the LAR. The LAR concluded expansion beyond the existing extent of built development would impact the regional significance of its landscape setting. Ms Scott indicated the entrance through and past Newhaven was particularly significant as one entered and travelled through to Phillip Island.

¹³⁶ D3k, p132

The Proponent explained Newhaven is the gateway to Phillip Island. Land west of the existing settlement provides the first in a series of agricultural breaks between settlements that are characteristic of the journey along Phillip Island Road to Cowes. The quality of this break would be disrupted by allowing development to the west.

The Proponent referred to a concept plan developed for the land by Human Habitats¹³⁷ and submitted this *“shows precisely why a SLO would be appropriate along the Phillip Island Road interface, and the extent of impact that urban development could have on the significance of the landscape at this important entry location to Phillip Island”*¹³⁸. It noted further development of the scale shown in the concept plan would disrupt the green break with Cape Woolamai, of which the Phillip Island Chocolate Factory building and car park are the only current intrusions.

Mr Haack described the land between Boys Home Road and Samuel Amess Drive as highly modified agricultural landscape comprised of pasture and strong bands of primarily exotic vegetation. In addition to his recommendation to align the boundary of SLO3 with the natural landscape of Swan Bay (refer Chapter 3.8), Mr Haack considered the character of the Chocolate Factory and visitor information centre related more closely with the character of the settlement and its service industries rather than the natural landscape. For these reasons, Mr Haack opined the settlement boundary could extend west of the proposed boundary (Figure 25Figure 26).

Figure 26 Haack evidence potential settlement boundary extension Newhaven¹³⁹



Moed/White relied on the evidence of Mt Atkinson. In his view, the most important view to the S353 land is from Churchill Island, although he determined the *“visual impact from urban development would be minimal as the subject site is veiled and obscured by the existing vegetation along the escarpment”*¹⁴⁰. He proposed the creation of a landscape buffer to the north of the land and extensive landscaping throughout the proposed urban development. On the Phillip Island Road frontage near the subject site, he proposed *“providing a setback for boulevard tree planting and improving the sense of arrival for Newhaven/San Remo”*¹⁴¹.

Moed/White submitted green breaks and protection of productive rural land were not issues for a SPP under Part 3AAB of the PE Act. If this was not agreed, it submitted the green break is already

¹³⁷ D329, figure 11

¹³⁸ D329, para 334

¹³⁹ Adapted from D86, figure 40

¹⁴⁰ D093, p17

¹⁴¹ D093, p17

occupied by a range of commercial uses, is 300 metres in length, does not offer views to Churchill Island from Phillip Island Road and offers views to an unremarkable rural landscape. Having regard to these matters, Moed/White contended shifting the existing settlement boundary was justified.

The Proponent considered Mr Atkinson underplayed the real impact development would have on outviews from Churchill Island. The Proponent submitted Mr Atkinson's opinion on screening vegetation, particularly in the higher parts of the S353 land, should be rejected. Reasons included firstly, the vegetation could not be sustained under the Bushfire Management Overlay applying to the site and secondly, future residents would seek to capitalise on views from the land over Western Port Bay.

In response to Mr Atkinson's recommendation for further landscape assessment of the S353 land, the Proponent submitted:

Clearly S353 had every opportunity to engage an independent expert to review the planning that had been undertaken for the site and give evidence as to whether or not that form of development, or some alternative development could be undertaken without detrimentally impacting on the significant landscape features of the site and without detracting from Phillip Island's role as a nationally significant nature-based tourism destination. That exercise could have been undertaken, but wasn't ¹⁴².

Ms Scott agreed with Mr Atkinson the S353 land as viewed from Phillip Island Road presents as an altered landscape.

In its closing, the Proponent concluded there was ample evidence for the Committee to conclude the S353 land is of landscape significance and that it should not be included in the PSB.

Biodiversity and environmental risks

The Proponent submitted the PSB should be retracted based on ecological and environmental risk issues including bushfire risk, noting the land is constrained by the LSIO and a Bushfire Management Overlay.

Mr Garden confirmed the S353 land west of Beverley Road had limited biodiversity value and stated:

... high-quality vegetation and habitats along the northern and western edge of the site are intrinsically linked to the coastal environs of Westernport Bay and Fishers Wetland, and therefore any proposed development must be sensitive to the importance of this vegetation within the site. Provision of land to improve habitat connectivity along Samuel Amess Drive would assist in the movement of fauna between Fishers Wetland and Newhaven Swamp ¹⁴³.

Mr Garden generally supported development of land with less ecological value. He recommended a detailed ecological assessment be undertaken should development be considered, and controls be introduced to mitigate informal access to native vegetation and control domestic animal impacts on native fauna.

The ecology conclave agreed the land had development potential, noting:

The subject site may be suitable for urban development without adversely impacting ecological values, however, consideration needs to be given to the protection and enhancement of existing values and potential for incremental impacts as a result of

¹⁴² D329, para 339

¹⁴³ D3i p12

increased visitations by residents of new urban areas. These existing values have been identified in parts of the subject land ¹⁴⁴.

Mr Organ noted there was nationally important coastal vegetation in the northern portion of the land which extended into the Western Port Ramsar site. Mr Organ observed the proposed PSB would assist in limiting development impacts on ecological values. He said should the existing settlement boundary remain in place, buffers would assist to minimise indirect impacts on the environment.

Moed/White agreed the ecological values of the land, particularly those covered by ESO1, would require assessment and protection. Moed/White submitted environmental benefits would flow from developing the S353 land for an appropriately designed residential and tourism development. This included revegetation of the coastal escarpment, transfer of the escarpment to the Crown, construction of a coastal walkway and protection of native vegetation.

Phillip Island Conservation Society (D258) supported the proposed application of the PSB due its potential impacts of development on Ramsar values:

Urban development at block 353 could impact upon saltmarsh and the adjoining Western Port Ramsar habitat, which provides important foraging habitat for waterbirds ¹⁴⁵.

Economics and land supply

Mr Shipp's evidence aggregated Newhaven's land supply with other Phillip Island settlements (excluding Cowes). He estimated the combined settlements have seven years of zoned and unzoned land supply. This accounted for the 27 hectares of land excluded from the Newhaven settlement through the draft SPP. While noting land in San Remo would assist in meeting demand for new housing in and near Phillip Island, Mr Shipp indicated the whole Phillip Island market would be likely to experience land supply constraints in the short-medium term. In this context, he opined opportunities for additional land supply serving Phillip Island and the nearby coastal market should be considered.

Planning

The Proponent submitted the Planning Scheme's identification of the S353 land as future *"residential land subject to a detailed structure plan and coastal vulnerability hazard assessment"* as a weighty consideration. However, considering Part 3AAB, it submitted the C353 land should be excluded from the PSB.

The Proponent submitted the S353 land could be developed for appropriately sited and designed tourism uses while remaining outside the settlement boundary, consistent with the Rural Tourism Strategy which encourages tourism development along major tourist routes.

The Proponent did not support Mr Glossop's recommendation to identify the S353 land as an investigation area for future residential development outside the PSB.

Council submitted introduction of a PSB for Newhaven was premature. Council adopted Mr Black's evidence that recommended further supply/demand and environmental assessments be completed to determine the level of growth to be accommodated in the settlement, in accordance with its role as a district town. Council submitted a future PSB should not bisect 40 - 42 and 36 - 38 Boys Home Road (existing lots in Farming Zone and GRZ1 bisected by the exhibited PSB).

¹⁴⁴ D117 p5

¹⁴⁵ D258 p11

Moed/White noted the *San Remo, Newhaven, Cape Woolamai Structure Plan 2010* and Amendment C90 found the western extension of Newhaven had merit for future development, with the type of any development being informed by a structure plan. The settlement boundary was revisited by the *Review of the San Remo, Newhaven and Cape Woolamai Structure Plan 2015* and was found to remain appropriate. Moed/White submitted a compelling reason to back zone the whole of the future growth area of Newhaven would be required. No such compelling reason had been identified.

In closing, the Proponent rejected characterisation of the PSB as ‘back zoning’ given the S353 land is currently zoned Farming Zone.

(iv) Discussion

The Committee considers some of S353 land can be developed for residential and other purposes. It recognises the significance and importance of the view from Churchill Island to Newhaven and is supportive of maintaining and protecting the sense of remoteness and isolation that is part of the Churchill Island experience. From a landscape perspective, urban development on the S353 land is not impossible, but must be both limited and sensitive. To protect views from Churchill Island, development is not appropriate on the northern face of the ridge running across the subject site. The Committee agrees with the Proponent that such development could not be effectively screened development across the entire northern slope.

Urban development along the Phillip Island Road frontage is more palatable. The character along Phillip Island Road is different to the northern part of the site, due to the presence of commercial properties such as the Chocolate Factory and the nursery. Any green break between Boys Home Road and Samuel Amess Drive that may have existed, is no longer intact. The Committee supports sensitive urban development in this location, provided there is a strong landscape focus and appropriate setbacks.

The Committee accepts the evidence of Mr Garden, Mr Organ and the ecology conclave that from an environmental perspective, the land has potential for development, albeit constrained. The evidence is clear that the northern portion of the land has the highest ecological values due to its coastal vegetation, habitat value and connection to Western Port Ramsar site. The ESO1 control along the northern portion of the land further confirms this. The Committee agrees the site has the potential to facilitate sensitivity designed development of the southern portion of the land which has lower ecological values.

The Committee had regard to the recommendations of the Amendment C90 Panel and notes a detailed assessment of ecology and coastal hazard vulnerability was not undertaken for the land to date. The Committee agrees these assessments should be completed to assist in determining the appropriate layout of development within the PSB to avoid impacts on the Western Port Ramsar, coastal inundation and ecological values.

There is limited land supply in Newhaven. While land recommended by the Committee for inclusion in the PSB will only make a small contribution to supply across the Phillip Island market, it is nonetheless a valuable contribution.

While the Committee accepts the S353 land could developed for tourism uses while remaining outside the PSB, it considers this would be an underutilisation of the land south of the ridgeline which is appropriate for more intensive development. A tourism proposal under the Farming Zone

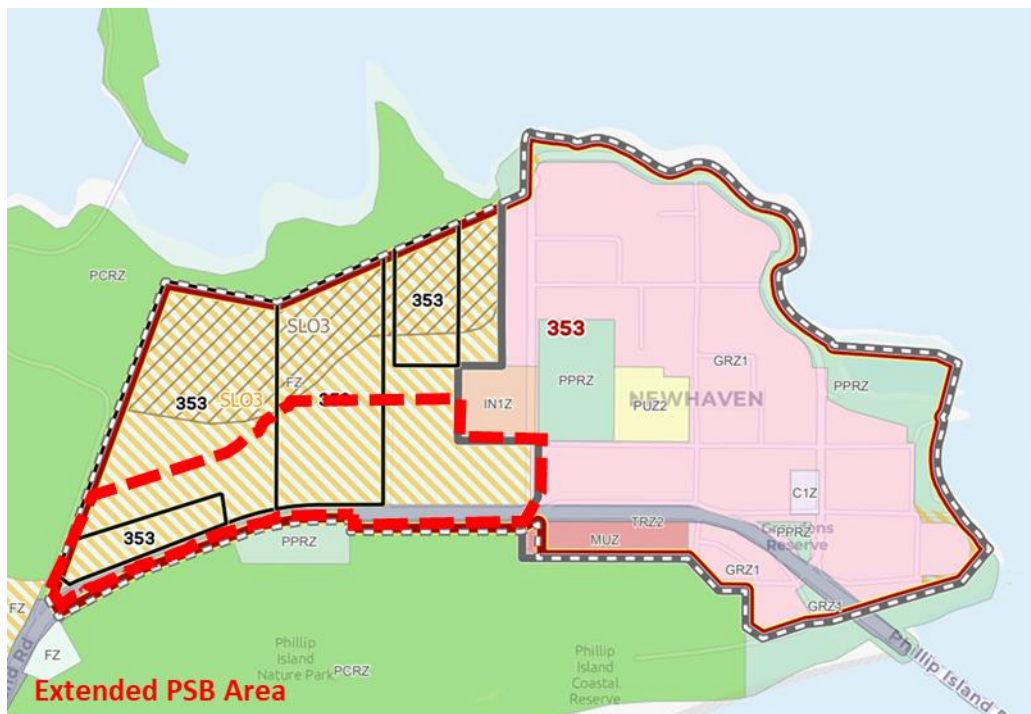
can reasonably be expected to be of a lesser intensity and scale than one in a residential zone, particularly given the purposes of the Farming Zone and existing policies.

The Committee gives weight to the *Newhaven Strategic Framework Plan* (Clause 11.01-1L-06), which was subject to independent review by a Panel. Based on the material put to it, the Committee is not persuaded the draft SPP should depart from this established framework plan, other than for land north of the ridgeline.

The Committee agrees a PSB is strategically justified to protect the landscape and environmental values north of the ridge and east of Samuel Amess Drive. It is also justified to protect the tourism function of Phillip Island.

The Committee considers the land south of the ridgeline (generally aligned with the previous SLO3 boundary) should be included in the PSB for Newhaven (Figure 27).

Figure 27 Newhaven extended Protected Settlement Boundary area



(v) Findings

The Committee finds

- Land west of Beverley Road, south of the ridgeline, does not have a strong landscape character and is not an intact green break. It is appropriate for sensitively designed residential and tourism development.
- Land west of Beverly Road, north of the ridgeline, is visually connected to Churchill Island and should not be developed to protect outviews from Churchill Island.
- Detailed assessment of ecology and coastal hazard vulnerability should be completed to determine the appropriate layout of development within the Protected Settlement Boundary to avoid impacts on the Western Port Ramsar, coastal inundation and ecological values.
- A Protected Settlement Boundary is strategically justified to protect the environmental and visual landscape values north of the ridge and west of Samuel Amess Drive.

(vi) Recommendation

The Committee recommends:

- 21. Extend the Newhaven Protected Settlement Boundary west to Samuel Amess Drive and north to the ridgeline, generally in accordance with Figure 27.**

10 Towns

The draft SPP defines a Town as:

A settlement with population levels of 1,000–2,000, the number varying with general service provision and the diversity of the housing stock. Various services are available including a post office, supermarket, schools, a police station and some basic medical facilities. There is some reliance on larger, nearby settlements for employment and higher-order services. Towns on the coast are popular visitor, retirement and lifestyle destinations. All are connected to reticulated water and electricity, and most have sewer connections.

Grantville is the only settlement identified as a Town in the draft SPP for Bass Coast.

10.1 Grantville

(i) Key issues

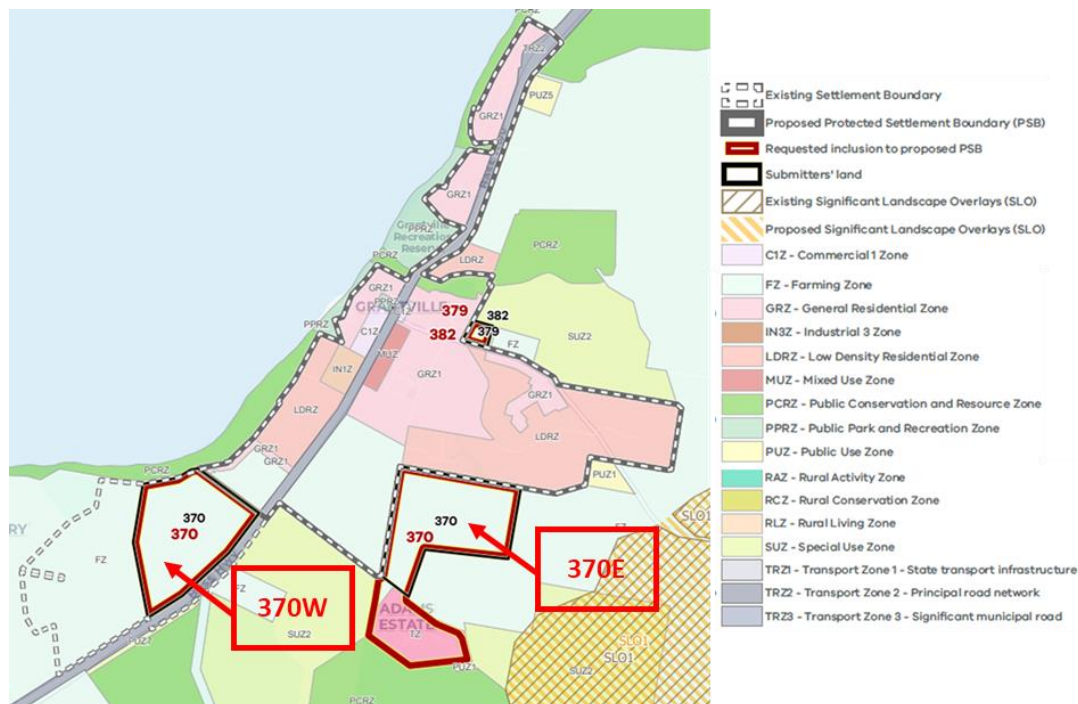
The key issues are whether:

- the settlement boundary should be extended to include the S370E land and S379/S382 land
- the settlement boundary should be retracted to exclude the S370W land
- a PSB is strategically justified.

(ii) Background

Table 15 Grantville settlement summary

Matter	Summary
Existing settlement boundary	<i>Grantville Strategic Framework Plan (11.01-1L-07)</i> <i>Bass Coast Strategic Coastal Planning Framework, June 2011</i> implemented by Amendment C93 (2012)
Alignment of exhibited PSB with settlement boundary	PSB retracted to the southern end of Frederick Drive
SLO	No change to SLO1 to the east of Grantville
Proponent position	Support exhibited PSB
Council position	Defer introduction of PSB pending completion of future work
S370 position	Extend the PSB to include the S370 land
S379/S382 position	Extend the PSB to include the S379/S382 land

Figure 28 Grantville Protected Settlement Boundary

Settlement Background Paper

The Settlement Background Paper assessed the existing settlement boundary and found it:

- should exclude the Grantville South area to:
 - protect environmental values within the settlement and adjoining internally important Western Port Ramsar wetlands
 - protect the regionally significant landscape from the Bass Highway to the coast, including views to Western Port
- protects encroachment into areas of Aboriginal cultural heritage significant along Western Port
- protects sand and gravel resources in the Extractive Industry Interest Area east of Bass Highway
- should exclude areas subject to sea level rise and erosion.

The Settlement Background Paper concluded:

In summary, Grantville's long-term settlement boundary should exclude Grantville South to ensure the area's distinctive attributes, in particular, the landscape and environmental values associated with the Western Port Ramsar site, are protected. The revised settlement boundary will mitigate environmental risks including inundation and coastal erosion. Grantville should remain a town in the settlement hierarchy to reflect its role and function ¹⁴⁶.

(iii) Evidence and submissions

Landscape

The Proponent submitted removing the southern portion of the existing settlement boundary would better protect the significant landscape between the Bass Highway and the coast. The

Proponent did not specifically address the landscape of the S370 land east of the Bass Highway except to confirm it should not be included in the settlement boundary.

Ms Scott said the LAR recommended against development in Grantville. It stated:

Due to the high level of environmental and landscape significance, and the low-lying nature of the land (between 0 metres and 5 metres above sea level) rezoning and/or expansion of the township should be discouraged adjacent to Westernport Bay (this includes the land zoned FZ within the current settlement boundary) ¹⁴⁷.

Ms Scott confirmed the LAR did not contain advice regarding the need for a settlement boundary for land inland of the Bass Highway.

Mr Haack considered the settlement boundary could be extended to the south and east of the PSB (Figure 29). He noted land east of the existing boundary, to the north of the Adams Estate, is relatively visually enclosed, slightly undulating and mostly pastoral with scattered trees. Mr Haack considered this land would be suitable for appropriate development from a landscape and visual perspective.

Figure 29 Haack evidence potential settlement boundary extension Grantville¹⁴⁸



In her evidence in reply, Ms Scott agreed with Mr Haack that there is potential for inland expansion of Grantville, away from significant remnant woodland reserves.

Biodiversity and environmental risks

The Settlement Background Paper noted there are many State-significant and nationally significant environmental features and important habitats located in and around Grantville. These include

¹⁴⁷ D32, para 150

¹⁴⁸ D86, p37

the Western Port Ramsar to the west, Grantville Bushland Reserve to the north-west, The Gurdies Nature Conservation Reserve further north-west and Grantville Nature Conservation Reserve to the south-east. Grantville also abuts some of the largest intact blocks of native vegetation in the declared area.

The coastal environment around Grantville includes mangrove habitats and coastal saltmarsh which provide habitat for fish and feeding and roosting waterbirds. The Western Port Ramsar is important for migratory birds listed under the EPBC Act and FFG Act such as bar-tailed godwit, curlew sandpiper, eastern curlew, lesser sand plover and red knot ¹⁴⁹. The Settlement Background Paper noted that development of Grantville South could “*harm the Western Port Ramsar site’s wetlands as nationally significant coastal saltmarsh and state-significant swamp scrub*” occur in this area.

Due to its location along the coast, LSI01 applies along the coastal strip. The Settlement Paper suggested there is the potential for acid sulfate soils along the coast. The coast is also subject to erosion.

The Bass Coast Environmental Opportunities and Constraints assessment stated:

The Grantville study area is situated between two ecologically significant sites, Grantville Nature Conservation Reserve and Western Port, and offers a variety of habitat types including woodland, scrub, saltmarsh and marshlands. Whilst much of the vegetation has been cleared, regeneration occurring in low-lying areas presents a significant opportunity for restoration of coastal scrubs and marshlands, which will provide connectivity between the reserves and further enhance the sites significance within the local landscape ¹⁵⁰.

Mr Garden gave the following evidence:

Based on the desktop and site assessments, the subject site identified in submission 370 may provide habitat for up to 30 threatened species. Further investigations are recommended to determine the extent of suitable habitat and importance of the site for threatened species.

Vegetation and habitat onsite was comprised of a mixture of introduced pastures, scattered native trees and a large patch of native woodland in the east of the site associated with a gully / drainage line. The woodland in the east of the site could not be observed, but from a review of aerial imagery it is believed to be contiguous with surrounding woodlands to the north and east which form a substantial area of habitat in the landscape. Furthermore, the Grantville Nature Conservation Reserve is located approximately 200 metres to the south of the site ¹⁵¹.

In his evidence, Mr Organ stated:

There are areas of remnant woodland and sensitive coastal vegetation in the land parcel in the south west of the current settlement boundary (EcoLogical Australia 2020, 2023). It is understood that the proximity of the properties to current and future sand extraction areas means that these land uses may not be compatible with residential development in these areas. Further onsite ecological investigations are required to adequately document the ecological values across these properties and to assess direct and indirect impacts to the environment, including the internationally significant Westernport Ramsar site ¹⁵².

¹⁴⁹ D11, p93

¹⁵⁰ D08, p15

¹⁵¹ D37, p9

¹⁵² D82, p21

Economics and land supply

Mr Shipp noted that collectively, the waterline towns of Grantville, Corinella and Coronet Bay, had in the order of 10.7 to 14.8 years supply of zoned and unzoned residential land. This accounted for the draft SPP's proposal to take out approximately 105 hectares of land from the existing Grantville settlement boundary. Mr Shipp's evidence observed:

The proposed reduction to the Grantville settlement boundary and the preservation of existing boundaries in Corinella and Coronet Bay will result in relatively low levels of land supply in each of the main Waterline towns. In the context of increasing permanent residency in the Waterline area and declining land supply in south east Melbourne, this could lead to strong price growth and lack of housing availability in those towns, warranting consideration of opportunities for additional residential land in at least one of the Waterline towns ¹⁵³.

Planning

The Proponent explained the fundamental rationale for reducing the settlement boundary related to the environmental constraints which apply to land west of the Bass Highway. However, it accepted if further assessment confirmed some of this land suitable for development, *"inclusion of that land can be considered later"* ¹⁵⁴.

The Proponent acknowledged the reduction of the settlement boundary would exclude some land that was contemplated for industrial uses in the longer term. However, it noted that land had never been made available for industrial use, and it was unclear how that land could ever be provided for that purpose, given the flood risk.

Mr Glossop observed a tension between Grantville's designation as an emerging district service centre and its environmental constraints and landscape significance. The draft SPP attempted to resolve this tension by favouring the protection of the environment and landscape, however this may undermine the ability to provide sufficient residential and industrial land supply to meet local and regional market needs. While supporting the principle of introducing a PSB, Mr Glossop recommended further work be undertaken to resolve the tensions between growth and environmental challenges before a PSB is applied.

Mr Black considered the exclusion of Grantville South from the PSB was premature because coastal hazard vulnerability, bushfire and other assessments had not been carried out. He suggested there may be substantial areas that could be developed, including the Adams Estate, subject to the appropriate mitigation measures being in place.

S370 relates to two parcels of land: land to the west of Bass Highway, south of the Maru Koala and Animal Park (S370W) and land to the east of Bass Highway, north of Stanley Road with its northern edge at Tatiara Drive (S370E). S370 submitted Grantville is a geographically important location which should be supported for growth.

S379 and S382 both relate to the land at 55 Grantville-Glen Alvie Road. Submissions were made the land should not be excluded for urban development due to its proximity to a sand extraction quarry, given other dwellings are similarly proximate to the quarry.

In reply, the Proponent noted the land was rejected for inclusion in the settlement boundary by the Amendment C93 Panel who agreed with submissions from the then Department of

¹⁵³ D33, para 71e

¹⁵⁴ D160, para 222

Sustainability and Environment and the adjoining quarry owner to the effect the land is of environmental significance, and too proximate to the adjoining quarry. The Proponent advised these factors remained equally relevant today, and the S379 and S832 land should not be included in the PSB for Grantville.

(iv) Discussion

The Committee agrees further urban development is not appropriate near the internationally important Western Port Ramsar coastal environment. The area is low lying and subject to coastal inundation. The Committee agrees with the Proponent and Council that urban development along the coast in the Grantville area should be avoided and agrees with retraction of the settlement boundary to exclude the 370W land.

Adams Estate is in a Township Zone. The *Adams Estate Restructure Plan (Shire of Bass)* applies to the land as an Incorporated Document and seeks to consolidate smaller lots created in 1979 to 54 larger lots. The *Bass Coast Strategic Coastal Planning Framework* describes Adams Estate as “a small grid layout rural residential area set amongst bushland with no views to Western Port”.

From a landscape perspective, urban development into the S370E land would represent a clear incursion into the rolling hills and farmland around the existing settlement of Grantville. While Mr Haack and Ms Scott considered there is potential for inland expansion of Grantville away from significant remnant woodland reserves, the undulating topography of the S370E land would mean urban development is likely to be visible from both the Bass Highway and the hinterland as it steps up the hill. The Committee is reluctant to support new urban development between the existing Adams Estate and the eastern edge of Grantville on a visible north-facing slope, when there are still large parts of undeveloped land within the settlement area. Further, it is appropriate the full extent of the WPW is identified, and its protection regime resolved, before any settlement expansion is considered east of the existing Grantville settlement. For these reasons, the Committee supports the position of the Proponent not to include the Adams Estate within the proposed PSB.

The Committee appreciates the position put by S379/S382. However, the quarry has an existing Work Authority (470) and it would not be appropriate to allow any further encroachment at this time. The Committee considers it would be appropriate to review the inclusion of the S379/S382 land (and the Farming Zone land to the east) in the PSB once the quarry operations have ceased, pending the outcomes of any ecological assessments. The Committee has not formed a view on the environmental significance of the site as it was not provided with any ecological assessments and any future review would need to address this.

The Committee is of the view that a PSB for Grantville is strategically justified based on its proximity to the Western Port Ramsar Wetlands and the WPW to the east of the settlement.

The Committee notes the tension, as highlighted by Mr Glossop, between the need to protect environment along the coast, and for Grantville to grow as an important service centre in this part of the municipality. Within the PSB, there are still sufficient areas of undeveloped and unzoned land. The Committee observed the land currently under construction along Tatiara Drive.

(v) Findings

The Committee finds:

- A Protected Settlement Boundary for Grantville is strategically justified based on its proximity to the Western Port Ramsar Wetlands and the Western Port Woodlands.
- Grantville can accommodate moderate growth, consistent with its role as a Town in the settlement hierarchy through existing zoned and unzoned land within the proposed Protected Settlement Boundary.
- The Submitter 370W land along the coast is not appropriate for development due to coastal inundation and erosion and due to its proximity to the Western Port Ramsar wetlands.
- There is no rationale to include the Submitter 370E in the settlement boundary as there is significant other zoned and unzoned land within Grantville east of the highway for development purposes.
- The Submitter 379/Submitter 382 land should not be included in the Protected Settlement Boundary at this time. This land (and the Farming Zone land to its east) should be reviewed once the quarry operations have ceased.

11 Villages

The draft SPP defines a Village as:

A settlement with population levels of 500–1,000, the number fluctuating seasonally. Basic services are available including a general store and basic retail facilities, and most have postal services. A village has strong employment relationships with larger, nearby settlements and relies on them for services. Villages on the coast have moderate-to-high levels of holiday home ownership. Most are connected to reticulated water, and some have sewer connections.

Cape Paterson, Cape Woolamai, Corinella, Coronet Bay, Dalyston, Kilcunda, Rhyll are identified as villages in the draft SPP for Bass Coast.

11.1 Cape Paterson

(i) Key issues

The key issues are whether:

- the settlement boundary should be retracted to Seaward Drive (S361 and others)
- a PSB is strategically justified.

(ii) Background

Table 16 Cape Paterson settlement summary

Matter	Summary
Existing settlement boundary	Cape Paterson Strategic Framework Plan (Clause 11.01-1L-12) <i>Bass Coast Strategic Coastal Planning Framework</i> , June 2011 implemented by Amendment C93 (2012)
Alignment of exhibited PSB with settlement boundary	PSB aligns with the settlement boundary
SLO	Extend SLO4 to the north-west
Proponent position	Support exhibited PSB
Council position	Defer introduction of PSB pending completion of further work
S648 position	Support exhibited PSB
S361 CPRRA position	Align PSB with existing extent of residential land at Seaward Drive

If Cape Paterson were to be developed to the north, the current landscape and township character of the small coastal hamlet, and the character and significance of its landscape setting would change and be potentially negatively impacted.

Development northwards would result in the loss of the small-scale nature of the coastal hamlet, tucked into the significant landscape.

The northern boundary (at its intersection with Cape Paterson Road) is currently well defined and vegetated, and designates a clear point of arrival at the township.

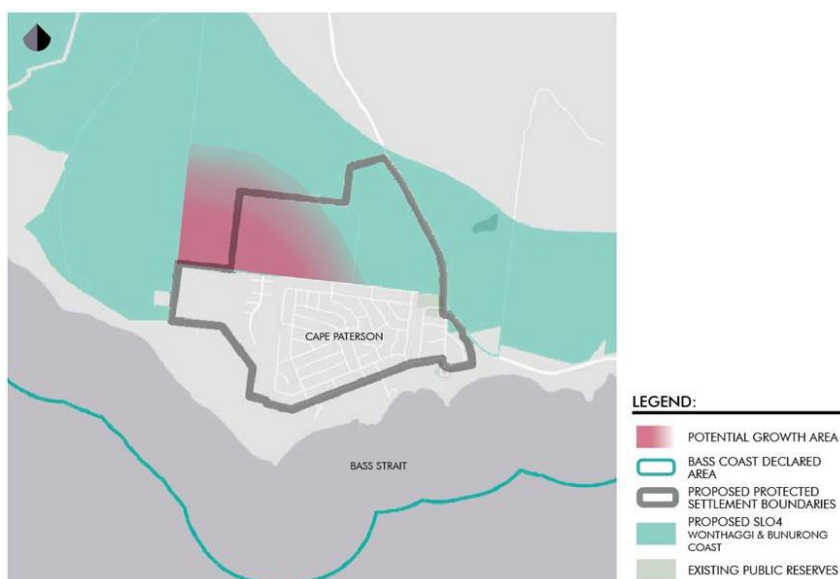
Cape Paterson Road, between Wonthaggi and Cape Paterson, currently provides a picturesque journey dominated by roadside reserves of indigenous vegetation, and scenic out views across gently undulating paddocks.

Development northwards would potentially impact on the picturesque and regionally significant coastal/rural hinterland, and its contribution to the journey along Cape Paterson Road.

As well as forming part of the regionally significant coastal hinterland, the landscape to the north of Seaward Drive plays a role in the open and undeveloped green break between Cape Paterson and Wonthaggi ¹⁵⁷.

Based on his assessment of landscape character and scenic quality, Mr Haack supported development north of Seaward Drive as shown in Figure 31. He suggested the more pronounced dunes may warrant protection.

Figure 31 Haack evidence potential growth area Cape Paterson¹⁵⁸



Ms Scott agreed with Mr Haack that land within the PSB north of Seaward Drive at the eastern end was more significant than the landscape at the western end of Seaward Drive.

Mr Moir recommended further investigation was necessary to understand the impact of future development north of Seaward Drive in achieving the landscape character objectives. In reply, the Proponent advised:

The Department, at an officer level, would not oppose any recommendation that further work be undertaken to identify the visual values of the land either to confirm or refine the boundaries or to determine the form of development within the boundaries (noting that such

¹⁵⁷ D3c, p157

¹⁵⁸ D86, p53

work would probably be confined to assessing the dunes in the south-east corner of the land). However, in circumstances where the topographic variation is relatively confined, and there would not appear to be significant views to or from the land from the coast, and in circumstances where the buffer between towns is extensive, the Committee may well form the view that no further assessment is required, and that the form of development can be left to a future process ¹⁵⁹.

The Proponent clarified that any work to confirm or refine the boundary would need to be undertaken prior to finalising the draft SPP (Chapter 3.9).

Wallis Watson agreed that further work could be left to a future process, submitting there was no proper basis for the Committee to seek to engage in matters which are properly the subject of a rezoning proposal, inclusive of the development of bespoke planning controls.

Biodiversity and environmental risks

The Proponent submitted none of the ecology, bushfire or hydrology experts found the land north of Seaward Drive to be inappropriate for urban development. Further, the expansion of Cape Paterson inland can be contrasted with linear coastal development sought to be undertaken by developers elsewhere in the DAL, including at Cape Woolamai, Newhaven and Ventnor. The Proponent submitted:

While there may be some impacts from increased visitation associated with development north of Seaward Drive, its location is less proximate to the most environmentally sensitive areas adjacent to the Coast, and can be expected to disperse or limit environmental impacts, as found by the Panel considering Amendment C93 ¹⁶⁰.

CPRRA submitted the coastal reserve and marine park are of high value to the community and would be impacted by further development of Cape Paterson. Other submissions by Cape Paterson residents argued development would impact the coastal environment through increased numbers of domestic animals, pest species and wastewater discharge into the marine environment.

Economics and land supply

Mr Shipp did not provide any specific recommendations about land supply in Cape Paterson. He estimated land supply across the mainland towns of Kilcunda, Dalyston, Cape Paterson and Harmers Haven was between 25.1 to 34.4 years across zoned and unzoned land. He observed:

Similarly, rezoning land within the existing Cape Paterson settlement boundary would assist in meeting demand for coastal housing in the areas near Wonthaggi (including Inverloch), however demand for housing is not directly substitutable (in my view) between Inverloch and Cape Paterson, meaning that Inverloch is likely to be approaching a period of constrained land supply. In this context, further opportunities for additional land supply in Inverloch should be considered ¹⁶¹.

Mr McNeill considered lifestyle supply in the coastal towns across the DAL was adequate for between 12 and 14 years and was dependent on rezoning land in Cape Paterson and San Remo. He considered additional opportunities for development should be provided in lifestyle towns to avoid unnecessary upward pressure on prices and to allow the municipality's economy to adapt and adjust.

¹⁵⁹ D160, para 169

¹⁶⁰ D329, para 207

¹⁶¹ D33, para 71d

In relation to Cape Paterson specifically, Mr McNeill estimated the settlement has between 5.3 and six years supply of zoned land which represents a constrained market where there is a need for additional supply sooner rather than later. He concluded:

Ensuring the expansion area north of Seaward Drive is confirmed as future residential supply will provide an important area of additional supply to not only Cape Paterson, but the broader Bass Coast market ¹⁶².

He noted there were approximately 116 vacant lots in the Cape, of which only 32 were for sale. The price point for vacant land is at the higher end compared with other towns in Bass Coast and has increased exponentially since 2017. Further, Mr McNeill advised there was limited substitutability between a conventional market such as Wonthaggi and the lifestyle market of Cape Paterson. He observed that while zoned land is already constrained in Cape Paterson:

... the expansion area north of Seaward Drive does not just provide an additional area of supply for Cape Paterson. Rather, it provides a significant addition to the supply of land in ... the lifestyle towns ¹⁶³.

CPRRA submitted Mr Shipp and Mr McNeill had overestimated yearly demand for dwellings and in fact, Cape Paterson had over 15 years supply of zoned land without the northern development.

Planning

The Proponent adopted the evidence of Mr Glossop who supported the settlement boundary exhibited in the draft SPP, noting:

- the LAR concluded development north of Seaward Drive should be informed by a series of development principles to ensure it is designed in a sensitive manner
- expansion north of Seaward Drive would significantly boost land supply and increase the settlements temporary and permanent population over time
- reliance on Wonthaggi for services was consistent with Cape Paterson's role as a village.

Council submitted further work was required before applying a PSB to Cape Paterson. Mr Black observed a conflict between the designation of Cape Paterson as a village in the draft SPP and as a Secondary Centre/Town in the Gippsland Regional Growth Plan. He considered "*the level of growth expected to be accommodated remains unresolved*". Mr Black said a PSB should not be implemented until further supply/demand and settlement hierarchy assessments were completed to determine the level of future growth to be accommodated.

Wallis Watson supported the PSB as proposed in the draft SPP. This aligned with the existing settlement boundary, which was informed the extensive strategic planning including:

- *Bass Coast Strategic Coastal Planning Framework, 2011* which contemplated development to the north and west of Cape Paterson
- Gippsland Regional Growth Plan which identified Cape Paterson as an area for future urban growth which will rely on combined services at Inverloch and Wonthaggi.

Mr Robertson supported the draft SPP and was satisfied:

- the settlement boundary provides for good and orderly long-term planning

¹⁶² D64, para 10.12

¹⁶³ D64, para 9.13

- the settlement boundary preserves a clear green break between Cape Paterson and nearby townships of Wonthaggi and Inverloch, consistent with the policy intent of the Planning Scheme and draft SPP
- Cape Paterson's place in the draft SPP settlement hierarchy is consistent with the Gippsland Regional Growth Plan where Cape Paterson forms part of a sub-regional network with Wonthaggi and Inverloch and relies on those larger centres for services and facilities
- the preferred character statement for the settlement is clear and reasonable and would be an appropriate guide for future development.

CPRRA submitted the PSB should be aligned with the extent of Cape Paterson's existing residential land at Seaward Drive. The proposed PSB would see a doubling of Cape Paterson's size well beyond the capacity of transport and drainage infrastructure. The CPRRA contended the DAL offered a new prism to view Cape Paterson's future, where greater weight ought to be given to the environment and landscape, and less weight to historical strategic planning. Further, while some submitters from Cape Paterson indicated the area was lacking in services (including poor roads), others submitted a new influx of population would result in services the existing community did not need or want.

The CPRRA placed significant weight on the former Minister's determination in the Surf Coast DAL about the history of planning decisions that predated the DAL. It adopted the same argument in this case and contended development of Cape Paterson should not proceed, notwithstanding the expanded boundary has been in the Planning Scheme since 2010.

In reply, the Proponent and Wallis Watson both agreed none of the submissions indicated fundamental problems with future development that could not be resolved. For example, drainage can be managed through on-site detention and neighbourhood character can be managed through built-form controls.

Further, the Proponent said submissions suggesting development of land north of Seaward Drive will have a negative impact on the sense of community in Cape Paterson should be balanced against the social benefits of providing addition housing for people and the forming of new communities. In this regard, the Proponent noted *"the Cape is a prime example of the positive social outcomes that can eventuate from urban development"*.

(iv) Discussion

The Committee considers the evidence of Mr Glossop, Mr Robertson and Mr McNeill is persuasive. The Committee acknowledges the proposed expansion of Cape Paterson has been in the Planning Scheme since 2010. The Committee agrees the proposed settlement boundary provides for the orderly long-term planning of Cape Paterson, consistent with policy intent of the Planning Scheme and Gippsland Regional Growth Plan. Cape Paterson is part of a sub-regional network with Wonthaggi and Inverloch which provide services and facilities to support Cape Paterson.

Dependency on these higher order settlements affirms Cape Paterson's place in the settlement hierarchy as a village, irrespective of the anticipated exceedance of the exhibited population threshold. More broadly, the Committee has discussed the role of population thresholds in the hierarchy in Chapter 7 and concludes they serve little benefit.

The landscape beyond Seaward Drive is a buffer to the coastal zone and is peripheral to the core elements of the significant landscape proposed to be recognised by SLO4. The Committee is

satisfied the PSB will maintain an effective green break of at least five kilometres between Cape Paterson and Wonthaggi.

Conventional housing north of the existing settlement within the proposed PSB could impact on the landscape character of the village. Specific landscape features, like the dunes identified by Mr Haack, give credence to a more nuanced urban development response. For example, the area of dunes could be incorporated into an open space network instead of being developed for housing. Similarly, new development should be sited sensitively, with a strong emphasis on revegetation in both public and private land. Bespoke planning controls would ensure high-quality, contextually appropriate urban development. This can be resolved through a future planning process.

There is no evidence before the Committee to conclude that further urban development will lead to adverse environmental impacts on the land or the Bunurong Marine Park. 'The Cape' development was cited by several submitters as an example of an environmentally sensitive urban development. This demonstrates the potential for a new growth area to be designed and maintained at a scale to avoid and minimise environmental impacts. Overall, the Committee is satisfied there are no biodiversity matters that would rule out future urban development of Cape Paterson and notes that detailed investigations would be undertaken as part of any future planning process.

The Committee agrees with Mr Shipp and Mr McNeill that urban development north of Seaward Drive will provide an important area for additional supply to not only Cape Paterson, but the broader Bass Coast market. Planning policy requires consideration of land supply on a municipal basis. The declaration of the whole of the Bass Coast as a DAL heightens the need to consider land supply broadly. Cape Paterson plays a significant role in this context.

The Committee acknowledges the extent of opposing submissions to this process that relate to Cape Paterson¹⁶⁴. Many submitters presented as part of the CPRRA, as well as individually. All were passionate about their local community and many shared lifestyle stories. The CPRRA cross examined almost every witness and it provided detailed submissions to support its case for no more growth in Cape Paterson. The existing strategic basis for the existing boundary was subject to a long and comprehensive Panel process, where again, significant evidence was called. Despite the long and sustained role in this Hearing by the CPRRA and other submitters, no competing evidence was called to support a retraction of the settlement boundary. Assertions were made about the reliability of the economic evidence, and the Committee was urged to make findings contrary to that of Mr Shipp and Mr McNeill. It is not the role of the Committee to undertake its own research, rather it relies on evidence and submissions put to it.

Further analysis to refine the boundary of the PSB is unnecessary and it should remain as exhibited. A PSB is not a green light for urban development at any cost. Landscape character and features and environmental values must be factored in any scheme developed for the site and following an integrated assessment, may necessitate exclusion of select areas from development. The extent of services for an increased population would be determined by Council and landowners at the appropriate time if or when nexus is reached. Wallis Watson acknowledged this.

¹⁶⁴ The CPRRA noted 269 of the 747 submissions related to Cape Paterson, of which 263 opposed retaining the settlement boundary.

On balance, the Committee is satisfied the PSB as exhibited for Cape Paterson is justified based on the significant landscape values and environmental features along the Bunurong Coast.

(v) Findings

The Committee finds:

- The Submitter 648 land (and adjacent land) has long been identified in the Planning Scheme for development and should remain in the settlement boundary.
- The settlement boundary provides additional supply that is of strategic importance to the Bass Coast market.
- A rezoning process, inclusive of the development of bespoke planning controls, will set the framework for future development of the site in response to landscape and environmental features.
- A Protected Settlement Boundary for Cape Paterson is justified based on the significant landscape values and environmental features along the Bunurong Coast.

11.2 Cape Woolamai

(i) Key issues

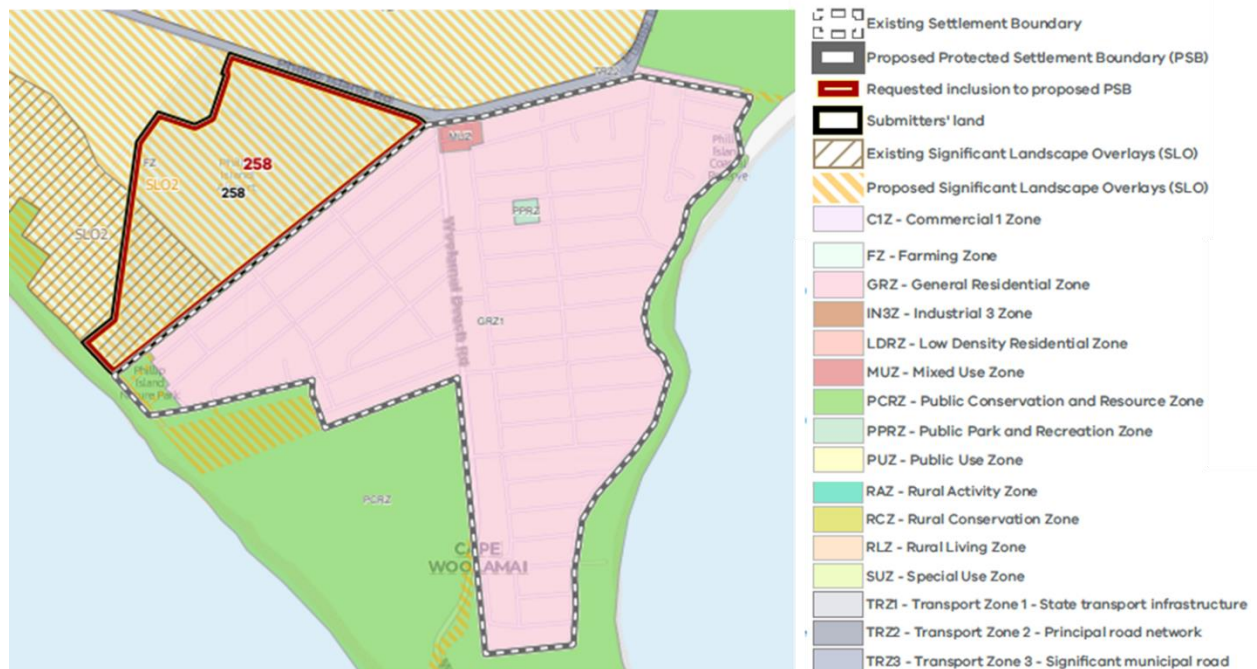
The key issues are whether:

- the draft SPP should recognise the Phillip Island Airport site
- a PSB is strategically justified.

(ii) Background

Table 17 Cape Woolamai settlement summary

Matter	Summary
Existing settlement boundary	<i>Cape Woolamai Strategic Framework Plan</i> (Clause 11.01-1L-16) <i>San Remo, Newhaven and Cape Woolamai Structure Plan, 2010</i> implemented by Amendment C90 (2010)
Alignment of exhibited PSB with settlement boundary	PSB aligns with the existing settlement boundary. The former Phillip Island Airport site was not recognised as investigation area (Clause 11.01-1L-16)
SLO	SLO2 is extended inland to the west and north of the settlement
Proponent position	Support exhibited PSB
Council position	Support exhibited PSB
S258 position	Retain settlement boundary/not support exhibited PSB

Figure 32 Cape Woolamai Protected Settlement Boundary

Settlement Background Paper

The Settlement Background Paper assessed the existing settlement boundary and found it:

- prevents urban encroachment on the environmental values of the Cape Woolamai State Faunal Reserve and the broader Phillip Island Southern Coastline
- protects the important hinterland break between Cape Woolamai and Surf Beach Estate, where the Phillip Island Airport site is in a landscape of state significance
- protects agricultural land
- prevents urban encroachment into areas with coastal hazard and bushfire risks.

The Settlement Background Paper concluded:

It was found that Cape Woolamai's existing settlement boundary helps protect the significant environmental and landscape attributes of the declared area. It also helps to ensure environmental hazards associated with the impacts of climate change are avoided.

It was also found that the former Phillip Island Airport site contains and/or abuts:

- significant habitat values, particularly at its southern end and eastern boundary; urban development must protect and enhance these values including by setting aside areas for revegetation, establishing buffers around high-quality remnants and improving connectivity through the wider landscape
- state significant landscape (within which the site is located), which contributes to the important coastal hinterland break between Cape Woolamai and Surf Beach to the west; views from Phillip Island Road must be protected, to conserve the inland's natural feel and the journey along Phillip Island Road
- areas of potential Aboriginal cultural heritage sensitivity including areas close the coast and near the intersection of Phillip Island Road and Cape Woolamai Beach Road.

While some sensitive development could potentially be provided in the less significant areas to the north-west of the site, subject to significant environmental values on and surrounding the site being protected, it forms part of a state-significant landscape and on balance, it is proposed that the Phillip Island Airport site remain outside the settlement boundary and not be identified as a future investigation area.

Cape Woolamai is proposed to be designated a village to reflect its level of commercial services, population size and relationship to Newhaven and San Remo ¹⁶⁵.

(iii) Evidence and submissions

Landscape

Ms Scott noted that while the LAR did not make specific recommendations on the Cape Woolamai PSB, the following landscape character conclusions were drawn:

The airport site is noted on the Strategic Framework Plan as a possible area for future expansion; expansion of other settlements in areas of lesser landscape significance should be prioritised over this.

The airport site and its large areas of remnant vegetation contributes to the important, relatively undeveloped coastal hinterland break between the settlement areas of Cape Woolamai and Surf Beach ...

Prioritise the expansion of other townships in areas of lesser landscape significance, over any change to the settlement boundaries of Cape Woolamai ¹⁶⁶.

Mr Haack did not provide an opinion on Cape Woolamai.

Best Hooper Group submitted the S258 land was of minimal consequence in terms of the green break that exist between Cape Woolamai and Surf Beach, noting:

This break is currently approximately 2.5 km. If the GWRE was to be developed in the future for urban purposes, this break would be approximately 2 km. In other words, the green break would remain.

...

Further, it is noted that the expert evidence is that while green breaks are important, the extent of land required for green breaks is not clear and warrants further work. Until such further work is undertaken, it is submitted that it would be premature and inappropriate to impose a PSB on Cape Woolamai for the purpose of preserving the existing green break ¹⁶⁷.

In reply, the Proponent submitted:

... no further work is required to ascertain the significance of this green break and the role of the Submitter 258 Land as part of that green break. At 27% of its length, the frontage of the Submitter 258 Land to Phillip Island Road forms a significant part of the green break to Surf Beach ¹⁶⁸.

Mr Schutt considered the northern part of the S258 land did not comprise landscape features deserving of specific protection. In his opinion, the proposed PSB for Cape Woolamai should be realigned to include the northern part of the subject land (Figure 33).

¹⁶⁵ D3k, pg58-59

¹⁶⁶ D32, para 291

¹⁶⁷ D170, para 17 and 19

¹⁶⁸ D329, para 245

Figure 33 Schutt suggested settlement boundary alignment Cape Woolamai ¹⁶⁹



Biodiversity and environmental risks

The Proponent noted the C90 Panel rejected a proposed expansion of the settlement boundary further west based on environmental impact, including the nesting sites of Short-tailed Shearwater. The Proponent referred to the Structure Plan Background Paper which concluded:

Cape Woolamai is located adjacent to the state-significant Phillip Island Western and Southern Coast landscape, and contributes to the important coastal hinterland break between Cape Woolamai and the settlement of Surf Beach to the north west;

While some sensitive development could potentially be provided in the less significant areas to the north-west of the Phillip Island Airport site, subject to significant environmental values on and surrounding the site being protected, it forms part of a state-significant landscape, and on balance, it is proposed that the Phillip Island Airport site remain outside the settlement boundary and not be identified as a future investigation area ¹⁷⁰.

Mr Garden gave evidence the S258 land has connectivity to the Cape Woolamai State Faunal Reserve “*where threatened species identified as potentially occurring in the subject site have been recorded*” and therefore the presence of threatened species within the S258 land could not be ruled out. Mr Garden concluded development of the northern part of the site may be possible. He said the existing values of the southern section of the site should be protected where most of the remnant native vegetation including high quality ‘endangered’ Swap Scrub is located.

Mr Organ agreed with Mr Garden that while part of the site could be developed for urban purposes, it was particularly important to preserve remaining areas of native vegetation, including

¹⁶⁹ D90, figure 46

¹⁷⁰ D160 p58-59

the swamp scrub and ephemeral wetland on the northern portion of the land marked 'J' in Figure 34. Mr Organ concluded buffers and interface treatments between the S258 land and the coastal strip to the south required further assessment.

The ecology conclave agreed the site had development potential:

- A The subject site may be suitable for urban development without adversely impacting ecological values, however, consideration needs to be given to the protection and enhancement of existing values and potential for incremental impacts as a result of increased visitations by residents of new urban areas. These existing values have been identified in parts of the subject land ¹⁷¹.

Mr Lane agreed with Mr Garden that most of the vegetation onsite is Swamp Scrub dominated by Swamp Paperbark and Coast Wattle, with a weedy ground layer. His evidence was a pocket of Coastal Banksia Woodland was recorded in the southern portion of the study area that represents the highest ecological value on the land. Mr Lane's report illustrated the extent of native vegetation on the land, shown in Figure 34.

Figure 34 Biodiversity values of Phillip Island Airport site ¹⁷²



Mr Lane set out design recommendations to demonstrate the land's capacity to enhance and protect diversity values through development including:

- retention of the native vegetation within the southern portion of the site
- establishment of a 'biolink' between the study area and the Philip Island Nature Park through revegetation to encourage significant species known to occur near the study

¹⁷¹ D117 para 4.3

¹⁷² D74, Figure 1

area to utilise the habitat, such as the Short-tailed Shearwater and Eastern-barred Bandicoot

- light mitigation methods to avoid impact on Short-tailed Shearwater
- restricting pedestrian beach access from existing and new development to prevent disturbance to Hooded Plovers and Short-tailed Shearwater breeding colonies
- limiting ownership of dogs and enforcing a dogs on lead policy
- restricting cat ownership to indoor cats or outdoor cat cages
- establishment of a formal pedestrian and vehicular access adjacent to and within the site at the end of Lantana Road to manage impacts of human distance to the dune system.

In reply, the Proponent's submitted Mr Lane's recommendations required a high level of control over any future residential community and *"is a high risk strategy and requires ongoing management and enforcement"*¹⁷³. It considered other uses, such as tourism which require consolidated management plans, were lower risk.

Phillip Island Conservation Society (D258) supported the proposed PSB. Its view was it would help to protect sensitive landscape and habitat values.

Economics and land supply

Mr Shipp's evidence aggregated Cape Woolamai's land supply with other Phillip Island settlements (excluding Cowes). He estimated the combined settlements have seven years of zoned and unzoned land supply. While noting land in San Remo would assist in meeting demand for new housing in and near Phillip Island, he said additional opportunities for land supply serving Phillip Island and the nearby coastal market should be considered.

Mr McNeill's evidence stated that in January 2023, Cape Woolamai's land supply consisted of 107 lots, of which 92 were vacant lots dispersed through the established residential area and 15 lots would be yielded from a potential development site. This provides a theoretical supply of 6.4 to 7.3 years. Mr McNeill concluded the Phillip Island Airport site would provide a valuable contribution to land supply at Cape Woolamai in a constrained market that has experienced a rapid increase in house prices.

Planning

The Proponent submitted Phillip Island is a major nature-based tourism attribute identified in the DAL. The existing character of the entry to Phillip Island is of small settlements interspersed with agricultural land. This character would be eroded with further stretches of urban development, including on the Phillip Island Airport site.

The Proponent supported the proposed PSB contrary to the advice of Mr Glossop, who noted the suitability of the airport site for urban development was not resolved by various plans. He observed:

- the *San Remo, Newhaven and Cape Woolamai Structure Plan, 2010* identified the need for a thorough strategic review of the airport site once its future was confirmed
- a review of the structure plan in 2015 identified the airport site requires master planning

¹⁷³ D160 para 186

- the *Environmental Opportunities and Constraints Assessment* identified high value areas for flora and fauna, but observed some parts of the site may be suitable for urban development without adversely impacting ecological values
- the Rural Tourism Strategy recommended the Farming Zone land west of Cape Woolamai, including the Airport site, be investigated for the application of the Special Use Zone to prioritise tourism.

Mr Glossop considered there was a clear conflict between Cape Woolamai's designation as a hamlet in the Planning Scheme and a village in the draft SPP. The resolution of this conflict is not clear cut. Acknowledging Cape Woolamai's environmental and geographical constraints, Mr Glossop considered further strategic work is required before a decision on the boundary can be made. This is necessary given the age of the strategic work that underpins the current boundary and the unresolved status of the Phillip Island Airport site. While that work is undertaken, Mr Glossop preferred the airport site be recognised as an 'investigation area' outside the settlement boundary. He considered a PSB should not be applied to the entire settlement until the future of the airport site is resolved.

Council adopted the opinion of Mr Black who observed the proposed PSB does not allow for any additional growth areas and does not include the former Phillip Island Airport site which is identified as an 'investigation area' in the framework plan at Clause 11.01-1L-16 of the Planning Scheme. He considered a PSB should not be implemented until after environmental assessments are completed to determine the suitability of the investigation area for development.

Best Hooper Group contended a PSB should not be implemented until further strategic planning review has occurred. It noted that if the Committee did not accept this submission, it should recommend no PSB be implemented at the current time. Further, Best Hooper Group submitted:

- the Committee should recommend the S258 land remain designated as an investigation area
- Council and DTP should commence appropriate further strategic planning investigations.

Based on its identified attributes and adjacency to the existing settlement boundary, Mr Granger considered the S258 land should be recognised as an investigation area consistent with its designation at Clause 11.01-1L. In its proposed form, the Cape Woolamai PSB provides no certainty on the location for future growth and development, is based on short-term thinking and it does not align with the 50-year vision espoused by the draft SPP. Mr Granger considered the PSB is a disproportionate response to the on-ground situation, where the existing settlement boundary is clearly performing its role. He recommended a detailed housing and settlement strategy based on a housing demand-supply analysis and site investigation to inform any future refinement of the existing settlement boundary. The refined boundary may include the northern part of the S258 land, while areas of environmental and landscape significance are excluded.

(iv) Discussion

There is very little opportunity for infill urban development in Cape Woolamai within the current settlement boundary and proposed PSB. As such, the Committee is of the view that future urban development within S258 land ought be considered.

The Committee does not consider that landscape values are sufficient to rule out extending the proposed PSB across some of the S258 land. As articulated by Mr Schutt, much of the northern

part of the site is already cleared of vegetation and degraded. Further, the northern section is peripheral to high value elements of the landscape that underpin its significance rating.

Phillip Island Road in this location is more than a kilometre from the coast and does not afford significant coastal views, unlike other locations across Phillip Island. Additionally, there is dense vegetation immediately along most of the northern boundary of S258 land on Phillip Island Road that obstructs views across the S258 land. Bespoke planning controls and design guidance for landscape could ameliorate the impacts of development viewed from Phillip Island Road.

The Committee accepts the ecology evidence on the importance of the native vegetation and habitat on the southern portion of the S258 land and acknowledges the biolink it provides to the coastal reserve to the south. For this reason, development on the southern portion of the S258 land is not supported.

The Committee accepts the conclusions from the ecology conclave and the evidence of Mr Garden and Mr Organ that the presence of native vegetation within patches across the site constrains the opportunity for future development. However, it is clear from the evidence that the northern section of the S258 land has development potential in areas cleared of native vegetation.

The Committee acknowledges the ecology conclave concluded that without sensitive design and ongoing monitoring and management, there is a risk that development will impact the significant values on the southern portion of the site and adjoining coastal reserve including habitat for the Hooded Plover and Short-tailed Shearwater. The design recommendations proposed by Mr Lane are onerous, and some (like limits on domestic animals), would only have good effect if implemented across the whole settlement. It is the Committee's view, that in addition to ongoing monitoring and management of ecological impacts, limiting access to areas of the coast through development design would provide a disconnection between urban development and the coastal reserve, and would assist in ensuring development does not compromise the ecological values of the land and the adjoining coastal reserve.

The Committee acknowledges Cape Woolamai exhibits environmental and landscape qualities that should be protected. However, the Committee does not agree with Mr Glossop and Mr Black that a PSB should not apply to Cape Woolamai until the future of the Phillip Island Airport land is resolved. The site has long been identified in the Planning Scheme as an investigation area. On the ground, the adjoining road network has been designed to extend westwards into the site, a clear signal that expansion to the west is contemplated.

The Committee notes the position of the C90 Panel as follows:

... we consider the airport site should remain outside of the town boundary and be identified on the Cape Woolamai Structure Plan as an 'investigation area once the airports' future has been determined.

The C90 Panel came to this conclusion based on a settlement boundary being proposed. Given a PSB is now proposed for Cape Woolamai, the Committee is comfortable including the northern end of the Phillip Island Airport land to enable investigative work to commence without the need to revise the PSB in the future. The land approximately north of Second Avenue (Figure 35) should be identified in the draft SPP as an Indicative Investigation Area. Following comprehensive investigations and strategic planning for the land, this work may conclude that not all the land is suitable for urban development.

As discussed previously, the Committee considers PSBs are needed for settlements on Phillip Island (except for Cowes) due to its contained nature and tourism role and because it exhibits high quality landscapes and environmental assets.

Figure 35 Cape Woolamai Investigation Area



(v) Findings

The Committee finds:

- A Protected Settlement Boundary for Cape Woolamai is strategically justified to protect Phillip Island as a nature-based tourism destination, and significant landscapes and environment features.
- The former Phillip Island Airport site has long been identified in the Planning Scheme as an investigation area and should remain so. The southern part of the site adjacent the coast is not supported for development given its ecological and landscape values and should be excluded from the investigation area.
- The Protected Settlement Boundary should be extended to include the northern part of the Phillip Island Airport land (approximately north of Second Avenue, Figure 35) with this land nominated as an Indicative Investigation Area.

(vi) Recommendations

The Committee recommends:

- 22. Extend the Cape Woolamai Protected Settlement Boundary to include the northern end of the Phillip Island Airport (Figure 35) and designate this land as an Indicative Investigation Area.**

11.3 Corinella

(i) Key issue

The key issue is whether a PSB is strategically justified.

(ii) Background

Table 18 Corinella settlement summary

Matter	Summary
Existing settlement boundary	<i>Corinella Strategic Framework Plan (11.01-1L-11)</i> <i>Bass Coast Strategic Coastal Planning Framework, 2011 implemented by Amendment C93 (2012)</i>
Alignment of exhibited PSB with settlement boundary	PSB aligns with the existing settlement boundary
SLO	Not proposed
Proponent position	Support exhibited PSB
Council position	Support exhibited PSB

Figure 36 Corinella Protected Settlement Boundary



Settlement Background Paper

The Settlement Background Paper assessed the existing settlement boundary and found it:

- prevents urban encroachment into important coastal areas to the east including the Western Port Intertidal Coastal Reserve
- prevents urban encroachment into the regionally significant landscape
- protects agricultural land
- prevents urban encroachment into areas of environmental risks.

The Settlement Background Paper concluded:

Overall, the existing settlement boundary was found to be robust in the context of the distinctive areas and landscapes legislation. A PSB should be applied to Corinella to protect the green break between Corinella and Coronet Bay and the surrounding landscape and rural areas. A PSB also prevents further linear development along the Western Port coastline, avoiding risks associated with coastal hazards and acid sulfate soils.

Corinella is proposed to be designated as a village rather than a town, to reflect Corinella's basic services and residents' reliance on other settlements such as Grantville for their services ¹⁷⁴.

(iii) Evidence and submissions

Landscape

Ms Scott's evidence noted that aligning the PSB with Corinella's existing settlement boundary was consistent with the LAR. The LAR recommended prioritising expansion of inland settlements set within landscapes of lesser or no significance above coastal townships in visually sensitive and significant locations.

Biodiversity and environmental risks

The Settlement Background Paper noted Corinella is surrounded by the Western Port Ramsar site which has significant ecological values. The coastal environment around Corinella contains white mangroves, mangrove shrubland coastal saltmarsh, intertidal mud-sand flats and seagrass habitat. It stated:

Coastal saltmarsh around the mouth of the unnamed waterway between Corinella and Tenby Point is nationally significant and is listed as vulnerable under the Environment Protection and Biodiversity Conservation Act 1999. It provides habitat for fish and feeding and roosting waterbirds ¹⁷⁵.

The Bass Coast Environmental Opportunities and Constraints (D08) assessment did not assess the ecological values of Corinella. Further, no evidence was called on biodiversity.

Economics and land supply

Mr Shipp's evidence in relation to the waterline towns of Grantville, Corinella and Coronet Bay is summarised in Chapter 11.1. Mr Shipp recommended opportunities for additional residential land should be considered in at least one of the waterline towns.

Planning

Mr Glossop supported the PSB in the draft SPP on the basis Corinella is at the lower end of the settlement hierarchy and there is no strategic planning reason to warrant any change to the boundary.

Mr Black noted there is potential for some infill development within the existing settlement with vacant lots in the GRZ and LDRZ. Mr Black supported the location of the proposed PSB.

¹⁷⁴ D3k, p66

¹⁷⁵ D11, p63

(iv) Discussion

The Committee agrees Corinella is not suitable for extended growth given its location within a coastal environment with national and international ecological values. Within the existing settlement boundary and proposed PSB, Corinella has sufficient zoned and unzoned land yet to be developed. It is not a preferred location to resolve land supply deficiencies of the waterline towns.

The Committee considers PSB is justified to protect national and international ecological values.

(v) Findings

The Committee finds:

- A Protected Settlement Boundary for Corinella is justified based on the significant environmental features along the Western Port Bay Coastline.

11.4 Coronet Bay**(i) Key issues**

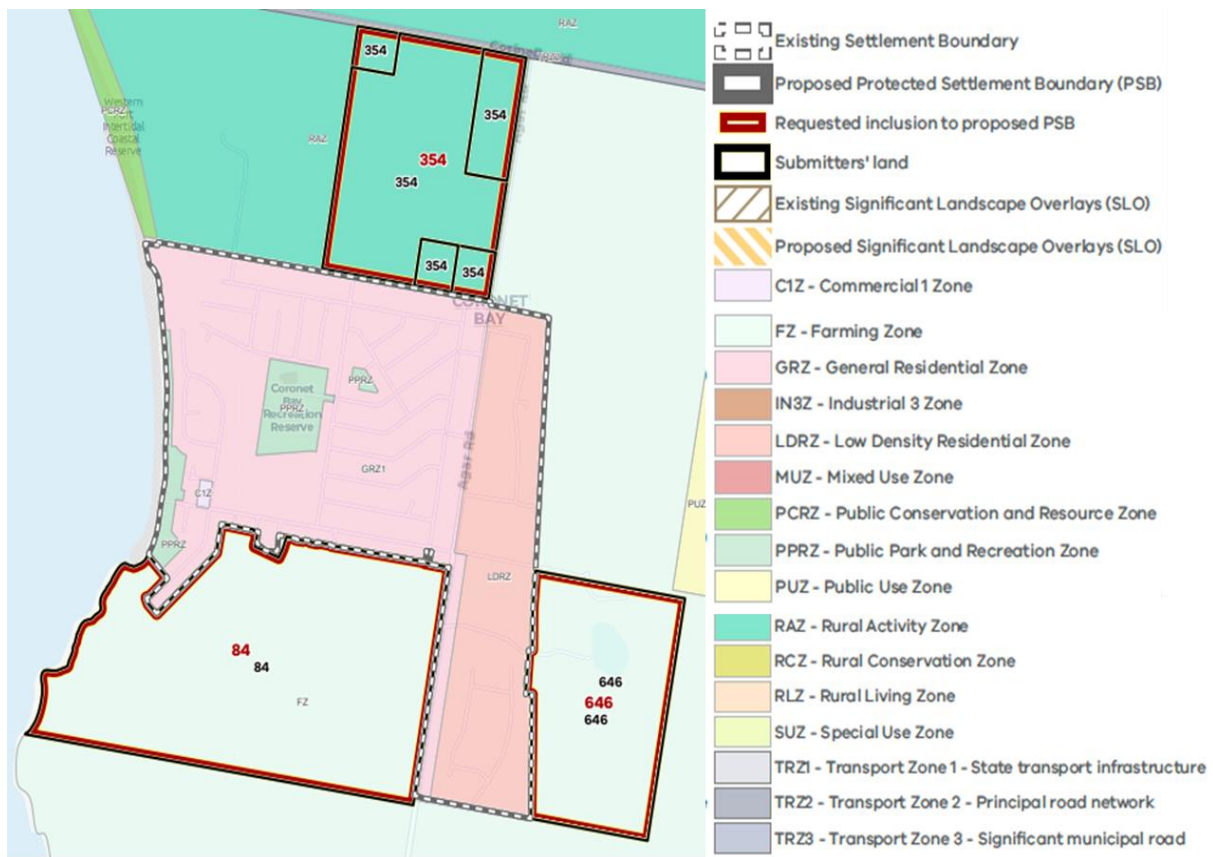
The key issues are whether:

- the settlement boundary should be consistent with Clause 11.01-1L-10
- the settlement boundary should be extended to include additional land (S646, S84, S354)
- a PSB is strategically justified.

(ii) Background

Table 19 Coronet Bay settlement summary

Matter	Summary
Existing settlement boundary	<i>Coronet Bay Strategic Framework Plan (11.01-1L-10)</i> <i>Bass Coast Strategic Coastal Planning Framework, June 2011</i> implemented by Amendment C93 (2012)
Alignment of exhibited PSB with settlement boundary	PSB aligns with the existing settlement boundary
SLO	Not proposed
Proponent position	Support exhibited PSB
Council position	Support exhibited PSB
S84 position	Retain settlement boundary/not support exhibited PSB
S354 position	Retain settlement boundary/not support exhibited PSB
S646 position	Retain settlement boundary/not support exhibited PSB, alternatively include S646 land in PSB

Figure 37 Coronet Bay Protected Settlement Boundary

Settlement Background Paper

The Settlement Background Paper assessed the existing settlement boundary and found it:

- prevents urban encroachment along Western Port and helps protect the values of the internationally recognised Ramsar-listed wetlands
- prevents urban encroachment on the regionally significant landscape
- protects agricultural land
- prevents urban encroachment into areas subject to coastal hazards.

The Settlement Background Paper concluded:

Overall, a protected settlement boundary should be applied to Coronet Bay to prevent further linear development along the Western Port coastline, avoiding risks associated with environmental hazards. Coronet Bay is proposed to be identified as a village rather than a town to reflect the settlement's basic services and residents' reliance on other settlements (such as Grantville) for services ¹⁷⁶.

(iii) Evidence and submissions

Landscape

The Proponent advised expansion to the north of Coronet Bay was not supported by the Amendment C93 Panel on the grounds it would erode the green break with Corinella. Similarly,

¹⁷⁶ D3k, p73

expansion to the south was rejected because of the potential loss of views from Agar Road. The Proponent submitted the Panel's recommendations remained relevant.

The LAR recommended Coronet Bay should not be developed further into the surrounding regionally significant landscape. Ms Scott supported the PSB for Coronet Bay, stating:

While advice on PSBs was not required by the Landscape Assessment Review brief or specifically provided, this is consistent with the findings of the Landscape Assessment Review, which recommends prioritising the expansion of inland settlement areas within landscapes of lesser or no significance above coastal townships in visually sensitive and significant locations ¹⁷⁷.

Moed/White submitted the S534 land at 443, 457 and 485, Corinella Road and at 12 and 24 Norsemens Road did not include attributes of a distinctive area or landscape, nor would the inclusion of the land in the settlement boundary impact on the clear separation between Coronet Bay and Corinella. Mr Atkinson gave evidence the land immediately north of the Coronet Bay settlement does not have *"the attributes of a distinctive landscape as per the definition within the BCSP and the criteria that has been identified as the distinctive characteristics of Coronet Bay in the landscape assessment reports"* ¹⁷⁸.

Mr Atkinson contended the subject land is set back more than 500 metres from the coast with minimal visual impact from the foreshore. He suggested the proposed settlement boundary was unnecessary from a landscape and visual impact perspective, nor would it have an impact on the distinctive character of the landscape. While he acknowledged the need for a clear separation between Coronet Bay and Corinella, Mr Atkinson submitted that separation *"between the townships could be maintained and managed with appropriate guidelines"* using policy and overlays.

Best Hooper Group, in relation to the S84 land, submitted there was no basis to further entrench the existing settlement boundary based on landscape considerations. Through his evidence, Mr Schutt noted there was no landscape evidence as to what constitutes *"exemplary in the regional context"*. Further, the *"significance boundary"* which is approximately 800 metres from the coast, was not explained, nor from his point of view, supported. He suggested the coastal edge is already protected by ESO1, and the landscape beyond presents as *"a homogeneous pastoral landscape with no visually-discernible difference to landscape beyond 800 metres from the coast"*. He did not see a landscape related rationale for implementation of a PSB along the southern edge of Coronet Bay.

Submitter 646 considered the land at 42 Howie Lane could form a logical inclusion to the settlement boundary without compromising the broader landscape qualities of the Bass Hills landscape area, while maintaining a substantial green break between settlements and without resulting in linear development along the Western Port coastline.

The Proponent reaffirmed its position the S354 land should not be included within the settlement boundary because it would result in the unacceptable loss of the green break between Coronet Bay and Corinella, and that *"urban development is fundamentally inconsistent with prevailing opinion on the role and function of green breaks"*. The Proponent disagreed with Mr Schutt's opinion the identification of the Eastern Western Port Coastal Flatlands landscape is not regionally

¹⁷⁷ D032, para 162

¹⁷⁸ D092, p5

significant. It noted Ms Scott had come to that conclusion based on extensive desktop investigations and fieldwork. It confirmed the additional work to confirm the location of an SLO has not yet been funded.

Biodiversity and environmental risks

Mr Garden provided an assessment of Coronet Bay and in relation to S84, stated:

... the subject site identified in submission 084 is only considered likely to support critical habitat for threatened species or ecological communities along the coastal fringe outside the current property boundary.

The land was under cultivation during the site survey, with vegetation limited to isolated, scattered native trees and shrubs in southern half, and patches of large, introduced Monterey Cypress. A large patch of native regrowth (>10yrs) Blackwood is present at the western end of the site.

The coastal fringe beyond the boundary fence supported a mixture of native grasslands, herblands and shrublands along the embankment.

The site may be suitable for urban development without adversely impacting local or regional biodiversity values, provided it is done so with appropriate consideration given to the protection and enhancement of existing values, namely the coastal fringe and remnant native patches and scattered trees ¹⁷⁹.

Best Hooper Group submitted development of the S84 land would not impact on the Western Port Ramsar wetland because there was ample opportunity to provide a buffer to the coastal interface.

Regarding the S354 land, Mr Garden said:

... the subject site identified in submission 354 is considered unlikely to support habitat for threatened species or ecological communities.

Vegetation and habitat onsite was comprised largely of introduced pasture with planted native trees and shrubs along the boundaries. The eastern fence line/road reserve contained a narrow strip of Swamp Scrub regrowth of limited habitat value.

Future development of this site is unlikely to have a significant impact on local or regional biodiversity ¹⁸⁰.

Submission 354 noted:

We note that we have obtained independent advice from an Ecologist who has confirmed that the subject site has low quality habitat. It is considered that the development of the site could provide significant environmental opportunities with respect to providing high quality habitat areas in the form of open spaces and wetlands.

Submission S508 proposed the extension of the PSB to include its land, stating the property had *"no great landscape or environmental features other than the foreshore environs"*.

The Phillip Island Conservation Society (S258) supported the proposed PSB to prevent the impacts of urban expansion on the adjacent Western Port Ramsar wetland and waterbirds.

Economics and land supply

Mr Shipp considered the lack of housing availability warranted consideration of opportunities for additional residential land in at least one of the waterline towns.

¹⁷⁹ D37, p8

¹⁸⁰ D37, p9

For S84, Mr McNeill advised in January 2023, Coronet Bay's land supply consisted of approximately 350 lots, of which 170 were existing and 180 may be yielded from future greenfield development. This provided a theoretical supply of 14.6 to 16.7 years, however Mr McNeill cautioned:

It is important to note that in the event supply constraints in other lifestyle townships result in a transfer of demand to Coronet Bay, the adequacy of supply will be far lower than calculated ¹⁸¹.

Mr McNeill concluded the S84 land would provide a valuable addition to land supply at Coronet Bay and the broader Bass Coast lifestyle market. He noted the S84 land abuts the established urban area of Coronet Bay on three sides and already has provision for road reserves to access the subject site. Additionally, Mr McNeill considered Coronet Bay would benefit from additional population growth given its limited availability of retail and commercial facilities.

Planning

The Proponent submitted there was limited planning imperative for expansion of Coronet Bay. In relation to the S354 land in the Rural Activity Zone, the Proponent said there was ample opportunity for sensitively designed development to take place, including for tourism and recreation purposes.

Mr Glossop opined there was a reasonable town planning case for downgrading Coronet Bay from a town (in the Planning Scheme) to a village (in the SPP) given its reliance on other settlements for services. He did not support extension of the settlement boundary to the north or south of the settlement, given Coronet Bay was not identified for spatial growth and the northern extension would dilute the rural break with Corinella.

Mr Black noted the PSB allowed for some growth within existing undeveloped GRZ and LDRZ areas. As such, he supported the proposed PSB.

Best Hooper Group for the S84 land considered a PSB should not be implemented until a further strategic planning review had occurred. It noted that if the Committee did not accept this submission, the Committee should recommend no PSB be implemented at the current time.

Mr Granger was satisfied the existing settlement boundary operates as intended and urban development was progressing in an orderly manner. He could not find any justification for applying a PSB in the Settlement Background Paper and was satisfied the distinctive attributes in the area surrounding the settlement could be protected by a conventional boundary and standard planning controls. Mr Granger concluded the PSB was not strategically justified. He recommended a contemporary housing and settlement strategy be prepared before a settlement boundary for the purposes of section 46AV is introduced. If it was determined that further broad hectare land was required in Coronet Bay to meet the needs of the growing Bass Coast population, Mr Granger considered the S84 land provided a logical expansion opportunity.

Best Hooper Group contended the opinions of Mr Glossop and Mr Black were premature given the Settlement Background Paper, the draft SPP and that the experts had not:

- justified why a PSB rather than a conventional settlement boundary was necessary
- indicated the existing conventional settlement boundary has been ineffective in protecting and conserving the declared attributes
- demonstrated a robust strategic planning process has been undertaken to review the existing boundary

¹⁸¹ D75, para 20

- considered the desirability to provide growth options below the lower order settlements.

Submissions from Moed/White concerned the S354 land. Moed White submitted the PSB was not justified on environmental and landscape grounds, noting:

- Ms Scott conceded the only reason she considered a PSB along the north boundary of Coronet Bay was that it would protect the green break, but the green break is not a function of the draft SPP under Part 3AAB
- the S354 land was unlikely to support habitat for threatened species
- the S354 land is not low lying land close to the coast and vulnerable to coastal risks
- commonly occurring post settlement cleared agricultural landscapes are not protected under Part 3AAB.

If a PSB was to be applied to Coronet Bay, Moed/White submitted it should include the S354 land. This would not have any short term effects because the existing settlement boundary (Clause 11.01-1L-10) would continue to apply until such time as it changed following a comprehensive strategic review of policies applying to the coastal settlements within Bass Coast.

Submitter 646 submitted its land could form a logical inclusion to the settlement boundary of Coronet Bay without compromising the broader landscape qualities of the Bass Hills area, maintaining a substantial green break between settlements and avoiding linear development along the Western Port coastline. Instead, S646 considered the draft SPP 'locks up' any further growth of Coronet Bay and limits the opportunity for periodic, strategically justified changes to the boundary. If a PSB must be implemented, it should include the S646 land.

Submitter 460 supported the Coronet Bay PSB, noting it is in a sensitive rural environment and relies on other settlements for services.

(iv) Discussion

Coronet Bay is positioned within a network of waterline settlements reliant on Grantville for services. The Committee agrees with Mr Glossop that in this context, Coronet Bay should be classified a village in the settlement hierarchy. However, that does not mean opportunities to consolidate the existing settlement should be discounted.

Coronet Bay is located within a landscape identified to be of regional significance, but not proposed to be included in an SLO at this time due to the necessary additional work not being funded. It has given the LAR less weight as it applies to Coronet Bay.

The Committee recognises the importance and significance of a green break between the existing settlements of Coronet Bay and Corinella. The gap between settlements is less than one kilometre, and given the cleared nature of the land, each settlement can be easily viewed from the other. The S354 land constitutes approximately half of this green break. Although the land is set well back from the coast, it is the Committee's view that development on this land would severely impact this green break because it is open and cleared, and proximate to the southern edge of Corinella.

Much of the charm of Coronet Bay and Corinella is because they are distinctly separate settlements, but able to be viewed from one to the other. While suggested vegetative screening would indeed de-emphasise the presence of urban development, the Committee considers it is important to maintain not just the physical green break, but also the character of this particular

green break. Any development north of Norsemens Road should be avoided to maintain the green break to Corinella.

The S84 land has few pockets of mature vegetation, and the character of the site is predominantly open and agricultural. Views from Agar Road west across the site to Western Port are open, with much of the middle ground view comprising the existing settlement of Coronet Bay. The Committee considers this land could be sensitively developed without negatively impacting the character of the town or the existing green break south of the settlement. Consideration would need to be given to maintaining existing stands of trees and habitat, allowance for areas of ecological sensitivity (consistent with the evidence of Mr Garden), and avoidance of ridgeline development. Appropriate setbacks from the coast would need to be accommodated to respond to coastal hazards.

The Committee considers part of the C84 land should be identified as an Indicative Investigation Area. The Committee is of the view the land south of Cutty Sark Road, between Gellibrand Street and Agar Road, could be appropriate for urban development as a logical extension to the settlement, as outlined in Figure 38. Following comprehensive investigations and strategic planning for the land, this work may conclude that not all the land is suitable for urban development.

The S646 land is located beyond the logical extent of Coronet Bay, given it is east of an existing area of LDRZ. It is not a preferred location to extend the settlement, despite its location away from the coast.

Figure 38 Coronet Bay Investigation Area



(v) Findings

The Committee finds:

- A Protected Settlement Boundary for Coronet Bay is strategically justified to protect significant environment features.
- Additional infill and new growth can be accommodated in Coronet Bay to consolidate the existing settlement pattern.
- The Protected Settlement Boundary should be extended to include part of the Submitter 84 land south of Cutty Sark Road, between Gellibrand Street and Agar Road with this land identified as an Indicative Investigation Area (Figure 38).
- Development north of Norsemens Road (including the Submitter 354 land) would erode the green break with Corinella and is not appropriate.
- The Submitter 646 land is located beyond the logical extent of Coronet Bay.

(vi) Recommendations

The Committee recommends:

- 23. Extend the Coronet Bay Protected Settlement Boundary to include that part of the S84 land south of Cutty Sark Road, between Gellibrand Street and Agar Road as an Indicative Investigation Area (Figure 38).**

11.5 Dalyston

(i) Key issue

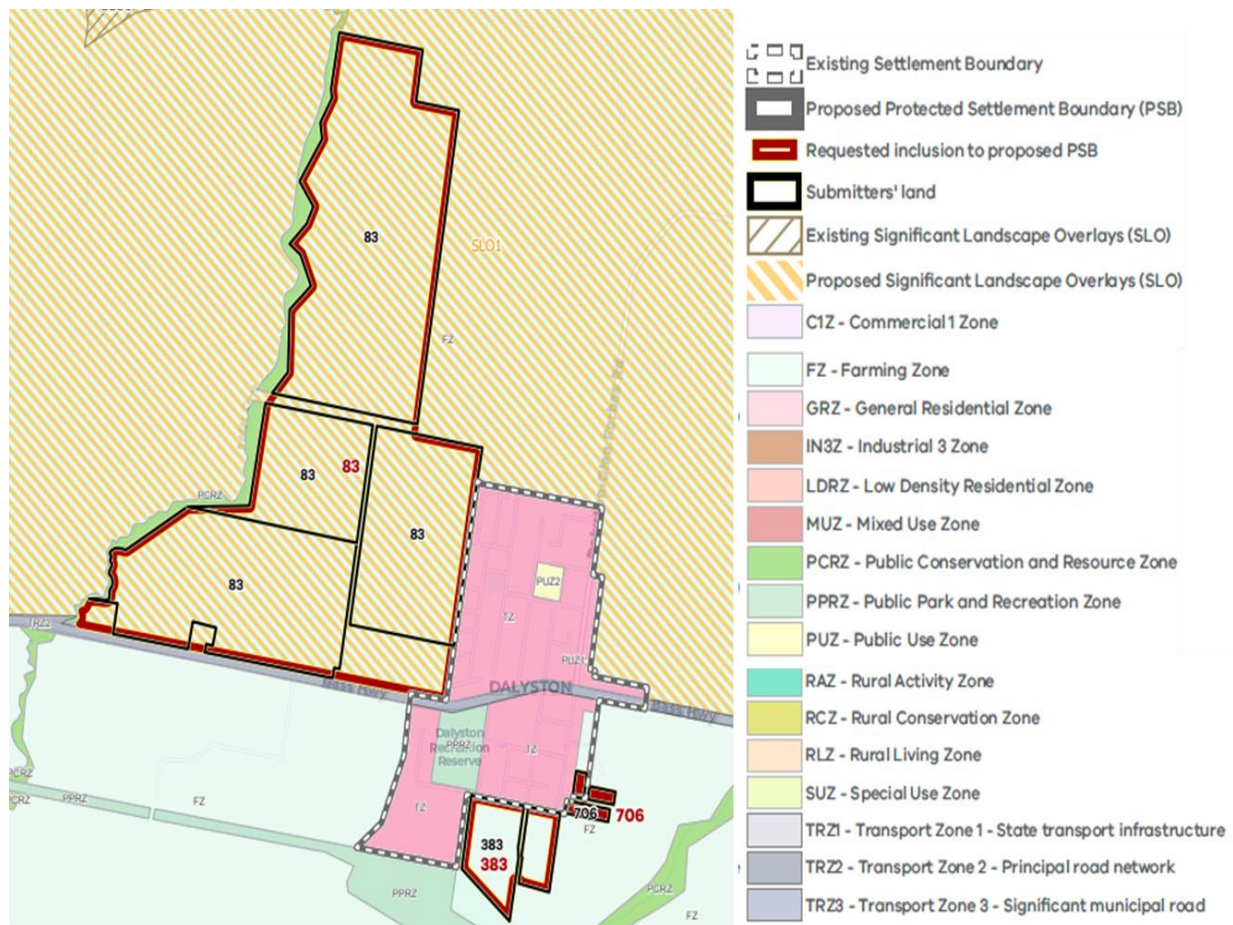
The key issue is whether a PSB is strategically justified.

(ii) Background

Table 20 Dalyston settlement summary

Matter	Summary
Existing settlement boundary	<i>Dalyston Strategic Framework Plan</i> (Clause 11.01-1L-14) <i>Wonthaggi Dalyston Structure Plan, 2008</i> implemented by Amendment C113 (2010) ¹⁸²
Alignment of exhibited PSB with settlement boundary	PSB aligns with the existing settlement boundary
SLO	Apply SLO1 north of Bass Highway
Proponent position	Support exhibited PSB
Council position	Support exhibited PSB
S83 position	Retain settlement boundary/not support exhibited PSB
S383 position	Retain settlement boundary/not support exhibited PSB
S706 position	Retain settlement boundary/not support exhibited PSB

¹⁸² The Wonthaggi Dalyston Structure Plan 2008 was subsequently separated into the *Wonthaggi Structure Plan, 2018* and the *Dalyston Structure Plan, 2018*

Figure 39 Dalyston Protected Settlement Boundary

Settlement Background Paper

The Settlement Background Paper assessed the existing settlement boundary and found it:

- protects the regionally significant landscape
- protects areas of Aboriginal cultural heritage significance to the east, west and south of the settlement
- protects agricultural land
- prevents urban encroachment into areas with inundation and grassfire risks.

The Settlement Background Paper concluded:

Overall, the existing settlement boundary should be designated a PSB in the draft Bass Coast SPP. This will provide long-term protection of Dalyston's environs and given the community long-term certainty about the protection of significant attributes within the environs of Dalyston. Dalyston is proposed to be designated a village, to reflect the level of services provided within the settlement ¹⁸³.

(iii) Evidence and submissions**Landscape**

The Proponent submitted Dalyston is in the regionally significant Strzelecki Foothills landscape, which includes the landform features of the Bass Hills, The Gurdies, and the Bass River Valley between them.

Ms Scott's evidence confirmed Dalyston was not assessed as part of the LAR, therefore no opinion was reached regarding its settlement boundary.

In the landscape and visual assessment conclave, Ms Scott and Mr Schutt agreed there were no landscape reasons for excluding the S383 land from the Dalyston PSB ¹⁸⁴.

S83 submitted there had been no site-specific evidence provided regarding the landscape values of Dalyston and its immediate surrounds. Further, there was no evidence that significant landscapes were affected by urban encroachment from Dalyston. It noted the resulting draft SPP was *"reflective of the overly simplified approach to landscape significance which appears to be based on the notion that any area not already covered with built form, is significant and that the construction of any built form on any green field anywhere in a declared area will 'affect' that landscape"* ¹⁸⁵.

S83 concluded:

The beginning and end of the issue in respect of PSBs in relation to landscape is that Ms Scott was not briefed to provide advice on settlement boundaries, as a consequence, the Committee should place no weight on the loose opinions Ms Scott has provided in relation to PSBs.

It is also noted that Dalyston was not considered in detail in Ms Scott's landscape assessment. It was not the subject of Mr Moir's evidence other than in relation to the SLO1. It was not referred to in the evidence of Council's witness Mr Haack ¹⁸⁶.

S706 submitted there were no landscape features of the land warranting protection.

Biodiversity and environmental risks

No evidence was called on biodiversity for Dalyston.

S383 submitted its land ought be included in the PSB as *"the site is outside current LSIO and is not within an area that is sensitive to sea level rise"*. S383 explained:

The sites are void of any existing native vegetation and habitat from many years of cultivation and grazing. The biodiversity values would be enhanced upon thoughtful development of the sites. The introduction of natural WSUD (i.e. wetlands) would improve stormwater discharge quality to the Powlett River and would create natural biodiversity to enhance fauna protection along the exposed western side of the lower Powlett River ¹⁸⁷.

Economics and land supply

Mr Shipp did not provide any specific recommendations about land supply in Dalyston. He estimated land supply across the mainland towns of Kilcunda, Dalyston, Cape Paterson and Harmers Haven was between 25.1 to 34.4 years across zoned and unzoned land.

¹⁸⁴ D96, item 28

¹⁸⁵ D206, para 37

¹⁸⁶ D206, paras 42-43

¹⁸⁷ Submission 383

Mr McNeill noted Dalyston is one of the most affordable markets in the Shire, and this was a key reason to support its growth by including the S383 land in the settlement boundary.

Planning

Mr Glossop and Mr Black supported the proposed PSB whereas Mr Granger considered it was premature until further work is undertaken. The Proponent submitted Mr Glossop's and Mr Black's evidence should be preferred having regard to Dalyston's role in the settlement hierarchy. There is sufficient zoned land within the proposed PSB to allow for some growth, acknowledging that Dalyston will remain dependent on Wonthaggi for services, and that significant supply is being made available in Wonthaggi through the Wonthaggi North East Precinct Structure Plan (Draft Amendment C152).

The Proponent advised the strategic settings for Dalyston were reviewed by Council in 2018. This concluded expansion of the boundary was unnecessary at that time. Council agreed the recommendations of the 2018 should be accepted, and no further expansion of Dalyston is required.

Best Hooper Group, for the S383 land, relied on its general submission that a PSB should not be implemented until further strategic planning review had occurred. If the Committee did not accept this submission, the Committee should recommend no PSB be implemented at the current time.

Having regard to residential development between 2018 and 2023, Mr Granger said Dalyston's future lot supply should be re-examined before confirming a settlement boundary through the SPP process. Further, the role of the town should be re-evaluated as part of a shire-wide housing and settlement strategy. Mr Granger considered the distinctive attributes identified in the area surrounding Dalyston, particularly the S383 land, were arguably not significant, or could be effectively protected through the existing settlement boundary and standard planning controls.

In Mr Granger's view, the S383 land provides a logical expansion opportunity for Dalyston. The size and location of the site provides the opportunity to deliver a considered master planned development that provides for a range of new dwellings and associated community facilities, while appropriately responding to recognised landscape features. He concluded the existing settlement boundary should remain in place while more detailed settlement planning work takes place in the coming years. On a similar basis, the proposal to change Dalyston's status in the settlement hierarchy should not be supported at this time.

S83 submitted placing a PSB around Dalyston would stymie a key action of the 2018 Structure Plan, which is to continue reviewing land supply every two years to ensure it is adequate for future growth¹⁸⁸. The submitter agreed the Planning Scheme was the appropriate starting point to derive a settlement boundary, but the Settlement Background Paper failed to provide justification for imposition of the PSB around Dalyston. In particular, S83 disputed the availability and rigour of the agricultural and landscape assessments relied upon to inform the Settlement Background Paper's recommendations. S83 considered Mr Glossop and Mr Black offered little more than a cursory justification for supporting the PSB. This it said, was illustrative of how little attention the Proponent had given to Dalyston before opting to apply the PSB. S83 concluded a PSB should not be applied to Dalyston.

¹⁸⁸ D14, p11

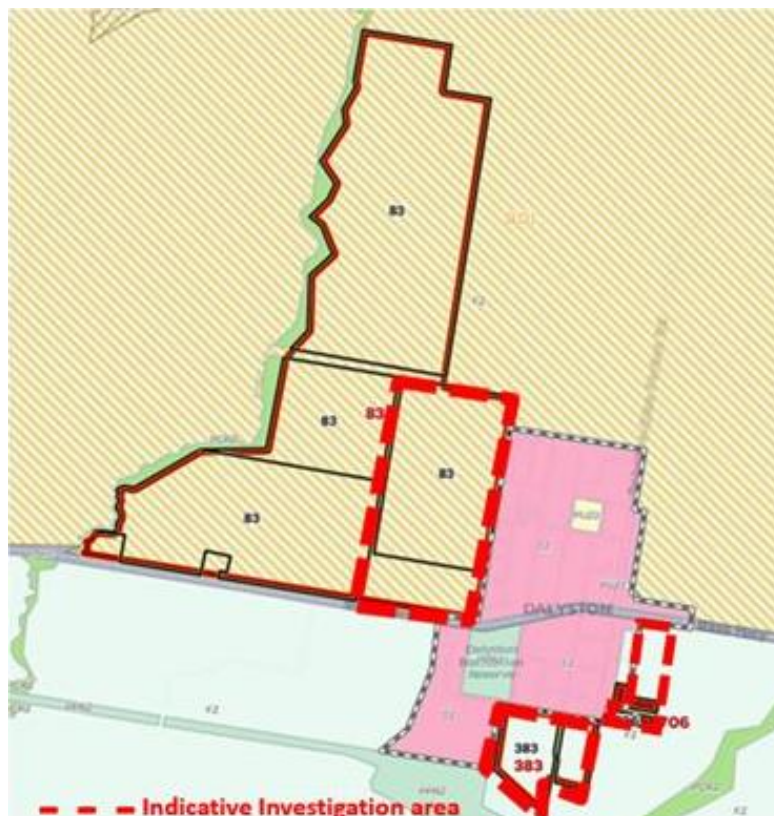
S706 noted only part of its land was included in the proposed Dalyston PSB. It submitted the whole of the land is a logical inclusion within the settlement boundary because the area is already subdivided and has access to reticulated services. This would contribute to the supply of residential land in Dalyston which would provide affordable housing opportunities within the community.

(iv) Discussion

The visual assessment conclave found the S383 land was not significant from a visual landscape perspective. Consistent with the LAR recommendation to prioritise expansion of inland settlements set within landscapes of lesser or no significance, the Committee considers the S383 land is ideally placed for urban expansion and should be recognised as an Indicative Investigation Area within the PSB. Equally, the S706 land is well connected to the existing settlement and warrants recognition as an Indicative Investigation Area within the PSB. Future development may provide a clear eastern edge to the settlement.

The Committee acknowledges and supports the designation of the Strzelecki Foothills as a significant landscape and the proposed expansion of SLO1 (Chapter 3.6). Similarly, the Committee is cognisant of the importance of the Bass Highway as a major viewing corridor. However, the Committee considers there is an opportunity to expand the settlement to the west in a manner that provides a logical extension to the settlement without impacting the core values of the significant landscape or the way in which it is viewed from Bass Highway. To this end, the Committee considers the eastern portion of the S83 land should be included in the PSB and identified in the draft SPP as an Indicative Investigation Area (Figure 40). If the S83 land is developed, the dense vegetation that screens the northern side of the Bass Highway should be retained and further strengthened to minimise the impact landscape character.

Figure 40 Dalyston Indicative Investigation Areas



Overall, the Committee is of the view Dalyston is very well placed to accommodate growth and could provide a meaningful addition to land supply in the municipality. While it supports the designation of new investigations areas for future development, the two large areas of undeveloped zoned land should be exhausted before any rezoning of additional land takes place.

Development of Dalyston to date appears to have been piecemeal and there is a need for a comprehensive strategic plan to be formulated to build on the *Dalyston Structure Plan, 2018*. This could include (but not limited to):

- ecological and environmental assessments, focusing on the biolinks being the Powlett River and the Bass Coast Rail Trail
- identifying areas of short, medium and long term residential growth
- creating improved and safer connections between the north and south sides of Dalyston across the Bass Highway
- visual landscape assessment from the Bass Coast Rail Trail as a primary tourist route in the area.

A PSB for Dalyston is justified to protect the regionally significant landscape, and the potential ecological values of the two biolinks along the Powlett River and the Bass Coast Rail Trail.

(v) Findings

The Committee finds:

- Dalyston is well placed to accommodate growth because it is an inland settlement located close to Wonthaggi.
- There is an opportunity to expand Dalyston to the west (S83 land), east (S706 land) and the southeast (S383 land) without unreasonably compromising significant landscapes.
- A Protected Settlement Boundary for Dalyston is strategically justified to protect the regionally significant landscape and potential ecological values of the nearby biolinks.

(vi) Recommendations

The Committee recommends:

- 24. Extend the Dalyston Protected Settlement Boundary to include the eastern part of the Submitter 83 land, the Submitter 706 land and the Submitter 383 land, and nominate this land as an Indicative Investigation Area (Figure 40).**

11.6 Kilcunda

(i) Key issue

The key issue is whether a PSB is strategically justified.

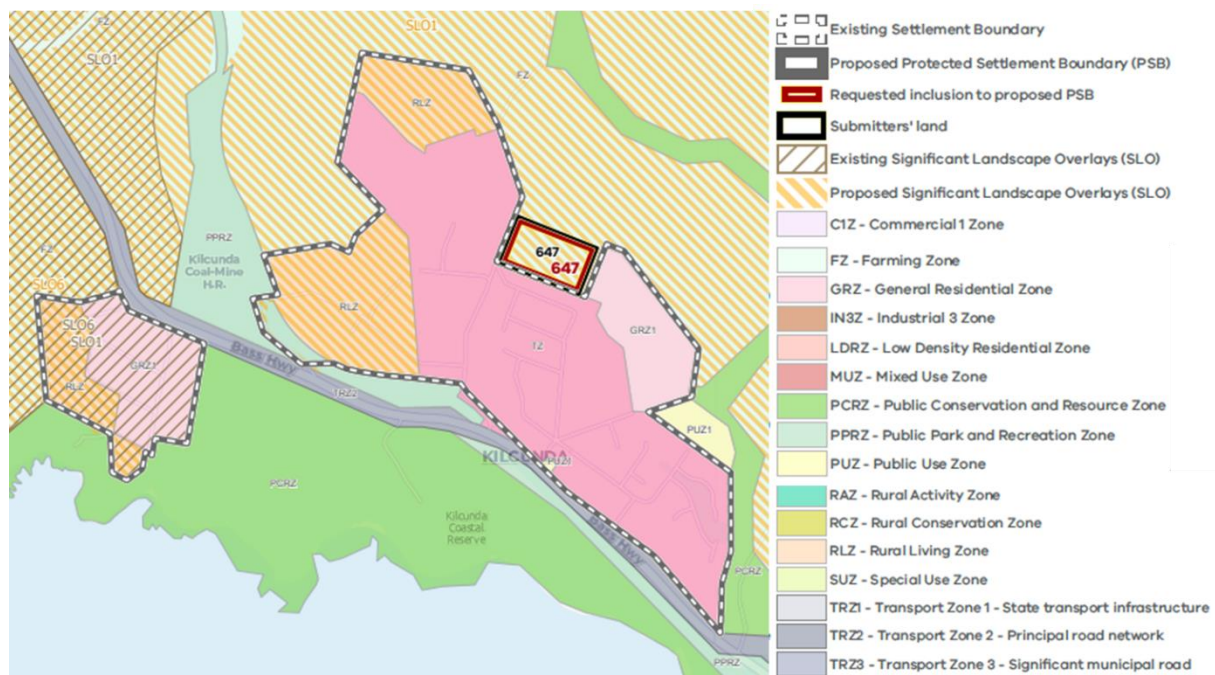
(ii) Background

Table 21 Kilcunda settlement summary

Matter	Summary
Existing settlement boundary	<i>Kilcunda Strategic Framework Plan (11.01-1L-13)</i> <i>Bass Coast Strategic Coastal Planning Framework, June 2011</i> implemented by Amendment C93 (2012).

Matter	Summary
Alignment of exhibited PSB with settlement boundary	PSB aligns with the existing settlement boundary
SLO	Extend SLO1 westward to surround the settlement Retract SLO1 from GRZ1 land south of Bass Highway
Proponent position	Support exhibited PSB
Council position	Support exhibited PSB
S647 position	Retain settlement boundary/Not support exhibited PSB

Figure 41 Kilcunda Protected Settlement Boundary



Settlement Background Paper

The Settlement Background Paper assessed the existing settlement boundary and found it:

- protects state and nationally significant environmental values, largely located along the foreshore and within the marine environment
- prevents urban encroachment into state and regionally significant landscapes
- protects Aboriginal cultural heritage
- protects agricultural land
- protect scenic views from the Bass Coast Rail Trail
- prevents urban encroachment into areas at risk of coastal hazards.

The Settlement Background Paper concluded:

It was found that the existing settlement boundaries are robust. They have been interpedently reviewed and supported by a planning panel. They help protect the significant values of Kilcunda and its surrounds. It is proposed that the existing boundaries be designed as protected settlement boundaries to ensure the long-term conservation and protection of the values and attributes within this part of the declared area. Kilcunda is

proposed to be designated a village, to reflect the level of services the settlement provides ¹⁸⁹.

(iii) Evidence and submissions

Landscape

The Proponent submitted expansion outside the existing settlement boundary would impact on landscape values. Ms Scott confirmed that aligning the Kilcunda PSB with the existing settlement boundary was consistent with the LAR in which the significant landscape was extended to the settlement boundary. The LAR recommended the Neighbourhood Residential Zone be applied to Kilcunda to require development to achieve a strong landscape character through permeability and landscaping.

Biodiversity and environmental risks

The draft SPP documents did not include an assessment of environmental values for Kilcunda.

The Bass Coast Settlement Background Paper noted the existing settlement boundary around Kilcunda protects the state and nationally significant environmental values, which are mostly along the foreshore and within the marine environment. It referred to the important Bourne Creek Estuary to the east of the settlement which provides critical habitat for native fish and birds.

S647 submitted the potential expansion of the township into the submitters land *“does not threaten (pursuant to Section 46AP(2) of the Act), the identified environmental, social or economic values of the area”*.

Economics and land supply

Mr Shipp did not provide any specific recommendations about land supply in Kilcunda. He estimated land supply across the mainland towns of Kilcunda, Dalyston, Cape Paterson and Harmers Haven was between 25.1 to 34.4 years across zoned and unzoned land.

Planning

Mr Glossop expressed some concern about the age of the land supply data relied upon to inform the draft SPP. He said even updated land supply figures would be unlikely to paint a compelling enough narrative to justify a different settlement boundary. He supported the PSB in the draft SPP on the basis Kilcunda is at the lowest end of the settlement hierarchy and there is no strategic planning reason to warrant any change to the boundary.

Council supported the Kilcunda PSB.

Mr Black supported the proposed PSB because it allowed for some growth by developing vacant residential land and infill sites.

S647 submitted the draft SPP had not sufficiently considered the long-term supply needs of Kilcunda and had overlooked where potential development could occur without environmental and landscape impacts.

¹⁸⁹ D3k, p124

(iv) Discussion

The Committee agrees a PSB is necessary at Kilcunda to protect the state and nationally significant environmental values, predominantly the foreshore and the Bourne Creek Estuary. To the north, a PSB will limit expansion of the settlement into the state and regionally significant landscape.

However, the Committee considers there is merit in including the S647 land within the PSB because it will provide a logical extension of the existing settlement pattern. The Committee appreciates there is significant topography within the S647 land, which ought to necessitate a requirement for sensitive design to achieve strong landscape character, consideration of views and well-sited development. Bespoke planning controls and design guidelines, such as the Neighbourhood Residential Zone recommended by the LAR could be implemented as part of a forward strategic planning review. Additionally, the Committee notes the presence of a mature exotic windrow, which could be retained and incorporated into any proposed urban development.

The Committee notes the land to the east and west of the S647 land is already included in the settlement boundary and zoned for residential purposes. As the land to the west of the S647 is developed over time, it will urbanise the viewing experience when entering the settlement from the north along Kilcunda Ridge Road. On that basis, development of the S647 land (particularly south of the mature exotic windrow) will be consistent with the type of development anticipated immediately adjacent to it.

The S647 land should be included in the PSB and identified in the draft SPP as an Indicative Investigation Area.

(v) Findings

The Committee finds:

- A Protected Settlement Boundary for Kilcunda is justified based on the significant environmental and landscape values of the area.
- The Protected Settlement Boundary should be extended to the Submitter 647 land as a logical inclusion, subject to environmental investigations and the implementation of design guidelines to achieve a sensitive design outcome.

(vi) Recommendations

The Committee recommends:

- 25. Extend the Kilcunda Protected Settlement Boundary to include the Submitter 647 land and identify this land as an Indicative Investigation Area.**

11.7 Rhyll**(i) Key issue**

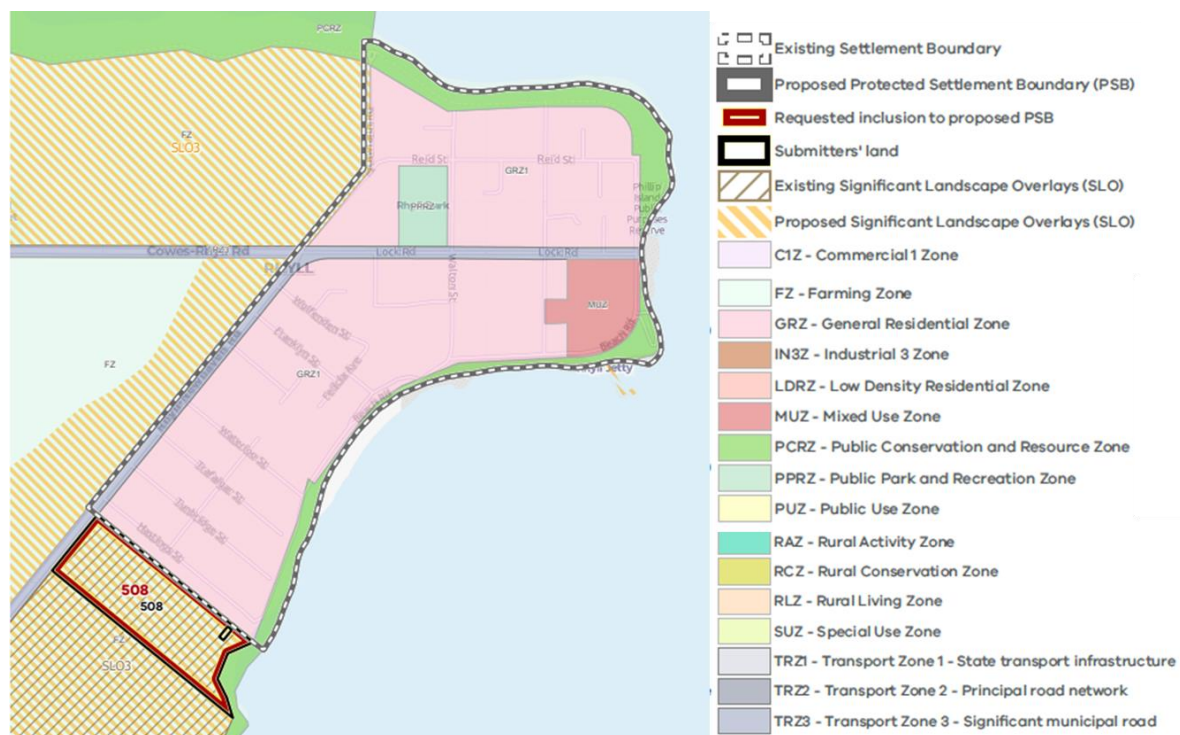
The key issue is whether a PSB is strategically justified.

(ii) Background

Table 22 Rhyll settlement summary

Matter	Summary
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Matter	Summary
Existing settlement boundary	<i>Rhyll Strategic Framework Plan (11.01-1L-09)</i> <i>Phillip Island and San Remo Design Framework, November 2003</i> implemented by Amendment C46 Part 2 (2008)
Alignment of exhibited PSB with settlement boundary	PSB aligns with the existing settlement boundary
SLO	Extend SLO3 to surround the settlement
Proponent position	Support exhibited PSB
Council position	Support exhibited PSB
S508 position	Retain settlement boundary/not support exhibited PSB

Figure 42 Rhyll Protected Settlement Boundary

Settlement Background Paper

The Settlement Background Paper assessed the existing settlement boundary and found it:

- protects significant areas of environmental significance including the Rhyll Wetlands and Western Port Ramsar site
- prevents urban encroachment into regionally significant landscapes
- protects areas of cultural heritage sensitivity
- protects productive agricultural land
- prevents urban encroachment into areas at risk of coastal hazards.

The Settlement Background Paper concluded:

The settlement boundary should be designated a PSB to protect Rhyll's landscape, heritage and environmental values and to safeguard the community from environmental hazards. Rhyll is proposed to be designated a village, to reflect its limited access to services, population size and limited growth opportunities.

(iii) Evidence and submissions

Landscape

Ms Scott confirmed the alignment of the Rhyll PSB with the existing settlement boundary was consistent with the LAR. The LAR observed Rhyll is particularly notable for its extensive vegetation cover, adding considerably to its landscape character and connection to the broader landscape, and recommended a policy of no expansion beyond its current developed extent.

Biodiversity and environmental risks

Submission S508 proposed the extension of the PSB to include its land, stating the property had *“no great landscape or environmental features other than the foreshore environs”*.

The Phillip Island Conservation Society (D258) supported the proposed PSB to prevent the impacts of urban expansion on the adjacent Western Port Ramsar wetland and waterbirds.

Economics and land supply

Mr Shipp did not provide any specific recommendations on land supply in Rhyll and noted the combined Phillip Island settlements (excluding Cowes) have an estimated seven-year supply of zoned and unzoned land.

Planning

Mr Glossop supported the PSB in the draft SPP on the basis Rhyll is at the lowest end of the settlement hierarchy and there was no strategic planning reason to warrant any change to the boundary.

Council submitted the Rhyll PSB was appropriate. Mr Black supported the proposed PSB because it allowed for some growth by developing vacant residential land and infill sites.

S508 submitted the settlement boundary should be relocated to the south side of land at 87 Newhaven Road, Rhyll as it would offer the following benefits:

- provide a landscaping opportunity to soften the existing hard edge to the township
- provide land to incorporate into the Crown estate for environmental benefit
- provide additional land to meet demand.

(iv) Discussion

The Committee considers the land and coastal areas surrounding Rhyll have significant environmental values and distinctive attributes warranting protection through a PSB, including the Western Port Ramsar, coastal inundation risk and ecological values.

As previously discussed, the Committee considers PSBs are suitable for settlements on Phillip Island (except for Cowes) due to its contained nature, tourism role and because it exhibits high quality landscapes and environmental assets.

(v) Findings

The Committee finds:

- A Protected Settlement Boundary for Rhyll is justified based on the significant landscape values along the Phillip Island Coast, including proximity to the Western Port Ramsar Wetlands and Rhyll Inlet.

12 Hamlets

The draft SPP defines a Hamlet as:

A settlement with low and seasonal population levels of 200–500, the number fluctuating seasonally. There are limited services and connections to a sewage system. Hamlets on the coast have high levels of holiday home ownership and some small-scale visitor accommodation.

Pioneer Bay, the Gurdies, Smiths Beach, Sunset Strip, Sunderland Bay, Surf Beach, Ventnor, Bass, Harmers Haven, Jam Jerrup, Tenby Point and Wimbleton Heights are identified as Hamlets in the draft SPP for Bass Coast.

12.1 Pioneer Bay and The Gurdies

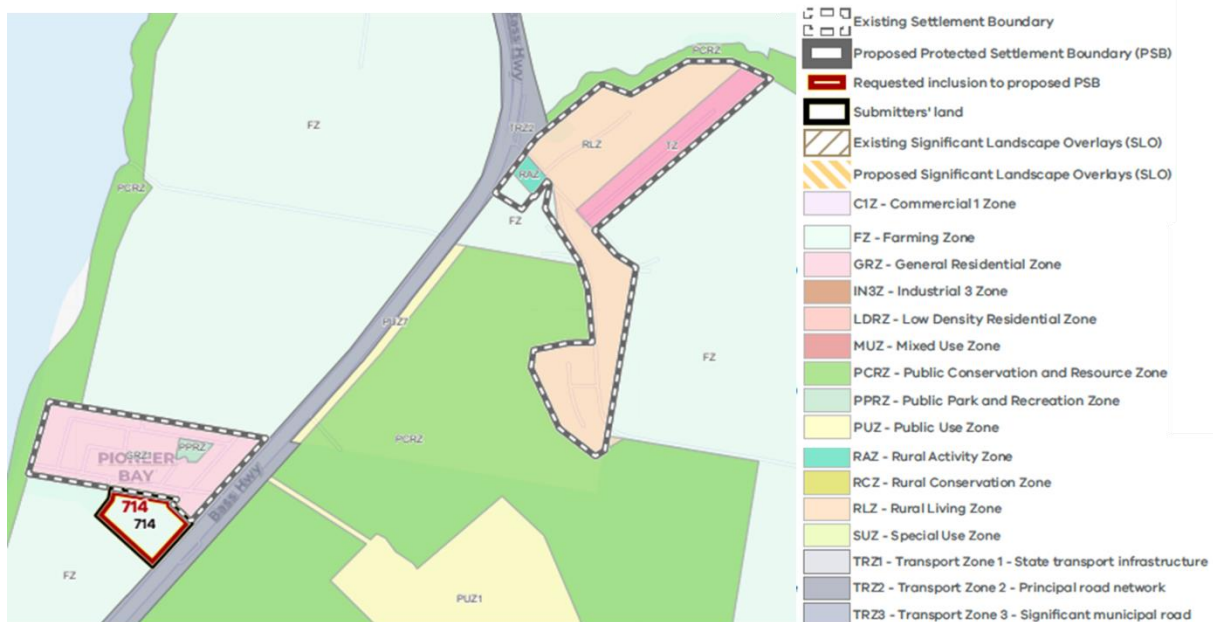
(i) Key issue

The key issue is whether application of a PSB is strategically justified.

(ii) Background

Table 23 Pioneer Bay and The Gurdies settlement summary

Matter	Summary
Existing settlement boundary	<i>Pioneer Bay and the Gurdies Strategic Framework Plan</i> (Clause 11.01-1L-20) <i>Bass Coast Strategic Coastal Planning Framework, June 2011</i> implemented by Amendment C93 (2012)
Alignment of exhibited PSB with settlement boundary	PSB aligns with the existing settlement boundary
SLO	No SLO proposed
Proponent position	Support exhibited PSB
Council position	Support exhibited PSB
S714 position	Retain settlement boundary/not support exhibited PSB

Figure 43 Pioneer Bay and The Gurdies Protected Settlement Boundary

Settlement background Paper

The Settlement Background Paper assessed the existing settlement boundary and found it:

- protects areas of environmental and ecological significance from urban encroachment
- protects the regionally significant landscape from urban encroachment
- protects identified and potential areas of Aboriginal cultural heritage significance from urban encroachment
- protects agricultural land and potential extractive resources
- limits urban expansion into areas subject to inundation and bushfire risks.

The Settlement Background Paper concluded:

Current planning policy identifies Pioneer Bay and The Gurdies as having low spatial growth capacity. They have sufficient capacity to fulfil their roles as small, residential hamlets.

Retaining the existing settlement boundaries will ensure long-term protection of Pioneer Bay and The Gurdies and their environs, providing the community with long-term certainty.

Pioneer Bay and The Gurdies are proposed to remain as hamlets in the settlement hierarchy, to reflect their role and function¹⁹⁰.

(iii) Evidence and submissions

Landscape

Ms Scott's evidence noted that aligning the PSB with Pioneer Bay's existing settlement boundary was consistent with the LAR. The LAR recommended prioritising expansion of inland settlement areas within landscapes of lesser or no significance above coastal townships in visually sensitive and significant locations. Ms Scott further noted The Gurdies settlement was not assessed as part of the LAR, therefore she did not reach an opinion regarding its settlement boundary.

Mr Haack and Mr Moir did not provide an opinion on the landscapes surrounding these settlements.

Biodiversity and environmental risks

Pioneer Bay abuts the Western Port Ramsar wetland. The Gurdies Nature Conservation Reserve is located to the east of Pioneer Bay and the south of The Gurdies. The Hurdy Gurdy Creek Conservation Reserve forms the northern boundary of The Gurdies; the creek is an identified biolink corridor.

Economics and land supply

Mr Shipp did not provide an opinion on Pioneer Bay and the Gurdies.

Planning

Mr Glossop noted Pioneer Bay and The Gurdies are lower order settlements in the hierarchy. He considered the proposed PSB to be appropriate because of the settlements' susceptibility to environmental risks. He did not support inclusion of the S714 land in the Pioneer Bay PSB.

Mr Black supported the location of the proposed PSB to provide long term protection of the settlements' environs. He noted the PSB would allow for limited growth to be accommodated with some opportunity for infill development on vacant lots.

S714 acknowledged its land was originally part of a larger holding extending to the coastal reserve. The Amendment C93 Panel rejected inclusion of the site in the Pioneer Bay settlement boundary due to coastal inundation risks. However, since that time, land to the west of the site has been acquired by Council for drainage purposes. The remaining portion of the S714 land is located above five metres Australian Height Datum and the original reason for excluding land from the settlement boundary is no longer relevant.

(iv) Discussion

Pioneer Bay and The Gurdies are hamlets set within sensitive environmental and ecological areas. As outlined in the Settlement Background Paper, maintaining the existing settlement boundary is important to ensure future urban development does not encroach on these attributes. The Committee agrees with the Proponent that retaining the settlement boundaries at these locations will ensure long term protection of Pioneer Bay and The Gurdies and their environs.

Clause 02.03 of the Planning Scheme identifies hamlets as having low spatial growth capacity, with growth to occur within existing urban or appropriately zoned land, primarily through infill capacity and within defined settlement boundaries. The Committee agrees with Mr Black there remains some infill opportunities within the settlement and this level of growth is consistent with policy. The Committee does not support expansion of the settlement boundary to include the S714 land, particularly given its proximity to the Western Port Ramsar Wetlands and the potential for indirect environmental impacts.

Given the proximity of Pioneer Bay and The Gurdies to the Western Port Ramsar Wetlands, the Gurdies Nature Conservation Reserve and the Hurdy Gurdy Creek Conservation Reserve, a PSB for Pioneer Bay and The Gurdies is justified.

(v) Findings

The Committee finds:

- Pioneer Bay and The Gurdies are located within a sensitive environmental and ecological area that should be protected through the application of a Protected Settlement Boundary.

12.2 Smiths Beach, Sunset Strip, Sunderland Bay and Surf Beach

(i) Key issues

The key issues are whether:

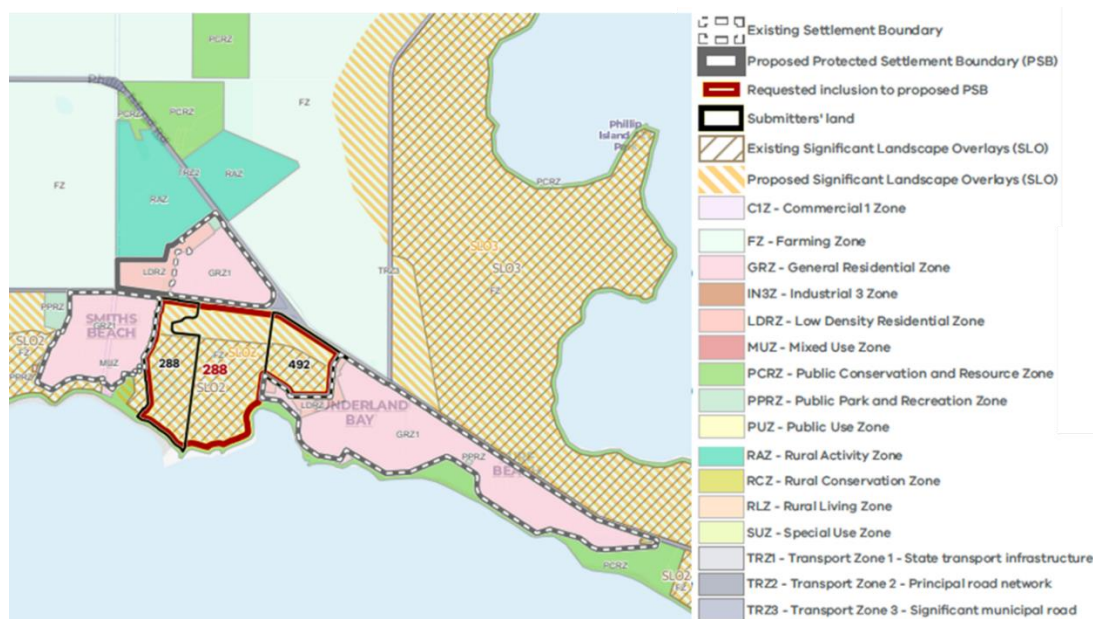
- the settlement boundary should include the land owned by S288
- a PSB is strategically justified.

(ii) Background

Table 24 Smiths Beach, Sunset Strip, Sunderland Bay and Surf Beach settlement summary

Matter	Summary
Existing settlement boundary	<i>Smiths Beach, Sunderland Bay, Sunset Strip and Surf Beach Strategic Framework Plan</i> (Clause 11.01-1L-15) <i>Phillip Island and San Remo Design Framework</i> , November 2003 implemented by Amendment C46(2) (2008)
Alignment of exhibited PSB with settlement boundary	Sunset Strip PSB is extended to include the LDRZ land All other PSBs align with the existing settlement boundary
SLO	Extend SLO2 northward to Back Beach Road
Proponent position	Support exhibited PSB
Council position	Support exhibited PSB
S288 position	Retain settlement boundary/not support exhibited PSB (Smiths Beach)
S492 position	Retain settlement boundary/not support exhibited PSB (Sunderland Bay)

Figure 44 Smiths Beach, Sunset Strip, Sunderland Bay and Surf Beach Protected Settlement Boundary



Settlement Background Paper

The Settlement Background Paper assessed the existing settlement boundaries and found they:

- prevent urban encroachment into coastal reserves that provide habitat for vulnerable species (including the Hooded Plover)
- protect state and regionally significant landscapes
- protect areas of Aboriginal cultural heritage
- protect areas of moderate agricultural value and support primary production and tourism
- prevent urban expansion into areas subject to coastal hazards.

The Settlement Background Paper concluded:

Overall, the settlement boundaries of Smiths Beach, Sunderland Bay and Surf Beach area are considered to be robust. They are long-standing, have been independently reviewed, follow roads and natural features and are likely to be well understood by the community.

The settlement boundaries of all four hamlets should be protected settlement boundaries, to ensure the long-term protection of the significant values. Smiths Beach, Sunset Strip, Sunderland Bay and Surf Beach are proposed to remain hamlets in the settlement hierarchy, to reflect their small populations and limited services ¹⁹¹.

(iii) Evidence and submissions

Landscape

The Proponent contended *“the existing settlement boundaries ensure the protection of the state-significant and regionally significant landscape from urban encroachment”*¹⁹². Ms Scott supported the use of PSBs to *“ensure the retention of green breaks between townships”*. She submitted *“significant coastal landscape that forms a green break between small coastal hamlets along the wild south coast of Phillip Island should not be included within the PSB, rezoned or developed for urban purposes”*¹⁹³.

Mr Schutt gave evidence that *“expansion of residential development of the Smith Beach settlement to the east could erode the green break between Smith Beach and Sunderland Bay”*¹⁹⁴. However, he contended the land could support appropriate development in terms of scale, nature and form such as the Silverwater Resort in San Remo and indicated the extension of SLO2 was not necessary.

In reply, the Proponent submitted Mr Schutt failed to acknowledge the key reason for the extension of SLO2 was to *“protect scenic views along Back Beach Road, a key tourist road on Phillip Island”*.

In relation to green breaks, Best Hooper Group submitted these were not a declared attribute. Further, the green break between Smiths Beach and Sunset Strip is less than 100 metres in length and development is visible in both directions. The landscape conclave agreed that while green breaks were important, *“the extent of land required for green breaks is not clear and warrants further work”*¹⁹⁵. Until such work is undertaken, Best Hooper Group submitted it would be

¹⁹¹ D3k, p160

¹⁹² D29, para 216

¹⁹³ D032, para 346

¹⁹⁴ D090, para 138

¹⁹⁵ D172, para 14

premature and inappropriate to impose a PSB at Smiths Beach for the purpose of preserving the existing green break.

Submitter 492 commented the LAR lacked robust viewshed analysis and there had not been a rigorous visual impact assessment or rational reasoning behind the identification of the S492 land as being of regional visual and landscape significance. The LAR relied on broad statements and general assumptions, regardless of site-specific and township-specific characteristics and values. Further, the S492 land could form a logical extension of Sunderland Bay without compromising the broader landscape qualities of the Phillip Island Coastal Cliffs landscape area. This would maintain a substantial green break between settlements and avoid linear development along the coastline (given the site sits behind an existing extension of the urban area along the coastal frontage). The site could provide an opportunity to improve existing township landscape character and its connection to the wider landscape setting.

Biodiversity and environmental risks

Mr Garden gave evidence that:

With the exception of the coastal fringe and potentially large dam onsite, the site has limited environmental value from a biodiversity perspective. The site may be suitable for urban development without adversely impacting local or regional biodiversity values, provided it is done so with appropriate consideration given to the protection and enhancement of existing values¹⁹⁶.

All members of the ecology conclave agreed the S288 land had development potential without adversely impacting ecological values:

- A. The subject site may be suitable for urban development without adversely impacting ecological values, however, consideration needs to be given to the protection and enhancement of existing values and potential for incremental impacts as a result of increased visitations by residents of new urban areas. These existing values include the coastal fringe and potentially large dam onsite.
- B. The biolink along the western edge of the property does not currently exist and further analysis of its relative importance to biodiversity is required¹⁹⁷.

Mr Lane gave evidence that much of the S288 land had been cleared of native vegetation and now supported introduced pastures, weeds and planted vegetation. His evidence set out the environmental values of the S288 for conservation including:

- low-quality native vegetation, totalling 1.652 hectares
- moderate-quality native vegetation, totalling 0.609 hectares
- high-quality native vegetation, totalling 1.943 hectares
- the farm dam which is likely to be occasionally used by wetland and shorebird species.

Mr Lane stated the coastal dune system contained high quality diverse flora species and suitable habitat for a range of threatened coastal species, while the patches of vegetation within paddocks were of a lower quality due to unrestricted stock access. Mr Lane mapped the extent of native vegetation (Figure 45).

¹⁹⁶ Ibid p8

¹⁹⁷ D117 para 4.4

Figure 45 S288 land biodiversity values ¹⁹⁸

Mr Lane said it was critical that any future development establish a biodiversity core which creates and connects the habitat within the site and the nearby coastal reserve. He set out design recommendations to demonstrate the site's capacity to enhance and protect diversity values through development including:

- avoid impacts on native vegetation within the southern portion of the site
- establish a 'biolink' between the study area and the coastal reserve through retention and revegetation

¹⁹⁸ D74, Figure 2

- revegetation be designed to encourage species known to occur near the study area to utilise the habitat, such as the Short-tailed Shearwater and Eastern-barred Bandicoot
- light mitigation methods to avoid impact on Short-tailed Shearwater birds
- restrict pedestrian beach access from existing and new development to prevent disturbance to potential Hooded Plovers and Short-tailed Shearwater breeding colonies
- limiting ownership of dogs and enforcing a dogs on lead policy
- restrict cat ownership to indoor cats or outdoor cat cages.

In response to Mr Lane's evidence, the Proponent submitted it would be impractical to implement management and monitoring measures to manage visitation and domestic animal impacts as part of an urban development.

Phillip Island Conservation Society (D258) supported the PSB controls and stated they were important for conservation of Short-tailed Shearwater colony and Hooded Plovers.

Economics and land supply

Mr Shipp did not provide any specific recommendations on land supply in Smiths Beach, Sunset Strip, Sunderland Bay or Surf Beach Estate. He noted the combined Phillip Island settlements (excluding Cowes) have an estimated seven years of zoned and unzoned land supply.

Mr McNeill's evidence focussed on the S288 land. He stated that in January 2023, Smiths Beach had 22 vacant lots dispersed through the established residential area, representing a theoretical supply of between 5 and 5.7 years. In Mr McNeill's opinion, the S288 land would provide a valuable addition to land supply at Smith Beach and to the lifestyle market more broadly.

Planning

The Proponent submitted that in light of the landscape and ecology evidence; expansion of the settlements would require a compelling strategic justification, none of which was offered by the submitters.

Mr Glossop and Mr Black agreed it was appropriate to include existing LDRZ land in Sunset Strip in the PSB.

Mr Glossop could not find a town planning justification to include the S288 and S492 land in the Smiths Beach PSB, noting hamlets have limited spatial growth opportunity and population growth is not anticipated. For these reasons he supported the proposed PSBs. Mr Black agreed.

Best Hooper Group submitted a PSB should not be implemented until further strategic planning review had occurred. It noted if the Committee did not accept its submission, the Committee should recommend no PSB be implemented at this time.

Best Hooper Group submitted it was unnecessary to apply a PSB to protect the distinctive features relevant to the S288 land because:

- ESO1 protects remnant vegetation that provides habitat for threatened species and are important wildlife corridors
- SLO2 (based on its existing boundary) protects distinctive landscapes.

Best Hooper Group submitted the opinions of Mr Glossop and Mr Black were premature given the Settlement Background Paper, draft SPP or the experts had not:

- justified why a PSB rather than a conventional settlement boundary is necessary
- indicated the existing conventional settlement boundary has been ineffective in protecting and conserving the declared attributes

- demonstrated a robust strategic planning process has been undertaken to review the existing boundary
- considered the desirability to provide growth options below the lower order settlements.

Mr Granger's opinion was that Smiths Beach faces an acute housing supply issue not addressed by the draft SPP. He considered the approach to accommodating growth in Smiths Beach (and Phillip Island more broadly) should be re-evaluated as part of a shire-wide housing and settlement strategy. This may find it is appropriate to plan for new growth areas in proximity to Smiths Beach to respond to future housing demand, especially given the existing policy discouragement for increased housing densities in the settlement. Mr Granger acknowledged that detailed planning may determine the northern portion of the C288 land is appropriate for urban development, while areas of established environmental and landscape significance to the south are excluded.

In response to Mr Granger's evidence, the Proponent advised Smiths Beach was the subject of strategic work in 2022 that recommended the existing settlement boundary remain in place ¹⁹⁹.

S492 submitted the draft SPP should not specify a PSB for Sunderland Bay because it unreasonably constrains land supply in Bass Coast (and Sunderland Bay specifically) and fails to meet the needs of the local community and Victorians.

(iv) Discussion

Ms Scott's description of green breaks as important features "*between small coastal hamlets along the wild coast of Phillip Island*" resonates with the Committee. It is with this lens the Committee supports the view of the Proponent that the green break between Sunderland Bay, Surf Beach and Smiths Beach is a significant and important landscape feature that ought to be maintained. The Committee does not support the expansion of the PSB south of Back Beach Road between Smiths Beach and Sunderland Bay. While the green break is less than 100 metres in length, and some development is visible in both directions, the Committee sees value in the patchwork of urban development interspersed with agricultural land with glimpses of Bass Strait beyond.

The Committee disagrees with Mr Schutt's suggestion that development such as the Silverwater Resort in San Remo could be appropriate between Smiths Beach and Sunderland Bay and is of view that it is critical to maintain the green breaks in a State significant landscape.

The Committee accepts the ecology evidence on the importance of the native vegetation and habitat on the southern portion of the land and acknowledges the interface with the coastal reserve to the south. Of particular significance is the coastal fringe vegetation and farm dam likely to be used by wetland and shorebird species.

The Committee accepts the conclusions from the ecology conclave that the highly modified northern section of the S288 land has development potential without adversely impacting ecological values. Development might also lead to the creation of a biolink along the western edge of the property to support connection of biodiversity values with the coastal reserve. However, the Committee agrees with the Proponent that ongoing monitoring and management would be required, in addition to limiting access to the coastal reserve through design to ensure development does not compromise the ecological values of the land and the adjoining coastal

¹⁹⁹ Smiths Beach Town Plan Report Volumes 1 and 2, 2022 (D160l and D160m)

reserve. This coastal reserve is documented to support habitat for State and Commonwealth listed shorebirds species (Short-tailed Shearwaters and Hooded Plover).

Clause 02.03 of the Planning Scheme identifies hamlets as having low spatial growth capacity, with growth to occur within existing urban or appropriately zoned land, primarily through infill capacity and within defined settlement boundaries. Based on this, the Committee considers the application of a PSB for Sunderland Bay, Surf Beach and Smiths Beach is consistent with the growth expectations identified in policy.

The Committee agrees with the assessment in the Settlement Background Paper and supports the PSB as exhibited. The high-quality landscape along this southern edge of Phillip Island is of state and regional significance. The Committee supports the existing green breaks as an important landscape feature.

(v) Findings

The Committee finds:

- The green break between Sunderland Bay, Surf Beach and Smiths Beach is a significant and important landscape feature and should be protected.
- The landscape values adjacent to the coast are high quality and should be protected.
- Development of the northern end of the Submitter 288 land could be appropriately designed to minimise the impact on native vegetation and habitat within the site, however it would not be an appropriate landscape outcome.
- There is a risk State and Commonwealth listed shorebirds species (Short-tailed Shearwaters and Hooded Plover) adjacent to the site could be indirectly impacted by development of the Submitter 288 land.
- A Protected Settlement Boundary for Smiths Beach, Sunset Strip and Sunderland Bay is justified to protect State and regionally significant landscapes, maintaining the important green break between settlements and to minimise the impact on state and Commonwealth listed shorebirds species.

12.3 Ventnor

(i) Key issue

The key issue is whether a PSB is strategically justified.

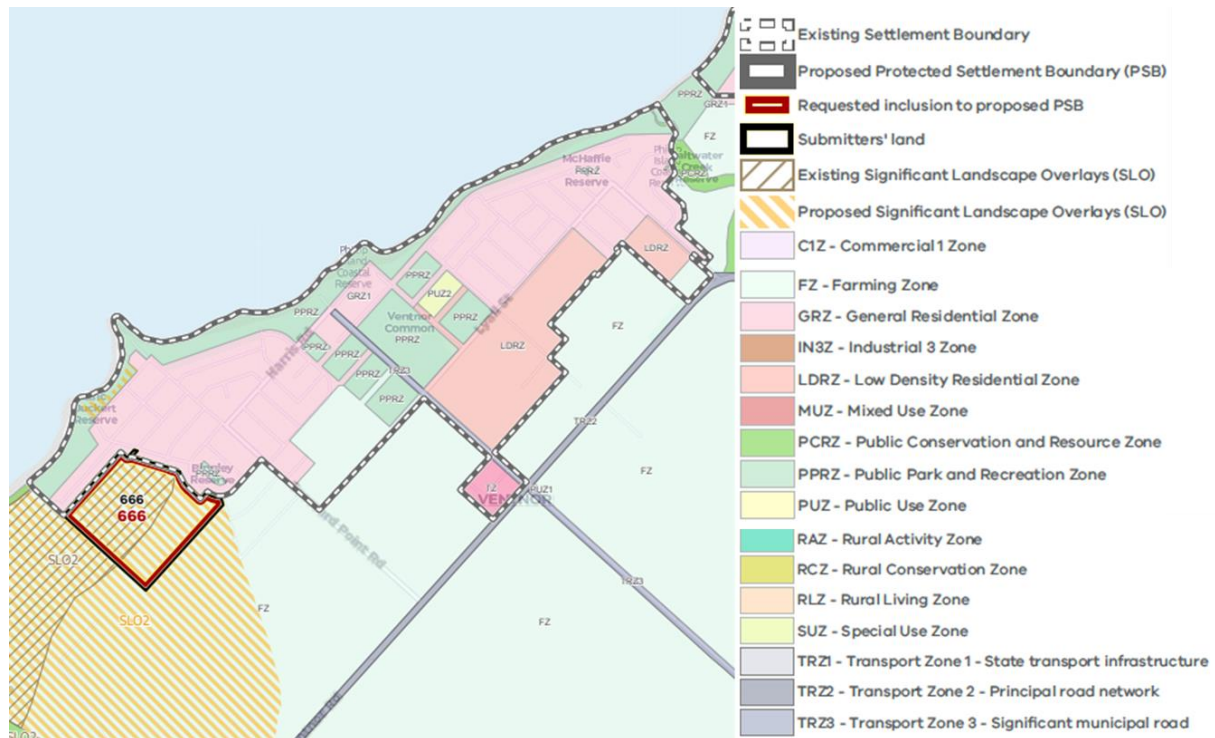
(ii) Background

Table 25 Ventnor settlement summary

Matter	Summary
Existing settlement boundary	<i>Ventnor Strategic Framework Plan</i> (Clause 11.01-1L-04) <i>Cowes, Silverleaves, Ventnor & Wimbleton Heights Structure Plan</i> , May 2010 implemented by Amendment C88 (2010)
Alignment of exhibited PSB with settlement boundary	PSB aligns with the existing settlement boundary
SLO	Extend SLO2 inland
Proponent position	Support the exhibited PSB

Matter	Summary
Council position	Retain settlement boundary/not support exhibited PSB
S666 position	Retain settlement boundary/not support exhibited PSB

Figure 46 Ventnor Protected Settlement Boundary



The Settlement Background Paper assessed the existing settlement boundary and found it:

- protects state, nationally and internationally significant environmental values along the coast and Saltwater creek, including Hooded Plover and Latham's snipe, from further pressure
- no environmental values were identified to the south of the settlement
- protects the State significant landscape to the west and regionally significant landscape to the south
- protects surrounding agricultural land for urban encroachment
- prevents urban encroachment into coastal reserves and Saltwater Creek to the east, where there are identified environmental risks.

The Settlement Background Paper concluded:

Overall, the existing settlement boundary is considered robust and suitable for inclusion within the draft Bass Coast SPP. It is long-standing and likely to be understood by the community. A protected settlement boundary should be implemented, to provide certainty for the community about the protection of significant attributes. Ventnor is considered a separate settlement and community to Cowes and is proposed to be designed a hamlet rather than a district town, to reflect the limited services within Ventnor²⁰⁰.

(iii) Evidence and submissions

Landscape

The Proponent proposed the PSB remain unchanged from the current existing settlement boundary in alignment with the LAR which categorised Ventnor as a coastal settlement with no development capacity. Ms Scott recommended prioritising *“the expansion of inland settlement areas with landscapes of lesser or no significance above coastal townships in visually sensitive and significant locations”*, implying that coastal development in Ventnor was not appropriate. Additionally, the Proponent in accordance with the State significant landscape designation, proposed expansion of SLO2 to a larger area immediately south of the existing Ventnor township.

Mr Moir suggested land south of Ventnor currently outside the boundary of the proposed PSB, (the S666 land) may not be visible from Ventnor Road due to topography. He stated that further detailed analysis is necessary, but noted the potential to remove this parcel of land from SLO2, stating *“future development within this area is unlikely to cause significant additional impact on the exiting landscape character and significant view corridors”*²⁰¹. Ms Scott did not accept Mr Moir’s suggestion to remove the S666 land from the existing SLO2, emphasising the land is of State significance in terms of coastal and coastal hinterland landscapes, and that detailed modelling had not been undertaken to determine the impact of urban development.

Springway Ventnor submitted inclusion of the S666 land in the settlement boundary was justified on landscape grounds, because approximately 80 per cent of the land is not visible from Ventnor Road, nor from the water’s edge. Springway Ventnor relied on the evidence of Mr Wyatt.

Mr Wyatt suggested the proposed SLO2 boundary should have been based on a more detailed assessment of *“sufficient granularity”* to provide a more nuanced outcome, rather than *“simply prohibiting development”*. He determined the analysis was overly simplified and based on limited data. He questioned the assumption that a standard width from the coast is appropriate for the SLO. He did not support the location of the PSB based on landscape significance. Mr Wyatt’s proposition that there are four distinct landscape units across the parcel with varying landscape characteristics suggested that applying a blanket control failed to *“properly consider the condition of the land”*.

In reply, the Proponent submitted development of the S666 land would block views to Western Port and beyond. Additionally, the Proponent submitted Mr Wyatt failed to understand the importance of Ventnor Road as a major tourist road, and the importance of protecting views from the road to the water.

Biodiversity and environmental risks

The land was previously considered for inclusion in the settlement boundary by the C88 Panel. The was rejected by that Panel due to the site’s proximity to the nearby beaches, which support a Short-tailed Shearwater colony and breeding grounds for a population of Hooded Plovers (a listed species under the FFG Act and EPBC Act). The C88 Panel observed the proposal responded poorly to the directions in the *Victorian Coastal Strategy, 2008* and said:

Foundation principles 1 and 4 of the VCS 2008 are particularly relevant. These seek the protection of significant environmental assets and to ensure development within a resilient

²⁰¹ D 083, p9

environment. We consider the proximity of the Short-tailed Shearwater colony, the Hooded Plover breeding grounds and the low use beaches are significant environmental assets ²⁰².

The C88 Panel concluded it was not satisfied the S666 land could be developed without loss of bird species and their habitat:

The introduction of a significant new population (500-600 people) in this area has the potential to exacerbate problems already present and may result in the loss of habitat for the bird species or the loss of the birds from their habitat. A referral may be triggered by the EPBC Act. We are not satisfied the Cadogan proposal will not have these consequences ²⁰³.

Mr Garden gave evidence on ecological values and observed the S666 land was comprised largely of introduced pasture with vegetation along boundaries and fence lines. He concluded:

Future development of this site is unlikely to have a significant impact on local or regional biodiversity ²⁰⁴.

Mr Organ's evidence agreed with Mr Garden. He noted the S666 land had been extensively cleared of native vegetation. His evidence concluded there were no significant ecological constraints to expanding the PSB to include the land, however he noted the potential for indirect impacts on the coastal and marine environments including the Short-tailed Shearwater:

The area is not located adjacent to sensitive Coastal Saltmarsh and intertidal areas associated with the Westernport Ramsar site. While the migratory Short-tailed Shearwater is known to nest along the foreshore to the north east of property 666, there are no significant ecological constraints that would restrict the expansion of the Ventnor settlement boundary at this location. However, any future development would need to be consider indirect impacts to the sensitive coastal and marine environment, including the existing Short-tailed Shearwater nesting site ²⁰⁵.

The Phillip Island Conservation Society (D258) disputed Mr Organ's evidence and argued impacts to the sensitive coastal and marine environment could not be mitigated. Its submission cited the Phillip Island Nature Parks objection to the development of the S666 land in the C88 Panel Report:

The PINP objected to the proposed settlement boundary extension on the basis of the impacts on the nearby Shearwater colony that supports 5,300 of the migratory species Short-tailed Shearwaters. Phillip Island is home to about 5-8% of the world's Shearwater population and this is the largest colony remaining on the north coast of the island. It noted that threats to the birds come from trampling by humans, lighting and domestic cats and dogs. Beaches to the south (Woolshed Bight and Farm Beach) are the last remaining low use beaches on the north coast and home to 2-3 breeding pairs of Hooded Plover listed as a threatened species under the Flora and Fauna Guarantee Act, 2008 ²⁰⁶.

Springway Ventnor submitted that developing the land through sensitive design and siting of development provides an opportunity to improve the landscape through native planting.

Economics and land supply

Mr Shipp and Mr Henshall both assessed Ventnor's land supply in conjunction with Cowes. They agreed the provision of additional zoned broadacre land, both within and adjacent to existing settlement boundaries will be needed over the next 15 years in this area to avoid adverse housing

²⁰² D160 para 274

²⁰³ Ibid

²⁰⁴ Doc 37 p9

²⁰⁵ Doc 82 p23

²⁰⁶ D258 p7-8

affordability and availability impacts. Mr Shipp noted, however, that it was relevant to consider opportunities for residential intensification which was not part of the UE 2022 report.

Mr Henshall considered the S666 land should be considered for future residential development to meet increasing demand in coming years. His evidence stated:

Ventnor should be identified as a suitable location for further and suitably planned residential development, considering the opportunity to meet a share of ongoing population growth on Phillip Island and in the wider Shire, and also adding support to businesses and other activities in the Cowes town centre; this is the centre that the Ventnor community supports. In this regard, I support the use of the Subject Land for residential development ²⁰⁷.

Mr Henshall questioned the designation of Ventnor as a separate entity to Cowes/Silverleaves and suggested the whole area reads as one place.

Planning

Mr Glossop's evidence noted Ventnor's designation as a hamlet more appropriately reflected its role in the settlement hierarchy and its lack of services. He noted the risks posed by urban development on the S666 land on the nearby Shearwater colony was a key reason the C88 Panel rejected this land for urban expansion in 2012. He supported the proposed PSB given the town's role in the hierarchy and the need to protect the state significant landscape to the west.

The Proponent agreed with Mr Glossop and submitted:

Given that an express purpose of the Draft SPP is to enhance protection of biodiversity and other environmental assets and the downward reclassification of Ventnor, it is considered there is no persuasive case for the inclusion of the land in the PSB nor is there any case for deferring the imposition of the PSB.

... the Department, at officer level, has accepted Mr Moir's recommendations for further assessment to occur in relation to the final delineation of the SLO around the western end of the Ventnor settlement. Subject to that more detailed assessment, should that assessment confirm that development would be visible from key viewing locations, including from Ventnor Road, the impact of development on landscape values is a further reason to exclude this land from the PSB ²⁰⁸.

In relation to the settlement hierarchy, the Proponent submitted Ventnor had more in common with other 'villages' than with 'district towns', particularly in relation to its growth potential. Ventnor's limited growth potential was consistent with the findings of the C88 Panel which considered the *Cowes, Silverleaves, Ventnor and Wimbeldon Heights Structure Plan, 2010*. In that instance, the Panel found designation of Cowes as a district town in the *Victoria Coastal Strategy 2008* should not be used as an argument to support broad scale greenfield residential development in the Ventnor sub-market.

Mr Black supported the proposed PSB to provide long-term protection of Ventnor's environs. Having regard to the evidence of Mr Moir, Council submitted further work was required to inform the Ventnor PSB.

Springway Ventnor submitted the downgrading of Ventnor from district town to hamlet was a significant shift in its perceived role and function and would have a detrimental impact on the ability of the area to provide for alternative growth options, particularly in the event of significant

²⁰⁷ D65, para 1.20

²⁰⁸ D160, para 276-277

increased demand events, such as the recent pandemic. This, it contended, ignored opportunities to utilise sites that have capacity to meet demand.

Further, Springway Ventnor submitted the assessment undertaken in the Settlement Background Paper lacked the required rigour to exclude the S666 land from the PSB because:

- it relied on outdated residential land supply data
- it lacked regard for sub-markets or for meeting demand equitably across the Shire
- environmental planning controls do not apply to the land
- potential landscape impacts can be managed.

S630 supported the proposed PSB for Ventnor and its designation as a hamlet in the settlement hierarchy separate to Cowes and Silverleaves.

(iv) Discussion

The Committee acknowledges this is a complex site to consider. Views from Ventnor Road towards Ventnor, the coast and Western Port Bay comprise a mix of open paddocks, mature canopy trees and existing urban development, with water and distant hill views beyond. Urban development adjacent to Ventnor Road would have a significant impact on the foreground views, particularly given the important tourist function that Ventnor Road plays on Phillip Island. Expansion of the settlement to the north-east and south-west should be avoided based on the overall high landscape value along the Phillip Island Coast, noting the existing green break between Ventnor and Cowes.

Notwithstanding this, the middle-ground views from Ventnor Road (between Grossard Point Road and McHaffie's Road) include the S666 land. Given that urban development along Bingley Crescent is already part of that view, the Committee does not characterise the view as one of pure landscape. From a visual landscape perspective, development of the S666 land could be appropriate if sensitively responsive to the topography and context. This would require appropriate design guidelines and bespoke planning controls to ensure retention of existing stands of vegetation (both native and exotic) such as the existing significant windrows which are currently part of the view.

The Committee accepts the ecology evidence from Mr Garden and Mr Organ that the S666 land has been extensively cleared and has limited environmental values. The Committee notes the evidence was confined to the site, and an assessment of the impacts from urban development on the coastal reserve was not undertaken.

The Committee has given significant weight to the conclusions of the C88 Panel in relation to the potential impacts the development of S666 land might have on the adjacent coastal reserve. This coastal reserve is documented to support habitat for State and Commonwealth listed shorebirds species, and the introduction of new urban development has the potential to indirectly impact these species through increased population impacts and informal access to the coastal reserve.

The purpose of the draft SPP is to ensure protection of features of outstanding environmental significance. The Committee considers there is inadequate environmental evidence to justify the inclusion of the S666 land in the settlement boundary at this time. Of note, given the importance of the environmental issues raised in the C88 Panel Report, Springway Ventnor did not provide any expert evidence to demonstrate that environmentally acceptable outcomes are achievable on the land.

The Committee discussed the role of Ventnor and Cowes and Silverleaves in Chapter 7.2. Despite Ventnor being uncoupled with Cowes and Silverleaves, the Committee is of the view the three settlements operate as a network. Given Ventnor's close proximity to Cowes, it benefits from convenient access to services and shops. On this basis, land supply should be considered across the three settlements. Based on the Committee's recommendation not to apply a PSB to Cowes and Silverleaves until further strategic work has been undertaken, and noting Ventnor has some unzoned land within the existing settlement boundary, the Committee is satisfied that applying a PSB will not have a negative impact on land supply broadly. As previously discussed, this is consistent with the growth expectations for hamlets in Clause 02.03 of the Planning Scheme.

The Committee agrees with the assessment in the Settlement Background Paper and supports the PSB as exhibited. In balancing the issues of visual and environmental impact, the Committee has given greater weight to the potential environmental impacts to Commonwealth listed shorebirds species (Short-tailed Shearwaters and Hooded Plover) if the S666 land was to be developed. There is nothing before the Committee to deviate from the C88 Panel Report or the existing settlement boundary in the *Ventnor Strategic Framework Plan* (Clause 11.01-1L-04).

(v) Findings

The Committee finds:

- The landscape values either side of Ventnor particularly along the coast and Ventnor Road (as a tourist route) are high quality and should be protected.
- From a visual landscape perspective, Submitter 666 land could accommodate some development if it was sensitively incorporated into the landscape.
- There is a risk State and Commonwealth listed shorebirds species (Short-tailed Shearwaters and Hooded Plover) could be impacted by development of the Submitter 666 land.
- A Protected Settlement Boundary is justified based on and the environmental values of the Ventnor coastal reserve, and the significant landscape values along Ventnor Road and either side of the Ventnor settlement.

12.4 Bass, Harmers Haven, Jam Jerrup, Tenby Point and Wimbledon Heights

(i) Key issue

The key issue is whether a PSB is justified for:

- Bass
- Harmers Haven
- Jam Jerrup
- Tenby Point
- Wimbledon Heights.

(ii) Submissions and evidence

No submissions sought changes to the PSBs for the five hamlets.

The Proponent explained the PSB's for all five Hamlets aligned with the respective existing settlement boundaries. The Proponent relied on the justification in the Settlement Background Paper for each Hamlet as outlined below.

Bass

The Settlement Background Paper considered the implementation of a PSB in line with the existing settlement boundary for Bass to be appropriate having regard to the following matters (among others):

- Bass is located in the regionally significant Strzelecki Foothills landscape, which takes in the landform features of the Bass Hills, The Gurdies Hills, and the Bass River valley between them – the existing settlement boundary protects the landscape values of the area through limiting urban encroachment;
- The existing settlement boundary also limits further urban encroachment into areas subject to flood risks; and
- The further development of the existing Low Density Residential Zone land within the settlement boundary will not result in any unacceptable impacts on the distinctive attributes of the surrounding area, and can be appropriately managed through the SLO1²⁰⁹.

Harmers Haven

The Settlement Background Paper considered the implementation of a PSB in line with the existing settlement boundary for Harmers Haven to be appropriate having regard to the following matters (among others):

- The existing settlement boundary protects the significant landscape, environmental and cultural heritage values surrounding Harmers Haven;
- There is material fire risk from the coastal reserve and grasslands in the vicinity of Harmers Haven, which weighs against expansion of the existing settlement boundary; and
- Harmers Haven has some capacity for infill development within the existing settlement boundary, which will enable it to continue to fulfil its role as a low-growth hamlet²¹⁰.

Jam Jerrup

The Settlement Background Paper considered the implementation of a PSB in line with the existing settlement boundary for Jam Jerrup to be appropriate having regard to the following matters (among others):

- The existing settlement boundary protects state, national and internationally significant environmental attributes, cultural heritage values, agricultural land and natural resources from urban development;
- The existing settlement boundary protects the settlement from environmental risks, which include bushfire, coastal inundation and erosion risks;
- Jam Jerrup is identified in the Bass Coast planning scheme as a low growth settlement, with limited services – the existing settlement boundary is appropriate given its limited capacity to accommodate any further growth²¹¹.

Tenby Point

The Settlement Background Paper considered the implementation of a PSB in line with the existing settlement boundary for Tenby Point to be appropriate having regard to the following matters (among others):

²⁰⁹ D029, para126

²¹⁰ D029, para174

²¹¹ D029, para186

- The existing settlement boundary protects state-significant and nationally and internationally significant environmental values associated with Western Port from urban encroachment; and
- Tenby Point is set within the Eastern Westernport Bay Coastal Flatlands Landscape, which is regionally significant due to its low-energy coastline of intertidal mangroves, interspersed with shallow sandy beaches, and areas of low, eroding sandstone cliff. It is also in a landscape of cultural significance ²¹².

Wimbledon Heights

The Settlement Background Paper considered the implementation of a PSB in line with the existing settlement boundary for Wimbledon Heights to be appropriate having regard to the following matters (among others):

- The settlement is surrounded by farmland with moderate capability that forms a green break between settlements; and
- The existing settlement boundary protects the regionally significant Phillip Island North Coast and Hinterland landscape from urban encroachment ²¹³.

Both Mr Glossop and Mr Black supported a PSB for all five Hamlets, with Mr Glossop noting *“on the basis that they are at the lowest end of the settlement hierarchy and, in my view, there is no compelling strategic planning narrative to warrant any change to those boundaries”*.

(iii) Discussion

Jam Jerrup and Tenby Point are in close proximity to the Western Port Ramsar Wetlands. The Committee supports a PSB for both settlements based on the environmental attributes that should be protected.

Bass is located within the Strzelecki Foothills landscape, which includes the Bass River Valley. The Bass River runs through the Bass settlement and is identified as a biolink in the *Bass Coast Biodiversity Plan 2018*. The Committee supports a PSB based on Bass’s proximity to the Bass River, with valued environmental and landscape attributes that should be protected.

Harmers Haven is located within the San Remo to Inverloch Coast and Coastal Hinterland landscape. The Committee agrees this State and regionally significant landscape is high value and warrants protection. The settlement is located adjacent to the Bunurong Coast Marine Park and the Kilcunda-Harmers Haven Coastal Reserve. The coastal reserves between Inverloch and Kilcunda are known to support *“45 threatened fauna species, including 21 listed under the Flora and Fauna Guarantee Act 1988”* ²¹⁴. The Committee agrees a PSB is justified in order to protect the environmental and landscape attributes of the area.

The Committee notes no distinctive attributes or features of the declared area have been identified for Wimbledon Heights. Clause 02.03 of the Planning Scheme identifies hamlets as having low spatial growth capacity, with growth to occur within existing urban or appropriately zoned land, primarily through infill capacity and within defined settlement boundaries. Based on this, the Committee is comfortable the application of PSB for all hamlets is consistent with the policy outcome.

²¹² D029, para222

²¹³ D029, para232

²¹⁴ D003k, p101

(iv) Findings

The Committee finds:

- A Protected Settlement Boundary should be applied to Bass, Harmers Haven, Jam Jerrup, Tenby Point and Wimbledon Heights.

13 Localities

The draft SPP defines a Locality as:

A small cluster of houses with various lot sizes within the rural hinterland. A locality relies on larger settlements for services. Reticulated water and sewer connections are generally not available.

Archies Creek, Wattle Bank and Woolamai are identified as localities in the draft SPP for Bass Coast.

13.1 Key issue

The key issue is whether settlement boundaries are needed for the three localities identified in the draft SPP.

13.2 Submissions and evidence

Archies Creek is zoned Township Zone and Wattle Bank and Woolamai are in the Rural Living Zone.

Mr Glossop considered the Proponent's rationale for identifying settlements as localities in the draft SPP to be reasonably sound, which stated:

Archies Creek

- Archies Creek was identified as accommodation a population of 22. The settlement contains a licensed venue, a small number of commercial and industrial operations, and a town hall.

Wattle Bank

- Wattle Bank has a population of 177, with a high occupancy level of 88.1%.
- Settlement does not have services and does not accommodate services or facilities.

Woolamai

- Woolamai has a population of 208, with a moderate occupancy level of 67.2%.
- Settlement does not have services and does not accommodate services or facilities ²¹⁵.

S520 sought a settlement boundary for Wattle Bank to limit its growth. S520 submitted that recent subdivisions *"resulted in a doubling of the population from the 177 recorded in the 2016 census"*²¹⁶, with the 2021 census indicating the population was 250. S520 highlighted that this was within the 200-500 population threshold for a hamlet.

In response the Proponent said:

Wattle Bank is characterised by low density housing, all of which is in the Rural Living Zone. It is not subject to any urban zoning, and does not have the density of settlement characteristic of hamlets and larger settlements in the Declared Area. It is well serviced by other larger settlements, being only a short drive from Wonthaggi (~13 km) and Inverloch (~7 km). The proposed designation of Wattle Bank as a locality in the settlement hierarchy in the Draft SPP is therefore considered appropriate.

No specific submissions were made regarding Archies Creek and Woolamai.

²¹⁵ D35, Attachment A

²¹⁶ S520, p18

13.3 Discussion

The Committee agrees with the designation of locality for the three settlements.

Given the zoning of the three settlements, the Committee anticipates growth will be limited to existing zoned land. Both Woolamai and Archies Creek have limited capacity for infill development.

Wattle Bank appears to have several undeveloped lots, and the settlement will grow as expected as those lots are developed. The Committee sees no issue with this, especially given the land is zoned Rural Living Zone. The zone is a Rural Zone (Clause 35) as opposed to an Urban or Residential Zone (Clause 32). The Rural Living Zone does not anticipate any large scale commercial or retail uses, with its primary purpose to provide for residential use in a rural environment.

The Committee has addressed the issue of population thresholds in Chapter 7.2 of this report. In summary the Committee does not support the need for population thresholds to be included in settlement definitions.

13.4 Findings

The Committee finds:

- Protected Settlement or settlement boundaries are not necessary for the three localities identified in the draft Bass Coast Statement of Planning Policy.

PART D: IMPLEMENTATION

14 Implementation

14.1 Next steps

The Proponent confirmed DTP supports preparation of a flexible plan to guide implementation. There will be at least two stages of Planning Scheme implementation. The first stage will be an amendment to:

- insert the draft SPP into VPP Clause 11.03-5S - Distinctive Area and Landscape
- amend local policies in the Planning Scheme for consistency with the draft SPP
- amend the strategic framework plans for each settlement under Clause 11.01-1L of the Planning Scheme to ensure consistency with the draft SPP and to reflect PSBs, which are to be confirmed following the conclusion of this Committee process
- update maps in the Planning Scheme to specify the location of the PSBs
- update existing SLOs 1-5, and introducing new SLO6 into the Planning Scheme, with the form and content of the SLOs to be informed through the current Committee process.

For this first amendment stage, the Minister may rely on the exemption from public consultation under section 46AZB(2) of the PE Act.

The second (and possible third) stage will be local amendments to:

- revise built form and neighbourhood character provisions
- rezone land (where appropriate)
- revise zone schedules (where appropriate)
- introduce further overlays, including the Environmental Significance Overlay, as appropriate.

These local amendments will be made in accordance with Part 3 of the PE Act. They may be led by Council to align with its current strategic work addressing township character, housing strategy and industrial land.

The Proponent advised PPN and implementation guidance are currently being prepared to guide RPEs and planning practitioners on how to use a SPP for land use, management and development decisions. The timing for release of the PPN and the implementation guidance is yet to be confirmed. The Committee notes a recommendation was made by the Surf Coast DAL SAC about this and that PPN has yet to be provided. It is important that it be prepared to provide guidance to the four municipalities that are going through the distinctive areas and landscape process.

14.2 Response to the Terms of Reference

There have been three versions of the Committee's Terms of Reference since the appointment of the DAL SAC in 2020, being:

- Version 1, 28 June 2020 when the Committee was appointed and where these terms were used by the Surf Coast DAL SAC
- Version 2, 7 December 2021 when Referral 2 Draft Bellarine Peninsula SPP was referred to the Committee
- Version 3, 25 April 2022, one day before the Hearing for Bellarine DAL SAC commenced.

A summary of the key differences between the versions are outlined in Table 26.

Table 26 **Summary of Terms of Reference changes**

Version 1	Versions 2 and 3
Membership	
The Committee will include an appointed Chair and Deputy Chair.	The Committee is to be constituted by up to three members, including a Chair or Deputy Chair. The Committee may seek advice from other experts where it considers this necessary.
Purpose	
<p>To advise the Minister on any matters listed below as they relate to the preparation of SPPs for the Bass Coast, Bellarine Peninsula and Surf Coast declared areas:</p> <ul style="list-style-type: none"> - the rigour of any policy proposed in the draft SPP, referred by the Minister, in meeting the objects of section 46AN of the PE Act - any other planning policy and implementation related matter referred by the Minister. 	Provide timely advice to the Minister on matters relating to the draft SPPs for the Bass Coast and the Bellarine Peninsula declared areas, as specifically outlined in the referral letter from the Minister.
Method	
<p>The Committee may inform itself in any way it sees fit, and must consider all relevant matters, including and not limited to:</p> <ul style="list-style-type: none"> - relevant provisions of the PE Act, the VPP, Plan Melbourne and relevant Regional Growth Plans - the relevant Planning Schemes including any adopted plans, strategies or planning scheme amendments - the draft SPP for each of the declared areas - any background documents release with the draft SPP - the views of Traditional Owner groups, relevant Councils, RPE, DELWP and other relevant agencies - any submissions and evidence received. 	The Committee may inform itself in any way it sees fit.
The Committee may seek legal, technical or expert advice on any matter or referral that it sees fit.	Deleted.
<p>DELWP will be responsible for giving notice and inviting submissions.</p> <p>All submissions are to be collected by Planning Panels Victoria.</p>	Deleted.
	All oral submissions and public processes of the Committee will be recorded.
Outcome	
<p>The Committee's report must address the following:</p> <ul style="list-style-type: none"> - An assessment of relevant state and local policy 	<p>The Committee's report must address the following:</p> <ul style="list-style-type: none"> - Matters raised by the Minister in the referral

Version 1	Versions 2 and 3
for each referred matter.	letter.
- Recommendations to the Minister on the referred matter.	- Recommendations to the Minister on the referred matter.
- An assessment of submissions to the Committee.	- List of persons consulted or heard.
- Any other relevant matters raised during the Hearing.	
- A list of persons who made submissions considered by the Committee.	
- A list of persons consulted or heard.	
The report or reports may be submitted in stages depending on the timing of the matter.	Version 2: No change. Version 3: The report must be submitted in stages if possible.
Following the completion of the report the Committee may deliver an oral briefing to DELWP staff, or the Minister.	Deleted.
Timing	
The Committee must submit its report in writing as soon as practicable and no later than 40 business days after the Hearing.	Version 2: No change. Version 3: The Committee is required to submit the Bellarine Peninsula report as soon as practicable but no later than 8 July 2022.

This report responds to the Terms of Reference Version 3 and the associated letter of referral.

Table 27 summarises how and where in this report the various requirements of Terms of Reference have been addressed. It should be noted however, that this report contains significant information, and it is very difficult to single out where in the report particular matters are discussed. The report should be read as a whole in response to the Committee's Terms of Reference of the Committee.

Table 27 Summary response to Terms of Reference

Ref	Matter	Report chapter
a.i	<p>Whether the draft SPP appropriately supports the objects of Part 3AAB – Distinctive Areas and Landscapes of the PE Act as set out in section 46AN of the PE Act:</p> <ul style="list-style-type: none"> - (a) to recognise the importance of distinctive areas and landscapes to the people of Victoria and to protect and conserve the unique features and special characteristics of those areas and landscapes; and - (b) to enhance the conservation of the environment in declared areas including the unique habitats, ecosystems and biodiversity of declared areas; and - (c) to enable the integration of policy development, implementation and decision-making for declared areas under Statements of Planning Policy; and - (d) to recognise the connection and stewardship of traditional owners 	Chapters 3 to 13

Ref	Matter	Report chapter
	in relation to land in declared areas.	
a.ii	Whether the draft SPP creates an appropriate framework for the future use and development of land in the Bass Coast declared area to ensure the protection and conservation of the distinctive attributes of that declared area, for the purposes of section 46AU of the PE Act.	Chapters 3 to 13
a.iii	<p>Whether the draft SPP complies with the required contents of an SPP as specified in section 46AV of the PE Act:</p> <p>(1) The Statement of Planning Policy must</p> <ul style="list-style-type: none"> - (a) set a vision for a period of at least 50 years that identifies the values, priorities and preferences of the Victorian community in relation to the distinctive attributes of the declared area, including preferences for future land use, protection and development; and - (b) set out the long-term needs for the integration of decision-making and planning for the declared area; and - (c) state the parts of the Statement that are binding on responsible public entities and the parts that are in the nature of recommendations to which responsible public entities are only required to have regard; and - (d) include a declared area framework plan in accordance with subsection (2); and - (e) set out Aboriginal tangible and intangible cultural values, and other cultural and heritage values, in relation to the declared area. <p>(2) The declared area framework plan must provide a framework for decision-making in relation to the future use and development of land in the declared area that</p> <ul style="list-style-type: none"> - (a) integrates environmental, social, cultural and economic factors for the benefit of the community and encourages sustainable development and identifies areas for protection and conservation of the distinctive attributes of the declared area; and - (b) may specify settlement boundaries in the declared area or designate specific settlement boundaries in the declared area as PSB. 	Chapters 3 to 13
a.iv	Whether the draft SPP is otherwise robust and appropriate.	Chapters 3 to 13
b.	Whether the proposed LPC support the objects of Part 3AAB of the PE Act and would, if translated into a planning scheme amendment, assist giving effect to the draft SPP.	Chapter 2
c.	Any amendments that should be made to the structure or content of the draft SPP or the proposed LPC in light of advice on points a-b.	Executive summary, Chapter 3 to 13

Table 28 provides a summary response to the letter of referral from the Minister. As with Table 27, it should be noted that this report contains significant information and it should be read as a whole.

Table 28 Summary response to letter of referral from Minister for Planning

Request for advice	Committee response
Whether the draft SPP appropriately supports the objects of Part 3AAB – Distinctive Areas and Landscapes of the PE Act as set out in section 46AN of the PE Act.	The draft SPP broadly supports the objectives of Part 3AAB.
Whether the draft SPP creates an appropriate framework for the future use and development of land in the Bass Coast declared area to ensure the protection and conservation of the distinctive attributes of that declared area, for the purposes of section 46AU of the PE Act.	The draft SPP broadly creates an appropriate framework for the future use and development of land in the Bass Coast declared area to ensure the protection and conservation of the distinctive attributes of that declared area, however, it fails to take a sufficiently long-term view to settlement planning to deliver a net community benefit for existing and future residents.
Whether the draft SPP complies with the required contents of an SPP as specified in section 46AV of the PE Act.	The draft SPP broadly complies with the required contents of an SPP.
Whether the draft SPP is otherwise robust and appropriate.	The draft SPP is broadly robust and appropriate, subject to the findings and changes recommended by the Committee.
Whether the proposed landscape controls support the objects of Part 3AAB of the PE Act and would, if translated into a planning scheme amendment, assist giving effect to the draft SPP.	<p>The proposed LPC broadly support the objects of Part 3AAB. The LPC assist giving effect to the draft SPP, subject to the following:</p> <ul style="list-style-type: none"> - refinements to the spatial extent of significant landscapes to ensure they are matched to topographical features and include public land - redrafting to ensure objectives, permit requirements, application requirements and decision guidelines are consistent with the Ministerial Direction – the Form and Content of Planning Schemes - exemption of less impactful development from requiring a permit, including fencing and some agricultural buildings.
Any amendments that should be made to the structure or content of the draft SPP or the proposed LPC in light of the above advice.	<p>The draft SPP should be amended to:</p> <ul style="list-style-type: none"> - ensuring settlement plans provide for 25 years of zoned and unzoned land supply - delete PSB at Cowes/Silverleaves and Inverloch until further strategic work is completed - designate areas for new growth inside amended PSB at San Remo, Newhaven and Cape Woolamai - designate Indicative Investigation Areas for new

Request for advice	Committee response
	<p>growth inside amended PSB at Coronet Bay, Dalyston and Kilcunda</p> <ul style="list-style-type: none"> - refinement to the spatial extent of significant landscapes to ensure they are matched to topographical features - identifying preferred locations for tourism within and outside settlements - Identifying areas of high-quality agricultural land - Identifying the investigation area for spatially defining the WPW.

14.3 Response to Council and Proponent changes

(i) Council and Proponent changes

The Proponent provided a tabulated response (D332) to issues raised in Council's extensive submissions on the draft SPP ²¹⁷. In summary, Council requested:

- clarification of the intent of various objectives and strategies
- refinement of the wording of various objectives and strategies
- addition of new objectives and strategies under the 'Climate change mitigation and adaptation' policy domain
- confirmation of the responsibility for implementation of various objectives and strategies.

The Committee provides its commentary on these changes in Appendix F1.

Document 332 provides a summary of all changes to the draft SPP and LPCs agreed to by the Proponent. Appendix G cross references these changes with the Committee's discussion in the main body of the report.

To capture the changes agreed to by the Committee, it provides the following omnibus recommendation:

26. Amend general text, objectives and strategies of the draft Statement of Planning Policy consistent with the agreed findings of the Committee set out in Tables F1 and F2, and Appendix G (Part 2 report).

(ii) Resolution of the Statement of Planning Policy

The Committee notes the objectives and strategies of the draft SPP are extensive and are often peripheral to the core purpose of the SPP as set out in section 46AU of the PE Act. There is much duplication between the proposed objectives and strategies are matters already addressed in detail by other legislation, Government strategies and the VPP.

For example, strategy 6a.4 is *"encourage tourism and commercial development to include net-zero carbon infrastructure (such as electric vehicle charging stations)"* ²¹⁸. This sits alongside the *Climate Change Act, 2017*, *Victoria's Zero Emissions Vehicle Roadmap 2021* and planning policy for

²¹⁷ Submission 593

²¹⁸ D3a, p66

economic development and transport set out at Clauses 17 and 18 of the Planning Scheme, amongst others. The Committee sees little value in repeating comprehensive policy objectives and strategies for managing carbon emissions in the draft SPP. This creates unnecessary duplication and leads to complexity for decision makers and proponents alike.

The Committee encourages the Proponent to review the draft SPP to simplify its content and reduce duplication with the Planning Scheme. This will streamline implementation for RPEs in the future.

Management of implementing the SPP will fall to the Council and resources should be made available to assist Council in this regard.